

115TH CONGRESS
2D SESSION

S. 3242

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

IN THE SENATE OF THE UNITED STATES

JULY 19, 2018

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

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
5 Act”.

6 **SEC. 2. AMERICAN SAVINGS ACCOUNTS.**

7 (a) IN GENERAL.—The Employee Retirement Income
8 Security Act of 1974 (29 U.S.C. 1001 et seq.) is amended
9 by adding at the end the following:

1 **“TITLE V—AMERICAN SAVINGS**
2 **ACCOUNTS**

3 **“Subtitle A—Administration**

4 **“SEC. 5001. AMERICAN SAVINGS ACCOUNT BOARD OF DI-**
5 **RECTORS.**

6 “(a) IN GENERAL.—There is established an Amer-
7 ican Savings Account Board of Directors (hereafter re-
8 ferred to in this title as the ‘Board’) as a federally char-
9 tered organization. Except as otherwise provided, such
10 Board has perpetual existence.

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

12 “(1) to establish policies for the investment and
13 management of the American Savings Account
14 Fund; and

15 “(2) to carry out the responsibilities of the
16 Board under section 5002.

17 “(c) MEMBERSHIP.—The Board shall be composed of
18 9 members appointed by the President in consultation
19 with the Secretary of Labor and with the advice and con-
20 sent of the Senate, to include—

21 “(1) the Secretary of Labor or a delegate of the
22 Secretary;

23 “(2) 1 representative of employers;

24 “(3) 1 representative of the private retirement
25 savings investment industry;

1 “(4) 1 representative of employees;

2 “(5) 1 representative of retirees; and

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

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

9 “(d) TERMS AND VACANCIES.—

10 “(1) TERM.—A member of the Board shall be
11 appointed for a term of 4 years and, after the expi-
12 ration of such term, may be reappointed immediately
13 to a subsequent term.

14 “(2) VACANCY.—A vacancy on the Board shall
15 be filled in the manner in which the original appoint-
16 ment was made and shall be subject to any condi-
17 tions which applied with respect to the original ap-
18 pointment. An individual chosen to fill a vacancy
19 shall be appointed for the unexpired term of the
20 member replaced.

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

1 “(e) RESPONSIBILITY.—The members of the Board
2 shall discharge their responsibilities solely in the interest
3 of participants and beneficiaries under this title.

4 “(f) COMPENSATION.—

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

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

18 “(3) PAYMENTS.—Payments authorized under
19 this subsection shall be paid from the American Sav-
20 ings Account Fund.

21 **“SEC. 5002. RESPONSIBILITIES OF AMERICAN SAVINGS AC-**
22 **COUNT BOARD OF DIRECTORS.**

23 “(a) ESTABLISHMENT OF INVESTMENT FUNDS AND
24 OPTIONS.—The Board shall select or establish a list of
25 investment funds and options similar to those described

1 in subsection (b) of section 8438 of title 5, United States
2 Code, among which an individual participating in an
3 American Savings Account established under section
4 5003(a) may elect under subsection (b)(2).

5 “(b) INVESTMENT OF SUMS.—

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

20 “(2) ELECTION.—

21 “(A) IN GENERAL.—At least twice each
22 year, an individual participating in an American
23 Savings Account established under subsection
24 (c)(1) may elect any of the investment funds
25 and options referred to in subsection (a) into

1 which the sums in the American Savings Ac-
2 count Fund credited to such individual's Amer-
3 ican Savings Account are to be invested or rein-
4 vested in the same manner as sums in the
5 Thrift Savings Fund are invested under section
6 8438 of title 5, United States Code.

7 “(B) FORM AND MANNER OF ELECTION.—

8 An election may be made under subparagraph
9 (A) only in such manner and within such period
10 as shall be provided by the Chair of the Board.

11 “(c) ACCOUNTING AND INFORMATION.—

12 “(1) IN GENERAL.—The Chair of the Board
13 shall establish and maintain—

14 “(A) an American Savings Account de-
15 scribed in paragraph (1) of section 5021(a); or

16 “(B) at the election of the individual pur-
17 suant to section 5021(b)(2), an American Sav-
18 ings Account described in paragraph (2) of sec-
19 tion 5021(a);

20 for each individual who makes contributions under
21 section 5021(b)(3), or for whom contributions are
22 made under section 5022, to the American Savings
23 Account Fund.

24 “(2) BALANCE; ALLOCATION OF EARNINGS AND
25 LOSSES, ETC.—Rules similar to the rules of para-

1 graphs (2) and (3) of section 8439(a) of title 5,
2 United States Code, shall apply for purposes of an
3 individual's American Savings Account established
4 under paragraph (1).

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

14 “(d) REPORTING REQUIREMENTS.—

15 “(1) ANNUAL REPORT.—The Board shall, not
16 later than June 30 of each year, submit to Congress
17 an annual report on the operations of the American
18 Savings Account Fund. Such report shall include,
19 for the prior calendar year, information on the num-
20 ber of participants as of the last day of such prior
21 calendar year, the median balance in participants'
22 accounts as of such last day, demographic informa-
23 tion on participants, the percentage allocation of
24 amounts among investment funds or options, the
25 status of the development and implementation of the

1 mutual fund window, the diversity demographics of
2 any company, investment adviser, or other entity re-
3 tained to invest and manage the assets of the Amer-
4 ican Savings Account Fund, and such other informa-
5 tion as the Board considers appropriate. A copy of
6 each annual report under this subsection shall be
7 made available to the public through an Internet
8 website.

