

105TH CONGRESS
1ST SESSION

S. 957

To establish a Pension ProSave system which improves the retirement income security of millions of American workers by encouraging employers to make pension contributions on behalf of employees, by facilitating pension portability, by preserving and increasing retirement savings, and by simplifying pension law.

IN THE SENATE OF THE UNITED STATES

JUNE 25, 1997

Mr. BINGAMAN (for himself, Mr. JEFFORDS, Mr. BOND, Mr. MACK, and Mr. D'AMATO) introduced the following bill; which was read twice and referred to the Committee on Labor and Human Resources

A BILL

To establish a Pension ProSave system which improves the retirement income security of millions of American workers by encouraging employers to make pension contributions on behalf of employees, by facilitating pension portability, by preserving and increasing retirement savings, and by simplifying pension law.

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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Pension ProSave Act”.

1 (b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—PENSION PROSAVE PLANS

Sec. 101. Establishment of Pension ProSave Plans.

TITLE II—ESTABLISHMENT OF PENSION PROSAVE SYSTEM

Subtitle A—Definitions

Sec. 201. Definitions.

Subtitle B—Establishment of Pension ProSave System

PART I—IN GENERAL

Sec. 211. Establishment of Pension ProSave system.

PART II—CONTRIBUTIONS AND DISTRIBUTIONS

Sec. 221. Contributions to Pension ProSave Accounts.

Sec. 222. Requirements relating to distributions.

Sec. 223. Loan requirements.

PART III—CLEARINGHOUSE INVESTMENTS

Sec. 231. Investment options.

PART IV—ADMINISTRATIVE PROVISIONS; FIDUCIARY RESPONSIBILITIES

Sec. 241. Accounting and information.

Sec. 242. Administrative costs.

Sec. 243. Fiduciary responsibilities; liability and penalties; bonding; investigative authority.

PART V—EFFECTIVE DATE

Sec. 251. Effective date.

TITLE III—PENSION PORTABILITY CLEARINGHOUSE

Sec. 301. Establishment of Pension Portability Clearinghouse.

Sec. 302. Board of directors.

Sec. 303. Pension Portability Clearinghouse Advisory Council.

TITLE IV—SIMPLIFIED DEFINED BENEFIT PLANS

Sec. 401. Simplified method for complying with pension requirements.

1 **TITLE I—PENSION PROSAVE** 2 **PLANS**

3 **SEC. 101. ESTABLISHMENT OF PENSION PROSAVE PLANS.**

4 (a) IN GENERAL.—Subchapter D of chapter 1 of the
5 Internal Revenue Code of 1986 (relating to deferred com-
6 pensation, etc.) is amended by adding at the end the fol-
7 lowing new part:

8 **“PART III—PENSION PROSAVE PLANS**

“Sec. 431. Easy access for all employers.

“Sec. 432. Pension ProSave Plans.

9 **“SEC. 431. EASY ACCESS FOR ALL EMPLOYERS.**

10 “(a) UNIVERSAL ELIGIBILITY.—Any employer may
11 establish a Pension ProSave Plan for the benefit of its
12 employees.

13 “(b) SIMPLIFIED ENROLLMENT AND ADMINISTRA-
14 TION.—

15 “(1) ESTABLISHMENT.—An employer may es-
16 tablish a Pension ProSave Plan simply by—

17 “(A) completing an enrollment form de-
18 scribed in subsection (c), and

19 “(B) submitting such form to the Pension
20 Portability Clearinghouse in the manner pro-
21 vided under the Pension ProSave Act.

22 “(2) EASE OF ADMINISTRATION.—An employer
23 establishing a Pension ProSave Plan may make em-
24 ployer and employee contributions, changes in em-

1 ployees participating under the plan, and changes in
 2 elections made under section 432 in the same man-
 3 ner as under paragraph (1).

4 “(c) SIMPLIFIED FORMS.—

5 “(1) PLAN DOCUMENT.—The Pension Port-
 6 ability Clearinghouse shall establish a model form
 7 for purposes of paragraph (1)(A)—

8 “(A) which is written in a clear and easily
 9 understandable manner,

10 “(B) the completion of which by an em-
 11 ployer will constitute the establishment of a
 12 Pension ProSave Plan, and

13 “(C) which contains only such requests for
 14 information as are necessary for the establish-
 15 ment of the plan.

16 “(2) OTHER FORMS.—The Pension Portability
 17 Clearinghouse shall develop such model forms for
 18 purposes of subsection (b)(2) as are necessary to en-
 19 able an employer to easily administer a Pension
 20 ProSave Plan.

21 “(3) AVAILABILITY.—The Pension Portability
 22 Clearinghouse shall make available to all employers
 23 the forms developed under this section, and shall in-
 24 clude with such forms easy to understand explana-
 25 tory materials.

1 **“SEC. 432. PENSION PROSAVE PLANS.**

2 “(a) TREATMENT OF PLAN.—Except as otherwise
3 provided in this part, a Pension ProSave Plan shall be
4 treated in the same manner as a plan which is described
5 in section 401(a) and which includes a trust described in
6 section 501(a).

