

117TH CONGRESS  
2D SESSION

# H. R. 9462

To establish the American Worker Retirement Plan, improve the financial security of working Americans by facilitating the accumulation of wealth, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 8, 2022

Ms. SEWELL (for herself, Mr. SMUCKER, Mr. SMITH of Nebraska, and Mrs. MILLER of West Virginia) introduced the following bill; which was referred to the Committee on Education and Labor, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To establish the American Worker Retirement Plan, improve the financial security of working Americans by facilitating the accumulation of wealth, and for other purposes.

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 “Retirement Savings for Americans Act of 2022”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.
- Sec. 3. Relationship to Social Security.
- Sec. 4. Government benefits.

TITLE I—THE AMERICAN WORKER RETIREMENT PLAN

- Sec. 101. The American Worker Retirement Fund.
- Sec. 102. Investment of American Worker Retirement Fund.
- Sec. 103. Eligibility.
- Sec. 104. Enrollment.
- Sec. 105. Contributions.
- Sec. 106. Distributions.
- Sec. 107. Accounts.
- Sec. 108. Tax treatment.
- Sec. 109. Spousal protections; survivor rights.

TITLE II—THE AMERICAN WORKER RETIREMENT PLAN  
 INVESTMENT MANAGEMENT SYSTEM

- Sec. 201. The American Worker Retirement Investment Board.
- Sec. 202. The American Worker Retirement Plan Advisory Council.
- Sec. 203. Executive Director.
- Sec. 204. Investment policies and selection of asset managers.
- Sec. 205. Administrative provisions.
- Sec. 206. Fiduciary responsibilities; liability and penalties.
- Sec. 207. Bonding.
- Sec. 208. Investigative authority.
- Sec. 209. Exculpatory provisions; insurance.
- Sec. 210. Subpoena authority.

TITLE III—TAX CODE PROVISIONS

- Sec. 301. Government Match Tax Credit.
- Sec. 302. Disclosure of return information to implement involuntary distributions.

3 **SEC. 2. DEFINITIONS.**

4 As used in this Act, except as otherwise provided:

- 5 (1) ACCOUNT.—The term “account” means an  
 6 account established and maintained under section  
 7 107.

1           (2) BOARD.—The term “Board” means the  
2 American Worker Retirement Investment Board es-  
3 tablished under section 201.

4           (3) BUSINESS.—The term “business” means  
5 any entity, including any sole proprietor, partner-  
6 ship, limited liability company, or corporation, that  
7 engages in interstate commerce.

8           (4) EARNINGS.—The term “earnings”, when  
9 used with respect to the Fund, means the amount  
10 of the gain realized or yield received from the invest-  
11 ment of sums in such Fund.

12           (5) EXECUTIVE DIRECTOR.—The term “Execu-  
13 tive Director” means the Executive Director ap-  
14 pointed under section 203.

15           (6) EXISTING RETIREMENT PLAN.—The term  
16 “existing retirement plan” means—

17           (A) an eligible retirement plan, as defined  
18 in section 402(c)(8)(B) of the Internal Revenue  
19 Code of 1986, including any defined benefit  
20 plan;

21           (B) the Thrift Savings Plan established  
22 under subchapter III of chapter 84 of title 5,  
23 United States Code; and

24           (C) any other tax deferred employee retire-  
25 ment plan determined by the Secretary of the

1 Treasury to be consistent with the purposes of  
2 this Act.

3 (7) FORMER PARTICIPANT.—The term “former  
4 participant” means a participant who has an ac-  
5 count with the Fund and is no longer a qualifying  
6 worker.

7 (8) FUND.—The term “Fund” means the  
8 American Worker Retirement Fund established  
9 under section 101(a).

10 (9) INVESTMENT ADVISORY COUNCIL.—The  
11 term “Investment Advisory Council” means the  
12 council established under section 202.

13 (10) LOSS.—The term “loss”, as used with re-  
14 spect to the Fund, includes the amount of any loss  
15 resulting from the investment of sums in such Fund,  
16 or from the breach of any responsibility, duty, or ob-  
17 ligation under section 206.

18 (11) NET EARNINGS.—The term “net earn-  
19 ings” means the excess of earnings over losses.

20 (12) NET LOSSES.—The term “net losses”  
21 means the excess of losses over earnings.

22 (13) PARTICIPANT.—The term “participant”  
23 means any qualifying worker who is enrolled to par-  
24 ticipate in the Fund under section 104(a) and has

1 not opted out of participation under section  
2 104(b)(3).

3 (14) PARTICIPATING EMPLOYER.—The term  
4 “participating employer” means any business that—

5 (A) employs a qualifying worker; or

6 (B) contracts with an independent con-  
7 tractor who is a qualifying worker and opts to  
8 enroll such independent contractor to partici-  
9 pate in the Fund under section 104(a)(2).

10 (15) QUALIFYING WORKER.—The term “quali-  
11 fying worker” means—

12 (A) an employee who—

13 (i) is employed by a business that has  
14 not established an existing retirement plan  
15 and does not provide an individual retire-  
16 ment plan (as defined in section  
17 7701(a)(37) of the Internal Revenue Code  
18 of 1986) with an automatic enrollment  
19 payroll deduction arrangement; or

20 (ii) is not eligible to participate in any  
21 such plan or arrangement established by  
22 the business that employs the employee; or

23 (B) an independent contractor who—

24 (i) is self-employed; and

1 (ii) has not established an existing re-  
2 tirement plan, and does not have an indi-  
3 vidual retirement plan (as defined in sec-  
4 tion 7701(a)(37) of the Internal Revenue  
5 Code of 1986) with an automatic enroll-  
6 ment payroll deduction arrangement.

7 **SEC. 3. RELATIONSHIP TO SOCIAL SECURITY.**

8 Except as otherwise provided in this Act, the funds  
9 payable under the Fund to participants and former par-  
10 ticipants are in addition to the benefits payable under the  
11 Social Security Act (42 U.S.C. 301 et seq.).

12 **SEC. 4. GOVERNMENT BENEFITS.**

13 The funds owned by an individual in an account and  
14 any contribution made to such funds by a participant or  
15 the Secretary of the Treasury shall not be taken into con-  
16 sideration when determining the individual's eligibility for  
17 any Federal public assistance benefit.

18 **TITLE I—THE AMERICAN**  
19 **WORKER RETIREMENT PLAN**

20 **SEC. 101. THE AMERICAN WORKER RETIREMENT FUND.**

21 (a) ESTABLISHMENT.—There is established in the  
22 Treasury of the United States the American Worker Re-  
23 tirement Fund.

24 (b) PURPOSES.—The Fund shall consist of the sum  
25 of all amounts contributed under sections 105 and 301,

1 increased by the total net earnings from investments of  
2 the sums in the Fund or reduced by the total net losses  
3 from investments of the Fund, and reduced by the total  
4 amount of payments made from the Fund (including pay-  
5 ments for administrative expenses under subsection (e)).

6 (c) INVESTMENT.—The sums in the Fund shall re-  
7 main available without fiscal year limitation—

8 (1) to invest pursuant section 102;

9 (2) to pay the administrative expenses of the  
10 Fund under subsection (e);

11 (3) to make distributions as provided in section  
12 106;

13 (4) to make loans as authorized under section  
14 106(h); and

15 (5) to purchase insurance as provided in section  
16 209.

17 (d) ACCOUNTS.—Each participant shall have an ac-  
18 count with the Fund. Amounts contributed by a partici-  
19 pant under section 105 and by the Secretary of the Treas-  
20 ury under section 25F of the Internal Revenue Code of  
21 1986 shall be deposited in the Fund and credited to the  
22 participant's account in accordance with such procedures  
23 as the Secretary of the Treasury may, in consultation with  
24 the Executive Director, prescribe in regulation.

1       (e) ADMINISTRATIVE EXPENSES.—Administrative  
2 expenses (including expenses related to financial literacy  
3 requirements under section 201(f)(5)) incurred to carry  
4 out this Act shall be paid out of the net earnings of the  
5 Fund, including earnings attributed to forfeited credit  
6 amounts under section 105(e).

7       (f) EXCLUSIVE BENEFIT.—

8           (1) IN GENERAL.—Subject to paragraphs (2)  
9 and (3) and subsection (e), sums in the Fund cred-  
10 ited to the accounts of a participant or former par-  
11 ticipant may not be used for, or diverted to, pur-  
12 poses other than for the exclusive benefit of the par-  
13 ticipant or former participant, or a beneficiary there-  
14 of, except as otherwise provided by law.

15           (2) ASSIGNMENT.—Except as provided in para-  
16 graph (3), sums in the Fund may not be assigned  
17 or alienated and are not subject to execution, levy,  
18 attachment, garnishment, or other legal process. For  
19 purposes of this paragraph, a loan made from the  
20 Fund to a participant shall not be considered to be  
21 an assignment or alienation.

22           (3) LEGAL OBLIGATIONS.—Moneys due or pay-  
23 able from the Fund to any individual and, in the  
24 case of an individual who is a participant or former



1 participant, the balance in the account of the partici-  
2 pant or former participant shall be subject to—

3 (A) legal process for the enforcement of  
4 the individual's legal obligation to provide child  
5 support or make alimony payments as provided  
6 in section 459 of the Social Security Act (42  
7 U.S.C. 659);

8 (B) an obligation of the Executive Director  
9 to make a payment to another person under  
10 section 109; and

11 (C) any Federal tax levy under section  
12 6331 of the Internal Revenue Code of 1986.

13 For the purposes of this paragraph, an amount con-  
14 tributed for the benefit of a participant or former  
15 participant under section 25F of the Internal Rev-  
16 enue Code of 1986 (including any earnings attrib-  
17 utable thereto) shall be considered part of the bal-  
18 ance in such participant or former participant's ac-  
19 count.

20 (g) NON-APPROPRIATED FUNDS.—The sums in the  
21 Fund shall not be appropriated for any purpose other than  
22 the purposes specified in this section and may not be used  
23 for any other purpose.

24 (h) BENEFIT TO PARTICIPANTS.—All sums contrib-  
25 uted to the Fund by a participant or the Secretary of the

1 Treasury for the benefit of such participant and all net  
2 earnings in such Fund in trust for such participant shall  
3 be the exclusive property of the participant.

