

117TH CONGRESS
2D SESSION

S. 5271

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 SENATE OF THE UNITED STATES

DECEMBER 15, 2022

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

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”.

6 (b) **TABLE OF CONTENTS.**—The table of contents for
7 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.

1 **SEC. 2. DEFINITIONS.**

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

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

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

9 (3) BUSINESS.—The term “business” means
 10 any entity, including any sole proprietor, partner-

1 ship, limited liability company, or corporation, that
2 engages in interstate commerce.

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

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

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

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

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

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

23 (7) FORMER PARTICIPANT.—The term “former
24 participant” means a participant who has an ac-

1 count with the Fund and is no longer a qualifying
2 worker.

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

6 (9) INVESTMENT ADVISORY COUNCIL.—The
7 term “Investment Advisory Council” means the
8 council established under section 202.

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

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

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

18 (13) PARTICIPANT.—The term “participant”
19 means any qualifying worker who is enrolled to par-
20 ticipate in the Fund under section 104(a) and has
21 not opted out of participation under section
22 104(b)(3).

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

25 (A) employs a qualifying worker; or

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

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

7 (A) an employee who—

8 (i) is employed by a business that has
9 not established an existing retirement plan
10 and does not provide an individual retire-
11 ment plan (as defined in section
12 7701(a)(37) of the Internal Revenue Code
13 of 1986) with an automatic enrollment
14 payroll deduction arrangement; or

15 (ii) is not eligible to participate in any
16 such plan or arrangement established by
17 the business that employs the employee; or

18 (B) an independent contractor who—

19 (i) is self-employed; and

20 (ii) has not established an existing re-
21 tirement plan, and does not have an indi-
22 vidual retirement plan (as defined in sec-
23 tion 7701(a)(37) of the Internal Revenue
24 Code of 1986) with an automatic enroll-
25 ment payroll deduction arrangement.

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

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

6 **SEC. 4. GOVERNMENT BENEFITS.**

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

12 **TITLE I—THE AMERICAN**
13 **WORKER RETIREMENT PLAN**

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

15 (a) ESTABLISHMENT.—There is established in the
16 Treasury of the United States the American Worker Re-
17 tirement Fund.

18 (b) PURPOSES.—The Fund shall consist of the sum
19 of all amounts contributed under sections 105 and 301,
20 increased by the total net earnings from investments of
21 the sums in the Fund or reduced by the total net losses
22 from investments of the Fund, and reduced by the total
23 amount of payments made from the Fund (including pay-
24 ments for administrative expenses under subsection (e)).

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

1 (1) to invest pursuant section 102;

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

4 (3) to make distributions as provided in section
5 106;

6 (4) to make loans as authorized under section
7 106(h); and

8 (5) to purchase insurance as provided in section
9 209.

10 (d) ACCOUNTS.—Each participant shall have an ac-
11 count with the Fund. Amounts contributed by a partici-
12 pant under section 105 and by the Secretary of the Treas-
13 ury under section 25F of the Internal Revenue Code of
14 1986 shall be deposited in the Fund and credited to the
15 participant's account in accordance with such procedures
16 as the Secretary of the Treasury may, in consultation with
17 the Executive Director, prescribe in regulation.

18 (e) ADMINISTRATIVE EXPENSES.—Administrative
19 expenses (including expenses related to financial literacy
20 requirements under section 201(f)(5)) incurred to carry
21 out this Act shall be paid out of the net earnings of the
22 Fund, including earnings attributed to returned credit
23 amounts under section 25F(h) of the Internal Revenue
24 Code of 1986.

25 (f) EXCLUSIVE BENEFIT.—

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

8 (2) ASSIGNMENT.—Except as provided in para-
9 graph (3), sums in the Fund may not be assigned
10 or alienated and are not subject to execution, levy,
11 attachment, garnishment, or other legal process. For
12 purposes of this paragraph, a loan made from the
13 Fund to a participant shall not be considered to be
14 an assignment or alienation.