7 “(b) PENSION PROSAVE PLAN DEFINED.—For pur-
8 poses of this title, the term ‘Pension ProSave Plan’ means
9 a plan—

10 “(1) which is established by an employer for the
11 exclusive benefit of its employees and their bene-
12 ficiaries,

13 “(2) under which the only contributions which
14 may be made are contributions to Pension ProSave
15 Accounts established on behalf of such employees,
16 and

17 “(3) which meets—

18 “(A) the contribution requirements of sub-
19 section (c),

20 “(B) the vesting requirements of sub-
21 section (d),

22 “(C) the distribution and loan require-
23 ments of subsection (e), and

24 “(D) the reporting requirements of sub-
25 section (f).

26 “(c) CONTRIBUTION REQUIREMENTS.—

1 “(1) IN GENERAL.—The requirements of this
2 subsection are met if the only contributions under
3 the plan on behalf of any employee are—

4 “(A) nonelective contributions described in
5 paragraph (2), and

6 “(B) elective employee contributions de-
7 scribed in paragraph (3).

8 “(2) NONELECTIVE CONTRIBUTIONS.—

9 “(A) IN GENERAL.—A Pension ProSave
10 Plan shall require an employer to make nonelec-
11 tive contributions equal to 1 percent of com-
12 pensation for each eligible employee.

13 “(B) ELECTION TO INCREASE CONTRIBU-
14 TIONS.—

15 “(i) IN GENERAL.—A plan shall not
16 fail to meet the requirements of subpara-
17 graph (A) merely because, pursuant to the
18 terms of the plan, an employer may elect
19 a uniform rate of nonelective contributions
20 in excess of 1 percent.

21 “(ii) TIME FOR ELECTION.—A plan
22 may provide that an election under clause
23 (i) may be made—

24 “(I) for a year only if notice is
25 given to all eligible employees within a

1 reasonable period before the 60-day
 2 period referred to in paragraph
 3 (5)(B),

4 “(II) at any time during a year
 5 only if such notice is given at least 30
 6 days before the first day of the first
 7 month for which the election is to
 8 take effect, or

9 “(III) within 45 days of the close
 10 of the year only if such notice is given
 11 before such 45th day.

12 “(C) ELECTION TO DECREASE CONTRIBU-
 13 TIONS.—

14 “(i) IN GENERAL.—A plan shall not
 15 fail to meet the requirements of subpara-
 16 graph (A) merely because, pursuant to the
 17 terms of the plan, an employer may elect
 18 for any year to suspend nonelective con-
 19 tributions or to elect a uniform rate of con-
 20 tributions of less than 1 percent. Such
 21 election may be made only if notice is
 22 given to all eligible employees within a rea-
 23 sonable period of time before the 60-day
 24 period referred to in paragraph (5)(B).

1 “(ii) LIMITATION.—An employer may
 2 not elect a lower percentage under clause
 3 (i), or to suspend nonelective contributions,
 4 for any year if that election would result in
 5 nonelective contributions being lower than
 6 1 percent in more than 2 of the years in
 7 the 5-year period ending with such year.
 8 For purposes of the preceding sentence,
 9 nonelective contributions for any year prior
 10 to the establishment of the Pension
 11 ProSave Plan shall be treated as 1 percent.

12 “(D) MAXIMUM AMOUNT.—The plan shall
 13 provide that an employer may not make non-
 14 elective contributions on behalf of an eligible
 15 employee for any year in excess of \$6,000.

16 “(3) ELECTIVE CONTRIBUTIONS.—

17 “(A) IN GENERAL.—A Pension ProSave
 18 Plan shall allow each eligible employee to make
 19 elective contributions for any year in an amount
 20 equal to the greater of—

21 “(i) an amount equal to twice the
 22 nonelective contributions of the employer
 23 for such year on behalf of the employee, or

24 “(ii) \$2,000.

25 “(B) TIMING OF CONTRIBUTIONS.—

1 “(i) IN GENERAL.—Except as pro-
 2 vided in clause (ii), contributions under
 3 subparagraph (A) shall be expressed as a
 4 percentage of compensation and shall be
 5 made by an employer as provided in para-
 6 graph (5)(A)(i).

7 “(ii) CATCH UP CONTRIBUTIONS.—If
 8 the maximum amount which may be con-
 9 tributed under subparagraph (A) exceeds
 10 the elective contributions made under
 11 clause (i) for any plan year, an employee
 12 may make elective contributions in an
 13 amount equal to such excess (or any por-
 14 tion thereof) not later than the due date
 15 (including extensions) for the return of tax
 16 for the taxable year within which the plan
 17 year ends. Such contributions shall be
 18 made in such manner as the Pension Port-
 19 ability Clearinghouse may provide.

20 “(C) MAXIMUM AMOUNT.—The plan shall
 21 provide that an employee may not make elective
 22 contributions for any year in excess of \$6,000.

23 “(D) NO CONSTRUCTIVE RECEIPT.—For
 24 purposes of section 402(e)(3), contributions
 25 under this paragraph shall be treated in the

1 same manner as contributions under a qualified
2 cash or deferred arrangement under section
3 401(k).

