

109TH CONGRESS
1ST SESSION

S. 1302

To amend the Social Security Act and the Internal Revenue Code of 1986 to stop the Congress from spending Social Security surpluses on other Government programs by dedicating those surpluses to personal accounts that can only be used to pay Social Security benefits.

IN THE SENATE OF THE UNITED STATES

JUNE 23, 2005

Mr. DEMINT (for himself, Mr. SANTORUM, Mr. GRAHAM, Mr. CRAPO, Mr. COBURN, Mr. SUNUNU, Mr. ISAKSON, Mr. ENZI, Mr. CORNYN, Mr. LOTT, Mr. BROWNBACK, and Mr. CRAIG) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Social Security Act and the Internal Revenue Code of 1986 to stop the Congress from spending Social Security surpluses on other Government programs by dedicating those surpluses to personal accounts that can only be used to pay Social Security benefits.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Stop the Raid on Social Security Act of 2005”.

1 (b) TABLE OF CONTENTS.—The table of contents is
 2 as follows:

- Sec. 1. Short title; table of contents.
 Sec. 2. Findings.

TITLE I—SOCIAL SECURITY PERSONAL RETIREMENT ACCOUNTS
 PROGRAM

- Sec. 101. Establishment of the Social Security Personal Retirement Accounts
 Program.

“PART B—SOCIAL SECURITY PERSONAL RETIREMENT ACCOUNTS PROGRAM

- “Sec. 251. Definitions.
 “Sec. 252. Establishment of Program.
 “Sec. 253. Participation in Program.
 “Sec. 254. Social security personal retirement accounts .
 “Sec. 255. Investment of accounts.
 “Sec. 256. Distributions of account balance at retirement.
 “Sec. 257. Additional rules relating to disposition of account assets.
 “Sec. 258. Administration of the program.
 Sec. 102. Annual account statements.

TITLE II—TAX TREATMENT

- Sec. 201. Tax treatment of social security personal retirement accounts.
 Sec. 202. Benefits taxable as Social Security benefits.
 “Sec. 2059. Social security personal retirement accounts.

3 **SEC. 2. FINDINGS.**

4 Congress makes the following findings:

5 (1) President Franklin Roosevelt’s January 17,
 6 1935, message on Social Security declared that,
 7 “First, the system adopted, except for the money
 8 necessary to initiate it, should be self-sustaining in
 9 the sense that funds for the payment of insurance
 10 benefits should not come from the proceeds of gen-
 11 eral taxation.”.

12 (2) Social Security’s financial integrity is main-
 13 tained by requiring that benefit payments do not ex-
 14 ceed the program’s dedicated tax revenues and the

1 interest earned on the balances in the Federal Old-
 2 Age and Survivors Insurance Trust Fund and the
 3 Federal Disability Insurance Trust Fund over the
 4 long term.

5 (3) The separation of Social Security from
 6 other budget accounts also serves to protect Social
 7 Security benefits from competing against other Fed-
 8 eral programs for its funding resources.

9 (4) Comprehensive reforms should be enacted
 10 to—

11 (A) fix Social Security permanently;

12 (B) ensure that any use of general reve-
 13 nues for the program is temporary; and

14 (C) provide for the eventual repayment of
 15 any revenue transfers from the general fund to
 16 the Federal Old-Age and Survivors Insurance
 17 Trust Fund and the Federal Disability Insur-
 18 ance Trust Fund.

19 **TITLE I—SOCIAL SECURITY PER-**
 20 **SONAL RETIREMENT AC-**
 21 **COUNTS PROGRAM**

22 **SEC. 101. ESTABLISHMENT OF THE SOCIAL SECURITY PER-**
 23 **SONAL RETIREMENT ACCOUNTS PROGRAM.**

24 (a) IN GENERAL.—Title II of the Social Security Act
 25 is amended—

1 (1) by inserting before section 201 the fol-
 2 lowing:

3 “PART A—INSURANCE BENEFITS”;

4 and

5 (2) by adding at the end of such title the fol-
 6 lowing new part:

7 “PART B—SOCIAL SECURITY PERSONAL RETIREMENT

8 ACCOUNTS PROGRAM

9 “DEFINITIONS

10 “SEC. 251. For purposes of this part—

11 “(1) PARTICIPATING INDIVIDUAL.—The term
 12 ‘participating individual’ has the meaning provided
 13 in section 253(a).

14 “(2) ACCOUNT ASSETS.—The term ‘account as-
 15 sets’ means, with respect to a social security per-
 16 sonal retirement account, the total amount trans-
 17 ferred to such account, increased by earnings cred-
 18 ited under this part and reduced by losses and ad-
 19 ministrative expenses under this part.

20 “(3) CERTIFIED ACCOUNT MANAGER.—The
 21 term ‘certified account manager’ means a person
 22 who is certified under section 258(b).

23 “(4) BOARD.—The term ‘Board’ means the So-
 24 cial Security Personal Savings Board established
 25 under section 258(a).

1 “(5) COMMISSIONER.—The term ‘Commis-
2 sioner’ means the Commissioner of Social Security.

3 “(6) PROGRAM.—The term ‘Program’ means
4 the Social Security Personal Retirement Accounts
5 Program established under this part.

6 “ESTABLISHMENT OF PROGRAM

7 “SEC. 252. There is hereby established a Social Secu-
8 rity Personal Retirement Accounts Program. The Pro-
9 gram shall be governed by regulations which shall be pre-
10 scribed by the Social Security Personal Savings Board.
11 The Board, the Executive Director appointed by the
12 Board, the Commissioner, and the Secretary of the Treas-
13 ury shall consult with each other in issuing regulations
14 relating to their respective duties under this part. Such
15 regulations shall provide for appropriate exchange of in-
16 formation to assist them in performing their duties under
17 this part.

18 “PARTICIPATION IN PROGRAM

19 “SEC. 253. (a) PARTICIPATING INDIVIDUAL.—For
20 purposes of this part, the term ‘participating individual’
21 means any individual—

22 “(1) who is credited under part A with wages
23 paid after December 31, 2005, or self-employment
24 income derived in any taxable year ending after such
25 date,

1 “(2) who is born on or after January 1, 1950,
2 and

3 “(3) who has not filed an election to renounce
4 such individual’s status as a participating individual
5 under subsection (b).

