

114TH CONGRESS
2D SESSION

H. R. 5731

To establish SAVE UP Accounts, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 12, 2016

Mr. CROWLEY introduced the following bill; which was referred to the
Committee on Ways and Means

A BILL

To establish SAVE UP Accounts, 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 AND TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Secure, Accessible, Valuable, Efficient Universal Pension
6 Accounts Act” or the “SAVE UP Act”.

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

Sec. 1. Short title and table of contents.

TITLE I—SAVE UP ACCOUNTS

Sec. 101. Secure, Accessible, Valuable, Efficient Universal Pension Accounts.

Sec. 102. SAVE UP Account contribution programs.

Sec. 103. SAVE UP Accounts Fund.

Sec. 104. Investment of SAVE UP Account assets.

Sec. 201. Tax treatment of SAVE UP Accounts.
 Sec. 202. SAVE UP Account credit.
 Sec. 203. Disallowance of deduction for compensation for certain employers failing to provide SAVE UP Account contribution program.

2 SEC. 101. SECURE, ACCESSIBLE, VALUABLE, EFFICIENT
3 UNIVERSAL PENSION ACCOUNTS.

(1) establish for each eligible employee of an applicable employer a SAVE UP Account, and

(2) manage such accounts, and hold amounts in such account in trust, for the exclusive benefit of the individuals on whose behalf such accounts are established.

(1) IN GENERAL.—For purposes of this section, the term “eligible employee” means, with respect to any applicable employer, any employee unless such employee is eligible to participate in a plan or arrangement described in section 219(g)(5)(A) of the Internal Revenue Code of 1986.

1 (2) EXCEPTION FOR FROZEN PLAN.—Para-
 2 graph (1) shall not apply in the case of a defined
 3 benefit plan unless the participant is eligible to re-
 4 ceive service-based accruals under such plan.

5 (c) APPLICABLE EMPLOYER.—For purposes of this
 6 title—

7 (1) IN GENERAL.—The term “applicable em-
 8 ployer” means, with respect to any year, any em-
 9 ployer—

10 (A)(i) the aggregate number of hours of
 11 service of employees of which for months during
 12 the preceding calendar year is 1,600 or more,
 13 and

14 (ii) which does not make available to all
 15 employees a plan or arrangement described in
 16 section 219(g)(5) of the Internal Revenue Code
 17 of 1986, or

18 (B) which elects the application of this
 19 title for any year.

20 (2) HOURS OF SERVICE.—The SAVE UP
 21 Board of Governors, in consultation with the Sec-
 22 retary of Labor, shall prescribe such guidance as
 23 may be necessary to determine the hours of service
 24 of employees, including with respect to employees
 25 who are not compensated on an hourly basis.

1 (3) GOVERNMENT ENTITIES AND CHURCHES.—

2 The term “applicable employer” shall not include—

3 (A) a government or entity described in
4 section 414(d) of the Internal Revenue Code of
5 1986; or

6 (B) a church or a convention or association
7 of churches that is exempt from tax under sec-
8 tion 501 of such Code.

9 (4) AGGREGATION RULE.—All persons treated
10 as a single employer under subsection (b), (c), (m),
11 or (o) of section 414, of the Internal Revenue Code
12 of 1986 shall be treated as a single employer.

13 **SEC. 102. SAVE UP ACCOUNT CONTRIBUTION PROGRAMS.**

14 (a) IN GENERAL.—Each applicable employer shall es-
15 tablish a SAVE UP Account contribution program.

16 (b) SAVE UP ACCOUNT CONTRIBUTION PRO-
17 GRAM.—

18 (1) IN GENERAL.—For purposes of this part,
19 the term “SAVE UP Account contribution program”
20 means, with respect to any applicable employer, a
21 written arrangement that meets the requirements of
22 paragraphs (2) through (5).

23 (2) AUTOMATIC DEFERRAL.—

24 (A) IN GENERAL.—The requirements of
25 this paragraph are met if the SAVE UP Ac-

count contribution program includes a SAVE UP Account cash or deferred arrangement under which each eligible employee is treated as having elected to have the employer make elective contributions on the employee's behalf in an amount equal to the applicable percentage of wages (as defined in section 3121(a) without regard to the contribution and benefit base limitation in paragraph (1) thereof).

(B) ELECTION OUT.—The election treated as having been made under subparagraph (A) shall cease to apply with respect to any employee if such employee makes an affirmative election—

(i) to not have such contributions made, or

(ii) to make elective contributions under the SAVE UP Account cash or deferred arrangement at a level specified in such affirmative election.

(C) SAVE UP ACCOUNT CASH OR DEFERRED ARRANGEMENT.—For purposes of this subsection, the term “SAVE UP Account cash or deferred arrangement” means an arrangement under which the eligible employee may

1 elect to have the employer make payments as
2 contributions under the arrangement to the em-
3 ployee's SAVE UP Account on behalf of the
4 employee, or to the employee directly in cash.

