

106TH CONGRESS
1ST SESSION

S. 263

To amend the Social Security Act to establish the Personal Retirement
Accounts Program.

IN THE SENATE OF THE UNITED STATES

JANUARY 20, 1999

Mr. ROTH introduced the following bill; which was read twice and referred to
the Committee on Finance

A BILL

To amend the Social Security Act to establish the Personal
Retirement Accounts Program.

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 “Personal Retirement Accounts Act of 1999”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Save Social Security First Trust Fund.
- Sec. 4. Establishment of Personal Retirement Accounts Program.

“TITLE I—PERSONAL RETIREMENT ACCOUNTS PROGRAM

“Subtitle A—Management of the Personal Retirement Accounts Program

“Sec. 101. Personal Retirement Accounts Board.

“Sec. 102. Executive director.

“Subtitle B—Establishment of Personal Retirement Savings Fund; Personal Retirement Accounts

“Sec. 111. Appropriations; annual transfers to the Personal Retirement Savings Fund.

“Sec. 112. Personal Retirement Savings Fund.

“Sec. 113. Personal retirement accounts.

“Subtitle C—Investment and Administration of Personal Retirement Accounts

“Sec. 121. Investment of personal retirement accounts.

“Sec. 122. Accounting and information.

“Sec. 123. Distribution of benefits.

“Sec. 124. Annuities: methods of payment; election; purchase.

“Sec. 125. Protections for spouses and former spouses.

“Sec. 126. Designation of beneficiary; order of precedence.

“Sec. 127. Tax treatment of the Personal Retirement Savings Fund.

“Sec. 128. Administrative provisions.

“Subtitle D—Beneficiary Protections

“Sec. 131. Fiduciary responsibilities; liability and penalties.

“Sec. 132. Bonding.

“Sec. 133. Investigative authority.

“Sec. 134. Exculpatory provisions; insurance.”.

Sec. 5. Report and recommendations regarding investment options.

1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) The social security program is the founda-
 4 tion of retirement income for most Americans, and
 5 solving the financial problems of the social security
 6 program is a vital national priority and essential for
 7 the retirement security of today’s working Ameri-
 8 cans and their families.

9 (2) There is a growing bipartisan consensus
 10 that personal retirement accounts should be an im-
 11 portant feature of social security reform.

1 (3) Personal retirement accounts can provide a
2 substantial retirement nest egg and real personal
3 wealth. For an individual 28 years old on the date
4 of enactment of this Act, earning an average wage,
5 and retiring at age 65 in 2035, just 1 percent of
6 that individual's wages deposited each year in a per-
7 sonal retirement account and invested in securities
8 consisting of the Standard & Poors 500 would grow
9 to \$132,000, and be worth approximately 20 percent
10 of the benefits that would be provided to the individ-
11 ual under the current provisions of the social secu-
12 rity program.

13 (4) Personal retirement accounts would give the
14 majority of Americans who do not own any invest-
15 ment assets a new stake in the economic growth of
16 America.

17 (5) Personal retirement accounts would dem-
18 onstrate the value of savings and the magic of com-
19 pound interest to all Americans. Today, Americans
20 save less than people in almost every other country.

21 (6) Personal retirement accounts would help
22 Americans to better prepare for retirement gen-
23 erally. According to the Congressional Research
24 Service, 60 percent of Americans are not actively
25 participating in a retirement plan other than social

1 security, although social security was never intended
2 to be the sole source of retirement income.

3 (7) The Federal budget will register a surplus
4 of \$657,000,000,000 over fiscal years 1999 through
5 2004, offering a unique opportunity to begin a per-
6 manent solution to social security's financing.

7 (8) Using the Federal budget surplus to fund
8 personal retirement accounts would be an important
9 first step in comprehensive social security reform
10 and ensuring the delivery of promised retirement
11 benefits.

12 **SEC. 3. SAVE SOCIAL SECURITY FIRST TRUST FUND.**

13 (a) ESTABLISHMENT OF TRUST FUND.—There is es-
14 tablished in the Treasury of the United States a trust fund
15 to be known as the “Save Social Security First Trust
16 Fund” (in this section referred to as the “Trust Fund”),
17 consisting of such amounts as are appropriated or credited
18 to the Trust Fund as provided in this section.

19 (b) APPROPRIATION TO TRUST FUND.—There is ap-
20 propriated to the Trust Fund, out of any sums in the
21 Treasury not otherwise appropriated, an amount equal to
22 \$31,500,000,000 for fiscal year 1999 and
23 \$39,500,000,000 for fiscal year 2000. The Secretary of
24 the Treasury shall transfer such amounts to the Trust
25 Fund not later than—

1 (1) September 30, 1999, in the case of the
2 amount appropriated for fiscal year 1999; and

3 (2) September 30, 2000, in the case of the
4 amount appropriated for fiscal year 2000.

5 (c) INVESTMENT OF TRUST FUND.—The Secretary
6 of the Treasury shall invest the Trust Fund in public debt
7 securities with suitable maturities and bearing interest at
8 rates determined by the Secretary, taking into consider-
9 ation current market yields on outstanding marketable ob-
10 ligations of the United States of comparable maturities.
11 The income on such investments shall be credited to and
12 form a part of the Trust Fund.

13 (d) LIMITATION ON USE OF TRUST FUND.—
14 Amounts in the Trust Fund shall not be appropriated or
15 used for any purpose other than to be transferred to the
16 Personal Retirement Savings Fund established under sec-
17 tion 112 of the Social Security Act in accordance with sec-
18 tion 111(b)(1) of such Act.

19 (e) DISSOLUTION OF TRUST FUND.—On the date of
20 the transfer of all amounts in the Trust Fund to the Per-
21 sonal Retirement Savings Fund in accordance with section
22 111(b)(1) of the Social Security Act, the Trust Fund es-
23 tablished under this section shall be dissolved.

1 **SEC. 4. ESTABLISHMENT OF PERSONAL RETIREMENT AC-**
 2 **COUNTS PROGRAM.**

3 The Social Security Act (42 U.S.C. 301 et seq.) is
 4 amended—

5 (1) by redesignating title I as title VI; and

6 (2) by inserting before title II the following:

7 **“TITLE I—PERSONAL RETIRE-**
 8 **MENT ACCOUNTS PROGRAM**
 9 **“Subtitle A—Management of the**
 10 **Personal Retirement Accounts**
 11 **Program**

12 **“SEC. 101. PERSONAL RETIREMENT ACCOUNTS BOARD.**

13 “(a) ESTABLISHMENT.—There is established in the
 14 Executive Branch of the Government a Personal Retire-
 15 ment Accounts Board (in this title referred to as the
 16 ‘Board’).

17 “(b) COMPOSITION.—The Board shall be composed
 18 of—

19 “(1) 3 members appointed by the President, of
 20 whom 1 shall be designated by the President as
 21 Chairman; and

22 “(2) 2 members appointed by the President, of
 23 whom—

24 “(A) 1 shall be appointed by the President
 25 after taking into consideration the recommenda-
 26 tion made by the Speaker of the House of Rep-

1 representatives in consultation with the Minority
2 Leader of the House of Representatives; and

3 “(B) 1 shall be appointed by the President
4 after taking into consideration the recommenda-
5 tion made by the Majority Leader of the Senate
6 in consultation with the Minority Leader of the
7 Senate.

8 “(c) ADVICE AND CONSENT.—Appointments under
9 subsection (b) shall be made by and with the advice and
10 consent of the Senate.

11 “(d) MEMBERSHIP REQUIREMENTS.—Members of
12 the Board shall have substantial experience, training, and
13 expertise in the management of financial investments and
14 pension benefit plans.

15 “(e) LENGTH OF APPOINTMENTS.—

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

19 “(A) the Chairman shall be appointed for
20 a term of 4 years;

21 “(B) the members appointed under sub-
22 section (b)(2) shall be appointed for terms of 3
23 years; and

24 “(C) the remaining members shall be ap-
25 pointed for terms of 2 years.

1 “(2) VACANCIES.—

2 “(A) IN GENERAL.—A vacancy on the
3 Board shall be filled in the manner in which the
4 original appointment was made and shall be
5 subject to any conditions that applied with re-
6 spect to the original appointment.

7 “(B) COMPLETION OF TERM.—An individ-
8 ual chosen to fill a vacancy shall be appointed
9 for the unexpired term of the member replaced.

10 “(3) EXPIRATION.—The term of any member
11 shall not expire before the date on which the mem-
12 ber’s successor takes office.

13 “(f) DUTIES.—The Board shall—

14 “(1) administer the program established under
15 this title;

16 “(2) establish policies for the investment and
17 management of the Personal Retirement Savings
18 Fund, including policies applicable to the outside en-
19 tities and qualified professional asset managers with
20 responsibility for managing the investment options
21 described in section 121(b), that shall provide for—

22 “(A) prudent investments suitable for ac-
23 cumulating funds for payment of retirement in-
24 come; and

25 “(B) low administrative costs.

1 “(3) review the performance of investments
2 made for the Personal Retirement Savings Fund;

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

5 “(5) comply with the provisions of subtitle D.

6 “(g) ADMINISTRATIVE PROVISIONS.—

7 “(1) IN GENERAL.—The Board may—

8 “(A) adopt, alter, and use a seal;

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

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

17 “(D) take such other actions as may be
18 necessary to carry out the functions of the
19 Board.

20 “(2) MEETINGS.—The Board shall meet—

21 “(A) not less than once during each
22 month; and

23 “(B) at additional times at the call of the
24 Chairman.

