

Gulf of Alaska" (Docket 971208297-8054-02) received on July 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC-6282. A communication from the Deputy Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Scallop Fishery Off Alaska; Amendment 3" (RIN0648-AJ51) received on July 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC-6283. A communication from the Deputy Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Groupers Fishery Off the Southern Atlantic States; Golden Crab Fishery off the Southern Atlantic States; Amendment 8; OMB Control Numbers" (RIN0648-AG27) received on July 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC-6284. A communication from the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Gear Allocation of Shortraker and Rougheye Rockfish in the Aleutian Islands Subarea" (RIN0648-AJ99) received on July 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC-6285. A communication from the Acting Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Summer Flounder Commercial Quota Harvested for Massachusetts" (Docket 971015246-7293-02) received on July 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC-6286. A communication from the Deputy Associate Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule regarding revisions to the NASA Federal Acquisition Regulation Supplement received on July 28, 1998; to the Committee on Commerce, Science, and Transportation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CHAFEE, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 1222: A bill to catalyze restoration of estuary habitat through more efficient financing of projects and enhanced coordination of Federal and non-Federal restoration programs, and for other purposes (Rept. No. 105-273).

By Mr. HATCH, from the Committee on the Judiciary: Report to accompany the bill (S. 512) to amendment chapter 47 of title 18, United States Code, relating to identify fraud, and for other purposes (Rept. No. 105-2740).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

S. 1978: A bill to designate the auditorium located within the Sandia Technology Transfer Center in Albuquerque, New Mexico, as the "Steve Schiff Auditorium" (Rept. No. 105-274).

By Mr. CHAFEE, from the Committee on Environment and Public Works, without amendment.

H.R. 3453: A bill to designate the Federal Building and Post Office located at 100 East B Street, Casper, Wyoming, as the "Dick Cheney Federal Building."

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committees were submitted:

By Mr. MCCAIN, from the Committee on Commerce, Science, and Transportation:

Diane D. Blair, of Arkansas, to be a Member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring January 31, 2004. (Reappointment)

Kelley S. Coyner, of Virginia, to be Administrator of the Research and Special Programs Administration, Department of Transportation.

Ritajeon Hartung Butterworth, of Washington, to be a Member of the Board of Directors of the Corporation for Public Broadcasting for a term expiring January 31, 2004. (Reappointment)

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources:

Bill Richardson, of New Mexico, to be Secretary of Energy.

(The above nomination was reported with the recommendation that he be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. AKAKA:

S. 2368. A bill to permit the use of the proceeds from Senate recycling efforts for the expenses and activities of the Senate Employees Child Care Center; to the Committee on Rules and Administration.

By Mr. ROTH:

S. 2369. A bill to amend the Social Security Act to establish the Personal Retirement Accounts Program; to the Committee on Finance.

By Mr. CLELAND:

S. 2370. A bill to designate the facility of the United States Postal Service located at Tall Timbers Village Square, United States Highway 19 South, in Thomasville, Georgia, as the "Lieutenant Henry O. Flipper Station"; to the Committee on Governmental Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. THURMOND:

S. Res. 259. A resolution designating the week beginning September 20, 1998, as "National Historically Black Colleges and Universities Week," and for other purposes; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. AKAKA:

S. 2368. A bill to permit the use of the proceeds from Senate recycling efforts for the expenses and activities of the Senate Employees Child Care Center; to the Committee on Rules and Administration.

SENATE DAY CARE RECYCLING FUNDING SUPPORT ACT

• Mr. AKAKA. Mr. President. I am pleased to introduce legislation today that would enable the Senate Employees Child Care Center (SECCC) to receive the proceeds from Senate recycling or other waste prevention programs. Specifically, my bill would authorize the Architect of the Capitol to receive funds from Senate recycling programs and make those funds available for the activities and expenses of the SECCC, subject to the regular appropriations process. The effect of this measure will be to provide the SECCC with a potentially steady, if relatively small, source of income as well as create an additional incentive for the Senate to support recycling efforts.

Mr. President, the SECCC was established as a non-profit 501(c)(3) corporation in 1984 by parents who work for the Senate. Today, the center provides full and part-time care for about 50 children between the ages of 18 months and 5 years. The SECCC is open to the entire community, with priority enrollment reserved for children of Senate employees. The SECCC is accredited by the National Academy of Early Childhood Programs, a division of the National Association of Young Children. It first received such recognition in 1989, the first day care center in Washington, D.C., to be so distinguished.

The SECCC is governed by an independent board composed of the parents of children enrolled at the center. A cooperative relationship exists between the SECCC and the Senate. The parents, through the board, are responsible for oversight of SECCC operations; the Senate provides critical support, such as providing for the facility itself and utilities. The Senate is providing the funds for the construction of a new center, near the Daniel Webster Senate Page Residence, which is expected to be ready for occupancy within a few months.

The Senate currently does not appropriate annual funds for the operation of the SECCC. The SECCC's annual operating budget of approximately \$535,000 is funded entirely through tuition payments and the center's fundraising efforts. These funds are used to defray costs associated with tuition assistance (scholarships), teacher salaries, curriculum materials, meals, general office expenses, advertising and marketing, accounting and audit fees, professional development, and unemployment and liability insurance.

The recycling program for House and Senate buildings is operated by the Office Waste Recycling Program (OWRP),

under the Architect of the Capitol. Through OWRP, the Architect is responsible for collecting and bundling recycled materials; a private contractor, under contract to the General Services Administration, serves as the recycling facility. However, the Architect does not have the authority to receive funds from recycling or other so-called "enterprise" activities; thus, all recycling funds from both the Senate and House are deposited in the General Fund of the U.S. Treasury.

The OWRP started as pilot project in 1990-91 and was expanded on a voluntary participation basis to all offices in the House and Senate office buildings in 1992. The program is based on the concept of source separation, an approach that includes the separation, collection, and removal of high and mixed grade paper as well as aluminum cans, glass, and certain types of plastic materials. The effectiveness of the program depends on the active participation of Congressional staff, who are needed to separate recyclables into designated receptacles, and the custodial and labor forces, who must ensure that materials remain segregated during the collection process.

The program has been a success in certain respects. For example, it has allowed Congress to avoid paying costs associated with hauling away and landfilling recycled materials, since these costs are borne by the recycling contractor. According to the OWRP, in FY97, the House Office Buildings recycled 2,247 tons of paper, cans, glass, and plastic, avoiding landfill/haulaway costs of \$173,000. For the same year, the Senate Office Buildings collected 898 tons, for a savings of \$69,146.

However, actual revenues generated by the program have been nominal. The Senate recycling program, for example, brought in a relatively paltry \$2,694 in FY96 and \$2,364 in FY97, the last full year for which we have data, while collecting an estimated 1,021 tons and 886 tons of paper waste. The reason for this seemingly low return is that the contractor is not required to pay for materials that are contaminated by a certain percentage. With respect to paper, which constitutes the bulk of Senate recyclables, contamination refers to mixing with other recyclable (e.g., newspapers with high grade paper) or with foreign matter such as food. Apparently, Senate and House recycled materials have relatively high contamination levels, a fact which may be attributed in part to an absence of incentives on the part of Congressional offices to recycle.

This is in sharp contrast to the situation with federal agencies, which beginning in 1991 have had the authority to retain recycling proceeds, either to defray the cost of maintaining recycling programs and/or direct them to programs that directly benefit employees, including day care activities. In my opinion, it is no accident that while the level of participation in recycling programs varies from agency to agen-

cy, overall the Executive Branch agencies' recycling programs are much more robust than Congress'.

Mr. President, my bill would authorize the Architect of the Capitol to receive Senate recycling funds and make them available for the payment of SECCC activities and expenses, through the annual appropriations process. This would achieve two mutually beneficial goals: first, to provide a small but important supplement to the day care center's operating budget; second, to improve the efficiency of the Senate recycling program by establishing an internal incentive to recycle.

Thank you, Mr. President. I urge my colleagues to support this legislation. I ask unanimous consent that a copy of my bill as well as a letter supporting the legislation from the SECCC's board of directors be printed in the RECORD.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

S. 2369

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Senate Day Care Center Recycling Funding Support Act".

SEC. 2. RECYCLING FUNDING FOR THE SENATE DAY CARE CENTER.

(a) IN GENERAL.—The Architect of the Capitol shall receive all funds collected through Senate recycling or waste prevention programs and deposit those amounts in an account in the Treasury which shall be available for payment of the activities and expenses of the Senate Employees Child Care Center.

(b) SUBJECT TO APPROPRIATIONS.—Amounts deposited in the account referred to in subsection (a) shall be available to the extent provided in appropriations Acts.

SENATE EMPLOYEES'
CHILD CARE CENTER,
Washington, DC, July 27, 1998.

Hon. DANIEL K. AKAKA,
Hart Senate Building,
Washington, DC.

DEAR SENATOR AKAKA: The Board of Directors of the Senate Employees Child Care Center (SECCC) strongly supports legislation that would allow the SECCC to receive the proceeds from the Senate recycling and other waste prevention programs to support the operating and other expenses of the SECCC. This support was demonstrated in a recent unanimous vote during our board meeting on July 15, 1998.