5 (D) APPLICABLE PERCENTAGE.—For pur-
6 poses of this paragraph, the term “applicable
7 percentage” means, with respect to any em-
8 ployee—

9 (i) 3 percent during the period ending
10 on the last day of the first calendar year
11 which begins after the date on which the
12 first elective contribution described in sub-
13 paragraph (A) is made with respect to
14 such employee;

15 (ii) 3.5 percent during the first cal-
16 endar year following the calendar year de-
17 scribed in clause (i);

18 (iii) 4 percent during the second cal-
19 endar year following the calendar year de-
20 scribed in clause (i);

21 (iv) 4.5 percent during the third cal-
22 endar year following the calendar year de-
23 scribed in clause (i); and

24 (v) 5 percent during any subsequent
25 calendar year.

1 (3) NONELECTIVE EMPLOYER CONTRIBU-
2 TIONS.—The requirements of this paragraph are
3 met if, under the arrangement, the employer, with-
4 out regard to any election by the employee under
5 paragraph (2), is required to make a contribution to
6 the plan on behalf of each qualifying employee in an
7 amount equal to at least 50 cents per hour worked
8 by the employee. Such contribution shall not be
9 counted as partial payment of an hourly wage. An
10 employer shall not fail to meet the requirements of
11 this paragraph solely by reason of making contribu-
12 tions on behalf of employees at a rate greater than
13 50 cents per hour, but only if such contributions are
14 made at the same rate for all qualifying employees
15 of the employer.

16 (4) NOTICES.—The requirements of this para-
17 graph shall not be treated as met with respect to
18 any year unless the employer notifies each employee
19 eligible to participate, within a reasonable period of
20 time before the 30th day before the beginning of
21 such year (and, for the first year the employee is so
22 eligible, the 30th day before the first day such em-
23 ployee is so eligible), of—

1 (A) the elective contributions that may be
2 elected or treated as elected under paragraph
3 (2), and

4 (B) the opportunity to elect under para-
5 graph (2)(B)(i) to not make elective contribu-
6 tions.

7 (5) TREATMENT OF CONTRIBUTIONS.—All con-
8 tributions with respect to an employee made under
9 a SAVE UP Account contribution program shall be
10 nonforfeitable and shall be paid over to the SAVE
11 UP Accounts Fund for crediting to the employee's
12 SAVE UP Account under section 103.

13 (6) WAGE GROWTH ADJUSTMENT.—

14 (A) IN GENERAL.—In the case of calendar
15 years beginning after 2016, the 50 cent amount
16 in paragraph (3) shall be increased by the aver-
17 age annual wage growth adjustment.

18 (B) AVERAGE ANNUAL WAGE GROWTH AD-
19 JUSTMENT.—For purposes of subparagraph
20 (A), the average annual wage growth adjust-
21 ment for any calendar year is the percentage (if
22 any) by which—

23 (i) the national average wage index
24 (as defined in section 219(k)(1) of the So-

1 cial Security Act) for the preceding cal-
2 endar year, exceeds

3 (ii) the national average wage index
4 (as so defined) for 2015.

5 (C) ROUNDING.—Adjustments under this
6 paragraph shall be rounded to the nearest cent.

7 **SEC. 103. SAVE UP ACCOUNTS FUND.**

8 (a) ESTABLISHMENT OF FUND.—

9 (1) ESTABLISHMENT.—There is established in
10 the Treasury of the United States a trust fund to
11 be known as the “SAVE UP Accounts Fund”.

12 (2) AMOUNTS IN FUND.—The SAVE UP Ac-
13 counts Fund shall consist of amounts paid to SAVE
14 UP Accounts pursuant to a SAVE UP Account con-
15 tribution programs, increased by the total net earn-
16 ings from investments of sums in the Fund attrib-
17 utable to such deposited amounts, and reduced by
18 the total net losses from investments of such sums.

19 (3) BUDGET AUTHORITY; APPROPRIATION.—
20 This title constitutes budget authority in advance of
21 appropriations Acts and represents the obligation of
22 the SAVE UP Board of Trustees to provide for the
23 payment of amounts provided under this title. The
24 amounts held in the SAVE UP Accounts Fund are

1 appropriated and shall remain available without fis-
2 cal year limitation.

3 (b) ACCUMULATION ACCOUNT.—There is established
4 in the SAVE UP Accounts Fund a separate account to
5 be known as the “Accumulations Account” consisting of
6 such amounts described in subsection (a)(2), less amounts
7 credited to the Annuity Account.

8 (c) ANNUITY ACCOUNT.—There is established in the
9 SAVE UP Accounts Fund a separate account to be known
10 as the “Annuity Account” to which the aggregate amounts
11 credited to a participant’s SAVE UP Account under sec-
12 tion 105 shall be transferred at such time as the partici-
13 pant elects to start receiving benefit payments under sec-
14 tion 106.

15 (d) RESERVE ACCOUNT.—

16 (1) IN GENERAL.—There is established in the
17 SAVE UP Accounts Fund a separate account to be
18 known as the “Reserve Account” which shall rep-
19 resent the amounts described in subsection (a)(2),
20 less amounts credited to SAVE UP Accounts under
21 section 104(c).