4 (i) NONFORFEITABLE.—Except as provided in sec-  
5 tion 105(e), all the contributions made under section 105  
6 and section 25F of the Internal Revenue Code of 1986  
7 shall be fully nonforfeitable when made.

8 **SEC. 102. INVESTMENT OF AMERICAN WORKER RETIRE-**  
9 **MENT FUND.**

10 (a) IN GENERAL.—The Board shall establish the in-  
11 vestment policies of the Fund and select the investment  
12 funds, indexes, and other investment products that the  
13 amounts in the Fund shall be invested in subject to the  
14 following conditions:

15 (1) The Board shall provide for the following  
16 investment options for participants:

17 (A) A Government Securities Investment  
18 Fund under which sums in the Fund are in-  
19 vested in—

20 (i) bonds issued or guaranteed by the  
21 United States Government; and

22 (ii) bonds issued by Government-spon-  
23 sored enterprises or Government corpora-  
24 tions.

1 (B) A Fixed-Income Investment Fund  
2 under which sums are in the Fund are invested  
3 in—

4 (i) insurance contracts;

5 (ii) certificates of deposit; and

6 (iii) other instruments or obligations  
7 selected by qualified professional asset  
8 managers (as defined in section 8438(a)(8)  
9 of title 5, United States Code),

10 which return the amount invested and pay in-  
11 terest, at a specific rate or rates, on that  
12 amount during a specific period of time.

13 (C) A Common Stock Index Investment  
14 Fund, as described in section 8438(b)(2) of  
15 title 5, United States Code.

16 (D) A Small Capitalization Stock Index In-  
17 vestment Fund, as described in section  
18 8438(b)(3) of title 5, United States Code.

19 (E) An International Stock Index Invest-  
20 ment Fund, as described in section 8438(b)(4)  
21 of title 5, United States Code.

22 (F) A Life-Cycle Investment Fund con-  
23 sisting of target date asset allocation portfolios.

24 (2) The Board may, in its discretion, provide  
25 for other investment options for participants con-

1       sistent with the Board's fiduciary duty set forth in  
2       sections 201 and 206.

3               (3) The Board shall consult with the Invest-  
4       ment Advisory Council before authorizing additional  
5       investment options for participants.

6       (b) INVESTMENTS.—

7               (1) INVESTMENT SELECTION.—The Executive  
8       Director shall invest the sums available in the Fund  
9       for investment as provided in the selection made  
10      under subsection (c).

11              (2) DEFAULT OPTION.—If a selection has not  
12      been made with respect to any sums available for in-  
13      vestment in the Fund, the Executive Director shall  
14      invest such sums in an age-appropriate Life-Cycle  
15      Investment Fund, as determined by the Executive  
16      Director.

17              (c) INVESTMENT SELECTION.—As often as is prac-  
18      tical, but not less than twice per year, a participant may  
19      select the investment funds and options referred to in sub-  
20      section (a) into which the amounts in the Fund credited  
21      to the participant's accounts are to be invested or rein-  
22      vested. A selection may be made under this subsection only  
23      in accordance with regulations prescribed by the Executive  
24      Director and within such period as the Executive Director

1 shall provide in such regulations, but in no event less fre-  
2 quently than twice a year.

3 (d) VOTING RIGHTS.—Participants, former partici-  
4 pants, the Board, and the Executive Director may not ex-  
5 ercise voting rights associated with the ownership of secu-  
6 rities by the Fund.

7 (e) REPORTS.—The Board shall issue regular reports  
8 (not less frequently than quarterly) to participants and  
9 former participants on the performance of each investment  
10 option selected under subsection (a), which shall include  
11 personalized estimates of assets and income at retirement,  
12 the additional assets and income at retirement a partici-  
13 pant would have if the participant makes sufficient con-  
14 tributions to receive the maximum amount of the Govern-  
15 ment match tax credit under section 25F of the Internal  
16 Revenue Code of 1986, and any other information the  
17 Board determines may help participants make sound fi-  
18 nancial decisions. The Board shall provide the reports re-  
19 quired under this subsection by electronic delivery, except  
20 that upon the request of a participant or former partici-  
21 pant, reports shall be provided by mail to such individual.

22 **SEC. 103. ELIGIBILITY.**

23 (a) ELIGIBILITY.—A qualifying worker shall be eligi-  
24 ble to participate in the Fund upon completion of the en-  
25 rollment process set forth in section 104.

1 (b) CESSATION OF ELIGIBILITY.—A former partici-  
2 pant shall not be eligible to contribute to the Fund under  
3 section 105(a) but shall remain the owner of the funds  
4 in the former participant’s account with the Fund (and  
5 any net earnings attributable to such funds) subject to the  
6 withdrawal conditions established under section 106, and  
7 may exercise investment decisions with respect to such ac-  
8 count on the same basis as a participant.

9 **SEC. 104. ENROLLMENT.**

10 (a) ENROLLMENT.—

11 (1) IN GENERAL.—The Secretary of the Treas-  
12 ury and the Executive Director shall jointly establish  
13 an enrollment process for participating employers to  
14 enroll qualifying workers to participate in the Fund  
15 that incorporates, to the extent practicable, such en-  
16 rollment and participant contributions under section  
17 105(a) into Federal tax withholding forms and pay-  
18 ments.

19 (2) INDEPENDENT CONTRACTORS.—In the case  
20 of independent contractors who are qualifying work-  
21 ers, the enrollment process shall allow businesses  
22 who have contracts with such qualifying workers to  
23 elect to enroll such qualifying workers to participate  
24 in the Fund.

25 (b) AUTO-ENROLLMENT; OPT-OUT.—

1           (1) IN GENERAL.—Each participating employer  
2 shall enroll each of its qualifying workers to partici-  
3 pate in the Fund under subsection (a) unless such  
4 qualifying worker elects to opt out of participating  
5 pursuant to paragraph (3). A qualifying worker who  
6 is a sole proprietor or independent contractor shall  
7 enroll or elect to opt out of participating pursuant  
8 to paragraph (3).

9           (2) AUTOMATIC CONTRIBUTION RATES.—Each  
10 qualifying worker enrolled under paragraph (1) shall  
11 be automatically enrolled to make contributions  
12 under section 105(a) at the default percentage of 3  
13 percent of the qualifying worker’s compensation  
14 from the employer for such period as shall be estab-  
15 lished by regulation under section 105(a)(3).

16           (3) OPT-OUT.—A qualifying worker may elect  
17 to opt out of participating in the Fund pursuant to  
18 procedures established jointly by the Secretary of the  
19 Treasury and the Executive Director as part of the  
20 regulations governing the enrollment process set  
21 forth in subsection (a). If a qualifying worker elects  
22 to opt out of participating in the Fund, such quali-  
23 fying worker shall not be enrolled in subsequent  
24 years unless the qualifying worker elects to partici-  
25 pate in the Fund. The Secretary of the Treasury

1 and the Executive Director shall determine proce-  
2 dures to establish accounts for qualifying workers  
3 who elect to opt out of participating in the Fund  
4 who are determined to be eligible for automatic con-  
5 tributions or who would make contributions other-  
6 wise allowable by law outside the withholding proc-  
7 ess.

8 (c) PENALTIES.—

9 (1) PENALTY.—A participating employer who  
10 fails to enroll a qualifying worker pursuant to sub-  
11 section (b) or fails to deposit in the Fund the  
12 amount of a participant's contributions under sec-  
13 tion 105(a) shall be subject to a penalty equal to the  
14 applicable penalty percentage of the amount of the  
15 contributions by the qualifying worker or partici-  
16 pant, as the case may be, that the participating em-  
17 ployer fails to deposit due to failure to enroll the  
18 qualifying worker or otherwise deposit such funds.  
19 The Secretary of the Treasury and the Executive  
20 Director shall jointly prescribe regulations under  
21 which a participating employer shall be required to  
22 pay to the Fund amounts representing lost earnings  
23 resulting from errors made by such participating  
24 employer in carrying out this section.



1           (2) APPLICABLE PENALTY PERCENTAGE.—The  
2 term “applicable penalty percentage” means—

3           (A) 2-percent if the failure is for not more  
4 than 5 days;

5           (B) 5-percent if the failure is for more  
6 than 5 days but not more than 15 days; and

7           (C) 10-percent if the failure is for more  
8 than 15 days.

9           (3) FUNDS.—The Secretary of the Treasury  
10 shall credit to the Fund, out of any sums in the  
11 Treasury not otherwise appropriated, the amount  
12 determined by the Executive Director to be nec-  
13 essary to carry out this section and section 105(d).

14 **SEC. 105. CONTRIBUTIONS.**

15           (a) CONTRIBUTIONS BY PARTICIPANTS.—

16           (1) IN GENERAL.—Pursuant to the regulations  
17 established under subsection (d), a participant may  
18 make contributions to the participant’s account with  
19 the Fund in any pay period in an amount not to ex-  
20 ceed the participant’s compensation for such period.

21           (2) CATCH-UP CONTRIBUTIONS.—Notwith-  
22 standing the limitation under paragraph (1), a par-  
23 ticipant may make such additional contributions to  
24 the participant’s account with the Fund as are per-  
25 mitted by section 414(v) of the Internal Revenue

1 Code of 1986, and the regulations established under  
2 subsection (d) consistent therewith.

3 (3) CONTRIBUTIONS.—The Secretary of the  
4 Treasury and the Executive Director shall jointly  
5 prescribe regulations that establish a program of  
6 regular contribution under which participants may—

7 (A) make contributions to their accounts  
8 with the Fund under paragraph (1);

9 (B) modify the amount contributed under  
10 such paragraph; or

11 (C) terminate such contributions.

12 (4) ELECTION.—An election to make contribu-  
13 tions under this subsection—

14 (A) may be made at any time;

15 (B) shall take effect on the earliest date  
16 after the election that is administratively fea-  
17 sible; and

18 (C) shall remain in effect until modified or  
19 terminated.

20 (b) CONTRIBUTION OF GOVERNMENT MATCH TAX  
21 CREDIT.—A participant's account shall receive contribu-  
22 tions in the form of the Government Match Tax Credit  
23 contributed by the Secretary of the Treasury under section  
24 25F of the Internal Revenue Code of 1986.

1       (c) CONTRIBUTION LIMITS.—Notwithstanding any  
2 other provision of this section, no contribution may be  
3 made under this section for any year to the extent that  
4 such contribution, when added to prior contributions for  
5 such year, exceeds the limitation under sections 219(b)(5)  
6 of the Internal Revenue Code of 1986. Any contribution  
7 made under section 25F of the Internal Revenue Code of  
8 1986 shall not be taken into account for purposes of the  
9 preceding sentence.

