

118TH CONGRESS  
1ST SESSION

# H. R. 6065

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

---

## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 25, 2023

Mr. SMUCKER (for himself, Ms. SEWELL, Mrs. MILLER of West Virginia, Ms. DELBENE, and Mr. SMITH of Nebraska) introduced the following bill; which was referred to the Committee on Education and the Workforce, 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

---

## 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 2023”.

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—GOVERNMENT MATCH TAX CREDIT

- Sec. 301. Government Match Tax Credit.

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.

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

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

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

9           (5) EXECUTIVE DIRECTOR.—The term “Execu-  
10 tive Director” means the Executive Director ap-  
11 pointed under section 203.

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

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

18           (B) the Thrift Savings Plan established  
19 under subchapter III of chapter 84 of title 5,  
20 United States Code; and

21           (C) any other tax deferred employee retire-  
22 ment plan determined by the Secretary of the  
23 Treasury to be consistent with the purposes of  
24 this Act.

25           (7) FORMER PARTICIPANT.—

1           (A) IN GENERAL.—The term “former par-  
2           ticipant” means a participant who has an ac-  
3           count with the Fund and is no longer a quali-  
4           fying worker.

5           (B) INDIVIDUALS BECOMING QUALIFYING  
6           WORKERS AGAIN.—Such term shall not include  
7           an individual who (without regard to this sub-  
8           paragraph) is a former participant but who sub-  
9           sequently becomes a qualifying worker and en-  
10          rolls again under section 104(a) to participate  
11          in the Fund. This subparagraph shall apply  
12          until such individual is no longer a qualifying  
13          worker.

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

17          (9) INVESTMENT ADVISORY COUNCIL.—The  
18          term “Investment Advisory Council” means the  
19          council established under section 202.

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

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

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

5           (13) PARTICIPANT.—The term “participant”  
6           means any qualifying worker who is enrolled to par-  
7           ticipate in the Fund under section 104(a) and has  
8           not opted out of participation under section  
9           104(b)(3).

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

12                   (A) employs a qualifying worker; or

13                   (B) contracts with an independent con-  
14                   tractor who is a qualifying worker and opts to  
15                   enroll such independent contractor to partici-  
16                   pate in the Fund under section 104(a)(2).

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

19                   (A) an employee who—

20                           (i) is employed by a business that has  
21                           not established an existing retirement plan  
22                           and does not provide an individual retire-  
23                           ment plan (as defined in section  
24                           7701(a)(37) of the Internal Revenue Code

1 of 1986) with an automatic enrollment  
2 payroll deduction arrangement; or

3 (ii) is not eligible to participate in any  
4 such plan or arrangement established by  
5 the business that employs the employee; or  
6 (B) an independent contractor who—

7 (i) is self-employed; and

8 (ii) has not established an existing re-  
9 tirement plan, and does not have an indi-  
10 vidual retirement plan (as defined in sec-  
11 tion 7701(a)(37) of the Internal Revenue  
12 Code of 1986) with an automatic enroll-  
13 ment payroll deduction arrangement.

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

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

19 **SEC. 4. GOVERNMENT BENEFITS.**

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

1           **TITLE I—THE AMERICAN**  
2           **WORKER RETIREMENT PLAN**

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

4           (a) **ESTABLISHMENT.**—There is established in the  
5 Treasury of the United States the American Worker Re-  
6 tirement Fund.

7           (b) **PURPOSES.**—The Fund shall consist of the sum  
8 of all amounts contributed under sections 105 and 301,  
9 increased by the total net earnings from investments of  
10 the sums in the Fund or reduced by the total net losses  
11 from investments of the Fund, and reduced by the total  
12 amount of payments made from the Fund (including pay-  
13 ments for administrative expenses under subsection (e)).

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

16                 (1) to invest pursuant to section 102;

17                 (2) to pay the administrative expenses of the  
18 Fund under subsection (e);

19                 (3) to make distributions as provided in section  
20 106;

21                 (4) to make loans as authorized under section  
22 106(h); and

23                 (5) to purchase insurance as provided in section  
24 209.

1           (d) ACCOUNTS.—Each participant shall have an ac-  
2 count with the Fund. Amounts contributed by a partici-  
3 pant under section 105 and by the Secretary of the Treas-  
4 ury under section 25F of the Internal Revenue Code of  
5 1986 shall be deposited in the Fund and credited to the  
6 participant's account in accordance with such procedures  
7 as the Secretary of the Treasury may, in consultation with  
8 the Executive Director, prescribe in regulation.

9           (e) ADMINISTRATIVE EXPENSES.—Administrative  
10 expenses (including expenses related to financial literacy  
11 requirements under section 201(f)(5)) incurred to carry  
12 out this Act shall be paid out of the net earnings of the  
13 Fund, including earnings attributed to returned credit  
14 amounts under section 25F(h) of the Internal Revenue  
15 Code of 1986.

16           (f) EXCLUSIVE BENEFIT.—

17               (1) IN GENERAL.—Subject to paragraphs (2)  
18 and (3) and subsection (e), sums in the Fund cred-  
19 ited to the accounts of a participant or former par-  
20 ticipant may not be used for, or diverted to, pur-  
21 poses other than for the exclusive benefit of the par-  
22 ticipant or former participant, or a beneficiary there-  
23 of, except as otherwise provided by law.

24               (2) ASSIGNMENT.—Except as provided in para-  
25 graph (3), sums in the Fund may not be assigned



1 or alienated and are not subject to execution, levy,  
2 attachment, garnishment, or other legal process. For  
3 purposes of this paragraph, a loan made from the  
4 Fund to a participant shall not be considered to be  
5 an assignment or alienation.

6 (3) LEGAL OBLIGATIONS.—Moneys due or pay-  
7 able from the Fund to any individual and, in the  
8 case of an individual who is a participant or former  
9 participant, the balance in the account of the partici-  
10 pant or former participant shall be subject to—

11 (A) legal process for the enforcement of  
12 the individual's legal obligation to provide child  
13 support or make alimony payments as provided  
14 in section 459 of the Social Security Act (42  
15 U.S.C. 659);

16 (B) an obligation of the Executive Director  
17 to make a payment to another person under  
18 section 109; and

19 (C) any Federal tax levy under section  
20 6331 of the Internal Revenue Code of 1986.

21 For the purposes of this paragraph, an amount con-  
22 tributed for the benefit of a participant or former  
23 participant under section 25F of the Internal Rev-  
24 enue Code of 1986 (including any earnings attrib-  
25 utable thereto) shall be considered part of the bal-

1           ance in such participant or former participant's ac-  
2           count.

3           (g) NON-APPROPRIATED FUNDS.—The sums in the  
4 Fund shall not be appropriated for any purpose other than  
5 the purposes specified in this section and may not be used  
6 for any other purpose.

7           (h) BENEFIT TO PARTICIPANTS.—All sums contrib-  
8 uted to the Fund by a participant or the Secretary of the  
9 Treasury for the benefit of such participant and all net  
10 earnings in such Fund in trust for such participant shall  
11 be the exclusive property of the participant.

12          (i) NONFORFEITABLE.—All the contributions made  
13 under section 105 and section 25F of the Internal Rev-  
14 enue Code of 1986 shall be fully nonforfeitable when  
15 made, except as provided in section 25F(h) of such Code.

16 **SEC. 102. INVESTMENT OF AMERICAN WORKER RETIRE-**  
17 **MENT FUND.**

18          (a) IN GENERAL.—The Board shall establish the in-  
19 vestment policies of the Fund and select the investment  
20 funds, indexes, and other investment products that the  
21 amounts in the Fund shall be invested in subject to the  
22 following conditions:

23               (1) The Board shall provide for the following  
24               investment options for participants:

1 (A) A Government Securities Investment  
2 Fund under which sums in the Fund are in-  
3 vested in—

4 (i) bonds issued or guaranteed by the  
5 United States Government; and

6 (ii) bonds issued by Government-spon-  
7 sored enterprises or Government corpora-  
8 tions.

