

114TH CONGRESS
2D SESSION

H. R. 5450

To establish an American Savings Account Fund and create a retirement savings plan available to all employees, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 10, 2016

Mr. HUFFMAN (for himself and Ms. BONAMICI) introduced the following bill;
which was referred to the Committee on Ways and Means

A BILL

To establish an American Savings Account Fund and create a retirement savings plan available to all employees, 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 “American Savings Ac-
5 count Act of 2016”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

TITLE I—ADMINISTRATION

Sec. 101. American Savings Account Board of Directors.

Sec. 102. Responsibilities of American Savings Account Board of Directors.
 Sec. 103. Fiduciary responsibilities; liability and penalties.
 Sec. 104. American Savings Account Fund Advisory Council.

TITLE II—AMERICAN SAVINGS ACCOUNT FUND

Sec. 201. American Savings Account Fund.
 Sec. 202. Tax treatment of the American Savings Account Fund.

TITLE III—AMERICAN SAVINGS ACCOUNTS

Sec. 301. American Savings Accounts.
 Sec. 302. Employer requirements.
 Sec. 303. State retirement savings plans.
 Sec. 304. Definitions.

TITLE IV—CONFORMING AMENDMENTS

Sec. 401. American Savings Accounts.
 Sec. 402. Penalty for employer noncompliance.
 Sec. 403. Outreach.
 Sec. 404. Independent contractors.

1 **TITLE I—ADMINISTRATION**

2 **SEC. 101. AMERICAN SAVINGS ACCOUNT BOARD OF DIREC-** 3 **TORS.**

4 (a) IN GENERAL.—There is established an American
 5 Savings Account Board of Directors (hereafter referred to
 6 in this title as the “Board”) as a federally chartered orga-
 7 nization. Except as otherwise provided, such Board has
 8 perpetual existence.

9 (b) PURPOSE.—The purpose of the Board is—

10 (1) to establish policies for the investment and
 11 management of the American Savings Account
 12 Fund; and

13 (2) to carry out the responsibilities of the
 14 Board under section 102.

15 (c) MEMBERSHIP.—The Board shall be composed of
 16 9 members appointed by the President in consultation

1 with the Secretary of Labor and with the advice and con-
2 sent of the Senate, to include—

3 (1) the Secretary of Labor or a delegate of the
4 Secretary;

5 (2) 1 representative of employers;

6 (3) 1 representative of the private retirement
7 savings investment industry;

8 (4) 1 representative of employees;

9 (5) 1 representative of retirees; and

10 (6) the Executive Director and 3 additional
11 members of the Federal Retirement Thrift Invest-
12 ment Board established under section 8472(a) of
13 title 5, United States Code.

14 Of such 9 members, 1 shall be elected by the members
15 of the Board as the Chair.

16 (d) TERMS AND VACANCIES.—

17 (1) TERM.—A member of the Board shall be
18 appointed for a term of 4 years and, after the expi-
19 ration of such term, may be reappointed immediately
20 to a subsequent term.

21 (2) VACANCY.—A vacancy on the Board shall
22 be filled in the manner in which the original appoint-
23 ment was made and shall be subject to any condi-
24 tions which applied with respect to the original ap-
25 pointment. An individual chosen to fill a vacancy

1 shall be appointed for the unexpired term of the
2 member replaced.

3 (3) EXPIRATION.—The term of any member
4 shall not expire before the date on which the mem-
5 ber's successor takes office.

6 (e) RESPONSIBILITY.—The members of the Board
7 shall discharge their responsibilities solely in the interest
8 of participants and beneficiaries under this title.

9 (f) COMPENSATION.—

10 (1) IN GENERAL.—Each member of the Board
11 who is not an officer or employee of the Federal
12 Government shall be compensated at the daily rate
13 of basic pay for grade GS–18 of the General Sched-
14 ule under subchapter III of chapter 53 of title 5,
15 United States Code, for each day during which such
16 member is engaged in performing a function of the
17 Board.

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

23 (3) PAYMENTS.—Payments authorized under
24 this subsection shall be paid from the American Sav-
25 ings Account Fund.

1 **SEC. 102. RESPONSIBILITIES OF AMERICAN SAVINGS AC-**
2 **COUNT BOARD OF DIRECTORS.**

3 (a) ESTABLISHMENT OF INVESTMENT FUNDS AND
4 OPTIONS.—The Board shall select or establish a list of
5 investment funds and options similar to those described
6 in subsection (b) of section 8438 of title 5, United States
7 Code, among which an individual participating in an
8 American Savings Account established under section
9 103(a) may elect under subsection (b)(2).

10 (b) INVESTMENT OF SUMS.—

11 (1) IN GENERAL.—The Chair of the Board
12 shall invest the sums available in the American Sav-
13 ings Account Fund for investment as provided in
14 elections made under paragraph (2). If an election
15 has not been made with respect to any sums in the
16 American Savings Account Fund available for in-
17 vestment, the Chair shall invest such sums in a port-
18 folio similar to the age-appropriate target date asset
19 allocation portfolio established by the Federal Re-
20 tirement Thrift Investment Board under section
21 8438(b) of title 5, United States Code, in the same
22 manner as sums in the Thrift Savings Fund estab-
23 lished under section 8437 of title 5, United States
24 Code, are invested under such section.

25 (2) ELECTION.—

1 (A) IN GENERAL.—At least twice each
 2 year, an individual participating in an American
 3 Savings Account established under subsection
 4 (c)(1) may elect any of the investment funds
 5 and options referred to in subsection (a) into
 6 which the sums in the American Savings Ac-
 7 count Fund credited to such individual's Amer-
 8 ican Savings Account are to be invested or rein-
 9 vested in the same manner as sums in the
 10 Thrift Savings Fund are invested under section
 11 8438 of title 5, United States Code.

12 (B) FORM AND MANNER OF ELECTION.—
 13 An election may be made under subparagraph
 14 (A) only in such manner and within such period
 15 as shall be provided by the Chair of the Board.

16 (c) ACCOUNTING AND INFORMATION.—

17 (1) IN GENERAL.—The Chair of the Board
 18 shall establish and maintain—

19 (A) an American Savings Account de-
 20 scribed in paragraph (1) of section 301(a); or

21 (B) at the election of the individual pursu-
 22 ant to section 301(b)(2), an American Savings
 23 Account described in paragraph (2) of section
 24 301(a);

1 for each individual who makes contributions under
2 section 301(b)(3), or for whom contributions are
3 made under section 302, to the American Savings
4 Account Fund.

5 (2) BALANCE; ALLOCATION OF EARNINGS AND
6 LOSSES, ETC.—Rules similar to the rules of para-
7 graphs (2) and (3) of section 8439(a) of title 5,
8 United States Code, shall apply for purposes of an
9 individual's American Savings Account established
10 under paragraph (1).