10       (d) TREATMENT AS ROTH CONTRIBUTIONS.—Con-  
11 tributions under subsection (a) shall not be excludable  
12 from gross income and no deduction shall be allowed with  
13 respect to such contributions under section 219 of the In-  
14 ternal Revenue Code of 1986.

15       (e) FORFEITURE OF TAX CREDIT AMOUNTS WHICH  
16 DO NOT REMAIN IN ACCOUNT FOR AT LEAST 6  
17 MONTHS.—

18           (1) IN GENERAL.—In the case of any contribu-  
19 tion made under section 25F of the Internal Rev-  
20 enue Code of 1986 to a participant's account, if  
21 such contribution does not remain in the account of  
22 such participant for at least 6 months after the date  
23 of such contribution, such contribution shall be for-  
24 feited as provided in paragraph (2).

1           (2) TREATMENT OF FORFEITED AMOUNTS.—In  
2           the case of any contribution to which paragraph (1)  
3           applies—

4                   (A) the Executive Director shall make a  
5                   distribution from the participant's account in  
6                   an amount equal to such contribution to the  
7                   Secretary of the Treasury for deposit into the  
8                   general fund of the Treasury, and

9                   (B) in the case of any earnings on such  
10                  contribution, such earnings shall be distributed  
11                  by the Executive Director from the participant's  
12                  account and shall be available to the Executive  
13                  Director, without need of further appropriation,  
14                  for administrative expenses described in section  
15                  101(e).

16           (3) FORFEITED AMOUNTS NOT INCLUDIBLE IN  
17           GROSS INCOME.—Any distribution made under para-  
18           graph (2) shall not be includible in the gross income  
19           of the participant.

20           (f) REGULATIONS.—The amounts contributed to the  
21           Fund by a participant under section 105(a) and on behalf  
22           of a participant by the Secretary of the Treasury under  
23           section 25F of the Internal Revenue Code of 1986 shall  
24           be deposited in the Fund and credited to the participant's  
25           account with the Fund pursuant to regulations jointly pre-

1 scribed by the Secretary of the Treasury and the Execu-  
2 tive Director.

3 **SEC. 106. DISTRIBUTIONS.**

4 (a) **FORMER PARTICIPANTS.**—A former participant is  
5 entitled to access the amounts in the former participant’s  
6 account as provided in this section. Amounts in the ac-  
7 count of a former participant shall remain in the Fund  
8 until distributed in accordance with subsection (b).

9 (b) **FORMER PARTICIPANT WITHDRAWAL OP-**  
10 **TIONS.**—Subject to section 109, a former participant is  
11 entitled to and may elect to withdraw from the Fund the  
12 balance of the former participant’s account as—

13 (1) an annuity;

14 (2) a single payment;

15 (3) 2 or more substantially equal payments to  
16 be made not less frequently than annually; or

17 (4) any combination of payments described in  
18 paragraphs (1) through (3) as the Executive Direc-  
19 tor may prescribe by regulation.

20 (c) **ADDITIONAL FORMER PARTICIPANT WITH-**  
21 **DRAWAL OPTIONS.**—

22 (1) **IN GENERAL.**—In addition to the right pro-  
23 vided under subsection (b) to withdraw the balance  
24 of the account, a former participant may make 1 or  
25 more withdrawals of any amount in the same man-

1       ner as a single payment is made in accordance with  
2       subsection (b)(2) from the former participant's ac-  
3       count.

4           (2) TRANSFERS TO RETIREMENT PLANS.—

5           (A) IN GENERAL.—A former participant  
6       may request that the amount withdrawn from  
7       the Fund under paragraph (1) be transferred to  
8       an existing retirement plan.

9           (B) TRANSFERS.—The Executive Director  
10      shall make each transfer directly to an existing  
11      retirement plan identified by the former partici-  
12      pant for whom the transfer is made. A transfer  
13      shall not be made under the preceding sentence  
14      until the Executive Director receives from the  
15      former participant the information required by  
16      the Executive Director specifically to identify  
17      the existing retirement plan to which the trans-  
18      fer is to be made.

19          (3) LIMITATIONS.—Withdrawals under this  
20      subsection shall be subject to such other limitations  
21      or conditions as the Executive Director may pre-  
22      scribe by regulation.

23          (d) PAYMENT OF ANNUITIES.—The Board shall pre-  
24      scribe methods of payment of annuities under this Act

1 substantially similar to those provided for under section  
2 8434 of title 5, United States Code.

3 (e) FORMER PARTICIPANT CHANGES TO ELEC-  
4 TIONS.—

5 (1) IN GENERAL.—Subject to section 109, a  
6 former participant may change an election previously  
7 made under this section, except that in the case of  
8 an election to receive an annuity, a former partici-  
9 pant may not change an election under this section  
10 on or after the date on which an annuity contract  
11 is purchased to provide for the annuity elected by  
12 the former participant.

13 (2) DISTRIBUTIONS MADE.—A former partici-  
14 pant may not return a distribution once made pur-  
15 suant to an election under this section.

16 (f) SURVIVOR RIGHTS.—

17 (1) IN GENERAL.—If a participant or a former  
18 participant dies without having made an election  
19 under subsection (b) or after having elected an an-  
20 nuity under subsection (b) but before making an  
21 election for payments to a survivor rights under sec-  
22 tion 8434 of title 5, United States Code, an amount  
23 equal to the value of that individual's account (as of  
24 death) shall, subject to any decree, order, or agree-

1        ment referred to in section 109, be paid in a manner  
2        consistent with the requirements of section 109.

3            (2) MAINTENANCE OF ACCOUNT.—Notwith-  
4        standing section 109, if a participant or former par-  
5        ticipant dies and has designated as sole or partial  
6        beneficiary the spouse of the participant or former  
7        participant at the time of death, or, if a participant  
8        or former participant dies with no designated bene-  
9        ficiary and is survived by a spouse, the spouse may  
10       maintain the portion of the participant or former  
11       participant’s account to which the spouse is entitled  
12       in accordance with the following terms:

13            (A) Subject to the limitations of subpara-  
14        graph (B), the spouse shall have the same with-  
15        drawal options under subsection (b) as a former  
16        participant.

17            (B) The spouse may not make withdrawals  
18        under subsection (h) or (i).

19            (C) The spouse may not make contribu-  
20        tions or transfers to the account.

21            (D) The account shall be disbursed upon  
22        the death of the surviving spouse of the partici-  
23        pant or former participant and shall not be  
24        maintained by a beneficiary or surviving spouse



1           of the surviving spouse who inherited the ac-  
2           count.

3           (3) REGULATIONS.—The Executive Director  
4           shall prescribe regulations to carry out this sub-  
5           section.

6           (g) SMALL BALANCE ACCOUNTS.—Notwithstanding  
7           subsection (b), if a former participant's account balance  
8           is less than an amount that the Executive Director pre-  
9           scribes by regulation, the Executive Director shall pay the  
10          nonforfeitable account balance to the participant in a sin-  
11          gle payment. The Executive Director may prescribe more  
12          than 1 balance amount for payment under this subsection  
13          based on age of the former participant.

14          (h) LOANS.—

15               (1) IN GENERAL.—A participant or former par-  
16               ticipant may apply to the Board for permission to  
17               borrow from the participant or former participant's  
18               account an amount not exceeding the value of that  
19               portion of such account which is attributable to con-  
20               tributions made by the participant or former partici-  
21               pant. Before a loan is issued, the Executive Director  
22               shall provide to the participant or former participant  
23               in writing with appropriate information concerning  
24               the cost of the loan relative to other sources of fi-  
25               nancing, as well as the lifetime cost of the loan, in-

1 including the difference in interest rates between the  
2 funds offered by the Fund and any other effect of  
3 such loan on the participant or former participant's  
4 final account balance.

5 (2) SPECIAL RULES.—

6 (A) IN GENERAL.—Loans under this sub-  
7 section shall be available to all participant and  
8 former participants on a reasonably equivalent  
9 basis, and shall be subject to such other condi-  
10 tions as the Board may prescribe by regulation,  
11 which shall be as equivalent as practically pos-  
12 sible to those provided for under the Thrift  
13 Savings Plan. The restrictions of section  
14 206(c)(1) shall not apply to loans made under  
15 this subsection.

16 (B) LIMITATION BASED ON TAX TREAT-  
17 MENT.—A loan may not be made under this  
18 subsection to the extent that the loan would be  
19 treated as a taxable distribution under section  
20 72(p) of the Internal Revenue Code of 1986.

21 (C) SPOUSAL PROTECTIONS.—A loan may  
22 not be made under this subsection unless the  
23 requirements of section 109 are satisfied.

24 (i) VOLUNTARY DISTRIBUTIONS.—

1           (1) IN GENERAL.—A participant may apply, be-  
2 fore becoming a former participant, to the Board for  
3 permission to withdraw an amount from the partici-  
4 pant’s account based upon—

5                   (A) the participant having attained age  
6           59½; or

7                   (B) financial hardship.

8           (2) LIMITATIONS.—A withdrawal under para-  
9 graph (1)(B) shall be available only for an amount  
10 not exceeding the value of that portion of such ac-  
11 count which is attributable to contributions made by  
12 the participant. Withdrawals under paragraph (1)  
13 shall be subject to such other limitations or condi-  
14 tions as the Executive Director may prescribe by  
15 regulation, which shall be as equivalent as prac-  
16 tically possible to those provided for under the  
17 Thrift Savings Plan.

18           (3) SPOUSAL PROTECTIONS.—A withdrawal  
19 may not be made under this subsection unless the  
20 requirements of section 109 are satisfied.

21 (j) INVOLUNTARY DISTRIBUTIONS.—

22           (1) IN GENERAL.—The Executive Director shall  
23 make a distribution from the participant’s account  
24 to the participant if the participant’s gross income  
25 for a taxable year exceeds the dollar threshold (as

1 adjusted by the Secretary of the Treasury) estab-  
2 lished under section 414(q)(1)(B) of the Internal  
3 Revenue Code of 1986.

