

104TH CONGRESS
2D SESSION

S. 2176

To amend the Internal Revenue Code of 1986 and the Social Security Act to provide for personal investment plans funded by employee Social Security payroll deductions.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 30, 1996

Mr. KERREY (for himself and Mr. SIMPSON) introduced the following bill;
which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 and the Social Security Act to provide for personal investment plans funded by employee Social Security payroll deductions.

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.**

4 This Act may be cited as the “Personal Investment
5 Plan Act of 1996”.

1 **SEC. 2. OPTIONAL REDUCTION OF SOCIAL SECURITY TAXES**
2 **ON EMPLOYEES.**

3 (a) **TAX ON EMPLOYEES.**—Subsection (a) of section
4 3101 of the Internal Revenue Code of 1986 (relating to
5 OASDI tax on employees) is amended—

6 (1) by striking the period at the end of the
7 table and inserting a semicolon; and

8 (2) by adding after and below the table the fol-
9 lowing:

10 “except that, in the case of an eligible employee (as de-
11 fined in section 255(3) of the Social Security Act), the
12 rate of tax under this subsection shall be 4.2 percent with
13 respect to wages paid on or after January 1 of the cal-
14 endar year in which an election is in effect under such
15 section, for pay periods ending after such date.”.

16 (b) **SELF-EMPLOYMENT TAX.**—Subsection (a) of sec-
17 tion 1401 of such Code (relating to OASDI tax on self-
18 employment income) is amended—

19 (1) by striking the period at the end of the
20 table and inserting a semicolon; and

21 (2) by adding after and below the table the fol-
22 lowing:

23 “except that, in the case of an eligible self-employed indi-
24 vidual (as defined in section 255(4) of the Social Security
25 Act), the rate of tax under this subsection shall be 10.4
26 percent of the amount of the self-employment income in

1 the case of a taxable year in which an election is in effect
2 under such section.”.

3 (c) EFFECTIVE DATES.—

4 (1) IN GENERAL.—Except as otherwise pro-
5 vided in this subsection, the amendments made by
6 this section shall apply to remuneration paid after
7 December 31, 1996.

8 (2) SELF-EMPLOYMENT TAX.—The amend-
9 ments made by subsection (b) shall apply to taxable
10 years beginning after December 31, 1996.

11 **SEC. 3. PERSONAL INVESTMENT PLANS.**

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

14 (1) by inserting before section 201 the follow-
15 ing:

16 “PART A—INSURANCE BENEFITS”;

17 and

18 (2) by adding at the end the following new part:

19 “PART B—PERSONAL INVESTMENT PLANS

20 “PERSONAL INVESTMENT PAYROLL DEDUCTION PLANS

21 “SEC. 251. (a) IN GENERAL.—Each person who is
22 a covered employer for a calendar year shall have in effect
23 a personal investment payroll deduction plan for such cal-
24 endar year for such person’s eligible employees.

1 “(b) REQUIREMENTS.—For purposes of this part, the
2 term ‘personal investment payroll deduction plan’ means
3 a written plan of an employer if—

4 “(1) the plan applies only with respect to wages
5 of eligible employees,

6 “(2) under such plan, the personal investment
7 plan contributions will be deducted from the employ-
8 ee’s wages and paid to the Social Security Adminis-
9 tration with respect to a personal investment plan
10 designated in accordance with section 252(a),

11 “(3) under such plan, the employer is required
12 to pay the amount so deducted with respect to the
13 specified personal investment plan within 10 busi-
14 ness days after the payment of the wages from
15 which the amount was deducted,

16 “(4) the employer receives no compensation for
17 the cost of administering such plan, and

18 “(5) the employer does not make any endorse-
19 ment with respect to any plan.

20 “(c) AMOUNTS DEDUCTED MAY BE ACCUMULATED
21 BY EMPLOYER IN CERTAIN CASES.—If, under the terms
22 of a personal investment plan designated under section
23 252(a), contributions below a specified amount will not be
24 accepted, the requirements of subsection (b)(2) shall be
25 treated as met if amounts deducted from the wages of

1 such employee are accumulated by the employer and paid
2 to such plan not later than 10 business days after the first
3 day on which the accumulated amount exceeds such speci-
4 fied amount.

