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(Original Signature of Member)

115TH CONGRESS
2D SESSION

H. R. _____

To create portable retirement and investment accounts for all Americans,
and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. HIMES introduced the following bill; which was referred to the Committee
on _____

A BILL

To create portable retirement and investment accounts for
all Americans, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Portable Retirement
5 and Investment Account Act of 2018” or the “PRIA Act
6 of 2018”.

1 **SEC. 2. PORTABLE RETIREMENT AND INVESTMENT AC-**
2 **COUNT BOARD.**

3 (a) ESTABLISHMENT.—There is established a Port-
4 able Retirement and Investment Board (referred to in this
5 Act as the “Board”) to be headed by a Director (referred
6 to in this Act as the “Director”).

7 (b) MEMBERSHIP.—

8 (1) IN GENERAL.—The Board shall consist of—

9 (A) 3 members appointed by the Secretary
10 of the Treasury;

11 (B) 3 members appointed by the Secretary
12 of Labor;

13 (C) 2 members appointed by the Pension
14 Benefit Guaranty Corporation; and

15 (D) 1 member appointed by the Director of
16 the Bureau of Consumer Financial Protection.

17 (2) DEADLINE FOR APPOINTMENT.—The ap-
18 pointments described under paragraph (1) shall be
19 made not later than 1 year after the date of the en-
20 actment of this Act.

21 (3) LIMITATION.—In making appointments
22 under paragraph (1), the officials making such ap-
23 pointments shall coordinate to ensure that not more
24 than 5 members of the same political party may
25 serve on the Board at the same time.

1 (4) TERMS OF OFFICE.—Each member of the
2 Board shall hold office for a term of 5 years and
3 shall continue in office until his successor is ap-
4 pointed in the same manner as the original appoint-
5 ment was made. The terms of office of the members
6 of the Board first taking office after the date of the
7 enactment of this Act shall expire as follows: one at
8 the end of 1 year, two at the end of 2 years, two
9 at the end of 3 years, two at the end of 4 years, and
10 two at the end of 5 years.

11 (5) VACANCIES.—Each member of the Board
12 shall continue in office until his successor is ap-
13 pointed in the same manner as the original appoint-
14 ment was made. Any vacancy on the Board shall be
15 filled in the same manner as the initial appointment
16 was made, and members of the Board appointed to
17 fill vacancies shall be appointed for the remainder of
18 such term.

19 (c) DIRECTOR.—

20 (1) IN GENERAL.—The Director shall be se-
21 lected by the President from among the members of
22 the Board.

23 (2) AUTHORITY TO ISSUE REGULATIONS.—The
24 Director is authorized to issue such regulations or

1 other guidance as the Director determines are nec-
2 essary to carry out the purposes of this Act.

3 **SEC. 3. CONTRACTS TO PROVIDE PORTABLE RETIREMENT**
4 **AND INVESTMENT ACCOUNTS.**

5 (a) IN GENERAL.—Not later than 1 year after the
6 date of the enactment of this Act, the Director shall estab-
7 lish a program under which the Director shall award one
8 contract each year on a competitive basis to an entity in
9 the private sector to act as trustee of all portable retire-
10 ment and investment accounts (as defined in section 223A
11 of the Internal Revenue Code of 1986) established pursu-
12 ant to section 4(a)(2) during such year. Each amount in
13 a portable retirement and investment account provided by
14 a trustee pursuant to a contract under this subsection
15 shall be invested in a lifecycle fund provided by the trustee
16 as described in subsection (c). In awarding contracts to
17 entities under this subsection, the Director shall con-
18 sider—

19 (1) the specific composition of the lifecycle
20 funds provided by such trustee;

21 (2) the services to account holders offered by
22 such trustee, including available investment advice

23 (3) the fees charged by such trustee; and

24 (4) the importance of maintaining a diversity of
25 trustees.

1 (b) CERTIFICATION OF TRUSTEES.—The Director
2 may not award a contract to an entity under subsection
3 (a) unless the Director has certified such entity under this
4 subsection. The Director shall establish certification cri-
5 teria which shall include the following:

6 (1) Expertise, including the professional quali-
7 fications, business model, experience, and training of
8 the trustee and any service providers that the trust-
9 ee intends to use.