15 (3) LEGAL OBLIGATIONS.—Moneys due or pay-
16 able from the Fund to any individual and, in the
17 case of an individual who is a participant or former
18 participant, the balance in the account of the partici-
19 pant or former participant shall be subject to—

20 (A) legal process for the enforcement of
21 the individual's legal obligation to provide child
22 support or make alimony payments as provided
23 in section 459 of the Social Security Act (42
24 U.S.C. 659);

1 (B) an obligation of the Executive Director
2 to make a payment to another person under
3 section 109; and

4 (C) any Federal tax levy under section
5 6331 of the Internal Revenue Code of 1986.

6 For the purposes of this paragraph, an amount con-
7 tributed for the benefit of a participant or former
8 participant under section 25F of the Internal Rev-
9 enue Code of 1986 (including any earnings attrib-
10 utable thereto) shall be considered part of the bal-
11 ance in such participant or former participant's ac-
12 count.

13 (g) NON-APPROPRIATED FUNDS.—The sums in the
14 Fund shall not be appropriated for any purpose other than
15 the purposes specified in this section and may not be used
16 for any other purpose.

17 (h) BENEFIT TO PARTICIPANTS.—All sums contrib-
18 uted to the Fund by a participant or the Secretary of the
19 Treasury for the benefit of such participant and all net
20 earnings in such Fund in trust for such participant shall
21 be the exclusive property of the participant.

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

1 **SEC. 102. INVESTMENT OF AMERICAN WORKER RETIRE-**
2 **MENT FUND.**

3 (a) IN GENERAL.—The Board shall establish the in-
4 vestment policies of the Fund and select the investment
5 funds, indexes, and other investment products that the
6 amounts in the Fund shall be invested in subject to the
7 following conditions:

8 (1) The Board shall provide for the following
9 investment options for participants:

10 (A) A Government Securities Investment
11 Fund under which sums in the Fund are in-
12 vested in—

13 (i) bonds issued or guaranteed by the
14 United States Government; and

15 (ii) bonds issued by Government-spon-
16 sored enterprises or Government corpora-
17 tions.

18 (B) A Fixed-Income Investment Fund
19 under which sums are in the Fund are invested
20 in—

21 (i) insurance contracts;

22 (ii) certificates of deposit; and

23 (iii) other instruments or obligations
24 selected by qualified professional asset
25 managers (as defined in section 8438(a)(8)
26 of title 5, United States Code),

1 which return the amount invested and pay in-
2 interest, at a specific rate or rates, on that
3 amount during a specific period of time.

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

7 (D) A Small Capitalization Stock Index In-
8 vestment Fund, as described in section
9 8438(b)(3) of title 5, United States Code.

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

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

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

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

22 (b) INVESTMENTS.—

23 (1) INVESTMENT SELECTION.—The Executive
24 Director shall invest the sums available in the Fund

1 for investment as provided in the selection made
2 under subsection (c).

3 (2) DEFAULT OPTION.—If a selection has not
4 been made with respect to any sums available for in-
5 vestment in the Fund, the Executive Director shall
6 invest such sums in an age-appropriate Life-Cycle
7 Investment Fund, as determined by the Executive
8 Director.

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

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

23 (e) REPORTS.—The Board shall issue regular reports
24 (not less frequently than quarterly) to participants and
25 former participants on the performance of each investment

1 option selected under subsection (a), which shall include
2 personalized estimates of assets and income at retirement,
3 the additional assets and income at retirement a partici-
4 pant would have if the participant makes sufficient con-
5 tributions to receive the maximum amount of the Govern-
6 ment match tax credit under section 25F of the Internal
7 Revenue Code of 1986, and any other information the
8 Board determines may help participants make sound fi-
9 nancial decisions. The Board shall provide the reports re-
10 quired under this subsection by electronic delivery, except
11 that upon the request of a participant or former partici-
12 pant, reports shall be provided by mail to such individual.

13 **SEC. 103. ELIGIBILITY.**

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

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

1 **SEC. 104. ENROLLMENT.**

2 (a) ENROLLMENT.—

3 (1) IN GENERAL.—The Secretary of the Treas-
4 ury and the Executive Director shall jointly establish
5 an enrollment process for participating employers to
6 enroll qualifying workers to participate in the Fund
7 that incorporates, to the extent practicable, such en-
8 rollment and participant contributions under section
9 105(a) into Federal tax withholding forms and pay-
10 ments.