22 (2) USE OF RESERVE ACCOUNT.—The Board of
23 Governors shall—

24 (A) use Reserve Account amounts that are
25 allocable to the investment of amounts in the

1 Accumulation Account to make up any shortfall
2 in the crediting individuals accounts under sec-
3 tion 104(c), and

4 (B) use Reserve Account amounts that are
5 allocable to the investment of amounts in the
6 Annuity Account to make up any shortfall in
7 the payment of annuity benefits under section
8 105.

9 (e) AVAILABILITY.—The sums in the SAVE UP Ac-
10 counts Fund are appropriated and shall remain available
11 without fiscal year limitation—

12 (1) to invest under section 104;

13 (2) to provide for the payment of benefits in ac-
14 cordance with section 105; and

15 (3) to pay the administrative expenses incurred
16 with respect to management of SAVE UP Accounts
17 and such Funds.

18 (f) LIMITATIONS ON USE OF AMOUNTS IN THE
19 FUND.—

20 (1) IN GENERAL.—Amounts in the SAVE UP
21 Accounts Fund credited to an individual's SAVE UP
22 Account are nonforfeitable and may not be used for,
23 or diverted to, purposes other than for the exclusive
24 benefit of the individual or the individual's bene-
25 ficiaries under this title.

1 (2) ASSIGNMENTS.—Amounts in the SAVE UP
2 Accounts Fund credited to an individual’s SAVE UP
3 Account may not be assigned or alienated and are
4 not subject to execution, levy, attachment, garnish-
5 ment, or other legal process.

6 **SEC. 104. INVESTMENT OF SAVE UP ACCOUNT ASSETS.**

7 (a) IN GENERAL.—Amounts in the Accumulation Ac-
8 count of the SAVE UP Accounts Trust Fund shall be in-
9 vested by each SAVE UP Board of Trustees under rules
10 and guidance established by the SAVE UP Board of Gov-
11 ernors. Each SAVE UP Board of Trustees shall be re-
12 sponsible for investing an amount (determined by the
13 Board of Governors quarterly) that is proportional to the
14 credited balances of SAVE UP Accounts within such
15 Board’s jurisdiction.

16 (b) INVESTMENT RETURNS.—

17 (1) DAILY.—The SAVE UP Board of Gov-
18 ernors shall determine daily the net investment re-
19 turn of the entire SAVE UP Accounts Trust Fund.

20 (2) ANNUAL AUDIT.—Not less than annually,
21 the SAVE UP Board of Governors shall, through an
22 independent audit of each SAVE UP Board of
23 Trustee’s investments, determine the net investment
24 return of the entire SAVE UP Accounts Trust
25 Fund.

1 (c) CREDITING OF ACCOUNTS AND ALLOCATION OF
2 POSITIVE INVESTMENT RETURNS.—

3 (1) IN GENERAL.—Each SAVE UP Board of
4 Trustees shall separately account for each individ-
5 ual's SAVE UP Account within its jurisdiction and
6 shall provide for crediting of—

7 (A) amounts contributed with respect to
8 the individual's account under section 102, and

9 (B) in the case of any period for which the
10 SAVE UP Accounts Trust Fund is determined
11 by the SAVE UP Board of Governors to have
12 had an annualized positive net investment re-
13 turn, an amount equal to the individual's allo-
14 cable share of such investment return.

15 (2) ALLOCATION OF INVESTMENT RETURN.—
16 For purposes of paragraph (1), an individual's allo-
17 cable share of investment returns shall be an
18 amount equal to the return such individual's SAVE
19 UP Account would have experienced had such return
20 (annualized and expressed as a percentage) been
21 equal to the lesser of—

22 (A) 6 percent, or

23 (B) the SAVE UP Accounts Trust Fund
24 annualized investment return (expressed as a

1 percentage) determined by the SAVE UP
2 Board of Governors.

3 **SEC. 105. BENEFITS IN THE FORM OF AN ANNUITY.**

4 (a) IN GENERAL.—A SAVE UP Account shall pay
5 benefits in the form of an annuity in accordance with sub-
6 section (b). The amount of such benefits shall be based
7 on the amounts credited to the individual's SAVE UP Ac-
8 count and the form of distribution the individual elects.
9 Notwithstanding the preceding sentence, the amount of an
10 annuity may be adjusted to reflect the experience of the
11 Fund as necessary to protect the financial integrity of the
12 Fund, except that annuity payments for those in pay sta-
13 tus shall not be reduced more than 5 percent per year
14 unless the Fund is faced with a significant financial hard-
15 ship and the SAVE UP Board of Governors has approved
16 the reduction.

17 (b) ANNUITY.—SAVE UP Accounts shall pay bene-
18 fits in accordance with one of the following:

19 (1) In the case of a participant who does not
20 die before the annuity starting date, the benefit pay-
21 able to such participant shall be provided in the
22 form of a qualified joint and survivor annuity (as de-
23 fined in section 205(d)(1) of the Employee Retirement
24 Income Security Act of 1974 (29 U.S.C.
25 1055(d)(1))).