6 “(b) RENUNCIATION OF PARTICIPATION.—

7 “(1) IN GENERAL.—An individual—

8 “(A) who has not attained retirement age
9 (as defined in section 216(l)(1)), and

10 “(B) with respect to whom no distribution
11 has been made from amounts credited to the in-
12 dividual’s social security personal retirement ac-
13 count,

14 may elect, in such form and manner as shall be pre-
15 scribed in regulations of the Board, to renounce
16 such individual’s status as a ‘participating indi-
17 vidual’ for purposes of this part. Upon completion of
18 the procedures provided for under paragraph (2),
19 any such individual who has made such an election
20 shall not be treated as a participating individual
21 under this part, effective as if such individual had
22 never been a participating individual. The Board
23 shall provide for immediate notification of such elec-
24 tion to the Commissioner of Social Security, the Sec-
25 retary of the Treasury, and the Executive Director.

1 “(2) PROCEDURE.—The Board shall prescribe
2 by regulation procedures governing the termination
3 of an individual’s status as ‘participating individual’
4 pursuant to an election under this subsection. Such
5 procedures shall include—

6 “(A) prompt closing of the individual’s so-
7 cial security personal retirement account estab-
8 lished under section 254, and

9 “(B) prompt transfer to the Federal Old-
10 Age and Survivors Insurance Trust Fund as
11 general receipts of any amount held for invest-
12 ment in such individual’s social security per-
13 sonal retirement account.

14 “(3) IRREVOCABILITY.—An election under this
15 subsection shall be irrevocable.

16 “SOCIAL SECURITY PERSONAL RETIREMENT ACCOUNTS

17 “SEC. 254. (a) ESTABLISHMENT OF ACCOUNTS.—

18 Under regulations which shall be prescribed by the Board
19 in consultation with the Secretary of the Treasury—

20 “(1) the Board shall establish a social security
21 personal retirement account for each participating
22 individual (for whom a social security personal re-
23 tirement account has not otherwise been established
24 under this part) upon initial receipt of a transfer
25 under subsection (b) with respect to such partici-
26 pating individual, and

1 “(2) in any case described in paragraph (2) of
 2 section 257(b), the Board shall establish a social se-
 3 curity personal retirement account for the divorced
 4 spouse referred to in such paragraph (2).

5 “(b) TRANSFERS TO SOCIAL SECURITY PERSONAL
 6 RETIREMENT ACCOUNTS.—

7 “(1) IN GENERAL.—Under regulations which
 8 shall be prescribed by the Secretary of the Treasury
 9 in consultation with the Board, as soon as prac-
 10 ticable during the 1-year period after each calendar
 11 year, the Secretary of the Treasury shall transfer to
 12 each participating individual’s social security per-
 13 sonal retirement account, from amounts held in the
 14 Federal Old-Age and Survivors Insurance Trust
 15 Fund, amounts equivalent to the personal retirement
 16 account deposit with respect to such participating
 17 individual for such calendar year.

18 “(2) PERSONAL RETIREMENT ACCOUNT DE-
 19 POSIT.—

20 “(A) IN GENERAL.—For purposes of para-
 21 graph (1), the personal retirement account de-
 22 posit for a calendar year with respect to a par-
 23 ticipating individual is the product derived by
 24 multiplying—

25 “(i) the sum of—

1 “(I) the total amount of wages
2 paid to the participating individual
3 during such calendar year on which
4 there was imposed a tax under section
5 3101(a) of the Internal Revenue Code
6 of 1986, and

7 “(II) the total amount of self-em-
8 ployment income derived by the par-
9 ticipating individual during the tax-
10 able year ending during such calendar
11 year on which there was imposed a
12 tax under section 1401(a) of the In-
13 ternal Revenue Code of 1986, by

14 “(ii) the surplus percentage for such
15 calendar year determined under subpara-
16 graph (B),

17 increased by deemed interest on each amount
18 transferred for such calendar year for the pe-
19 riod commencing with July 1 of such calendar
20 year and the ending on the date on which such
21 amount is transferred, computed at an annual
22 rate equal to the average annual rate of return
23 on investments of amounts in the Government
24 Securities Investment Fund for such calendar
25 year and the preceding 2 calendar years (except

1 that, for purposes of the first 3 calendar years
2 for which deemed interest is computed, this
3 sentence shall be applied by substituting ‘Fed-
4 eral Old-Age and Survivors Insurance Trust
5 Fund’ for ‘Government Securities Investment
6 Fund’) and decreased by the administrative off-
7 set amount determined under subparagraph
8 (D).

9 “(B) SURPLUS PERCENTAGE.—For pur-
10 poses of subparagraph (A)(ii), the surplus per-
11 centage for a calendar year is the ratio (ex-
12 pressed as a percentage) of—

13 “(i) the net surplus in the Federal
14 Old-Age and Survivors Insurance Trust
15 Fund for such year, to

16 “(ii) the sum of—

17 “(I) the total amount of wages
18 paid to participating individuals dur-
19 ing such calendar year under section
20 3101(a) of the Internal Revenue Code
21 of 1986, and

22 “(II) the total amount of self-em-
23 ployment income derived during tax-
24 able years ending during such cal-
25 endar year by participating individ-

1 uals under section 1401(a) of such
2 Code.

3 “(C) NET TRUST FUND SURPLUS.—For
4 purposes of subparagraph (B), the term ‘net
5 surplus’ in connection with the Federal Old-Age
6 and Survivors Insurance Trust Fund for a cal-
7 endar year means the excess, if any, of—

8 “(i) the sum of—

9 “(I) the total amounts which are
10 appropriated to such Trust Fund
11 under clauses (3) and (4) of section
12 201(a) and attributable to such cal-
13 endar year, and

14 “(II) the total amounts which are
15 appropriated to such Trust Fund
16 under section 121 of the Social Secu-
17 rity Amendments of 1983 and attrib-
18 utable to such calendar year, over

19 “(ii) the amount estimated by the
20 Commissioner of Social Security to be the
21 total amount to be paid from such Trust
22 Fund during such calendar year for all
23 purposes authorized by section 201 (other
24 than payments of interest on, and repay-
25 ments of, loans from the Federal Hospital

1 Insurance Trust Fund under section
2 201(l)(1), but reducing the amount of any
3 transfer to the Railroad Retirement Ac-
4 count by the amount of any transfers into
5 such Trust Fund from such Account).