11 (2) INDEPENDENT CONTRACTORS.—In the case
12 of independent contractors who are qualifying work-
13 ers, the enrollment process shall allow businesses
14 who have contracts with such qualifying workers to
15 elect to enroll such qualifying workers to participate
16 in the Fund.

17 (b) AUTO-ENROLLMENT; OPT-OUT.—

18 (1) IN GENERAL.—Each participating employer
19 shall enroll each of its qualifying workers to partici-
20 pate in the Fund under subsection (a) unless such
21 qualifying worker elects to opt out of participating
22 pursuant to paragraph (3). A qualifying worker who
23 is a sole proprietor or independent contractor shall
24 enroll or elect to opt out of participating pursuant
25 to paragraph (3).

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

8 (3) OPT-OUT.—A qualifying worker may elect
9 to opt out of participating in the Fund pursuant to
10 procedures established jointly by the Secretary of the
11 Treasury and the Executive Director as part of the
12 regulations governing the enrollment process set
13 forth in subsection (a). If a qualifying worker elects
14 to opt out of participating in the Fund, such quali-
15 fying worker shall not be enrolled in subsequent
16 years unless the qualifying worker elects to partici-
17 pate in the Fund. The Secretary of the Treasury
18 and the Executive Director shall determine proce-
19 dures to establish accounts for qualifying workers
20 who elect to opt out of participating in the Fund
21 who are determined to be eligible for automatic con-
22 tributions or who would make contributions other-
23 wise allowable by law outside the withholding proc-
24 ess.

25 (c) PENALTIES.—

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

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

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

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

23 (C) 10 percent if the failure is for more
24 than 15 days.

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

6 **SEC. 105. CONTRIBUTIONS.**

7 (a) CONTRIBUTIONS BY PARTICIPANTS.—

8 (1) IN GENERAL.—Pursuant to the regulations
9 established under subsection (d), a participant may
10 make contributions to the participant’s account with
11 the Fund in any pay period in an amount not to ex-
12 ceed the participant’s compensation for such period.

13 (2) CATCH-UP CONTRIBUTIONS.—Notwith-
14 standing the limitation under paragraph (1), a par-
15 ticipant may make such additional contributions to
16 the participant’s account with the Fund as are per-
17 mitted by section 414(v) of the Internal Revenue
18 Code of 1986, and the regulations established under
19 subsection (d) consistent therewith.

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

24 (A) make contributions to their accounts
25 with the Fund under paragraph (1);

1 (B) modify the amount contributed under
2 such paragraph; or

3 (C) terminate such contributions.

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

6 (A) may be made at any time;

7 (B) shall take effect on the earliest date
8 after the election that is administratively fea-
9 sible; and

10 (C) shall remain in effect until modified or
11 terminated.

12 (b) CONTRIBUTION OF GOVERNMENT MATCH TAX
13 CREDIT.—A participant's account shall receive contribu-
14 tions in the form of the Government Match Tax Credit
15 contributed by the Secretary of the Treasury under section
16 25F of the Internal Revenue Code of 1986.

17 (c) CONTRIBUTION LIMITS.—Notwithstanding any
18 other provision of this section, no contribution may be
19 made under this section for any year to the extent that
20 such contribution, when added to prior contributions for
21 such year, exceeds any limitation under section 219(b)(5)
22 of the Internal Revenue Code of 1986. Any contribution
23 made under section 25F of the Internal Revenue Code of
24 1986 shall not be taken into account for purposes of the
25 preceding sentence.

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

6 (e) REGULATIONS.—The amounts contributed to the
7 Fund by a participant under section 105(a) and on behalf
8 of a participant by the Secretary of the Treasury under
9 section 25F of the Internal Revenue Code of 1986 shall
10 be deposited in the Fund and credited to the participant's
11 account with the Fund pursuant to regulations jointly pre-
12 scribed by the Secretary of the Treasury and the Execu-
13 tive Director.

14 **SEC. 106. DISTRIBUTIONS.**

15 (a) FORMER PARTICIPANTS.—A former participant is
16 entitled to access the amounts in the former participant's
17 account as provided in this section. Amounts in the ac-
18 count of a former participant shall remain in the Fund
19 until distributed in accordance with subsection (b).