11 (3) EXAMINATION BY QUALIFIED PUBLIC AC-
12 COUNTANT; REPORTING, ETC.—Rules similar to the
13 requirements of subsections (b), (c), and (d) of sec-
14 tion 8439 of title 5, United States Code, shall apply
15 with respect to individuals for whom an American
16 Savings Account is maintained under this subsection
17 (in the case of such subsection (d), applied as if each
18 such individual were an employee described in such
19 subsection).

20 (d) REPORTING REQUIREMENTS.—

21 (1) ANNUAL REPORT.—The Board shall, not
22 later than June 30 of each year, submit to Congress
23 an annual report on the operations of the American
24 Savings Account Fund. Such report shall include,
25 for the prior calendar year, information on the num-

1 ber of participants as of the last day of such prior
2 calendar year, the median balance in participants'
3 accounts as of such last day, demographic informa-
4 tion on participants, the percentage allocation of
5 amounts among investment funds or options, the
6 status of the development and implementation of the
7 mutual fund window, the diversity demographics of
8 any company, investment adviser, or other entity re-
9 tained to invest and manage the assets of the Amer-
10 ican Savings Account Fund, and such other informa-
11 tion as the Board considers appropriate. A copy of
12 each annual report under this subsection shall be
13 made available to the public through an Internet
14 website.

15 (2) REPORTING OF FEES AND OTHER INFORMA-
16 TION.—

17 (A) IN GENERAL.—The Board shall pro-
18 vide to each individual for whom an account is
19 maintained—

20 (i) a periodic statement relating to the
21 individual's account;

22 (ii) a summary description of the in-
23 vestment funds and options under sub-
24 section (a) covering, and an evaluation of,
25 each such option during the 5-year period

1 preceding the date as of which such eval-
2 uation is made;

3 (iii) a statement of the amount of the
4 investment management fees, administra-
5 tive expenses, and any other fees or ex-
6 penses paid with respect to each such in-
7 vestment fund and option; and

8 (iv) a statement notifying participants
9 as to how they may access the annual re-
10 port described in paragraph (1), as well as
11 any other information concerning Amer-
12 ican Savings Accounts that might be use-
13 ful.

14 If the fees and expenses described in clause (iii)
15 exceed the fees charged to a similarly situated
16 individual who contributes to the Thrift Savings
17 Fund established under section 8437 of title 5,
18 United States Code, the information required
19 under the preceding sentence shall include a
20 statement identifying the reason for such ex-
21 cess.

22 (B) TIME WHEN SENT.—Information
23 under subparagraph (A) with respect to each
24 participant shall be provided immediately upon
25 payment of the participant's first contribution

1 to the American Savings Account Fund and on
 2 a regular basis thereafter, in a manner designed
 3 to facilitate informed decisionmaking with re-
 4 spect to elections under subsection (b)(2).
 5 Nothing in this subparagraph shall be consid-
 6 ered to limit the dissemination of information
 7 only to the times required under the preceding
 8 sentence.

9 (C) USE OF ESTIMATES.—For purposes of
 10 providing the information required under this
 11 paragraph, the Board may provide a reasonable
 12 and representative estimate of any fees or ex-
 13 penses described in subparagraph (A) and shall
 14 indicate any such estimate as being such an es-
 15 timate. Any such estimate shall be based on the
 16 previous year’s experience.

17 **SEC. 103. FIDUCIARY RESPONSIBILITIES; LIABILITY AND**
 18 **PENALTIES.**

19 (a) DEFINITIONS.—For purposes of this section—

20 (1) the term “adequate consideration” means—

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

23 (i) the price of the security prevailing
 24 on a national securities exchange which is

1 registered under section 6 of the Securities
2 Exchange Act of 1934; or

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

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

17 (2) the term “fiduciary” means—

18 (A) a member of the Board, including the
19 Chair;

20 (B) any person who has or exercises dis-
21 cretionary authority or discretionary control
22 over the management or disposition of the as-
23 sets of the American Savings Account Fund;
24 and

1 (C) any person who, with respect to the
2 American Savings Account Fund, is described
3 in section 3(21)(A) of the Employee Retirement
4 Income Security Act of 1974; and

5 (3) the term “party in interest” includes—

6 (A) any fiduciary;

7 (B) any counsel to a person who is a fidu-
8 ciary, with respect to the actions of such person
9 as a fiduciary;

10 (C) any participant;

11 (D) any person providing services to the
12 Board and, with respect to the actions of the
13 Chair as a fiduciary, any person providing serv-
14 ices to the Chair;

15 (E) a labor organization, the members of
16 which are participants;

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

21 (G) a corporation, partnership, or trust or
22 estate of which, or in which, at least 50 percent
23 of—

24 (i) the combined voting power of all
25 classes of stock entitled to vote or the total

1 value of shares of all classes of stock of
2 such corporation;

3 (ii) the capital interest or profits in-
4 terest of such partnership; or

5 (iii) the beneficial interest of such
6 trust or estate,

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

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

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

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

24 (b) IN GENERAL.—

1 (1) DISCHARGE OF RESPONSIBILITIES.—To the
2 extent not inconsistent with the provisions of this
3 title and the policies prescribed by the Board, a fidu-
4 ciary shall discharge the fiduciary’s responsibilities
5 with respect to the American Savings Account Fund
6 or applicable portion thereof solely in the interest of
7 the participants and beneficiaries and—

8 (A) for the exclusive purpose of—

9 (i) providing benefits to participants
10 and their beneficiaries; and

11 (ii) defraying reasonable expenses of
12 administering the American Savings Ac-
13 count Fund or applicable portions thereof;

14 (B) with the care, skill, prudence, and dili-
15 gence under the circumstances then prevailing
16 that a prudent individual acting in a like capac-
17 ity and familiar with such matters would use in
18 the conduct of an enterprise of a like character
19 and with like objectives; and

20 (C) to the extent permitted by this title, by
21 diversifying the investments of the American
22 Savings Account Fund or applicable portions
23 thereof so as to minimize the risk of large
24 losses, unless under the circumstances it is
25 clearly prudent not to do so.

1 (2) OWNERSHIP.—No fiduciary may maintain
2 the indicia of ownership of any assets of the Amer-
3 ican Savings Account Fund outside the jurisdiction
4 of the district courts of the United States.

5 (c) PROHIBITED TRANSACTIONS.—

6 (1) IN GENERAL.—A fiduciary shall not permit
7 the American Savings Account Fund to engage in
8 any of the following transactions, except in exchange
9 for adequate consideration:

10 (A) A transfer of any assets of the Amer-
11 ican Savings Account Fund to any person the
12 fiduciary knows or should know to be a party
13 in interest or the use of such assets by any such
14 person.