1 (2) In the case of a participant who dies before
2 the annuity starting date and who has a surviving
3 spouse, a qualified preretirement survivor annuity
4 (as defined in section 205(d)(2) of the Employee Re-
5 tirement Income Security Act of 1974 (29 U.S.C.
6 1055(d)(2))) shall be provided to the surviving
7 spouse of such participant.

8 (3) In lieu of a qualified joint and survivor an-
9 nuity form of benefit or the qualified preretirement
10 survivor annuity form of benefit (or both), a partici-
11 pant may elect to receive a distribution described in
12 subsection (f)(3) if one of the following conditions
13 are met:

14 (A)(i) The spouse of the participant con-
15 sents in writing to the election.

16 (ii) Such election designates a beneficiary
17 (or form of benefits) which may not be changed
18 without spousal consent (or the consent of the
19 spouse expressly permits designations by the
20 participant without any requirement of further
21 consent by the spouse).

22 (iii) The spouse's consent acknowledges the
23 effect of such election and is witnessed by a
24 plan representative or a notary public.

1 (B) It is established to the satisfaction of
2 a Fund representative that the consent required
3 under clause (i) cannot be obtained because
4 there is no spouse, because the spouse cannot
5 be located, or because of such other cir-
6 cumstances as the SAVE UP Board of Gov-
7 ernors may by regulations prescribe. The con-
8 sent of a spouse (or establishment that the con-
9 sent of a spouse cannot be obtained) under this
10 subparagraph shall be effective only with re-
11 spect to such spouse.

12 (c) COMMENCEMENT OF BENEFIT PAYMENTS.—A
13 participant may elect the time to start receiving benefit
14 payments under this section, except that a participant—

15 (1) may not elect to receive benefit payments
16 before reaching the age of 62; and

17 (2) must begin receiving benefit payments be-
18 fore the age of 70.

19 (d) NOTICE.—Each Fund shall provide to each par-
20 ticipant, within a reasonable period of time before the an-
21 nuity starting date, a written explanation substantially
22 similar to that required by section 205(c)(3) of the Em-
23 ployee Retirement Income Security Act of 1974 (29
24 U.S.C. 1055(c)(3)).

1 (e) ASSIGNMENT OR ALIENATION OF FUND BENE-
2 FITS.—Benefits under a SAVE UP Account shall be sub-
3 ject to section 206(d) of the Employee Retirement Income
4 Security Act of 1974 (29 U.S.C. 1056(d)).

5 (f) METHODS FOR PROVIDING ANNUITIZED BENEFIT
6 PAYMENTS.—

7 (1) IN GENERAL.—The SAVE UP Board of
8 Trustees shall establish and maintain mechanisms
9 for adequately securing the payment of annuity ben-
10 efits under this section. The SAVE UP Board of
11 Trustees shall include a written description of such
12 mechanisms in the investment and lifetime income
13 policy statements required to be disclosed to partici-
14 pants.

15 (2) SPECIFIC GOALS.—The mechanisms de-
16 scribed in paragraph (1) shall ensure that—

17 (A) each participant receives a stream of
18 income for life;

19 (B) each participant and beneficiary has
20 an opportunity to be protected against longevity
21 risk; and

22 (C) volatility in benefit levels is minimized
23 for participants and beneficiaries in pay status
24 and those approaching pay status.

25 (3) SELF-ANNUITIZATION.—

1 (A) IN GENERAL.—Notwithstanding any
 2 other provision of law, a SAVE UP Account
 3 may self-annuitize if the SAVE UP Accounts
 4 Fund meets such requirements as the SAVE
 5 UP Board of Governors establishes as nec-
 6 essary to protect participants and beneficiaries.

7 (B) DUTY TO ADDRESS EMERGING
 8 ISSUES.—The SAVE UP Board of Governors
 9 shall, periodically and in accordance with estab-
 10 lished procedures, update the funding require-
 11 ments promulgated under this paragraph in re-
 12 sponse to changing economic and business con-
 13 ditions to the extent necessary to carry out the
 14 purposes of this Act.

15 **SEC. 106. SAVE UP ACCOUNTS GOVERNANCE.**

16 (a) SAVE UP BOARD OF GOVERNORS.—

17 (1) ESTABLISHMENT.—There is established in
 18 the executive branch of the Government a SAVE UP
 19 Accounts Board of Governors.

20 (2) DUTIES.—The Board of Governors shall—

21 (A) administer the provisions of this title,
 22 except with respect to matters relating to
 23 SAVE UP Account contribution programs
 24 maintained by employers pursuant to section

1 102 and any duties charged to the SAVE UP
2 Boards of Trustees;

3 (B) establish policies for the investment
4 and management of SAVE UP Account assets,
5 and for the management and operation of
6 SAVE UP Account annuities under this title,
7 which shall provide for—

8 (i) prudent investments suitable for
9 accumulating funds for payment of retire-
10 ment income;

11 (ii) investment targets;

12 (iii) sound management practices;

13 (iv) low administrative costs;

14 (v) low investment costs; and

15 (vi) investments in index funds;

16 (C) review the performance of SAVE UP
17 Account Fund investments; and

18 (D) review the management and operation
19 of annuities.