9 (B) A Fixed-Income Investment Fund  
10 under which sums are in the Fund are invested  
11 in—

12 (i) insurance contracts;

13 (ii) certificates of deposit; and

14 (iii) other instruments or obligations  
15 selected by qualified professional asset  
16 managers (as defined in section 8438(a)(8)  
17 of title 5, United States Code),

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

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

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

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

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

9 (2) The Board may, in its discretion, provide  
10 for other investment options for participants con-  
11 sistent with the Board's fiduciary duty set forth in  
12 sections 201 and 206.

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

16 (b) INVESTMENTS.—

17 (1) INVESTMENT SELECTION.—The Executive  
18 Director shall invest the sums available in the Fund  
19 for investment as provided in the selection made  
20 under subsection (c).

21 (2) DEFAULT OPTION.—If a selection has not  
22 been made with respect to any sums available for in-  
23 vestment in the Fund, the Executive Director shall  
24 invest such sums in an age-appropriate Life-Cycle

1 Investment Fund, as determined by the Executive  
2 Director.

3 (c) INVESTMENT SELECTION.—As often as is prac-  
4 tical, but not less than twice per year, a participant may  
5 select the investment funds and options referred to in sub-  
6 section (a) into which the amounts in the Fund credited  
7 to the participant's accounts are to be invested or rein-  
8 vested. A selection may be made under this subsection only  
9 in accordance with regulations prescribed by the Executive  
10 Director and within such period as the Executive Director  
11 shall provide in such regulations, but in no event less fre-  
12 quently than twice a year.

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

17 (e) REPORTS.—The Board shall issue regular reports  
18 (not less frequently than quarterly) to participants and  
19 former participants on the performance of each investment  
20 option selected under subsection (a), which shall include  
21 personalized estimates of assets and income at retirement,  
22 the additional assets and income at retirement a partici-  
23 pant would have if the participant makes sufficient con-  
24 tributions to receive the maximum amount of the Govern-  
25 ment match tax credit under section 25F of the Internal

1 Revenue Code of 1986, and any other information the  
2 Board determines may help participants make sound fi-  
3 nancial decisions. The Board shall provide the reports re-  
4 quired under this subsection by electronic delivery, except  
5 that upon the request of a participant or former partici-  
6 pant, reports shall be provided by mail to such individual.

7 **SEC. 103. ELIGIBILITY.**

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

11 (b) **CESSATION OF ELIGIBILITY.**—A former partici-  
12 pant shall not be eligible to contribute to the Fund under  
13 section 105(a) but shall remain the owner of the funds  
14 in the former participant’s account with the Fund (and  
15 any net earnings attributable to such funds) subject to the  
16 withdrawal conditions established under section 106, and  
17 may exercise investment decisions with respect to such ac-  
18 count on the same basis as a participant.

19 **SEC. 104. ENROLLMENT.**

20 (a) **ENROLLMENT.**—

21 (1) **IN GENERAL.**—The Secretary of the Treas-  
22 ury and the Executive Director shall jointly establish  
23 an enrollment process for participating employers to  
24 enroll qualifying workers to participate in the Fund  
25 that incorporates, to the extent practicable, such en-

1 rollment and participant contributions under section  
2 105(a) into Federal tax withholding forms and pay-  
3 ments. Such process shall provide that a business  
4 operating on the date of the establishment of the  
5 Fund shall complete such enrollment process for any  
6 qualifying worker as of such time no later than the  
7 date that is 1 year from such date.

8 (2) INDEPENDENT CONTRACTORS.—

9 (A) IN GENERAL.—In the case of inde-  
10 pendent contractors who are qualifying workers,  
11 the enrollment process shall allow businesses  
12 who have contracts with such qualifying work-  
13 ers to elect to enroll such qualifying workers to  
14 participate in the Fund.

15 (B) CLASSIFICATION.—An election (or fail-  
16 ure to make an election) by a business under  
17 subparagraph (A) with respect to any inde-  
18 pendent contractor who is a qualifying worker  
19 shall not be relevant to the classification of  
20 such worker as an independent contractor  
21 under any Federal, State, or local law.

22 (b) AUTO-ENROLLMENT; OPT-OUT.—

23 (1) IN GENERAL.—Each participating employer  
24 shall enroll each of its qualifying workers to partici-  
25 pate in the Fund under subsection (a) unless such

1       qualifying worker elects to opt out of participating  
2       pursuant to paragraph (3). A qualifying worker who  
3       is a sole proprietor or independent contractor shall  
4       enroll or elect to opt out of participating pursuant  
5       to paragraph (3).

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

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



1 who are determined to be eligible for automatic con-  
2 tributions or who would make contributions other-  
3 wise allowable by law outside the withholding proc-  
4 ess.

5 (c) PENALTIES.—

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

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

24 (A) 2 percent if the failure is for not more  
25 than 5 days;

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

3 (C) 10 percent if the failure is for more  
4 than 15 days.

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

10 **SEC. 105. CONTRIBUTIONS.**

11 (a) CONTRIBUTIONS BY PARTICIPANTS.—

12 (1) IN GENERAL.—Pursuant to the regulations  
13 established under paragraph (3) and subsection (e),  
14 a participant may make contributions to the partici-  
15 pant's account with the Fund in any pay period in  
16 an amount not to exceed the participant's compensa-  
17 tion for such period.

18 (2) OTHER PARTICIPANT CONTRIBUTIONS.—

19 (A) CATCH-UP CONTRIBUTIONS.—Notwith-  
20 standing the limitation under paragraph (1) or  
21 subsection (c), a participant may make such ad-  
22 ditional contributions to the participant's ac-  
23 count with the Fund as are permitted by sec-  
24 tion 414(v) of the Internal Revenue Code of

1 1986, and the regulations established under  
2 subsection (e) consistent therewith.

3 (B) CONTRIBUTIONS OF TAX REFUNDS.—

4 (i) IN GENERAL.—Subject to the lim-  
5 its of subsection (e), a participant may  
6 elect, at such time and in such manner as  
7 the Secretary of the Treasury may pre-  
8 scribe, to contribute to the participant's  
9 account any portion of such participant's  
10 overpayment of tax which is to be refunded  
11 to such participant under section 6402 of  
12 the Internal Revenue Code of 1986.

13 (ii) SPECIAL RULES.—For purposes of  
14 clause (i)—

15 (I) the amount of the overpay-  
16 ment which may be contributed under  
17 clause (i) shall be determined without  
18 regard to any overpayment attrib-  
19 utable to the amount contributed to  
20 the account by the Secretary of the  
21 Treasury under section 25F of the In-  
22 ternal Revenue Code of 1986, and

23 (II) any contribution described in  
24 clause (i) shall be treated as made for  
25 the taxable year of the overpayment

1 and shall be taken into account in de-  
2 termining the amount of the credit  
3 under section 25F for such taxable  
4 year.

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

9 (A) make contributions to their accounts  
10 with the Fund under paragraph (1);

11 (B) modify the amount contributed under  
12 such paragraph; or

13 (C) terminate such contributions.

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

16 (A) may be made at any time;

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

20 (C) shall remain in effect until modified or  
21 terminated.

22 Any such election shall be subject to the contribution  
23 limits under this section.

24 (b) CONTRIBUTION OF GOVERNMENT MATCH TAX  
25 CREDIT.—A participant's account shall receive contribu-

1 tions in the form of the Government Match Tax Credit  
2 contributed by the Secretary of the Treasury under section  
3 25F of the Internal Revenue Code of 1986.

4 (c) CONTRIBUTION LIMITS.—Notwithstanding any  
5 other provision of this section, no contribution may be  
6 made under this section for any year to the extent that  
7 such contribution, when added to prior contributions for  
8 such year, exceeds any limitation under section 219(b)(5)  
9 of the Internal Revenue Code of 1986. Any contribution  
10 made under section 25F of the Internal Revenue Code of  
11 1986 shall not be taken into account for purposes of the  
12 preceding sentence.