5 “DESIGNATION OF PERSONAL INVESTMENT PLANS
6 UNDER PAYROLL DEDUCTION PLAN

7 “SEC. 252. (a) IN GENERAL.—Except as provided in
8 subsection (b), the personal investment plan with respect
9 to which the personal investment plan contributions with
10 respect to any employee are required to be paid under sec-
11 tion 251 shall be a personal investment plan designated
12 by the employee to the employer not later than 10 business
13 days after the date on which the employee becomes an em-
14 ployee of such employer. Any such designation shall be
15 made in such form and manner as may be prescribed in
16 regulations of the Commissioner of Social Security.

17 “(b) DESIGNATION IN ABSENCE OF TIMELY DES-
18 IGNATION BY EMPLOYEE.—In any case in which no timely
19 designation of the personal investment plan is made, the
20 employer shall make the designation of the personal in-
21 vestment plan in accordance with regulations of the Com-
22 missioner of Social Security.

23 “PARTICIPATION BY SELF-EMPLOYED INDIVIDUALS

24 “SEC. 253. (a) IN GENERAL.—Each eligible self-em-
25 ployed individual who receives self-employment income be-
26 ginning on or after January 1 of the taxable year in which

1 ble survivor to the trustee not later than 20 business days
2 after the date of such individual's death. Any such des-
3 ignation shall be made in such form and manner as may
4 be prescribed in regulations of the Commissioner of Social
5 Security.

6 “(b) EXCEPTION IN CASE OF WRITTEN CONSENT TO
7 TRANSFER TO ANOTHER BENEFICIARY.—In any case in
8 which the eligible survivor of a deceased individual has
9 consented in writing to a transfer by such individual of
10 the balance in such individual's personal investment plan
11 to another beneficiary, the trustee of such plan shall trans-
12 fer the balance in such plan to such beneficiary within the
13 period of 20 business days following the date of such indi-
14 vidual's death.

15 “(c) DESIGNATION IN ABSENCE OF TIMELY DES-
16 IGNATION OR CONSENT BY ELIGIBLE SURVIVOR.—In any
17 case in which, upon the expiration of the 20-day period
18 described in subsection (a), there is an eligible survivor
19 but no timely designation is made by the eligible survivor
20 under subsection (a) and no consent has been made pursu-
21 ant to subsection (b), the trustee shall make the designa-
22 tion of the personal investment plan under subsection (a)
23 on behalf of such eligible survivor, in accordance with reg-
24 ulations of the Commissioner of Social Security.

1 under terms which restrict deposits to personal in-
2 vestment plan contributions made to the plan pursu-
3 ant to section 251 or 253 and transfers made to the
4 plan pursuant to section 254, and under which dis-
5 tributions may only be made on or after the date
6 on which the individual attains age 59½, made to
7 a beneficiary (or to the estate of the individual) on
8 or after the death of the individual, or attributable
9 to the individual's becoming disabled within the
10 meaning of section 223(d).

11 “(2) COVERED EMPLOYER.—The term ‘covered
12 employer’ means, for any calendar year, any person
13 on whom an excise tax is imposed under section
14 3111 of the Internal Revenue Code of 1986 with re-
15 spect to having an individual in his employ to whom
16 wages are paid by such person during such calendar
17 year.

18 “(3) ELIGIBLE EMPLOYEE.—

19 “(A) IN GENERAL.—The term ‘eligible em-
20 ployee’ means, in connection with any person
21 who is a covered employer for any calendar year
22 beginning after December 31, 1996, any indi-
23 vidual—

24 “(i) with respect to whose employment
25 by such employer during such calendar

1 year there is imposed an excise tax under
2 section 3111 of the Internal Revenue Code
3 of 1986, and

4 “(ii) who files with the employer and
5 the Commissioner of Social Security, in
6 such form and manner as shall be pre-
7 scribed in regulations of the Commissioner,
8 a written and signed declaration of such
9 individual’s intention to be treated as an
10 eligible employee for purposes of this title
11 and such election meets the requirements
12 of subparagraph (B).

13 “(B) REQUIREMENTS.—Any election under
14 subparagraph (A)(ii) must be so filed not later
15 than December 15 preceding the calendar year
16 in which such election is to take effect, and
17 must designate the personal investment plan to
18 which the personal investment plan contribu-
19 tions with respect to such individual are to be
20 paid.