20 (b) FORMER PARTICIPANT WITHDRAWAL OP-
21 TIONS.—Subject to section 109, a former participant is
22 entitled to and may elect to withdraw from the Fund the
23 balance of the former participant's account as—

- 24 (1) an annuity;
25 (2) a single payment;

1 (3) 2 or more substantially equal payments to
2 be made not less frequently than annually; or

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

6 (c) ADDITIONAL FORMER PARTICIPANT WITH-
7 DRAWAL OPTIONS.—

8 (1) IN GENERAL.—In addition to the right pro-
9 vided under subsection (b) to withdraw the balance
10 of the account, a former participant may make 1 or
11 more withdrawals of any amount in the same man-
12 ner as a single payment is made in accordance with
13 subsection (b)(2) from the former participant's ac-
14 count.

15 (2) TRANSFERS TO RETIREMENT PLANS.—

16 (A) IN GENERAL.—A former participant
17 may request that the amount withdrawn from
18 the Fund under paragraph (1) be transferred to
19 an existing retirement plan.

20 (B) TRANSFERS.—The Executive Director
21 shall make each transfer directly to an existing
22 retirement plan identified by the former partici-
23 pant for whom the transfer is made. A transfer
24 shall not be made under the preceding sentence
25 until the Executive Director receives from the

1 former participant the information required by
2 the Executive Director specifically to identify
3 the existing retirement plan to which the trans-
4 fer is to be made.

5 (3) LIMITATIONS.—Withdrawals under this
6 subsection shall be subject to such other limitations
7 or conditions as the Executive Director may pre-
8 scribe by regulation.

9 (d) PAYMENT OF ANNUITIES.—The Board shall pre-
10 scribe methods of payment of annuities under this Act
11 substantially similar to those provided for under section
12 8434 of title 5, United States Code.

13 (e) FORMER PARTICIPANT CHANGES TO ELEC-
14 TIONS.—

15 (1) IN GENERAL.—Subject to section 109, a
16 former participant may change an election previously
17 made under this section, except that in the case of
18 an election to receive an annuity, a former partici-
19 pant may not change an election under this section
20 on or after the date on which an annuity contract
21 is purchased to provide for the annuity elected by
22 the former participant.

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

1 (f) SURVIVOR RIGHTS.—

2 (1) IN GENERAL.—If a participant or a former
3 participant dies without having made an election
4 under subsection (b) or after having elected an an-
5 nuity under subsection (b) but before making an
6 election for payments to a survivor rights under sec-
7 tion 8434 of title 5, United States Code, an amount
8 equal to the value of that individual’s account (as of
9 death) shall, subject to any decree, order, or agree-
10 ment referred to in section 109, be paid in a manner
11 consistent with the requirements of section 109.

12 (2) MAINTENANCE OF ACCOUNT.—Notwith-
13 standing section 109, if a participant or former par-
14 ticipant dies and has designated as sole or partial
15 beneficiary the spouse of the participant or former
16 participant at the time of death, or, if a participant
17 or former participant dies with no designated bene-
18 ficiary and is survived by a spouse, the spouse may
19 maintain the portion of the participant or former
20 participant’s account to which the spouse is entitled
21 in accordance with the following terms:

22 (A) Subject to the limitations of subpara-
23 graph (B), the spouse shall have the same with-
24 drawal options under subsection (b) as a former
25 participant.

1 (B) The spouse may not make withdrawals
2 under subsection (h) or (i).

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

5 (D) The account shall be disbursed upon
6 the death of the surviving spouse of the partici-
7 pant or former participant and shall not be
8 maintained by a beneficiary or surviving spouse
9 of the surviving spouse who inherited the ac-
10 count.

11 (3) REGULATIONS.—The Executive Director
12 shall prescribe regulations to carry out this sub-
13 section.

14 (g) SMALL BALANCE ACCOUNTS.—Notwithstanding
15 subsection (b), if a former participant's account balance
16 is less than an amount that the Executive Director pre-
17 scribes by regulation, the Executive Director shall pay the
18 nonforfeitable account balance to the participant in a sin-
19 gle payment. The Executive Director may prescribe more
20 than 1 balance amount for payment under this subsection
21 based on age of the former participant.