9 “(2) REPORTING OF FEES AND OTHER INFOR-
10 MATION.—

11 “(A) IN GENERAL.—The Board shall pro-
12 vide to each individual for whom an account is
13 maintained—

14 “(i) a periodic statement relating to
15 the individual’s account;

16 “(ii) a summary description of the in-
17 vestment funds and options under sub-
18 section (a) covering, and an evaluation of,
19 each such option during the 5-year period
20 preceding the date as of which such eval-
21 uation is made;

22 “(iii) a statement of the amount of
23 the investment management fees, adminis-
24 trative expenses, and any other fees or ex-

1 penses paid with respect to each such in-
2 vestment fund and option; and

3 “(iv) a statement notifying partici-
4 pants as to how they may access the an-
5 nual report described in paragraph (1), as
6 well as any other information concerning
7 American Savings Accounts that might be
8 useful.

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

17 “(B) TIME WHEN SENT.—Information
18 under subparagraph (A) with respect to each
19 participant shall be provided immediately upon
20 payment of the participant’s first contribution
21 to the American Savings Account Fund and on
22 a regular basis thereafter, in a manner designed
23 to facilitate informed decisionmaking with re-
24 spect to elections under subsection (b)(2).
25 Nothing in this subparagraph shall be consid-

1 ered to limit the dissemination of information
2 only to the times required under the preceding
3 sentence.

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

12 **“SEC. 5003. FIDUCIARY RESPONSIBILITIES; LIABILITY AND**
13 **PENALTIES.**

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

15 “(1) the term ‘adequate consideration’ means—

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

18 “(i) the price of the security pre-
19 vailing on a national securities exchange
20 which is registered under section 6 of the
21 Securities Exchange Act of 1934; or

22 “(ii) if the security is not traded on
23 such a national securities exchange, a price
24 not less favorable to the American Savings
25 Account Fund than the offering price for

1 the security as established by the current
2 bid and asked prices quoted by persons
3 independent of the issuer and of any party
4 in interest; and

5 “(B) in the case of an asset other than a
6 security for which there is a generally recog-
7 nized market, the fair market value of the asset
8 as determined in good faith by a fiduciary or fi-
9 duciaries in accordance with regulations pre-
10 scribed by the Secretary of Labor;

11 “(2) the term ‘fiduciary’ means—

12 “(A) a member of the Board, including the
13 Chair;

14 “(B) any person who has or exercises dis-
15 cretionary authority or discretionary control
16 over the management or disposition of the as-
17 sets of the American Savings Account Fund;
18 and

19 “(C) any person who, with respect to the
20 American Savings Account Fund, is described
21 in section 3(21)(A); and

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

23 “(A) any fiduciary;

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

4 “(C) any participant;

5 “(D) any person providing services to the
6 Board and, with respect to the actions of the
7 Chair as a fiduciary, any person providing serv-
8 ices to the Chair;

9 “(E) a labor organization, the members of
10 which are participants;

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

15 “(G) a corporation, partnership, or trust
16 or estate of which, or in which, at least 50 per-
17 cent of—

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

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

24 “(iii) the beneficial interest of such
25 trust or estate,

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

4 “(H) an official (including a director) of,
5 or an individual employed by, a person de-
6 scribed in subparagraph (A), (B), (D), (E), or
7 (G), or an individual having powers or respon-
8 sibilities similar to those of such an official;

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

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

18 “(b) IN GENERAL.—

19 “(1) DISCHARGE OF RESPONSIBILITIES.—To
20 the extent not inconsistent with the provisions of
21 this title and the policies prescribed by the Board,
22 a fiduciary shall discharge the fiduciary’s respon-
23 sibilities with respect to the American Savings Ac-
24 count Fund or applicable portion thereof solely in

1 the interest of the participants and beneficiaries
2 and—

3 “(A) for the exclusive purpose of—

4 “(i) providing benefits to participants
5 and their beneficiaries; and

6 “(ii) defraying reasonable expenses of
7 administering the American Savings Ac-
8 count Fund or applicable portions thereof;

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

15 “(C) to the extent permitted by this title,
16 by diversifying the investments of the American
17 Savings Account Fund or applicable portions
18 thereof so as to minimize the risk of large
19 losses, unless under the circumstances it is
20 clearly prudent not to do so.

21 “(2) OWNERSHIP.—No fiduciary may maintain
22 the indicia of ownership of any assets of the Amer-
23 ican Savings Account Fund outside the jurisdiction
24 of the district courts of the United States.