15 (B) An acquisition of any property from or
16 sale of any property to the American Savings
17 Account Fund by any person the fiduciary
18 knows or should know to be a party in interest.

19 (C) A transfer or exchange of services be-
20 tween the American Savings Account Fund and
21 any person the fiduciary knows or should know
22 to be a party in interest.

23 (2) SPECIAL RULES.—Notwithstanding para-
24 graph (1), a fiduciary with respect to the American
25 Savings Account Fund shall not—

1 (A) deal with any assets of the American
2 Savings Account Fund in the fiduciary's own
3 interest or for the fiduciary's own account;

4 (B) act, in an individual capacity or any
5 other capacity, in any transaction involving the
6 American Savings Account Fund on behalf of a
7 party, or representing a party, whose interests
8 are adverse to the interests of the American
9 Savings Account Fund or the interests of its
10 participants or beneficiaries; or

11 (C) receive any consideration for the fidu-
12 ciary's own personal account from any party
13 dealing with sums credited to the American
14 Savings Account Fund in connection with a
15 transaction involving assets of the American
16 Savings Account Fund.

17 (3) GRANTING OF EXEMPTIONS.—

18 (A) The Secretary may, in accordance with
19 procedures which the Secretary shall by regula-
20 tion prescribe, grant a conditional or uncondi-
21 tional exemption of any fiduciary or trans-
22 action, or class of fiduciaries or transactions,
23 from all or part of the restrictions imposed by
24 paragraph (2).

1 (B) An exemption granted under this para-
2 graph shall not relieve a fiduciary from any
3 other applicable provision of this title.

4 (C) The Secretary may not grant an ex-
5 emption under this paragraph unless the Sec-
6 retary finds that such exemption is—

7 (i) administratively feasible;

8 (ii) in the interests of the American
9 Savings Account Fund and of its partici-
10 pants and beneficiaries; and

11 (iii) protective of the rights of partici-
12 pants and beneficiaries of such Fund.

13 (D) An exemption under this paragraph
14 may not be granted unless—

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

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

19 (iii) the Secretary affords an oppor-
20 tunity for a hearing and makes a deter-
21 mination on the record with respect to the
22 respective requirements of clauses (i), (ii),
23 and (iii) of subparagraph (C).

24 (E) Notwithstanding subparagraph (D),
25 the Secretary may determine that an exemption

1 granted for any class of fiduciaries or trans-
2 actions under section 408(a) of the Employee
3 Retirement Income Security Act of 1974 shall,
4 upon publication of notice in the Federal Reg-
5 ister under this subparagraph, constitute an ex-
6 emption for purposes of the provisions of para-
7 graph (2).

8 (d) ALLOWANCES.—This section does not prohibit
9 any fiduciary from—

10 (1) receiving any benefit which the fiduciary is
11 entitled to receive under this title as a participant or
12 beneficiary;

13 (2) receiving any reasonable compensation au-
14 thorized by this title for services rendered, or for re-
15 imbursement of expenses properly and actually in-
16 curred, in the performance of the fiduciary's duties
17 under this title; or

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

21 (e) LIABILITY.—

22 (1) IN GENERAL.—

23 (A) Any fiduciary that breaches the re-
24 sponsibilities, duties, and obligations set out in
25 subsection (b) or violates subsection (c) shall be

1 personally liable to the American Savings Ac-
2 count Fund for any losses to such Fund result-
3 ing from each such breach or violation and to
4 restore to such Fund any profits made by the
5 fiduciary through use of assets of such Fund by
6 the fiduciary, and shall be subject to such other
7 equitable or remedial relief as a court considers
8 appropriate, except as provided in paragraphs
9 (3) and (4). A fiduciary may be removed for a
10 breach referred to in the preceding sentence.

11 (B) The Secretary may assess a civil pen-
12 alty against a party in interest with respect to
13 each transaction which is engaged in by the
14 party in interest and is prohibited by subsection
15 (c). The amount of such penalty shall be equal
16 to 5 percent of the amount involved in each
17 such transaction (as defined in section
18 4975(f)(4) of the Internal Revenue Code of
19 1986) for each year or part thereof during
20 which the prohibited transaction continues, ex-
21 cept that, if the transaction is not corrected (in
22 such manner as the Secretary shall prescribe by
23 regulation consistent with section 4975(f)(5) of
24 such Code) within 90 days after the date the
25 Secretary transmits notice to the party in inter-

1 est (or such longer period as the Secretary may
2 permit), such penalty may be in an amount not
3 more than 100 percent of the amount involved.

4 (C)(i) A fiduciary shall not be liable under
5 subparagraph (A) with respect to a breach of fi-
6 duciary duty under subsection (b) committed
7 before becoming a fiduciary or after ceasing to
8 be a fiduciary.

9 (ii) A fiduciary shall not be liable under
10 subparagraph (A), and no civil action may be
11 brought against a fiduciary—

12 (I) for providing for the automatic en-
13 rollment of a participant in accordance
14 with this title; or

15 (II) for enrolling a participant or ben-
16 eficiary in a default investment fund or op-
17 tion in accordance with this title.

18 (D) A fiduciary shall be jointly and sever-
19 ally liable under subparagraph (A) for a breach
20 of fiduciary duty under subsection (b) by an-
21 other fiduciary only if—

22 (i) the fiduciary participates know-
23 ingly in, or knowingly undertakes to con-
24 ceal, an act or omission of such other fidu-

1 ciary, knowing such act or omission is such
2 a breach;

3 (ii) by the fiduciary's failure to com-
4 ply with subsection (b) in the administra-
5 tion of the fiduciary's specific responsibil-
6 ities which give rise to the fiduciary status,
7 the fiduciary has enabled such other fidu-
8 ciary to commit such a breach; or

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

13 (E) The Secretary shall prescribe, in regu-
14 lations, procedures for allocating fiduciary re-
15 sponsibilities among fiduciaries, including in-
16 vestment managers. Any fiduciary who, pursu-
17 ant to such procedures, allocates to a person or
18 persons any fiduciary responsibility shall not be
19 liable for an act or omission of such person or
20 persons unless—

21 (i) such fiduciary violated subsection
22 (b) with respect to the allocation, with re-
23 spect to the implementation of the proce-
24 dures prescribed by the Secretary, or in
25 continuing such allocation; or

1 (ii) such fiduciary would otherwise be
2 liable in accordance with subparagraph
3 (D).

4 (2) CIVIL ACTION ONLY AS PROVIDED.—No
5 civil action may be maintained against any fiduciary
6 with respect to the responsibilities, liabilities, and
7 penalties authorized or provided for in this section
8 except in accordance with paragraphs (3) and (4).