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

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

1 **SEC. 106. DISTRIBUTIONS.**

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

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

11 (1) an annuity;

12 (2) a single payment;

13 (3) 2 or more substantially equal payments to  
14 be made not less frequently than annually; or

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

18 (c) **ADDITIONAL FORMER PARTICIPANT WITH-**  
19 **DRAWAL OPTIONS.**—

20 (1) **IN GENERAL.**—In addition to the right pro-  
21 vided under subsection (b) to withdraw the balance  
22 of the account, a former participant may make 1 or  
23 more withdrawals of any amount in the same man-  
24 ner as a single payment is made in accordance with  
25 subsection (b)(2) from the former participant’s ac-  
26 count.

1 (2) TRANSFERS TO RETIREMENT PLANS.—

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

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

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

20 (d) PAYMENT OF ANNUITIES.—The Board shall pre-  
21 scribe methods of payment of annuities under this Act  
22 substantially similar to those provided for under section  
23 8434 of title 5, United States Code.

24 (e) FORMER PARTICIPANT CHANGES TO ELEC-  
25 TIONS.—

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

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

12 (f) SURVIVOR RIGHTS.—

13           (1) IN GENERAL.—If a participant or a former  
14 participant dies without having made an election  
15 under subsection (b) or after having elected an an-  
16 nuity under subsection (b) but before making an  
17 election for payments to a survivor rights under sec-  
18 tion 8434 of title 5, United States Code, an amount  
19 equal to the value of that individual's account (as of  
20 death) shall, subject to any decree, order, or agree-  
21 ment referred to in section 109, be paid in a manner  
22 consistent with the requirements of section 109.

23           (2) MAINTENANCE OF ACCOUNT.—Notwith-  
24 standing section 109, if a participant or former par-  
25 ticipant dies and has designated as sole or partial



1 beneficiary the spouse of the participant or former  
2 participant at the time of death, or, if a participant  
3 or former participant dies with no designated bene-  
4 ficiary and is survived by a spouse, the spouse may  
5 maintain the portion of the participant or former  
6 participant's account to which the spouse is entitled  
7 in accordance with the following terms:

8 (A) Subject to the limitations of subpara-  
9 graph (B), the spouse shall have the same with-  
10 drawal options under subsection (b) as a former  
11 participant.

12 (B) The spouse may not make withdrawals  
13 under subsection (h) or (i).

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

16 (D) The account shall be disbursed upon  
17 the death of the surviving spouse of the partici-  
18 pant or former participant and shall not be  
19 maintained by a beneficiary or surviving spouse  
20 of the surviving spouse who inherited the ac-  
21 count.

22 (3) REGULATIONS.—The Executive Director  
23 shall prescribe regulations to carry out this sub-  
24 section.

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

9 (h) LOANS.—

10 (1) IN GENERAL.—A participant or former par-  
11 ticipant may apply to the Board for permission to  
12 borrow from the participant or former participant’s  
13 account an amount not exceeding the value of that  
14 portion of such account which is attributable to con-  
15 tributions made by the participant or former partici-  
16 pant. Before a loan is issued, the Executive Director  
17 shall provide to the participant or former participant  
18 in writing with appropriate information concerning  
19 the cost of the loan relative to other sources of fi-  
20 nancing, as well as the lifetime cost of the loan, in-  
21 cluding the difference in interest rates between the  
22 funds offered by the Fund and any other effect of  
23 such loan on the participant or former participant’s  
24 final account balance.

25 (2) SPECIAL RULES.—

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

11           (B) LIMITATION BASED ON TAX TREAT-  
12 MENT.—A loan may not be made under this  
13 subsection to the extent that the loan would be  
14 treated as a taxable distribution under section  
15 72(p) of the Internal Revenue Code of 1986.

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

19           (i) VOLUNTARY DISTRIBUTIONS.—

20           (1) IN GENERAL.—A participant may apply, be-  
21 fore becoming a former participant, to the Board for  
22 permission to withdraw an amount from the partici-  
23 pant's account based upon—

24           (A) the participant having attained age  
25           59½; or

1 (B) financial hardship.

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

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

15 (j) INVOLUNTARY DISTRIBUTIONS.—

16 (1) IN GENERAL.—A participant shall receive a  
17 distribution from the Fund if the participant's gross  
18 income for a taxable year exceeds the dollar thresh-  
19 old (as adjusted by the Secretary of the Treasury)  
20 established under section 414(q)(1)(B) of the Inter-  
21 nal Revenue Code of 1986.

22 (2) AMOUNT OF DISTRIBUTION.—The amount  
23 of a distribution under paragraph (1) shall be equal  
24 to the sum of such participant's contributions to the  
25 Fund for the taxable year for which such distribu-

1       tion is required under paragraph (1), increased by  
2       any gains attributable to such contributions, and de-  
3       creased by any losses attributable to such contribu-  
4       tions, any early withdrawal penalties, and any ex-  
5       penses associated with making such distribution.

6               (3) PROCESS FOR DISTRIBUTION.—

7                       (A) NOTICE TO PARTICIPANT.—The Exec-  
8       utive Director shall provide notice to a partici-  
9       pant subject to a distribution under paragraph  
10      (1) not later than 7 days after the Executive  
11      Director determines that such participant is  
12      subject to such distribution, based on informa-  
13      tion regarding participants' gross income pro-  
14      vided by the Secretary of the Treasury.

15                      (B) METHOD OF DISTRIBUTION.—Not  
16      later than 30 days after receiving notice under  
17      subparagraph (A), a participant may elect to  
18      direct that a distribution under paragraph (1)  
19      be made—

20                               (i) in the case of an eligible rollover  
21                               distribution (as defined in section 402(c)  
22                               of the Internal Revenue Code of 1986), to  
23                               an eligible retirement plan (as defined in  
24                               such section of such code); or

25                               (ii) directly to such participant.

1           (C) DEFAULT ELECTION.—In the case of a  
2           participant who fails to make an election within  
3           the period described in subparagraph (B), the  
4           Executive Director shall make the distribution  
5           directly to such participant.

6           (4) TAX TREATMENT OF INVOLUNTARY DIS-  
7           TRIBUTION.—A distribution made under paragraph  
8           (1) directly to the participant under subparagraph  
9           (B)(ii) or (C) shall be treated as an early distribu-  
10          tion from a qualified retirement plan pursuant to  
11          section 72(t) of the Internal Revenue Code of 1986  
12          to the extent such distribution does not consist of  
13          participant contributions to the Fund.

14          (k) TREATMENT AS ROTH DISTRIBUTIONS.—The  
15          rules of sections 408(d) and 408A(d) of the Internal Rev-  
16          enue Code of 1986 shall apply to distributions from the  
17          Fund in the same manner as if such Fund were a Roth  
18          IRA. For purposes of the preceding sentence, contribu-  
19          tions made under section 25F of such Code shall be treat-  
20          ed as employer contributions which were not includible in  
21          gross income.

22          **SEC. 107. ACCOUNTS.**

23          (a) IN GENERAL.—The Executive Director shall es-  
24          tablish and maintain an account for each participant who  
25          makes contributions under section 105(a), or for whom

1 contributions are made under section 25F of the Internal  
2 Revenue Code of 1986, to the Fund.

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

5 (1) the sum of—

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

8 (B) all contributions made to the Fund for  
9 the benefit of the participant by the Secretary  
10 of the Treasury under section 25F of the Inter-  
11 nal Revenue Code of 1986; and

12 (C) the total amount of the allocations  
13 made to and reduction made in the account  
14 pursuant to subsection (c); over

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

17 (c) ALLOCATION OF EARNINGS AND LOSSES.—Pur-  
18 suant to regulation prescribed by the Executive Director,  
19 the Executive Director shall allocate to each account an  
20 amount equal to a pro rata share of the net earnings and  
21 net losses from each investment of sums in the Fund at-  
22 tributed to sums credited to such account, reduced by the  
23 appropriate share of the administrative expenses paid out  
24 of the net earnings under section 101(e) as determined  
25 by the Executive Director.