20 (3) COMPOSITION.—The SAVE UP Board of
21 Governors shall be composed of—

22 (A) 5 members, each of whom must be a
23 chairman of a regional SAVE UP Board of
24 Trustees, and

1 (B) 6 members appointed by the President,
2 of whom the President shall appoint at least
3 one resident from each of the 5 jurisdictions of
4 the regional SAVE UP Board of Trustees.

5 (4) CHAIRMAN.—The President shall appoint
6 one of such members as chairman of the SAVE UP
7 Board of Governors. Such appointment shall be
8 made by and with the advice and consent of the Sen-
9 ate.

10 (5) LENGTH OF APPOINTMENTS.—Each mem-
11 ber appointed by the President under paragraph
12 (3)(B) shall be appointed for a term of 6 years, ex-
13 cept that of the first such members taking office—

14 (A) the chairman member shall serve a
15 term of 7 years,

16 (B) 1 member shall serve a term of 2
17 years,

18 (C) 1 member shall serve a term of 3
19 years,

20 (D) 1 member shall serve a term of 4
21 years,

22 (E) 1 member shall serve a term of 5
23 years, and

24 (F) 1 member shall serve a term of 6
25 years.

1 No individual may serve more than 2 terms as a
2 member of the Board.

3 (b) REGIONAL SAVE UP BOARDS OF TRUSTEES.—

4 (1) IN GENERAL.—There is established in the
5 executive branch of the Government 5 regional
6 SAVE UP Boards of Trustees, the jurisdiction of
7 which shall be, to the extent practicable, apportioned
8 by the Secretary of the Treasury geographically and
9 to approximate an equal distribution of the United
10 States population.

11 (2) DUTIES.—The SAVE UP Board of Trust-
12 ees for each region shall oversee the management
13 and administration of SAVE UP Accounts of the
14 population within its respective jurisdiction, includ-
15 ing—

16 (A) with respect to such population, man-
17 agement and investment of SAVE UP Account
18 Trust Fund assets, payment of annuities, and
19 compliance with reporting and disclosure re-
20 quirements, and

21 (B) selection of the administrator, attor-
22 ney, internal auditor, record keeper, investment
23 consulting team, and such other staff as may be
24 necessary to carry out the duties of the SAVE
25 UP Board of Trustees.

1 Any reference to a SAVE UP Board of Trustees in
2 this title shall be construed to mean the regional
3 SAVE UP Board of Trustees with respect to the
4 SAVE UP Accounts within its jurisdiction, where
5 such construction is necessary to carry out provi-
6 sions of this title.

7 (3) COMPOSITION.—Each SAVE UP Board of
8 Trustees shall be composed of 7 members, of
9 whom—

10 (A) 2 shall be appointed by the Federal
11 Reserve Board,

12 (B) 1 shall be appointed by the Commis-
13 sioner of the Securities and Exchange Commis-
14 sion,

15 (C) 1 shall be appointed by the Speaker of
16 the House of Representatives,

17 (D) 1 shall be appointed by the Minority
18 Leader of the House of Representatives,

19 (E) 1 shall be appointed by the Majority
20 Leader of the Senate, and

21 (F) 1 shall be appointed by the Minority
22 Leader of the Senate.

23 (4) CHAIRMAN.—For each Board of Trustees,
24 the President shall designate one of the trustees ap-
25 pointed under paragraph (3) as chairman, and, in

1 the case of the first such trustees taking office, shall
2 designate the term of such trustee pursuant to para-
3 graph (5).

4 (5) VICE CHAIRMAN.—Each Board of Trustees
5 shall designate one of the trustees appointed under
6 paragraph (3) as vice chairman.

7 (6) LENGTH OF APPOINTMENTS.—

8 (A) IN GENERAL.—Each trustee of the
9 Board appointed under paragraph (3) shall be
10 appointed for a term of 5 years, except that of
11 the first such trustees taking office—

12 (i) the chairman trustee shall be de-
13 termined under subparagraph (B),

14 (ii) 1 trustee shall serve a term of 5
15 years,

16 (iii) 1 trustee shall serve a term of 4
17 years,

18 (iv) 1 trustee shall serve a term of 3
19 years,

20 (v) the vice chairman trustee shall
21 serve a term of 2 years,

22 (vi) 1 trustee shall serve for a term of
23 2 years, and

24 (vii) 1 trustee shall serve for a term
25 of 1 year.

1 Other than the chairman and vice chairman
2 trustee, the terms of the first trustees taking
3 office shall correspond with the individual who
4 appointed the trustee under paragraph (3) and
5 shall be ordered from the longest term to the
6 shortest term on the basis of the order in which
7 the individuals are listed in such paragraph.

8 (B) CHAIRMAN TERMS.—For purposes of
9 subparagraph (A)(i), of the trustees appointed
10 as chairman of a Board of Trustees—

11 (i) 1 chairman shall serve a term of 6
12 years,

13 (ii) 2 chairmen shall serve a term of
14 5 years,

15 (iii) 1 chairman shall serve a term of
16 4 years, and

17 (iv) 1 chairman shall serve a term of
18 3 years.