We have been advised that the receipts from the Senate recycling program total several thousand dollars a year. Should the legislation pass, we anticipate applying the funds to our tuition assistance program, which helps families who may not be able to afford the full cost of enrollment at the center. The funds from the recycling program would represent a substantial portion of the tuition assistance budget and would provide an annual contribution, allowing us to maintain the tuition assistance program over the long-term.

Thank you for any assistance you could provide in authorizing the SECCC to receive Senate recycling funds.

Sincerely,

HEIDI BONNER,
President,
SECCC Board of Directors.●

By Mr. ROTH:

S. 2369. A bill to amend the Social Security Act to establish the Personal Retirement Accounts Program; to the Committee on Finance.

THE PERSONAL RETIREMENT ACCOUNTS ACT OF 1998

Mr. ROTH. Mr. President, I rise today to introduce the Personal Retirement Accounts Act of 1998. This legislation has a simple but powerful purpose—to establish personal retirement accounts for working Americans. In my view, these accounts promise to give working Americans not only a more secure retirement future but a new stake in the Nation's economic growth. And, as I will describe, these accounts may provide the model for future Social Security reform.

A few years ago personal retirement accounts were an exotic and even controversial concept. But no longer! In 1996, a majority of a Clinton Administration task force on Social Security reform endorsed the concept. Today, personal retirement accounts are a bipartisan, even mainstream, idea. In March, Senator MOYNIHAN, the ranking Democrat on the Finance Committee, and Senator KERREY introduced legislation that would create retirement accounts as part of an overhaul of Social Security.

And earlier this month, bipartisan, bicameral Social Security reform legislation that included personal retirement accounts was introduced by Senators GREGG and BREAUX in the Senate, and by Congressmen KOLBE and STENHOLM in the House. Their bill is based on the unanimous recommendations of a privately sponsored National Commission on Retirement Policy—comprised of 24 lawmakers, economists, pension experts, and businessmen.

Yesterday, at a Social Security town hall meeting in Albuquerque, NM, the President said he had an "open mind" on personal retirement accounts. And in testimony before the Senate Finance Committee last week, a top Clinton Administration official offered several guidelines for designing such accounts, including efficiency, such as low administrative costs, and protection of the progressive benefits. My bill meets these guidelines.

Mr. President, let me explain why retirement accounts find so much support—not only in Congress but among the American people. With even conservative investment, such accounts have the potential to provide Americans with a substantial retirement nest egg, and an estate they can leave to their children and grandchildren.

Creating these accounts would also give the majority of Americans who do not own any investment assets a new stake in America's economic growth—because that growth will be returned directly to their benefit. More Americans will be the owners of capital—not just workers.

Creating these accounts may encourage Americans to save more. Today, Americans save less than people in almost every other country. But personal

retirement accounts will demonstrate to all Americans the magic of compound interest as even small savings grow significantly over time.

Lastly, creating these accounts will help Americans to better prepare for retirement. According to the CRS, 60 percent of Americans are not actively participating in a retirement program other than Social Security. A recent survey by the Employee Benefits Research Institute found that only about 45 percent of working Americans have tried to calculate how much they will need for retirement. It is my belief that retirement accounts will prompt Americans—particularly baby boomers—to think more about retirement planning.

Mr. President, let me describe a few of the features of my bill. First, the program would run for 5 years, from 1999 to 2003, utilizing half the budget surplus projected by CBO earlier this month.

Each year, every working American who earned a minimum of 4 quarters of Social Security coverage—about \$2,900 in 1999—would receive a deposit in his or her personal retirement account. About 127 million Americans would receive a deposit in 1999.

The formula for sharing the surplus among the accounts is progressive. Each eligible individual would receive a minimum amount of \$250 per year, plus an additional amount based on how much they paid in payroll taxes.

Over the life of the program, a minimum wage earner—someone earning \$12,400 this year—would receive about \$1,720. That amount is equal to a 34-percent rebate of his or her payroll taxes.

An average wage earner—earning \$27,600—would receive about \$2,300—equal to a 20-percent rebate of payroll taxes. And an individual who paid the maximum Social Security tax would get \$3,840, a 14-percent rebate of payroll taxes. These figures do not include any investment income or deductions for the costs of running the program.

Account holders would have three investment choices—prudent choices that balance risk and return. The three choices are a stock index fund—a mutual fund that reflects the overall performance of the stock market; a fund that invests in corporate bonds and other fixed income securities; and a fund that invests in U.S. Treasury bonds.

However, my legislation also provides for a study of additional investment options—of other types of investment funds and investment managers.

An account holder would become eligible for benefits when he or she signs up for Social Security. An individual could choose between an annuity or annual payments based on life expectancy.

The bill also provides a number of features to ensure the program is properly run. First, the program would be neither on budget nor off budget. Instead, the program would be outside

the Federal budget. The money in the program could be used for no other purpose than retirement benefits and the program's operating expenses.

Second, the program would be supervised by a new, independent Personal Retirement Board, with members appointed by the President and Congressional leaders and subject to Senate confirmation. Board officials would be fiduciaries, and required by law to act only in the best financial interests of beneficiaries.

Lastly, the stock funds would be managed by private sector investment managers. To insulate companies represented in the stock funds from politics, no board official or other government employee would be eligible to vote company proxies—only the investment managers.

Mr. President, the design of this personal retirement accounts plan follows a proven model—the Federal Thrift Savings Plan. Back in 1983, when I was Chairman of the Governmental Affairs Committee, the retirement program for Federal employees needed to be revamped. One of the new elements we added was the Federal Thrift Savings Plan—a defined contribution employee benefit plan—that has been a great success.

Mr. President, many Americans will undoubtedly ask, “What size nest egg might grow in my personal retirement account?” According to an analysis done by Social Security's actuaries, someone earning the minimum wage would have an account worth about \$2,150 in 2004, assuming a 7.5 percent interest rate. For the average wage earner, the account would be worth about \$2,870, and for the individual paying the maximum Social Security tax, about \$4,770.

Of course, over the long term, accounts can grow significantly. For the minimum wage person, after 40 years—in 2039—his or her account would be worth about \$27,000; the average wage earner would have \$36,000; and the person paying the maximum payroll tax, \$60,000.

Mr. President, some might ask, “Why start with personal retirement accounts rather than proposing comprehensive Social Security reform?” Indeed, my bill will not affect the current Social Security program. Personal retirement accounts are an exciting concept, but still a big job, requiring careful work by the Finance Committee.

And unlike many other Social Security reform proposals, retirement accounts have broad support. So let's get these accounts up and running, proven and tested, while Congress considers carefully protecting and preserving Social Security for the long term.

Mr. President, in closing, let me add that personal retirement accounts have another big promise. Such accounts—if later made a part of Social Security—may help restore the confidence of the American people in Social Security. Polls show that Social Security is

among the most popular of government programs, deservedly so. But many Americans—particularly young Americans—appear to have lost confidence in the program. They believe that there will be no benefits for them when they retire. Personal retirement accounts will provide the accountability and assurances that Americans are asking for.

I encourage my colleagues to take a careful look at my bill, and I invite members to co-sponsor it.

Mr. President, I ask for unanimous consent that a copy of this bill be printed into the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2369

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Personal Retirement Accounts Act of 1998”.

(b) TABLE OF CONTENTS.—The table of contents of 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.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The social security program is the foundation of retirement income for most Americans, and solving the financial problems of the social security program is a vital national priority and essential for the retirement security of today's working Americans and their families.

(2) There is a growing bipartisan consensus that personal retirement accounts should be an important feature of social security reform.

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

(4) Personal retirement accounts would give the majority of Americans who do not own any investment assets a new stake in the economic growth of America.

(5) Personal retirement accounts would demonstrate the value of savings and the magic of compound interest to all Americans. Today, Americans save less than people in almost every other country.

(6) Personal retirement accounts would help Americans to better prepare for retirement generally. According to the Congressional Research Service, 60 percent of Americans are not actively participating in a retirement plan other than social security, although social security was never intended to be the sole source of retirement income.

(7) The Federal budget will register a surplus of \$583,000,000,000 over fiscal years 1998 through 2003, offering a unique opportunity to begin a permanent solution to social security's financing.

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

SEC. 3. SAVE SOCIAL SECURITY FIRST TRUST FUND.

(a) **ESTABLISHMENT OF TRUST FUND.**—There is established in the Treasury of the United States a trust fund to be known as the "Save Social Security First Trust Fund" (in this section referred to as the "Trust Fund"), consisting of such amounts as are appropriated or credited to the Trust Fund as provided in this section.