6 “(D) ADMINISTRATIVE OFFSET
7 AMOUNT.—For purposes of subparagraph (A),
8 the administrative offset amount determined
9 with respect to a personal retirement account
10 deposit for a calendar year is the amount equal
11 to the product of—

12 “(i) the amount of such deposit deter-
13 mined for that year without regard to a re-
14 duction under this subparagraph; and

15 “(ii) the administrative cost percent-
16 age attributable to the Program deter-
17 mined by the Board for that year (includ-
18 ing reasonable administration fees charged
19 by certified account managers under the
20 Program), but in no event to exceed 30
21 basis points per year of the assets under
22 management).

23 “(3) TRANSITION RULE.—Notwithstanding
24 paragraph (1), amounts payable to social security
25 personal retirement accounts under paragraph (1)

1 with respect to the first calendar year described in
2 paragraph (1) ending after the date of the enact-
3 ment of the Stop the Raid on Social Security Act of
4 2005 shall be paid by the Secretary of the Treasury
5 as soon as practicable after such Secretary deter-
6 mines that the administrative mechanisms necessary
7 to provide for accurate and efficient payment of such
8 amounts have been established.

9 “(4) TRANSFER OF GENERAL REVENUES TO
10 ENSURE CONTINUED SOLVENCY OF FEDERAL OLD-
11 AGE AND SURVIVORS INSURANCE TRUST FUND.—
12 Whenever the Secretary of the Treasury makes a
13 transfer under paragraph (1), the Secretary of the
14 Treasury also shall transfer, to the extent necessary,
15 from amounts otherwise available in the general
16 fund of the Treasury, such amounts as are necessary
17 to maintain a 100 percent ratio of assets of the Fed-
18 eral Old-Age and Survivors Insurance Trust Fund
19 and the Federal Disability Insurance Trust Fund to
20 the annual amount required to pay the full amount
21 of benefits payable under part A for each year oc-
22 ccurring during the period that begins with the year
23 in which such transfer is made and ends with 2041.

1 “(c) REQUIREMENTS FOR ACCOUNTS.—The following
2 requirements shall be met with respect to each social secu-
3 rity personal retirement account:

4 “(1) Amounts transferred to the account con-
5 sist solely of amounts transferred pursuant to this
6 part.

7 “(2) In accordance with section 255, the ac-
8 count assets are held for purposes of investment
9 under the Program by a certified account manager
10 designated by (or on behalf of) the participating in-
11 dividual for whom such account is established under
12 the Program.

13 “(3) Disposition of the account assets is made
14 solely in accordance with sections 256 and 257.

15 “(d) ACCOUNTING OF RECEIPTS AND DISBURSE-
16 MENTS UNDER THE PROGRAM.—The Board shall provide
17 by regulation for an accounting system for purposes of
18 this part—

19 “(1) which shall be maintained by or under the
20 Executive Director,

21 “(2) which shall provide for crediting of earn-
22 ings from, and debiting of losses and administrative
23 expenses from, amounts held in social security per-
24 sonal retirement accounts, and

1 following such period, except that such regulations shall
2 provide for such interim designations as may be neces-
3 sitated by the decertification of a certified account man-
4 ager. Such regulations shall provide for such designations
5 made by the Board on behalf of a participating individual
6 in any case in which a timely designation is not made by
7 the participating individual.

8 “(c) INVESTMENT.—Any balance held in a partici-
9 pating individual’s social security personal retirement ac-
10 count under this part which is not necessary for immediate
11 withdrawal shall be invested on behalf of such partici-
12 pating individual by the certified account manager as fol-
13 lows:

14 “(1) INVESTMENT IN MARKETABLE GOVERN-
15 MENT SECURITIES.—In a representative mix of fixed
16 marketable interest-bearing obligations of the United
17 States then forming a part of the public debt which
18 are not due or callable earlier than 4 years after the
19 date of investment.

20 “(2) ADDITIONAL AND ALTERNATIVE INVEST-
21 MENTS.—Beginning with 2008, in such additional
22 and alternative investment options in broad-based
23 index funds that are similar to the index fund in-
24 vestment options available within the Thrift Savings
25 Fund established under section 8437 of title 5,

1 United States Code, as the Board determines would
2 be prudent sources of retirement income that could
3 yield greater amounts of income than the investment
4 described in paragraph (1) and a participating indi-
5 vidual may elect.

6 “DISTRIBUTIONS OF ACCOUNT BALANCE AT RETIREMENT

7 “SEC. 256. (a) PART A AND SOCIAL SECURITY PER-

8 SONAL RETIREMENT ACCOUNT BENEFITS COMBINED.—

9 Upon the date on which a participating individual becomes
10 entitled to old-age insurance benefits under section
11 202(a), the Executive Director shall determine the total
12 amount which would (but for this section) be payable as
13 benefits under subsection (a), (b), (c), or (h) of section
14 202, subsection (e) or (f) of section 202 other than on
15 the basis of disability, or any combination thereof, to any
16 individual who is a participant on the basis of the wages
17 and self-employment income of such individual or any
18 other individual under part A for any month and provide
19 for the following distributions from the individual’s social
20 security personal retirement account (in accordance with
21 regulations which shall be prescribed by the Board):

22 “(1) PART A BENEFIT PROVIDES AT LEAST A

23 POVERTY-LEVEL ANNUAL BENEFIT.—If such total

24 amount would be sufficient to purchase a minimum

25 annuity, the participating individual shall elect to

26 have the Executive Director provide for the distribu-

1 tion of the balance in the participating individual's
2 social security personal retirement account in the
3 form of—

4 “(A) a lump-sum payment; or

5 “(B) an annuity which meets the require-
6 ments of subsection (b) (other than the require-
7 ment that the annuity provides for payments
8 which, on an annual basis, are equal to at least
9 the minimum annuity amount), the terms of
10 which provide for a monthly payment equal to
11 the maximum amount that such account can
12 fund.