19 (C) TERM LIMITS.—No individual may be
20 appointed to more than 2 terms as a trustee of
21 the SAVE UP Board of Trustees.

22 (c) VACANCIES.—

23 (1) IN GENERAL.—A vacancy on the Boards es-
24 tablished under this section shall be filled in the
25 manner in which the original appointment was made

1 and shall be subject to any conditions that applied
2 with respect to the original appointment.

3 (2) COMPLETION OF TERM.—An individual cho-
4 sen to fill a vacancy under subparagraph (A) shall
5 be appointed for the unexpired term of the member
6 replaced.

7 (d) MEMBERSHIP REQUIREMENTS.—Members and
8 trustees appointed under this section shall have substan-
9 tial experience, training, and expertise in the management
10 of financial investments and pension benefit plans.

11 (e) COMPENSATION.—

12 (1) IN GENERAL.—Each such member or trust-
13 ee who is not an officer or employee of the Federal
14 Government shall be compensated at the daily rate
15 of basic pay for level II of the Executive Schedule
16 for each day during which such member is engaged
17 in performing a function of the Board.

18 (2) EXPENSES.—Each such member or trustee
19 shall be paid travel, per diem, and other necessary
20 expenses under subchapter I of chapter 57 of title
21 5, United States Code, while traveling away from
22 such member's home or regular place of business in
23 the performance of the duties of the Board.

24 (f) DISCHARGE OF RESPONSIBILITIES.—The mem-
25 bers and trustees shall discharge their responsibilities sole-

1 ly in the interest of the participants in SAVE UP Ac-
2 counts and their beneficiaries under this part.

3 (g) ANNUAL INDEPENDENT AUDIT.—The SAVE UP
4 Board of Governors shall annually engage an independent
5 qualified public accountant to audit the activities of the
6 Board of Governors and each Regional Board of Trustees.

7 **SEC. 107. REPORTING AND DISCLOSURE.**

8 (a) ANNUAL STATEMENT.—The SAVE UP Board of
9 Trustees shall provide each participant in the Fund an
10 annual statement of—

11 (1) the estimated amount of the monthly ben-
12 efit which the participant or beneficiary is projected
13 to receive from the Fund, in the form of the default
14 benefit described in the plan in accordance with the
15 bill;

16 (2) an explanation, written in a manner cal-
17 culated to be understood by the average plan partici-
18 pant, that includes interest and mortality assump-
19 tions used in calculating the estimate and a state-
20 ment that actual benefits may be materially different
21 from such estimate;

22 (3) a disclosure of SAVE UP Accounts Fund
23 fees and performance that is substantially similar to
24 the disclosures required of individual account plans

1 under the Employee Retirement Income Security Act
2 of 1974;

3 (4) any other disclosures, including projected
4 benefit estimates, that the SAVE UP Board of
5 Trustees determines appropriate; and

6 (5) such other disclosures as may be required
7 by the Board of Governors.

8 (b) SUMMARY PLAN DESCRIPTION.—The SAVE UP
9 Board of Trustees shall provide participants a summary
10 plan description (as described in section 102 of the Em-
11 ployee Retirement Income Security Act (29 U.S.C. 1022))
12 as required by section 104(b) of the Employee Retirement
13 Income Security Act (29 U.S.C. 1024(b)).

14 (c) ANNUAL REPORTS.—The SAVE UP Board of
15 Trustees shall file with the Secretary of Labor periodic
16 reports in accordance with regulations promulgated by the
17 SAVE UP Board of Governors.

18 (d) ADDITIONAL REQUIREMENTS.—The SAVE UP
19 Board of Trustees shall be subject to sections 106 and
20 107 of the Employee Retirement Income Security Act of
21 1974 (29 U.S.C. 1026, 1027).

1 **SEC. 108. FIDUCIARY DUTIES UNDER SAVE UP ACCOUNT**
2 **CONTRIBUTION PROGRAMS AND SAVE UP AC-**
3 **COUNTS.**

4 (a) LIMITATION ON FIDUCIARY DUTIES UNDER THE
5 SAVE UP ACCOUNT CONTRIBUTION PROGRAMS OF AN
6 EMPLOYER.—

7 (1) TIMELY PAYMENT OF CONTRIBUTIONS.—

8 For purposes of the Employee Retirement Income
9 Security Act of 1974, the employer's fiduciary duties
10 under a SAVE UP Account contribution program
11 established under section 102 shall be limited to
12 those duties related to the timely payment in full to
13 the individual's SAVE UP Account of elective con-
14 tributions made on behalf of employees as required
15 under section 102(b)(2) and such employer contribu-
16 tions as may be provided for under the program pur-
17 suant to section 102(b)(3).

18 (2) RULE OF CONSTRUCTION.—Nothing in this
19 Act shall be construed to impose on any employer
20 with respect to any employee who is a participant in
21 the employer's SAVE UP Account contribution pro-
22 gram any fiduciary duty with respect to the invest-
23 ment or distribution of assets held under the em-
24 ployee's SAVE UP Account.