10 (2) Registration, licensing, and financial sound-
11 ness demonstrating that participant funds would be
12 handled by a regulated financial entity.

13 (3) Reputation and customer service, including
14 records of comments or complaints from employers
15 and participants, timely consideration and resolution
16 of complaints filed, and independent rating or ac-
17 creditations.

18 (c) LIFECYCLE FUND.—A lifecycle fund described in
19 this subsection is a fund that—

20 (1) is comprised of an appropriate mix of index
21 funds;

22 (2) is automatically adjusted over time during
23 the time horizon of the fund;

24 (3) strikes a balance between expected risk and
25 return over the time horizon of the fund; and

1 (4) has an initial target retirement date that is
2 consistent with retirement at age 65.

3 (d) FIDUCIARY RESPONSIBILITY.—A trustee of a
4 portable retirement and investment account shall act as
5 a fiduciary to the account holder and shall discharge his
6 duties with respect to the account in the sole interest of
7 the account holder under rules similar to those applicable
8 to an ERISA fiduciary under section 404 of the Employee
9 Retirement Income Security Act of 1974 (29 U.S.C.
10 1104).

11 **SEC. 4. ESTABLISHMENT; CONTRIBUTIONS.**

12 (a) ESTABLISHMENT.—

13 (1) PORTABLE RETIREMENT AND INVESTMENT
14 ACCOUNT FUND.—There is established in the Treas-
15 ury the Portable Retirement and Investment Ac-
16 count Fund (in this Act referred to as the “Fund”).
17 The Board shall, to the greatest extent practicable
18 and consistent with the requirements of this Act,
19 manage the Fund in the same manner as the Thrift
20 Savings Fund established under section 8437 of title
21 5, United States Code.

22 (2) ACCOUNTS.—For each individual for whom
23 a notification is made under clause (iv) of section
24 205(c)(2)(B) of the Social Security Act (42 U.S.C.
25 405(c)(2)(B)), as added by paragraph (3), or whose

1 name is included on the list submitted under para-
2 graph (4), not later than 90 days after such notifica-
3 tion or submission, the Director shall establish, with
4 such individual as the sole beneficiary, a portable re-
5 tirement and investment account within the Fund.

6 (3) NOTIFICATION OF ISSUANCE OF SOCIAL SE-
7 CURITY ACCOUNT NUMBER.—

8 (A) IN GENERAL.—Section 205(c)(2)(B) of
9 the Social Security Act (42 U.S.C.
10 405(c)(2)(B)) is amended by adding at the end
11 the following:

12 “(iv) Not later than 60 days after assigning a social
13 security account number to an individual, the Commis-
14 sioner of Social Security shall notify the Director of the
15 Portable Retirement and Investment Account Board of
16 such assignment.”.

17 (B) EFFECTIVE DATE.—The amendment
18 made by subparagraph (A) shall apply with re-
19 spect to social security account numbers as-
20 signed after a certain date, to be designated by
21 the Director, occurring not later than 3 years
22 after the date of the enactment of this Act.

23 (4) TRANSITION.—Not later than the date des-
24 igned pursuant to paragraph (3)(B), occurring not
25 later than 3 years after the date of the enactment

1 of this Act, the Commissioner of Social Security
2 shall submit to the Director a list of the name of
3 each living individual who has been assigned a social
4 security account number.

5 (b) FEDERAL CONTRIBUTIONS.—

6 (1) IN GENERAL.—In the case of an individual
7 for whom a notification is made under clause (iv) of
8 section 205(c)(2)(B) of the Social Security Act (42
9 U.S.C. 405(c)(2)(B)), as added by subsection (a)(3),
10 who is a child of a taxpayer who received a credit
11 against tax under section 32 of the Internal Revenue
12 Code of 1986 for the most recent taxable year end-
13 ing before the date of the notification under such
14 subsection, the Director shall deposit into the port-
15 able retirement and investment account of the indi-
16 vidual an amount determined under paragraph (2).

17 (2) AMOUNT.—Subject to paragraph (3), the
18 amount determined under this paragraph is—

19 (A) in the case of a taxpayer eligible for
20 the maximum credit applicable to such indi-
21 vidual under section 32 of the Internal Revenue
22 Code of 1986, the applicable contribution
23 amount; and

24 (B) in any other case, a lower amount to
25 be determined under regulations issued by the

1 Secretary of the Treasury to reflect a propor-
2 tional reduction of such amount as the credit
3 under such section decreases.