9 (3) RULES REGARDING CIVIL ACTIONS.—A civil
10 action may be brought in the district courts of the
11 United States—

12 (A) by the Secretary against any fiduciary
13 other than a Member of the Board or the Chair
14 of the Board—

15 (i) to determine and enforce a liability
16 under paragraph (1)(A);

17 (ii) to collect any civil penalty under
18 paragraph (1)(B);

19 (iii) to enjoin any act or practice
20 which violates any provision of subsection
21 (b) or (c);

22 (iv) to obtain any other appropriate
23 equitable relief to redress a violation of any
24 such provision; or

1 (v) to enjoin any act or practice which
2 violates section 101(e);

3 (B) by any participant, beneficiary, or fi-
4 duciary against any fiduciary—

5 (i) to enjoin any act or practice which
6 violates any provision of subsection (b) or
7 (c);

8 (ii) to obtain any other appropriate
9 equitable relief to redress a violation of any
10 such provision; or

11 (iii) to enjoin any act or practice
12 which violates section 101(e); or

13 (C) by any participant or beneficiary—

14 (i) to recover benefits of such partici-
15 pant or beneficiary under the provisions of
16 this title, to enforce any right of such par-
17 ticipant or beneficiary under such provi-
18 sions, or to clarify any such right to future
19 benefits under such provisions; or

20 (ii) to enforce any claim otherwise
21 cognizable under sections 1346(b) and
22 2671 through 2680 of title 28, United
23 States Code, provided that the remedy
24 against the United States provided by sec-
25 tions 1346(b) and 2672 of title 28, United

1 States Code, for damages for injury or loss
2 of property caused by the negligent or
3 wrongful act or omission of any fiduciary
4 while acting within the scope of the fidu-
5 ciary's duties or employment shall be ex-
6 clusive of any other civil action or pro-
7 ceeding by the participant or beneficiary
8 for recovery of money by reason of the
9 same subject matter against the fiduciary
10 (or the estate of such fiduciary) whose act
11 or omission gave rise to such action or pro-
12 ceeding, whether or not such action or pro-
13 ceeding is based on an alleged violation of
14 subsection (b) or (c).

15 (4) OTHER RULES.—

16 (A) In all civil actions under paragraph
17 (3)(A), attorneys appointed by the Secretary
18 may represent the Secretary (except as provided
19 in section 518(a) of title 28, United States
20 Code), however all such litigation shall be sub-
21 ject to the direction and control of the Attorney
22 General.

23 (B) The Attorney General shall defend any
24 civil action or proceeding brought in any court
25 against any fiduciary referred to in paragraph

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

13 (C) Upon certification by the Attorney
14 General that a fiduciary described in paragraph
15 (3)(C)(ii) was acting in the scope of such fidu-
16 ciary's duties or employment as a fiduciary at
17 the time of the occurrence or omission out of
18 which the action arose, any such civil action or
19 proceeding commenced in a State court shall
20 be—

21 (i) removed without bond at any time
22 before trial by the Attorney General to the
23 district court of the United States for the
24 district and division in which it is pending;
25 and

1 (ii) deemed a tort action brought
2 against the United States under the provi-
3 sions of title 28, United States Code, and
4 all references thereto.

5 (D) The Attorney General may com-
6 promise or settle any claim asserted in such
7 civil action or proceeding in the manner pro-
8 vided in section 2677 of title 28, United States
9 Code, and with the same effect. To the extent
10 section 2672 of title 28, United States Code,
11 provides that persons other than the Attorney
12 General or the Attorney General's designee may
13 compromise and settle claims, and that pay-
14 ment of such claims may be made from agency
15 appropriations, such provisions shall not apply
16 to claims based upon an alleged violation of
17 subsection (b) or (c).

18 (E) For the purposes of paragraph
19 (3)(C)(ii) the provisions of sections 2680(h) of
20 title 28, United States Code, shall not apply to
21 any claim based upon an alleged violation of
22 subsection (b) or (c).

23 (F) Notwithstanding sections 1346(b) and
24 2671 through 2680 of title 28, United States
25 Code, whenever an award, compromise, or set-

1 tlement is made under such sections upon any
 2 claim based upon an alleged violation of sub-
 3 section (b) or (c), payment of such award, com-
 4 promise, or settlement shall be made to the ap-
 5 propriate account within the American Savings
 6 Account Fund, or where there is no such appro-
 7 priate account, to the participant or beneficiary
 8 bringing the claim.

9 (G) For purposes of paragraph (3)(C)(ii),
 10 the term “fiduciary” includes only the Members
 11 of the Board and the Board’s Chair.

12 (5) PROHIBITION OF MONETARY RELIEF.—Any
 13 relief awarded against a Member of the Board or the
 14 Chair of the Board in a civil action authorized by
 15 paragraph (3) may not include any monetary dam-
 16 ages or any other recovery of money.

17 (6) LIMITATION.—An action may not be com-
 18 menced under paragraph (3)(A) or (B) with respect
 19 to a fiduciary’s breach of any responsibility, duty, or
 20 obligation under subsection (b) or a violation of sub-
 21 section (c) after the earlier of—

22 (A) 6 years after—

23 (i) the date of the last action which
 24 constituted a part of the breach or viola-
 25 tion; or

1 (ii) in the case of an omission, the lat-
2 est date on which the fiduciary could have
3 cured the breach or violation; or

4 (B) 3 years after the earliest date on
5 which the plaintiff had actual knowledge of the
6 breach or violation, except that, in the case of
7 fraud or concealment, such action may be com-
8 menced not later than 6 years after the date of
9 discovery of such breach or violation.

10 (7) JURISDICTION.—

11 (A) The district courts of the United
12 States shall have exclusive jurisdiction of civil
13 actions under this subsection.

14 (B) An action under this subsection may
15 be brought in the District Court of the United
16 States for the District of Columbia or a district
17 court of the United States in the district where
18 the breach alleged in the complaint or petition
19 filed in the action took place or in the district
20 where a defendant resides or may be found.
21 Process may be served in any other district
22 where a defendant resides or may be found.

23 (8) SERVICE.—

24 (A) A copy of the complaint or petition
25 filed in any action brought under this sub-

1 section (other than by the Secretary) shall be
2 served on the Chair, the Secretary, and the Sec-
3 retary of the Treasury by certified mail.

4 (B) Any officer referred to in subpara-
5 graph (A) shall have the right in the officer's
6 discretion to intervene in any action. If the Sec-
7 retary brings an action under paragraph (2) on
8 behalf of a participant or beneficiary, the Sec-
9 retary shall notify the Chair and the Secretary
10 of the Treasury.