25 “(c) PROHIBITED TRANSACTIONS.—

1 “(1) IN GENERAL.—A fiduciary shall not per-
2 mit the American Savings Account Fund to engage
3 in any of the following transactions, except in ex-
4 change for adequate consideration:

5 “(A) A transfer of any assets of the Amer-
6 ican Savings Account Fund to any person the
7 fiduciary knows or should know to be a party
8 in interest or the use of such assets by any such
9 person.

10 “(B) An acquisition of any property from
11 or sale of any property to the American Savings
12 Account Fund by any person the fiduciary
13 knows or should know to be a party in interest.

14 “(C) A transfer or exchange of services be-
15 tween the American Savings Account Fund and
16 any person the fiduciary knows or should know
17 to be a party in interest.

18 “(2) SPECIAL RULES.—Notwithstanding para-
19 graph (1), a fiduciary with respect to the American
20 Savings Account Fund shall not—

21 “(A) deal with any assets of the American
22 Savings Account Fund in the fiduciary’s own
23 interest or for the fiduciary’s own account;

24 “(B) act, in an individual capacity or any
25 other capacity, in any transaction involving the

1 American Savings Account Fund on behalf of a
2 party, or representing a party, whose interests
3 are adverse to the interests of the American
4 Savings Account Fund or the interests of its
5 participants or beneficiaries; or

6 “(C) receive any consideration for the fidu-
7 ciary’s own personal account from any party
8 dealing with sums credited to the American
9 Savings Account Fund in connection with a
10 transaction involving assets of the American
11 Savings Account Fund.

12 “(3) GRANTING OF EXEMPTIONS.—

13 “(A) The Secretary may, in accordance
14 with procedures which the Secretary shall by
15 regulation prescribe, grant a conditional or un-
16 conditional exemption of any fiduciary or trans-
17 action, or class of fiduciaries or transactions,
18 from all or part of the restrictions imposed by
19 paragraph (2).

20 “(B) An exemption granted under this
21 paragraph shall not relieve a fiduciary from any
22 other applicable provision of this title.

23 “(C) The Secretary may not grant an ex-
24 emption under this paragraph unless the Sec-
25 retary finds that such exemption is—

1 “(i) administratively feasible;

2 “(ii) in the interests of the American
3 Savings Account Fund and of its partici-
4 pants and beneficiaries; and

5 “(iii) protective of the rights of par-
6 ticipants and beneficiaries of such Fund.

7 “(D) An exemption under this paragraph
8 may not be granted unless—

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

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

13 “(iii) the Secretary affords an oppor-
14 tunity for a hearing and makes a deter-
15 mination on the record with respect to the
16 respective requirements of clauses (i), (ii),
17 and (iii) of subparagraph (C).

18 “(E) Notwithstanding subparagraph (D),
19 the Secretary may determine that an exemption
20 granted for any class of fiduciaries or trans-
21 actions under section 408(a) shall, upon publi-
22 cation of notice in the Federal Register under
23 this subparagraph, constitute an exemption for
24 purposes of the provisions of paragraph (2).

1 “(d) ALLOWANCES.—This section does not prohibit
2 any fiduciary from—

3 “(1) receiving any benefit which the fiduciary is
4 entitled to receive under this title as a participant or
5 beneficiary;

6 “(2) receiving any reasonable compensation au-
7 thorized by this title for services rendered, or for re-
8 imbursement of expenses properly and actually in-
9 curred, in the performance of the fiduciary’s duties
10 under this title; or

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

14 “(e) LIABILITY.—

15 “(1) IN GENERAL.—

16 “(A) Any fiduciary that breaches the re-
17 sponsibilities, duties, and obligations set out in
18 subsection (b) or violates subsection (c) shall be
19 personally liable to the American Savings Ac-
20 count Fund for any losses to such Fund result-
21 ing from each such breach or violation and to
22 restore to such Fund any profits made by the
23 fiduciary through use of assets of such Fund by
24 the fiduciary, and shall be subject to such other
25 equitable or remedial relief as a court considers

1 appropriate, except as provided in paragraphs
2 (3) and (4). A fiduciary may be removed for a
3 breach referred to in the preceding sentence.

4 “(B) The Secretary may assess a civil pen-
5 alty against a party in interest with respect to
6 each transaction which is engaged in by the
7 party in interest and is prohibited by subsection
8 (c). The amount of such penalty shall be equal
9 to 5 percent of the amount involved in each
10 such transaction (as defined in section
11 4975(f)(4) of the Internal Revenue Code of
12 1986) for each year or part thereof during
13 which the prohibited transaction continues, ex-
14 cept that, if the transaction is not corrected (in
15 such manner as the Secretary shall prescribe by
16 regulation consistent with section 4975(f)(5) of
17 such Code) within 90 days after the date the
18 Secretary transmits notice to the party in inter-
19 est (or such longer period as the Secretary may
20 permit), such penalty may be in an amount not
21 more than 100 percent of the amount involved.

22 “(C)(i) A fiduciary shall not be liable
23 under subparagraph (A) with respect to a
24 breach of fiduciary duty under subsection (b)

1 committed before becoming a fiduciary or after
2 ceasing to be a fiduciary.