13 “(2) PART A BENEFIT COMBINED WITH AC-
14 COUNT BALANCE PROVIDES AT LEAST A POVERTY-
15 LEVEL BENEFIT.—

16 “(A) IN GENERAL.—If such total amount
17 when combined with all or a portion of the bal-
18 ance in the participating individual's social se-
19 curity personal retirement account would be
20 sufficient to purchase a minimum annuity, the
21 Executive Director shall, subject to subpara-
22 graph (B)—

23 “(i) use such amount of the balance
24 in a participating individual's social secu-
25 rity personal retirement account as is nec-

1 essary to purchase an annuity which meets
2 the requirements of subsection (b) (other
3 than the requirement that the annuity pro-
4 vides for payments which, on an annual
5 basis, are equal to at least the minimum
6 annuity amount), the terms of which pro-
7 vide for an annual payment that, when
8 combined with the total amount of annual
9 old-age insurance benefits payable to the
10 participating individual, is equal to the an-
11 nual amount that a minimum annuity
12 would pay to the individual; and

13 “(ii) provide for the distribution of
14 any remaining balance in the participating
15 individual’s social security personal retire-
16 ment account in the form of a lump-sum
17 payment.

18 “(B) OPTION FOR INCREASED ANNUITY.—

19 A participating individual may elect to have the
20 Executive Director use the balance of the indi-
21 vidual’s social security personal retirement ac-
22 count to purchase an annuity which meets the
23 requirements of subsection (b), the terms of
24 which provide for the maximum monthly pay-
25 ment that such account can fund, in lieu of

1 using only a portion of such balance to pur-
2 chase an annuity which provides a monthly pay-
3 ment equal to the amount described in subpara-
4 graph (A)(i).

5 “(3) DISTRIBUTION IN EVENT OF FAILURE TO
6 OBTAIN AT LEAST A POVERTY-LEVEL BENEFIT.—If
7 such total amount when combined with all of the
8 balance in the participating individual’s social secu-
9 rity personal retirement account would not be suffi-
10 cient to purchase a minimum annuity, the partici-
11 pating individual may elect to have the Executive
12 Director—

13 “(A) distribute the balance in the partici-
14 pating individual’s social security personal re-
15 tirement account in the form of a lump-sum
16 payment; or

17 “(B) if such balance is sufficient to pur-
18 chase an annuity which meets the requirements
19 of subsection (b) (other than the requirement
20 that the annuity provides for payments which,
21 on an annual basis, are equal to at least the
22 minimum annuity amount), purchase such an
23 annuity on behalf of the individual.

1 “(b) MINIMUM ANNUITY DEFINED.—For purposes of
2 this subsection, the term ‘minimum annuity’ means an an-
3 nuity that meets the following requirements:

4 “(1) The annuity starting date (as defined in
5 section 72(c)(4) of the Internal Revenue Code of
6 1986) commences on the first day of the month be-
7 ginning after the date of the purchase of the annu-
8 ity.

9 “(2) The terms of the annuity provide for a se-
10 ries of substantially equal annual payments, subject
11 to adjustment as provided in subsection (d), payable
12 monthly to the participating individual during the
13 life of the participating individual which are, on an
14 annual basis, equal to at least the minimum annuity
15 amount.

16 “(c) MINIMUM ANNUITY AMOUNT.—For purposes of
17 this subsection, the term ‘minimum annuity amount’
18 means an amount equal to 100 percent of the poverty line
19 for an individual (determined under the poverty guidelines
20 of the Department of Health and Human Services issued
21 under sections 652 and 673(2) of the Omnibus Budget
22 Reconciliation Act of 1981).

23 “(d) COST OF LIVING ADJUSTMENT.—The terms of
24 any annuity described in subsection (b) shall include provi-
25 sion for increases in the monthly annuity amounts there-

1 under determined in the same manner and at the same
2 rate as primary insurance amounts are increased under
3 section 215(i).

4 “(e) ASSUMPTIONS.—The assumptions under sub-
5 section (b) include the probability of survival for persons
6 born in the same year as the participating individual (and
7 the spouse, in the case of a joint annuity), future projec-
8 tion of investment earnings based on investment of the
9 account assets, and expected price inflation. Determina-
10 tions under this subsection shall be made in accordance
11 with regulations which shall be prescribed by the Board,
12 otherwise using generally accepted actuarial assumptions,
13 except that no differentiation shall be made in such as-
14 sumptions on the basis of sex, race, health status, or other
15 characteristics other than age. Such assumptions may in-
16 clude, for determinations made prior to 2009, an assumed
17 interest rate reflecting investment earnings of the Federal
18 Old-Age and Survivors Insurance Trust Fund.

19 “(f) OFFSET OF PART A BENEFITS.—Notwith-
20 standing any other provision of this title, in the case of
21 a participating individual to which subsection (a)(1) ap-
22 plies, the total amount of monthly old-age insurance bene-
23 fits payable as benefits under subsection (a), (b), (c), or
24 (h) of section 202, subsection (e) or (f) of section 202
25 other than on the basis of disability, or any combination

1 thereof, to such individual determined under subsection
2 (a) shall be reduced so that the amount of such monthly
3 old-age insurance benefits payable to the individual does
4 not exceed the amount equal to the difference between—

5 “(i) such monthly old-age insurance
6 benefits (determined without regard to a
7 reduction under this subsection); and

8 “(ii) the ratio of—

9 “(I) what would have been the
10 monthly annuity payment payable to
11 the individual from an annuity if the
12 individual’s personal retirement ac-
13 count balance had earned the rate of
14 return specified in section
15 254(b)(2)(A); to

16 “(II) the expected present value
17 of all future potential benefits payable
18 under section 202 on the basis of the
19 wages or self-employment income of
20 the participating individual (deter-
21 mined as of the date the participating
22 individual becomes entitled to old-age
23 benefits under section 202(a)).

1 “ADDITIONAL RULES RELATING DISPOSITION OF
2 ACCOUNT ASSETS

3 “SEC. 257. (a) SPLITTING OF ACCOUNT ASSETS
4 UPON DIVORCE AFTER 1 YEAR OF MARRIAGE.—

5 “(1) IN GENERAL.—Upon the divorce of a par-
6 ticipating individual for whom a social security per-
7 sonal retirement account has been established under
8 this part, from a spouse to whom the participating
9 individual had been married for at least 1 year, the
10 Board shall direct the appropriate certified account
11 manager to transfer—

12 “(A) from the social security personal re-
13 tirement account of the participating individual,

14 “(B) to the social security personal retire-
15 ment account of the divorced spouse,

16 an amount equal to one-half of the amount of net
17 accruals (including earnings) during the time of the
18 marriage in the social security personal retirement
19 account of the participating individual.