11 (f) REGULATIONS.—The Secretary may prescribe
12 regulations to carry out this section.

13 (g) AUDITS BY SECRETARY.—

14 (1) IN GENERAL.—The Secretary of Labor shall
15 establish a program to carry out audits to determine
16 the level of compliance with the requirements of this
17 section relating to fiduciary responsibilities and pro-
18 hibited activities of fiduciaries.

19 (2) CONTRACTS, ETC.—An audit under this
20 subsection may be conducted by the Secretary, by
21 contract with a qualified nongovernmental organiza-
22 tion, or in cooperation with the Comptroller General
23 of the United States, as the Secretary considers ap-
24 propriate.

1 **SEC. 104. AMERICAN SAVINGS ACCOUNT FUND ADVISORY**
2 **COUNCIL.**

3 (a) IN GENERAL.—The Board shall establish an
4 American Savings Account Fund Advisory Council, to be
5 composed of 14 members appointed by the Chair of the
6 Board. The Chair of the Board shall designate 1 member
7 of the Council to serve as head of the Council.

8 (b) TERMS AND VACANCIES.—

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

11 (2) VACANCIES.—

12 (A) A vacancy in the Council shall be filled
13 in the manner in which the original appoint-
14 ment was made and shall be subject to any con-
15 ditions which applied with respect to the origi-
16 nal appointment.

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

20 (C) The term of any member shall not ex-
21 pire before the date on which the member's suc-
22 cessor takes office.

23 (c) ACTION BY MAJORITY RESOLUTION.—The Coun-
24 cil shall act by resolution of a majority of the members.

25 (d) RESPONSIBILITIES.—The Council shall—

1 (1) advise the Board and the Chair of the
2 Board on matters relating to—

3 (A) investment policies for the American
4 Savings Account Fund; and

5 (B) the administration of this title; and

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

9 **TITLE II—AMERICAN SAVINGS**
10 **ACCOUNT FUND**

11 **SEC. 201. AMERICAN SAVINGS ACCOUNT FUND.**

12 (a) IN GENERAL.—There is established in the Treas-
13 ury of the United States an American Savings Account
14 Fund.

15 (b) AMOUNTS IN FUND.—The American Savings Ac-
16 count Fund consists of the sum of all amounts contributed
17 under section 302, increased by the total net earnings
18 from investments of sums in the American Savings Ac-
19 count Fund or reduced by the total net losses from invest-
20 ments of the American Savings Account Fund, and re-
21 duced by the total amount of payments made from the
22 American Savings Account Fund (including payments for
23 administrative expenses).

1 (c) APPROPRIATIONS FROM FUND.—The sums in the
2 American Savings Account Fund are appropriated and
3 shall remain available without fiscal year limitation—

4 (1) to invest as provided in section 102(b)(1);

5 (2) to pay benefits or purchase annuity con-
6 tracts under section 301(b);

7 (3) to pay the administrative expenses of the
8 Board relating to the responsibilities under section
9 102; and

10 (4) at the discretion of the Chair of the Board,
11 to purchase insurance to cover potential liability of
12 persons who serve in a fiduciary capacity with re-
13 spect to the American Savings Account Fund, in a
14 manner consistent with rules similar to the provi-
15 sions of section 8479 of title 5, United States Code.

16 (d) BENEFITS INALIENABLE AND NONFORFEIT-
17 ABLE.—

18 (1) IN GENERAL.—Subject to paragraphs (3)
19 and (4) of subsection (c) and paragraphs (3) and (4)
20 of this subsection, sums in the American Savings
21 Account Fund credited to the American Savings Ac-
22 count of a participant may not be used for, or di-
23 verted to, purposes other than for the exclusive ben-
24 efit of the participant or the participant's bene-
25 ficiaries.

1 (2) PROTECTION FROM ALIENATION.—Except
2 as provided in paragraphs (3) and (4), sums in the
3 American Savings Account Fund may not be as-
4 signed or alienated and are not subject to execution,
5 levy, attachment, garnishment, or other legal proc-
6 ess.

7 (3) CERTAIN EXCEPTIONS.—Moneys due or
8 payable from the American Savings Account Fund
9 to any individual shall be subject to legal process for
10 the enforcement of the individual's legal obligations
11 to provide child support or make alimony payments
12 as provided in section 459 of the Social Security
13 Act, the enforcement of an order for restitution
14 under section 3663A of title 18, United States Code,
15 or an obligation of the Chair of the Board to make
16 a payment to another person under paragraph (4),
17 and shall be subject to a Federal tax levy under sec-
18 tion 6331 of the Internal Revenue Code of 1986.

19 (4) COURT ORDERS.—Rules similar to the rules
20 of section 8467 of title 5, United States Code, shall
21 apply with respect to payments which would other-
22 wise be made to a participant under section 301(b).

23 (e) LIMITATION ON FURTHER APPROPRIATION.—
24 The sums in the American Savings Account Fund shall
25 not be appropriated for any purpose other than the pur-

1 poses specified in this section and may not be used for
2 any other purpose.

3 (f) AMOUNTS HELD IN TRUST.—All sums contrib-
4 uted to the American Savings Account Fund by a partici-
5 pant or by an employer for the benefit of such participant
6 and all net earnings in such Fund attributable to invest-
7 ment of such sums are held in such Fund in trust for
8 such participant.

9 **SEC. 202. TAX TREATMENT OF THE AMERICAN SAVINGS AC-**
10 **COUNT FUND.**

11 (a) IN GENERAL.—For purposes of the Internal Rev-
12 enue Code of 1986—

13 (1) the American Savings Account Fund shall
14 be treated as a trust described in section 401(a) of
15 such Code which is exempt from taxation under sec-
16 tion 501(a) of such Code;

17 (2) any contribution to, or distribution from,
18 the American Savings Account Fund shall be treated
19 in the same manner as contributions to or distribu-
20 tions from such a trust;

21 (3) contributions to the American Savings Ac-
22 count Fund shall not be treated as distributed or
23 made available to a participant nor as a contribution
24 made to the Fund by an individual merely because
25 the individual has, under section 302(b)(1)(C), made

1 an election whether the contribution will be made to
 2 the American Savings Account Fund or received by
 3 the individual in cash; and

4 (4) the rules of section 414(w) of such Code
 5 shall apply with respect to American Savings Ac-
 6 counts, except that paragraph (2)(B) thereof shall
 7 be applied by substituting “the due date for the re-
 8 turn of tax for the taxable year in which the first
 9 elective contribution is made with respect to the em-
 10 ployee under the arrangement” for “the date which
 11 is 90 days after the date of the first elective con-
 12 tribution with respect to the employee under the ar-
 13 rangement”.