(b) **APPROPRIATION TO TRUST FUND.**—There is appropriated to the Trust Fund, out of any sums in the Treasury not otherwise appropriated, an amount equal to \$31,500,000,000 for fiscal year 1998 and \$40,000,000,000 for fiscal year 1999. The Secretary of the Treasury shall transfer such amounts to the Trust Fund not later than—

(1) September 30, 1998, in the case of the amount appropriated for fiscal year 1998; and

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

(c) **INVESTMENT OF TRUST FUND.**—The Secretary of the Treasury shall invest the Trust Fund in public debt securities with suitable maturities and bearing interest at rates determined by the Secretary, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. The income on such investments shall be credited to and form a part of the Trust Fund.

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

(e) **DISSOLUTION OF TRUST FUND.**—On the date of the transfer of all amounts in the Trust Fund to the Personal Retirement Savings Fund in accordance with section

111(b)(1) of the Social Security Act, the Trust Fund established under this section shall be dissolved.

SEC. 4. ESTABLISHMENT OF PERSONAL RETIREMENT ACCOUNTS PROGRAM.

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

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

(2) by inserting before title II the following:

"TITLE I—PERSONAL RETIREMENT ACCOUNTS PROGRAM

"Subtitle A—Management of the Personal Retirement Accounts Program

"SEC. 101. PERSONAL RETIREMENT ACCOUNTS BOARD.

"(a) **ESTABLISHMENT.**—There is established in the Executive Branch of the Government a Personal Retirement Accounts Board (in this title referred to as the "Board").

"(b) **COMPOSITION.**—The Board shall be composed of—

"(1) 3 members appointed by the President, of whom 1 shall be designated by the President as Chairman; and

"(2) 2 members appointed by the President, of whom—

"(A) 1 shall be appointed by the President after taking into consideration the recommendation made by the Speaker of the House of Representatives in consultation with the Minority Leader of the House of Representatives; and

"(B) 1 shall be appointed by the President after taking into consideration the recommendation made by the Majority Leader of the Senate in consultation with the Minority Leader of the Senate.

"(c) **ADVICE AND CONSENT.**—Appointments under subsection (b) shall be made by and with the advice and consent of the Senate.

"(d) **MEMBERSHIP REQUIREMENTS.**—Members of the Board shall have substantial experience, training, and expertise in the management of financial investments and pension benefit plans.

"(e) **LENGTH OF APPOINTMENTS.**—

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

"(A) the Chairman shall be appointed for a term of 4 years;

"(B) the members appointed under subsection (b)(2) shall be appointed for terms of 3 years; and

"(C) the remaining members shall be appointed for terms of 2 years.

"(2) **VACANCIES.**—

"(A) **IN GENERAL.**—A vacancy on the Board shall be filled in the manner in which the original appointment was made and shall be subject to any conditions that applied with respect to the original appointment.

"(B) **COMPLETION OF TERM.**—An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced.

"(3) **EXPIRATION.**—The term of any member shall not expire before the date on which the member's successor takes office.

"(f) **DUTIES.**—The Board shall—

"(1) administer the program established under this title;

"(2) establish policies for the investment and management of the Personal Retirement Savings Fund, including policies applicable to the outside entities and qualified professional asset managers with responsibility for managing the investment options described in section 121(b), that shall provide for—

"(A) prudent investments suitable for accumulating funds for payment of retirement income; and

"(B) low administrative costs.

"(3) review the performance of investments made for the Personal Retirement Savings Fund;

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

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

"(g) **ADMINISTRATIVE PROVISIONS.**—

"(1) **IN GENERAL.**—The Board may—

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

"(B) except as provided in paragraph (2), direct the Executive Director to take such action as the Board considers appropriate to carry out the provisions of this title and the policies of the Board;

"(C) upon the concurring votes of 4 members, remove the Executive Director from office for good cause shown; and

"(D) take such other actions as may be necessary to carry out the functions of the Board.

"(2) **MEETINGS.**—The Board shall meet—

"(A) not less than once during each month; and

"(B) at additional times at the call of the Chairman.

"(3) **EXERCISE OF POWERS.**—

"(A) **IN GENERAL.**—Except as provided in paragraph (1)(C) and section 102(a)(1), the Board shall perform the functions and exercise the powers of the Board on a majority vote of a quorum of the Board. Three members of the Board shall constitute a quorum for the transaction of business.

"(B) **VACANCIES.**—A vacancy on the Board shall not impair the authority of a quorum of the Board to perform the functions and exercise the powers of the Board.

"(4) **LIMITATION ON INVESTMENTS.**—Except in the case of investments required by section 121 to be invested in securities of the Government, the Board may not direct the Executive Director to invest or to cause to be invested any sums in the Personal Retirement Savings Fund in a specific asset or to dispose of or cause to be disposed of any specific asset of such Fund.

"(h) **COMPENSATION.**—

"(1) **IN GENERAL.**—Each member of the Board who is not an officer or employee of the Federal Government shall be compensated at the daily rate of basic pay for level IV of the Executive Schedule for each day during which such member is engaged in performing a function of the Board.

"(2) **EXPENSES.**—A member of the Board shall be paid travel, per diem, and other necessary expenses under subchapter I of chapter 57 of title 5, United States Code, while traveling away from such member's home or regular place of business in the performance of the duties of the Board.

"(3) **SOURCE OF FUNDS.**—Payments authorized under this subsection shall be paid from the Personal Retirement Savings Fund.

"(i) **DISCHARGE OF RESPONSIBILITIES.**—The members of the Board shall discharge their responsibilities solely in the interest of account holders and beneficiaries under this title.

"(j) **ANNUAL INDEPENDENT AUDIT.**—The Board shall annually engage an independent qualified public accountant to audit the activities of the Board.

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

"(l) **SUBMISSION OF LEGISLATIVE RECOMMENDATIONS.**—The Board may submit to the President, and, at the same time, shall submit to each House of Congress, any legislative recommendations of the Board relating to any of its functions under this title or any other provision of law.

"SEC. 102. EXECUTIVE DIRECTOR.

"(a) APPOINTMENT OF EXECUTIVE DIRECTOR.—

"(1) IN GENERAL.—The Board shall appoint, without regard to the provisions of law governing appointments in the competitive service, an Executive Director by action agreed to by a majority of the members of the Board.

"(2) REQUIREMENTS.—The Executive Director shall have substantial experience, training, and expertise in the management of financial investments and pension benefit plans.

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

"(1) carry out the policies established by the Board;

"(2) invest and manage the Personal Retirement Savings Fund in accordance with the investment policies and other policies established by the Board;

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

"(4) administer the provisions of this title; and

"(5) prescribe such regulations (other than regulations relating to fiduciary responsibilities) as may be necessary for the administration of this title.

"(c) ADMINISTRATIVE AUTHORITY.—The Executive Director may—

"(1) prescribe such regulations as may be necessary to carry out the responsibilities of the Executive Director under this section, other than regulations relating to fiduciary responsibilities;

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

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

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

"(5) make such payments out of sums in the Personal Retirement Savings Fund as the Executive Director determines are necessary to carry out the provisions of this title and the policies of the Board;

"(6) pay the compensation, per diem, and travel expenses of individuals appointed under paragraphs (2), (3), and (7) from the Personal Retirement Savings Fund;

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

"(8) except as otherwise expressly prohibited by law or the policies of the Board, delegate any of the Executive Director's functions to such employees under the Board as the Executive Director may designate and authorize such successive redelegations of such functions to such employees under the Board as the Executive Director may consider to be necessary or appropriate; and

"(9) take such other actions as are appropriate to carry out the functions of the Executive Director.

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

"SEC. 111. APPROPRIATIONS; ANNUAL TRANSFERS TO THE PERSONAL RETIREMENT SAVINGS FUND.

"(a) APPROPRIATIONS.—Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated

for the purpose of making the transfers required under subsection (b)—

"(1) for fiscal year 2000, \$40,000,000,000;

"(2) for fiscal year 2001, \$43,000,000,000;

"(3) for fiscal year 2002, \$70,000,000,000; and

"(4) for fiscal year 2003, \$68,000,000,000.

"(b) TRANSFERS TO THE PERSONAL RETIREMENT SAVINGS FUND.—

"(1) TRANSFER OF AMOUNTS IN THE SAVE SOCIAL SECURITY FIRST TRUST FUND.—Not later than October 1, 1999, the Secretary of the Treasury shall transfer the obligations held by the Secretary for the Save Social Security First Trust Fund established under section 3 of the Personal Retirement Accounts Act of 1998, and the amount standing to the credit of such Trust Fund on the books of the Treasury on such date to the Personal Retirement Savings Fund established under section 112.

"(2) TRANSFER OF APPROPRIATED AMOUNTS.—With respect to a fiscal year for which an amount is appropriated under subsection (a), the Secretary of the Treasury shall transfer to the Personal Retirement Savings Fund established under section 112 the amount appropriated under subsection (a) for that fiscal year not later than—

"(A) September 30, 2000, in the case of the amount appropriated under such subsection for fiscal year 2000;

"(B) September 30, 2001, in the case of the amount appropriated under such subsection for fiscal year 2001;

"(C) September 30, 2002, in the case of the amount appropriated under such subsection for fiscal year 2002; and

"(D) September 30, 2003, in the case of the amount appropriated under such subsection for fiscal year 2003.