1 **SEC. 108. TAX TREATMENT.**

2       Except as otherwise provided in this Act, for purposes  
3 of the Internal Revenue Code of 1986, rules similar to  
4 the rules that apply with respect to the Thrift Savings  
5 Fund (including the rules of section 8440 of title 5,  
6 United States Code) shall apply with respect to the Amer-  
7 ican Worker Retirement Fund.

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

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



1 **TITLE II—THE AMERICAN WORK-**  
2 **ER RETIREMENT PLAN IN-**  
3 **VESTMENT MANAGEMENT**  
4 **SYSTEM**

5 **SEC. 201. THE AMERICAN WORKER RETIREMENT INVEST-**  
6 **MENT BOARD.**

7 (a) ESTABLISHMENT.—There is established in the ex-  
8 ecutive branch of the Government the American Worker  
9 Retirement Investment Board.

10 (b) COMPOSITION.—The Board shall be composed  
11 of—

12 (1) 3 members appointed by the President, of  
13 whom 1 shall be designated by the President as  
14 Chair;

15 (2) 1 member appointed by the President after  
16 taking into consideration the recommendation made  
17 by the majority leader of the Senate in consultation  
18 with the minority leader of the Senate; and

19 (3) 1 member appointed by the President after  
20 taking into consideration the recommendation made  
21 by the Speaker of the House of Representatives in  
22 consultation with the minority leader of the House  
23 of Representatives.

1 (c) SENATE CONFIRMATION.—Appointments under  
2 subsection (b) shall be made with the advice and consent  
3 of the Senate.

4 (d) QUALIFICATIONS.—

5 (1) IN GENERAL.—Members of the Board shall  
6 have substantial experience, training, and expertise  
7 in the management of financial investments and  
8 pension benefit plans.

9 (2) DISQUALIFICATION.—No member of the  
10 Board may be an officer or employee of the Federal  
11 Government.

12 (e) TERMS; VACANCIES.—

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

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

18 (B) the members appointed under para-  
19 graphs (2) and (3) of subsection (b) shall be  
20 appointed for terms of 3 years; and

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

23 (2) VACANCIES.—

24 (A) IN GENERAL.—A vacancy on the  
25 Board shall be filled in the manner in which the

1 original appointment was made and shall be  
2 subject to any conditions which applied with re-  
3 spect to the original appointment.

4 (B) TERM.—An individual chosen to fill a  
5 vacancy shall be appointed for the unexpired  
6 term of the member replaced.

7 (C) EXPIRATION.—The term of any mem-  
8 ber shall not expire before the date on which  
9 the member’s successor takes office.

10 (f) BOARD DUTIES.—The Board shall—

11 (1) establish policies for—

12 (A) the investment and management of the  
13 Fund; and

14 (B) the administration of title I of this  
15 Act;

16 (2) hire and set the compensation for the Exec-  
17 utive Director;

18 (3) review the performance of investments made  
19 for the Fund;

20 (4) review and approve the budget of the  
21 Board; and

22 (5) develop evidence-based financial literacy re-  
23 quirements for participants in the Fund, including  
24 requirements for financial literacy interventions to  
25 occur prior to a participant—

1 (A) taking an early withdrawal from their  
2 account at the Fund pursuant to section 106(i);  
3 and

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

6 (g) BOARD AUTHORITIES; INVESTMENT LIMITA-  
7 TIONS.—

8 (1) IN GENERAL.—The Board may—

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

10 (B) except as provided in paragraph (2),  
11 direct the Executive Director to take such ac-  
12 tion as the Board considers appropriate to  
13 carry out the provisions of this Act and the  
14 policies of the Board;

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

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

20 (2) EXCEPTION.—Except in the case of invest-  
21 ments under section 102(b)(2), the Board may not  
22 direct the Executive Director to invest or to cause  
23 to be invested any sums in the Fund in a specific  
24 asset or to dispose of or cause to be disposed of any  
25 specific asset of such Fund.

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

4 (i) BUDGET.—The Board shall prepare and submit  
5 to the President, and, at the same time, to the appropriate  
6 committees of Congress, an annual budget of the expenses  
7 and other items relating to the Board which shall be in-  
8 cluded as a separate item in the budget required to be  
9 transmitted to the Congress under section 1105 of title  
10 31, United States Code.

11 (j) LEGISLATIVE RECOMMENDATIONS.—The Board  
12 may submit to the President, and, at the same time, shall  
13 submit to each House of the Congress, any legislative rec-  
14 ommendations of the Board relating to any of its functions  
15 under this title.

16 **SEC. 202. THE AMERICAN WORKER RETIREMENT PLAN AD-**  
17 **VISORY COUNCIL.**

18 (a) ESTABLISHMENT.—The Board shall establish an  
19 American Worker Retirement Plan Advisory Council. The  
20 Council shall be composed of 7 members appointed by the  
21 Chair of the Board in accordance with subsection (b).

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

24 (1) 3 shall be appointed who have experience  
25 managing investment funds;

1           (2) 2 shall be appointed who have experience  
2 operating small businesses; and

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

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

7           (1) IN GENERAL.—The Chair of the Board  
8 shall designate 1 member of the Council to serve as  
9 head of the Council.

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

12          (3) VACANCIES.—

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

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

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

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

1 (e) DUTIES.—The Council shall—

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

4 (A) investment policies for the Fund; and

5 (B) the administration of title I of this  
6 Act; and

7 (2) perform such other duties as the Board may  
8 direct with respect to investment funds established  
9 in accordance with title I.

10 **SEC. 203. EXECUTIVE DIRECTOR.**

11 (a) IN GENERAL.—

12 (1) APPOINTMENT.—The Board shall appoint,  
13 without regard to the provisions of law governing  
14 appointments in the competitive service, an Execu-  
15 tive Director by action agreed to by a majority of  
16 the members of the Board.

17 (2) QUALIFICATIONS.—The Executive Director  
18 shall have substantial experience, training, and ex-  
19 pertise in the management of financial investments  
20 and pension benefit plans.

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

22 (1) carry out the policies established by the  
23 Board;

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

4           (3) administer the provisions of this Act;

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

8           (5) meet from time to time with the Council  
9 upon the request of the Council; and

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

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

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

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

19           (3) subject to approval by the Board, procure  
20 the services of experts and consultants under section  
21 3109 of title 5, United States Code;

22           (4) make such payments out of sums in the  
23 Fund as the Executive Director determines are nec-  
24 essary to carry out the provisions of this Act and the  
25 policies of the Board;



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

4           (6) except as otherwise expressly prohibited by  
5 law or the policies of the Board, delegate any of the  
6 Executive Director's functions to such employees  
7 under the Board as the Executive Director may des-  
8 ignate and authorize such successive redelegations of  
9 such functions to such employees under the Board  
10 as the Executive Director may consider to be nec-  
11 essary or appropriate; and

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

14 **SEC. 204. INVESTMENT POLICIES AND SELECTION OF**  
15 **ASSET MANAGERS.**

16           (a) INVESTMENT POLICIES.—The Board shall de-  
17 velop investment policies under section 201(f)(1) which  
18 provide for—

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

21           (2) low administrative costs.

22           (b) ASSET MANAGERS.—The Board shall select asset  
23 managers to manage the Fund, subject to the following  
24 conditions:

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

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

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

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

8 **SEC. 205. ADMINISTRATIVE PROVISIONS.**

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

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

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

12           (b) BOARD GOVERNANCE.—

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

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

19                   (3) EFFECT OF VACANCY.—A vacancy on the  
20 Board shall not impair the authority of a quorum of  
21 the Board to perform the functions and exercise the  
22 power of the Board.