20 “(2) TREATMENT OF DIVORCED SPOUSE WHO
21 IS NOT A PARTICIPATING INDIVIDUAL.—In the case
22 of a divorced spouse referred to in paragraph (1)
23 who, as of the time of the divorce, is not a partici-
24 pating individual and for whom a social security per-
25 sonal retirement account has not been established—

1 “(A) the divorced spouse shall be deemed
2 a participating individual for purposes of this
3 part, and

4 “(B) the Board shall establish a social se-
5 curity personal retirement account for the di-
6 vorced spouse and shall direct the appropriate
7 certified account manager to perform the such
8 transfer.

9 “(3) PREEMPTION.—The provisions of this sub-
10 section shall supersede any provision of law of any
11 State or political subdivision thereof which is incon-
12 sistent with the requirements of this subsection.

13 “(b) CLOSING OF ACCOUNT UPON THE DEATH OF
14 THE PARTICIPATING INDIVIDUAL.—

15 “(1) IN GENERAL.—Upon the death of a par-
16 ticipating individual, the Executive Director shall
17 close out any remaining balance in the participating
18 individual’s social security personal retirement ac-
19 count. In closing out the account, the Executive Di-
20 rector shall certify to the certified account manager
21 the amount of the account assets, and, upon receipt
22 of such certification, the certified account manager
23 shall transfer from such account an amount equal to
24 such certified amount to the Secretary of the Treas-
25 ury for subsequent transfer to—

1 “(A) the social security personal retire-
2 ment account of the surviving spouse of such
3 participating individual,

4 “(B) if there is no such surviving spouse,
5 to such other person as may be designated by
6 the participating individual in accordance with
7 regulations which shall be prescribed by the
8 Board, or

9 “(C) if there is no such designated person,
10 to the estate of such participating individual.

11 “(2) TREATMENT OF SURVIVING SPOUSE WHO
12 IS NOT A PARTICIPATING INDIVIDUAL.—In the case
13 of a surviving spouse referred to in paragraph (1)
14 who, as of the time of the death of the participating
15 individual, is not a participating individual and for
16 whom a social security personal retirement account
17 has not been established—

18 “(A) the surviving spouse shall be deemed
19 a participating individual for purposes of this
20 part, and

21 “(B) the Board shall establish a social se-
22 curity personal retirement account for the sur-
23 viving spouse and shall direct the appropriate
24 certified account manager to perform the such
25 transfer.

1 “(c) CLOSING OF ACCOUNT OF PARTICIPATING INDI-
2 VIDUALS WHO ARE INELIGIBLE FOR BENEFITS UPON
3 ATTAINING RETIREMENT AGE.—In any case in which, as
4 of the date on which a participating individual attains re-
5 tirement age (as defined in section 216(l)), such individual
6 is not eligible for an old-age insurance benefit under sec-
7 tion 202(a), the Commissioner shall so certify to the Exec-
8 utive Director and, upon receipt of such certification, the
9 Executive Director shall close out the participating indi-
10 vidual’s social security personal retirement account. In
11 closing out the account, the Executive Director shall cer-
12 tify to the certified account manager the amount of the
13 account assets, and upon receipt of such certification from
14 the Executive Director, the account manager shall trans-
15 fer from such account an amount equal to such certified
16 amount to the Secretary of the Treasury for subsequent
17 transfer to the participating individual.

18 “(d) ADMINISTRATIVE EXPENSES.—

19 “(1) IN GENERAL.—Under regulations which
20 shall be prescribed by the Board, account assets are
21 available in accordance with section 254(b)(2)(D)(ii)
22 for payment of the reasonable administrative costs
23 of the Program (including reasonable administration
24 fees charged by certified account managers under

1 the Program), but in no event to exceed 30 basis
2 points per year of the assets under management.

3 “(2) TEMPORARY AUTHORIZATION OF APPRO-
4 PRIATIONS FOR STARTUP ADMINISTRATIVE COSTS.—

5 For any such administrative costs that remain after
6 applying paragraph (1) for each of the first five fis-
7 cal years that end after the date of the enactment
8 of this part, there are authorized to be appropriated
9 such sums as may be necessary for each of such fis-
10 cal years.

11 “ADMINISTRATION OF THE PROGRAM

12 “SEC. 258. (a) GENERAL PROVISIONS.—

13 “(1) ESTABLISHMENT AND DUTIES OF THE SO-
14 CIAL SECURITY PERSONAL SAVINGS BOARD.—

15 “(A) ESTABLISHMENT.—There is estab-
16 lished within the Social Security Administration
17 a Social Security Personal Savings Board.

18 “(B) NUMBER AND APPOINTMENT.—The
19 Board shall be composed of 6 members as fol-
20 lows:

21 “(i) two members appointed by the
22 President who may not be of the same po-
23 litical party;

24 “(ii) one member appointed by the
25 Speaker of the House of Representatives,
26 in consultation with the Chairman of the

1 Committee on Ways and Means of the
2 House of Representatives;

3 “(iii) one member appointed by the
4 minority leader of the House of Represent-
5 atives, in consultation with the ranking
6 member of the Committee on Ways and
7 Means of the House of Representatives;

8 “(iv) one member appointed by the
9 majority leader of the Senate, in consulta-
10 tion with the Chairman of the Committee
11 on Finance of the Senate; and

12 “(v) one member appointed by the mi-
13 nority leader of the Senate, in consultation
14 with the ranking member of the Committee
15 on Finance of the Senate.

16 “(C) ADVICE AND CONSENT.—Appoint-
17 ments under this paragraph shall be made by
18 and with the advice and consent of the Senate.

19 “(D) MEMBERSHIP REQUIREMENTS.—
20 Members of the Board shall have substantial
21 experience, training, and expertise in the man-
22 agement of financial investments and pension
23 benefit plans.