"SEC. 112. PERSONAL RETIREMENT SAVINGS FUND.

"(a) ESTABLISHMENT OF TRUST FUND.—There is established in the Treasury of the United States a Personal Retirement Savings Fund, consisting of all amounts deposited by the Secretary of the Treasury in accordance with section 111(b), increased by the total net earnings from investments of sums in the Personal Retirement Savings Fund or reduced by the total net losses from investments of the Fund, and reduced by the total amount of payments made from the Fund (including payments for administrative expenses).

"(b) AVAILABILITY.—The sums in the Personal Retirement Savings Fund are appropriated and shall remain available without fiscal year limitation—

"(1) to invest under section 121;

"(2) to pay benefits or purchase annuity contracts under this title;

"(3) to pay the administrative expenses of the Board;

"(4) to make distributions in accordance with sections 123 and 124; and

"(5) to purchase insurance as provided in section 134(b)(2).

"(c) LIMITATIONS ON USE OF FUNDS.—

"(1) IN GENERAL.—Sums in the Personal Retirement Savings Fund credited to the account of an individual may not be used for, or diverted to, purposes other than for the exclusive benefit of the account holder or the account holder's beneficiaries under this title.

"(2) ASSIGNMENTS.—Except as provided in paragraph (3), sums in the Personal Retirement Savings Fund may not be assigned or alienated and are not subject to execution, levy, attachment, garnishment, or other legal process.

"(3) SUPPORT OBLIGATIONS.—Moneys due or payable from the Personal Retirement Savings Fund to any account holder shall be subject to legal process for the enforcement of the account holder's legal obligations to provide child support or make alimony pay-

ments as provided in section 459 or for the enforcement of a court order or other similar process in the nature of a garnishment for the enforcement of a judgment rendered against the account holder for physically, sexually, or emotionally abusing a child.

"(d) PAYMENT OF ADMINISTRATIVE EXPENSES.—Administrative expenses incurred to carry out this title shall be paid out of net earnings in the Personal Retirement Savings Fund in conjunction with the allocation of investment earnings and losses under section 122(a)(2).

"(e) LIMITATION.—The sums in the Personal Retirement Savings Fund shall not be appropriated for any purpose other than the purposes specified in this section and may not be used for any other purpose.

"(f) FUNDS HELD IN TRUST.—All sums transferred to the Personal Retirement Savings Fund for the benefit of individuals eligible for personal retirement accounts, and all net earnings in such Fund attributable to investment of such sums, are held in such Fund in trust for such individuals.

"SEC. 113. PERSONAL RETIREMENT ACCOUNTS.

"(a) ESTABLISHMENT OF INDIVIDUAL ACCOUNTS.—

"(1) FISCAL YEAR 2000.—Not later than October 1, 1999, the Executive Director shall establish and maintain a personal retirement savings account for any individual who has worked 4 qualifying quarters of coverage, as determined under title II, in calendar year 1998.

"(2) SUBSEQUENT FISCAL YEARS.—Not later than October 1 of each fiscal year beginning after fiscal year 2000, the Executive Director shall establish and maintain a personal retirement savings account for any individual who has worked 4 qualifying quarters of coverage, as determined under title II, in the calendar year ending on December 31 of the preceding fiscal year and for whom the Executive Director has not previously established an account.

"(b) ALLOCATION OF FUNDS TO ACCOUNTS.—Beginning on October 1, 1999, and annually thereafter, the Executive Director shall allocate to each personal retirement savings account maintained on such date for the benefit of an individual who has worked 4 qualifying quarters of coverage, as determined under title II, in the calendar year ending on December 31 of the preceding fiscal year the amount determined under subsection (c).

"(c) AMOUNT DETERMINED.—

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

"(A) \$250, plus

"(B) the amount determined under paragraph (2) (if any).

"(2) PRO RATA SHARE OF REMAINDER.—For any fiscal year, the amount determined under this paragraph with respect to the account of each individual maintained on October 1 of such fiscal year is equal to the product of—

"(A) the remainder of the Fund Balance for such fiscal year, determined after the application of paragraph (1)(A); and

"(B) the ratio determined under paragraph (3).

"(3) RATIO DETERMINED.—The ratio determined under this paragraph is the ratio, expressed as a percentage, of—

"(A) the excess of—

"(i) the sum of—

"(I) the total tax imposed on the individual's wages under section 3101(a) of the Internal Revenue Code of 1986 (relating to taxes on employees) for the taxable year ending in the preceding fiscal year, plus

"(II) 50 percent of the total tax imposed on the individual's self-employment income under section 1401(a) of such Code (relating

to tax on self-employment income) for such taxable year, over

“(ii) \$250; to

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

“(4) DEFINITION OF FUND BALANCE.—In this subsection, the term ‘Fund balance’ means the net earnings and net losses from the investment of the sums transferred to the Personal Retirement Savings Fund in accordance with section 111(b), reduced by the appropriate share of the administrative expenses paid out of the net earnings under section 112(d), as determined by the Executive Director.

“Subtitle C—Investment and Administration of Personal Retirement Accounts

“SEC. 121. INVESTMENT OF PERSONAL RETIREMENT ACCOUNTS.

“(a) DEFINITIONS.—In this section—

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

“(2) the term ‘equity capital’ means common and preferred stock, surplus, undivided profits, contingency reserves, and other capital reserves;

“(3) the term ‘Fixed Income Investment Fund’ means the Fixed Income Investment Fund established under subsection (b)(1)(B);

“(4) the term ‘Government Securities Investment Fund’ means the Government Securities Investment Fund established under subsection (b)(1)(A);

“(5) the term ‘net worth’ means capital, paid-in and contributed surplus, unassigned surplus, contingency reserves, group contingency reserves, and special reserves;

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

“(7) the term ‘qualified professional asset manager’ means—

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

“(i) has the power to manage, acquire, or dispose of assets of a plan; 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 in excess of \$1,000,000;

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

“(i) has applied for and been granted trust powers to manage, acquire, or dispose of assets of a plan by a State or Government 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, total client assets under its management and control in excess of \$50,000,000, and—

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

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

“(I) a person (as defined in paragraph (9)) who directly or indirectly, through 1 or more intermediaries, controls, is controlled by, or is under common control with the investment adviser and who has, on the last day of the person's latest fiscal year ending before the date of a determination for the purpose of this clause, shareholder's or partner's equity in an amount which, when added to the amount of the shareholder's or partner's equity of the investment adviser on such day, exceeds \$750,000;

“(II) a qualified professional asset manager described in subparagraph (A), (B), or (C); or

“(III) a broker or dealer registered under section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o) that has, on the last day of the broker's or dealer's latest fiscal year ending before the date of a determination for the purpose of this clause, net worth in excess of \$750,000;

“(8) the term ‘shareholder's or partner's equity’, as used in paragraph (7)(D) with respect to an investment adviser or a person (as defined in paragraph (9)) who is affiliated with the investment adviser in a manner described in clause (ii)(I) of such paragraph, means the equity shown in the most recent balance sheet prepared for such investment adviser or affiliated person, in accordance with generally accepted accounting principles, within 2 years before the date on which the investment adviser's status as a qualified professional asset manager is determined for the purposes of this section; and

“(9) the term ‘person’ means an individual, partnership, joint venture, corporation, mutual company, joint-stock company, trust, estate, unincorporated organization, association, or labor organization.

“(b) ESTABLISHMENT OF INVESTMENT OPERATIONS.—

“(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);

“(2) ADDITIONAL FUNDS.—The Board may approve diversified, indexed funds that are not described in paragraph (1) and that meet such other criteria as the Board may establish for inclusion among the investment choices offered to account holders under this title.

“(3) COMMON STOCK FUND REQUIREMENTS.—

“(A) SELECTION OF INDEX.—The Board shall select an index which is a commonly recognized index comprised of common stock the aggregate market value of which is a reasonably complete representation of the United States equity markets.

“(B) INVESTMENT IN PORTFOLIO.—The Common Stock Index Investment Fund shall be invested in a portfolio designed to replicate

the performance of the index selected under subparagraph (A). The portfolio shall be designed such that, to the extent practicable, the percentage of the Common Stock Index Investment Fund that is invested in each stock is the same as the percentage determined by dividing the aggregate market value of all shares of that stock by the aggregate market value of all shares of all stocks included in such index.

“(c) INVESTMENT OF FUND.—

“(1) IN GENERAL.—The Executive Director shall invest the sums available in the Personal Retirement Savings Fund for investment as provided in elections made under subsection (d).

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

“(d) ELECTION OF INVESTMENTS.—

“(1) TWICE YEARLY.—At least twice each year, an account holder may elect the investment funds referred to in subsection (b) into which the sums in the Personal Retirement Savings Fund credited to such individual's account are to be invested or reinvested.

“(2) REGULATIONS.—An election may be made under paragraph (1) only in accordance with regulations prescribed by the Executive Director and within such period as the Executive Director shall provide in such regulations.