23           (c) BOARD COMPENSATION.—

24                   (1) IN GENERAL.—Each member of the Board  
25 shall be compensated at the daily rate of basic pay

1 for level IV of the Executive Schedule for each day  
2 during which such member is engaged in performing  
3 a function of the Board.

4 (2) PER DIEM, ETC.—A member of the Board  
5 shall be paid travel, per diem, and other necessary  
6 expenses while traveling away from such member’s  
7 home or regular place of business in the perform-  
8 ance of the duties of the Board.

9 (3) PAYMENT FROM FUND.—Payments author-  
10 ized under this subsection shall be paid from the  
11 Fund as administrative expenses permitted under  
12 section 101(e).

13 **SEC. 206. FIDUCIARY RESPONSIBILITIES; LIABILITY AND**  
14 **PENALTIES.**

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

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

18 (2) ADEQUATE CONSIDERATION.—The term  
19 “adequate consideration” means—

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

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

1           (ii) if the security is not traded on  
2           such a national securities exchange, a price  
3           not less favorable to the Fund than the of-  
4           fering price for the security as established  
5           by the current bid and asked prices quoted  
6           by persons independent of the issuer and  
7           of any party in interest; and

8           (B) in the case of an asset other than a se-  
9           curity for which there is a generally recognized  
10          market, the fair market value of the asset as  
11          determined in good faith by a fiduciary or fidu-  
12          ciaries in accordance with regulations pre-  
13          scribed by the Secretary of Labor.

14          (3) FIDUCIARY.—The term “fiduciary”  
15          means—

16                (A) a member of the Board;

17                (B) the Executive Director;

18                (C) any person who has or exercises discre-  
19                tionary authority or discretionary control over  
20                the management or disposition of the assets of  
21                the Fund; and

22                (D) any person who, with respect to the  
23                Fund, is described in section 3(21)(A) of the  
24                Employee Retirement Income Security Act of  
25                1974 (29 U.S.C. 1002(21)(A)).

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

3           (A) any fiduciary;

4           (B) any counsel to a person who is a fidu-  
5 ciary, with respect to the actions of such person  
6 as a fiduciary;

7           (C) any participant;

8           (D) any person providing services to the  
9 Board and, with respect to the actions of the  
10 Executive Director as a fiduciary, any person  
11 providing services to the Executive Director;

12           (E) a labor organization, the members of  
13 which are participants;

14           (F) a spouse, sibling, ancestor, lineal de-  
15 scendant, or spouse of a lineal descendant of a  
16 person described in subparagraph (A), (B), or  
17 (D);

18           (G) a corporation, partnership, or trust or  
19 estate of which, or in which, at least 50 percent  
20 of—

21           (i) the combined voting power of all  
22 classes of stock entitled to vote or the total  
23 value of shares of all classes of stock of  
24 such corporation,

1                   (ii) the capital interest or profits in-  
2                   terest of such partnership, or

3                   (iii) the beneficial interest of such  
4                   trust or estate,

5                   is owned directly or indirectly or held by a per-  
6                   son described in subparagraph (A), (B), (D), or  
7                   (E);

8                   (H) an official (including a director) of, or  
9                   an individual employed by, a person described  
10                  in subparagraph (A), (B), (D), (E), or (G), or  
11                  an individual having powers or responsibilities  
12                  similar to those of such an official;

13                  (I) a holder (directly or indirectly) of at  
14                  least 10 percent of the shares in a person de-  
15                  scribed in any subparagraph referred to in sub-  
16                  paragraph (H); and

17                  (J) a person who, directly or indirectly, is  
18                  at least a 10 percent partner or joint venturer  
19                  (measured in capital or profits) in a person de-  
20                  scribed in any subparagraph referred to in sub-  
21                  paragraph (H).

22           (b) DUTIES.—To the extent not inconsistent with the  
23           provisions of this Act and the policies prescribed by the  
24           Board, a fiduciary shall discharge the fiduciary's respon-  
25           sibilities with respect to the Fund or applicable portion

1 thereof solely in the interest of the participants and bene-  
2 ficiaries and—

3 (1) for the exclusive purpose of—

4 (A) providing benefits to participants and  
5 their beneficiaries; and

6 (B) defraying reasonable expenses of ad-  
7 ministering the Fund or applicable portions  
8 thereof;

9 (2) with the care, skill, prudence, and diligence  
10 under the circumstances then prevailing that a pru-  
11 dent individual acting in a like capacity and familiar  
12 with such matters would use in the conduct of an  
13 enterprise of a like character and with like objec-  
14 tives; and

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

20 (c) OWNERSHIP JURISDICTIONS.—No fiduciary may  
21 maintain the indicia of ownership of any assets of the  
22 Fund outside the jurisdiction of the district courts of the  
23 United States.

24 (d) TRANSACTIONS.—

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

5           (A) A transfer of any assets of the Fund  
6 to any person the fiduciary knows or should  
7 know to be a party in interest or the use of  
8 such assets by any such persons.

9           (B) An acquisition of any property from or  
10 sale of any property to the Fund by any person  
11 the fiduciary knows or should know to be a  
12 party in interest.

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

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

19           (A) deal with any assets of the Fund in  
20 the fiduciary's own interest or for the fidu-  
21 ciary's own account;

22           (B) act, in an individual capacity or any  
23 other capacity, in any transaction involving the  
24 Fund on behalf of a party, or representing a  
25 party, whose interests are adverse to the inter-



1 ests of the Fund or the interests of its partici-  
2 pants or beneficiaries; or

3 (C) receive any consideration of the fidu-  
4 ciary's own personal account from any party  
5 dealing with sums credited to the Fund in con-  
6 nection with a transaction involving assets of  
7 the Fund.

8 (3) SECRETARY OF LABOR.—

9 (A) IN GENERAL.—The Secretary of Labor  
10 may, in accordance with procedures which the  
11 Secretary of Labor shall by regulation pre-  
12 scribe, grant a conditional or unconditional ex-  
13 emption of any fiduciary or transaction, or class  
14 of fiduciaries or transactions, from all or any of  
15 the restrictions imposed by paragraph (2). An  
16 exemption granted under this subparagraph  
17 shall not relieve a fiduciary from any other ap-  
18 plicable provision of this Act.

19 (B) CONDITIONS.—The Secretary of Labor  
20 may not grant an exemption under subpara-  
21 graph (A) unless the Secretary of Labor finds  
22 that such exemption is—

23 (i) administratively feasible;

24 (ii) in the interests of the Fund and  
25 its participants; and

1 (iii) protective of the rights of partici-  
2 pants and beneficiaries of such Fund.

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

5 (i) notice of the proposed exemption is  
6 published in the Federal Register;

7 (ii) interested persons are given an  
8 opportunity to present views; and

9 (iii) the Secretary of Labor affords an  
10 opportunity for a hearing and makes a de-  
11 termination on the record with respect to  
12 the respective requirements of clauses (i),  
13 (ii), and (iii) of subparagraph (B).

14 (D) APPLICATION OF ERISA FIDUCIARY  
15 EXEMPTIONS.—Notwithstanding subparagraph  
16 (C), the Secretary of Labor may determine that  
17 an exemption granted for any class of fidu-  
18 ciaries or transactions under section 408(a) of  
19 the Employee Retirement Income Security Act  
20 of 1974 (29 U.S.C. 1108(a)) shall, upon publi-  
21 cation of notice in the Federal Register under  
22 this subparagraph, constitute an exemption  
23 from the application of paragraph (2).

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

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

4           (2) receiving any reasonable compensation au-  
5 thorized by this Act for services rendered, or for re-  
6 imbursement of expenses properly and actually in-  
7 curred, in the performance of the fiduciary's duties  
8 under this Act; or

9           (3) serving as a fiduciary in addition to being  
10 an officer, employee, agent, or other representative  
11 of a party in interest.