4 (2) AMOUNT OF DISTRIBUTION.—The amount  
5 of a distribution under paragraph (1) shall be equal  
6 to the sum of such participant's contributions to the  
7 Fund for the taxable year for which such distribu-  
8 tion is required under paragraph (1), increased by  
9 any gains attributable to such contributions, and de-  
10 creased by any losses attributable to such contribu-  
11 tions, any early withdrawal penalties, and any ex-  
12 penses associated with make such distribution.

13 (3) PROCESS FOR DISTRIBUTION.—

14 (A) NOTICE TO PARTICIPANT.—The Exec-  
15 utive Director shall provide notice to a partici-  
16 pant subject to a distribution under paragraph  
17 (1) not later than 7 days after the Executive  
18 Director determines that such participant is  
19 subject to such distribution. For disclosure of  
20 taxpayer return information to the Executive  
21 Director to make such determination, see sec-  
22 tion 6103(l)(23) of the Internal Revenue Code  
23 of 1986.

24 (B) METHOD OF DISTRIBUTION.—Not  
25 later than 30 days after receiving notice under

1           subparagraph (A), a participant may elect to  
2           direct that a distribution under paragraph (1)  
3           be made—

4                   (i) in the case of an eligible rollover  
5                   distribution (as defined in section 402(c)  
6                   of the Internal Revenue Code of 1986), to  
7                   an eligible retirement plan (as defined in  
8                   such section of such code); or

9                   (ii) directly to such participant.

10           (C) DEFAULT ELECTION.—In the case of a  
11           participant who fails to make an election within  
12           the period described in subparagraph (B), the  
13           Executive Director shall make the distribution  
14           directly to such participant.

15           (4) TAX TREATMENT OF INVOLUNTARY DIS-  
16           TRIBUTION.—In the case of any distribution made  
17           under paragraph (1) directly to the participant  
18           under subparagraph (B)(ii) or (C), the rules of sub-  
19           section (k) shall apply except that—

20                   (A) such distribution such shall be treated  
21                   as an early distribution from a qualified retire-  
22                   ment plan to which section 72(t) of the Internal  
23                   Revenue Code of 1986 applies, and

1 (B) contributions made under section 25F  
2 shall be treated as though such contributions  
3 had been included in gross income.

4 (k) TREATMENT AS ROTH DISTRIBUTIONS.—The  
5 rules of sections 408(d) and 408A(d) of the Internal Rev-  
6 enue Code of 1986 shall apply to distributions from the  
7 Fund in the same manner as if such Fund were a Roth  
8 IRA. For purposes of the preceding sentence, contribu-  
9 tions made under section 25F of such Code shall be treat-  
10 ed as employer contributions which were not includible in  
11 gross income.

12 **SEC. 107. ACCOUNTS.**

13 (a) IN GENERAL.—The Executive Director shall es-  
14 tablish and maintain an account for each participant who  
15 makes contributions under section 105(a), or for whom  
16 contributions are made under section 25F of the Internal  
17 Revenue Code of 1986, to the Fund.

18 (b) ACCOUNT BALANCES.—The balance in a partici-  
19 pant's account is the excess of—

20 (1) the sum of—

21 (A) all contributions made to the Fund by  
22 the participant under section 105(a);

23 (B) all contributions made to the Fund for  
24 the benefit of the participant by the Secretary

1 of the Treasury under section 25F of the Inter-  
2 nal Revenue Code of 1986; and

3 (C) the total amount of the allocations  
4 made to and reduction made in the account  
5 pursuant to subsection (c); over

6 (2) the amounts paid out of the Fund with re-  
7 spect to such participant under this title.

8 (c) ALLOCATION OF EARNINGS AND LOSSES.—Pur-  
9 suant to regulation prescribed by the Executive Director,  
10 the Executive Director shall allocate to each account an  
11 amount equal to a pro rata share of the net earnings and  
12 net losses from each investment of sums in the Fund at-  
13 tributed to sums credited to such account, reduced by the  
14 appropriate share of the administrative expenses paid out  
15 of the net earnings under section 101(e) as determined  
16 by the Executive Director.

17 **SEC. 108. TAX TREATMENT.**

18 Except as otherwise provided in this Act, for purposes  
19 of the Internal Revenue Code of 1986, rules similar to  
20 the rules that apply with respect to the Thrift Savings  
21 Fund (including the rules of section 8440 of title 5,  
22 United States Code) shall apply with respect to the Amer-  
23 ican Worker Retirement Fund.

1 **SEC. 109. SPOUSAL PROTECTIONS; SURVIVOR RIGHTS.**

2 The provisions for spousal protections and court or-  
3 ders under section 8435 and 8467 of title 5, United States  
4 Code, respectively, shall apply in the same manner to gov-  
5 ernance of the Fund and to accounts of participants and  
6 former participants as such sections are applied with re-  
7 spect the Thrift Savings Plan and its accounts. The Exec-  
8 utive Director shall issue regulations that establish spous-  
9 al protections and survivor rights with respect to partici-  
10 pants and former participants that are as equivalent as  
11 practically possible to those provided for under the Thrift  
12 Savings Plan pursuant to chapter 84 of title 5, United  
13 States Code.

14 **TITLE II—THE AMERICAN WORK-**  
15 **ER RETIREMENT PLAN IN-**  
16 **VESTMENT MANAGEMENT**  
17 **SYSTEM**

18 **SEC. 201. THE AMERICAN WORKER RETIREMENT INVEST-**  
19 **MENT BOARD.**

20 (a) ESTABLISHMENT.—There is established in the ex-  
21 ecutive branch of the Government the American Worker  
22 Retirement Investment Board.

23 (b) COMPOSITION.—The Board shall be composed  
24 of—



1           (1) 3 members appointed by the President, of  
2           whom 1 shall be designated by the President as  
3           Chair;

4           (2) 1 member appointed by the President after  
5           taking into consideration the recommendation made  
6           by the majority leader of the Senate in consultation  
7           with the minority leader of the Senate; and

8           (3) 1 member appointed by the President after  
9           taking into consideration the recommendation made  
10          by the Speaker of the House of Representatives in  
11          consultation with the minority leader of the House  
12          of Representatives.

13          (c) SENATE CONFIRMATION.—Appointments under  
14          subsection (b) shall be made with the advice and consent  
15          of the Senate.

16          (d) QUALIFICATIONS.—

17                 (1) IN GENERAL.—Members of the Board shall  
18                 have substantial experience, training, and expertise  
19                 in the management of financial investments and  
20                 pension benefit plans.

21                 (2) DISQUALIFICATION.—No member of the  
22                 Board may be an officer or employee of the Federal  
23                 Government.

24          (e) TERMS; VACANCIES.—

1           (1) TERMS.—A member of the Board shall be  
2 appointed for a term of 4 years, except that of the  
3 members first appointed under subsection (b)—

4           (A) the Chair shall be appointed for a term  
5 of 4 years;

6           (B) the members appointed under para-  
7 graphs (2) and (3) of subsection (b) shall be  
8 appointed for terms of 3 years; and

9           (C) the remaining members shall be ap-  
10 pointed for terms of 2 years.

11          (2) VACANCIES.—

12           (A) IN GENERAL.—A vacancy on the  
13 Board shall be filled in the manner in which the  
14 original appointment was made and shall be  
15 subject to any conditions which applied with re-  
16 spect to the original appointment.

17           (B) TERM.—An individual chosen to fill a  
18 vacancy shall be appointed for the unexpired  
19 term of the member replaced.

20           (C) EXPIRATION.—The term of any mem-  
21 ber shall not expire before the date on which  
22 the member's successor takes office.

23          (f) BOARD DUTIES.—The Board shall—

24           (1) establish policies for—

1 (A) the investment and management of the  
2 Fund; and

3 (B) the administration of title I of this  
4 Act;

5 (2) hire and set the compensation for the Exec-  
6 utive Director;

7 (3) review the performance of investments made  
8 for the Fund;

9 (4) review and approve the budget of the  
10 Board; and

11 (5) develop evidence-based financial literacy re-  
12 quirements for participants in the Fund, including  
13 requirements for financial literacy interventions to  
14 occur prior to a participant—

15 (A) taking an early withdrawal from their  
16 account at the Fund pursuant to section 106(i);  
17 and

18 (B) taking a loan from such account pur-  
19 suant to section 106(h).

20 (g) BOARD AUTHORITIES; INVESTMENT LIMITA-  
21 TIONS.—

22 (1) IN GENERAL.—The Board may—

23 (A) adopt, alter, and use a seal;

24 (B) except as provided in paragraph (2),  
25 direct the Executive Director to take such ac-

1           tion as the Board considers appropriate to  
2           carry out the provisions of this Act and the  
3           policies of the Board;

4                   (C) upon the concurring votes of 4 mem-  
5           bers, remove the Executive Director from office  
6           for good cause shown; and

7                   (D) take such other action as may be nec-  
8           essary to carry out the functions of the Board.

9           (2) EXCEPTION.—Except in the case of invest-  
10          ments under section 102(b)(2), the Board may not  
11          direct the Executive Director to invest or to cause  
12          to be invested any sums in the Fund in a specific  
13          asset or to dispose of or cause to be disposed of any  
14          specific asset of such Fund.

15          (h) BOARD RESPONSIBILITIES.—The members of the  
16          Board shall discharge their responsibilities under this Act  
17          solely in the interest of participants and beneficiaries.

18          (i) BUDGET.—The Board shall prepare and submit  
19          to the President, and, at the same time, to the appropriate  
20          committees of Congress, an annual budget of the expenses  
21          and other items relating to the Board which shall be in-  
22          cluded as a separate item in the budget required to be  
23          transmitted to the Congress under section 1105 of title  
24          31, United States Code.

1 (j) LEGISLATIVE RECOMMENDATIONS.—The Board  
2 may submit to the President, and, at the same time, shall  
3 submit to each House of the Congress, any legislative rec-  
4 ommendations of the Board relating to any of its functions  
5 under this title.

6 **SEC. 202. THE AMERICAN WORKER RETIREMENT PLAN AD-**  
7 **VISORY COUNCIL.**

8 (a) ESTABLISHMENT.—The Board shall establish an  
9 American Worker Retirement Plan Advisory Council. The  
10 Council shall be composed of 7 members appointed by the  
11 Chair of the Board in accordance with subsection (b).