“(e) GOVERNMENT SECURITIES INVESTMENT FUND.—

“(1) AUTHORIZATION TO ISSUE CERTAIN OBLIGATIONS.—The Secretary of the Treasury is authorized to issue special interest-bearing obligations of the United States for purchase by the Personal Retirement Savings Fund for the Government Securities Investment Fund.

“(2) REQUIREMENTS.—

“(A) IN GENERAL.—Obligations issued for the purpose of this subsection shall have maturities fixed with due regard to the needs of such Fund as determined by the Executive Director, and shall bear interest at a rate equal to the average market yield (computed by the Secretary of the Treasury on the basis of market quotations as of the end of the calendar month next preceding the date of issue of such obligations) on all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable earlier than 4 years after the end of such calendar month.

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

“(f) LIMITATION ON VOTING RIGHTS.—The Board, other Government agencies, the Executive Director, and an account holder may not exercise voting rights associated with the ownership of securities by the Personal Retirement Savings Fund.

“SEC. 122. ACCOUNTING AND INFORMATION.

“(a) BALANCE OF PERSONAL RETIREMENT ACCOUNTS.—

“(1) IN GENERAL.—The balance in an individual's account established under section 113 at any time is the excess of—

“(A) the sum of—

“(i) all allocations made to the account under section 113(b); and

“(ii) the total amount of the allocations made to and reductions made in the account pursuant to paragraph (2), over

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

“(2) ALLOCATION OF INVESTMENT EARNINGS AND LOSSES.—Pursuant to regulations prescribed by the Executive Director, the Executive Director shall allocate to each account an amount equal to a pro rata share of the net earnings and net losses from each investment of sums in the Personal Retirement Savings Fund attributable to sums credited to such account, reduced by an appropriate share of the administrative expenses paid out of the net earnings under section 112(d), as determined by the Executive Director.

“(b) ANNUAL, INDEPENDENT AUDITS.—

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

“(2) INDEPENDENT ACCOUNTANT.—The Executive Director shall annually engage, on behalf of all account holders under this title, an independent qualified public accountant, who shall conduct an examination of all accounts and other books and records maintained in the administration of this title as the public accountant considers necessary to enable the public accountant to make the determination required by paragraph (3). The examination shall be conducted in accordance with generally accepted auditing standards and shall involve such tests of the accounts, books, and records as the public accountant considers necessary.

“(3) DETERMINATION REQUIRED.—The public accountant conducting an examination under paragraph (2) shall determine whether the accounts, books, and records referred to in such paragraph have been maintained in conformity with generally accepted accounting principles applied on a basis consistent with the manner in which such principles were applied during the examination conducted under such paragraph during the preceding year. The public accountant shall transmit to the Board a report on his examination, including his determination under this paragraph.

“(4) RELIANCE ON ACTUARIAL MATTER.—In making a determination under paragraph (3), a public accountant may rely on the correctness of any actuarial matter certified by an enrolled actuary if the public accountant states his reliance in the report transmitted to the Board under such paragraph.

“(c) STATEMENTS.—

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

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

“(B) a summary description of the investment options under section 121 covering, and an evaluation of, each such option the 5-year period preceding the date as of which such evaluation is made.

“(2) TIMING.—Information under this subsection shall be provided at least 30 calendar days before the beginning of each election period under section 121(d), and in a manner designed to facilitate informed decision-making with respect to elections under section 121.

“(d) ACKNOWLEDGEMENT.—Each account holder who elects to invest in the Common Stock Index Investment Fund, the Fixed Income Investment Fund, or any other Fund designated by the Board shall sign an acknowledgement prescribed by the Executive Director which states that the account holder understands that an investment in such Fund is made at the account holder’s risk, that the account holder is not protected by the Government against any loss on such investment, and that a return on such investment is not guaranteed by the Government.

“SEC. 123. DISTRIBUTION OF BENEFITS.

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

“(b) FORM OF DISTRIBUTION.—

“(1) IN GENERAL.—Subject to section 125, an individual is entitled and may elect to withdraw from the Personal Retirement Savings Fund the balance of the individual’s personal retirement savings account as—

“(A) an annuity; or

“(B) substantially equal payments to be made over a period not greater than the life expectancy of the individual or the joint life expectancies of the individual and the individual’s designated beneficiary.

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

“(c) CHANGE OF ELECTION OF DISTRIBUTION.—

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

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

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

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

“(a) METHODS OF PAYMENT.—

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

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

“(A) a method that provides for the payment of a monthly annuity only to an annuitant during the life of the annuitant;

“(B) a method that provides for the payment of a monthly annuity to an annuitant for the joint lives of the annuitant and the spouse of the annuitant and an appropriate monthly annuity to the one of them who survives the other of them for the life of the survivor;

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

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

“(E) a method which provides for the payment of a monthly annuity—

“(i) to the annuitant for the joint lives of the annuitant and an individual who is des-

ignated by the annuitant under regulations prescribed by the Executive Director and—

“(I) is a former spouse of the annuitant; or

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

“(ii) to the one of them who survives the other of them for the life of the survivor.

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

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

“(d) PURCHASE REQUIREMENTS.—

“(1) TIMING.—Not earlier than 90 days (or such shorter period as the Executive Director may by regulation prescribe) before an annuity is to commence under this title, the Executive Director shall expend the balance in the annuitant’s account to purchase an annuity contract from any entity which, in the normal course of its business, sells and provides annuities.

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

“(3) ADDITIONAL TERMS AND CONDITIONS.—An annuity contract purchased under paragraph (1) shall include such terms and conditions as the Executive Director requires for the protection of the annuitant.

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

“(e) NONAPPLICATION OF STATE TAX.—

“(1) IN GENERAL.—No tax, fee, or other monetary payment may be imposed or collected by any State, the District of Columbia, or the Commonwealth of Puerto Rico, or by any political subdivision or other governmental authority thereof, on, or with respect to, any amount paid to purchase an annuity contract under this section.

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

“SEC. 125. PROTECTIONS FOR SPOUSES AND FORMER SPOUSES.

“(a) LIMITATION ON WITHDRAWALS.—

“(1) APPLICATION OF REQUIREMENTS.—

“(A) IN GENERAL.—A married account holder may withdraw all or part of a personal retirement savings account under section 123 or change a withdrawal election only if the account holder satisfies the requirements of subparagraph (B).

“(B) JOINT WRITTEN WAIVER.—An account holder may make an election or change referred to in subparagraph (A) if the account holder and the account holder’s spouse jointly waive, by written election, any right that the spouse may have to a survivor annuity

with respect to such account holder under section 124 or subsection (b).

“(2) EXCEPTION.—Paragraph (1) shall not apply to an election or change of election by an account holder who establishes to the satisfaction of the Executive Director (at the time of the election or change and in accordance with regulations prescribed by the Executive Director)—

“(A) that the spouse's whereabouts cannot be determined; or

“(B) that, due to exceptional circumstances, requiring the spouse's waiver would otherwise be inappropriate.

“(b) METHOD OF ANNUITY.—

“(1) SURVIVOR ANNUITIES.—Notwithstanding any election under section 124(b), the method described in section 124(a)(2)(B) (or, if more than one form of such method is available, the form that the Board determines to be the one that for a surviving spouse a survivor annuity most closely approximating the annuity of a surviving spouse under section 8442 of title 5, United States Code) shall be deemed the applicable method under section 124(b) in the case of an account holder who is married on the date on which an annuity contract is purchased to provide for the account holder's annuity under this title.

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

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

“(B) the account holder waives such method, in writing, after establishing to the satisfaction of the Executive Director that circumstances described under subparagraph (A) or (B) of subsection (a)(2) make the requirement of a joint waiver inappropriate.

“(c) NONAPPLICATION OF ELECTION.—

“(1) IN GENERAL.—An election or change of election shall not be effective under this title to the extent that the election, change, or transfer conflicts with any court decree, order, or agreement described in paragraph (2).

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

“(A) the decree, order, or agreement expressly relates to any portion of the balance in the individual's personal retirement savings account; and

“(B) notice of the decree, order, or agreement was received by the Executive Director before—

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

“(ii) in the case of an annuity, the date on which an annuity contract is purchased to provide for the annuity,

in accordance with the election, change, or contribution referred to in paragraph (1).

“(3) 2 OR MORE CASES.—The Executive Director shall prescribe regulations under which this subsection shall be applied in any case in which the Executive Director receives 2 or more decrees, orders, or agreements referred to in paragraph (1).

“(d) PROCEDURES FOR WAIVERS.—Waivers and notifications required by this section and waivers of the requirements for such waivers and notifications (as authorized by this section) may be made only in accordance with procedures prescribed by the Executive Director.

“(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.

“SEC. 126. DESIGNATION OF BENEFICIARY; ORDER OF PRECEDENCE.

“(a) DESIGNATION OF BENEFICIARIES.—Under regulations prescribed by the Board, an account holder may designate 1 or more beneficiaries under this section.