4 “(4) INFLATION ADJUSTMENT.—In the case of
5 plan years beginning in a calendar year after 1997,
6 each of the \$6,000 amounts contained in this sub-
7 section shall be increased by the product of such
8 amount and the percentage (if any) by which the
9 CPI for the preceding calendar year exceeds the CPI
10 for 1996. For purposes of this paragraph, the CPI
11 for any calendar year shall be determined under sec-
12 tion 1(f)(4).

13 “(5) ADMINISTRATIVE REQUIREMENTS.—

14 “(A) TIME CONTRIBUTIONS REQUIRED TO
15 BE MADE.—

16 “(i) ELECTIVE CONTRIBUTIONS.—The
17 terms of a Pension ProSave Plan shall re-
18 quire an employer to make all elective con-
19 tributions under paragraph (3) (other than
20 subparagraph (B)(ii) thereof) not later
21 than the date on which such contributions
22 would otherwise be required to be made
23 under title I of the Employee Retirement
24 Income Security Act of 1974 if such con-
25 tributions were elective contributions under

1 a qualified cash or deferred arrangement
2 under section 401(k).

3 “(ii) NONELECTIVE CONTRIBU-
4 TIONS.—

5 “(I) IN GENERAL.—The terms of
6 a Pension ProSave Plan shall require
7 an employer to make all nonelective
8 contributions under paragraph (2) not
9 later than the close of the 45-day pe-
10 riod following the last day of the cal-
11 endar quarter for which the contribu-
12 tions are to be made.

13 “(II) CONTRIBUTIONS AFTER
14 YEAR-END.—For purposes of this sub-
15 section, a contribution on account of a
16 year which is made within 45 days (or
17 within a period prescribed by the Sec-
18 retary) after the close of the year
19 shall be deemed to have been made on
20 the last day of such year.

21 “(B) EMPLOYEE ELECTIONS.—The terms
22 of a Pension ProSave Plan shall provide that—

23 “(i) an employee may elect to termi-
24 nate elective contributions described in
25 paragraph (3) at any time during the year,

1 except that if the employee so elects, the
2 employee may not resume participation
3 until the first day of the next year (or such
4 earlier time as provided by the plan), and

5 “(ii) each employee eligible to partici-
6 pate—

7 “(I) may elect, during the 60-day
8 period before the beginning of any
9 year, to make elective contributions,
10 or to modify the amount of elective
11 contributions, for such year,

12 “(II) may elect, within 30 days
13 of becoming eligible to participate in
14 the plan, to make elective contribu-
15 tions for the year,

16 “(III) may elect, within 30 days
17 of receiving notice under paragraph
18 (2)(B) of an increase in nonelective
19 contributions, to modify the amount
20 of elective contributions, and

21 “(IV) may elect, not later than
22 the due date described in paragraph
23 (3)(B)(ii), to make the elective con-
24 tributions described in such para-
25 graph.

1 “(d) VESTING REQUIREMENTS.—A Pension ProSave
 2 Plan meets the requirements of this subsection only if the
 3 employee’s rights to nonelective and elective contributions
 4 under subsection (c) are nonforfeitable. The rules of sec-
 5 tion 401(k)(4) shall apply for purposes of this subsection.

6 “(e) SPECIAL DISTRIBUTION AND LOAN RULES.—A
 7 Pension ProSave Plan meets the requirements of this sub-
 8 section only if, under the terms of the plan, distributions
 9 and loans may be made only in accordance with the provi-
 10 sions of sections 222 and 223 of the Pension ProSave Act.

11 “(f) REPORTING REQUIREMENTS.—

12 “(1) NO EMPLOYER REPORTS.—Except as pro-
 13 vided in this subsection, no report shall be required
 14 under this chapter by an employer maintaining a
 15 Pension ProSave Plan.

16 “(2) SUMMARY DESCRIPTION.—The Pension
 17 Portability Clearinghouse shall each year prepare,
 18 and provide to the employer maintaining the plan, a
 19 summary plan description meeting the requirements
 20 of section 102 of the Employee Retirement Income
 21 Security Act of 1974.

22 “(3) EMPLOYEE NOTIFICATION.—The employer
 23 shall notify each employee immediately before the
 24 period for which an election may be made of the em-
 25 ployee’s opportunity to make such election. Such no-

1 tice shall include a copy of the summary plan de-
 2 scription described in paragraph (2) and shall indi-
 3 cate the level of employer nonelective contributions
 4 which will be made for the year (or portion thereof)
 5 for which the election may be made. This paragraph
 6 shall not apply to an election under subsection
 7 (c)(3)(B)(ii).

8 “(g) DEFINITIONS AND SPECIAL RULES.—For pur-
 9 poses of this subsection—

10 “(1) COMPENSATION.—

11 “(A) IN GENERAL.—The term ‘compensa-
 12 tion’ has the meaning given such term by sec-
 13 tion 415(c)(3).

14 “(B) SELF-EMPLOYED INDIVIDUALS.—
 15 Notwithstanding subparagraph (A), in the case
 16 of an employee within the meaning of section
 17 401(c)(1), compensation under section
 18 414(c)(3) shall be determined without regard to
 19 paragraph (2)(A) (v) and (vi) of section 401(c).

20 “(2) EMPLOYEE.—The term ‘employee’ includes
 21 an employee as defined in section 401(c)(1).