24 “(E) TERMS.—

1 “(i) IN GENERAL.—Each member
2 shall be appointed for a term of 4 years,
3 except as provided in clauses (ii) and (iii).
4 The initial members shall be appointed not
5 later than 90 days after the date of the en-
6 actment of this section.

7 “(ii) TERMS OF INITIAL AP-
8 POINTEES.—Of the members first ap-
9 pointed under each clause of subparagraph
10 (B), one of the members appointed under
11 subparagraph (B)(i) (as designated by the
12 President at the time of appointment) and
13 the members appointed under clauses (iii)
14 and (v) of subparagraph (B) shall be ap-
15 pointed for a term of 2 years, and the re-
16 maining members shall be appointed for a
17 term of 4 years.

18 “(iii) VACANCIES.—Any member ap-
19 pointed to fill a vacancy occurring before
20 the expiration of the term for which the
21 member’s predecessor was appointed shall
22 be appointed only for the remainder of that
23 term. A member may serve after the expi-
24 ration of that member’s term until a suc-
25 cessor has taken office. A vacancy in the

1 Board shall be filled in the manner in
2 which the original appointment was made.

3 “(F) POWERS AND DUTIES OF THE
4 BOARD.—

5 “(i) IN GENERAL.—The Board shall
6 have powers and duties solely as provided
7 in this part. The Board shall prescribe by
8 regulation the terms of the Social Security
9 Personal Retirement Accounts Program es-
10 tablished under this part, including policies
11 for investment under the Program of ac-
12 count assets, and policies for the certifi-
13 cation and decertification of account man-
14 agers under the Program, which shall in-
15 clude consideration of the appropriateness
16 of the marketing materials and plans of
17 such person.

18 “(ii) BUDGETARY REQUIREMENTS.—
19 The Board shall prepare and submit to the
20 President and to the appropriate commit-
21 tees of Congress an annual budget of the
22 expenses and other items relating to the
23 Board which shall be included as a sepa-
24 rate item in the budget required to be
25 transmitted to the Congress under section

1 1105 of title 31, United States Code. The
2 Board shall provide for low administrative
3 costs such that, to the extent practicable,
4 overall administrative costs of the Program
5 do not exceed 30 basis points in relation to
6 assets under management under the Pro-
7 gram.

8 “(iii) ADDITIONAL AUTHORITIES OF
9 THE BOARD.—The Board may—

10 “(I) adopt, alter, and use a seal;

11 “(II) establish policies with which
12 the Commissioner shall comply under
13 this part;

14 “(III) appoint and remove the
15 Executive Director, as provided in
16 paragraph (2); and

17 “(IV) beginning with 2008, pro-
18 vide for such additional and alter-
19 native investment options for partici-
20 pating individuals as the Board deter-
21 mines would be prudent sources of re-
22 tirement income that would yield
23 greater amounts of retirement income
24 than the investment described in sec-
25 tion 255(c)(1).

1 “(iv) INDEPENDENCE OF CERTIFIED
2 ACCOUNT MANAGERS.—The policies of the
3 Board may not require a certified account
4 manager to invest or to cause to be in-
5 vested any account assets in a specific
6 asset or to dispose of or cause to be dis-
7 posed of any specific asset so held.

8 “(v) MEETINGS OF THE BOARD.—The
9 Board shall meet at the call of the Chair-
10 man or upon the request of a quorum of
11 the Board. The Board shall perform the
12 functions and exercise the powers of the
13 Board on a majority vote of a quorum of
14 the Board. Four members of the Board
15 shall constitute a quorum for the trans-
16 action of business.

17 “(vi) COMPENSATION OF BOARD MEM-
18 BERS.—

19 “(I) IN GENERAL.—Each mem-
20 ber of the Board who is not an officer
21 or employee of the Federal Govern-
22 ment shall be compensated at the
23 daily rate of basic pay for level IV of
24 the Executive Schedule for each day
25 during which such member is engaged

1 in performing a function of the
2 Board. Any member who is such an
3 officer or employee shall not suffer
4 any loss of pay or deduction from an-
5 nual leave on the basis of any time
6 used by such member in performing
7 such a function.

8 “(II) TRAVEL, PER DIEM, AND
9 EXPENSES.—A member of the Board
10 shall be paid travel, per diem, and
11 other necessary expenses under sub-
12 chapter I of chapter 57 of title 5,
13 United States Code, while traveling
14 away from such member’s home or
15 regular place of business in the per-
16 formance of the duties of the Board.

17 “(vii) STANDARD FOR BOARD’S DIS-
18 CHARGE OF RESPONSIBILITIES.—The
19 members of the Board shall discharge their
20 responsibilities solely in the interest of par-
21 ticipating individuals and the Program.

22 “(viii) ANNUAL REPORT.—The Board
23 shall submit an annual report to the Presi-
24 dent, to each House of the Congress, and
25 to the Board of Trustees of the Federal

1 Old-Age and Survivors Insurance Trust
2 Fund and the Federal Disability Insurance
3 Trust Fund regarding the financial and
4 operating condition of the Program.

5 “(ix) PUBLIC ACCOUNTANT.—

6 “(I) DEFINITION.—For purposes
7 of this subparagraph, the term ‘quali-
8 fied public accountant’ shall have the
9 same meaning as provided in section
10 103(a)(3)(D) of the Employee Retirement
11 Income Security Act of 1974
12 (29 U.S.C. 1023(a)(3)(D)).

13 “(II) ENGAGEMENT.—The Exec-
14 utive Director, in consultation with
15 the Board, shall annually engage, on
16 behalf of all individuals for whom a
17 social security personal retirement ac-
18 count is established under this part,
19 an independent qualified public ac-
20 countant, who shall conduct an exam-
21 ination of all records maintained in
22 the administration of this part that
23 the public accountant considers nec-
24 essary.

1 “(III) DUTIES.—The public ac-
2 countant conducting an examination
3 under clause (ii) shall determine
4 whether the records referred to in
5 such clause have been maintained in
6 conformity with generally accepted ac-
7 counting principles. The public ac-
8 countant shall transmit to the Board
9 a report on his examination.

10 “(IV) RELIANCE ON CERTIFIED
11 ACTUARIAL MATTERS.—In making a
12 determination under clause (iii), a
13 public accountant may rely on the cor-
14 rectness of any actuarial matter cer-
15 tified by an enrolled actuary if the
16 public accountant states his reliance
17 in the report transmitted to the Board
18 under such clause.