“(b) PAYMENTS.—

“(1) IN GENERAL.—Benefits authorized to be paid to an account holder to individuals surviving the account holder and alive at the time of distribution shall be made according to the following:

“(A) First, to the beneficiary or beneficiaries designated by the account holder in a signed and witnessed writing received by the Executive Director before the death of such account holder. For this purpose, a designation, change, or cancellation of beneficiary in a will or other document not so executed and filed has no force or effect.

“(B) Second, if there is no designated beneficiary, to the widow or widower of the account holder.

“(C) Third, if none of the above, to the child or children of the account holder and descendants of deceased children by representation.

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

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

“(F) Sixth, if none of the above, to such other next of kin of the account holder as the Board determines to be entitled under the laws of the domicile of the account holder at the date of death of the account holder.

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

“(A) the individual receiving the payment; and

“(B) any other individual.

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

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

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

“(2) Second, if there is no executor or administrator, payment may be made, after 30 days from the date of death of the survivor, to such next of kin of the survivor as the Board determines to be entitled under the laws of the domicile of the survivor at the date of death.

“SEC. 127. TAX TREATMENT OF THE PERSONAL RETIREMENT SAVINGS FUND.

“For purposes of the Internal Revenue Code of 1986—

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

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

“(3) allocations made to an account holder's personal retirement savings account shall not be treated as distributed or made available to the account holder.

“SEC. 128. ADMINISTRATIVE PROVISIONS.

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

“(b) WRITTEN REQUIREMENTS.—Any election, change of election, or modification of a deferred annuity commencement date made under this title shall be in writing and shall be filed with the Executive Director in accordance with regulations prescribed by the Executive Director.

“Subtitle D—Beneficiary Protections

“SEC. 131. FIDUCIARY RESPONSIBILITIES; LIABILITY AND PENALTIES.

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

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

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

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

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

“(ii) if the security is not traded on such a national securities exchange, a price not less favorable to the Personal Retirement Savings Fund than the offering price for the security as established by the current bid and asked prices quoted by persons independent of the issuer and of any party in interest; and

“(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 as determined in good faith by a fiduciary or fiduciaries in accordance with regulations prescribed by the Secretary of Labor;

“(3) the term ‘fiduciary’ means—

“(A) a member of the Board;

“(B) the Executive Director;

“(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; and

“(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

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

“(A) any fiduciary;

“(B) any counsel to a person who is a fiduciary, with respect to the actions of such person as a fiduciary;

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

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

“(E) a spouse, sibling, ancestor, lineal descendant, or spouse of a lineal descendant of a person described in subparagraph (A), (B), or (D);

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

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

“(ii) the capital interest or profits interest of such partnership; or

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

is owned directly or indirectly, or held by a person described in subparagraph (A), (B), or (D);

“(G) an official (including a director) of, or an individual employed by, a person described in subparagraph (A), (B), (D), or (F), or an individual having powers or responsibilities similar to those of such an official;

“(H) a holder (directly or indirectly) of at least 10 percent of the shares in a person described in any subparagraph referred to in subparagraph (G); and

“(I) a person who, directly or indirectly, is at least a 10 percent partner or joint venturer (measured in capital or profits) in a person described in any subparagraph referred to in subparagraph (G).

“(b) DISCHARGE OF RESPONSIBILITIES.—

“(1) IN GENERAL.—To the extent not inconsistent with the provisions of this title and the policies prescribed by the Board, a fiduciary shall discharge his or her responsibilities with respect to the Personal Retirement Savings Fund or any applicable portion thereof solely in the interest of the account holders and beneficiaries of such Fund and—

“(A) for the exclusive purpose of—

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

“(ii) defraying reasonable expenses of administering the Personal Retirement Savings Fund or applicable portions thereof;

“(B) with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent individual acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like objectives; and

“(C) to the extent permitted by section 121, by diversifying the investments of the Personal Retirement Savings Fund or applicable portions thereof so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.

“(2) LIMITATION ON OWNERSHIP.—No fiduciary may maintain the indicia of ownership of any assets of the Personal Retirement Savings Fund outside the jurisdiction of the district courts of the United States.

“(c) LIMITATIONS ON TRANSACTIONS.—

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

“(A) A transfer of any assets of the Personal Retirement Savings Fund to any person the fiduciary knows or should know to be a party in interest or the use of such assets by any such person.

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

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

“(2) OTHER PROHIBITIONS.—Notwithstanding paragraph (1), a fiduciary with respect to the Personal Retirement Savings Fund shall not—

“(A) deal with any assets of the Personal Retirement Savings Fund in his or her own interest or for his or her own account;

“(B) act, in an individual capacity or any other capacity, in any transaction involving the Personal Retirement Savings Fund on behalf of a party, or representing a party, whose interests are adverse to the interests of the Personal Retirement Savings Fund or the interests of the account holders and beneficiaries of such Fund; or

“(C) receive any consideration for his or her own personal account from any party dealing with sums credited to the Personal Retirement Savings Fund in connection with a transaction involving assets of the Personal Retirement Savings Fund.

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

“(A) IN GENERAL.—The Secretary of Labor may, in accordance with procedures which the Secretary shall by regulation prescribe, grant a conditional or unconditional exemption of any fiduciary or transaction, or class of fiduciaries or transactions, from all or part of the restrictions imposed by paragraph (2).

“(B) NONAPPLICATION TO OTHER APPLICABLE PROVISIONS.—An exemption granted under this paragraph shall not relieve a fiduciary from any other applicable provision of this title.

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

“(i) administratively feasible;

“(ii) in the interests of the Personal Retirement Savings Fund and of the account holders and beneficiaries of such Fund; and

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

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

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

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

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

“(E) ERISA EXEMPTIONS.—Notwithstanding subparagraph (D), the Secretary of Labor may determine that an exemption granted for any class of fiduciaries or transactions under section 408(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(a)) shall, upon publication of notice in the Federal Register under this subparagraph, constitute an exemption for purposes of the provisions of paragraph (2).

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

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

“(2) receiving any reasonable compensation authorized by this title for services rendered, or for reimbursement of expenses properly and actually incurred, in the performance of the fiduciary's duties under this title; or

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

“(e) BREACH OF DUTIES.—

“(1) PERSONAL LIABILITY.—

“(A) IN GENERAL.—Any fiduciary that breaches the responsibilities, duties, and obligations set out in subsection (b) or violates subsection (c) shall be personally liable to the Personal Retirement Savings Fund for any losses to such Fund resulting from each such breach or violation and to restore to such Fund any profits made by the fiduciary through use of assets of such Fund by the fiduciary, and shall be subject to such other equitable or remedial relief as a court considers appropriate, except as provided in paragraphs (3) and (4). A fiduciary may be removed for a breach referred to in the preceding sentence.

“(B) CIVIL PENALTIES.—The Secretary of Labor may assess a civil penalty against a party in interest with respect to each transaction that is engaged in by the party in interest and is prohibited by subsection (c). The amount of such penalty shall be equal to 5 percent 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—

“(i) the fiduciary participates knowingly in, or knowingly undertakes to conceal, an act or omission of such other fiduciary, knowing such act or omission is such a breach;

“(ii) by the fiduciary's failure to comply with subsection (b) in the administration of the fiduciary's specific responsibilities that give rise to the fiduciary status, the fiduciary has enabled such other fiduciary to commit such a breach; or

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

“(E) REGULATIONS.—The Secretary of Labor shall prescribe, in regulations, procedures for allocating fiduciary responsibilities among fiduciaries, including investment managers. Any fiduciary who, pursuant to such procedures, allocates to a person or persons any fiduciary responsibility shall not be liable for an act or omission of such person or persons unless—

“(i) such fiduciary violated subsection (b) with respect to the allocation, with respect to the implementation of the procedures prescribed by the Secretary of Labor (or the Board), or in continuing such allocation; or

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

“(2) REQUIREMENTS FOR CIVIL ACTIONS.—

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

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

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

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

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

“(III) to enjoin any act or practice that violates any provision of subsection (b) or (c);

“(IV) to obtain any other appropriate equitable relief to redress a violation of any such provision; or

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

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

“(I) to enjoin any act or practice that violates any provision of subsection (b) or (c);

“(II) to obtain any other appropriate equitable relief to redress a violation of any such provision; or

“(III) to enjoin any act or practice that violates subsection (g)(3) or (i) of section 101; or

“(iii) by any beneficiary or fiduciary—

“(I) to recover benefits of the beneficiary under the provisions of this title, to enforce any right of the beneficiary under such provisions, or to clarify any such right to future benefits under such provisions; or

“(II) to enforce any claim otherwise cognizable under sections 1346(b) and 2671 through 2680 of title 28, United States Code, provided that the remedy against the United States provided by sections 1346(b) and 2672 of such title for damages for injury or loss of property caused by the negligent or wrongful act or omission of any fiduciary while acting within the scope of his duties or employment shall be exclusive of any other civil action or proceeding by the beneficiary for recovery of money by reason of the same subject matter against the fiduciary (or the estate of such fiduciary) whose act or omission gave rise to such action or proceeding, whether or not such action or proceeding is based on an alleged violation of subsection (b) or (c).