3 “(ii) A fiduciary shall not be liable
4 under subparagraph (A), and no civil ac-
5 tion may be brought against a fiduciary—

6 “(I) for providing for the auto-
7 matic enrollment of a participant in
8 accordance with this title; or

9 “(II) for enrolling a participant
10 or beneficiary in a default investment
11 fund or option in accordance with this
12 title.

13 “(D) A fiduciary shall be jointly and sever-
14 ally liable under subparagraph (A) for a breach
15 of fiduciary duty under subsection (b) by an-
16 other fiduciary only if—

17 “(i) the fiduciary participates know-
18 ingly in, or knowingly undertakes to con-
19 ceal, an act or omission of such other fidu-
20 ciary, knowing such act or omission is such
21 a breach;

22 “(ii) by the fiduciary’s failure to com-
23 ply with subsection (b) in the administra-
24 tion of the fiduciary’s specific responsibil-
25 ities which give rise to the fiduciary status,

1 the fiduciary has enabled such other fidu-
2 ciary to commit such a breach; or

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

7 “(E) The Secretary shall prescribe, in reg-
8 ulations, procedures for allocating fiduciary re-
9 sponsibilities among fiduciaries, including in-
10 vestment managers. Any fiduciary who, pursu-
11 ant to such procedures, allocates to a person or
12 persons any fiduciary responsibility shall not be
13 liable for an act or omission of such person or
14 persons unless—

15 “(i) such fiduciary violated subsection
16 (b) with respect to the allocation, with re-
17 spect to the implementation of the proce-
18 dures prescribed by the Secretary, or in
19 continuing such allocation; or

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

23 “(2) CIVIL ACTION ONLY AS PROVIDED.—No
24 civil action may be maintained against any fiduciary
25 with respect to the responsibilities, liabilities, and

1 penalties authorized or provided for in this section
2 except in accordance with paragraphs (3) and (4).

3 “(3) RULES REGARDING CIVIL ACTIONS.—A
4 civil action may be brought in the district courts of
5 the United States—

6 “(A) by the Secretary against any fidu-
7 ciary other than a Member of the Board or the
8 Chair of the Board—

9 “(i) to determine and enforce a liabil-
10 ity under paragraph (1)(A);

11 “(ii) to collect any civil penalty under
12 paragraph (1)(B);

13 “(iii) to enjoin any act or practice
14 which violates any provision of subsection
15 (b) or (c);

16 “(iv) to obtain any other appropriate
17 equitable relief to redress a violation of any
18 such provision; or

19 “(v) to enjoin any act or practice
20 which violates section 5001(e);

21 “(B) by any participant, beneficiary, or fi-
22 duciary against any fiduciary—

23 “(i) to enjoin any act or practice
24 which violates any provision of subsection
25 (b) or (c);

1 “(ii) to obtain any other appropriate
2 equitable relief to redress a violation of any
3 such provision; or

4 “(iii) to enjoin any act or practice
5 which violates section 5001(e); or

6 “(C) by any participant or beneficiary—

7 “(i) to recover benefits of such partici-
8 pant or beneficiary under the provisions of
9 this title, to enforce any right of such par-
10 ticipant or beneficiary under such provi-
11 sions, or to clarify any such right to future
12 benefits under such provisions; or

13 “(ii) to enforce any claim otherwise
14 cognizable under sections 1346(b) and
15 2671 through 2680 of title 28, United
16 States Code, provided that the remedy
17 against the United States provided by sec-
18 tions 1346(b) and 2672 of title 28, United
19 States Code, for damages for injury or loss
20 of property caused by the negligent or
21 wrongful act or omission of any fiduciary
22 while acting within the scope of the fidu-
23 ciary’s duties or employment shall be ex-
24 clusive of any other civil action or pro-
25 ceeding by the participant or beneficiary

1 for recovery of money by reason of the
2 same subject matter against the fiduciary
3 (or the estate of such fiduciary) whose act
4 or omission gave rise to such action or pro-
5 ceeding, whether or not such action or pro-
6 ceeding is based on an alleged violation of
7 subsection (b) or (c).

8 “(4) OTHER RULES.—

9 “(A) In all civil actions under paragraph
10 (3)(A), attorneys appointed by the Secretary
11 may represent the Secretary (except as provided
12 in section 518(a) of title 28, United States
13 Code), however all such litigation shall be sub-
14 ject to the direction and control of the Attorney
15 General.

16 “(B) The Attorney General shall defend
17 any civil action or proceeding brought in any
18 court against any fiduciary referred to in para-
19 graph (3)(C)(ii) (or the estate of such fidu-
20 ciary) for any such injury. Any fiduciary
21 against whom such a civil action or proceeding
22 is brought shall deliver, within such time after
23 date of service or knowledge of service as deter-
24 mined by the Attorney General, all process
25 served upon such fiduciary (or an attested copy

1 thereof) to the Chair of the Board, who shall
2 promptly furnish copies of the pleading and
3 process to the Attorney General and the United
4 States Attorney for the district wherein the ac-
5 tion or proceeding is brought.