22 “(3) ELIGIBLE EMPLOYEE.—

23 “(A) IN GENERAL.—The term ‘eligible em-
 24 ployee’ means, with respect to any year, any
 25 employee who—

1 “(i) completed at least 1,000 hours of
2 service (within the meaning of section
3 410(a)(3)(C)) at any time during such
4 year, and

5 “(ii) attained 21 years of age during
6 such year.

7 A plan may provide a uniform shorter period of
8 service or lower age to apply in lieu of those
9 under the preceding sentence.

10 “(B) EXCLUDABLE EMPLOYEES.—An em-
11 ployer may elect not to treat employees de-
12 scribed in section 410(b)(3) as eligible employ-
13 ees.

14 “(4) PLAN YEAR.—The term ‘plan year’ means
15 the calendar year.”

16 (b) DEDUCTIBILITY.—Section 404 of the Internal
17 Revenue Code of 1986 (relating to deductions for con-
18 tributions of an employer) is amended by adding at the
19 end the following new subsection:

20 “(n) SPECIAL RULES FOR PENSION PROSAVE
21 PLANS.—

22 “(1) IN GENERAL.—Employer contributions to
23 a Pension ProSave Account under a Pension
24 ProSave Plan (within the meaning of section 432)
25 shall be treated as if they are made to a plan subject

1 to the requirements of this section. Employer deduc-
2 tions for such contributions shall be subject to the
3 following limitations:

4 “(A) Contributions made for a calendar
5 year are deductible for the taxable year of the
6 employer with or within which the calendar year
7 ends.

8 “(B) Contributions shall be treated for
9 purposes of this subsection as if they were
10 made for a calendar year if such contributions
11 are made on account of such calendar year.

12 “(C) The amount deductible in a taxable
13 year for a Pension ProSave Account shall not
14 exceed the maximum amount which may be
15 contributed pursuant to section 432(c), and
16 shall be deductible without regard to the limita-
17 tions under subsection (a) or amounts contrib-
18 uted under any other plan subject to this sec-
19 tion.

20 “(2) EFFECT ON OTHER PLANS.—For any tax-
21 able year for which the employer has a deduction
22 under paragraph (1), the otherwise applicable limita-
23 tions in subsection (a) shall be applied without re-
24 gard to contributions to Pension ProSave Accounts.”

1 (c) INCREASE IN EXCLUSION FOR ELECTIVE DEFER-
 2 RALS.—

3 (1) IN GENERAL.—Section 402(g)(1) of the In-
 4 ternal Revenue Code of 1986 is amended by adding
 5 at the end the following new sentence: “The limita-
 6 tion under the preceding sentence shall be increased
 7 by the amount of the elective deferrals described in
 8 paragraph (3)(D) for the taxable year.”

9 (2) ELECTIVE DEFERRAL.—Section 402(g)(3)
 10 of such Code is amended by striking “and” at the
 11 end of subparagraph (C), by striking the period at
 12 the end of subparagraph (D) and inserting “, and”,
 13 and by adding after subparagraph (D) the following
 14 new subparagraph:

15 “(E) any elective employee contribution
 16 under section 432(c).”

17 (d) CONFORMING AMENDMENTS.—

18 (1) Subsections (b) and (c) of section 414 of
 19 the Internal Revenue Code of 1986 are each amend-
 20 ed by striking “and 416” and inserting “416, and
 21 432”.

22 (2) Section 414 (m)(4)(B) and (n)(3)(B) of
 23 such Code are each amended by striking “and 416”
 24 and inserting “416, and 432”.

1 (3) Section 415(a)(2) of such Code is amended
 2 by adding at the end the following new flush sen-
 3 tence:

4 “A Pension ProSave Plan described in section 432 shall
 5 not be subject to this section, except that if an employer
 6 that maintains such plan also maintains 1 or more plans,
 7 annuities, or accounts subject to this section, such plan
 8 shall be taken into account in determining whether any
 9 such other plans, annuities, or accounts satisfy the re-
 10 quirements of this section.”

11 (4) The table of parts for subchapter D of
 12 chapter 1 of such Code is amended by inserting
 13 after the item relating to part II the following new
 14 item:

 “Part III. Pension ProSave Plans.”

15 (e) EFFECTIVE DATE.—The amendments made by
 16 this section shall apply to years beginning after December
 17 31, 1997.

18 **TITLE II—ESTABLISHMENT OF**

19 **PENSION PROSAVE SYSTEM**

20 **Subtitle A—Definitions**

21 **SEC. 201. DEFINITIONS.**

22 For purposes of this Act—

23 (1) ADVISORY COUNCIL.—The term “Advisory
 24 Council” means the Pension Portability Clearing-

1 house Advisory Council established under section
2 303.

3 (2) BOARD.—The term “Board” means the
4 board of directors of the Pension Portability Clear-
5 inghouse.

6 (3) CHAIRMAN.—The term “Chairman” means
7 the chairman of the board of directors of the Pen-
8 sion Portability Clearinghouse.

9 (4) CLEARINGHOUSE.—The term “Clearing-
10 house” means the Pension Portability Clearinghouse
11 established under section 301.