25 “(3) EXERCISE OF POWERS.—

1 “(A) IN GENERAL.—Except as provided in
 2 paragraph (1)(C) and section 102(a)(1), the
 3 Board shall perform the functions and exercise
 4 the powers of the Board on a majority vote of
 5 a quorum of the Board. Three members of the
 6 Board shall constitute a quorum for the trans-
 7 action of business.

8 “(B) VACANCIES.—A vacancy on the
 9 Board shall not impair the authority of a
 10 quorum of the Board to perform the functions
 11 and exercise the powers of the Board.

12 “(4) LIMITATION ON INVESTMENTS.—Except in
 13 the case of investments required by section 121 to
 14 be invested in securities of the Government, the
 15 Board may not direct the Executive Director to in-
 16 vest or to cause to be invested any sums in the Per-
 17 sonal Retirement Savings Fund in a specific asset or
 18 to dispose of or cause to be disposed of any specific
 19 asset of such Fund.

20 “(h) COMPENSATION.—

21 “(1) IN GENERAL.—Each member of the Board
 22 who is not an officer or employee of the Federal
 23 Government shall be compensated at the daily rate
 24 of basic pay for level IV of the Executive Schedule

1 for each day during which such member is engaged
2 in performing a function of the Board.

3 “(2) EXPENSES.—A member of the Board shall
4 be paid travel, per diem, and other necessary ex-
5 penses under subchapter I of chapter 57 of title 5,
6 United States Code, while traveling away from such
7 member’s home or regular place of business in the
8 performance of the duties of the Board.

9 “(3) SOURCE OF FUNDS.—Payments authorized
10 under this subsection shall be paid from the Per-
11 sonal Retirement Savings Fund.

12 “(i) DISCHARGE OF RESPONSIBILITIES.—The mem-
13 bers of the Board shall discharge their responsibilities
14 solely in the interest of account holders and beneficiaries
15 under this title.

16 “(j) ANNUAL INDEPENDENT AUDIT.—The Board
17 shall annually engage an independent qualified public ac-
18 countant to audit the activities of the Board.

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

1 “(l) SUBMISSION OF LEGISLATIVE RECOMMENDA-
 2 TIONS.—The Board may submit to the President, and, at
 3 the same time, shall submit to each House of Congress,
 4 any legislative recommendations of the Board relating to
 5 any of its functions under this title or any other provision
 6 of law.

7 **“SEC. 102. EXECUTIVE DIRECTOR.**

8 “(a) APPOINTMENT OF EXECUTIVE DIRECTOR.—

9 “(1) IN GENERAL.—The Board shall appoint,
 10 without regard to the provisions of law governing
 11 appointments in the competitive service, an Execu-
 12 tive Director by action agreed to by a majority of
 13 the members of the Board.

14 “(2) REQUIREMENTS.—The Executive Director
 15 shall have substantial experience, training, and ex-
 16 pertise in the management of financial investments
 17 and pension benefit plans.

18 “(b) DUTIES.—The Executive Director shall—

19 “(1) carry out the policies established by the
 20 Board;

21 “(2) invest and manage the Personal Retire-
 22 ment Savings Fund in accordance with the invest-
 23 ment policies and other policies established by the
 24 Board;

1 “(3) purchase annuity contracts and provide for
2 the payment of benefits under this title;

3 “(4) administer the provisions of this title; and

4 “(5) prescribe such regulations (other than reg-
5 ulations relating to fiduciary responsibilities) as may
6 be necessary for the administration of this title.

7 “(c) ADMINISTRATIVE AUTHORITY.—The Executive
8 Director may—

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

13 “(2) appoint such personnel as may be nec-
14 essary to carry out the provisions of this title;

15 “(3) subject to approval by the Board, procure
16 the services of experts and consultants under section
17 3109 of title 5, United States Code;

18 “(4) secure directly from an Executive agency,
19 the United States Postal Service, or the Postal Rate
20 Commission any information necessary to carry out
21 the provisions of this title and the policies of the
22 Board;

23 “(5) make such payments out of sums in the
24 Personal Retirement Savings Fund as the Executive

1 Director determines are necessary to carry out the
2 provisions of this title and the policies of the Board;

3 “(6) pay the compensation, per diem, and travel
4 expenses of individuals appointed under paragraphs
5 (2), (3), and (7) from the Personal Retirement Sav-
6 ings Fund;

7 “(7) accept and use the services of individuals
8 employed intermittently in the Government service
9 and reimburse such individuals for travel expenses,
10 as authorized by section 5703 of title 5, United
11 States Code, including per diem as authorized by
12 section 5702 of such title;

13 “(8) 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 “(9) take such other actions as are appropriate
22 to carry out the functions of the Executive Director.

1 **“Subtitle B—Establishment of Per-**
 2 **sonal Retirement Savings Fund;**
 3 **Personal Retirement Accounts**

4 **“SEC. 111. APPROPRIATIONS; ANNUAL TRANSFERS TO THE**
 5 **PERSONAL RETIREMENT SAVINGS FUND.**

6 “(a) APPROPRIATIONS.—Out of any money in the
 7 Treasury of the United States not otherwise appropriated,
 8 there are appropriated for the purpose of making the
 9 transfers required under subsection (b)—

10 “(1) for fiscal year 2001, \$43,000,000,000;

11 “(2) for fiscal year 2002, \$69,500,000,000;

12 “(3) for fiscal year 2003, \$68,000,000,000; and

13 “(4) for fiscal year 2004, \$77,000,000,000.

14 “(b) TRANSFERS TO THE PERSONAL RETIREMENT
 15 SAVINGS FUND.—

16 “(1) TRANSFER OF AMOUNTS IN THE SAVE SO-
 17 CIAL SECURITY FIRST TRUST FUND.—Not later than
 18 October 1, 2000, the Secretary of the Treasury shall
 19 transfer the obligations held by the Secretary for the
 20 Save Social Security First Trust Fund established
 21 under section 3 of the Personal Retirement Accounts
 22 Act of 1999, and the amount standing to the credit
 23 of such Trust Fund on the books of the Treasury on
 24 such date to the Personal Retirement Savings Fund
 25 established under section 112.

1 “(2) TRANSFER OF APPROPRIATED
2 AMOUNTS.—With respect to a fiscal year for which
3 an amount is appropriated under subsection (a), the
4 Secretary of the Treasury shall transfer to the Per-
5 sonal Retirement Savings Fund established under
6 section 112 the amount appropriated under sub-
7 section (a) for that fiscal year not later than—

8 “(A) September 30, 2001, in the case of
9 the amount appropriated under such subsection
10 for fiscal year 2001;

11 “(B) September 30, 2002, in the case of
12 the amount appropriated under such subsection
13 for fiscal year 2002;

14 “(C) September 30, 2003, in the case of
15 the amount appropriated under such subsection
16 for fiscal year 2003; and

17 “(D) September 30, 2004, in the case of
18 the amount appropriated under such subsection
19 for fiscal year 2004.

20 **“SEC. 112. PERSONAL RETIREMENT SAVINGS FUND.**

21 “(a) ESTABLISHMENT OF TRUST FUND.—There is
22 established in the Treasury of the United States a Per-
23 sonal Retirement Savings Fund, consisting of all amounts
24 deposited by the Secretary of the Treasury in accordance
25 with section 111(b), increased by the total net earnings

1 from investments of sums in the Personal Retirement Sav-
 2 ings Fund or reduced by the total net losses from invest-
 3 ments of the Fund, and reduced by the total amount of
 4 payments made from the Fund (including payments for
 5 administrative expenses).

6 “(b) AVAILABILITY.—The sums in the Personal Re-
 7 tirement Savings Fund are appropriated and shall remain
 8 available without fiscal year limitation—

9 “(1) to invest under section 121;

10 “(2) to pay benefits or purchase annuity con-
 11 tracts under this title;

12 “(3) to pay the administrative expenses of the
 13 Board;

14 “(4) to make distributions in accordance with
 15 sections 123 and 124; and

16 “(5) to purchase insurance as provided in sec-
 17 tion 134(b)(2).

18 “(c) LIMITATIONS ON USE OF FUNDS.—

19 “(1) IN GENERAL.—Sums in the Personal Re-
 20 tirement Savings Fund credited to the account of an
 21 individual may not be used for, or diverted to, pur-
 22 poses other than for the exclusive benefit of the ac-
 23 count holder or the account holder’s beneficiaries
 24 under this title.

1 “(2) ASSIGNMENTS.—Except as provided in
2 paragraph (3), sums in the Personal Retirement
3 Savings Fund may not be assigned or alienated and
4 are not subject to execution, levy, attachment, gar-
5 nishment, or other legal process.

6 “(3) SUPPORT OBLIGATIONS.—Moneys due or
7 payable from the Personal Retirement Savings Fund
8 to any account holder shall be subject to legal proc-
9 ess for the enforcement of the account holder’s legal
10 obligations to provide child support or make alimony
11 payments as provided in section 459 or for the en-
12 forcement of a court order or other similar process
13 in the nature of a garnishment for the enforcement
14 of a judgment rendered against the account holder
15 for physically, sexually, or emotionally abusing a
16 child.

17 “(d) PAYMENT OF ADMINISTRATIVE EXPENSES.—
18 Administrative expenses incurred to carry out this title
19 shall be paid out of net earnings in the Personal Retire-
20 ment Savings Fund in conjunction with the allocation of
21 investment earnings and losses under section 122(a)(2).

22 “(e) LIMITATION.—The sums in the Personal Retire-
23 ment Savings Fund shall not be appropriated for any pur-
24 pose other than the purposes specified in this section and
25 may not be used for any other purpose.

1 “(f) FUNDS HELD IN TRUST.—All sums transferred
 2 to the Personal Retirement Savings Fund for the benefit
 3 of individuals eligible for personal retirement accounts,
 4 and all net earnings in such Fund attributable to invest-
 5 ment of such sums, are held in such Fund in trust for
 6 such individuals.