6 “(C) Upon certification by the Attorney
7 General that a fiduciary described in paragraph
8 (3)(C)(ii) was acting in the scope of such fidu-
9 ciary’s duties or employment as a fiduciary at
10 the time of the occurrence or omission out of
11 which the action arose, any such civil action or
12 proceeding commenced in a State court shall
13 be—

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

19 “(ii) deemed a tort action brought
20 against the United States under the provi-
21 sions of title 28, United States Code, and
22 all references thereto.

23 “(D) The Attorney General may com-
24 promise or settle any claim asserted in such
25 civil action or proceeding in the manner pro-

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

11 “(E) For the purposes of paragraph
12 (3)(C)(ii) the provisions of sections 2680(h) of
13 title 28, United States Code, shall not apply to
14 any claim based upon an alleged violation of
15 subsection (b) or (c).

16 “(F) Notwithstanding sections 1346(b)
17 and 2671 through 2680 of title 28, United
18 States Code, whenever an award, compromise,
19 or settlement is made under such sections upon
20 any claim based upon an alleged violation of
21 subsection (b) or (c), payment of such award,
22 compromise, or settlement shall be made to the
23 appropriate account within the American Sav-
24 ings Account Fund, or where there is no such

1 appropriate account, to the participant or bene-
2 ficiary bringing the claim.

3 “(G) For purposes of paragraph (3)(C)(ii),
4 the term ‘fiduciary’ includes only the Members
5 of the Board and the Board’s Chair.

6 “(5) PROHIBITION OF MONETARY RELIEF.—
7 Any relief awarded against a Member of the Board
8 or the Chair of the Board in a civil action authorized
9 by paragraph (3) may not include any monetary
10 damages or any other recovery of money.

11 “(6) LIMITATION.—An action may not be com-
12 menced under paragraph (3)(A) or (B) with respect
13 to a fiduciary’s breach of any responsibility, duty, or
14 obligation under subsection (b) or a violation of sub-
15 section (c) after the earlier of—

16 “(A) 6 years after—

17 “(i) the date of the last action which
18 constituted a part of the breach or viola-
19 tion; or

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

23 “(B) 3 years after the earliest date on
24 which the plaintiff had actual knowledge of the
25 breach or violation, except that, in the case of

1 fraud or concealment, such action may be com-
2 menced not later than 6 years after the date of
3 discovery of such breach or violation.

4 “(7) JURISDICTION.—

5 “(A) The district courts of the United
6 States shall have exclusive jurisdiction of civil
7 actions under this subsection.

8 “(B) An action under this subsection may
9 be brought in the District Court of the United
10 States for the District of Columbia or a district
11 court of the United States in the district where
12 the breach alleged in the complaint or petition
13 filed in the action took place or in the district
14 where a defendant resides or may be found.
15 Process may be served in any other district
16 where a defendant resides or may be found.

17 “(8) SERVICE.—

18 “(A) A copy of the complaint or petition
19 filed in any action brought under this sub-
20 section (other than by the Secretary) shall be
21 served on the Chair, the Secretary, and the Sec-
22 retary of the Treasury by certified mail.

23 “(B) Any officer referred to in subpara-
24 graph (A) shall have the right in the officer’s
25 discretion to intervene in any action. If the Sec-

1 retary brings an action under paragraph (2) on
 2 behalf of a participant or beneficiary, the Sec-
 3 retary shall notify the Chair and the Secretary
 4 of the Treasury.

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

7 “(g) AUDITS BY SECRETARY.—

8 “(1) IN GENERAL.—The Secretary of Labor
 9 shall establish a program to carry out audits to de-
 10 termine the level of compliance with the require-
 11 ments of this section relating to fiduciary respon-
 12 sibilities and prohibited activities of fiduciaries.

13 “(2) CONTRACTS, ETC.—An audit under this
 14 subsection may be conducted by the Secretary, by
 15 contract with a qualified nongovernmental organiza-
 16 tion, or in cooperation with the Comptroller General
 17 of the United States, as the Secretary considers ap-
 18 propriate.

19 **“SEC. 5004. AMERICAN SAVINGS ACCOUNT FUND ADVISORY**
 20 **COUNCIL.**

21 “(a) IN GENERAL.—The Board shall establish an
 22 American Savings Account Fund Advisory Council, to be
 23 composed of 14 members appointed by the Chair of the
 24 Board. The Chair of the Board shall designate 1 member
 25 of the Council to serve as head of the Council.

1 “(b) TERMS AND VACANCIES.—

2 “(1) TERM.—A member of the Council shall be
3 appointed for a term of 4 years.

4 “(2) VACANCIES.—

5 “(A) A vacancy in the Council shall be
6 filled in the manner in which the original ap-
7 pointment was made and shall be subject to any
8 conditions which applied with respect to the
9 original appointment.

10 “(B) An individual chosen to fill a vacancy
11 shall be appointed for the unexpired term of the
12 member replaced.

13 “(C) The term of any member shall not ex-
14 pire before the date on which the member’s suc-
15 cessor takes office.

16 “(c) ACTION BY MAJORITY RESOLUTION.—The
17 Council shall act by resolution of a majority of the mem-
18 bers.

