

104TH CONGRESS  
1ST SESSION

# S. 824

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.

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## IN THE SENATE OF THE UNITED STATES

MAY 18 (legislative day, MAY 15), 1995

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

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## 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 1995”.

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, 1995.

8 (2) SELF-EMPLOYMENT TAX.—The amend-  
 9 ments made by subsection (b) shall apply to taxable  
 10 years beginning after December 31, 1995.

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 an election is in effect under section 255, shall, in such  
 2 form and manner as shall be prescribed in regulations of  
 3 the Commissioner of Social Security, deposit with the So-  
 4 cial Security Administration with respect to a personal in-  
 5 vestment plan maintained by such individual the personal  
 6 investment plan contribution for such taxable year. Such  
 7 deposit shall be made within 10 business days after the  
 8 receipt by such individual of such self-employment income.

9 “(b) AMOUNTS PAYABLE MAY BE ACCUMULATED IN  
 10 CERTAIN CASES.—If, under the terms of a personal in-  
 11 vestment plan maintained under subsection (a), contribu-  
 12 tions below a specified amount will not be accepted, the  
 13 requirements of subsection (a) shall be treated as met if  
 14 amounts otherwise payable under subsection (a) are accu-  
 15 mulated by the individual and paid to such plan not later  
 16 than 10 business days after the first day on which the  
 17 accumulated amount exceeds such specified amount.

18 “DESIGNATION OF PLANS OF SURVIVING SPOUSES AND  
 19 SURVIVING DIVORCED SPOUSES

20 “SEC. 254. (a) IN GENERAL.—Except as provided in  
 21 subsection (b), in the case of a deceased individual with  
 22 respect to whom a personal investment plan was estab-  
 23 lished and maintained pursuant to section 252 or 253, the  
 24 trustee of such plan shall transfer the balance in such plan  
 25 to a personal investment plan maintained by an eligible  
 26 survivor if such plan is designated by the eligible survivor

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

5       “(b) DESIGNATION IN ABSENCE OF TIMELY DES-  
 6 IGNATION BY ELIGIBLE SURVIVOR.—In any case in which,  
 7 upon the expiration of such 20-day period, there is an eli-  
 8 gible survivor but no timely designation of a personal in-  
 9 vestment plan is made by the eligible survivor under sub-  
 10 section (a), the trustee shall make the designation of the  
 11 personal investment plan under subsection (a) on behalf  
 12 of such eligible survivor, in accordance with regulations  
 13 of the Commissioner of Social Security.

14       “(c) DISPOSITION OF PLAN BALANCE WHERE NO  
 15 ELIGIBLE SURVIVOR EXISTS.—In any case in which, upon  
 16 the expiration of such 20-day period no timely designation  
 17 under subsection (b) has been made and there is no eligi-  
 18 ble survivor, the trustee of the deceased individual's plan  
 19 shall transfer the balance in such plan to the Federal Old-  
 20 Age and Survivors Insurance Trust Fund within the pe-  
 21 riod of 20 business days following the expiration of such  
 22 20-day period.

23                               “DEFINITIONS

24       “SEC. 255. For purposes of this part—

25               “(1) PERSONAL INVESTMENT PLAN.—The term  
 26       ‘personal investment plan’ means—

1           “(A) any personal investment retirement  
 2           plan in the Personal Investment Fund (estab-  
 3           lished under section 257) which is administered  
 4           by the Personal Investment Board, or

5           “(B) any individual retirement plan (as de-  
 6           fined in section 7701(a)(37) of the Internal  
 7           Revenue Code of 1986) which is administered  
 8           or issued by a bank (as defined in section  
 9           408(n) of such Code),  
 10          under terms which restrict deposits to personal in-  
 11          vestment plan contributions made to the plan pursu-  
 12          ant to section 251 or 253 and transfers made to the  
 13          plan pursuant to section 254, and under which dis-  
 14          tributions may only be made on or after the date on  
 15          which the individual attains age 59½, made to a  
 16          beneficiary (or to the estate of the individual) on or  
 17          after the death of the individual, or attributable to  
 18          the individual’s becoming disabled within the mean-  
 19          ing of section 223(d).