22 (h) LOANS.—

23 (1) IN GENERAL.—A participant or former par-
24 ticipant may apply to the Board for permission to
25 borrow from the participant or former participant's

1 account an amount not exceeding the value of that
2 portion of such account which is attributable to con-
3 tributions made by the participant or former partici-
4 pant. Before a loan is issued, the Executive Director
5 shall provide to the participant or former participant
6 in writing with appropriate information concerning
7 the cost of the loan relative to other sources of fi-
8 nancing, as well as the lifetime cost of the loan, in-
9 cluding the difference in interest rates between the
10 funds offered by the Fund and any other effect of
11 such loan on the participant or former participant's
12 final account balance.

13 (2) SPECIAL RULES.—

14 (A) IN GENERAL.—Loans under this sub-
15 section shall be available to all participant and
16 former participants on a reasonably equivalent
17 basis, and shall be subject to such other condi-
18 tions as the Board may prescribe by regulation,
19 which shall be as equivalent as practically pos-
20 sible to those provided for under the Thrift
21 Savings Plan. The restrictions of section
22 206(c)(1) shall not apply to loans made under
23 this subsection.

24 (B) LIMITATION BASED ON TAX TREAT-
25 MENT.—A loan may not be made under this

1 subsection to the extent that the loan would be
2 treated as a taxable distribution under section
3 72(p) of the Internal Revenue Code of 1986.

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

7 (i) VOLUNTARY DISTRIBUTIONS.—

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

12 (A) the participant having attained age
13 59½; or

14 (B) financial hardship.

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

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

4 (j) INVOLUNTARY DISTRIBUTIONS.—

5 (1) IN GENERAL.—A participant shall receive a
6 distribution from the Fund if the participant's gross
7 income for a taxable year exceeds the dollar thresh-
8 old (as adjusted by the Secretary of the Treasury)
9 established under section 414(q)(1)(B) of the Inter-
10 nal Revenue Code of 1986.

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

20 (3) PROCESS FOR DISTRIBUTION.—

21 (A) NOTICE TO PARTICIPANT.—The Exec-
22 utive Director shall provide notice to a partici-
23 pant subject to a distribution under paragraph
24 (1) not later than 7 days after the Executive
25 Director determines that such participant is

1 subject to such distribution, based on informa-
2 tion regarding participants' gross income pro-
3 vided by the Secretary of the Treasury.

4 (B) METHOD OF DISTRIBUTION.—Not
5 later than 30 days after receiving notice under
6 subparagraph (A), a participant may elect to
7 direct that a distribution under paragraph (1)
8 be made—

9 (i) in the case of an eligible rollover
10 distribution (as defined in section 402(c)
11 of the Internal Revenue Code of 1986), to
12 an eligible retirement plan (as defined in
13 such section of such code); or

14 (ii) directly to such participant.

15 (C) DEFAULT ELECTION.—In the case of a
16 participant who fails to make an election within
17 the period described in subparagraph (B), the
18 Executive Director shall make the distribution
19 directly to such participant.

20 (4) TAX TREATMENT OF INVOLUNTARY DIS-
21 TRIBUTION.—A distribution made under paragraph
22 (1) directly to the participant under subparagraph
23 (B)(ii) or (C) shall be treated as an early distribu-
24 tion from a qualified retirement plan pursuant to
25 section 72(t) of the Internal Revenue Code of 1986

1 to the extent such distribution does not consist of
2 participant contributions to the Fund.

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

11 **SEC. 107. ACCOUNTS.**

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

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

19 (1) the sum of—

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

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

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

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

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

15 **SEC. 108. TAX TREATMENT.**

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

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

23 The provisions for spousal protections and court or-
24 ders under section 8435 and 8467 of title 5, United States
25 Code, respectively, shall apply in the same manner to gov-

1 ernance of the Fund and to accounts of participants and
 2 former participants as such sections are applied with re-
 3 spect to the Thrift Savings Plan and its accounts. The
 4 Executive Director shall issue regulations that establish
 5 spousal protections and survivor rights with respect to
 6 participants and former participants that are as equiva-
 7 lent as practically possible to those provided for under the
 8 Thrift Savings Plan pursuant to chapter 84 of title 5,
 9 United States Code.