12 (f) LIABILITY.—

13           (1) IN GENERAL.—Any fiduciary that breaches  
14 the responsibilities, duties, and obligations set out in  
15 subsection (b) or violates subsection (c) shall be per-  
16 sonally liable to the Fund for any losses to such  
17 Fund resulting from each such breach or violation  
18 and to restore to such Fund any profits made by the  
19 fiduciary through use of assets of such Fund by the  
20 fiduciary, and, except as provided in paragraphs (3)  
21 and (4), shall be subject to such other equitable or  
22 remedial relief as a court considers appropriate. A  
23 fiduciary may be removed for a breach referred to  
24 in the preceding sentence.

1           (2) CIVIL PENALTIES.—The Secretary of Labor  
2           may assess a civil penalty against a party in interest  
3           with respect to each transaction prohibited by sub-  
4           section (d) which is engaged in by the party in inter-  
5           est. The amount of such penalty shall be equal to 5  
6           percent of the amount involved in each such trans-  
7           action (as defined in section 4975(f)(4) of the Inter-  
8           nal Revenue Code of 1986) for each year or part  
9           thereof during which the prohibited transaction con-  
10          tinues, except that, if the transaction is not cor-  
11          rected (in such manner as the Secretary of Labor  
12          shall prescribe by regulation consistent with section  
13          4975(f)(5) of such Code) within 90 days after the  
14          date the Secretary of Labor transmits notice to the  
15          party in interest (or such longer period as the Sec-  
16          retary of Labor may permit), such penalty may be  
17          in the amount of not more than 100 percent of the  
18          amount involved.

19           (3) SPECIAL RULES.—

20           (A) IN GENERAL.—A fiduciary shall not be  
21          liable under paragraph (1)—

22           (i) with respect to a breach of fidu-  
23          ciary duty under subsection (b) committed  
24          before becoming a fiduciary or after ceas-  
25          ing to be a fiduciary;

1 (ii) for providing for the automatic  
2 enrollment of a participant in accordance  
3 with section 104;

4 (iii) for enrolling a participant or ben-  
5 efiary in a default investment fund or op-  
6 tion in accordance with section 104; or

7 (iv) for allowing a participant or bene-  
8 ficiary to invest through the mutual fund  
9 window or for establishing restrictions ap-  
10 plicable to participants' or beneficiaries'  
11 ability to invest through the mutual fund  
12 window.

13 (B) JOINT AND SEVERAL LIABILITY.—A fi-  
14 duciary shall be jointly and severally liable  
15 under paragraph (1) for a breach of fiduciary  
16 duty under subsection (b) by another fiduciary  
17 only if—

18 (i) the fiduciary participates know-  
19 ingly in, or knowingly undertakes to con-  
20 ceal, an act or omission of such other fidu-  
21 ciary, knowing such act or omission is such  
22 a breach;

23 (ii) by the fiduciary's failure to com-  
24 ply with subsection (b) in the administra-  
25 tion of the fiduciary's specific responsibil-

1           ities which give rise to the fiduciary status,  
2           the fiduciary has enabled such other fidu-  
3           ciary to commit such a breach; or

4                   (iii) the fiduciary has knowledge of a  
5           breach by such other fiduciary, unless the  
6           fiduciary makes reasonable efforts under  
7           the circumstances to remedy the breach.

8           (4) ALLOCATION OF DUTIES.—The Secretary of  
9           Labor shall prescribe, in regulations, procedures for  
10          allocating fiduciary responsibilities among fidu-  
11          ciaries, including asset managers. Any fiduciary who,  
12          pursuant to such procedures, allocates to any person  
13          any fiduciary responsibility shall not be liable for an  
14          act or omission of such person unless such fiduciary  
15          violated subsection (b) with respect to the allocation,  
16          with respect to the implementation of the procedures  
17          prescribed by the Secretary of Labor.

18          (5) OTHER CIVIL ACTIONS.—

19                   (A) IN GENERAL.—No civil action may be  
20          maintained against any fiduciary with respect  
21          to the responsibilities, liabilities, and penalties  
22          authorized or provided for in this section except  
23          in accordance with subparagraphs (B) and (C).

1           (B) ACTIONS PERMITTED.—A civil action  
2           may be brought in the district courts of the  
3           United States—

4                   (i) by the Secretary of Labor against  
5                   any fiduciary other than a member of the  
6                   Board or the Executive Director of the  
7                   Board—

8                           (I) to determine and enforce a li-  
9                           ability under paragraph (1);

10                           (II) to collect any civil penalty  
11                           under paragraph (2);

12                           (III) to enjoin any act or practice  
13                           which violates any provision of sub-  
14                           section (b) or (c);

15                           (IV) to obtain any appropriate  
16                           equitable relief to redress a violation  
17                           of any such provision; or

18                           (V) to enjoin any act or practice  
19                           which violates subsection (g)(2) or (h)  
20                           of section 201;

21                   (ii) by any participant, beneficiary, or  
22                   fiduciary—

23                           (I) to enjoin any act or practice  
24                           which violates any provision of sub-  
25                           section (b) or (c);

1 (II) to obtain any other appro-  
2 priate equitable relief to redress a vio-  
3 lation of any such provision; or

4 (III) to enjoin any act or practice  
5 which violate subsection (g)(2) or (h)  
6 of section 201; or

7 (iii) by any participant or bene-  
8 ficiary—

9 (I) to recover benefits of such  
10 participant or beneficiary under the  
11 provisions of title I, to enforce any  
12 right of such participant or bene-  
13 ficiary under such provisions, or to  
14 clarify any such right to future bene-  
15 fits under such provisions; or

16 (II) to enforce a claim otherwise  
17 cognizable under sections 1346(b) and  
18 2671 through 2680 of title 28, United  
19 States Code, except that the remedy  
20 against the United States provided by  
21 sections 1346(b) and 2672 of such  
22 title 28 for damages for injury or loss  
23 of property caused by the negligent or  
24 wrongful act or omission of any fidu-  
25 ciary while acting within the scope of



1 the fiduciary's duties or employment  
2 shall be exclusive of any other civil ac-  
3 tion or proceeding by the participant  
4 or beneficiary for recovery of money  
5 by reason of the same subject matter  
6 against the fiduciary (or the estate of  
7 such fiduciary) whose act or omission  
8 gave rise to such action or proceeding,  
9 whether or not such action or pro-  
10 ceeding is based on an alleged viola-  
11 tion of subsection (b) or (c).

12 (C) REPRESENTATION.—

13 (i) IN GENERAL.—In all civil actions  
14 under subparagraph (B)(i), attorneys ap-  
15 pointed by the Secretary may represent the  
16 Secretary (except as provided in section  
17 518(a) of title 28, United States Code),  
18 however, all such litigation shall be subject  
19 to the direction and control of the Attorney  
20 General.

21 (ii) ATTORNEY GENERAL.—The Attor-  
22 ney General shall defend any civil action or  
23 proceeding brought in any court against  
24 any fiduciary referred to in subparagraph  
25 (B)(iii)(II) (or the estate of such fiduciary)

1 for any such injury. Any fiduciary against  
2 whom such a civil action or proceeding is  
3 brought shall deliver, within such time  
4 after date of service or knowledge of serv-  
5 ice as determined by the Attorney General,  
6 all process served upon such fiduciary (or  
7 an attested copy thereof) to the Executive  
8 Director, who shall promptly furnish copies  
9 of the pleading and process to the Attorney  
10 General and the United States Attorney  
11 for the district wherein the action or pro-  
12 ceeding is brought.