4 (3) APPLICABLE CONTRIBUTION AMOUNT.—

5 (A) IN GENERAL.—For purposes of this
6 subsection, the term “applicable contribution
7 amount” means \$500.

8 (B) INFLATION ADJUSTMENT.—In the case
9 of any taxable year beginning in a calendar
10 year after 2020, the dollar amount in subpara-
11 graph (A) shall be increased by an amount
12 equal to—

13 (i) such dollar amount, multiplied by

14 (ii) the cost-of-living adjustment de-
15 termined under section 1(f)(3) of the In-
16 ternal Revenue Code of 1986 for the cal-
17 endar year in which the taxable year be-
18 gins, by substituting “calendar year 2019”
19 for “calendar year 2016” in subparagraph
20 (A)(ii) thereof.

21 Any increase determined under the preceding
22 sentence shall be rounded to the nearest mul-
23 tiple of \$10.

24 (4) CONTRIBUTION FOR TRANSFER.—A bene-
25 ficiary of a portable retirement and investment ac-

1 count, or in the case of a beneficiary who has not
2 attained the age of 18, the parent or guardian of
3 such beneficiary, may elect at any time to transfer
4 the entire amount in the account to a portable re-
5 tirement and investment account in the private sec-
6 tor. Such account shall be held by a custodial entity
7 such as a bank, credit union, trust company or an
8 entity that is licensed and regulated by the Secretary
9 pursuant to requirements consistent with section
10 1.408-2e of title 26, Code of Federal Regulations.
11 Upon such election, the Director shall provide for a
12 \$50 deposit if the beneficiary completes a financial
13 literacy training, as determined appropriate by the
14 Director. Investments in such accounts are not sub-
15 ject to the limitation to lifecycle funds described in
16 section 3.

17 (c) PERSONAL CONTRIBUTIONS.—

18 (1) IN GENERAL.—The beneficiary of a portable
19 retirement and investment account may at any time
20 contribute additional funds for deposit into such ac-
21 count.

22 (2) DIRECT DEPOSIT.—Any employer who per-
23 mits wages to be paid to an employee by electronic
24 funds transfer shall permit such employee to elect to
25 deposit, by means of electronic funds transfer, a por-

1 tion of such wages specified by the employee into the
2 employee's portable retirement and investment ac-
3 count.

4 (3) AUTOMATIC CONTRIBUTION ARRANGE-
5 MENT.—Any employer may provide that an employee
6 is treated as having elected to have the employer
7 make contributions in an amount equal to a uniform
8 percentage of compensation disclosed in advance to
9 the employee until the employee specifically elects
10 not to have such contributions made (or specifically
11 elects to have such contributions made at a different
12 percentage).

13 (4) SUPERSEDURE.—Paragraph (4) shall
14 supercede any law of any State (within the meaning
15 of section 514(c)(1) of title 29) which would directly
16 or indirectly prohibit an employer from adopting an
17 arrangement described in paragraph (4). The Direc-
18 tor may prescribe regulations which would establish
19 minimum standards that such an arrangement
20 would be required to satisfy in order for this para-
21 graph to apply in the case of such arrangement.

22 (d) EMPLOYER CONTRIBUTIONS.—The employer of a
23 beneficiary of a portable retirement and investment ac-
24 count may at any time contribute additional funds for de-
25 posit into such account.

1 (e) TRANSFER OPTION.—

2 (1) IN GENERAL.—A beneficiary of a portable
3 retirement and investment account (or, in the case
4 of a beneficiary who is under 18 years of age, the
5 parent or guardian of the beneficiary) may elect at
6 any time to transfer the entire amount in such port-
7 able retirement and investment account to any port-
8 able retirement and investment account in the pri-
9 vate sector (as defined in section 223A of the Inter-
10 nal Revenue Code of 1986) with such beneficiary as
11 the sole beneficiary.

12 (2) NOTIFICATIONS.—

13 (A) STATEMENTS.—The Director shall en-
14 sure that account statements are delivered to
15 the beneficiary of a portable retirement and in-
16 vestment account by electronic delivery to the
17 extent practicable.