7 **“SEC. 113. PERSONAL RETIREMENT ACCOUNTS.**

8 “(a) ESTABLISHMENT OF INDIVIDUAL ACCOUNTS.—

9 “(1) FISCAL YEAR 2001.—Not later than Octo-
 10 ber 1, 2000, the Executive Director shall establish
 11 and maintain a personal retirement savings account
 12 for any individual who has worked 4 qualifying quar-
 13 ters of coverage, as determined under title II, in cal-
 14 endar year 1999.

15 “(2) SUBSEQUENT FISCAL YEARS.—Not later
 16 than October 1 of each fiscal year beginning after
 17 fiscal year 2001, the Executive Director shall estab-
 18 lish and maintain a personal retirement savings ac-
 19 count for any individual who has worked 4 qualify-
 20 ing quarters of coverage, as determined under title
 21 II, in the calendar year ending on December 31 of
 22 the preceding fiscal year and for whom the Execu-
 23 tive Director has not previously established an ac-
 24 count.

1 “(b) ALLOCATION OF FUNDS TO ACCOUNTS.—Begin-
 2 ning on October 1, 2000, and annually thereafter, the Ex-
 3 ecutive Director shall allocate to each personal retirement
 4 savings account maintained on such date for the benefit
 5 of an individual who has worked 4 qualifying quarters of
 6 coverage, as determined under title II, in the calendar year
 7 ending on December 31 of the preceding fiscal year the
 8 amount determined under subsection (c).

9 “(c) AMOUNT DETERMINED.—

10 “(1) IN GENERAL.—For any fiscal year, the
 11 amount determined under this subsection is equal to
 12 the sum of—

13 “(A) \$250, plus

14 “(B) the amount determined under para-
 15 graph (2) (if any).

16 “(2) PRO RATA SHARE OF REMAINDER.—For
 17 any fiscal year, the amount determined under this
 18 paragraph with respect to the account of each indi-
 19 vidual maintained on October 1 of such fiscal year
 20 is equal to the product of—

21 “(A) the remainder of the Fund Balance
 22 for such fiscal year, determined after the appli-
 23 cation of paragraph (1)(A); and

24 “(B) the ratio determined under paragraph
 25 (3).

1 “(3) RATIO DETERMINED.—The ratio deter-
 2 mined under this paragraph is the ratio, expressed
 3 as a percentage, of—

4 “(A) the excess of—

5 “(i) the sum of—

6 “(I) the total tax imposed on the
 7 individual’s wages under section
 8 3101(a) of the Internal Revenue Code
 9 of 1986 (relating to taxes on employ-
 10 ees) for the taxable year ending in the
 11 preceding fiscal year, plus

12 “(II) 50 percent of the total tax
 13 imposed on the individual’s self-em-
 14 ployment income under section
 15 1401(a) of such Code (relating to tax
 16 on self-employment income) for such
 17 taxable year, over

18 “(ii) \$250; to

19 “(B) the total amount of such excess for
 20 all such individuals for such fiscal year.

21 “(4) DEFINITION OF FUND BALANCE.—In this
 22 subsection, the term ‘Fund balance’ means the net
 23 earnings and net losses from the investment of the
 24 sums transferred to the Personal Retirement Sav-
 25 ings Fund in accordance with section 111(b), re-

1 duced by the appropriate share of the administrative
 2 expenses paid out of the net earnings under section
 3 112(d), as determined by the Executive Director.

4 **“Subtitle C—Investment and Ad-**
 5 **ministration of Personal Retire-**
 6 **ment Accounts**

7 **“SEC. 121. INVESTMENT OF PERSONAL RETIREMENT AC-**
 8 **COUNTS.**

9 “(a) DEFINITIONS.—In this section—

10 “(1) the term ‘Common Stock Index Investment
 11 Fund’ means the Common Stock Index Investment
 12 Fund established under subsection (b)(1)(C);

13 “(2) the term ‘equity capital’ means common
 14 and preferred stock, surplus, undivided profits, con-
 15 tingency reserves, and other capital reserves;

16 “(3) the term ‘Fixed Income Investment Fund’
 17 means the Fixed Income Investment Fund estab-
 18 lished under subsection (b)(1)(B);

19 “(4) the term ‘Government Securities Invest-
 20 ment Fund’ means the Government Securities In-
 21 vestment Fund established under subsection
 22 (b)(1)(A);

23 “(5) the term ‘net worth’ means capital, paid-
 24 in and contributed surplus, unassigned surplus, con-

1 tingency reserves, group contingency reserves, and
2 special reserves;

3 “(6) the term ‘plan’ means an employee benefit
4 plan, as defined in section 3(3) of the Employee Re-
5 tirement Income Security Act of 1974 (29 U.S.C.
6 1002(3));

7 “(7) the term ‘qualified professional asset man-
8 ager’ means—

9 “(A) a bank, as defined in section
10 202(a)(2) of the Investment Advisers Act of
11 1940 (15 U.S.C. 80b–2(a)(2)) which—

12 “(i) has the power to manage, ac-
13 quire, or dispose of assets of a plan; and

14 “(ii) has, as of the last day of its lat-
15 est fiscal year ending before the date of a
16 determination for the purpose of this
17 clause, equity capital in excess of
18 \$1,000,000;

19 “(B) a savings and loan association, the
20 accounts of which are insured by the Federal
21 Deposit Insurance Corporation, which—

22 “(i) has applied for and been granted
23 trust powers to manage, acquire, or dis-
24 pose of assets of a plan by a State or Gov-

ernment authority having supervision over
savings and loan associations; and

“(ii) has, as of the last day of its latest fiscal year ending before the date of a determination for the purpose of this clause, equity capital or net worth in excess of \$1,000,000;

“(C) an insurance company which—

“(i) is qualified under the laws of more than 1 State to manage, acquire, or dispose of any assets of a plan;

“(ii) has, as of the last day of its latest fiscal year ending before the date of a determination for the purpose of this clause, net worth in excess of \$1,000,000;
and

“(iii) is subject to supervision and examination by a State authority having supervision over insurance companies; or

“(D) an investment adviser registered under section 203 of the Investment Advisers Act of 1940 (15 U.S.C. 80b–3) if the investment adviser has, on the last day of its latest fiscal year ending before the date of a determination for the purpose of this subparagraph,

1 total client assets under its management and
2 control in excess of \$50,000,000, and—

3 “(i) the investment adviser has, on
4 such day, shareholder’s or partner’s equity
5 in excess of \$750,000; or

6 “(ii) payment of all of the investment
7 adviser’s liabilities, including any liabilities
8 which may arise by reason of a breach or
9 violation of a duty described in section
10 131, is unconditionally guaranteed by—

11 “(I) a person (as defined in para-
12 graph (9)) who directly or indirectly,
13 through 1 or more intermediaries,
14 controls, is controlled by, or is under
15 common control with the investment
16 adviser and who has, on the last day
17 of the person’s latest fiscal year end-
18 ing before the date of a determination
19 for the purpose of this clause, share-
20 holder’s or partner’s equity in an
21 amount which, when added to the
22 amount of the shareholder’s or part-
23 ner’s equity of the investment adviser
24 on such day, exceeds \$750,000;

1 “(II) a qualified professional
2 asset manager described in subpara-
3 graph (A), (B), or (C); or

4 “(III) a broker or dealer reg-
5 istered under section 15 of the Securi-
6 ties Exchange Act of 1934 (15 U.S.C.
7 78o) that has, on the last day of the
8 broker’s or dealer’s latest fiscal year
9 ending before the date of a determina-
10 tion for the purpose of this clause, net
11 worth in excess of \$750,000;

12 “(8) the term ‘shareholder’s or partner’s eq-
13 uity’, as used in paragraph (7)(D) with respect to an
14 investment adviser or a person (as defined in para-
15 graph (9)) who is affiliated with the investment ad-
16 viser in a manner described in clause (ii)(I) of such
17 paragraph, means the equity shown in the most re-
18 cent balance sheet prepared for such investment ad-
19 viser or affiliated person, in accordance with gen-
20 erally accepted accounting principles, within 2 years
21 before the date on which the investment adviser’s
22 status as a qualified professional asset manager is
23 determined for the purposes of this section; and

24 “(9) the term ‘person’ means an individual,
25 partnership, joint venture, corporation, mutual com-

pany, joint-stock company, trust, estate, unincorporated organization, association, or labor organization.

“(b) ESTABLISHMENT OF INVESTMENT OPTIONS.—

“(1) INITIAL FUNDS.—The Board shall establish—

“(A) a Government Securities Investment Fund under which sums in the Personal Retirement Savings Fund are invested in securities of the United States Government issued as provided in subsection (e);

“(B) a Fixed Income Investment Fund under which sums in the Personal Retirement Savings Fund are invested in—

“(i) insurance contracts;

“(ii) certificates of deposits; or

“(iii) other instruments or obligations selected by qualified professional asset managers,

that return the amount invested and pay interest, at a specified rate or rates, on that amount during a specified period of time;

“(C) a Common Stock Index Investment Fund as provided in paragraph (3).

1 “(2) ADDITIONAL FUNDS.—The Board may ap-
 2 prove diversified, indexed funds that are not de-
 3 scribed in paragraph (1) and that meet such other
 4 criteria as the Board may establish for inclusion
 5 among the investment choices offered to account
 6 holders under this title.

7 “(3) COMMON STOCK FUND REQUIREMENTS.—

8 “(A) SELECTION OF INDEX.—The Board
 9 shall select an index which is a commonly rec-
 10 ognized index comprised of common stock the
 11 aggregate market value of which is a reasonably
 12 complete representation of the United States
 13 equity markets.