19 “(2) EXECUTIVE DIRECTOR.—

20 “(A) APPOINTMENT AND REMOVAL.—The
21 Board shall appoint, without regard to the pro-
22 visions of law governing appointments in the
23 competitive service, an Executive Director by
24 action agreed to by a majority of the members
25 of the Board. The Executive Director shall have

1 substantial experience, training, and expertise
2 in the management of financial investments and
3 pension benefit plans. The Board may, with the
4 concurrence of 4 members of the Board, remove
5 the Executive Director from office for good
6 cause shown.

7 “(B) POWERS AND DUTIES OF EXECUTIVE
8 DIRECTOR.—The Executive Director shall—

9 “(i) carry out the policies established
10 by the Board,

11 “(ii) administer the provisions of this
12 part in accordance with the policies of the
13 Board,

14 “(iii) in consultation with the Board,
15 prescribe such regulations (other than reg-
16 ulations relating to fiduciary responsibil-
17 ities) as may be necessary for the adminis-
18 tration of this part, and

19 “(iv) meet from time to time with the
20 Board upon request of the Board.

21 “(C) ADMINISTRATIVE AUTHORITIES OF
22 EXECUTIVE DIRECTOR.—The Executive Direc-
23 tor may—

1 “(i) appoint such personnel as may be
2 necessary to carry out the provisions of
3 this part,

4 “(ii) subject to approval by the Board,
5 procure the services of experts and consult-
6 ants under section 3109 of title 5, United
7 States Code,

8 “(iii) secure directly from any agency
9 or instrumentality of the Federal Govern-
10 ment any information which, in the judg-
11 ment of the Executive Director, is nec-
12 essary to carry out the provisions of this
13 part and the policies of the Board, and
14 which shall be provided by such agency or
15 instrumentality upon the request of the
16 Executive Director,

17 “(iv) pay the compensation, per diem,
18 and travel expenses of individuals ap-
19 pointed under clauses (i), (ii), and (v) of
20 this subparagraph, subject to such limits
21 as may be established by the Board,

22 “(v) accept and use the services of in-
23 dividuals employed intermittently in the
24 Government service and reimburse such in-
25 dividuals for travel expenses, as authorized

1 by section 5703 of title 5, United States
2 Code, including per diem as authorized by
3 section 5702 of such title, and

4 “(vi) except as otherwise expressly
5 prohibited by law or the policies of the
6 Board, delegate any of the Executive Di-
7 rector’s functions to such employees under
8 the Board as the Executive Director may
9 designate and authorize such successive re-
10 delegations of such functions to such em-
11 ployees under the Board as the Executive
12 Director may consider to be necessary or
13 appropriate.

14 “(3) ROLE OF THE COMMISSIONER OF SOCIAL
15 SECURITY.—The Commissioner shall—

16 “(A) prescribe such regulations (supple-
17 mentary to and consistent with the regulations
18 prescribed by the Board and the Executive Di-
19 rector) as may be necessary for carrying out the
20 duties of the Commissioner under this part,

21 “(B) meet from time to time with, and
22 provide information to, the Board upon request
23 of the Board regarding matters relating to the
24 Social Security Personal Retirement Accounts
25 Program, and

1 “(C) in consultation with the Board and
2 utilizing available Federal agencies and re-
3 sources, develop a campaign to educate workers
4 about the Program.

5 “(b) CERTIFICATION AND OVERSIGHT OF ACCOUNT
6 MANAGERS.—

7 “(1) CERTIFICATION BY THE BOARD.—

8 “(A) IN GENERAL.—Any person that is a
9 qualified professional asset manager (as defined
10 in section 8438(a)(8) of title 5, United States
11 Code) may apply to the Board (in such form
12 and manner as shall be provided by the Board
13 by regulation) for certification under this sub-
14 section as a certified account manager. In mak-
15 ing certification decisions, the Board shall con-
16 sider the applicant’s general character and fit-
17 ness, financial history and future earnings pros-
18 pects, and ability to serve participating individ-
19 uals under the Program, and such other criteria
20 as the Board deems necessary to carry out this
21 part. Certification of any person under this sub-
22 section shall be contingent upon entry into a
23 contractual arrangement between the Board
24 and such person.

1 “(B) NONDELEGATION REQUIREMENT.—

2 The authority of the Board to make any deter-
3 mination to deny any application under this
4 subsection may not be delegated by the Board.

5 “(2) OVERSIGHT OF CERTIFIED ACCOUNT MAN-
6 AGERS.—

7 “(A) ROLE OF REGULATORY AGENCIES.—

8 The Board may enter into cooperative arrange-
9 ments with Federal and State regulatory agen-
10 cies identified by the Board as having jurisdic-
11 tion over persons eligible for certification under
12 this subsection so as to ensure that the provi-
13 sions of this part are enforced with respect to
14 certified account managers in a manner con-
15 sistent with and supportive of the requirements
16 of other provisions of Federal law applicable to
17 them. Such Federal regulatory agencies shall
18 cooperate with the Board to the extent that the
19 Board determines that such cooperation is nec-
20 essary and appropriate to ensure that the provi-
21 sions of this part are effectively implemented.

22 “(B) ACCESS TO RECORDS.—The Board
23 may from time to time require any certified ac-
24 count manager to file such reports as the Board
25 may specify by regulation as necessary for the

1 administration of this part. In prescribing such
2 regulations, the Board shall minimize the regu-
3 latory burden imposed upon certified account
4 managers while taking into account the benefit
5 of the information to the Board in carrying out
6 its functions under this part.

7 “(3) REVOCATION OF CERTIFICATION.—The
8 Board shall provide, in the contractual arrangements
9 entered into under this subsection with each certified
10 account manager, for revocation of such person’s
11 status as a certified account manager upon deter-
12 mination by the Board of such person’s failure to
13 comply with the requirements of such contractual ar-
14 rangements. Such arrangements shall include provi-
15 sion for notice and opportunity for review of any
16 such revocation.