25 (b) FIDUCIARY DUTIES OF BOARD OF GOVERNORS
26 AND TRUSTEES.—For purposes of the provisions of part

1 4 of subtitle B of title I of the Employee Retirement In-
2 come Security Act of 1974, and the provisions of part 5
3 of such subtitle as they relate to the enforcement of the
4 provisions of such part 4, each member of the SAVE UP
5 Board of Governors, each trustee of a SAVE UP Board
6 of Trustees, and any person who has or exercises discre-
7 tionary authority or discretionary control over the man-
8 agement or disposition of the SAVE UP Accounts Fund,
9 and amounts held to the credit of SAVE UP Accounts,
10 or the crediting of assets to SAVE UP Accounts, shall
11 be included within the meaning of “fiduciary” under sec-
12 tion 3(21)(A) of such Act.

13 **SEC. 109. SAVE UP ACCOUNTS DISREGARDED FOR PUR-**
14 **POSES OF MEANS-TESTED PROGRAMS.**

15 Notwithstanding any other provision of Federal law,
16 any amount contributed by or on behalf of an individual
17 pursuant to a SAVE UP Account contribution program,
18 or credited to an individual’s SAVE UP Account under
19 this title, shall not be taken into account in determining
20 any individual’s or household’s financial eligibility for, or
21 amount of, any benefit or service, paid for in whole or
22 in part with Federal funds.

1 **TITLE II—TAX TREATMENT OF**
2 **SAVE UP ACCOUNTS**

3 **SEC. 201. TAX TREATMENT OF SAVE UP ACCOUNTS.**

4 (a) IN GENERAL.—Subpart A of part I of subchapter
5 D of chapter 1 of the Internal Revenue Code of 1986 is
6 amended by inserting after section 408A the following new
7 section:

8 **“SEC. 408B. TAX TREATMENT OF SAVE UP ACCOUNTS.**

9 “(a) IN GENERAL.—For purposes of this title, except
10 as otherwise provided in this section—

11 “(1) the SAVE UP Accounts Fund shall be
12 treated as a trust described in section 401(a) which
13 is exempt from taxation under section 501(a) and a
14 SAVE UP Account shall be treated as a defined con-
15 tribution plan which includes such a trust,

16 “(2) any contribution to, or distribution from,
17 the SAVE UP Accounts Fund under a SAVE UP
18 Account contribution program shall be treated in the
19 same manner as contributions to or distributions
20 from such a trust, and

21 “(3) contributions to a SAVE UP Account
22 under a SAVE UP Account contribution program
23 shall not be treated as distributed or made available
24 to the employee or as contributions made by the em-
25 ployee merely because the employee has, under such

1 program, an election whether the contribution will be
2 made to the trust or received by the employee in
3 cash.

4 “(b) NONDISCRIMINATION REQUIREMENTS.—A
5 SAVE UP Account contribution program is not subject
6 to the participation and nondiscrimination requirements
7 applicable to arrangements described in section 401(k) or
8 to matching contributions (as described in section
9 401(m)).

10 “(c) ROLLOVER FROM SAVE UP ACCOUNT PROHIB-
11 ITED.—An eligible rollover distribution (as defined in sec-
12 tion 402(c)(4)) shall not include any amount distributed
13 from a SAVE UP Account.

14 “(d) SAVE UP ACCOUNT LOANS.—

15 “(1) LIMITATIONS.—Section 72(p)(2)(A) shall
16 only apply with respect to a SAVE UP Account to
17 the extent that any loan (when added to the out-
18 standing balance of all other loans from such plan)
19 does not exceed the lesser of—

20 “(A) \$2,500, or

21 “(B) the total nonforfeitable amounts cred-
22 ited to the individual’s SAVE UP Account.

23 “(2) REPAYMENT.—A loan from a SAVE UP
24 Account shall not fail to be treated as a loan de-
25 scribed in section 72(p)(2)(B) (relating to require-

1 ment that loan be repayable in 5 years) solely be-
 2 cause the loan terms allow additional time (not to
 3 exceed an aggregate of 1 year) for repayment to ac-
 4 count for any periods of unemployment.

5 “(e) DEFINITIONS.—For purposes of this section, the
 6 terms ‘SAVE UP Accounts Fund’, ‘SAVE UP Account’,
 7 and ‘SAVE UP Account contribution program’ shall have
 8 the respective meanings as when used in title I of the
 9 SAVE UP Act.”.

10 (b) LIMITATION ON EXCLUSION FOR ELECTIVE DE-
 11 FERRALS.—Paragraph (3) of section 402(g) of such Code
 12 is amended by striking “and” at the end of subparagraph
 13 (C), by striking the period at the end of subparagraph (D)
 14 and inserting “, and”, and by adding at the end the fol-
 15 lowing new subparagraph:

16 “(E) any elective employer contribution
 17 under a SAVE UP Account contribution pro-
 18 gram (as defined in section 408B).”.