“(C) LEGAL REPRESENTATION.—

“(i) DEPARTMENT OF LABOR.—In all civil actions under subparagraph (B)(i), attorneys appointed by the Secretary of Labor may represent the Secretary (except as provided in section 518(a) of title 28, United States Code), however all such litigation shall be subject to the direction and control of the Attorney General.

“(ii) DEPARTMENT OF JUSTICE.—The Attorney General shall defend any civil action or proceeding brought in any court against any fiduciary referred to in subparagraph (B)(iii)(II) (or the estate of such fiduciary) for any such injury. Any fiduciary against whom such a civil action or proceeding is brought shall deliver, within such time after date of service or knowledge of service as determined by the Attorney General, all process served upon such fiduciary (or an attested copy thereof) to the Executive Director of the Board, who shall promptly furnish copies of the pleading and process to the Attorney General and the United States Attorney for the district wherein the action or proceeding is brought.

“(iii) REMOVAL.—Upon certification by the Attorney General that a fiduciary described in subparagraph (B)(iii)(II) was acting in the scope of such fiduciary's duties or employment as a fiduciary at the time of the occurrence or omission out of which the action arose, any such civil action or proceeding commenced in a State court shall be—

“(I) removed without bond at any time before trial by the Attorney General to the district court of the United States for the district and division in which it is pending; and

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

“(iv) SETTLEMENT.—The Attorney General may compromise or settle any claim asserted in such civil action or proceeding in the manner provided in section 2677 of title 28, United States Code, and with the same effect. To the extent section 2672 of such title provides that persons other than the Attorney General or his designee may compromise and settle claims, and that payment of such claims may be made from agency appropriations, such provisions shall not apply to claims based upon an alleged violation of subsection (b) or (c).

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

“(vi) PAYMENT.—Notwithstanding sections 1346(b) and 2671 through 2680 of title 28, United States Code, whenever an award, compromise, or settlement is made under such sections upon any claim based upon an alleged violation of subsection (b) or (c), payment of such award, compromise, or settlement shall be made to the appropriate account within the Personal 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

“(II) in the case of an omission, the latest date on which the fiduciary could have cured the breach or violation; or

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

“(F) EXCLUSIVE JURISDICTION.—

“(i) IN GENERAL.—The district courts of the United States shall have exclusive jurisdiction of civil actions under this subsection.

“(ii) VENUE.—An action under this subsection may be brought in the District Court of the United States for the District of Columbia or a district court of the United States in the district where the breach alleged in the complaint or petition filed in the action took place or in the district where a defendant resides or may be found. Process may be served in any other district where a defendant resides or may be found.

“(G) FILING OF COMPLAINT.—

“(i) SERVICE.—A copy of the complaint or petition filed in any action brought under this subsection (other than by the Secretary of Labor) shall be served on the Executive Director, the Secretary of Labor, and the Secretary of the Treasury by certified mail.

“(ii) INTERVENTION.—Any officer referred to in clause (i) of this subparagraph shall have the right in his or her discretion to intervene in any action. If the Secretary of Labor brings an action under this paragraph on behalf of a beneficiary, the officer shall notify the Executive Director and the Secretary of the Treasury.

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

“(g) AUDITS.—

“(1) IN GENERAL.—The Secretary of Labor shall establish a program to carry out audits to determine the level of compliance with the requirements of this section relating to fiduciary responsibilities and prohibited activities of fiduciaries.

“(2) CONDUCT.—An audit under this subsection may be conducted by the Secretary of Labor, by contract with a qualified non-governmental organization, or in cooperation with the Comptroller General of the United States, as the Secretary considers appropriate.

“SEC. 132. BONDING.

“(a) REQUIREMENT.—

“(1) IN GENERAL.—Except as provided in paragraph (2), each fiduciary and each person who handles funds or property of the Personal Retirement Savings Fund shall be bonded as provided in this section.

“(2) EXCEPTIONS.—

“(A) IN GENERAL.—Bond shall not be required of a fiduciary (or of any officer or employee of such fiduciary) if such fiduciary—

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

“(ii) is authorized under such laws to exercise trust powers or to conduct an insurance business;

“(iii) is subject to supervision or examination by Federal or State authority; and

“(iv) has at all times a combined capital and surplus in excess of such minimum amount (not less than \$1,000,000) as the Secretary of Labor prescribes in regulations.

“(B) BANKS OR OTHER FINANCIAL INSTITUTIONS.—If—

“(i) a bank or other financial institution would, but for this subparagraph, not be required to be bonded under this section by reason of the application of the exception provided in subparagraph (A);

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

“(iii) the deposits of the bank or financial institution are not insured by the Federal Deposit Insurance Corporation,

such exception shall apply to such bank or financial institution only if the bank or institution meets bonding requirements under State law which the Secretary of Labor determines are at least equivalent to those imposed on banks by Federal law.

“(b) AMOUNT OF BOND.—

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

“(2) DETERMINATION OF AMOUNT OF FUNDS.—For the purpose of prescribing the amount of a bond under paragraph (1), the amount of funds handled shall be determined by reference to the amount of the funds handled by the person, group, or class to be covered by such bond or by their predecessor or predecessors, if any, during the preceding fiscal year, or to the amount of funds to be handled during the current fiscal year by such person, group, or class, estimated as provided in regulations prescribed by the Secretary of Labor.

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

“(1) shall include such terms and conditions as the Secretary of Labor considers necessary to protect the Personal Retirement Savings Fund against loss by reason of acts of fraud or dishonesty on the part of the bonded person directly or through connivance with others;

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

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

“(d) PROHIBITIONS.—

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

“(2) MEET ALL REQUIREMENTS.—It shall be unlawful for any fiduciary, or any other person having authority to direct the performance of functions described in paragraph (1), to permit any such function to be performed by any person to whom subsection (a) applies unless such person has met the requirements of such subsection.

“(e) NONAPPLICATION OF OTHER LAWS.—Notwithstanding any other provision of law, any person who is required to be bonded as provided in subsection (a) shall be exempt from any other provision of law that, but for this subsection, would require such person to be bonded for the handling of the funds or other property of the Personal Retirement Savings Fund.

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

“SEC. 133. INVESTIGATIVE AUTHORITY.

Any authority available to the Secretary of Labor under section 504 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1134) is hereby made available to the Secretary of Labor, and any officer designated by the Secretary of Labor, to determine whether any person has violated, or is about to violate, any provision of section 131 or 132.

“SEC. 134. EXCULPATORY PROVISIONS; INSURANCE.

“(a) NONAPPLICATION OF EXCULPATORY PROVISIONS.—Any provision in an agreement or instrument that purports to relieve a fiduciary from responsibility or liability for any responsibility, obligation, or duty under this title shall be void.

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

SEC. 5. REPORT AND RECOMMENDATIONS REGARDING INVESTMENT OPTIONS.

Not later than 36 months after the date of enactment of this Act, the Personal Retirement Accounts Board established under section 101 of the Social Security Act (as amended by section 4 of this Act) shall submit to the appropriate committees of Congress a report regarding recommendations for additional investment options for individuals with personal retirement accounts established under title I of the Social Security Act (as so amended). The report shall include recommendations regarding—

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

(2) whether such account holders should be permitted to transfer all or a portion of the balance in their personal retirement accounts to a new form of individual retirement account that would be managed by qualified professional asset managers (as so defined);

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

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

By Mr. CLELAND:

S. 2370. A bill to designate the facility of the United States Postal Service located at Tall Timbers Village Square, United States Highway 19 South, in Thomasville, Georgia, as the “Lieutenant Henry O. Flipper Station”; to the Committee on Governmental Affairs.

LIEUTENANT HENRY O. FLIPPER STATION

Mr. CLELAND. Mr. President, today I am introducing a bill in honor of an American patriot, Lieutenant Henry Ossian Flipper, on whose behalf I offer this legislation for the designation of the Lieutenant Henry O. Flipper Station, a postal station being constructed in Thomasville, Georgia.

It is an honor for me to highlight the contributions of this courageous American. Born in 1856, in Thomasville, Georgia, Lieutenant Flipper was the first African-American to graduate from the United States Military Academy at West Point in 1877.

Lieutenant Flipper had a distinguished career as an Army officer. His first assignment to frontier duty was with the Tenth Cavalry at Fort Sill, Oklahoma. The Tenth, along with its sister unit, the Ninth Cavalry unit, were responsible for facilitating the movement of pioneers wishing to settle in the Western frontier. The African-American members of these two units became known as “Buffalo Soldiers.” During his tenure at Fort Sill, Lieutenant Flipper ingeniously engineered a drainage system to eliminate stagnant malarial ponds and swamps created during the rainy season. This effort made a significant contribution to improving the health of the Post, and the ditch, christened “Flipper’s Ditch,” is now a historic landmark.

Lieutenant Flipper was instrumental in the successful 1880 campaign against Mescalero Apache Chief Victorio, an escapee from the military authorities in New Mexico. Facing a judicial sentence for murder in 1879, Victorio was able to escape, gather his forces and begin a rampage throughout New Mexico and Texas. Through tough terrain and logistical challenges, the soldiers of the Ninth and Tenth Cavalry were able to push Victorio into Mexico where he was killed by the Mexican Army.