12 (5) PENSION PROSAVE PLAN.—The term “Pen-
13 sion ProSave Plan” has the meaning given such
14 term by section 432 of the Internal Revenue Code
15 of 1986.

16 **Subtitle B—Establishment of** 17 **Pension ProSave System**

18 **PART I—IN GENERAL**

19 **SEC. 211. ESTABLISHMENT OF PENSION PROSAVE SYSTEM.**

20 The Board shall by regulation establish a system of
21 Pension ProSave Accounts under which—

22 (1) employers and employees may make con-
23 tributions on behalf of employees under a Pension
24 ProSave Plan,

1 (2) individuals may make qualified rollover con-
 2 tributions to Pension ProSave Accounts,

3 (3) amounts in the Pension ProSave Accounts
 4 are invested as provided in this title, and

5 (4) loans and distributions of amounts in the
 6 Pension ProSave Accounts are made as provided in
 7 this title.

8 **PART II—CONTRIBUTIONS AND DISTRIBUTIONS**

9 **SEC. 221. CONTRIBUTIONS TO PENSION PROSAVE AC-** 10 **COUNTS.**

11 (a) IN GENERAL.—The system established under sec-
 12 tion 211 shall provide that the only contributions made
 13 to a Pension ProSave Account are—

14 (1) contributions under a Pension ProSave
 15 Plan, or

16 (2) qualified rollover contributions.

17 (b) PLAN CONTRIBUTIONS.—The system established
 18 under section 211 shall provide to the maximum extent
 19 feasible that contributions under a Pension ProSave Plan
 20 are made in such a manner as provides all employers with
 21 a simple, cost-effective way of making such contributions.

22 (c) QUALIFIED ROLLOVER CONTRIBUTIONS.—For
 23 purposes of this title—

24 (1) IN GENERAL.—The term “qualified rollover
 25 contribution” means—

(A) the transfer to a Pension ProSave Account, within 60 days of receipt, of any eligible rollover distribution described in section 402(c) or 403(a)(4) of the Internal Revenue Code of 1986, or

(B) any direct trustee-to-trustee transfer described in section 401(a)(31) of such Code from a qualified trust to a Pension ProSave Account.

(2) COORDINATION WITH TAX CODE.—For purposes of the Internal Revenue Code of 1986, a Pension ProSave Account shall be treated as an eligible retirement plan under section 402(c)(8)(B) of such Code.

SEC. 222. REQUIREMENTS RELATING TO DISTRIBUTIONS.

(a) TIME FOR DISTRIBUTIONS.—

(1) IN GENERAL.—The system established under section 211 shall provide that amounts in a Pension ProSave Account may not be distributed to participants or beneficiaries earlier than—

(A) the death or disability of the participant, or

(B) the attainment of age 59½.

(2) MANDATORY DISTRIBUTIONS.—Notwithstanding paragraph (1), the provisions of section

1 401(a)(9) of the Internal Revenue Code of 1986
2 shall apply to a Pension ProSave Account.

3 (b) FORMS OF DISTRIBUTIONS.—

4 (1) IN GENERAL.—The system established
5 under section 211 shall provide for distributions in
6 such forms as the Board may provide, except that
7 the Board shall provide for—

8 (A) a life annuity,

9 (B) a joint and survivor annuity,

10 (C) an annuity for a term certain, and

11 (D) a lump-sum distribution.

12 (2) SURVIVOR ANNUITIES; SPOUSAL CON-
13 SENT.—The provisions of section 401(a)(11) of the
14 Internal Revenue Code of 1986 shall apply to dis-
15 tributions from a Pension ProSave Account.

16 (3) ISSUERS.—Annuities under this subsection
17 shall be provided through persons authorized under
18 applicable State laws to provide such annuities. The
19 Board may limit the maximum amount of annuities
20 issued by any 1 person.

21 **SEC. 223. LOAN REQUIREMENTS.**

22 (a) IN GENERAL.—The system established under sec-
23 tion 211 shall provide that a participant may obtain a loan
24 of amounts in a Pension ProSave Account.

25 (b) LIMITATIONS.—Loans under subsection (a)—

1 (1) may be made only for the purposes de-
2 scribed in subsection (c),

3 (2) may not in the aggregate exceed the portion
4 of the balance to the credit of the account attrib-
5 utable to elective employee contributions (and earn-
6 ings allocable thereto), and

7 (3) shall be subject to the same terms and con-
8 ditions as similar loans provided by private lenders.

9 (c) LOAN PURPOSES.—Loans may be made under
10 subsection (a)—

11 (1) for the payment of acquisition costs of a
12 principal residence of the participant or the partici-
13 pant's spouse, child, or grandchild, but only if the
14 individual had no present ownership interest in a
15 principal residence during the prior 2 years,

16 (2) for tuition, fees, books, supplies, and equip-
17 ment, and reasonable living expenses while away
18 from home, required for the enrollment or attend-
19 ance of the participant or the participant's spouse,
20 child, or grandchild at an eligible educational insti-
21 tution (as defined in section 135(c)(3) of the Inter-
22 nal Revenue Code of 1986),

23 (3) if the participant during the calendar year
24 or the preceding calendar year received unemploy-

1 ment compensation for 12 consecutive weeks under
2 any Federal or State law, and

3 (4) for medical expenses of the participant, the
4 participant's spouse, child, or grandchild, or any an-
5 cestor of the participant or spouse, but only if a de-
6 duction is allowed with respect to such expenses
7 under section 213 of such Code.