17 “(c) FIDUCIARY RESPONSIBILITIES.—

18 “(1) IN GENERAL.—Rules similar to the provi-
19 sions of section 8477 of title 5, United States Code
20 (relating to fiduciary responsibilities; liability and
21 penalties) shall apply in connection with account as-
22 sets, in accordance with regulations which shall be
23 issued by the Board. The Board shall issue regula-
24 tions with respect to the investigative authority of

1 appropriate Federal agencies in cases involving ac-
2 count assets.

3 “(2) EXCULPATORY PROVISIONS VOIDED.—Any
4 provision in an agreement or instrument which pur-
5 ports to relieve a fiduciary from responsibility or li-
6 ability for any responsibility, obligation, or duty
7 under this part shall be void.

8 “(d) CIVIL ACTIONS BY BOARD.—If any person fails
9 to meet any requirement of this part or of any contract
10 entered into under this part, the Board may bring a civil
11 action in any district court of the United States within
12 the jurisdiction of which such person’s assets are located
13 or in which such person resides or is found, without regard
14 to the amount in controversy, for appropriate relief to re-
15 dress the violation or enforce the provisions of this part,
16 and process in such an action may be served in any dis-
17 trict.

18 “(e) PREEMPTION OF INCONSISTENT STATE LAW.—
19 A provision of this part shall not be construed to preempt
20 any provision of the law of any State or political subdivi-
21 sion thereof, or prevent a State or political subdivision
22 thereof from enacting any provision of law with respect
23 to the subject matter of this part, except to the extent
24 that such provision of State law is inconsistent with this
25 part, and then only to the extent of the inconsistency.”.

1 (b) CONFORMING AMENDMENT TO PART A.—Section
2 202 of such Act (42 U.S.C. 402) is amended by adding
3 at the end the following new subsection:

4 “Adjustments Under Part B

5 “(z) The amount of benefits under subsection (a),
6 (b), (c), or (h), subsection (e) or (f) other than on the
7 basis of disability, or any combination thereof which are
8 otherwise payable under this part shall be subject to ad-
9 justment as provided under section 256(f).”.

10 (c) ADDITIONAL CONFORMING AMENDMENTS.—(1)
11 Section 701(b) of the Social Security Act (42 U.S.C.
12 901(b)) is amended by striking “title II” and inserting
13 “part A of title II, the Social Security Personal Retire-
14 ment Accounts Program under part B of title II,”.

15 (2) Section 702(a)(4) of the Social Security Act (42
16 U.S.C. 902(a)(4)) is amended by inserting “other than
17 those of the Social Security Personal Savings Board” after
18 “Administration”, and by striking “thereof” and inserting
19 “of the Administration in connection with the exercise of
20 such powers and the discharge of such duties”.

21 **SEC. 102. ANNUAL ACCOUNT STATEMENTS.**

22 Section 1143 of the Social Security Act (42 U.S.C.
23 1320b–13) is amended by adding at the end the following
24 new subsection:

1 “Performance of Social Security Personal Retirement
2 Accounts

3 “(d) Beginning not later than 1 year after the date
4 of the first deposit is made to an eligible individual’s So-
5 cial Security personal retirement account, each statement
6 provided to such eligible individual under this section shall
7 include information determined by the Social Security
8 Personal Savings Board as sufficient to fully inform such
9 eligible individual annually of the balance, investment per-
10 formance, and administrative expenses of such account.”.

11 **TITLE II—TAX TREATMENT**

12 **SEC. 201. TAX TREATMENT OF SOCIAL SECURITY PER- 13 SONAL RETIREMENT ACCOUNTS.**

14 Section 7701 of the Internal Revenue Code of 1986
15 (relating to definitions) is amended by redesignating sub-
16 section (o) as subsection (p) and by inserting after sub-
17 section (n) the following new subsection:

18 “(o) **TAX TREATMENT OF SOCIAL SECURITY PER-
19 SONAL RETIREMENT ACCOUNTS.**—All social security per-
20 sonal retirement accounts established under part B of title
21 II of the Social Security Act shall be exempt from taxation
22 under this title.”.

1 **SEC. 202. BENEFITS TAXABLE AS SOCIAL SECURITY BENE-**
2 **FITS.**

3 (a) SPECIAL RULES RELATING TO DISTRIBUTION OF
4 CLOSED ACCOUNT UNDER SECTION 257(d) OF SOCIAL
5 SECURITY ACT.—Section 86(a) of such Code (as amended
6 by paragraph (2)) is amended by adding at the end the
7 following new paragraph:

8 “(4) EXTENSION OF PARAGRAPH (2)(B) TO DIS-
9 TRIBUTIONS OF CLOSED ACCOUNT UNDER SECTION
10 257(d) OF SOCIAL SECURITY ACT.—Notwithstanding
11 any other provision of this subsection, in the case of
12 any amount received pursuant to the closing of an
13 account under section 257(d) of the Social Security
14 Act, paragraph (2)(B) shall apply to such amounts,
15 and for such purposes the amount allocated to the
16 investment in the contract shall be zero.”

17 (b) EFFECTIVE DATE.—The amendments made by
18 this subsection shall apply to taxable years beginning after
19 the end of the calendar year in which this Act is enacted.

20 (c) ESTATE TAX NOT TO APPLY TO ASSETS OF SO-
21 CIAL SECURITY PERSONAL RETIREMENT ACCOUNTS.—

22 (1) IN GENERAL.—Part IV of subchapter A of
23 chapter 11 of such Code (relating to taxable estate)
24 is amended by adding at the end the following new
25 section:

1 **“SEC. 2059. SOCIAL SECURITY PERSONAL RETIREMENT AC-**
2 **COUNTS.**

3 “For purposes of the tax imposed by section 2001,
4 the value of the taxable estate shall be determined by de-
5 ducting from the value of the gross estate an amount
6 equal to the value of the assets of a social security per-
7 sonal retirement account transferred from such account
8 by the Secretary under section 257 of the Social Security
9 Act.”.

10 (2) CLERICAL AMENDMENT.—The table of sec-
11 tions for part IV of subchapter A of chapter 11 of
12 such Code is amended by adding at the end the fol-
13 lowing new item:

“Sec. 2059. Social security personal retirement accounts.”.

14 (3) EFFECTIVE DATE.—The amendments made
15 by this subsection shall apply to decedents dying in
16 or after the calendar year in which this Act is en-
17 acted.

○