14 “(B) INVESTMENT IN PORTFOLIO.—The
 15 Common Stock Index Investment Fund shall be
 16 invested in a portfolio designed to replicate the
 17 performance of the index selected under sub-
 18 paragraph (A). The portfolio shall be designed
 19 such that, to the extent practicable, the per-
 20 centage of the Common Stock Index Investment
 21 Fund that is invested in each stock is the same
 22 as the percentage determined by dividing the
 23 aggregate market value of all shares of that
 24 stock by the aggregate market value of all
 25 shares of all stocks included in such index.

1 “(c) INVESTMENT OF FUND.—

2 “(1) IN GENERAL.—The Executive Director
3 shall invest the sums available in the Personal Re-
4 tirement Savings Fund for investment as provided in
5 elections made under subsection (d).

6 “(2) INVESTMENT IF NO ELECTION.—If an
7 election has not been made with respect to any sums
8 in the Personal Retirement Savings Fund available
9 for investment, the Executive Director shall invest
10 such sums in the Government Securities Investment
11 Fund.

12 “(d) ELECTION OF INVESTMENTS.—

13 “(1) TWICE YEARLY.—At least twice each year,
14 an account holder may elect the investment funds
15 referred to in subsection (b) into which the sums in
16 the Personal Retirement Savings Fund credited to
17 such individual’s account are to be invested or rein-
18 vested.

19 “(2) REGULATIONS.—An election may be made
20 under paragraph (1) only in accordance with regula-
21 tions prescribed by the Executive Director and with-
22 in such period as the Executive Director shall pro-
23 vide in such regulations.

24 “(e) GOVERNMENT SECURITIES INVESTMENT
25 FUND.—

1 “(1) AUTHORIZATION TO ISSUE CERTAIN OBLI-
2 GATIONS.—The Secretary of the Treasury is author-
3 ized to issue special interest-bearing obligations of
4 the United States for purchase by the Personal Re-
5 tirement Savings Fund for the Government Securi-
6 ties Investment Fund.

7 “(2) REQUIREMENTS.—

8 “(A) IN GENERAL.—Obligations issued for
9 the purpose of this subsection shall have matu-
10 rities fixed with due regard to the needs of such
11 Fund as determined by the Executive Director,
12 and shall bear interest at a rate equal to the av-
13 erage market yield (computed by the Secretary
14 of the Treasury on the basis of market
15 quotations as of the end of the calendar month
16 next preceding the date of issue of such obliga-
17 tions) on all marketable interest-bearing obliga-
18 tions of the United States then forming a part
19 of the public debt which are not due or callable
20 earlier than 4 years after the end of such cal-
21 endar month.

22 “(B) ROUNDING.—Any average market
23 yield computed under subparagraph (A) which
24 is not a multiple of $\frac{1}{8}$ of 1 percent, shall be

1 rounded to the nearest multiple of $\frac{1}{8}$ of 1 per-
 2 cent.

3 “(f) LIMITATION ON VOTING RIGHTS.—The Board,
 4 other Government agencies, the Executive Director, and
 5 an account holder may not exercise voting rights associ-
 6 ated with the ownership of securities by the Personal Re-
 7 tirement Savings Fund.

8 **“SEC. 122. ACCOUNTING AND INFORMATION.**

9 “(a) BALANCE OF PERSONAL RETIREMENT AC-
 10 COUNTS.—

11 “(1) IN GENERAL.—The balance in an individ-
 12 ual’s account established under section 113 at any
 13 time is the excess of—

14 “(A) the sum of—

15 “(i) all allocations made to the ac-
 16 count under section 113(b); and

17 “(ii) the total amount of the alloca-
 18 tions made to and reductions made in the
 19 account pursuant to paragraph (2), over

20 “(B) the amounts paid out of the Personal
 21 Retirement Savings Fund with respect to such
 22 individual.

23 “(2) ALLOCATION OF INVESTMENT EARNINGS
 24 AND LOSSES.—Pursuant to regulations prescribed by
 25 the Executive Director, the Executive Director shall

1 allocate to each account an amount equal to a pro
 2 rata share of the net earnings and net losses from
 3 each investment of sums in the Personal Retirement
 4 Savings Fund attributable to sums credited to such
 5 account, reduced by an appropriate share of the ad-
 6 ministrative expenses paid out of the net earnings
 7 under section 112(d), as determined by the Execu-
 8 tive Director.

9 “(b) ANNUAL, INDEPENDENT AUDITS.—

10 “(1) DEFINITION.—In this subsection, the term
 11 ‘qualified public accountant’ shall have the same
 12 meaning as provided in section 103(a)(3)(D) of the
 13 Employee Retirement Income Security Act of 1974
 14 (29 U.S.C. 1023(a)(3)(D)).

15 “(2) INDEPENDENT ACCOUNTANT.—The Exec-
 16 utive Director shall annually engage, on behalf of all
 17 account holders under this title, an independent
 18 qualified public accountant, who shall conduct an ex-
 19 amination of all accounts and other books and
 20 records maintained in the administration of this title
 21 as the public accountant considers necessary to en-
 22 able the public accountant to make the determina-
 23 tion required by paragraph (3). The examination
 24 shall be conducted in accordance with generally ac-
 25 cepted auditing standards and shall involve such

1 tests of the accounts, books, and records as the pub-
 2 lic accountant considers necessary.

3 “(3) DETERMINATION REQUIRED.—The public
 4 accountant conducting an examination under para-
 5 graph (2) shall determine whether the accounts,
 6 books, and records referred to in such paragraph
 7 have been maintained in conformity with generally
 8 accepted accounting principles applied on a basis
 9 consistent with the manner in which such principles
 10 were applied during the examination conducted
 11 under such paragraph during the preceding year.
 12 The public accountant shall transmit to the Board
 13 a report on his examination, including his deter-
 14 mination under this paragraph.

15 “(4) RELIANCE ON ACTUARIAL MATTER.—In
 16 making a determination under paragraph (3), a pub-
 17 lic accountant may rely on the correctness of any ac-
 18 tuarial matter certified by an enrolled actuary if the
 19 public accountant states his reliance in the report
 20 transmitted to the Board under such paragraph.

21 “(c) STATEMENTS.—

22 “(1) IN GENERAL.—The Board shall prescribe
 23 regulations under which each account holder under
 24 this title shall be furnished with—

1 “(A) a periodic statement relating to the
2 individual’s account; and

3 “(B) a summary description of the invest-
4 ment options under section 121 covering, and
5 an evaluation of, each such option the 5-year
6 period preceding the date as of which such eval-
7 uation is made.

8 “(2) TIMING.—Information under this sub-
9 section shall be provided at least 30 calendar days
10 before the beginning of each election period under
11 section 121(d), and in a manner designed to facili-
12 tate informed decisionmaking with respect to elec-
13 tions under section 121.

14 “(d) ACKNOWLEDGEMENT.—Each account holder
15 who elects to invest in the Common Stock Index Invest-
16 ment Fund, the Fixed Income Investment Fund, or any
17 other Fund designated by the Board shall sign an ac-
18 knowledgement prescribed by the Executive Director
19 which states that the account holder understands that an
20 investment in such Fund is made at the account holder’s
21 risk, that the account holder is not protected by the Gov-
22 ernment against any loss on such investment, and that
23 a return on such investment is not guaranteed by the Gov-
24 ernment.

1 **“SEC. 123. DISTRIBUTION OF BENEFITS.**

2 “(a) TIMING OF DISTRIBUTIONS.—Notwithstanding
3 any other provision of law, distributions may only be made
4 from a personal retirement savings account of an individ-
5 ual on or after the earlier of the date on which the individ-
6 ual begins receiving old-age benefits under title II or the
7 date of the individual’s death.

8 “(b) FORM OF DISTRIBUTION.—

9 “(1) IN GENERAL.—Subject to section 125, an
10 individual is entitled and may elect to withdraw from
11 the Personal Retirement Savings Fund the balance
12 of the individual’s personal retirement savings ac-
13 count as—

14 “(A) an annuity; or

15 “(B) substantially equal payments to be
16 made over a period not greater than the life ex-
17 pectancy of the individual or the joint life
18 expectancies of the individual and the individ-
19 ual’s designated beneficiary.

20 “(2) LUMP-SUM REQUIRED FOR MINIMUM
21 AMOUNTS.—Notwithstanding paragraph (1), if the
22 balance in an individual’s personal retirement sav-
23 ings account is below such minimum amount as the
24 Board, by regulation, shall establish, the account
25 shall be distributed in a single lump-sum payment.

26 “(c) CHANGE OF ELECTION OF DISTRIBUTION.—

1 “(1) IN GENERAL.—Subject to paragraph (2)
 2 and subsections (a) and (c) of section 125, an ac-
 3 count holder may change an election previously
 4 made under this section.

5 “(2) LIMITATION.—An account holder may not
 6 change an election under this section on or after the
 7 date on which a payment is made in accordance with
 8 such election or, in the case of an election to receive
 9 an annuity, the date on which an annuity contract
 10 is purchased to provide for the annuity elected by
 11 the account holder.

12 “(d) RULES IF NO ELECTION.—If an account holder
 13 dies without having made an election under this section
 14 or after having elected an annuity under this section but
 15 before making an election under section 124, an amount
 16 equal to the value of that individual’s account (as of
 17 death) shall, subject to any decree, order, or agreement
 18 referred to in section 125(c)(2), be paid in a manner con-
 19 sistent with section 126(b).