10 **TITLE II—THE AMERICAN WORK-**
 11 **ER RETIREMENT PLAN IN-**
 12 **VESTMENT MANAGEMENT**
 13 **SYSTEM**

14 **SEC. 201. THE AMERICAN WORKER RETIREMENT INVEST-**
 15 **MENT BOARD.**

16 (a) ESTABLISHMENT.—There is established in the ex-
 17 ecutive branch of the Government the American Worker
 18 Retirement Investment Board.

19 (b) COMPOSITION.—The Board shall be composed
 20 of—

21 (1) 3 members appointed by the President, of
 22 whom 1 shall be designated by the President as
 23 Chair;

24 (2) 1 member appointed by the President after
 25 taking into consideration the recommendation made

1 by the majority leader of the Senate in consultation
2 with the minority leader of the Senate; and

3 (3) 1 member appointed by the President after
4 taking into consideration the recommendation made
5 by the Speaker of the House of Representatives in
6 consultation with the minority leader of the House
7 of Representatives.

8 (c) SENATE CONFIRMATION.—Appointments under
9 subsection (b) shall be made with the advice and consent
10 of the Senate.

11 (d) QUALIFICATIONS.—

12 (1) IN GENERAL.—Members of the Board shall
13 have substantial experience, training, and expertise
14 in the management of financial investments and
15 pension benefit plans.

16 (2) DISQUALIFICATION.—No member of the
17 Board may be an officer or employee of the Federal
18 Government.

19 (e) TERMS; VACANCIES.—

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

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

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

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

6 (2) VACANCIES.—

7 (A) IN GENERAL.—A vacancy on the
8 Board shall be filled in the manner in which the
9 original appointment was made and shall be
10 subject to any conditions which applied with re-
11 spect to the original appointment.

12 (B) TERM.—An individual chosen to fill a
13 vacancy shall be appointed for the unexpired
14 term of the member replaced.

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

18 (f) BOARD DUTIES.—The Board shall—

19 (1) establish policies for—

20 (A) the investment and management of the
21 Fund; and

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

24 (2) hire and set the compensation for the Exec-
25 utive Director;

1 (3) review the performance of investments made
2 for the Fund;

3 (4) review and approve the budget of the
4 Board; and

5 (5) develop evidence-based financial literacy re-
6 quirements for participants in the Fund, including
7 requirements for financial literacy interventions to
8 occur prior to a participant—

9 (A) taking an early withdrawal from their
10 account at the Fund pursuant to section 106(i);
11 and

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

14 (g) BOARD AUTHORITIES; INVESTMENT LIMITA-
15 TIONS.—

16 (1) IN GENERAL.—The Board may—

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

18 (B) except as provided in paragraph (2),
19 direct the Executive Director to take such ac-
20 tion as the Board considers appropriate to
21 carry out the provisions of this Act and the
22 policies of the Board;

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

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

3 (2) EXCEPTION.—Except in the case of invest-
4 ments under section 102(b)(2), the Board may not
5 direct the Executive Director to invest or to cause
6 to be invested any sums in the Fund in a specific
7 asset or to dispose of or cause to be disposed of any
8 specific asset of such Fund.

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

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

19 (j) LEGISLATIVE RECOMMENDATIONS.—The Board
20 may submit to the President, and, at the same time, shall
21 submit to each House of the Congress, any legislative rec-
22 ommendations of the Board relating to any of its functions
23 under this title.

1 **SEC. 202. THE AMERICAN WORKER RETIREMENT PLAN AD-**
2 **VISORY COUNCIL.**

3 (a) ESTABLISHMENT.—The Board shall establish an
4 American Worker Retirement Plan Advisory Council. The
5 Council shall be composed of 7 members appointed by the
6 Chair of the Board in accordance with subsection (b).

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

9 (1) 3 shall be appointed who have experience
10 managing investment funds;

11 (2) 2 shall be appointed who have experience
12 operating small businesses; and

13 (3) 2 shall be appointed who have experience
14 providing investment advice to small businesses and
15 low-income workers.