19 “(d) RESPONSIBILITIES.—The Council shall—

20 “(1) advise the Board and the Chair of the
21 Board on matters relating to—

22 “(A) investment policies for the American
23 Savings Account Fund; and

24 “(B) the administration of this title; and

1 “(2) perform such other duties as the Board
2 may direct with respect to investment funds estab-
3 lished in accordance with this title.

4 **“Subtitle B—American Savings**
5 **Account Fund**

6 **“SEC. 5011. AMERICAN SAVINGS ACCOUNT FUND.**

7 “(a) IN GENERAL.—There is established in the
8 Treasury of the United States an American Savings Ac-
9 count Fund.

10 “(b) AMOUNTS IN FUND.—The American Savings
11 Account Fund consists of the sum of all amounts contrib-
12 uted under section 5022, increased by the total net earn-
13 ings from investments of sums in the American Savings
14 Account Fund or reduced by the total net losses from in-
15 vestments of the American Savings Account Fund, and re-
16 duced by the total amount of payments made from the
17 American Savings Account Fund (including payments for
18 administrative expenses).

19 “(c) APPROPRIATIONS FROM FUND.—The sums in
20 the American Savings Account Fund are appropriated and
21 shall remain available without fiscal year limitation—

22 “(1) to invest as provided in section 5002(b)(1);

23 “(2) to pay benefits or purchase annuity con-
24 tracts under section 5021(b);

1 “(3) to pay the administrative expenses of the
2 Board relating to the responsibilities under section
3 5002; and

4 “(4) at the discretion of the Chair of the
5 Board, to purchase insurance to cover potential li-
6 ability of persons who serve in a fiduciary capacity
7 with respect to the American Savings Account Fund,
8 in a manner consistent with rules similar to the pro-
9 visions of section 8479 of title 5, United States
10 Code.

11 “(d) BENEFITS INALIENABLE AND NONFORFEIT-
12 ABLE.—

13 “(1) IN GENERAL.—Subject to paragraphs (3)
14 and (4) of subsection (c) and paragraphs (3) and (4)
15 of this subsection, sums in the American Savings
16 Account Fund credited to the American Savings Ac-
17 count of a participant may not be used for, or di-
18 verted to, purposes other than for the exclusive ben-
19 efit of the participant or the participant’s bene-
20 ficiaries.

21 “(2) PROTECTION FROM ALIENATION.—Except
22 as provided in paragraphs (3) and (4), sums in the
23 American Savings Account Fund may not be as-
24 signed or alienated and are not subject to execution,

1 levy, attachment, garnishment, or other legal proc-
2 ess.

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

15 “(4) COURT ORDERS.—Rules similar to the
16 rules of section 8467 of title 5, United States Code,
17 shall apply with respect to payments which would
18 otherwise be made to a participant under section
19 5021(b).

20 “(e) LIMITATION ON FURTHER APPROPRIATION.—
21 The sums in the American Savings Account Fund shall
22 not be appropriated for any purpose other than the pur-
23 poses specified in this section and may not be used for
24 any other purpose.

1 made to the American Savings Account Fund or re-
 2 ceived by the individual in cash; and

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

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

20 **“Subtitle C—American Savings**
 21 **Accounts**

22 **“SEC. 5021. AMERICAN SAVINGS ACCOUNTS.**

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

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

4 “(2) in the case of an individual making the
5 election under subsection (b)(2), a Roth IRA (as de-
6 fined 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 employ-
12 ees shall be eligible to participate in an Amer-
13 ican Savings Account.

14 “(B) QUALIFIED EMPLOYEE.—For pur-
15 poses of this subtitle—

16 “(i) IN GENERAL.—The term ‘quali-
17 fied employee’ means an employee (other
18 than 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
5 COVERED BY COLLECTIVE BARGAINING
6 AGREEMENTS.—Such term shall not in-
7 clude any employee who is included in a
8 group of employees covered by a collective
9 bargaining agreement described in section
10 410(b)(3)(A) of such Code.

11 “(iii) AMERICAN EMPLOYER.—The
12 term ‘American employer’ has the meaning
13 given such term by section 3121(h) of such
14 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 5002(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 5022(b)(1), an individual may contribute to the
25 American Savings Account Fund in any year,

1 pursuant to an election under section
2 5002(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
24 LIMITATION.—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
15 to the rules of subsections (b), (c), (d), and (e)
16 of 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. 5022. EMPLOYER REQUIREMENTS.**

10 “(a) IN GENERAL.—Except as provided in sub-
11 sections (a) and (b) of section 5023, each United States
12 employer shall make contributions meeting the require-
13 ments of subsection (b) on behalf of such qualified em-
14 ployee to the American Savings Account Fund, beginning
15 with the later 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
21 subsection are met for a taxable year with respect to con-
22 tributions to the American Savings Account Fund on be-
23 half 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 LIMITA-
6 TIONS.—The total contributions to the Fund on
7 behalf of the employee for pay periods in any
8 taxable year do not exceed the contribution lim-
9 itation described in section 5021(b)(3)(C).