20 **“SEC. 124. ANNUITIES: METHODS OF PAYMENT; ELECTION;**
 21 **PURCHASE.**

22 “(a) METHODS OF PAYMENT.—

23 “(1) IN GENERAL.—The Board shall prescribe
 24 methods of payment of annuities under this title.

1 “(2) REQUIREMENTS.—The methods of pay-
2 ment prescribed under paragraph (1) shall include—

3 “(A) a method that provides for the pay-
4 ment of a monthly annuity only to an annuitant
5 during the life of the annuitant;

6 “(B) a method that provides for the pay-
7 ment of a monthly annuity to an annuitant for
8 the joint lives of the annuitant and the spouse
9 of the annuitant and an appropriate monthly
10 annuity to the one of them who survives the
11 other of them for the life of the survivor;

12 “(C) a method described in subparagraph
13 (A) that provides for automatic adjustments in
14 the amount of the annuity payable so long as
15 the amount of the annuity payable in any 1
16 year shall not be less than the amount payable
17 in the previous year;

18 “(D) a method described in subparagraph
19 (B) that provides for automatic adjustments in
20 the amount of the annuity payable so long as
21 the amount of the annuity payable in any 1
22 year shall not be less than the amount payable
23 in the previous year; and

24 “(E) a method which provides for the pay-
25 ment of a monthly annuity—

1 “(i) to the annuitant for the joint lives
 2 of the annuitant and an individual who is
 3 designated by the annuitant under regula-
 4 tions prescribed by the Executive Director
 5 and—

6 “(I) is a former spouse of the an-
 7 nuitant; or

8 “(II) has an insurable interest in
 9 the annuitant; and

10 “(ii) to the one of them who survives
 11 the other of them for the life of the sur-
 12 vivor.

13 “(b) TIMING.—Subject to section 125(b), under such
 14 regulations as the Executive Director shall prescribe, an
 15 account holder who elects under section 123 to receive an
 16 annuity under this title shall elect, on or before the date
 17 on which an annuity contract is purchased to provide for
 18 that annuity, one of the methods of payment prescribed
 19 under subsection (a).

20 “(c) ELIMINATION OF METHODS.—Notwithstanding
 21 the elimination of a method of payment by the Board, an
 22 account holder may elect the eliminated method if the
 23 elimination of such method becomes effective less than 5
 24 years before the date on which that account holder’s annu-
 25 ity commences.

1 “(d) PURCHASE REQUIREMENTS.—

2 “(1) TIMING.—Not earlier than 90 days (or
3 such shorter period as the Executive Director may
4 by regulation prescribe) before an annuity is to com-
5 mence under this title, the Executive Director shall
6 expend the balance in the annuitant’s account to
7 purchase an annuity contract from any entity which,
8 in the normal course of its business, sells and pro-
9 vides annuities.

10 “(2) COMPLIANCE WITH PROGRAM REQUIRE-
11 MENTS.—The Executive Director shall ensure, by
12 contract entered into with each entity from which an
13 annuity contract is purchased under paragraph (1),
14 that the annuity shall be provided in accordance
15 with the provisions of this title.

16 “(3) ADDITIONAL TERMS AND CONDITIONS.—
17 An annuity contract purchased under paragraph (1)
18 shall include such terms and conditions as the Exec-
19 utive Director requires for the protection of the an-
20 nuitant.

21 “(4) BONDING REQUIREMENTS.—The Executive
22 Director shall require, from each entity from which
23 an annuity contract is purchased under paragraph
24 (1), a bond or proof of financial responsibility suffi-
25 cient to protect the annuitant.

1 “(e) NONAPPLICATION OF STATE TAX.—

2 “(1) IN GENERAL.—No tax, fee, or other mone-
 3 tary payment may be imposed or collected by any
 4 State, the District of Columbia, or the Common-
 5 wealth of Puerto Rico, or by any political subdivision
 6 or other governmental authority thereof, on, or with
 7 respect to, any amount paid to purchase an annuity
 8 contract under this section.

9 “(2) RULE OF CONSTRUCTION.—Paragraph (1)
 10 shall not be construed to exempt any company or
 11 other entity issuing an annuity contract under this
 12 section from the imposition, payment, or collection
 13 of a tax, fee, or other monetary payment on the net
 14 income or profit accruing to or realized by that en-
 15 tity from the sale of an annuity contract under this
 16 section if that tax, fee, or payment is applicable to
 17 a broad range of business activity.

18 **“SEC. 125. PROTECTIONS FOR SPOUSES AND FORMER**
 19 **SPOUSES.**

20 “(a) LIMITATION ON WITHDRAWALS.—

21 “(1) APPLICATION OF REQUIREMENTS.—

22 “(A) IN GENERAL.—A married account
 23 holder may withdraw all or part of a personal
 24 retirement savings account under section 123 or
 25 change a withdrawal election only if the account

1 holder satisfies the requirements of subpara-
 2 graph (B).

3 “(B) JOINT WRITTEN WAIVER.—An ac-
 4 count holder may make an election or change
 5 referred to in subparagraph (A) if the account
 6 holder and the account holder’s spouse jointly
 7 waive, by written election, any right that the
 8 spouse may have to a survivor annuity with re-
 9 spect to such account holder under section 124
 10 or subsection (b).

11 “(2) EXCEPTION.—Paragraph (1) shall not
 12 apply to an election or change of election by an ac-
 13 count holder who establishes to the satisfaction of
 14 the Executive Director (at the time of the election
 15 or change and in accordance with regulations pre-
 16 scribed by the Executive Director)—

17 “(A) that the spouse’s whereabouts cannot
 18 be determined; or

19 “(B) that, due to exceptional cir-
 20 cumstances, requiring the spouse’s waiver would
 21 otherwise be inappropriate.

22 “(b) METHOD OF ANNUITY.—

23 “(1) SURVIVOR ANNUITIES.—Notwithstanding
 24 any election under section 124(b), the method de-
 25 scribed in section 124(a)(2)(B) (or, if more than one

1 form of such method is available, the form that the
 2 Board determines to be the one that for a surviving
 3 spouse a survivor annuity most closely approximat-
 4 ing the annuity of a surviving spouse under section
 5 8442 of title 5, United States Code) shall be deemed
 6 the applicable method under section 124(b) in the
 7 case of an account holder who is married on the date
 8 on which an annuity contract is purchased to pro-
 9 vide for the account holder’s annuity under this title.

10 “(2) EXCEPTIONS.—Paragraph (1) shall not
 11 apply if—

12 “(A) a joint waiver of such method is
 13 made, in writing, by the account holder and the
 14 spouse; or

15 “(B) the account holder waives such meth-
 16 od, in writing, after establishing to the satisfac-
 17 tion of the Executive Director that cir-
 18 cumstances described under subparagraph (A)
 19 or (B) of subsection (a)(2) make the require-
 20 ment of a joint waiver inappropriate.

21 “(c) NONAPPLICATION OF ELECTION.—

22 “(1) IN GENERAL.—An election or change of
 23 election shall not be effective under this title to the
 24 extent that the election, change, or transfer conflicts

1 with any court decree, order, or agreement described
 2 in paragraph (2).

3 “(2) COURT DECREE, ORDER, OR AGREEMENT
 4 DESCRIBED.—A court decree, order, or agreement
 5 described in this paragraph is, with respect to an ac-
 6 count holder, a court decree of divorce, annulment,
 7 or legal separation issued in the case of such ac-
 8 count holder and any former spouse of the account
 9 holder or any court order or court-approved property
 10 settlement agreement incident to such decree if—

11 “(A) the decree, order, or agreement ex-
 12 pressly relates to any portion of the balance in
 13 the individual’s personal retirement savings ac-
 14 count; and

15 “(B) notice of the decree, order, or agree-
 16 ment was received by the Executive Director
 17 before—

18 “(i) the date on which payment is
 19 made, or

20 “(ii) in the case of an annuity, the
 21 date on which an annuity contract is pur-
 22 chased to provide for the annuity,
 23 in accordance with the election, change, or con-
 24 tribution referred to in paragraph (1).

“(e) NONAPPLICATION.—None of the provisions of this section requiring notification to, or the consent or waiver of, a spouse or former spouse of an account holder shall apply in any case in which the account balance of the individual is equal to or less than such amount as the Board, by regulation, shall prescribe.

19 “(a) DESIGNATION OF BENEFICIARIES.—Under reg-
20 ulations prescribed by the Board, an account holder may
21 designate 1 or more beneficiaries under this section.

23 “(1) IN GENERAL.—Benefits authorized to be
24 paid to an account holder to individuals surviving

1 the account holder and alive at the time of distribu-
2 tion shall be made according to the following:

3 “(A) First, to the beneficiary or bene-
4 ficiaries designated by the account holder in a
5 signed and witnessed writing received by the
6 Executive Director before the death of such ac-
7 count holder. For this purpose, a designation,
8 change, or cancellation of beneficiary in a will
9 or other document not so executed and filed has
10 no force or effect.

11 “(B) Second, if there is no designated ben-
12 eficiary, to the widow or widower of the account
13 holder.

14 “(C) Third, if none of the above, to the
15 child or children of the account holder and de-
16 scendants of deceased children by representa-
17 tion.

18 “(D) Fourth, if none of the above, to the
19 parents of the account holder or the survivor of
20 them.

21 “(E) Fifth, if none of the above, to the
22 duly appointed executor or administrator of the
23 estate of the account holder.

24 “(F) Sixth, if none of the above, to such
25 other next of kin of the account holder as the

1 Board determines to be entitled under the laws
2 of the domicile of the account holder at the date
3 of death of the account holder.

4 “(2) BAR ON OTHER RECOVERIES.—A payment
5 made in accordance with paragraph (1) shall bar
6 any other recovery by—

7 “(A) the individual receiving the payment;
8 and

9 “(B) any other individual.