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

17 (1) IN GENERAL.—The Chair of the Board
18 shall designate 1 member of the Council to serve as
19 head of the Council.

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

22 (3) VACANCIES.—

23 (A) IN GENERAL.—A vacancy in the Coun-
24 cil shall be filled in the manner in which the
25 original appointment was made and shall be

1 subject to any conditions which applied with re-
2 spect to the original appointment.

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

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

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

11 (e) DUTIES.—The Council shall—

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

14 (A) investment policies for the Fund; and

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

17 (2) perform such other duties as the Board may
18 direct with respect to investment funds established
19 in accordance with title I.

20 **SEC. 203. EXECUTIVE DIRECTOR.**

21 (a) IN GENERAL.—

22 (1) APPOINTMENT.—The Board shall appoint,
23 without regard to the provisions of law governing
24 appointments in the competitive service, an Execu-

1 tive Director by action agreed to by a majority of
2 the members of the Board.

3 (2) QUALIFICATIONS.—The Executive Director
4 shall have substantial experience, training, and ex-
5 pertise in the management of financial investments
6 and pension benefit plans.

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

8 (1) carry out the policies established by the
9 Board;

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

13 (3) administer the provisions of this Act;

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

17 (5) meet from time to time with the Council
18 upon the request of the Council; and

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

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

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

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

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

6 (4) make such payments out of sums in the
7 Fund as the Executive Director determines are nec-
8 essary to carry out the provisions of this Act and the
9 policies of the Board;

10 (5) pay the compensation, per diem, and travel
11 expenses of individuals appointed under paragraphs
12 (2), (3), and (7) of this subsection from the Fund;

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

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

1 **SEC. 204. INVESTMENT POLICIES AND SELECTION OF**
2 **ASSET MANAGERS.**

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

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

8 (2) low administrative costs.

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

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

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

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

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

19 **SEC. 205. ADMINISTRATIVE PROVISIONS.**

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

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

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

23 (b) BOARD GOVERNANCE.—

24 (1) IN GENERAL.—Except as provided in sec-
25 tion 201(g)(1)(C), the Board shall perform the func-

1 tions and exercise the powers of the Board on a ma-
2 jority vote of a quorum of the Board.

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

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

9 (c) BOARD COMPENSATION.—

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

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

20 (3) PAYMENT FROM FUND.—Payments author-
21 ized under this subsection shall be paid from the
22 Fund as administrative expenses permitted under
23 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 violates 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—GOVERNMENT MATCH** 6 **TAX CREDIT**

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

8 (a) CREDIT.—Subpart A of part IV of subchapter A
9 of chapter 1 of the Internal Revenue Code of 1986 is
10 amended by inserting after section 25E the following new
11 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 Retire-
20 ment 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 prescribe regulations to provide that the payments
20 made under subsection (f) are made as concurrently
21 as is reasonably possible with contributions by a taxpayer to the American Worker Retirement Fund.

22 Such regulations shall provide that, for purposes of
23 such payments, the credit under subsection (a) may
24
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.—

14 “(1) IN GENERAL.—If any contribution de-
15 scribed in subsection (a) does not remain in the
16 American Worker Retirement Fund for at least 6
17 months after such contribution is made, the amount
18 of the credit under this section attributable to such
19 contribution shall be forfeited as provided in para-
20 graph (2).

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

24 “(A) the Executive Director of the Amer-
25 ican Worker Retirement Fund, as appointed

1 under section 203 of the Retirement Savings
2 for Americans Act of 2022, shall make a dis-
3 tribution from the individual’s account in an
4 amount equal to such contribution to the Sec-
5 retary for deposit into the general fund of the
6 Treasury, and

7 “(B) in the case of any earnings on such
8 contribution, such earnings shall be distributed
9 by such Executive Director from the individ-
10 ual’s account and shall be available to the Exec-
11 utive Director, without need of further appro-
12 priation, for administrative expenses described
13 in section 101(e) of such Act.

14 “(3) FORFEITED AMOUNTS NOT INCLUDIBLE IN
15 GROSS INCOME.—Any distribution made under para-
16 graph (2) shall not be includible in the gross income
17 of the individual.”.

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.”.

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

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