13 (iii) CERTIFICATION OF SCOPE OF  
14 DUTY.—Upon certification by the Attorney  
15 General that a fiduciary described in sub-  
16 paragraph (B)(iii)(II) was acting in the  
17 scope of such fiduciary’s duties or employ-  
18 ment as a fiduciary at the time of the oc-  
19 currence or omission out of which the ac-  
20 tion arose, any such civil action or pro-  
21 ceeding commenced in the State court shall  
22 be—

23 (I) removed without bond at any  
24 time before trial by the Attorney Gen-  
25 eral to the district court of the United

1 States for the district and division in  
2 which it is pending; and

3 (II) deemed a tort action brought  
4 against the United States under the  
5 provisions of title 28, United States  
6 Code, and all references thereto.

7 (iv) COMPROMISE OR SETTLEMENT.—  
8 The Attorney General may compromise or  
9 settle any claim asserted in such civil ac-  
10 tion or proceeding in the manner provided  
11 in section 2677 of title 28, United States  
12 Code, and with the same effect. To the ex-  
13 tent section 2672 of title 28, United States  
14 Code, provides that persons other than the  
15 Attorney General or the Attorney General's  
16 designee may compromise and settle  
17 claims, and that payments of such claims  
18 may be made from agency appropriations,  
19 such provisions shall not apply to claims  
20 based upon an alleged violation of sub-  
21 section (b) or (c).

22 (v) CERTAIN CLAIMS.—For the pur-  
23 poses of subparagraph (B)(iii)(II), the pro-  
24 visions of section 2680(h) of title 28,  
25 United States Code shall not apply to any

1 claim based upon an alleged violation of  
2 subsection (b) or (c).

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

15 (vii) DEFINITION.—For purposes of  
16 subparagraph (B)(iii)(II), the term “fidu-  
17 ciary” includes only the members of the  
18 Board and the Board’s Executive Director.

19 (D) LIMITATION ON MONETARY RELIEF.—  
20 Any relief awarded against a member of the  
21 Board or the Board’s Executive Director in a  
22 civil action authorized by subparagraph (B)  
23 may not include any monetary damages or any  
24 other recovery of money.

1           (E) TIME FOR COMMENCEMENT OF AC-  
2           TION.—An action may not be commenced under  
3           clause (i) or (ii) of subparagraph (B) with re-  
4           spect to a fiduciary’s breach of any responsi-  
5           bility, duty, or obligation under subsection (b)  
6           or a violation of subsection (c) after the earlier  
7           of—

8                   (i) 6 years after—

9                           (I) the date of the last action  
10                           which constituted a part of the breach  
11                           or violation; or

12                           (II) in the case of an omission,  
13                           the latest date on which the fiduciary  
14                           could have cured the breach or viola-  
15                           tion; or

16                   (ii) 3 years after the earliest date on  
17                   which the plaintiff had actual knowledge of  
18                   the breach or violation, except that, in the  
19                   case of fraud or concealment, such action  
20                   may be commenced not later than 6 years  
21                   after the date of discovery of such breach  
22                   or violation.

23           (F) JURISDICTION.—

24                   (i) IN GENERAL.—The district courts  
25                   of the United States shall have exclusive

1 jurisdiction of civil actions under this sub-  
2 section.

3 (ii) VENUE.—An action under this  
4 subsection may be brought in the District  
5 Court of the United States for the District  
6 of Columbia or a district court of the  
7 United States in the district where the  
8 breach alleged in the complaint or petition  
9 filed in the action took place or in the dis-  
10 trict where a defendant resides or may be  
11 found. Process may be served in any other  
12 district where a defendant resides or may  
13 be found.

14 (G) OTHER RULES.—

15 (i) IN GENERAL.—A copy of the com-  
16 plaint or petition filed in any action  
17 brought under this subsection (other than  
18 by the Secretary of Labor) shall be served  
19 on the Executive Director, the Secretary of  
20 Labor, and the Secretary of the Treasury  
21 by certified mail.

22 (ii) INTERVENTION.—Any officer re-  
23 ferred to in clause (i) shall have the right  
24 in the officer's discretion to intervene in  
25 any action. If the Secretary of Labor

1 brings an action under subparagraph  
2 (B)(i) on behalf of a participant or bene-  
3 ficiary, the Secretary of Labor shall notify  
4 the Executive Director and the Secretary  
5 of the Treasury.

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

8 (h) AUDITS.—

9 (1) IN GENERAL.—The Secretary of Labor shall  
10 establish a program to carry out audits to determine  
11 the level of compliance with the requirements of this  
12 section relating to fiduciary responsibilities and pro-  
13 hibited activities of fiduciaries.

14 (2) DELEGATION.—An audit under this sub-  
15 section may be conducted by the Secretary of Labor,  
16 by contract with a qualified non-governmental orga-  
17 nization, or in cooperation with the Comptroller  
18 General of the United States, as the Secretary of  
19 Labor considers appropriate.

20 **SEC. 207. BONDING.**

21 (a) REQUIREMENTS.—

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

1 (2) EXCEPTIONS.—

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

5 (i) is a corporation organized and  
6 doing business under the laws of the  
7 United States or of any State;

8 (ii) is authorized under such laws to  
9 exercise trust powers or to conduct an in-  
10 surance business;

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

13 (iv) has at all times a combined cap-  
14 ital and surplus in excess of such minimum  
15 amount (not less than \$1,000,000) as the  
16 Secretary of Labor prescribes in regula-  
17 tions.

18 (B) LIMITATION.—If—

19 (i) a bank or other financial institu-  
20 tion would, but for this subparagraph, not  
21 be required to be bonded under this section  
22 by reason of the application of the excep-  
23 tion provided in subparagraph (A),

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



1                   (iii) the deposits of the bank or finan-  
2                   cial institution are not insured by the Fed-  
3                   eral Deposit Insurance Corporation,  
4                   such exception shall apply to such bank or fi-  
5                   nancial institution only if the bank or institu-  
6                   tion meets bonding requirements under State  
7                   law which the Secretary of Labor determines  
8                   are at least equivalent to those imposed on  
9                   banks by Federal law.

10           (b) REGULATIONS.—

11           (1) IN GENERAL.—The Secretary of Labor shall  
12           prescribe the amount of a bond under this section at  
13           the beginning of each fiscal year. Such amount shall  
14           not be less than 10 percent of the amount of funds  
15           handled, except that in no case shall such bond be  
16           less than \$1,000 or more than \$500,000, or such  
17           higher amount as the Secretary of Labor, after due  
18           notice and opportunity for hearing to all interested  
19           parties, and other consideration of the record, may  
20           prescribe.

21           (2) AMOUNT OF FUNDS HANDLED.—For the  
22           purpose of prescribing the amount of a bond under  
23           paragraph (1), the amount of funds handled shall be  
24           determined by reference to the amount of the funds  
25           handled by the person, group, or class to be covered

1 by such bond or by their predecessor or prede-  
2 cessors, if any, during the preceding fiscal year, or  
3 to the amount of funds to be handled during the  
4 current fiscal year by such person, group, or class,  
5 estimated as provided in regulations prescribed by  
6 the Secretary of Labor.

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

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

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

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

22 (d) CUSTODY OF FUNDS.—

23 (1) IN GENERAL.—It shall be unlawful for any  
24 person to whom subsection (a) applies, to receive,  
25 handle, disburse, or otherwise exercise custody or

1 control of any of the funds or other property of the  
2 Fund without being bonded as required by this sec-  
3 tion.

4 (2) FIDUCIARIES.—It shall be unlawful for any  
5 fiduciary, or any other person having authority to  
6 direct the performance of functions described in  
7 paragraph (1), to permit any such function to be  
8 performed by any person to whom subsection (a) ap-  
9 plies unless such person has met the requirements of  
10 such subsection.

11 (e) EXEMPTION.—Notwithstanding any other provi-  
12 sion of law, any person who is required to be bonded as  
13 provided in subsection (a) shall be exempt from any other  
14 provision of law which would, but for this subsection, re-  
15 quire such person to be bonded for the handling of the  
16 funds or other property of the Fund.