12 (b) APPOINTMENT.—The Chair shall appoint 7 mem-  
13 bers of the Council, of whom—

14 (1) 3 shall be appointed who have experience  
15 managing investment funds;

16 (2) 2 shall be appointed who have experience  
17 operating small businesses; and

18 (3) 2 shall be appointed who have experience  
19 providing investment advice to small businesses and  
20 low-income workers.

21 (c) HEAD OF COUNCIL; TERMS; VACANCIES.—

22 (1) IN GENERAL.—The Chair of the Board  
23 shall designate 1 member of the Council to serve as  
24 head of the Council.

1           (2) TERM.—A member of the Council shall be  
2 appointed for a term of 4 years.

3           (3) VACANCIES.—

4                 (A) IN GENERAL.—A vacancy in the Coun-  
5 cil shall be filled in the manner in which the  
6 original appointment was made and shall be  
7 subject to any conditions which applied with re-  
8 spect to the original appointment.

9                 (B) TERM.—An individual chosen to fill a  
10 vacancy shall be appointed for the unexpired  
11 term of the member replaced.

12                (C) EXPIRATION.—The term of any mem-  
13 ber shall not expire before the date on which  
14 the member's successor takes office.

15           (d) MAJORITY APPROVAL.—The Council shall act by  
16 resolution of a majority of the members.

17           (e) DUTIES.—The Council shall—

18                 (1) advise the Board and the Executive Direc-  
19 tor on matters relating to—

20                         (A) investment policies for the Fund; and

21                         (B) the administration of title I of this  
22 Act; and

23                 (2) perform such other duties as the Board may  
24 direct with respect to investment funds established  
25 in accordance with title I.

1 **SEC. 203. EXECUTIVE DIRECTOR.**

2 (a) IN GENERAL.—

3 (1) APPOINTMENT.—The Board shall appoint,  
4 without regard to the provisions of law governing  
5 appointments in the competitive service, an Execu-  
6 tive Director by action agreed to by a majority of  
7 the members of the Board.

8 (2) QUALIFICATIONS.—The Executive Director  
9 shall have substantial experience, training, and ex-  
10 pertise in the management of financial investments  
11 and pension benefit plans.

12 (b) DUTIES.—The Executive Director shall—

13 (1) carry out the policies established by the  
14 Board;

15 (2) invest and manage the Fund in accordance  
16 with investment policies and other policies estab-  
17 lished by the Board;

18 (3) administer the provisions of this Act;

19 (4) prescribe such regulations (other than regu-  
20 lations relating to fiduciary responsibilities) as may  
21 be necessary for the administration of this Act;

22 (5) meet from time to time with the Council  
23 upon the request of the Council; and

24 (6) enforce the financial literacy requirements  
25 established by the Board pursuant to 201(f)(5).

26 (c) AUTHORITIES.—The Executive Director may—

1           (1) prescribe such regulations as may be nec-  
2           essary to carry out the responsibilities of the Execu-  
3           tive Director under this section, other than regula-  
4           tions relating to fiduciary responsibilities;

5           (2) appoint such personnel as may be necessary  
6           to carry out the provisions of this Act;

7           (3) subject to approval by the Board, procure  
8           the services of experts and consultants under section  
9           3109 of title 5, United States Code;

10          (4) make such payments out of sums in the  
11          Fund as the Executive Director determines are nec-  
12          essary to carry out the provisions of this Act and the  
13          policies of the Board;

14          (5) pay the compensation, per diem, and travel  
15          expenses of individuals appointed under paragraphs  
16          (2), (3), and (7) of this subsection from the Fund;

17          (6) except as otherwise expressly prohibited by  
18          law or the policies of the Board, delegate any of the  
19          Executive Director's functions to such employees  
20          under the Board as the Executive Director may des-  
21          ignate and authorize such successive redelegations of  
22          such functions to such employees under the Board  
23          as the Executive Director may consider to be nec-  
24          essary or appropriate; and



1           (7) take such other actions as are appropriate  
2           to carry out the functions of the Executive Director.

3 **SEC. 204. INVESTMENT POLICIES AND SELECTION OF**  
4 **ASSET MANAGERS.**

5           (a) INVESTMENT POLICIES.—The Board shall de-  
6 velop investment policies under section 201(f)(1) which  
7 provide for—

8           (1) prudent investments suitable for accumu-  
9 lating funds for payment of retirement income; and

10           (2) low administrative costs.

11           (b) ASSET MANAGERS.—The Board shall select asset  
12 managers to manage the Fund, subject to the following  
13 conditions:

14           (1) The Board shall select a number of asset  
15 managers necessary to ensure that no asset manager  
16 shall be responsible for managing the greater of—

17                   (A) \$500,000,000,000; or

18                   (B) 10 percent of the Fund's assets.

19           (2) The Board shall limit any contract with an  
20 asset manager to a maximum of 5 years.

21 **SEC. 205. ADMINISTRATIVE PROVISIONS.**

22           (a) BOARD MEETINGS.—The Board shall meet—

23           (1) not less than once during each month; and

24           (2) at additional times at the call of the Chair.

25           (b) BOARD GOVERNANCE.—

1           (1) IN GENERAL.—Except as provided in sec-  
2           tion 201(g)(1)(C), the Board shall perform the func-  
3           tions and exercise the powers of the Board on a ma-  
4           jority vote of a quorum of the Board.

5           (2) QUORUM.—3 members of the Board shall  
6           constitute a quorum for the transaction of business.

7           (3) EFFECT OF VACANCY.—A vacancy on the  
8           Board shall not impair the authority of a quorum of  
9           the Board to perform the functions and exercise the  
10          power of the Board.

11         (c) BOARD COMPENSATION.—

12           (1) IN GENERAL.—Each member of the Board  
13           shall be compensated at the daily rate of basic pay  
14           for level IV of the Executive Schedule for each day  
15           during which such member is engaged in performing  
16           a function of the Board.

17           (2) PER DIEM, ETC.—A member of the Board  
18           shall be paid travel, per diem, and other necessary  
19           expenses while traveling away from such member's  
20           home or regular place of business in the perform-  
21           ance of the duties of the Board.

22           (3) PAYMENT FROM FUND.—Payments author-  
23           ized under this subsection shall be paid from the  
24           Fund as administrative expenses permitted under  
25           section 101(e).

1 **SEC. 206. FIDUCIARY RESPONSIBILITIES; LIABILITY AND**  
2 **PENALTIES.**

3 (a) DEFINITIONS.—For the purposes of this section:

4 (1) ACCOUNT.—The term “account” is not lim-  
5 ited by the definition provided in section 2.

6 (2) ADEQUATE CONSIDERATION.—The term  
7 “adequate consideration” means—

8 (A) in the case of a security for which  
9 there is a generally recognized market—

10 (i) the price of the security prevailing  
11 on a national securities exchange which is  
12 registered under section 6 of the Securities  
13 Exchange Act of 1934 (15 U.S.C. 78f); or

14 (ii) if the security is not traded on  
15 such a national securities exchange, a price  
16 not less favorable to the Fund than the of-  
17 fering price for the security as established  
18 by the current bid and asked prices quoted  
19 by persons independent of the issuer and  
20 of any party in interest; and

21 (B) in the case of an asset other than a se-  
22 curity for which there is a generally recognized  
23 market, the fair market value of the asset as  
24 determined in good faith by a fiduciary or fidu-  
25 ciaries in accordance with regulations pre-  
26 scribed by the Secretary of Labor.

1           (3) FIDUCIARY.—The term “fiduciary”  
2 means—

3           (A) a member of the Board;

4           (B) the Executive Director;

5           (C) any person who has or exercises discre-  
6 tionary authority or discretionary control over  
7 the management or disposition of the assets of  
8 the Fund; and

9           (D) any person who, with respect to the  
10 Fund, is described in section 3(21)(A) of the  
11 Employee Retirement Income Security Act of  
12 1974 (29 U.S.C. 1002(21)(A)).

13          (4) PARTY IN INTEREST.—The term “party in  
14 interest” includes—

15          (A) any fiduciary;

16          (B) any counsel to a person who is a fidu-  
17 ciary, with respect to the actions of such person  
18 as a fiduciary;

19          (C) any participant;

20          (D) any person providing services to the  
21 Board and, with respect to the actions of the  
22 Executive Director as a fiduciary, any person  
23 providing services to the Executive Director;

24          (E) a labor organization, the members of  
25 which are participants;

1 (F) a spouse, sibling, ancestor, lineal de-  
2 scendant, or spouse of a lineal descendant of a  
3 person described in subparagraph (A), (B), or  
4 (D);

5 (G) a corporation, partnership, or trust or  
6 estate of which, or in which, at least 50 percent  
7 of—

8 (i) the combined voting power of all  
9 classes of stock entitled to vote or the total  
10 value of shares of all classes of stock of  
11 such corporation,

12 (ii) the capital interest or profits in-  
13 terest of such partnership, or

14 (iii) the beneficial interest of such  
15 trust or estate,

16 is owned directly or indirectly or held by a per-  
17 son described in subparagraph (A), (B), (D), or  
18 (E);

19 (H) an official (including a director) of, or  
20 an individual employed by, a person described  
21 in subparagraph (A), (B), (D), (E), or (G), or  
22 an individual having powers or responsibilities  
23 similar to those of such an official;

24 (I) a holder (directly or indirectly) of at  
25 least 10 percent of the shares in a person de-

1           scribed in any subparagraph referred to in sub-  
2           paragraph (H); and

3           (J) a person who, directly or indirectly, is  
4           at least a 10 percent partner or joint venturer  
5           (measured in capital or profits) in a person de-  
6           scribed in any subparagraph referred to in sub-  
7           paragraph (H).

8           (b) DUTIES.—To the extent not inconsistent with the  
9           provisions of this Act and the policies prescribed by the  
10          Board, a fiduciary shall discharge the fiduciary’s respon-  
11          sibilities with respect to the Fund or applicable portion  
12          thereof solely in the interest of the participants and bene-  
13          ficiaries and—

14           (1) for the exclusive purpose of—

15           (A) providing benefits to participants and  
16           their beneficiaries; and

17           (B) defraying reasonable expenses of ad-  
18           ministering the Fund or applicable portions  
19           thereof;

20           (2) with the care, skill, prudence, and diligence  
21          under the circumstances then prevailing that a pru-  
22          dent individual acting in a like capacity and familiar  
23          with such matters would use in the conduct of an  
24          enterprise of a like character and with like objec-  
25          tives; and

1           (3) to the extent permitted by section 102, by  
2           diversifying the investments of the Fund or applica-  
3           ble portions thereof so as to minimize the risk of  
4           large losses, unless under the circumstances it is  
5           clearly prudent not to do so.