18 (B) NOTICE OF TRANSFER OPTION.—
19 When the amount in a portable retirement and
20 investment account first exceeds \$15,000 and
21 when the beneficiary of the account attains the
22 age of 18, the Director shall notify the bene-
23 ficiary of the account of the option under para-
24 graph (3) to transfer the entire amount in such
25 account to another account.

1 **SEC. 5. TAX TREATMENT.**

2 (a) IN GENERAL.—Part VII of subchapter B of chap-
3 ter 1 of the Internal Revenue Code of 1986 is amended
4 by inserting after section 223 the following new section:

5 **“SEC. 223A. PORTABLE RETIREMENT AND INVESTMENT AC-
6 COUNTS.**

7 “(a) DEDUCTION ALLOWED.—

8 “(1) IN GENERAL.—There shall be allowed as a
9 deduction for the taxable year an amount equal to
10 the aggregate amount paid in cash during such tax-
11 able year to a portable retirement and investment
12 account by the account beneficiary.

13 “(2) CERTAIN RULES TO APPLY.—Rules similar
14 to section 219(d)(2) (relating to no deduction for
15 rollovers) shall apply for purposes of this section.

16 “(b) MAXIMUM AMOUNT OF DEDUCTION.—

17 “(1) IN GENERAL.—The amount allowable as a
18 deduction under subsection (a) to any individual for
19 any taxable year shall not exceed the lesser of—

20 “(A) \$18,500, or

21 “(B) an amount equal to the compensation
22 includible in the individual’s gross income for
23 such taxable year.

24 “(2) CATCH-UP CONTRIBUTIONS FOR INDIVID-
25 UALS 50 OR OLDER.—In the case of an individual
26 who has attained the age of 50 before the close of

1 the taxable year, the amounts described in para-
2 graph (1)(A) and subsection (c)(4) for such taxable
3 year shall be increased by \$6,000.

4 “(c) PORTABLE RETIREMENT AND INVESTMENT AC-
5 COUNT.—For purposes of this title, the term ‘portable re-
6 tirement and investment account’ means a trust created
7 or organized in the United States for the exclusive benefit
8 of an individual, but only if the written governing instru-
9 ment creating the trust meets the following requirements:

10 “(1) The trustee is a bank (as defined in sec-
11 tion 408(n) of the Internal Revenue Code of 1986)
12 or such other person who demonstrates to the satis-
13 faction of the Secretary that the manner in which
14 such other person will administer the trust will be
15 consistent with the requirements of this section.

16 “(2) The amounts in the trust may consist only
17 of—

18 “(A) deposits under section 4(b) of the
19 Portable Retirement and Investment Account
20 Act of 2018,

21 “(B) amounts described in subsection
22 (a)(1),

23 “(C) amounts deposited by an employer of
24 the account beneficiary,

1 “(D) interest on amounts in such trust,
2 and

3 “(E) proceeds from investment of amounts
4 in such trust.

5 “(3) Except in the case of a rollover contribu-
6 tion described in subsection (d)(4), no contribution
7 will be accepted unless it is in cash.

8 “(4) No contributions in excess of the amount
9 that is twice the dollar amount in effect under sub-
10 section (b)(1)(A) will be accepted during a calendar
11 year.

12 “(5) No distribution that would bring the ac-
13 count balance below the amount deposited in such
14 trust under section (b)(1) of the PRIA Act of 2018
15 is allowed to an account beneficiary who has not at-
16 tained the age 59½.

17 “(d) TAX TREATMENT OF ACCOUNTS.—

18 “(1) IN GENERAL.—A portable retirement and
19 investment account is exempt from taxation under
20 this subtitle unless such account has ceased to be a
21 portable retirement and investment account. Not-
22 withstanding the preceding sentence, any such ac-
23 count is subject to the taxes imposed by section 511
24 (relating to imposition of tax on unrelated business
25 income of charitable, etc. organizations).

1 “(2) ACCOUNT TERMINATIONS.—Rules similar
2 to the rules of paragraphs (2) and (4) of section
3 408(e) shall apply to portable retirement and invest-
4 ment accounts, and subsection (e)(2) shall not apply
5 to any amount treated as distributed under such
6 rules.