20          “(2) COVERED EMPLOYER.—The term ‘covered  
 21          employer’ means, for any calendar year, any person  
 22          on whom an excise tax is imposed under section  
 23          3111 of the Internal Revenue Code of 1986 with re-  
 24          spect to having an individual in his employ to whom



1 wages are paid by such person during such calendar  
2 year.

3 “(3) ELIGIBLE EMPLOYEE.—

4 “(A) IN GENERAL.—The term ‘eligible em-  
5 ployee’ means, in connection with any person  
6 who is a covered employer for any calendar year  
7 beginning after December 31, 1995, any indi-  
8 vidual—

9 “(i) with respect to whose employment  
10 by such employer during such calendar  
11 year there is imposed an excise tax under  
12 section 3111 of the Internal Revenue Code  
13 of 1986, and

14 “(ii) who files with the employer and  
15 the Commissioner of Social Security, in  
16 such form and manner as shall be pre-  
17 scribed in regulations of the Commissioner,  
18 a written and signed declaration of such  
19 individual’s intention to be treated as an  
20 eligible employee for purposes of this title  
21 and such election meets the requirements  
22 of subparagraph (B).

23 “(B) REQUIREMENTS.—Any election under  
24 subparagraph (A)(ii) must be so filed not later  
25 than December 15 preceding the calendar year

1 in which such election is to take effect, and  
2 must designate the personal investment plan to  
3 which the personal investment plan contribu-  
4 tions with respect to such individual are to be  
5 paid.

6 “(C) IRREVOCABILITY.—Any election  
7 under subparagraph (A)(ii) shall be irrevocable  
8 and shall be effective with respect to wages paid  
9 on or after January 1 of the calendar year in  
10 which such election is to take effect, for pay pe-  
11 riods ending on or after such date.

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

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

15 “(i) on whose self-employment income  
16 for a taxable year beginning after Decem-  
17 ber 31, 1995, there is imposed a tax under  
18 section 1401(a) of the Internal Revenue  
19 Code of 1986, and

20 “(ii) who files with the Commissioner  
21 of Social Security, in such form and man-  
22 ner as shall be prescribed in regulations of  
23 the Commissioner, a written and signed  
24 declaration of such individual’s intention to  
25 be treated as an eligible self-employed indi-

1           vidual for purposes of this title and such  
2           election meets the requirements of sub-  
3           paragraph (B).

4           “(B) REQUIREMENTS.—Any election under  
5           subparagraph (A)(ii) must be so filed not later  
6           than December 15 preceding the taxable year in  
7           which such election is to take effect, and must  
8           designate the personal investment plan to which  
9           the personal investment plan contributions with  
10          respect to such individual are to be paid.

11          “(C) IRREVOCABILITY.—Any election  
12          under subparagraph (A)(ii) shall be irrevocable  
13          and shall be effective with respect to self-em-  
14          ployment income beginning on or after the first  
15          day of the taxable year in which such election  
16          is to take effect, for pay periods ending on or  
17          after such date.

18          “(5) PERSONAL INVESTMENT PLAN CONTRIBU-  
19          TION.—The term ‘personal investment plan con-  
20          tribution’ means—

21               “(A) with respect to any eligible employee  
22               of a covered employer, an amount equal to 2  
23               percent of the wages received by such employee  
24               with respect to employment by such employer,  
25               and

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

17       “SEC. 256. (a) FAILURE TO ESTABLISH PERSONAL  
18 INVESTMENT PAYROLL DEDUCTION PLAN.—Any covered  
19 employer who fails to meet the requirements of section  
20 251 for any calendar year shall be subject to a civil penalty  
21 of not to exceed the greater of—

23 “(2) \$100 for each eligible employee of such  
24 employer as of the beginning of such calendar year.

25       “(b) FAILURE TO MAKE DEDUCTIONS REQUIRED  
26 UNDER PLAN.—Any covered employer who fails to deduct

1 an amount from the wages of an eligible employee in ac-  
2 cordance with a personal investment payroll deduction  
3 plan shall be subject to a civil penalty of not to exceed  
4 \$500 for each such failure.