10 “(C) ELECTION.—After the first pay pe-
11 riod with respect to which a contribution is
12 made with respect to a qualified employee
13 under subsection (a), the qualified employee
14 may elect—

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

24 “(ii) to discontinue contributions to
25 the Fund and withdraw all contributions

1 previously made through a salary reduction
2 arrangement in the same calendar year
3 other than nonelective contributions made
4 by the employer on behalf of the employee.

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

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

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

19 “(ii) to the employee directly in cash.

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

1 “(E) MANDATORY PERCENTAGE INCREASE
2 OFFER.—

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

18 “(ii) APPLICABILITY.—

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

24 “(II) COORDINATION WITH LIM-
25 TATIONS.—Clause (i) shall not apply

1 during a taxable year if, as so in-
2 creased, the percentage of compensa-
3 tion contributed to the Fund on be-
4 half of the employee would exceed the
5 percentage described in subparagraph
6 (C)(i).

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

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

21 “(d) SELF-EMPLOYED INDIVIDUALS.—An indi-
22 vidual—

23 “(1) who has net earnings from self-employ-
24 ment (as defined in section 1402(a) of the Internal
25 Revenue Code of 1986);

1 “(2) who is not a qualified employee with re-
2 spect to any employer; and

3 “(3) who is not eligible to participate in a de-
4 fined contribution plan (within the meaning of sec-
5 tion 414(i) of the Internal Revenue Code of 1986)
6 maintained by any employer;

7 may elect to make contributions on the individual’s own
8 behalf to the American Savings Account Fund. Such con-
9 tributions shall be made under rules similar to the rules
10 of section 5021(b)(3).

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

16 **“SEC. 5023. STATE RETIREMENT SAVINGS PLANS.**

17 “(a) IN GENERAL.—If a State—

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

22 “(2) allows all covered employers in the State
23 to make contributions to an individual retirement
24 plan (as defined in section 7701(a)(37) of the Inter-

1 nal Revenue Code of 1986) on behalf of the employ-
2 ees of the employer;
3 such State may prohibit employers in the State from mak-
4 ing contributions to the American Savings Account Fund
5 on behalf of their employees, and section 5022 shall not
6 apply to covered employers to which such prohibition ap-
7 plies.

8 “(b) EXEMPTION.—For purposes of this Act, the
9 term ‘employee pension benefit plan’ shall not include a
10 payroll deduction program established by a State for the
11 purpose of making contributions to 1 or more individual
12 retirement plans (as defined in section 7701(a)(37) of the
13 Internal Revenue Code of 1986), including such a pro-
14 gram which provides for automatic enrollment.

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

1 “(d) COVERED EMPLOYER.—For purposes of this
2 section, the term ‘covered employer’ means an employer—

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

8 “(2) whose employees are not covered by a col-
9 lective bargaining agreement described in section
10 410(b)(3)(A) of the Internal Revenue Code of 1986.

11 **“SEC. 5024. DEFINITIONS.**

12 “Any term used in this subtitle which is also used
13 in section 408(k) of the Internal Revenue Code of 1986
14 has the same meaning as when used in such section.”.

15 (b) CLERICAL AMENDMENT.—The table of contents
16 of the Employee Retirement Income Security Act of 1974
17 is amended by adding at the end the following:

“TITLE V—AMERICAN SAVINGS ACCOUNTS

“Subtitle A—Administration

“Sec. 5001. American Savings Account Board of Directors.

“Sec. 5002. Responsibilities of American Savings Account Board of Directors.

“Sec. 5003. Fiduciary responsibilities; liability and penalties.

“Sec. 5004. American Savings Account Fund Advisory Council.

“Subtitle B—American Savings Account Fund

“Sec. 5011. American Savings Account Fund.

“Sec. 5012. Tax treatment of the American Savings Account Fund.

“Subtitle C—American Savings Accounts

“Sec. 5021. American Savings Accounts.

“Sec. 5022. Employer requirements.

“Sec. 5023. State retirement savings plans.

“Sec. 5024. Definitions.”.

1 (c) CONFORMING AMENDMENT.—Section 7701 of the
2 Internal Revenue Code of 1986 is amended by redesignig-
3 nating subsection (p) as subsection (q) and by inserting
4 after subsection (o) the following new subsection:

5 “(p) TAX TREATMENT OF AMERICAN SAVINGS AC-
6 COUNT FUND.—

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

8 “(A) the American Savings Account Fund
9 shall be treated as a trust described in section
10 401(a) which is exempt from taxation under
11 section 501(a);

12 “(B) any contribution to, or distribution
13 from, the American Savings Account Fund shall
14 be treated in the same manner as contributions
15 to or distributions from such a trust;

16 “(C) contributions to the American Sav-
17 ings Account Fund shall not be treated as dis-
18 tributed or made available to a participant nor
19 as a contribution made to the Fund by an indi-
20 vidual merely because the individual has, under
21 section 5022(b)(1)(C) of the Employee Retirement
22 Income Security Act of 1974, made an
23 election whether the contribution will be made
24 to the American Savings Account Fund or re-
25 ceived by the individual in cash; and

1 “(D) the rules of section 414(w) shall
2 apply with respect to American Savings Ac-
3 counts, except that paragraph (2)(B) thereof
4 shall be applied by substituting ‘the due date
5 for the return of tax for the taxable year in
6 which the first elective contribution is made
7 with respect to the employee under the arrange-
8 ment’ for ‘the date which is 90 days after the
9 date of the first elective contribution with re-
10 spect to the employee under the arrangement’.