7 “(e) TAX TREATMENT OF DISTRIBUTIONS.—

8 “(1) IN GENERAL.—Any amount paid or dis-
9 tributed out of a portable retirement and investment
10 account shall be included in the gross income of
11 such beneficiary.

12 “(2) ADDITIONAL TAX ON CERTAIN DISTRIBUTIONS.—The tax imposed by this chapter on the ac-
13 count beneficiary for any taxable year in which there
14 is a payment or distribution from a portable retire-
15 ment and investment account of such beneficiary
16 shall be increased by 10 percent unless such pay-
17 ment or distribution is—
18 ment or distribution is—

19 “(A) paid or distributed on or after the
20 date on which the account beneficiary attains
21 age 59½,

22 “(B) paid or distributed to an account ben-
23 eficiary who is disabled within the meaning of
24 subsection (m)(7), or

1 “(C) paid or distributed to an account ben-
2 eficiary who has attained age 55 and becomes
3 unemployed after attaining such age.

4 “(3) CERTAIN DISTRIBUTIONS NOT TAXED.—

5 “(A) IN GENERAL.—Paragraphs (1) and
6 (2) shall not apply to any amount paid or dis-
7 tributed from a portable retirement and invest-
8 ment account to the account beneficiary to the
9 extent the amount received is paid into a port-
10 able retirement and investment account, or for
11 an annuity, for the benefit of such beneficiary
12 not later than the 60th day after the day on
13 which the beneficiary receives the payment or
14 distribution.

15 “(B) LIMITATION.—This paragraph shall
16 not apply to any amount described in subpara-
17 graph (A) received by an individual from a
18 portable retirement and investment account if,
19 at any time during the 1-year period ending on
20 the day of such receipt, such individual received
21 any other amount described in subparagraph
22 (A) from a portable retirement and investment
23 account which was not includible in the individ-
24 ual’s gross income because of the application of
25 this paragraph.

1 “(4) TRANSFER OF ACCOUNT INCIDENT TO DI-
2 VORCE.—The transfer of an individual’s interest in
3 a portable retirement and investment account to an
4 individual’s spouse or former spouse under a divorce
5 or separation instrument described in subparagraph
6 (A) of section 71(b)(2) shall not be considered a tax-
7 able transfer made by such individual notwith-
8 standing any other provision of this subtitle, and
9 such interest shall, after such transfer, be treated as
10 a portable retirement and investment account with
11 respect to which such spouse is the account bene-
12 ficiary.

13 “(5) TREATMENT AFTER DEATH OF ACCOUNT
14 BENEFICIARY.—

15 “(A) TREATMENT IF DESIGNATED BENE-
16 FICIARY IS SPOUSE.—If the account bene-
17 ficiary’s surviving spouse acquires such bene-
18 ficiary’s interest in a portable retirement and
19 investment account by reason of being the des-
20 ignated beneficiary of such account at the death
21 of the account beneficiary, such portable retire-
22 ment and investment account shall be treated
23 as if the spouse were the account beneficiary.

24 “(B) OTHER CASES.—If, by reason of the
25 death of the account beneficiary, any person ac-

1 quires the account beneficiary’s interest in a
2 portable retirement and investment account in a
3 case to which subparagraph (A) does not
4 apply—

5 “(i) such account shall cease to be a
6 portable retirement and investment ac-
7 count as of the date of death, and

8 “(ii) an amount equal to the fair mar-
9 ket value of the assets in such account on
10 such date shall be includible if such person
11 is not the estate of such beneficiary, in
12 such person’s gross income for the taxable
13 year which includes such date, or if such
14 person is the estate of such beneficiary, in
15 such beneficiary’s gross income for the last
16 taxable year of such beneficiary.

17 “(f) LOANS TREATED AS DISTRIBUTIONS.—For pur-
18 poses of this section—

19 “(1) IN GENERAL.—If during any taxable year
20 a participant or beneficiary receives (directly or indi-
21 rectly) any amount as a loan from a portable retire-
22 ment and investment account, such amount shall be
23 treated as having been received by such individual as
24 a distribution from such account.