5 “(c) FAILURE BY EMPLOYER TO MAKE TIMELY PAY-  
6 MENTS WITH RESPECT TO PERSONAL INVESTMENT  
7 PLAN.—If an amount deducted from the wages of an eligi-  
8 ble employee under a social security payroll deduction plan  
9 is not paid to the Social Security Administration with re-  
10 spect to the specified personal investment plan within the  
11 time prescribed by section 251—

12 “(1) the employer shall be subject to a civil  
13 penalty of not to exceed 50 percent of the amount  
14 so deducted, and

15 “(2) shall be liable to the employee for interest  
16 on the amount so deducted at the underpayment  
17 rate determined under section 6621 of the Internal  
18 Revenue Code of 1986 from the last day by which  
19 such amount was required to be so paid to the date  
20 on which such amount is paid into the specified per-  
21 sonal investment plan.

22 “(d) FAILURE BY ELIGIBLE SELF-EMPLOYED INDIV-  
23 IDUAL TO MAKE TIMELY PAYMENTS TO PERSONAL IN-  
24 VESTMENT PLAN.—If a personal investment plan con-  
25 tribution is not paid by an eligible self-employed individual

1 to the Social Security Administration with respect to a  
2 personal investment plan maintained by the individual  
3 within the time prescribed by section 253, such individual  
4 shall be subject to a civil penalty of not to exceed 50 per-  
5 cent of the amount of such contribution.

6 “(e) FAILURE BY TRUSTEE TO MAKE TIMELY  
7 TRANSFERS.—If the balance in the personal investment  
8 plan of a deceased individual is not transferred by the  
9 trustee within the time prescribed by section 254—

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

13 “(2) shall be liable—

14 “(A) in the case of a transfer required to  
15 be made to another personal investment plan,  
16 to the widow or the surviving divorced wife or  
17 surviving divorced husband (as the case may  
18 be), or

19 “(B) in the case of a transfer required to  
20 be made to the Federal Old-Age and Survivors  
21 Insurance Trust Fund, to such Trust Fund,  
22 for interest on the balance at the underpayment rate  
23 determined under section 6621 of the Internal Reve-  
24 nue Code of 1986 from the last day by which such  
25 balance was required to be so transferred to the date

1 on which such balance is transferred to the des-  
 2 ignated personal investment plan.

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

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

8 “(2) COMPROMISES.—The Commissioner may  
 9 compromise the amount of any civil penalty imposed  
 10 by this section.

11 “(3) AUTHORITY TO WAIVE PENALTY IN CER-  
 12 TAIN CASES.—The Commissioner may waive the ap-  
 13 plication of this section with respect to any failure  
 14 if the Commissioner determines that such failure is  
 15 due to reasonable cause and not to intentional dis-  
 16 regard of rules and regulations.

17 “PERSONAL INVESTMENT FUND

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

23 “(b) PERSONAL INVESTMENT FUND BOARD.—

24 “(1) IN GENERAL.—There is established and  
 25 operated in the Social Security Administration a  
 26 Personal Investment Fund Board in the same man-

1       ner as the Federal Retirement Thrift Investment  
 2       Board under subchapter VII of chapter 84 of title  
 3       5, United States Code.

4           “(2) SPECIFIC INVESTMENT DUTIES.—The Per-  
 5       sonal Investment Fund shall be managed by the  
 6       Personal Investment Fund Board in the same man-  
 7       ner as the Thrift Savings Fund is managed under  
 8       subchapter VIII of chapter 84 of title 5, United  
 9       States Code.”.

10       (b) AMOUNTS DEDUCTED TO BE SHOWN ON W-2  
 11       STATEMENTS.—Subsection (a) of section 6051 of the In-  
 12       ternal Revenue Code of 1986 (relating to receipts for em-  
 13       ployees) is amended—

14           (1) by striking “and” at the end of paragraph  
 15       (9);

16           (2) by striking the period at the end of para-  
 17       graph (10) and inserting “, and”; and

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

20           “(11) the total amount deducted from the em-  
 21       ployee’s wages under a personal investment payroll  
 22       deduction plan established under part B of title II  
 23       of the Social Security Act.”.