8 **PART III—CLEARINGHOUSE INVESTMENTS**

9 **SEC. 231. INVESTMENT OPTIONS.**

10 (a) IN GENERAL.—The Board shall, pursuant to the
11 system established under section 211, enter into arrange-
12 ments, on a competitive basis, with qualified professional
13 asset managers to provide individuals with the opportunity
14 to invest sums in a Pension ProSave Account in each of
15 the funds described in subsection (b).

16 (b) TYPE OF FUNDS.—

17 (1) IN GENERAL.—The funds described in the
18 subsection are the following:

19 (A) A fixed income investment fund.

20 (B) An equity fund.

21 (C) A government securities investment
22 fund.

23 (D) A small business capitalization fund.

24 (E) An infrastructure fund.

25 (F) An international equity fund.

1 (2) OTHER FUNDS.—The Board may provide
2 for other funds which the Board determines appro-
3 priate, including a common stock index investment
4 fund.

5 (c) ASSET MANAGERS.—

6 (1) IN GENERAL.—The Board may select more
7 than one qualified professional asset manager for
8 each type of fund described in subsection (b).

9 (2) ASSET ALLOCATION.—The Board may place
10 limits on the amount which may be allocated to any
11 qualified professional asset manager to the extent
12 the Board determines necessary to prevent undue
13 impact on any financial market or undue risk to
14 participants.

15 (3) DEFINITION.—For purposes of this title,
16 the term “qualified professional asset manager” has
17 the meaning given such term by section 8438(a)(7)
18 of title 5, United States Code.

19 (d) PARTICIPANT ELECTIONS.—

20 (1) IN GENERAL.—The system established
21 under section 211 shall provide that an individual on
22 whose behalf a Pension ProSave Account is estab-
23 lished may—

1 (A) elect the investment funds into which
2 contributions to the account are to be invested,
3 and

4 (B) elect to transfer contributions (and
5 earnings) from one fund to another.

6 (2) TIME AND METHOD.—

7 (A) TIME.—Such system shall provide
8 that—

9 (i) any election under paragraph
10 (1)(A) shall be effective on the first day of
11 the month following the month in which
12 the election was made, and

13 (ii) any election under paragraph
14 (1)(B) shall be effective on the first busi-
15 ness day following the election.

16 (B) METHOD.—Any election shall be made
17 in the manner provided by the system, except
18 that the Board shall seek to ensure elections
19 may be made in a simple, timely manner.

20 (3) LIMITATION.—Any election under this sub-
21 section shall be subject to the asset allocation limita-
22 tion under subsection (c)(2).

PART IV—ADMINISTRATIVE PROVISIONS;

FIDUCIARY RESPONSIBILITIES

SEC. 241. ACCOUNTING AND INFORMATION.

(a) ESTABLISHMENT OF ACCOUNTS.—

(1) IN GENERAL.—The system established under section 211 shall provide for the establishment and maintenance of a Pension ProSave Account for each individual—

(A) for whom contributions are made to the Clearinghouse under a Pension ProSave Plan, or

(B) who transfers amounts, or on whose behalf amounts are transferred, to the Clearinghouse in a qualified rollover contribution.

(2) ALLOCATIONS AND REDUCTIONS TO ACCOUNT.—Such system shall provide for—

(A) the allocation to each account of an amount equal to a pro rata share of the net earnings and net losses from each investment of sums in such account, and

(B) a reduction in each such account for the account's appropriate share of the administrative expenses to be paid out.

(3) EXAMINATION OF ACCOUNTS.—

(A) IN GENERAL.—The Clearinghouse shall annually engage, on behalf of all individ-

1 uals for whom an account is maintained, an
2 independent qualified public accountant (within
3 the meaning of section 103(a)(3)(D) of the Em-
4 ployee Retirement Income Security Act of
5 1974) who shall conduct an examination of all
6 accounts and other books and records main-
7 tained in the administration of this title as the
8 accountant considers necessary to make the de-
9 termination under subparagraph (B). The ex-
10 amination shall be conducted in accordance
11 with generally accepted auditing standards and
12 shall involve such tests of the accounts, books,
13 and records as the public accountant considers
14 necessary.

15 (B) DETERMINATION OF COMPLIANCE.—

16 The public accountant conducting an examina-
17 tion under subparagraph (A) shall determine
18 whether the accounts, books, and records re-
19 ferred to in such paragraph have been main-
20 tained in conformity with generally accepted ac-
21 counting principles applied on a basis consistent
22 with the manner in which such principles were
23 applied during the examination conducted dur-
24 ing the preceding year. The public accountant
25 shall transmit to the Board and the Comptrol-

1 ler General of the United States a report on
2 such examination and determination.

3 (C) RELIANCE.—In making a determina-
4 tion under subparagraph (B), a public account-
5 ant may rely on the correctness of any actuarial
6 matter certified by an enrolled actuary if the
7 public accountant states his reliance in the re-
8 port to the Board.