10 “(3) DEFINITION OF CHILD.—In this section,
11 the term ‘child’ includes a natural child and an
12 adopted child, but does not include a stepchild.

13 “(c) TERMINATION OF AN ANNUITY.—Any annuity
14 accrued and unpaid on the termination, except by death,
15 of the annuity of an annuitant or survivor shall be paid
16 to that individual. Annuity accrued and unpaid on the
17 death of a survivor shall be paid in the following order
18 of precedence, and the payment bars recovery by any other
19 person:

20 “(1) First, to the duly appointed executor or
21 administrator of the estate of the survivor.

22 “(2) Second, if there is no executor or adminis-
23 trator, payment may be made, after 30 days from
24 the date of death of the survivor, to such next of kin
25 of the survivor as the Board determines to be enti-

1 tled under the laws of the domicile of the survivor
2 at the date of death.

3 **“SEC. 127. TAX TREATMENT OF THE PERSONAL RETIRE-**
4 **MENT SAVINGS FUND.**

5 “For purposes of the Internal Revenue Code of
6 1986—

7 “(1) the Personal Retirement Savings Fund
8 shall be treated as a trust described in section
9 401(a) of such Code that is exempt from taxation
10 under section 501(a) of such Code;

11 “(2) any contribution to, or distribution from,
12 such Fund shall be treated in the same manner as
13 contributions to or distributions from such a trust;
14 and

15 “(3) allocations made to an account holder’s
16 personal retirement savings account shall not be
17 treated as distributed or made available to the ac-
18 count holder.

19 **“SEC. 128. ADMINISTRATIVE PROVISIONS.**

20 “(a) DUTY OF EXECUTIVE DIRECTOR.—The Execu-
21 tive Director shall make or provide for payments and
22 transfers in accordance with an election of an account
23 holder under section 123 or 124(b) or, if applicable, in
24 accordance with section 125.

1 “(b) WRITTEN REQUIREMENTS.—Any election,
 2 change of election, or modification of a deferred annuity
 3 commencement date made under this title shall be in writ-
 4 ing and shall be filed with the Executive Director in ac-
 5 cordance with regulations prescribed by the Executive Di-
 6 rector.

7 **“Subtitle D—Beneficiary** 8 **Protections**

9 **“SEC. 131. FIDUCIARY RESPONSIBILITIES; LIABILITY AND** 10 **PENALTIES.**

11 “(a) DEFINITIONS.—For the purposes of this
 12 section—

13 “(1) the term ‘account’ is not limited to the
 14 personal retirement savings account established for
 15 an individual under section 113;

16 “(2) the term ‘adequate consideration’ means—

17 “(A) in the case of a security for which
 18 there is a generally recognized market—

19 “(i) the price of the security prevail-
 20 ing on a national securities exchange that
 21 is registered under section 6 of the Securi-
 22 ties Exchange Act of 1934 (15 U.S.C.
 23 78f); or

24 “(ii) if the security is not traded on
 25 such a national securities exchange, a price

1 not less favorable to the Personal Retirement Savings Fund than the offering price
2 for the security as established by the current bid and asked prices quoted by persons independent of the issuer and of any
3 party in interest; and

4 “(B) in the case of an asset other than a security for which there is a generally recognized market, the fair market value of the asset
5 as determined in good faith by a fiduciary or fiduciaries in accordance with regulations prescribed by the Secretary of Labor;

6 “(3) the term ‘fiduciary’ means—

7 “(A) a member of the Board;

8 “(B) the Executive Director;

9 “(C) any person who has or exercises discretionary authority or discretionary control over the management or disposition of the assets of the Personal Retirement Savings Fund;
10 and

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

1 “(4) the term ‘party in interest’ includes—

2 “(A) any fiduciary;

3 “(B) any counsel to a person who is a fi-
4 duciary, with respect to the actions of such per-
5 son as a fiduciary;

6 “(C) any individual for which a personal
7 retirement account is established under section
8 113;

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

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

17 “(F) a corporation, partnership, or trust or
18 estate of which, or in which, at least 50 percent
19 of—

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

24 “(ii) the capital interest or profits in-
25 terest of such partnership; or

1 “(iii) the beneficial interest of such
2 trust or estate;

3 is owned directly or indirectly, or held by a per-
4 son described in subparagraph (A), (B), or (D);

5 “(G) an official (including a director) of,
6 or an individual employed by, a person de-
7 scribed in subparagraph (A), (B), (D), or (F),
8 or an individual having powers or responsibil-
9 ities similar to those of such an official;

10 “(H) a holder (directly or indirectly) of at
11 least 10 percent of the shares in a person de-
12 scribed in any subparagraph referred to in sub-
13 paragraph (G); and

14 “(I) a person who, directly or indirectly, is
15 at least a 10 percent partner or joint venturer
16 (measured in capital or profits) in a person de-
17 scribed in any subparagraph referred to in sub-
18 paragraph (G).

19 “(b) DISCHARGE OF RESPONSIBILITIES.—

20 “(1) IN GENERAL.—To the extent not inconsis-
21 tent with the provisions of this title and the policies
22 prescribed by the Board, a fiduciary shall discharge
23 his or her responsibilities with respect to the Per-
24 sonal Retirement Savings Fund or any applicable

1 portion thereof solely in the interest of the account
2 holders and beneficiaries of such Fund and—

3 “(A) for the exclusive purpose of—

4 “(i) providing benefits to such account
5 holders and beneficiaries; and

6 “(ii) defraying reasonable expenses of
7 administering the Personal Retirement
8 Savings Fund or applicable portions there-
9 of;

10 “(B) with the care, skill, prudence, and
11 diligence under the circumstances then prevail-
12 ing that a prudent individual acting in a like
13 capacity and familiar with such matters would
14 use in the conduct of an enterprise of a like
15 character and with like objectives; and

16 “(C) to the extent permitted by section
17 121, by diversifying the investments of the Per-
18 sonal Retirement Savings Fund or applicable
19 portions thereof so as to minimize the risk of
20 large losses, unless under the circumstances it
21 is clearly prudent not to do so.

22 “(2) LIMITATION ON OWNERSHIP.—No fidu-
23 ciary may maintain the indicia of ownership of any
24 assets of the Personal Retirement Savings Fund out-

1 side the jurisdiction of the district courts of the
 2 United States.

3 “(c) LIMITATIONS ON TRANSACTIONS.—

4 “(1) PROHIBITED TRANSACTIONS.—A fiduciary
 5 shall not permit the Personal Retirement Savings
 6 Fund to engage in any of the following transactions,
 7 except in exchange for adequate consideration:

8 “(A) A transfer of any assets of the Per-
 9 sonal Retirement Savings Fund to any person
 10 the fiduciary knows or should know to be a
 11 party in interest or the use of such assets by
 12 any such person.

13 “(B) An acquisition of any property from
 14 or sale of any property to the Personal Retirement
 15 Savings Fund by any person the fiduciary
 16 knows or should know to be a party in interest.

17 “(C) A transfer or exchange of services be-
 18 tween the Personal Retirement Savings Fund
 19 and any person the fiduciary knows or should
 20 know to be a party in interest.

21 “(2) OTHER PROHIBITIONS.—Notwithstanding
 22 paragraph (1), a fiduciary with respect to the Per-
 23 sonal Retirement Savings Fund shall not—

1 “(A) deal with any assets of the Personal
2 Retirement Savings Fund in his or her own in-
3 terest or for his or her own account;

4 “(B) act, in an individual capacity or any
5 other capacity, in any transaction involving the
6 Personal Retirement Savings Fund on behalf of
7 a party, or representing a party, whose inter-
8 ests are adverse to the interests of the Personal
9 Retirement Savings Fund or the interests of the
10 account holders and beneficiaries of such Fund;
11 or

12 “(C) receive any consideration for his or
13 her own personal account from any party deal-
14 ing with sums credited to the Personal Retire-
15 ment Savings Fund in connection with a trans-
16 action involving assets of the Personal Retire-
17 ment Savings Fund.

18 “(3) EXEMPTION BY THE SECRETARY OF
19 LABOR.—

20 “(A) IN GENERAL.—The Secretary of
21 Labor may, in accordance with procedures
22 which the Secretary shall by regulation pre-
23 scribe, grant a conditional or unconditional ex-
24 emption of any fiduciary or transaction, or class

1 of fiduciaries or transactions, from all or part
 2 of the restrictions imposed by paragraph (2).

3 “(B) NONAPPLICATION TO OTHER APPLI-
 4 CABLE PROVISIONS.—An exemption granted
 5 under this paragraph shall not relieve a fidu-
 6 ciary from any other applicable provision of this
 7 title.

8 “(C) REQUIREMENTS.—The Secretary of
 9 Labor may not grant an exemption under this
 10 paragraph unless the Secretary finds that such
 11 exemption is—

12 “(i) administratively feasible;

13 “(ii) in the interests of the Personal
 14 Retirement Savings Fund and of the ac-
 15 count holders and beneficiaries of such
 16 Fund; and

17 “(iii) protective of the rights of such
 18 account holders and beneficiaries.

19 “(D) NOTICE.—An exemption under this
 20 paragraph may not be granted unless—

21 “(i) notice of the proposed exemption
 22 is published in the Federal Register;

23 “(ii) interested persons are given an
 24 opportunity to present views; and

1 “(iii) the Secretary of Labor affords
 2 an opportunity for a hearing and makes a
 3 determination on the record with respect to
 4 the respective requirements of clauses (i),
 5 (ii), and (iii) of subparagraph (C).