6           (c) OWNERSHIP JURISDICTIONS.—No fiduciary may  
7           maintain the indicia of ownership of any assets of the  
8           Fund outside the jurisdiction of the district courts of the  
9           United States.

10          (d) TRANSACTIONS.—

11           (1) PROHIBITED TRANSACTIONS.—A fiduciary  
12           shall not permit the Fund to engage in any of the  
13           following transactions, except in exchange for ade-  
14           quate consideration:

15           (A) A transfer of any assets of the Fund  
16           to any person the fiduciary knows or should  
17           know to be a party in interest or the use of  
18           such assets by any such persons.

19           (B) An acquisition of any property from or  
20           sale of any property to the Fund by any person  
21           the fiduciary knows or should know to be a  
22           party in interest.

23           (C) A transfer or exchange of services be-  
24           tween the Fund and any person the fiduciary  
25           knows or should know to be a party in interest.

1           (2) PROHIBITED ACTIONS.—Notwithstanding  
2 paragraph (1), a fiduciary with respect to the Fund  
3 shall not—

4           (A) deal with any assets of the Fund in  
5 the fiduciary's own interest or for the fidu-  
6 ciary's own account;

7           (B) act, in an individual capacity or any  
8 other capacity, in any transaction involving the  
9 Fund on behalf of a party, or representing a  
10 party, whose interests are adverse to the inter-  
11 ests of the Fund or the interests of its partici-  
12 pants or beneficiaries; or

13           (C) receive any consideration of the fidu-  
14 ciary's own personal account from any party  
15 dealing with sums credited to the Fund in con-  
16 nection with a transaction involving assets of  
17 the Fund.

18           (3) SECRETARY OF LABOR.—

19           (A) IN GENERAL.—The Secretary of Labor  
20 may, in accordance with procedures which the  
21 Secretary of Labor shall by regulation pre-  
22 scribe, grant a conditional or unconditional ex-  
23 emption of any fiduciary or transaction, or class  
24 of fiduciaries or transactions, from all or any of  
25 the restrictions imposed by paragraph (2). An



1 exemption granted under this subparagraph  
2 shall not relieve a fiduciary from any other ap-  
3 plicable provision of this Act.

4 (B) CONDITIONS.—The Secretary of Labor  
5 may not grant an exemption under subpara-  
6 graph (A) unless the Secretary of Labor finds  
7 that such exemption is—

8 (i) administratively feasible;

9 (ii) in the interests of the Fund and  
10 its participants; and

11 (iii) protective of the rights of partici-  
12 pants and beneficiaries of such Fund.

13 (C) NOTICE.—An exemption under sub-  
14 paragraph (A) may not be granted unless—

15 (i) notice of the proposed exemption is  
16 published in the Federal Register;

17 (ii) interested persons are given an  
18 opportunity to present views; and

19 (iii) the Secretary of Labor affords an  
20 opportunity for a hearing and makes a de-  
21 termination on the record with respect to  
22 the respective requirements of clauses (i),  
23 (ii), and (iii) of subparagraph (B).

24 (D) APPLICATION OF ERISA FIDUCIARY  
25 EXEMPTIONS.—Notwithstanding subparagraph

1 (C), the Secretary of Labor may determine that  
2 an exemption granted for any class of fidu-  
3 ciaries or transactions under section 408(a) of  
4 the Employee Retirement Income Security Act  
5 of 1974 (29 U.S.C. 1108(a)) shall, upon publi-  
6 cation of notice in the Federal Register under  
7 this subparagraph, constitute an exemption  
8 from the application of paragraph (2).

9 (e) NONAPPLICATION.—This section does not pro-  
10 hibit any fiduciary from—

11 (1) receiving any benefit which the fiduciary is  
12 entitled to receive under this Act as a participant,  
13 former participant, or beneficiary;

14 (2) receiving any reasonable compensation au-  
15 thorized by this Act for services rendered, or for re-  
16 imbursement of expenses properly and actually in-  
17 curred, in the performance of the fiduciary's duties  
18 under this Act; or

19 (3) serving as a fiduciary in addition to being  
20 an officer, employee, agent, or other representative  
21 of a party in interest.

22 (f) LIABILITY.—

23 (1) IN GENERAL.—Any fiduciary that breaches  
24 the responsibilities, duties, and obligations set out in  
25 subsection (b) or violates subsection (c) shall be per-

1 sonally liable to the Fund for any losses to such  
2 Fund resulting from each such breach or violation  
3 and to restore to such Fund any profits made by the  
4 fiduciary through use of assets of such Fund by the  
5 fiduciary, and, except as provided in paragraphs (3)  
6 and (4), shall be subject to such other equitable or  
7 remedial relief as a court considers appropriate . A  
8 fiduciary may be removed for a breach referred to  
9 in the preceding sentence.

10 (2) CIVIL PENALTIES.—The Secretary of Labor  
11 may assess a civil penalty against a party in interest  
12 with respect to each transaction prohibited by sub-  
13 section (d) which is engaged in by the party in inter-  
14 est. The amount of such penalty shall be equal to 5  
15 percent of the amount involved in each such trans-  
16 action (as defined in section 4975(f)(4) of the Inter-  
17 nal Revenue Code of 1986) for each year or part  
18 thereof during which the prohibited transaction con-  
19 tinues, except that, if the transaction is not cor-  
20 rected (in such manner as the Secretary of Labor  
21 shall prescribe by regulation consistent with section  
22 4975(f)(5) of such Code) within 90 days after the  
23 date the Secretary of Labor transmits notice to the  
24 party in interest (or such longer period as the Sec-  
25 retary of Labor may permit), such penalty may be

1 in the amount of not more than 100 percent of the  
2 amount involved.

3 (3) SPECIAL RULES.—

4 (A) IN GENERAL.—A fiduciary shall not be  
5 liable under paragraph (1)—

6 (i) with respect to a breach of fidu-  
7 ciary duty under subsection (b) committed  
8 before becoming a fiduciary or after ceas-  
9 ing to be a fiduciary;

10 (ii) for providing for the automatic  
11 enrollment of a participant in accordance  
12 with section 104;

13 (iii) for enrolling a participant or ben-  
14 efiary in a default investment fund or op-  
15 tion in accordance with section 104; or

16 (iv) for allowing a participant or bene-  
17 ficiary to invest through the mutual fund  
18 window or for establishing restrictions ap-  
19 plicable to participants' or beneficiaries'  
20 ability to invest through the mutual fund  
21 window.

22 (B) JOINT AND SEVERAL LIABILITY.—A fi-  
23 duciary shall be jointly and severally liable  
24 under paragraph (1) for a breach of fiduciary

1 duty under subsection (b) by another fiduciary  
2 only if—

3 (i) the fiduciary participates know-  
4 ingly in, or knowingly undertakes to con-  
5 ceal, an act or omission of such other fidu-  
6 ciary, knowing such act or omission is such  
7 a breach;

8 (ii) by the fiduciary's failure to com-  
9 ply with subsection (b) in the administra-  
10 tion of the fiduciary's specific responsibil-  
11 ities which give rise to the fiduciary status,  
12 the fiduciary has enabled such other fidu-  
13 ciary to commit such a breach; or

14 (iii) the fiduciary has knowledge of a  
15 breach by such other fiduciary, unless the  
16 fiduciary makes reasonable efforts under  
17 the circumstances to remedy the breach.

18 (4) ALLOCATION OF DUTIES.—The Secretary of  
19 Labor shall prescribe, in regulations, procedures for  
20 allocating fiduciary responsibilities among fidu-  
21 ciaries, including asset managers. Any fiduciary who,  
22 pursuant to such procedures, allocates to any person  
23 any fiduciary responsibility shall not be liable for an  
24 act or omission of such person unless such fiduciary  
25 violated subsection (b) with respect to the allocation,

1 with respect to the implementation of the procedures  
2 prescribed by the Secretary of Labor.

3 (5) OTHER CIVIL ACTIONS.—

4 (A) IN GENERAL.—No civil action may be  
5 maintained against any fiduciary with respect  
6 to the responsibilities, liabilities, and penalties  
7 authorized or provided for in this section except  
8 in accordance with subparagraphs (B) and (C).

9 (B) ACTIONS PERMITTED.—A civil action  
10 may be brought in the district courts of the  
11 United States—

12 (i) by the Secretary of Labor against  
13 any fiduciary other than a member of the  
14 Board or the Executive Director of the  
15 Board—

16 (I) to determine and enforce a li-  
17 ability under paragraph (1);

18 (II) to collect any civil penalty  
19 under paragraph (2);

20 (III) to enjoin any act or practice  
21 which violates any provision of sub-  
22 section (b) or (c);

23 (IV) to obtain any appropriate  
24 equitable relief to redress a violation  
25 of any such provision; or

1 (V) to enjoin any act or practice  
2 which violates subsection (g)(2) or (h)  
3 of section 201;

4 (ii) by any participant, beneficiary, or  
5 fiduciary—

6 (I) to enjoin any act or practice  
7 which violates any provision of sub-  
8 section (b) or (c);

9 (II) to obtain any other appro-  
10 priate equitable relief to redress a vio-  
11 lation of any such provision; or

12 (III) to enjoin any act or practice  
13 which violate subsection (g)(2) or (h)  
14 of section 201; or

15 (iii) by any participant or bene-  
16 ficiary—

17 (I) to recover benefits of such  
18 participant or beneficiary under the  
19 provisions of title I, to enforce any  
20 right of such participant or bene-  
21 ficiary under such provisions, or to  
22 clarify any such right to future bene-  
23 fits under such provisions; or

24 (II) to enforce a claim otherwise  
25 cognizable under sections 1346(b) and

1                   2671 through 2680 of title 28, United  
2                   States Code, except that the remedy  
3                   against the United States provided by  
4                   section 1346(b) and 2672 of such title  
5                   28 for damages for injury or loss of  
6                   property caused by the negligent or  
7                   wrongful act or omission of any fidu-  
8                   ciary while acting within the scope of  
9                   the fiduciary's duties or employment  
10                  shall be exclusive of any other civil ac-  
11                  tion or proceeding by the participant  
12                  or beneficiary for recovery of money  
13                  by reason of the same subject matter  
14                  against the fiduciary (or the estate of  
15                  such fiduciary) whose act or omission  
16                  gave rise to such action or proceeding,  
17                  whether or not such action or pro-  
18                  ceeding is based on an alleged viola-  
19                  tion of subsection (b) or (c).