21 “(C) IRREVOCABILITY.—Any election
22 under subparagraph (A)(ii) shall be irrevocable
23 and shall be effective with respect to wages paid
24 on or after January 1 of the calendar year in

1 which such election is to take effect, for pay pe-
2 riods ending on or after such date.

3 “(4) ELIGIBLE SELF-EMPLOYED INDIVIDUAL.—

4 “(A) IN GENERAL.—The term ‘eligible self-
5 employed individual’ means any individual—

6 “(i) on whose self-employment income
7 for a taxable year beginning after Decem-
8 ber 31, 1996, there is imposed a tax under
9 section 1401(a) of the Internal Revenue
10 Code of 1986, and

11 “(ii) who files with the Commissioner
12 of Social Security, in such form and man-
13 ner as shall be prescribed in regulations of
14 the Commissioner, a written and signed
15 declaration of such individual’s intention to
16 be treated as an eligible self-employed indi-
17 vidual for purposes of this title and such
18 election meets the requirements of sub-
19 paragraph (B).

20 “(B) REQUIREMENTS.—Any election under
21 subparagraph (A)(ii) must be so filed not later
22 than December 15 preceding the taxable year in
23 which such election is to take effect, and must
24 designate the personal investment plan to which

1 the personal investment plan contributions with
2 respect to such individual are to be paid.

3 “(C) IRREVOCABILITY.—Any election
4 under subparagraph (A)(ii) shall be irrevocable
5 and shall be effective with respect to self-em-
6 ployment income beginning on or after the first
7 day of the taxable year in which such election
8 is to take effect, for pay periods ending on or
9 after such date.

10 “(5) PERSONAL INVESTMENT PLAN CONTRIBU-
11 TION.—The term ‘personal investment plan con-
12 tribution’ means—

13 “(A) with respect to any eligible employee
14 of a covered employer, an amount equal to 2
15 percent of the wages received by such employee
16 with respect to employment by such employer,
17 and

18 “(B) with respect to the self-employment
19 income of an individual for any taxable year, an
20 amount equal to 2 percent of such income for
21 such taxable year.

22 “(6) ELIGIBLE SURVIVOR.—The term ‘eligible
23 survivor’ of a deceased individual means such indi-
24 vidual’s widow or, if there is no such widow, such in-
25 dividual’s last surviving divorced wife or surviving

1 divorced husband. Such term shall not include any
2 such surviving divorced wife or surviving divorced
3 husband who is married on the date of the deceased
4 individual's death.

5 “(7) BUSINESS DAY.—The term ‘business day’
6 means any day other than a Saturday, Sunday, or
7 legal holiday in the area involved.

8 “PENALTIES

9 “SEC. 256. (a) FAILURE TO ESTABLISH PERSONAL
10 INVESTMENT PAYROLL DEDUCTION PLAN.—Any covered
11 employer who fails to meet the requirements of section
12 251 for any calendar year shall be subject to a civil penalty
13 of not to exceed the greater of—

14 “(1) \$5,000, or

15 “(2) \$100 for each eligible employee of such
16 employer as of the beginning of such calendar year.

17 “(b) FAILURE TO MAKE DEDUCTIONS REQUIRED
18 UNDER PLAN.—Any covered employer who fails to deduct
19 an amount from the wages of an eligible employee in ac-
20 cordance with a personal investment payroll deduction
21 plan shall be subject to a civil penalty of not to exceed
22 \$500 for each such failure.

23 “(c) FAILURE BY EMPLOYER TO MAKE TIMELY PAY-
24 MENTS WITH RESPECT TO PERSONAL INVESTMENT
25 PLAN.—If an amount deducted from the wages of an eligi-
26 ble employee under a social security payroll deduction plan

1 is not paid to the Social Security Administration with re-
2 spect to the specified personal investment plan within the
3 time prescribed by section 251—

4 “(1) the employer shall be subject to a civil
5 penalty of not to exceed 50 percent of the amount
6 so deducted, and

7 “(2) shall be liable to the employee for interest
8 on the amount so deducted at the underpayment
9 rate determined under section 6621 of the Internal
10 Revenue Code of 1986 from the last day by which
11 such amount was required to be so paid to the date
12 on which such amount is paid into the specified per-
13 sonal investment plan.