6 “(E) ERISA EXEMPTIONS.—Notwith-
 7 standing subparagraph (D), the Secretary of
 8 Labor may determine that an exemption grant-
 9 ed for any class of fiduciaries or transactions
 10 under section 408(a) of the Employee Retire-
 11 ment Income Security Act of 1974 (29 U.S.C.
 12 1108(a)) shall, upon publication of notice in the
 13 Federal Register under this subparagraph, con-
 14 stitute an exemption for purposes of the provi-
 15 sions of paragraph (2).

16 “(d) BENEFITS AND COMPENSATION.—This section
 17 does not prohibit any fiduciary from—

18 “(1) receiving any benefit that the fiduciary is
 19 entitled to receive under this title as a beneficiary of
 20 the Personal Retirement Savings Fund;

21 “(2) receiving any reasonable compensation au-
 22 thorized by this title for services rendered, or for re-
 23 imbursement of expenses properly and actually in-
 24 curred, in the performance of the fiduciary’s duties
 25 under this title; or

1 “(3) serving as a fiduciary in addition to being
 2 an officer, employee, agent, or other representative
 3 of a party in interest.

4 “(e) BREACH OF DUTIES.—

5 “(1) PERSONAL LIABILITY.—

6 “(A) IN GENERAL.—Any fiduciary that
 7 breaches the responsibilities, duties, and obliga-
 8 tions set out in subsection (b) or violates sub-
 9 section (c) shall be personally liable to the Per-
 10 sonal Retirement Savings Fund for any losses
 11 to such Fund resulting from each such breach
 12 or violation and to restore to such Fund any
 13 profits made by the fiduciary through use of as-
 14 sets of such Fund by the fiduciary, and shall be
 15 subject to such other equitable or remedial re-
 16 lief as a court considers appropriate, except as
 17 provided in paragraphs (3) and (4). A fiduciary
 18 may be removed for a breach referred to in the
 19 preceding sentence.

20 “(B) CIVIL PENALTIES.—The Secretary of
 21 Labor may assess a civil penalty against a
 22 party in interest with respect to each trans-
 23 action that is engaged in by the party in inter-
 24 est and is prohibited by subsection (c). The
 25 amount of such penalty shall be equal to 5 per-

cent of the amount involved in each such transaction (as defined in section 4975(f)(4) of the Internal Revenue Code of 1986) for each year or part thereof during which the prohibited transaction continues, except that, if the transaction is not corrected (in such manner as the Secretary of Labor shall prescribe by regulation consistent with section 4975(f)(5) of such Code) within 90 days after the date the Secretary of Labor transmits notice to the party in interest (or such longer period as the Secretary of Labor may permit), such penalty may be in an amount not more than 100 percent of the amount involved.

“(C) ACTS COMMITTED PRIOR TO OR AFTER SERVICE.—A fiduciary shall not be liable under subparagraph (A) with respect to a breach of fiduciary duty under subsection (b) committed before becoming a fiduciary or after ceasing to be a fiduciary.

“(D) JOINT AND SEVERAL LIABILITY.—A fiduciary shall be jointly and severally liable under subparagraph (A) for a breach of fiduciary duty under subsection (b) by another fiduciary only if—

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

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

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

16 “(E) REGULATIONS.—The Secretary of
 17 Labor shall prescribe, in regulations, procedures
 18 for allocating fiduciary responsibilities among
 19 fiduciaries, including investment managers. Any
 20 fiduciary who, pursuant to such procedures, al-
 21 locates to a person or persons any fiduciary re-
 22 sponsibility shall not be liable for an act or
 23 omission of such person or persons unless—

24 “(i) such fiduciary violated subsection
 25 (b) with respect to the allocation, with re-

1 spect to the implementation of the proce-
 2 dures prescribed by the Secretary of Labor
 3 (or the Board), or in continuing such allo-
 4 cation; or

5 “(ii) such fiduciary would otherwise
 6 be liable in accordance with subparagraph
 7 (D).

8 “(2) REQUIREMENTS FOR CIVIL ACTIONS.—

9 “(A) IN GENERAL.—No civil action may be
 10 maintained against any fiduciary with respect
 11 to the responsibilities, liabilities, and penalties
 12 authorized or provided for in this section except
 13 in accordance with subparagraphs (B) and (C).

14 “(B) JURISDICTION.—A civil action may
 15 be brought in the district courts of the United
 16 States—

17 “(i) by the Secretary of Labor against
 18 any fiduciary other than a Member of the
 19 Board or the Executive Director of the
 20 Board—

21 “(I) to determine and enforce a
 22 liability under paragraph (1)(A);

23 “(II) to collect any civil penalty
 24 under paragraph (1)(B);

1 “(III) to enjoin any act or prac-
2 tice that violates any provision of sub-
3 section (b) or (c);

4 “(IV) to obtain any other appro-
5 priate equitable relief to redress a vio-
6 lation of any such provision; or

7 “(V) to enjoin any act or practice
8 that violates subsection (g)(3) or (i) of
9 section 101;

10 “(ii) by any beneficiary or fiduciary
11 against any fiduciary—

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

15 “(II) to obtain any other appro-
16 priate equitable relief to redress a vio-
17 lation of any such provision; or

18 “(III) to enjoin any act or prac-
19 tice that violates subsection (g)(3) or
20 (i) of section 101; or

21 “(iii) by any beneficiary or fiduciary—

22 “(I) to recover benefits of the
23 beneficiary under the provisions of
24 this title, to enforce any right of the
25 beneficiary under such provisions, or

1 to clarify any such right to future
2 benefits under such provisions; or

3 “(II) to enforce any claim other-
4 wise cognizable under sections
5 1346(b) and 2671 through 2680 of
6 title 28, United States Code, provided
7 that the remedy against the United
8 States provided by sections 1346(b)
9 and 2672 of such title for damages
10 for injury or loss of property caused
11 by the negligent or wrongful act or
12 omission of any fiduciary while acting
13 within the scope of his duties or em-
14 ployment shall be exclusive of any
15 other civil action or proceeding by the
16 beneficiary for recovery of money by
17 reason of the same subject matter
18 against the fiduciary (or the estate of
19 such fiduciary) whose act or omission
20 gave rise to such action or proceeding,
21 whether or not such action or proceed-
22 ing is based on an alleged violation of
23 subsection (b) or (c).

24 “(C) LEGAL REPRESENTATION.—

1 “(i) DEPARTMENT OF LABOR.—In all
2 civil actions under subparagraph (B)(i), at-
3 torneys appointed by the Secretary of
4 Labor may represent the Secretary (except
5 as provided in section 518(a) of title 28,
6 United States Code), however all such liti-
7 gation shall be subject to the direction and
8 control of the Attorney General.

9 “(ii) DEPARTMENT OF JUSTICE.—The
10 Attorney General shall defend any civil ac-
11 tion or proceeding brought in any court
12 against any fiduciary referred to in sub-
13 paragraph (B)(iii)(II) (or the estate of
14 such fiduciary) for any such injury. Any fi-
15 duciary against whom such a civil action or
16 proceeding is brought shall deliver, within
17 such time after date of service or knowl-
18 edge of service as determined by the Attor-
19 ney General, all process served upon such
20 fiduciary (or an attested copy thereof) to
21 the Executive Director of the Board, who
22 shall promptly furnish copies of the plead-
23 ing and process to the Attorney General
24 and the United States Attorney for the dis-

1 trict wherein the action or proceeding is
2 brought.

3 “(iii) REMOVAL.—Upon certification
4 by the Attorney General that a fiduciary
5 described in subparagraph (B)(iii)(II) was
6 acting in the scope of such fiduciary’s du-
7 ties or employment as a fiduciary at the
8 time of the occurrence or omission out of
9 which the action arose, any such civil ac-
10 tion or proceeding commenced in a State
11 court shall be—

12 “(I) removed without bond at
13 any time before trial by the Attorney
14 General to the district court of the
15 United States for the district and di-
16 vision in which it is pending; and

17 “(II) deemed a tort action
18 brought against the United States
19 under the provisions of title 28,
20 United States Code, and all references
21 thereto.

22 “(iv) SETTLEMENT.—The Attorney
23 General may compromise or settle any
24 claim asserted in such civil action or pro-
25 ceeding in the manner provided in section

1 2677 of title 28, United States Code, and
2 with the same effect. To the extent section
3 2672 of such title provides that persons
4 other than the Attorney General or his
5 designee may compromise and settle
6 claims, and that payment of such claims
7 may be made from agency appropriations,
8 such provisions shall not apply to claims
9 based upon an alleged violation of sub-
10 section (b) or (c).

11 “(v) NONAPPLICATION OF PROVI-
12 SION.—For the purposes of subparagraph
13 (B)(iii)(II), the provisions of section
14 2680(h) of title 28, United States Code,
15 shall not apply to any claim based upon an
16 alleged violation of subsection (b) or (c).

17 “(vi) PAYMENT.—Notwithstanding
18 sections 1346(b) and 2671 through 2680
19 of title 28, United States Code, whenever
20 an award, compromise, or settlement is
21 made under such sections upon any claim
22 based upon an alleged violation of sub-
23 section (b) or (c), payment of such award,
24 compromise, or settlement shall be made to
25 the appropriate account within the Per-

sonal Retirement Savings Fund, or where there is no such appropriate account, to the beneficiary bringing the claim.

“(vii) LIMITATION ON DEFINITION OF FIDUCIARY.—For purposes of subparagraph (B)(iii)(II), fiduciary includes only the members of the Board and the Board’s Executive Director.

“(D) LIMITATION ON RECOVERY.—Any relief awarded against a member of the Board or the Executive Director of the Board in a civil action authorized by subparagraph (B) may not include any monetary damages or any other recovery of money.