14 (b) COORDINATION WITH SOCIAL SECURITY ACT.—
 15 Subsection (a) shall not be construed to provide that any
 16 amount of the employee’s compensation which is contrib-
 17 uted to the American Savings Account Fund shall not be
 18 included in the term “wages” for the purposes of section
 19 209 of the Social Security Act or section 3121(a) of the
 20 Internal Revenue Code of 1986.

21 **TITLE III—AMERICAN SAVINGS** 22 **ACCOUNTS**

23 **SEC. 301. AMERICAN SAVINGS ACCOUNTS.**

24 (a) IN GENERAL.—For purposes of this title, the
 25 term “American Savings Account” means—

1 (1) an individual retirement account (as defined
2 in section 408(a) of the Internal Revenue Code of
3 1986); and

4 (2) in the case of an individual making the elec-
5 tion under subsection (b)(2), a Roth IRA (as defined
6 in section 408A(b) of such Code);

7 established and maintained by the Board, as trustee of
8 such account.

9 (b) SPECIAL RULES.—

10 (1) ELIGIBILITY.—

11 (A) IN GENERAL.—All qualified employees
12 shall be eligible to participate in an American
13 Savings Account.

14 (B) QUALIFIED EMPLOYEE.—For purposes
15 of this subtitle—

16 (i) IN GENERAL.—The term “qualified
17 employee” means an employee (other than
18 an employee described in section
19 410(b)(3)(C) of the Internal Revenue Code
20 of 1986) of an American employer if the
21 employer does not provide the opportunity
22 for the employee to participate in a defined
23 contribution plan (within the meaning of
24 section 414(i) of the Internal Revenue
25 Code of 1986) maintained by the employer

1 that satisfies the requirements of section
2 401(a) or 403(b) of the Internal Revenue
3 Code of 1986.

4 (ii) EXCEPTION FOR EMPLOYEES COV-
5 ERED BY COLLECTIVE BARGAINING AGREE-
6 MENTS.—Such term shall not include any
7 employee who is included in a group of em-
8 ployees covered by a collective bargaining
9 agreement described in section
10 410(b)(3)(A) of such Code.

11 (iii) AMERICAN EMPLOYER.—The
12 term “American employer” has the mean-
13 ing given such term by section 3121(h) of
14 such Code.

15 (2) ELECTION TO CONVERT TO ROTH IRA.—
16 Subject to the rules of section 408A(d)(3) of the In-
17 ternal Revenue Code of 1986, an individual may
18 elect at any time to convert all or a portion of the
19 individual retirement account established for the in-
20 dividual under section 102(c)(1)(A) to a Roth IRA
21 (as defined in section 408A(b) of such Code).

22 (3) CONTRIBUTIONS.—

23 (A) IN GENERAL.—Subject to section
24 302(b)(1), an individual may contribute to the
25 American Savings Account Fund in any year,

1 pursuant to an election under section
2 102(b)(2), an amount not to exceed the limita-
3 tion described in subparagraph (C). Contribu-
4 tions pursuant to such an election shall, with
5 respect to each pay period for which such elec-
6 tion remains in effect, be made in accordance
7 with a program of regular contributions as pre-
8 scribed by the Chair.

9 (B) ELIGIBLE ROLLOVER DISTRIBUTIONS.—An individual may contribute to the
10 American Savings Account Fund an eligible
11 rollover that an individual retirement account
12 or Roth IRA could accept under section 408 or
13 408A of the Internal Revenue Code of 1986,
14 whichever is applicable (after the application of
15 subparagraph (C)). In the case of an eligible
16 rollover distribution (as defined in section
17 402(c)(4) of such Code), the maximum amount
18 transferred to the American Savings Account
19 Fund shall not exceed the amount which would
20 otherwise have been included in the individual's
21 gross income for Federal income tax purposes.
22 gross income for Federal income tax purposes.

23 (C) MODIFICATION OF CONTRIBUTION LIM-
24 ITATION.—In lieu of the contribution limita-
25 tions for individual retirement accounts or Roth

1 IRAs, whichever is applicable, under part I of
2 subchapter D of chapter 1 of the Internal Rev-
3 enue Code of 1986, the annual contribution lim-
4 itation applicable to an American Savings Ac-
5 count shall be equal to the limitation applicable
6 under section 415(c) of the Internal Revenue
7 Code of 1986 to contributions to a defined con-
8 tribution plan.

9 (4) ANNUITIES, ETC.—

10 (A) IN GENERAL.—The Board shall pre-
11 scribe methods of payment of annuities similar
12 to the methods available under section
13 8434(a)(2) of title 5, United States Code.

14 (B) RULES APPLICABLE.—Rules similar to
15 the rules of subsections (b), (c), (d), and (e) of
16 section 8434 of title 5, United States Code,
17 shall apply for purposes of this paragraph.

18 (5) PROTECTIONS FOR SPOUSES AND FORMER
19 SPOUSES.—

20 (A) IN GENERAL.—Except as provided in
21 subparagraph (A), rules similar to the rules of
22 sections 8433(e) and 8435 of title 5, United
23 States Code, shall apply for purposes of this
24 subsection.

1 (B) ADDITIONAL PROTECTION FOR SUR-
2 VIVING SPOUSES.—A surviving spouse shall be
3 the first party entitled to receive benefits (be-
4 fore any designated beneficiary other than the
5 surviving spouse) unless the surviving spouse
6 consents in writing to the application of the
7 order of precedence in effect but for this sub-
8 paragraph.

9 **SEC. 302. EMPLOYER REQUIREMENTS.**

10 (a) IN GENERAL.—Except as provided in subsections
11 (a) and (b) of section 303, each United States employer
12 shall make contributions meeting the requirements of sub-
13 section (b) on behalf of such qualified employee to the
14 American Savings Account Fund, beginning with the later
15 of—

16 (1) the first pay period for which the employee
17 receives compensation from the employer; or

18 (2) the first pay period beginning on or after
19 the contribution beginning date.

20 (b) CONTRIBUTIONS.—The requirements of this sub-
21 section are met for a taxable year with respect to contribu-
22 tions to the American Savings Account Fund on behalf
23 of a qualified employee if—

24 (1) CONTRIBUTION AMOUNT.—With respect to
25 any pay period beginning in such taxable year—

1 (A) IN GENERAL.—Except as provided in
2 subparagraphs (B) and (C), such contributions
3 are equal to 3 percent of the compensation of
4 the employee for such period.

5 (B) COORDINATION WITH LIMITATIONS.—
6 The total contributions to the Fund on behalf
7 of the employee for pay periods in any taxable
8 year do not exceed the contribution limitation
9 described in section 301(b)(3)(C).