14 “(d) FAILURE BY ELIGIBLE SELF-EMPLOYED INDIVIDUAL TO MAKE TIMELY PAYMENTS TO PERSONAL INVESTMENT PLAN.—If a personal investment plan contribution is not paid by an eligible self-employed individual to the Social Security Administration with respect to a personal investment plan maintained by the individual within the time prescribed by section 253, such individual shall be subject to a civil penalty of not to exceed 50 percent of the amount of such contribution.

23 “(e) FAILURE BY TRUSTEE TO MAKE TIMELY
24 TRANSFERS.—If the balance in the personal investment

1 plan of a deceased individual is not transferred by the
2 trustee within the time prescribed by section 254—

3 “(1) the trustee shall be subject to a civil pen-
4 alty of not to exceed 50 percent of the amount of
5 the balance, and

6 “(2) shall be liable for interest on the balance
7 at the underpayment rate determined under section
8 6621 of the Internal Revenue Code of 1986 from the
9 last day by which such balance was required to be
10 so transferred to the date on which such balance is
11 transferred.

12 “(f) RULES FOR APPLICATION OF SECTION.—

13 “(1) PENALTIES ASSESSED BY COMMIS-
14 SIONER.—Any civil penalty assessed by this section
15 shall be imposed by the Commissioner of Social Se-
16 curity and collected in a civil action.

17 “(2) COMPROMISES.—The Commissioner may
18 compromise the amount of any civil penalty imposed
19 by this section.

20 “(3) AUTHORITY TO WAIVE PENALTY IN CER-
21 TAIN CASES.—The Commissioner may waive the ap-
22 plication of this section with respect to any failure
23 if the Commissioner determines that such failure is
24 due to reasonable cause and not to intentional dis-
25 regard of rules and regulations.

1 “PERSONAL INVESTMENT FUND

2 “SEC. 257. (a) ESTABLISHMENT.—There is hereby
3 established and maintained in the Treasury of the United
4 States a Personal Investment Fund in the same manner
5 as the Thrift Savings Fund under sections 8437, 8438,
6 and 8439 of title 5, United States Code.

7 “(b) PERSONAL INVESTMENT FUND BOARD.—

8 “(1) IN GENERAL.—There is established and
9 operated in the Social Security Administration a
10 Personal Investment Fund Board in the same man-
11 ner as the Federal Retirement Thrift Investment
12 Board under subchapter VII of chapter 84 of title
13 5, United States Code.

14 “(2) SPECIFIC INVESTMENT DUTIES.—The Per-
15 sonal Investment Fund shall be managed by the
16 Personal Investment Fund Board in the same man-
17 ner as the Thrift Savings Fund is managed under
18 subchapter VIII of chapter 84 of title 5, United
19 States Code.”.

20 (b) AMOUNTS DEDUCTED TO BE SHOWN ON W-2
21 STATEMENTS.—Subsection (a) of section 6051 of the In-
22 ternal Revenue Code of 1986 (relating to receipts for em-
23 ployees), as amended by section 301(c)(3) of the Health
24 Insurance Portability and Accountability Act of 1986, is
25 amended—

1 (1) by striking “and” at the end of paragraph
2 (10);

3 (2) by striking the period at the end of para-
4 graph (11) and inserting “, and”; and

5 (3) by adding at the end the following new
6 paragraph:

7 “(12) the total amount deducted from the em-
8 ployee’s wages under a personal investment payroll
9 deduction plan established under part B of title II
10 of the Social Security Act.”.

11 (c) EXEMPTION FROM ERISA REQUIREMENTS.—
12 Subsection (b) of section 4 of the Employee Retirement
13 Income Security Act of 1974 (29 U.S.C. 1003(b)) is
14 amended—

15 (1) by striking “or” at the end of paragraph
16 (4);

17 (2) by striking the period at the end of para-
18 graph (5) and inserting “; or”; and

19 (3) by adding at the end the following new
20 paragraph:

21 “(6) such plan is a personal investment payroll
22 deduction plan established under part B of title II
23 of the Social Security Act and does not provide for
24 employer contributions.”.

1 (d) EFFECTIVE DATE AND NOTICE REQUIRE-
2 MENTS.—

3 (1) EFFECTIVE DATE.—The amendments made
4 by subsection (a) (and any personal investment pay-
5 roll deduction plan required thereunder) shall apply
6 with respect to wages paid after December 31, 1996,
7 for pay periods ending after such date and self-em-
8 ployment income for taxable years beginning after
9 such date.