20                  (C) REPRESENTATION.—

21                   (i) IN GENERAL.—In all civil actions  
22                   under subparagraph (B)(i), attorneys ap-  
23                   pointed by the Secretary may represent the  
24                   Secretary (except as provided in section  
25                   518(a) of title 28, United States Code),



1           however, all such litigation shall be subject  
2           to the direction and control of the Attorney  
3           General.

4           (ii) ATTORNEY GENERAL.—The Attor-  
5           ney General shall defend any civil action or  
6           proceeding brought in any court against  
7           any fiduciary referred to in subparagraph  
8           (B)(iii)(II) (or the estate of such fiduciary)  
9           for any such injury. Any fiduciary against  
10          whom such a civil action or proceeding is  
11          brought shall deliver, within such time  
12          after date of service or knowledge of serv-  
13          ice as determined by the Attorney General,  
14          all process served upon such fiduciary (or  
15          an attested copy thereof) to the Executive  
16          Director, who shall promptly furnish copies  
17          of the pleading and process to the Attorney  
18          General and the United States Attorney  
19          for the district wherein the action or pro-  
20          ceeding is brought.

21          (iii) CERTIFICATION OF SCOPE OF  
22          DUTY.—Upon certification by the Attorney  
23          General that a fiduciary described in sub-  
24          paragraph (B)(iii)(II) was acting in the  
25          scope of such fiduciary's duties or employ-

1           ment as a fiduciary at the time of the oc-  
2           currence or omission out of which the ac-  
3           tion arose, any such civil action or pro-  
4           ceeding commenced in the State court shall  
5           be—

6                       (I) removed without bond at any  
7                       time before trial by the Attorney Gen-  
8                       eral to the district court of the United  
9                       States for the district and division in  
10                      which it is pending; and

11                     (II) deemed a tort action brought  
12                     against the United States under the  
13                     provisions of title 28, United States  
14                     Code, and all references thereto.

15                     (iv) COMPROMISE OR SETTLEMENT.—

16           The Attorney General may compromise or  
17           settle any claim asserted in such civil ac-  
18           tion or proceeding in the manner provided  
19           in section 2677 of title 28, United States  
20           Code, and with the same effect. To the ex-  
21           tent section 2672 of title 28, United States  
22           Code, provides that persons other than the  
23           Attorney General or the Attorney General's  
24           designee may compromise and settle  
25           claims, and that payments of such claims

1 may be made from agency appropriations,  
2 such provisions shall not apply to claims  
3 based upon an alleged violation of sub-  
4 section (b) or (c).

5 (v) CERTAIN CLAIMS.—For the pur-  
6 poses of subparagraph (B)(iii)(II), the pro-  
7 visions of section 2680(h) of title 28,  
8 United States Code shall not apply to any  
9 claim based upon an alleged violation of  
10 subsection (b) or (c).

11 (vi) PAYMENT OF AWARDS.—Notwith-  
12 standing sections 1346(b) and 2671  
13 through 2680 of title 28, United States  
14 Code, whenever an award, compromise, or  
15 settlement is made under such section  
16 upon any claim based upon an alleged vio-  
17 lation of subsection (b) or (c), payment of  
18 such award, compromise, or settlement  
19 shall be made to the appropriate account  
20 with in the Fund, or where there is no  
21 such appropriate account, to the partici-  
22 pant or beneficiary bringing the claim.

23 (vii) DEFINITION.—For purposes of  
24 subparagraph (B)(iii)(II), the term “fidu-

1           ciary” includes only the members of the  
2           Board and the Board’s Executive Director.

3           (D) LIMITATION ON MONETARY RELIEF.—

4           Any relief awarded against a member of the  
5           Board or the Board’s Executive Director in a  
6           civil action authorized by subparagraph (B)  
7           may not include any monetary damages or any  
8           other recovery of money.

9           (E) TIME FOR COMMENCEMENT OF AC-  
10          TION.—An action may not be commenced under  
11          clause (i) or (ii) of subparagraph (B) with re-  
12          spect to a fiduciary’s breach of any responsi-  
13          bility, duty, or obligation under subsection (b)  
14          or a violation of subsection (c) after the earlier  
15          of—

16                   (i) 6 years after—

17                           (I) the date of the last action  
18                           which constituted a part of the breach  
19                           or violation; or

20                           (II) in the case of an omission,  
21                           the latest date on which the fiduciary  
22                           could have cured the breach or viola-  
23                           tion; or

24                           (ii) 3 years after the earliest date on  
25                           which the plaintiff had actual knowledge of

1 the breach or violation, except that, in the  
2 case of fraud or concealment, such action  
3 may be commenced not later than 6 years  
4 after the date of discovery of such breach  
5 or violation.

6 (F) JURISDICTION.—

7 (i) IN GENERAL.—The district courts  
8 of the United States shall have exclusive  
9 jurisdiction of civil actions under this sub-  
10 section.

11 (ii) VENUE.—An action under this  
12 subsection may be brought in the District  
13 Court of the United States for the District  
14 of Columbia or a district court of the  
15 United States in the district where the  
16 breach alleged in the complaint or petition  
17 filed in the action took place or in the dis-  
18 trict where a defendant resides or may be  
19 found. Process may be served in any other  
20 district where a defendant resides or may  
21 be found.

22 (G) OTHER RULES.—

23 (i) IN GENERAL.—A copy of the com-  
24 plaint or petition filed in any action  
25 brought under this subsection (other than

1           by the Secretary of Labor) shall be served  
2           on the Executive Director, the Secretary of  
3           Labor, and the Secretary of the Treasury  
4           by certified mail.

5           (ii) INTERVENTION.—Any officer re-  
6           ferred to in clause (i) shall have the right  
7           in the officer’s discretion to intervene in  
8           any action. If the Secretary of Labor  
9           brings an action under subparagraph  
10          (B)(i) on behalf of a participant or bene-  
11          ficiary, the Secretary of Labor shall notify  
12          the Executive Director and the Secretary  
13          of the Treasury.

14          (g) REGULATIONS.—The Secretary of Labor may  
15          prescribe regulations to carry out this section.

16          (h) AUDITS.—

17               (1) IN GENERAL.—The Secretary of Labor shall  
18               establish a program to carry out audits to determine  
19               the level of compliance with the requirements of this  
20               section relating to fiduciary responsibilities and pro-  
21               hibited activities of fiduciaries.

22               (2) DELEGATION.—An audit under this sub-  
23               section may be conducted by the Secretary of Labor,  
24               by contract with a qualified non-governmental orga-  
25               nization, or in cooperation with the Comptroller

1       General of the United States, as the Secretary of  
2       Labor considers appropriate.

3 **SEC. 207. BONDING.**

4       (a) REQUIREMENTS.—

5           (1) IN GENERAL.—Except as provided in para-  
6       graph (2), each fiduciary and each person who han-  
7       dles funds or property of the Fund shall be bonded  
8       as provided in this section.

9           (2) EXCEPTIONS.—

10           (A) IN GENERAL.—Bond shall not be re-  
11       quired of a fiduciary (or of any officer or em-  
12       ployee of such fiduciary) if such fiduciary—

13           (i) is a corporation organized and  
14       doing business under the laws of the  
15       United States or of any State;

16           (ii) is authorized under such laws to  
17       exercise trust powers or to conduct an in-  
18       surance business;

19           (iii) is subject to supervision or exam-  
20       ination by Federal or State authority; and

21           (iv) has at all times a combined cap-  
22       ital and surplus in excess of such minimum  
23       amount (not less than \$1,000,000) as the  
24       Secretary of Labor prescribes in regula-  
25       tions.

1 (B) LIMITATION.—If—

2 (i) a bank or other financial institu-  
3 tion would, but for this subparagraph, not  
4 be required to be bonded under this section  
5 by reason of the application of the excep-  
6 tion provided in subparagraph (A),

7 (ii) the bank or financial institution is  
8 authorized to exercise trust powers, and

9 (iii) the deposits of the bank or finan-  
10 cial institution are not insured by the Fed-  
11 eral Deposit Insurance Corporation,

12 such exception shall apply to such bank or fi-  
13 nancial institution only if the bank or institu-  
14 tion meets bonding requirements under State  
15 law which the Secretary of Labor determines  
16 are at least equivalent to those imposed on  
17 banks by Federal law.

18 (b) REGULATIONS.—

19 (1) IN GENERAL.—The Secretary of Labor shall  
20 prescribe the amount of a bond under this section at  
21 the beginning of each fiscal year. Such amount shall  
22 not be less than 10 percent of the amount of funds  
23 handled, except that in no case shall such bond be  
24 less than \$1,000 or more than \$500,000, or such  
25 higher amount as the Secretary of Labor, after due



1 notice and opportunity for hearing to all interested  
2 parties, and other consideration of the record, may  
3 prescribe.

4 (2) AMOUNT OF FUNDS HANDLED.—For the  
5 purpose of prescribing the amount of a bond under  
6 paragraph (1), the amount of funds handled shall be  
7 determined by reference to the amount of the funds  
8 handled by the person, group, or class to be covered  
9 by such bond or by their predecessor or prede-  
10 cessors, if any, during the preceding fiscal year, or  
11 to the amount of funds to be handled during the  
12 current fiscal year by such person, group, or class,  
13 estimated as provided in regulations prescribed by  
14 the Secretary of Labor.

15 (c) TERMS.—A bond required by subsection (a)—

16 (1) shall include such terms and conditions as  
17 the Secretary of Labor considers necessary to pro-  
18 tect the Fund against loss by reason of acts of fraud  
19 or dishonesty on the part of the bonded person di-  
20 rectly or through connivance with others;

21 (2) shall have as surety thereon a corporate  
22 surety company which is an acceptable surety on  
23 Federal bonds under authority granted by the Sec-  
24 retary of the Treasury pursuant to sections 9304  
25 through 9308 of title 31, United States Code; and

1           (3) shall be in a form or of a type approved by  
2           the Secretary of Labor, including individual bonds or  
3           schedule or blanket forms of bonds which cover a  
4           group or class.