11 “(2) COORDINATION WITH SOCIAL SECURITY
12 ACT.—Paragraph (1) shall not be construed to pro-
13 vide that any amount of the employee’s compensa-
14 tion which is contributed to the American Savings
15 Account Fund shall not be included in the term
16 ‘wages’ for the purposes of section 209 of the Social
17 Security Act or section 3121(a) of this title.

18 “(3) DEFINITIONS.—For purposes of this sub-
19 section, the terms ‘employee’ and ‘American Savings
20 Account Fund’ shall have the same respective mean-
21 ings as when used in title V of the Employee Retirement
22 Income Security Act of 1974.

23 “(4) COORDINATION WITH OTHER PROVISIONS
24 OF LAW.—No provision of law not contained in this
25 title shall apply for purposes of determining the

1 treatment under this title of the American Savings
 2 Account Fund or any contribution to, or distribution
 3 from, such Fund.”.

4 (d) TREATMENT OF CONTRIBUTIONS TO AMERICAN
 5 SAVINGS ACCOUNT FUND.—

6 (1) IN GENERAL.—Part III of subchapter B of
 7 chapter 1 of the Internal Revenue Code of 1986 is
 8 amended by inserting after section 139G the fol-
 9 lowing new section:

10 **“SEC. 139H. AMOUNTS CONTRIBUTED TO AMERICAN SAV-**
 11 **INGS ACCOUNTS.**

12 “(a) IN GENERAL.—Gross income does not include
 13 so much of the contributions made to the American Sav-
 14 ings Account Fund on behalf of an individual for pay peri-
 15 ods in the taxable year as does not exceed the limitation
 16 applicable under section 415(c) of the Internal Revenue
 17 Code of 1986 to contributions to a defined contribution
 18 plan.

19 “(b) AMERICAN SAVINGS ACCOUNT FUND.—For pur-
 20 poses of this section, the term ‘American Savings Account
 21 Fund’ means the Fund established under section 5011 of
 22 the Employee Retirement Income Security Act of 1974.”.

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

1 “(6) SPECIAL RULE FOR AMERICAN SAVINGS
2 ACCOUNTS.—This section shall not apply with re-
3 spect to any amount contributed to an individual re-
4 tirement account (as defined in section 408(a)) or a
5 Roth IRA (as defined in section 408A(b)) which is
6 an American Savings Account (as defined in section
7 5021 of the Employee Retirement Income Security
8 Act of 1974).”.

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

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

13 (e) TREATMENT OF DISTRIBUTIONS AS SEPARATE
14 FROM OTHER IRAS AND ROTH IRAS.—Subparagraph
15 (A) of section 408(d)(2) of the Internal Revenue Code of
16 1986 is amended by striking “plans” and inserting “plans
17 (other than American Savings Accounts, within the mean-
18 ing of section 5021 of the Employee Retirement Income
19 Security Act of 1974)”.

20 (f) EFFECTIVE DATE.—

21 (1) PROGRAM.—The Chair of the American
22 Savings Account Board of Directors shall establish
23 the American Savings Account program such that
24 the American Savings Account Fund is prepared to
25 begin receiving contributions on January 1 of the

1 3rd calendar year beginning after the date of the en-
2 actment of this Act.

3 (2) TREATMENT OF CONTRIBUTIONS.—Except
4 as provided in paragraph (1), the amendments made
5 by this section shall apply to contributions made to
6 the American Savings Account Fund, as established
7 by the amendments made by subsection (a), after
8 December 31 of the 2nd calendar year beginning
9 after the date of the enactment of this Act.

10 **SEC. 3. PENALTY FOR EMPLOYER NONCOMPLIANCE.**

11 Section 6672 of the Internal Revenue Code of 1986
12 is amended by adding at the end the following new sub-
13 section:

14 “(f) EMPLOYER NONCOMPLIANCE WITH REQUIRE-
15 MENTS OF AMERICAN SAVINGS ACCOUNT ACT.—Except
16 as provided in section 5023(c) of the Employee Retirement
17 Income Security Act of 1974, any employer that fails to
18 make any contribution required by section 5022 of such
19 Act shall be treated for purposes of subsection (a) as if
20 the employer had willfully failed to collect a tax in the
21 amount of such required contribution.”.

22 **SEC. 4. OUTREACH.**

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

1 **SEC. 5. INDEPENDENT CONTRACTORS.**

2 The Secretary of Labor shall promulgate rules allow-
3 ing employers to—

4 (1) request explicit authorization from inde-
5 pendent contractors with such employers to con-
6 tribute on behalf of such independent contractors to
7 the American Savings Account Fund; and

8 (2) automatically withhold and transmit a set
9 amount or percentage of compensation paid to such
10 independent contractors to such Fund.

○