10 (2) NOTICE REQUIREMENTS.—

11 (A) IN GENERAL.—Not later than October
12 1, 1997, the Commissioner of Social Security
13 shall—

14 (i) send to the last known address of
15 each eligible individual a description of the
16 program established by the amendments
17 made by this section, which shall be writ-
18 ten in the form of a pamphlet in language
19 which may be readily understood by the
20 average worker,

21 (ii) provide for toll-free access by tele-
22 phone from all localities in the United
23 States to the Social Security Administra-
24 tion through which individuals may obtain

1 information and answers to questions re-
2 garding such program, and

3 (iii) provide information to the media
4 in all localities of the United States about
5 such program and such toll-free access by
6 telephone.

7 (B) ELIGIBLE INDIVIDUAL.—For purposes
8 of this paragraph, the term “eligible individual”
9 means an individual who, as of the date of the
10 pamphlet sent pursuant to subparagraph (A), is
11 indicated within the records of the Social Secu-
12 rity Administration as being credited with one
13 or more quarters of coverage under section 213
14 of the Social Security Act.

15 (C) MATTERS TO BE INCLUDED.—The
16 Commissioner shall include with the pamphlet
17 sent to each eligible individual pursuant to sub-
18 paragraph (A)—

19 (i) a statement of the number of quar-
20 ters of coverage indicated in the records of
21 the Social Security Administration as of
22 the date of the description as credited to
23 such individual under section 213 of the
24 Social Security Act and the date as of

1 which such records may be considered ac-
2 curate, and

3 (ii) the number for toll-free access by
4 telephone established by the Commissioner
5 pursuant to subparagraph (A).

6 **SEC. 4. ADJUSTMENTS TO PRIMARY INSURANCE AMOUNTS**
7 **UNDER PART A OF TITLE II OF THE SOCIAL**
8 **SECURITY ACT.**

9 (a) IN GENERAL.—Section 215 of the Social Security
10 Act (42 U.S.C. 415) is amended by adding at the end the
11 following new subsection:

12 “Adjustment of Primary Insurance Amount of Eligible
13 Employees and Eligible Self-Employed Individuals
14 Under Part B

15 “(j)(1) Except as provided in paragraph (2), in the
16 case of an individual who is—

17 “(A) an eligible employee, as defined under
18 paragraph (3) of section 255, or

19 “(B) an eligible self-employed individual, as de-
20 fined under paragraph (4) of section 255,

21 such individual’s primary insurance amount shall be deter-
22 mined under subsection (a)(1)(A) (before subsequent ad-
23 justments made under subsection (i)), by substituting the
24 first, second, and third primary insurance amount factors
25 determined in the following table for the primary insur-

1 ance amount factors ‘90’, ‘32’, and ‘15’ in clauses (i), (ii),
 2 and (iii), respectively:

“If individual’s age in 1996 is:	The PIA factors for such individual are:		
	First:	Second:	Third:
25 and under	90	14	2
26 to 35	90	21	8
35 to 45	90	26	12
45 and over	90	29	14.”

3 “(2)(A) In the case of an individual who is an eligible
 4 employee as defined in paragraph (3) of section 255 or
 5 an eligible self-employed individual as defined in para-
 6 graph (4) of section 255 becomes entitled to disability in-
 7 surance benefits under section 223, such individual’s pri-
 8 mary insurance amount shall be determined without re-
 9 gard to paragraph (1).

10 “(B) Effective upon the attainment by an individual
 11 described in subparagraph (A) of retirement age (as de-
 12 fined in section 216(l)(1)), such individual’s primary in-
 13 surance amount as determined in accordance with this sec-
 14 tion (before subsequent adjustments made under sub-
 15 section (i)) shall be determined under paragraph (1).”.

16 (b) CONFORMING AMENDMENT TO RAILROAD RE-
 17 TIREMENT ACT OF 1974.—Section 1 of the Railroad Re-
 18 tirement Act of 1974 (45 U.S.C. 231) is amended by add-
 19 ing at the end the following:

1 “(s) In applying applicable provisions of the Social
2 Security Act for purposes of determining the amount of
3 the annuity to which an individual is entitled under this
4 Act, such individual shall not be treated as an ‘eligible
5 individual’ as defined in section 253(4) of the Social Secu-
6 rity Act.”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply with respect to months after De-
9 cember 1996.

○