5           (d) CUSTODY OF FUNDS.—

6           (1) IN GENERAL.—It shall be unlawful for any  
7           person to whom subsection (a) applies, to receive,  
8           handle, disburse, or otherwise exercise custody or  
9           control of any of the funds or other property of the  
10          Fund without being bonded as required by this sec-  
11          tion.

12          (2) FIDUCIARIES.—It shall be unlawful for any  
13          fiduciary, or any other person having authority to  
14          direct the performance of functions described in  
15          paragraph (1), to permit any such function to be  
16          performed by any person to whom subsection (a) ap-  
17          plies unless such person has met the requirements of  
18          such subsection.

19          (e) EXEMPTION.—Notwithstanding any other provi-  
20          sion of law, any person who is required to be bonded as  
21          provided in subsection (a) shall be exempt from any other  
22          provision of law which would, but for this subsection, re-  
23          quire such person to be bonded for the handling of the  
24          funds or other property of the Fund.

1 (f) REGULATIONS.—The Secretary of Labor shall  
2 prescribe such regulations as may be necessary to carry  
3 out the provisions of this section, including exempting a  
4 person or class of persons from the requirements of this  
5 section.

6 **SEC. 208. INVESTIGATIVE AUTHORITY.**

7 Any authority available to the Secretary of Labor  
8 under section 504 of the Employee Retirement Income Se-  
9 curity Act of 1974 (29 U.S.C. 1134) is hereby made avail-  
10 able to the Secretary of Labor, and any officer designated  
11 by the Secretary of Labor, to determine whether any per-  
12 son has violated, or is about to violate, any provision of  
13 sections 206 or 207.

14 **SEC. 209. EXCULPATORY PROVISIONS; INSURANCE.**

15 (a) EXCULPATORY PROVISIONS VOID.—Any provi-  
16 sion in an agreement or instrument which purports to re-  
17 lieve a fiduciary from responsibility or liability for any re-  
18 sponsibility, obligation, or duty under this title shall be  
19 void.

20 (b) INSURANCE.—In accordance with section 101(e),  
21 the sums credited to the Fund shall be available to pay  
22 administrative expenses which may include, at the discre-  
23 tion of the Executive Director, the purchase of insurance  
24 to cover potential liability of persons who serve in a fidu-  
25 ciary capacity with respect to the Fund, without regard

1 to whether a policy of insurance permits recourse by the  
2 insurer against the fiduciary in the case of a breach of  
3 a fiduciary obligation.

4 **SEC. 210. SUBPOENA AUTHORITY.**

5 (a) SUBPOENA AUTHORITY.—In order to carry out  
6 the responsibilities specified in this Act, the Executive Di-  
7 rector may issue subpoenas commanding each person to  
8 whom the subpoena is directed to produce designated  
9 books, documents, records, electronically stored informa-  
10 tion, or tangible materials in the possession or control of  
11 that individual.

12 (b) LIABILITY.—Notwithstanding any Federal, State,  
13 or local law, any person, including officers, agents, and  
14 employees, receiving a subpoena under this section, who  
15 complies in good faith with the subpoena and thus pro-  
16 duces the materials sought, shall not be liable in any court  
17 of any State or the United States to any individual, do-  
18 mestic or foreign corporation or upon a partnership or  
19 other unincorporated association for such production.

20 (c) ENFORCEMENT.—When a person fails to obey a  
21 subpoena issued under this section, the district court of  
22 the United States for the district in which the investiga-  
23 tion is conducted or in which the person failing to obey  
24 is found, shall on proper application issue an order direct-

1 ing that person to comply with the subpoena. The court  
 2 may punish as contempt any disobedience of its order.

3 (d) REGULATIONS.—The Executive Director shall  
 4 prescribe regulations to carry out subsection (a).

5 **TITLE III—TAX CODE**  
 6 **PROVISIONS**

7 **SEC. 301. GOVERNMENT MATCH TAX CREDIT.**

8 (a) IN GENERAL.—Subpart A of part IV of sub-  
 9 chapter A of chapter 1 of the Internal Revenue Code of  
 10 1986 is amended by inserting after section 25E the fol-  
 11 lowing new section:

12 **“SEC. 25F. GOVERNMENT MATCH TAX CREDIT.**

13 “(a) ALLOWANCE OF CREDIT.—In the case of an eli-  
 14 gible individual, there shall be allowed as a credit for the  
 15 taxable year an amount equal to the sum of—

16 “(1) 1 percent of the eligible individual’s gross  
 17 income, plus

18 “(2) the applicable percentage of the partici-  
 19 pant’s contributions to the American Worker Retirement  
 20 Fund during the taxable year.

21 “(b) APPLICABLE PERCENTAGE.—For purposes of  
 22 this section, the applicable percentage is—

23 “(1) 100 percent of so much of the contribu-  
 24 tions to the American Worker Retirement Fund as  
 25 do not exceed 3 percent of gross income,

1           “(2) 50 percent of so much of such contribu-  
2           tions as exceeds 3 percent but does not exceed 5 per-  
3           cent of gross income, and

4           “(3) 0 percent for such contributions that ex-  
5           ceed 5 percent of so much of such contributions as  
6           exceeds 5 percent of gross income.

7           “(c) PHASEOUT.—

8           “(1) IN GENERAL.—The credit determined  
9           under subsection (a) shall be reduced by \$75 for  
10          each \$1,000 or portion thereof by which the eligible  
11          individual’s gross income exceeds the phaseout  
12          amount.

13          “(2) PHASEOUT AMOUNT.—For purposes of  
14          paragraph (1), the phaseout amount is—

15                 “(A) in the case of a joint return, an  
16                 amount equal to 200 percent of the United  
17                 States median income for the preceding taxable  
18                 year, as determined by the Secretary,

19                 “(B) in the case of a head of household (as  
20                 defined in section 2(b)),  $\frac{3}{4}$  of the amount de-  
21                 termined under subparagraph (A), and

22                 “(C) in any other case,  $\frac{1}{2}$  of the amount  
23                 determined under subparagraph (A).

24          “(d) ELIGIBLE INDIVIDUAL.—For purposes of this  
25          section, the term ‘eligible individual’ has the meaning

1 given the term ‘participant’ by section 2(13) of the Retirement Savings for Americans Act of 2022.

3 “(e) AMERICAN WORKER RETIREMENT FUND.—For  
4 purposes of this section, the American Worker Retirement  
5 Fund is the Fund created under section 101(a) of the Retirement Savings for Americans Act of 2022.

7 “(f) DEPOSIT INTO PARTICIPANT’S ACCOUNT.—

8 “(1) IN GENERAL.—Any amount allowed as a  
9 credit under subsection (a)—

10 “(A) shall not be allowed as a credit  
11 against any tax imposed by this subtitle, and

12 “(B) shall be treated as an overpayment  
13 under section 6401(b).

14 “(2) PAYMENT.—The Secretary shall contribute  
15 the amount treated as an overpayment under paragraph (1) to the eligible individual’s account with  
16 the American Worker Retirement Fund.

18 “(g) ADVANCE PAYMENT.—

19 “(1) REGULATIONS.—The Secretary shall pre-  
20 scribe regulations to provide that the payments  
21 made under subsection (f) are made as concurrently  
22 as is reasonably possible with contributions by a taxpayer to the American Worker Retirement Fund.  
23 Such regulations shall provide that, for purposes of  
24 such payments, the credit under subsection (a) may  
25

1 be determined on the basis of the eligible individual's  
2 gross income for the preceding taxable year.

3 “(2) EXCESS PAYMENTS.—If the aggregate  
4 amount of payments under subsection (f) with re-  
5 spect to an eligible individual for any taxable year  
6 exceeds the amount of the credit allowed under sub-  
7 section (a) to such individual for such taxable year,  
8 the tax imposed by this chapter for such taxable  
9 year shall be increased by the amount of such ex-  
10 cess. Any failure to so increase the tax shall be  
11 treated as arising out of a mathematical or clerical  
12 error and assessed according to section 6213(b)(1).

13 “(h) FORFEIT OF AMOUNTS THAT DO NOT REMAIN  
14 IN FUND FOR AT LEAST 6 MONTHS.—For forfeiture of  
15 funds that do not remain in the eligible individual's ac-  
16 count for at least 6 months, see section 105(e) of the Re-  
17 tirement Savings for Americans Act of 2022.”.

18 (b) CLERICAL AMENDMENTS.—The table of sections  
19 for subpart A of part IV of subchapter A of chapter 1  
20 of the Internal Revenue Code of 1986 is amended by in-  
21 serting after the item relating to section 26E the following  
22 new item:

Sec. 25F. Government Match Tax Credit.

23 (c) EFFECTIVE DATE.—The amendments made by  
24 this section shall apply to taxable years beginning after  
25 December 31, 2022.



1 **SEC. 302. DISCLOSURE OF RETURN INFORMATION TO IM-**  
2 **PLEMENT INVOLUNTARY DISTRIBUTIONS.**

3 (a) IN GENERAL.—Section 6103(l) of the Internal  
4 Revenue Code of 1986 is amended by adding at the end  
5 the following new paragraph:

6 “(23) DISCLOSURE OF RETURN INFORMATION  
7 TO AMERICAN WORKER RETIREMENT INVESTMENT  
8 BOARD TO IMPLEMENT INVOLUNTARY DISTRIBUTIONS.—The Secretary shall, upon written request  
9 from the Executive Director of the American Worker  
10 Retirement Investment Board, disclose to officers  
11 and employees of the American Worker Retirement  
12 Investment Board, only for the purpose of (and to  
13 the extent necessary in) implementing section 106(j)  
14 of the Retirement Savings for Americans Act of  
15 2022, the following return information from returns  
16 (for any taxable year specified by such Executive Di-  
17 rector as relevant to such purpose) of an individual  
18 certified by such Executive Director as having an ac-  
19 count in the American Worker Retirement Fund:

21 “(A) Taxpayer identity information.

22 “(B) Filing status.

23 “(C) Gross income.

24 “(D) If applicable, the fact that there was  
25 no return filed.”.

1           (b) APPLICATION OF SAFEGUARDS.—Section  
2 6103(p)(4) of such Code is amended by striking “or (22)”  
3 both places it appears and inserting “(22), or (23)”.

4           (c) EFFECTIVE DATE.—The amendments made by  
5 this section shall apply to disclosures made after the date  
6 of the enactment of this Act.

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