24       (c) EXEMPTION FROM ERISA REQUIREMENTS.—  
 25       Subsection (b) of section 4 of the Employee Retirement



1 Income Security Act of 1974 (29 U.S.C. 1003(b)) is  
2 amended—

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

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

7 (3) by adding at the end the following new  
8 paragraph:

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

13 (d) EFFECTIVE DATE AND NOTICE REQUIRE-  
14 MENTS.—

15 (1) EFFECTIVE DATE.—The amendments made  
16 by subsection (a) (and any personal investment pay-  
17 roll deduction plan required thereunder) shall apply  
18 with respect to wages paid after December 31, 1995,  
19 for pay periods ending after such date and self-em-  
20 ployment income for taxable years beginning after  
21 such date.

22 (2) NOTICE REQUIREMENTS.—

23 (A) IN GENERAL.—Not later than October  
24 1, 1995, the Commissioner of Social Security  
25 shall—

1 (i) send to the last known address of  
2 each eligible individual a description of the  
3 program established by the amendments  
4 made by this section, which shall be writ-  
5 ten in the form of a pamphlet in language  
6 which may be readily understood by the  
7 average worker,

8 (ii) provide for toll-free access by tele-  
9 phone from all localities in the United  
10 States to the Social Security Administra-  
11 tion through which individuals may obtain  
12 information and answers to questions re-  
13 garding such program, and

14 (iii) provide information to the media  
15 in all localities of the United States about  
16 such program and such toll-free access by  
17 telephone.

18 (B) ELIGIBLE INDIVIDUAL.—For purposes  
19 of this paragraph, the term “eligible individual”  
20 means an individual who, as of the date of the  
21 pamphlet sent pursuant to subparagraph (A), is  
22 indicated within the records of the Social Secu-  
23 rity Administration as being credited with one  
24 or more quarters of coverage under section 213  
25 of the Social Security Act.

1 (C) MATTERS TO BE INCLUDED.—The  
2 Commissioner shall include with the pamphlet  
3 sent to each eligible individual pursuant to sub-  
4 paragraph (A)—

5 (i) a statement of the number of quar-  
6 ters of coverage indicated in the records of  
7 the Social Security Administration as of  
8 the date of the description as credited to  
9 such individual under section 213 of the  
10 Social Security Act and the date as of  
11 which such records may be considered ac-  
12 curate, and

13 (ii) the number for toll-free access by  
14 telephone established by the Commissioner  
15 pursuant to subparagraph (A).

16 **SEC. 4. ADJUSTMENTS TO PRIMARY INSURANCE AMOUNTS**  
17 **UNDER PART A OF TITLE II OF THE SOCIAL**  
18 **SECURITY ACT.**

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

1 “Adjustment of Primary Insurance Amount of Eligible  
 2 Employees and Eligible Self-Employed Individuals  
 3 Under Part B

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

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

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

10 such individual’s primary insurance amount shall be deter-  
 11 mined under subsection (a)(1)(A) (before subsequent ad-  
 12 justments made under subsection (i)), by substituting the  
 13 first, second, and third primary insurance amount factors  
 14 determined in the following table for the primary insur-  
 15 ance amount factors ‘90’, ‘32’, and ‘15’ in clauses (i), (ii),  
 16 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.”

17 “(2)(A) In the case of an individual who is an eligible  
 18 employee as defined in paragraph (3) of section 255 or  
 19 an eligible self-employed individual as defined in para-  
 20 graph (4) of section 255 becomes entitled to disability in-

1 surance benefits under section 223, such individual's pri-  
 2 mary insurance amount shall be determined without re-  
 3 gard to paragraph (1).

4 “(B) Effective upon the attainment by an individual  
 5 described in subparagraph (A) of retirement age (as de-  
 6 fined in section 216(l)(1)), such individual's primary in-  
 7 surance amount as determined in accordance with this sec-  
 8 tion (before subsequent adjustments made under sub-  
 9 section (i)) shall be determined under paragraph (1).”.

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

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

20 (c) EFFECTIVE DATE.—The amendments made by  
 21 this section shall apply with respect to months after De-  
 22 cember 1995.



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