17 (f) REGULATIONS.—The Secretary of Labor shall  
18 prescribe such regulations as may be necessary to carry  
19 out the provisions of this section, including exempting a  
20 person or class of persons from the requirements of this  
21 section.

22 **SEC. 208. INVESTIGATIVE AUTHORITY.**

23 Any authority available to the Secretary of Labor  
24 under section 504 of the Employee Retirement Income Se-  
25 curity Act of 1974 (29 U.S.C. 1134) is hereby made avail-

1 able to the Secretary of Labor, and any officer designated  
2 by the Secretary of Labor, to determine whether any per-  
3 son has violated, or is about to violate, any provision of  
4 section 206 or 207.

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

6 (a) EXCULPATORY PROVISIONS VOID.—Any provi-  
7 sion in an agreement or instrument which purports to re-  
8 lieve a fiduciary from responsibility or liability for any re-  
9 sponsibility, obligation, or duty under this title shall be  
10 void.

11 (b) INSURANCE.—In accordance with section 101(e),  
12 the sums credited to the Fund shall be available to pay  
13 administrative expenses which may include, at the discre-  
14 tion of the Executive Director, the purchase of insurance  
15 to cover potential liability of persons who serve in a fidu-  
16 ciary capacity with respect to the Fund, without regard  
17 to whether a policy of insurance permits recourse by the  
18 insurer against the fiduciary in the case of a breach of  
19 a fiduciary obligation.

20 **SEC. 210. SUBPOENA AUTHORITY.**

21 (a) SUBPOENA AUTHORITY.—In order to carry out  
22 the responsibilities specified in this Act, the Executive Di-  
23 rector may issue subpoenas commanding each person to  
24 whom the subpoena is directed to produce designated  
25 books, documents, records, electronically stored informa-

1 tion, or tangible materials in the possession or control of  
2 that individual.

3 (b) LIABILITY.—Notwithstanding any Federal, State,  
4 or local law, any person, including officers, agents, and  
5 employees, receiving a subpoena under this section, who  
6 complies in good faith with the subpoena and thus pro-  
7 duces the materials sought, shall not be liable in any court  
8 of any State or the United States to any individual, do-  
9 mestic or foreign corporation or upon a partnership or  
10 other unincorporated association for such production.

11 (c) ENFORCEMENT.—When a person fails to obey a  
12 subpoena issued under this section, the district court of  
13 the United States for the district in which the investiga-  
14 tion is conducted or in which the person failing to obey  
15 is found, shall on proper application issue an order direct-  
16 ing that person to comply with the subpoena. The court  
17 may punish as contempt any disobedience of its order.

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

20 **TITLE III—GOVERNMENT MATCH**  
21 **TAX CREDIT**

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

23 (a) CREDIT.—Subpart A of part IV of subchapter A  
24 of chapter 1 of the Internal Revenue Code of 1986 is

1 amended by inserting after section 25E the following new  
2 section:

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

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

7 “(1) 1 percent of the eligible individual’s gross  
8 income, plus

9 “(2) the applicable percentage of the partici-  
10 pant’s contributions to the American Worker Retirement  
11 Fund during the taxable year.

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

14 “(1) 100 percent of so much of the contribu-  
15 tions to the American Worker Retirement Fund as  
16 do not exceed 3 percent of gross income,

17 “(2) 50 percent of so much of such contribu-  
18 tions as exceeds 3 percent but does not exceed 5 per-  
19 cent of gross income, and

20 “(3) 0 percent of so much of such contributions  
21 as exceeds 5 percent of gross income.

22 “(c) LIMITATION ON AMOUNT OF CREDIT.—

23 “(1) IN GENERAL.—The credit allowed under  
24 subsection (a) with respect to any eligible individual  
25 for a taxable year shall not exceed 5 percent of the

1 phaseout amount with respect to such individual for  
2 such taxable year.

3 “(2) PHASEOUT OF CREDIT LIMIT.—The limit  
4 determined under paragraph (1) for a taxable year  
5 shall be reduced by \$75 for each \$1,000 or portion  
6 thereof by which the eligible individual’s gross in-  
7 come exceeds the phaseout amount.

8 “(3) PHASEOUT AMOUNT.—For purposes of  
9 this subsection, the phaseout amount is—

10 “(A) in the case of a joint return, an  
11 amount equal to 200 percent of the applicable  
12 median income for the taxable year,

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

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

18 “(4) APPLICABLE MEDIAN INCOME.—For pur-  
19 poses of this subsection, the term ‘applicable median  
20 income’ means, with respect to any taxable year, an  
21 amount equal to the most recent Median Personal  
22 Income for the population 15 and over in the United  
23 States, as published in the United States Census  
24 Bureau’s Current Population Survey Tables for Per-

1       sonal Income before the beginning of the calendar  
2       year in which such taxable year begins.

3       “(d) ELIGIBLE INDIVIDUAL.—For purposes of this  
4       section, the term ‘eligible individual’ has the meaning  
5       given the term ‘participant’ by section 2(13) of the Retire-  
6       ment Savings for Americans Act of 2023.

7       “(e) AMERICAN WORKER RETIREMENT FUND.—For  
8       purposes of this section, the American Worker Retirement  
9       Fund is the Fund created under section 101(a) of the Re-  
10      tirement Savings for Americans Act of 2023.

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

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

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

16                      “(B) shall be treated as an overpayment  
17      under section 6401(b).

18              “(2) PAYMENT.—The Secretary shall contribute  
19      the amount treated as an overpayment under para-  
20      graph (1) to the eligible individual’s account with  
21      the American Worker Retirement Fund.

22              “(3) EXCEPTION FROM REDUCTION OR OFF-  
23      SET.—The rules of section 6433(f)(5) shall apply to  
24      any payment to which this subsection applies.

25      “(g) ADVANCE PAYMENT.—



1           “(1) REGULATIONS.—The Secretary shall pre-  
2       scribe regulations to provide that the payments  
3       made under subsection (f) are made as concurrently  
4       as is reasonably possible with contributions by a tax-  
5       payer to the American Worker Retirement Fund.  
6       Such regulations shall provide that, for purposes of  
7       such payments, the credit under subsection (a) may  
8       be determined on the basis of the eligible individual’s  
9       gross income for the preceding taxable year.

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

20           “(h) FORFEIT OF AMOUNTS.—

21           “(1) IN GENERAL.—If any contribution de-  
22       scribed in subsection (a) does not remain in the  
23       American Worker Retirement Fund for at least 6  
24       months after such contribution is made, the amount  
25       of the credit under this section attributable to such

1 contribution shall be forfeited as provided in para-  
2 graph (2).

3 “(2) TREATMENT OF FORFEITED AMOUNTS.—

4 In the case of any contribution to which paragraph  
5 (1) applies—

6 “(A) the Executive Director of the Amer-  
7 ican Worker Retirement Fund, as appointed  
8 under section 203 of the Retirement Savings  
9 for Americans Act of 2023, shall make a dis-  
10 tribution from the individual’s account in an  
11 amount equal to such contribution to the Sec-  
12 retary for deposit into the general fund of the  
13 Treasury, and

14 “(B) in the case of any earnings on such  
15 contribution, such earnings shall be distributed  
16 by such Executive Director from the individ-  
17 ual’s account and shall be available to the Exec-  
18 utive Director, without need of further appro-  
19 priation, for administrative expenses described  
20 in section 101(e) of such Act.

21 “(3) FORFEITED AMOUNTS NOT INCLUDIBLE IN  
22 GROSS INCOME.—Any distribution made under para-  
23 graph (2) shall not be includible in the gross income  
24 of the individual.

1       “(i) COORDINATION WITH SAVERS’ CREDIT.—Any  
2 contribution by an individual to the American Worker Re-  
3 tirement Fund for a taxable year shall not be treated as  
4 a qualified retirement savings contribution of such indi-  
5 vidual for purposes of section 25B.”.

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

“Sec. 25F. Government Match Tax Credit.”.

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

○