9 (b) ERISA REPORTING AND DISCLOSURE REQUIRE-
10 MENTS.—The Pension Portability Clearinghouse shall
11 meet the reporting and disclosure requirements of title I
12 of the Employee Retirement Income Security Act of 1974
13 with respect to each Pension ProSave Plan establishing
14 Pension ProSave Accounts on behalf of participants in
15 such plan.

16 (c) ADDITIONAL INFORMATION.—

17 (1) IN GENERAL.—The system established
18 under section 211 shall provide for the furnishing of
19 information to employers and employees of the op-
20 portunity of establishing Pension ProSave Plans and
21 of transferring amounts to Pension ProSave Ac-
22 counts.

23 (2) ACCOUNT PARTICIPANTS.—

24 (A) IN GENERAL.—Such system shall pro-
25 vide that each individual for whom an account

1 is maintained shall be periodically furnished
2 with—

3 (i) a statement relating to the individ-
4 ual's account, and

5 (ii) a summary description of the in-
6 vestment options under the account and an
7 evaluation of such option during the 5-year
8 period preceding the evaluation.

9 (B) ACCOUNT VALUATION.—Such system
10 shall also provide that each individual for whom
11 an account is established shall be entitled, upon
12 request, to a daily valuation of amounts in each
13 fund described in section 231(b) in order to en-
14 able the individual to make an election to trans-
15 fer such amounts between funds.

16 (3) INVESTMENT INFORMATION.—The Clearing-
17 house shall also make available to employees infor-
18 mation on how to make informed investment deci-
19 sions and how to achieve retirement objectives.

20 (4) INFORMATION NOT INVESTMENT ADVICE.—
21 Information provided under this subsection shall not
22 be treated as investment advice for purposes of any
23 Federal or State law.

1 **SEC. 242. ADMINISTRATIVE COSTS.**

2 (a) IN GENERAL.—Any expense incurred by the
3 Clearinghouse, the Board, or the Advisory Council in car-
4 rying out their functions under this Act shall be paid first
5 from the earnings of the funds in Pension ProSave Ac-
6 counts and then from balances in such accounts.

7 (b) ALLOCATION.—Expenses under subsection (a)
8 shall be allocated to each Pension ProSave Account in the
9 manner provided under section 241.

10 **SEC. 243. FIDUCIARY RESPONSIBILITIES; LIABILITY AND**
11 **PENALTIES; BONDING; INVESTIGATIVE AU-**
12 **THORITY.**

13 Except as provided by the Secretary of Labor in regu-
14 lations, the provisions of sections 8477, 8478, 8478a, and
15 8479(a) of title 5, United States Code, shall apply to the
16 Clearinghouse in the same manner as such provisions
17 apply to the Thrift Savings Fund.

18 **PART V—EFFECTIVE DATE**

19 **SEC. 251. EFFECTIVE DATE.**

20 The Pension ProSave system established under this
21 subtitle shall take effect on the first day of the sixth
22 month following the month in which final regulations de-
23 scribed in section 211 are published in the Federal Reg-
24 ister.

1 **TITLE III—PENSION**
2 **PORTABILITY CLEARINGHOUSE**
3 **SEC. 301. ESTABLISHMENT OF PENSION PORTABILITY**
4 **CLEARINGHOUSE.**

5 (a) **ESTABLISHMENT.**—There is established within
6 the executive branch of the Government a body corporate
7 to be known as the Pension Portability Clearinghouse.

8 (b) **ADMINISTRATION.**—In carrying out its duties
9 under this Act, the Clearinghouse shall be administered
10 by the Chairman in accordance with policies established
11 by the Board.

12 (c) **POWERS.**—In carrying out its duties under this
13 Act—

14 (1) **IN GENERAL.**—The Clearinghouse shall
15 have the powers conferred on a nonprofit corpora-
16 tion under the District of Columbia Nonprofit Cor-
17 poration Act (chapter 5 of title 29 of the District of
18 Columbia Code (section 29–501 et seq.)).

19 (2) **SPECIFIC POWERS.**—The Clearinghouse
20 shall have—

21 (A) the specific powers granted to it by
22 this Act, and

23 (B) powers identical to the powers con-
24 ferred on the Pension Benefit Guaranty Cor-
25 poration under paragraphs (1) through (8) of

1 section 4002(b) of the Employee Retirement In-
 2 come Security Act of 1974 (29 U.S.C.
 3 1302(b)).

4 (d) TREATMENT AS QUALIFIED TRUST.—For pur-
 5 poses of the Internal Revenue Code of 1986—

6 (1) the Clearinghouse shall be treated in the
 7 same manner as a trust described in section 401(a)
 8 of such Code which is exempt from taxation under
 9 section 501(a) of such Code, and

10 (2) any contribution to, or distribution from,
 11 the Clearinghouse shall be treated in the same man-
 12 ner as contributions to, or distributions from, such
 13 a trust.

14 **SEC. 302. BOARD OF DIRECTORS.**

15 (a) APPOINTMENT.—The board of directors of the
 16 Pension Portability Clearinghouse shall be composed of 5
 17 members appointed by the President, of whom 1 shall be
 18 designated by the President as Chairman.

19 (b) ADVICE AND CONSENT.—Appointments under
 20 subsection (a) shall be made by and with the advice and
 21 consent of the Senate.