“(E) LIMITATION ON COMMENCEMENT OF ACTIONS.—An action may not be commenced under subparagraph (B) with respect to a fiduciary’s breach of any responsibility, duty, or obligation under subsection (b) or a violation of subsection (c) after the earlier of—

“(i) 6 years after—

“(I) the date of the last action that constituted a part of the breach or violation; or

1 “(II) in the case of an omission,
2 the latest date on which the fiduciary
3 could have cured the breach or viola-
4 tion; or

5 “(ii) 3 years after the earliest date on
6 which the plaintiff had actual knowledge of
7 the breach or violation, except that, in the
8 case of fraud or concealment, such action
9 may be commenced not later than 6 years
10 after the date of discovery of such breach
11 or violation.

12 “(F) EXCLUSIVE JURISDICTION.—

13 “(i) IN GENERAL.—The district courts
14 of the United States shall have exclusive
15 jurisdiction of civil actions under this sub-
16 section.

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

1 district where a defendant resides or may
2 be found.

3 “(G) FILING OF COMPLAINT.—

4 “(i) SERVICE.—A copy of the com-
5 plaint or petition filed in any action
6 brought under this subsection (other than
7 by the Secretary of Labor) shall be served
8 on the Executive Director, the Secretary of
9 Labor, and the Secretary of the Treasury
10 by certified mail.

11 “(ii) INTERVENTION.—Any officer re-
12 ferred to in clause (i) of this subparagraph
13 shall have the right in his or her discretion
14 to intervene in any action. If the Secretary
15 of Labor brings an action under this para-
16 graph on behalf of a beneficiary, the officer
17 shall notify the Executive Director and the
18 Secretary of the Treasury.

19 “(f) REGULATIONS.—The Secretary of Labor may
20 prescribe regulations to carry out this section.

21 “(g) AUDITS.—

22 “(1) IN GENERAL.—The Secretary of Labor
23 shall establish a program to carry out audits to de-
24 termine the level of compliance with the require-

1 ments of this section relating to fiduciary respon-
 2 sibilities and prohibited activities of fiduciaries.

3 “(2) CONDUCT.—An audit under this sub-
 4 section may be conducted by the Secretary of Labor,
 5 by contract with a qualified nongovernmental organi-
 6 zation, or in cooperation with the Comptroller Gen-
 7 eral of the United States, as the Secretary considers
 8 appropriate.

9 **“SEC. 132. BONDING.**

10 “(a) REQUIREMENT.—

11 “(1) IN GENERAL.—Except as provided in para-
 12 graph (2), each fiduciary and each person who han-
 13 dles funds or property of the Personal Retirement
 14 Savings Fund shall be bonded as provided in this
 15 section.

16 “(2) EXCEPTIONS.—

17 “(A) IN GENERAL.—Bond shall not be re-
 18 quired of a fiduciary (or of any officer or em-
 19 ployee of such fiduciary) if such fiduciary—

20 “(i) is a corporation organized and
 21 doing business under the laws of the
 22 United States or of any State;

23 “(ii) is authorized under such laws to
 24 exercise trust powers or to conduct an in-
 25 surance business;

1 “(iii) is subject to supervision or ex-
 2 amination by Federal or State authority;
 3 and

4 “(iv) has at all times a combined cap-
 5 ital and surplus in excess of such minimum
 6 amount (not less than \$1,000,000) as the
 7 Secretary of Labor prescribes in regula-
 8 tions.

9 “(B) BANKS OR OTHER FINANCIAL INSTI-
 10 TUTIONS.—If—

11 “(i) a bank or other financial institu-
 12 tion would, but for this subparagraph, not
 13 be required to be bonded under this section
 14 by reason of the application of the excep-
 15 tion provided in subparagraph (A);

16 “(ii) the bank or financial institution
 17 is authorized to exercise trust powers; and

18 “(iii) the deposits of the bank or fi-
 19 nancial institution are not insured by the
 20 Federal Deposit Insurance Corporation,
 21 such exception shall apply to such bank or fi-
 22 nancial institution only if the bank or institu-
 23 tion meets bonding requirements under State
 24 law which the Secretary of Labor determines

1 are at least equivalent to those imposed on
2 banks by Federal law.

3 “(b) AMOUNT OF BOND.—

4 “(1) MINIMUM REQUIREMENTS.—The Secretary
5 of Labor shall prescribe the amount of a bond under
6 this section at the beginning of each fiscal year. Ex-
7 cept as otherwise provided in this paragraph, such
8 amount shall not be less than 10 percent of the
9 amount of funds handled. In no case shall such bond
10 be less than \$1,000 nor more than \$500,000, except
11 that the Secretary of Labor, after due notice and op-
12 portunity for hearing to all interested parties, and
13 other consideration of the record, may prescribe an
14 amount in excess of \$500,000.

15 “(2) DETERMINATION OF AMOUNT OF
16 FUNDS.—For the purpose of prescribing the amount
17 of a bond under paragraph (1), the amount of funds
18 handled shall be determined by reference to the
19 amount of the funds handled by the person, group,
20 or class to be covered by such bond or by their pred-
21 ecessor or predecessors, if any, during the preceding
22 fiscal year, or to the amount of funds to be handled
23 during the current fiscal year by such person, group,
24 or class, estimated as provided in regulations pre-
25 scribed by the Secretary of Labor.

1 “(c) OTHER REQUIREMENTS.—A bond required by
2 subsection (a)—

3 “(1) shall include such terms and conditions as
4 the Secretary of Labor considers necessary to pro-
5 tect the Personal Retirement Savings Fund against
6 loss by reason of acts of fraud or dishonesty on the
7 part of the bonded person directly or through con-
8 nivance with others;

9 “(2) shall have as surety thereon a corporate
10 surety company that is an acceptable surety on Fed-
11 eral bonds under authority granted by the Secretary
12 of the Treasury pursuant to sections 9304 through
13 9308 of title 31, United States Code; and

14 “(3) shall be in a form or of a type approved
15 by the Secretary of Labor, including individual
16 bonds or schedule or blanket forms of bonds that
17 cover a group or class.

18 “(d) PROHIBITIONS.—

19 “(1) BOND REQUIRED.—It shall be unlawful for
20 any person to whom subsection (a) applies, to re-
21 ceive, handle, disburse, or otherwise exercise custody
22 or control of any of the funds or other property of
23 the Personal Retirement Savings Fund without
24 being bonded as required by this section.

1 “(2) MEET ALL REQUIREMENTS.—It shall be
 2 unlawful for any fiduciary, or any other person hav-
 3 ing authority to direct the performance of functions
 4 described in paragraph (1), to permit any such func-
 5 tion to be performed by any person to whom sub-
 6 section (a) applies unless such person has met the
 7 requirements of such subsection.

8 “(e) NONAPPLICATION OF OTHER LAWS.—Notwith-
 9 standing any other provision of law, any person who is
 10 required to be bonded as provided in subsection (a) shall
 11 be exempt from any other provision of law that, but for
 12 this subsection, would require such person to be bonded
 13 for the handling of the funds or other property of the Per-
 14 sonal Retirement Savings Fund.

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

20 **“SEC. 133. INVESTIGATIVE AUTHORITY.**

21 “Any authority available to the Secretary of Labor
 22 under section 504 of the Employee Retirement Income Se-
 23 curity Act of 1974 (29 U.S.C. 1134) is hereby made avail-
 24 able to the Secretary of Labor, and any officer designated
 25 by the Secretary of Labor, to determine whether any per-

1 son has violated, or is about to violate, any provision of
2 section 131 or 132.

3 **“SEC. 134. EXCULPATORY PROVISIONS; INSURANCE.**

4 “(a) NONAPPLICATION OF EXCULPATORY PROVI-
5 SIONS.—Any provision in an agreement or instrument that
6 purports to relieve a fiduciary from responsibility or liabil-
7 ity for any responsibility, obligation, or duty under this
8 title shall be void.

9 “(b) LIABILITY INSURANCE.—Sums credited to the
10 Personal Retirement Savings Fund may be used at the
11 discretion of the Executive Director to purchase insurance
12 to cover the potential liability of persons who serve in a
13 fiduciary capacity with respect to the Personal Retirement
14 Savings Fund, without regard to whether a policy of insur-
15 ance permits recourse by the insurer against the fiduciary
16 in the case of a breach of a fiduciary obligation.”.

17 **SEC. 5. REPORT AND RECOMMENDATIONS REGARDING IN-**
18 **VESTMENT OPTIONS.**

19 Not later than 36 months after the date of enactment
20 of this Act, the Personal Retirement Accounts Board es-
21 tablished under section 101 of the Social Security Act (as
22 amended by section 4 of this Act) shall submit to the ap-
23 propriate committees of Congress a report regarding rec-
24 ommendations for additional investment options for indi-
25 viduals with personal retirement accounts established

1 under title I of the Social Security Act (as so amended).

2 The report shall include recommendations regarding—

3 (1) whether the Board should make available to
4 such account holders investment funds managed by
5 qualified professional asset managers (as defined in
6 section 121(a)(7) of the Social Security Act (as
7 amended by section 4 of this Act));

8 (2) whether such account holders should be per-
9 mitted to transfer all or a portion of the balance in
10 their personal retirement accounts to a new form of
11 individual retirement account that would be man-
12 aged by qualified professional asset managers (as so
13 defined);

14 (3) whether the Board should provide an alter-
15 native for the investment of a personal retirement
16 account for which no investment election is made to
17 investment in the Government Securities Investment
18 Fund provided for under section 121(c)(2) of the
19 Social Security Act (as so amended); and

20 (4) whether the Board should offer diversified
21 investment selections for such account holders that
22 takes into consideration the age of the individual.

○