19 (c) CLERICAL AMENDMENT.—The table of sections
 20 for subpart A of part I of subchapter D of chapter 1 of
 21 such Code is amended by inserting after the item relating
 22 to section 409A the following new section:

“408C. Tax treatment of SAVE UP Accounts.”.

23 (d) EFFECTIVE DATE.—The amendments made by
 24 this section shall apply to taxable years beginning after
 25 the date of the enactment of this Act.

1 **SEC. 202. SAVE UP ACCOUNT CREDIT.**

2 (a) IN GENERAL.—Subpart D of part IV of sub-
 3 chapter A of chapter 1 of the Internal Revenue Code of
 4 1986 is amended by adding at the end the following new
 5 section:

6 **“SEC. 45S. SAVE UP ACCOUNT CREDIT.**

7 “(a) IN GENERAL.—For purposes of section 38, in
 8 the case of an eligible small employer that elects the appli-
 9 cation of this section, the SAVE UP Account credit deter-
 10 mined under this section for any taxable year is an amount
 11 equal to the lesser of—

12 “(1) the amount of nonelective employer con-
 13 tributions made by the employer for the taxable year
 14 with respect to employees under section 102(b)(3) of
 15 the Secure, Accessible, Valuable, Efficient Universal
 16 Pension Accounts Act, or

17 “(2) \$10,400.

18 “(b) ELIGIBLE SMALL EMPLOYER.—For purposes of
 19 this section, the term ‘eligible small employer’ means any
 20 person the gross receipts of which for the preceding tax-
 21 able year did not exceed \$5,000,000.

22 “(c) LIMITATION.—A taxpayer may elect the applica-
 23 tion of the section with respect to not more than 5 taxable
 24 years.

25 “(d) SPECIAL RULES.—

1 “(1) CONTROLLED GROUPS.—All members of
 2 the same controlled group of corporations (within
 3 the meaning of section 52(a)) and all persons under
 4 common control (within the meaning of section
 5 52(b)) shall be treated as 1 person for purposes of
 6 this section.

7 “(2) DISALLOWANCE OF DEDUCTION.—No de-
 8 duction shall be allowed for that portion of the non-
 9 elective employer contributions made for the taxable
 10 year which is equal to the credit determined under
 11 subsection (a).”.

12 (b) CREDIT MADE PART OF GENERAL BUSINESS
 13 CREDIT.—Section 38(b) of such Code is amended by strik-
 14 ing “plus” at the end of paragraph (35), by striking the
 15 period at the end of paragraph (36) and inserting “, plus”,
 16 and by adding at the end the following new paragraph:

17 “(37) the SAVE UP Account credit determined
 18 under section 45S(a).”.

19 (c) CLERICAL AMENDMENT.—The table of sections
 20 for subpart D of part IV of subchapter A of chapter 1
 21 of such Code is amended by adding at the end the fol-
 22 lowing new section:

“Sec. 45S. SAVE UP Account credit.”.

23 (d) EFFECTIVE DATE.—The amendments made by
 24 this section shall apply to taxable years beginning after
 25 December 31, 2015.

1 **SEC. 203. DISALLOWANCE OF DEDUCTION FOR COMPENSA-**
2 **TION FOR CERTAIN EMPLOYERS FAILING TO**
3 **PROVIDE SAVE UP ACCOUNT CONTRIBUTION**
4 **PROGRAM.**

5 (a) IN GENERAL.—Section 162 of the Internal Rev-
6 enue Code of 1986 is amended by redesignating subsection
7 (q) as subsection (r) and by inserting after subsection (p)
8 the following new subsection:

9 “(q) FAILURE TO PROVIDE SAVE UP ACCOUNT
10 CONTRIBUTION PROGRAM.—

11 “(1) IN GENERAL.—In the case of an applicable
12 employer who fails to maintain a SAVE UP Account
13 contribution program for any calendar year begin-
14 ning during the taxable year, no deduction shall be
15 allowed under this chapter for any remuneration
16 made by the employer for services performed by em-
17 ployees of the employer.

18 “(2) APPLICABLE EMPLOYER.—

19 “(A) IN GENERAL.—For purposes of this
20 subsection, the term ‘applicable employer’
21 means, with respect to any calendar year, any
22 employer which is an applicable employer de-
23 scribed in section 101(c)(1)(A) of the Secure,
24 Accessible, Valuable, Efficient Universal Pen-
25 sion Accounts Act.

1 “(B) AGGREGATION RULE.—All persons
2 treated as a single employer under subsection
3 (a) or (b) of section 52, or subsection (m) or
4 (o) of section 414, of the Internal Revenue
5 Code of 1986 shall be treated as a single em-
6 ployer for purposes of this paragraph.

7 “(3) WAIVER.—The Secretary may waive the
8 application of paragraph (1) with respect to a tax-
9 payer on a showing by the taxpayer that there was
10 reasonable cause for the failure and that the tax-
11 payer acted in good faith.”.

12 (b) EFFECTIVE DATE.—The amendments made by
13 this section shall apply to taxable years beginning after
14 December 31, 2015.

○