25 “(2) EXCEPTION FOR CERTAIN LOANS.—

1 “(A) GENERAL RULE.—Paragraph (1)
2 shall not apply to any loan to the extent that
3 such loan (when added to the outstanding bal-
4 ance of all other loans from such account), does
5 not exceed the lesser of—

6 “(i) \$50,000, reduced by the excess (if
7 any) of—

8 “(I) the highest outstanding bal-
9 ance of loans from the account during
10 the 1-year period ending on the day
11 before the date on which such loan
12 was made, over

13 “(II) the outstanding balance of
14 loans from the plan on the date on
15 which such loan was made, or

16 “(ii) the greater of—

17 “(I) one-half of the amount in
18 the account, or

19 “(II) \$10,000.

20 “(B) REQUIREMENT THAT LOAN BE RE-
21 PAYABLE WITHIN 5 YEARS.—

22 “(i) IN GENERAL.—Subparagraph (A)
23 shall not apply to any loan unless such
24 loan, by its terms, is required to be repaid
25 within 5 years.

1 “(ii) EXCEPTION FOR HOME LOANS.—
2 Clause (i) shall not apply to any loan used
3 to acquire any dwelling unit which within
4 a reasonable time is to be used (deter-
5 mined at the time the loan is made) as the
6 principal residence of the participant.

7 “(C) REQUIREMENT OF LEVEL AMORTIZA-
8 TION.—Except as provided in regulations, this
9 paragraph shall not apply to any loan unless
10 substantially level amortization of such loan
11 (with payments not less frequently than quar-
12 terly) is required over the term of the loan.

13 “(g) EMPLOYER DEDUCTIONS.—

14 “(1) IN GENERAL.—For deductions related to
15 employer contributions, see section 162.

16 “(2) NONDISCRIMINATION.—Under regulations
17 prescribed by the Secretary, notwithstanding section
18 162, no deduction shall be allowed for employer con-
19 tributions to a portable retirement and investment
20 account on behalf of an employee who is a highly
21 compensated employee (as defined in section 414(q)
22 105(h)(5)) if the employer contributions made on
23 behalf of all employees discriminate in favor of such
24 employees who are highly compensated employees.

1 “(3) CERTAIN CONTROLLED GROUPS.—All em-
2 ployees who are treated as employed by a single em-
3 ployer under subsection (b), (c), and (m) of section
4 414 shall be treated as employed by a single em-
5 ployer for purposes of this subsection.

6 “(h) INFLATION ADJUSTMENT.—

7 “(1) IN GENERAL.—In the case of any taxable
8 year beginning in a calendar year after 2020, the
9 dollar amounts under subsection (b) and subsection
10 (c)(4) shall be increased by an amount equal to—

11 “(A) such dollar amount, multiplied by

12 “(B) the cost-of-living adjustment deter-
13 mined under section 1(f)(3) for the calendar
14 year in which the taxable year begins, deter-
15 mined by substituting ‘calendar year 2019’ for
16 ‘calendar year 2016’ in subparagraph (A)(ii)
17 thereof.

18 “(2) ROUNDING RULES.—If any amount after
19 adjustment under paragraph (1) is not a multiple of
20 \$500, such amount shall be rounded to the next
21 lower multiple of \$500.”.

22 (b) CLERICAL AMENDMENTS.—The table of sections
23 for chapter 1 is amended by inserting after the item re-
24 lated to section 223 the following new item:

 “Sec. 223A. Portable Retirement and Investment Accounts.”.

1 **SEC. 6. OPTION TO ROLLOVER.**

2 (a) ROLLOVER OPTION.—

3 (1) IN GENERAL.—Any individual who holds an
4 account described under paragraph (2) may elect to
5 roll over the entire amount in such account into a
6 portable retirement and investment account. Such
7 rollover shall be treated as a rollover described in
8 section 223A(e)(4) of the Internal Revenue Code of
9 1986.

10 (2) ACCOUNTS DESCRIBED.—This subsection
11 shall apply to accounts opened or annuity contracts
12 purchased pursuant to the following sections of the
13 Internal Revenue Code of 1986:

14 (A) Section 401(k).

15 (B) Section 403(b).

16 (C) Section 457.

17 (D) Section 409A.

18 (E) Section 408.

19 **SEC. 7. REGULATIONS.**

20 Not later than 180 days after the date of the enact-
21 ment of this Act, the Secretary of the Treasury, in coordi-
22 nation with the Commissioner of Social Security, as deter-
23 mined necessary by the Secretary, shall issue regulations
24 to carry out this section.