It is very timely that we commemorate Lieutenant Flipper since this year is the fiftieth anniversary of the racial integration of the military. This action marked a historic change which has led to significant progress in eliminating racial barriers. Lieutenant Flipper’s legacy is that of a pioneer in con-

fronting the challenges of racial strife who paved the way for this evolution. Although Lieutenant Flipper left the military in 1882, he was able to prove to America that African-Americans possessed the quality of military leadership.

After the end of his military service in 1882, Lieutenant Flipper continued a very distinguished career, applying his surveying and engineering skills as a civil and mining engineer on the frontiers of the Southwest and Mexico. He became the first African-American to gain prominence in the engineering profession.

Historical accounts depict the solid perseverance of Lieutenant Flipper. He confronted racial bias demonstrating unflinchingly strong character and intellect. In a book entitled “An Officer and a Gentlemen,” historian Steve Wilson is credited with compiling a list of “firsts” for an African-American which were achieved by Lieutenant Flipper: Military Academy graduate, cavalry officer, surveyor, cartographer, civil and mining engineer, translator, interpreter, inventor, editor, author, special agent for the Justice Department, personal confidant and advisor to a Senator, and pioneer in the oil industry.

In a ceremony in 1977, Lieutenant General Sidney B. Berry, the United States Military Academy’s Superintendent, praised Lieutenant Flipper’s memory, stating that, “there was a strength and gentleness that transcended any bad treatment Flipper received. He was a strong and gentle man.” Lieutenant Flipper was a pioneer for civil rights in the military and in the civilian community. Although he had a very successful civilian life, Lieutenant Flipper always considered himself first and foremost an Army officer.

I join the residents of Thomasville in this quest of the post office designation in honor of Lieutenant Flipper. Not only is this hero one of Georgia’s own, Lieutenant Flipper has earned the respect of a grateful Nation. The measure I am submitting today will give him this well-deserved recognition.

Mr. President, I request unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2370

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF LIEUTENANT HENRY O. FLIPPER STATION.

(a) IN GENERAL.—The facility of the United States Postal Service located at Tall Timbers Village Square, United States Highway 19 South, in Thomasville, Georgia, shall be known and designated as the “Lieutenant Henry O. Flipper Station”.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility of the United States Postal Service referred to in subsection (a) shall be deemed to be a reference to the “Lieutenant Henry O. Flipper Station”.

ADDITIONAL COSPONSORS

S. 230

At the request of Mr. THURMOND, the name of the Senator from Idaho (Mr. KEMPTHORNE) was added as a cosponsor of S. 230, a bill to amend section 1951 of title 18, United States Code (commonly known as the Hobbs Act), and for other purposes.

S. 778

At the request of Mr. LUGAR, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 778, a bill to authorize a new trade and investment policy for sub-Saharan Africa.

S. 852

At the request of Mr. LOTT, the name of the Senator from New York (Mr. D'AMATO) was added as a cosponsor of S. 852, a bill to establish nationally uniform requirements regarding the titling and registration of salvage, non-repairable, and rebuilt vehicles.

S. 981

At the request of Mr. LEVIN, the name of the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 981, a bill to provide for analysis of major rules.

S. 1021

At the request of Mr. HAGEL, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 1021, a bill to amend title 5, United States Code, to provide that consideration may not be denied to preference eligibles applying for certain positions in the competitive service, and for other purposes.

S. 1252

At the request of Mr. D'AMATO, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 1252, a bill to amend the Internal Revenue Code of 1986 to increase the amount of low-income housing credits which may be allocated in each State, and to index such amount for inflation.

S. 1360

At the request of Mr. ABRAHAM, the name of the Senator from Virginia (Mr. ROBB) was added as a cosponsor of S. 1360, a bill to amend the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 to clarify and improve the requirements for the development of an automated entry-exit control system, to enhance land border control and enforcement, and for other purposes.

S. 1413

At the request of Mr. LUGAR, the name of the Senator from Virginia (Mr. ROBB) was added as a cosponsor of S. 1413, a bill to provide a framework for consideration by the legislative and executive branches of unilateral economic sanctions.

S. 1480

At the request of Ms. SNOWE, the names of the Senator from Hawaii (Mr. INOUE), the Senator from Hawaii (Mr. AKAKA), and the Senator from Delaware (Mr. ROTH) were added as cosponsors of S. 1480, a bill to authorize ap-

propriations for the National Oceanic and Atmospheric Administration to conduct research, monitoring, education and management activities for the eradication and control of harmful algal blooms, including blooms of *Pfiesteria piscicida* and other aquatic toxins.

S. 1675

At the request of Mr. SHELBY, the name of the Senator from Texas (Mrs. HUTCHISON) was added as a cosponsor of S. 1675, a bill to establish a Congressional Office of Regulatory Analysis.

S. 1759

At the request of Mr. HATCH, the names of the Senator from Idaho [Mr. CRAIG], the Senator from South Carolina [Mr. THURMOND], the Senator from Kentucky [Mr. FORD], the Senator from Idaho [Mr. KEMPTHORNE], the Senator from Michigan [Mr. LEVIN], and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of S. 1759, a bill to grant a Federal charter to the American GI Forum of the United States.

S. 1868

At the request of Mr. NICKLES, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 1868, a bill to express United States foreign policy with respect to, and to strengthen United States advocacy on behalf of, individuals persecuted for their faith worldwide; to authorize United States actions in response to religious persecution worldwide; to establish an Ambassador at Large on International Religious Freedom within the Department of State, a Commission on International Religious Persecution, and a Special Adviser on International Religious Freedom within the National Security Council; and for other purposes.

S. 1929

At the request of Mrs. HUTCHISON, the name of the Senator from Oklahoma [Mr. INHOFE] was added as a cosponsor of S. 1929, a bill to amend the Internal Revenue Code of 1986 to provide tax incentives to encourage production of oil and gas within the United States, and for other purposes.

S. 1960

At the request of Mr. WARNER, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 1960, a bill to allow the National Park Service to acquire certain land for addition to the Wilderness Battlefield, as previously authorized by law, by purchase or exchange as well as by donation.

S. 2130

At the request of Mr. GRAMS, the name of the Senator from Colorado [Mr. CAMPBELL] was added as a cosponsor of S. 2130, a bill to amend the Internal Revenue Code of 1986 to provide additional retirement savings opportunities for small employers, including self-employed individuals.

S. 2180

At the request of Mr. LOTT, the names of the Senator from Florida [Mr.

MACK], the Senator from South Dakota [Mr. JOHNSON], the Senator from Arkansas [Mr. HUTCHINSON], the Senator from Colorado [Mr. ALLARD], the Senator from Virginia [Mr. ROBB], the Senator from Utah [Mr. HATCH], the Senator from Iowa [Mr. GRASSLEY], the Senator from Utah [Mr. BENNETT], and the Senator from Colorado [Mr. CAMPBELL] were added as cosponsors of S. 2180, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to clarify liability under that Act for certain recycling transactions.

S. 2217

At the request of Mr. FRIST, the names of the Senator from California [Mrs. BOXER], the Senator from Ohio [Mr. DEWINE], the Senator from Maine [Ms. SNOWE], the Senator from California [Mrs. FEINSTEIN], the Senator from Texas [Mrs. HUTCHISON], and the Senator from Illinois [Mr. DURBIN] were added as cosponsors of S. 2217, a bill to provide for continuation of the Federal research investment in a fiscally sustainable way, and for other purposes.

S. 2344

At the request of Mr. COVERDELL, the names of the Senator from Iowa [Mr. GRASSLEY] and the Senator from Kansas [Mr. ROBERTS] were added as cosponsors of S. 2344, a bill to amend the Agricultural Market Transition Act to provide for the advance payment, in full, of the fiscal year 1999 payments otherwise required under production flexibility contracts.

At the request of Mr. HAGEL, his name was added as a cosponsor of S. 2344, *supra*.

S. 2352

At the request of Mr. LEAHY, the names of the Senator from Arizona [Mr. MCCAIN], the Senator from Idaho [Mr. CRAIG], and the Senator from New Hampshire [Mr. SMITH] were added as cosponsors of S. 2352, a bill to protect the privacy rights of patients.

S. 2354

At the request of Mr. BOND, the name of the Senator from Texas [Mrs. HUTCHISON] was added as a cosponsor of S. 2354, a bill to amend title XVIII of the Social Security Act to impose a moratorium on the implementation of the per beneficiary limits under the interim payment system for home health agencies, and to modify the standards for calculating the per visit cost limits and the rates for prospective payment systems under the medicare home health benefit to achieve fair reimbursement payment rates, and for other purposes.

S. 2358

At the request of Mr. ROCKEFELLER, the name of the Senator from Nevada [Mr. BRYAN] was added as a cosponsor of S. 2358, a bill to provide for the establishment of a service-connection for illnesses associated with service in the Persian Gulf War, to extend and enhance certain health care authorities relating to such service, and for other purposes.