10 (C) ELECTION.—After the first pay period
11 with respect to which a contribution is made
12 with respect to a qualified employee under sub-
13 section (a), the qualified employee may elect—

14 (i) to change the percentage of com-
15 pensation which is contributed to the Fund
16 on behalf of such employee, except that
17 such percentage may not be less than 2
18 percent or greater than the highest per-
19 centage that would not cause total con-
20 tributions during the taxable year to ex-
21 ceed the limitation under subparagraph
22 (B); or

23 (ii) to discontinue contributions to the
24 Fund and withdraw all contributions pre-
25 viously made through a salary reduction

1 arrangement in the same calendar year
2 other than nonelective contributions made
3 by the employer on behalf of the employee.

4 In the event a qualified employee elects to with-
5 draw all contributions previously made to the
6 Fund under the preceding sentence, the amount
7 of any nonelective contributions made by the
8 employer on behalf of the employee shall be
9 withdrawn and paid to the employer.

10 (D) CONTRIBUTIONS MAY BE MADE
11 THROUGH SALARY REDUCTION ARRANGE-
12 MENT.—Contributions by an employer shall not
13 fail to meet the requirements of this subsection
14 solely because the employee may elect to have
15 the employer make payments—

16 (i) to the American Savings Account
17 of the employee; or

18 (ii) to the employee directly in cash.

19 The preceding sentence shall apply only if the
20 contributions on behalf of all qualified employ-
21 ees of the employer for a pay period are in a
22 uniform dollar amount or a uniform percentage
23 of compensation.

24 (E) MANDATORY PERCENTAGE INCREASE
25 OFFER.—

1 (i) IN GENERAL.—If a qualified em-
2 ployee elects under subparagraph (C) a
3 contribution percentage that is less than 5
4 percent, then 12 months after such elec-
5 tion is made and every 12 months there-
6 after the Board shall notify the employee
7 in writing that such contribution percent-
8 age will be increased by 0.5 percent unless
9 the employee objects within 30 days of re-
10 ceipt of such notice. If the employee does
11 not so object, upon notification by the
12 Board, the employer shall increase the per-
13 centage of the employee's compensation
14 which is contributed to the Fund on behalf
15 of the employee by 0.5 percent.

16 (ii) APPLICABILITY.—

17 (I) IN GENERAL.—Clause (i)
18 shall cease to apply once the percent-
19 age of compensation contributed to
20 the Fund on behalf of the employee is
21 greater than or equal to 5 percent.

22 (II) COORDINATION WITH LIM-
23 TATIONS.—Clause (i) shall not apply
24 during a taxable year if, as so in-
25 creased, the percentage of compensa-

1 tion contributed to the Fund on be-
2 half of the employee would exceed the
3 percentage described in subparagraph
4 (C)(i).

5 (2) FREQUENCY AND TIMING OF CONTRIBU-
6 TIONS.—Contributions under subsection (a) are
7 made not less frequently than monthly during such
8 year, and each such contribution is made not later
9 than 30 days after the close of the pay period to
10 which it relates.

11 (c) EXCEPTIONS.—Subsection (a) shall not apply to
12 an employer that is a church or convention or association
13 of churches which is exempt from tax under section 501(a)
14 of the Internal Revenue Code of 1986. If such an employer
15 elects to make contributions to the American Savings Ac-
16 count Fund on behalf of qualified employees of the em-
17 ployer, such contributions must meet the requirements of
18 paragraph (1).

19 (d) SELF-EMPLOYED INDIVIDUALS.—An indi-
20 vidual—

21 (1) who has net earnings from self-employment
22 (as defined in section 1402(a) of the Internal Rev-
23 enue Code of 1986);

24 (2) who is not a qualified employee with respect
25 to any employer; and

1 (3) who is not eligible to participate in a de-
2 fined contribution plan (within the meaning of sec-
3 tion 414(i) of the Internal Revenue Code of 1986)
4 maintained by any employer;
5 may elect to make contributions on the individual's own
6 behalf to the American Savings Account Fund. Such con-
7 tributions shall be made under rules similar to the rules
8 of section 301(b)(3).

9 (e) CONTRIBUTION BEGINNING DATE.—For pur-
10 poses of this section, the term “contribution beginning
11 date” means January 1 of the 3rd calendar year beginning
12 after the date of the enactment of the American Savings
13 Account Act of 2016.

14 **SEC. 303. STATE RETIREMENT SAVINGS PLANS.**

15 (a) IN GENERAL.—If a State—

16 (1) maintains a public retirement savings plan
17 that allows all covered employers in the State to en-
18 roll all employees of the employer automatically in
19 such plan; or

20 (2) allows all covered employers in the State to
21 make contributions to an individual retirement plan
22 (as defined in section 7701(a)(37) of the Internal
23 Revenue Code of 1986) on behalf of the employees
24 of the employer;

1 such State may prohibit employers in the State from mak-
2 ing contributions to the American Savings Account Fund
3 on behalf of their employees, and section 302 shall not
4 apply to covered employers to which such prohibition ap-
5 plies.

6 (b) EXEMPTION.—For purposes of this Act, the term
7 “employee pension benefit plan” shall not include a payroll
8 deduction program established by a State for the purpose
9 of making contributions to one or more individual retire-
10 ment plans (as defined in section 7701(a)(37) of the Inter-
11 nal Revenue Code of 1986), including such a program
12 which provides for automatic enrollment.

13 (c) WAIVER OF PENALTY.—The penalty under sec-
14 tion 6672(f) of the Internal Revenue Code of 1986 shall
15 not apply to a failure to make a contribution on behalf
16 of a qualified employee if the employer makes contribu-
17 tions to a State plan described in subsection (a) or (b)
18 on behalf of such employee that satisfy the applicable re-
19 quirements of such State plan. The employer shall certify
20 to the Secretary of the Treasury, in such manner as shall
21 be determined by such Secretary, that such contributions
22 have been made.

23 (d) COVERED EMPLOYER.—For purposes of this sec-
24 tion, the term “covered employer” means an employer—

1 (1) that does not provide the opportunity for
 2 employees to participate in a defined contribution
 3 plan (within the meaning of section 414(i) of the In-
 4 ternal Revenue Code of 1986) maintained by the
 5 employer; and

6 (2) whose employees are not covered by a collec-
 7 tive bargaining agreement described in section
 8 410(b)(3)(A) of the Internal Revenue Code of 1986.

9 **SEC. 304. DEFINITIONS.**

10 Any term used in this title which is also used in sec-
 11 tion 408(k) of the Internal Revenue Code of 1986 has the
 12 same meaning as when used in such section.

13 **TITLE IV—CONFORMING**
 14 **AMENDMENTS**

15 **SEC. 401. AMERICAN SAVINGS ACCOUNTS.**

16 (a) CONFORMING AMENDMENT.—Section 7701 of the
 17 Internal Revenue Code of 1986 is amended by redesign-
 18 nating subsection (p) as subsection (q) and by inserting
 19 after subsection (o) the following new subsection:

20 “(p) TAX TREATMENT OF AMERICAN SAVINGS AC-
 21 COUNT FUND.—

22 “(1) IN GENERAL.—For purposes of this title—

23 “(A) the American Savings Account Fund
 24 shall be treated as a trust described in section

1 401(a) which is exempt from taxation under
2 section 501(a);

3 “(B) any contribution to, or distribution
4 from, the American Savings Account Fund shall
5 be treated in the same manner as contributions
6 to or distributions from such a trust;

7 “(C) contributions to the American Sav-
8 ings Account Fund shall not be treated as dis-
9 tributed or made available to a participant nor
10 as a contribution made to the Fund by an indi-
11 vidual merely because the individual has, under
12 section 302(b)(1)(C) of the American Savings
13 Account Act of 2016, made an election whether
14 the contribution will be made to the American
15 Savings Account Fund or received by the indi-
16 vidual in cash; and

17 “(D) the rules of section 414(w) shall
18 apply with respect to American Savings Ac-
19 counts, except that paragraph (2)(B) thereof
20 shall be applied by substituting ‘the due date
21 for the return of tax for the taxable year in
22 which the first elective contribution is made
23 with respect to the employee under the arrange-
24 ment’ for ‘the date which is 90 days after the

1 date of the first elective contribution with re-
2 spect to the employee under the arrangement’.

3 “(2) COORDINATION WITH SOCIAL SECURITY
4 ACT.—Paragraph (1) shall not be construed to pro-
5 vide that any amount of the employee’s compensa-
6 tion which is contributed to the American Savings
7 Account Fund shall not be included in the term
8 ‘wages’ for the purposes of section 209 of the Social
9 Security Act or section 3121(a) of this title.

10 “(3) DEFINITIONS.—For purposes of this sub-
11 section, the terms ‘employee’ and ‘American Savings
12 Account Fund’ shall have the same respective mean-
13 ings as when used in the American Savings Account
14 Act of 2016.

15 “(4) COORDINATION WITH OTHER PROVISIONS
16 OF LAW.—No provision of law not contained in this
17 title shall apply for purposes of determining the
18 treatment under this title of the American Savings
19 Account Fund or any contribution to, or distribution
20 from, such Fund.”.

21 (b) TREATMENT OF CONTRIBUTIONS TO AMERICAN
22 SAVINGS ACCOUNT FUND.—

23 (1) IN GENERAL.—Part III of subchapter B of
24 chapter 1 of the Internal Revenue Code of 1986 is

1 amended by inserting after section 139E the fol-
2 lowing new section:

3 **“SEC. 139F. AMOUNTS CONTRIBUTED TO AMERICAN SAV-**
4 **INGS ACCOUNTS.**

5 “(a) IN GENERAL.—Gross income does not include
6 so much of the contributions made to the American Sav-
7 ings Account Fund on behalf of an individual for pay peri-
8 ods in the taxable year as does not exceed the limitation
9 applicable under section 415(c) of the Internal Revenue
10 Code of 1986 to contributions to a defined contribution
11 plan.

12 “(b) AMERICAN SAVINGS ACCOUNT FUND.—For pur-
13 poses of this section, the term ‘American Savings Account
14 Fund’ means the Fund established under section 201 of
15 the American Savings Account Act of 2016.”.

16 (2) DENIAL OF DEDUCTION.—Subsection (b) of
17 section 219 of such Code is amended by adding at
18 the end the following new paragraph:

19 “(6) SPECIAL RULE FOR AMERICAN SAVINGS
20 ACCOUNTS.—This section shall not apply with re-
21 spect to any amount contributed to an individual re-
22 tirement account (as defined in section 408(a)) or a
23 Roth IRA (as defined in section 408A(b)) which is
24 an American Savings Account (as defined in section

1 301 of the American Savings Account Act of
2 2016).”.

3 (3) CLERICAL AMENDMENT.—The table of sec-
4 tions for part III of subchapter B of chapter 1 of
5 such Code is amended by inserting after the item re-
6 lating to section 139E the following new item:

 “Sec. 139F. Amounts contributed to American Savings Accounts.”.

7 (c) TREATMENT OF DISTRIBUTIONS AS SEPARATE
8 FROM OTHER IRAS AND ROTH IRAS.—Subparagraph
9 (A) of section 408(d)(2) of the Internal Revenue Code of
10 1986 is amended by striking “plans” and inserting “plans
11 (other than American Savings Accounts, within the mean-
12 ing of section 301 of the American Savings Account Act
13 of 2016)”.

14 (d) EFFECTIVE DATE.—

15 (1) PROGRAM.—The Chair of the American
16 Savings Account Board of Directors shall establish
17 the American Savings Account program such that
18 the American Savings Account Fund is prepared to
19 begin receiving contributions on January 1 of the
20 3rd calendar year beginning after the date of the en-
21 actment of this Act.

22 (2) TREATMENT OF CONTRIBUTIONS.—Except
23 as provided in paragraph (1), the amendments made
24 by this section shall apply to contributions made to
25 the American Savings Account Fund, as established

1 by the amendments made by subsection (a), after
2 December 31 of the 2nd calendar year beginning
3 after the date of the enactment of this Act.

4 **SEC. 402. PENALTY FOR EMPLOYER NONCOMPLIANCE.**

5 Section 6672 of the Internal Revenue Code of 1986
6 is amended by adding at the end the following new sub-
7 section:

8 “(f) EMPLOYER NONCOMPLIANCE WITH REQUIRE-
9 MENTS OF AMERICAN SAVINGS ACCOUNT ACT.—Except
10 as provided in section 303(c) of the American Savings Ac-
11 count Act of 2016, any employer that fails to make any
12 contribution required by section 302 of such Act shall be
13 treated for purposes of subsection (a) as if the employer
14 had willfully failed to collect a tax in the amount of such
15 required contribution.”.

16 **SEC. 403. OUTREACH.**

17 The Commissioner of Internal Revenue shall provide
18 to any person filing Form 1099 information on contrib-
19 uting to the American Savings Account Fund.

20 **SEC. 404. INDEPENDENT CONTRACTORS.**

21 The Secretary of Labor shall promulgate rules allow-
22 ing employers to—

23 (1) request explicit authorization from inde-
24 pendent contractors with such employers to con-

1 tribute on behalf of such independent contractors to
2 the American Savings Account Fund; and

3 (2) automatically withhold and transmit a set
4 amount or percentage of compensation paid to such
5 independent contractors to such Fund.

○