22 (c) EXPERTISE.—Members of the Board shall have
 23 substantial experience, training, and expertise in the man-
 24 agement of financial investments and pension benefit
 25 plans.

1 (d) TERMS.—

2 (1) IN GENERAL.—A member of the Board
3 shall be appointed for a term of 3 years, except that
4 of the members first appointed—

5 (A) the Chairman shall be appointed for a
6 term of 3 years,

7 (B) 2 members shall be appointed for a
8 term of 2 years, and

9 (C) 2 members shall be appointed for a
10 term of 1 year.

11 (2) VACANCIES.—A vacancy on the Board shall
12 be filled in the same manner in which the original
13 appointment was made. Any individual so appointed
14 shall serve for the unexpired term of the member re-
15 placed.

16 (3) SUCCESSORS REQUIRED.—The term of any
17 member shall not expire before the date on which
18 the member's successor takes office.

19 (e) GENERAL DUTIES AND POWERS.—

20 (1) GENERAL RULE.—The Board shall—

21 (A) establish policies for the establishment
22 and management of the system described in
23 section 211,

1 (B) establish policies for the investment
2 and management of the amounts in Pension
3 ProSave Accounts,

4 (C) review the performance of investments
5 made for the Clearinghouse, and

6 (D) review and approve the budgets of the
7 Clearinghouse and the Board.

8 (2) OVERSIGHT OF CLEARINGHOUSE.—The
9 Board may—

10 (A) provide for the hiring of employees of
11 the Clearinghouse, including the appointment of
12 the Executive Director,

13 (B) direct the Executive Director to take
14 such actions as the Board considers necessary
15 to carry out the provisions of this Act,

16 (C) upon the concurring votes of 4 mem-
17 bers of the Board, remove the Executive Direc-
18 tor for cause, and

19 (D) take such other actions as may be nec-
20 essary to carry out the functions of the Board.

21 (3) RESPONSIBILITIES.—

22 (A) IN GENERAL.—The members of the
23 Board shall discharge their responsibilities sole-
24 ly in the interests of participants and bene-
25 ficiaries under Pension ProSave Accounts.

1 (B) INVESTMENTS.—The Board may not
2 direct the Clearinghouse to invest or cause to be
3 invested any sums in a specific asset or to dis-
4 pose or cause to be disposed of any specific
5 asset.

6 (4) INVESTMENT POLICIES.—Any investment
7 policies adopted under paragraph (1)(B) shall pro-
8 vide for—

9 (A) prudent investments suitable for accu-
10 mulating funds for payment of retirement in-
11 come, and

12 (B) low administrative costs.

13 (5) BUDGETS.—The Board shall prepare and
14 submit to the President, and, at the same time, to
15 the appropriate committees of Congress, an annual
16 budget of the expenses and other items relating to
17 the Board which shall be included as a separate item
18 in the budget required to be transmitted to the Con-
19 gress under section 1105 of title 31, United States
20 Code.

21 (6) LEGISLATIVE RECOMMENDATIONS.—The
22 Board may submit to the President, and, at the
23 same time, shall submit to each House of Congress,
24 any legislative recommendations of the Board relat-

1 ing to any of its functions under this Act or any
2 other provision of law.

3 (f) ADMINISTRATIVE PROVISIONS.—

4 (1) MEETINGS.—The Board shall meet not less
5 than once during each month and at additional
6 times at the call of the Chairman.

7 (2) QUORUMS.—

8 (A) IN GENERAL.—The Board shall per-
9 form its duties and exercise its powers on a ma-
10 jority vote of a quorum of the Board.

11 (B) VACANCY.—A vacancy on the Board
12 shall not impair the authority of a quorum of
13 the Board to perform its duties and exercise its
14 powers.

15 (C) QUORUM.—3 members of the Board
16 shall constitute a quorum for the transaction of
17 business.

18 (3) COMPENSATION.—

19 (A) IN GENERAL.—Each member of the
20 Board who is not an officer or employee of the
21 Federal Government shall be compensated at
22 the daily rate of basic pay for level IV of the
23 Executive Schedule under title 5, United States
24 Code, for each day such member is performing
25 the duties of the Board.

1 (B) TRAVEL AND PER DIEM.—A member
 2 of the Board shall be paid travel, per diem, and
 3 other necessary expenses under subchapter I of
 4 chapter 57 of title 5, United States Code, while
 5 traveling away from such member's home or
 6 regular place of business in the performance of
 7 the duties of the Board.

8 (4) EXECUTIVE DIRECTOR.—

9 (A) APPOINTMENT.—The chief executive
 10 officer of the Clearinghouse shall be the Execu-
 11 tive Director appointed under subsection (e).

12 (B) DUTIES.—The Executive Director
 13 shall—

14 (i) carry out policies established by
 15 the Board, and

16 (ii) administer the Clearinghouse, in-
 17 cluding—

18 (I) appointing such personnel as
 19 may be necessary to carry out the du-
 20 ties of the Clearinghouse,

21 (II) subject to approval by the
 22 Board, procure the services of experts
 23 and consultants, and

1 (III) pay compensation and other
 2 expenses of the Clearinghouse from
 3 funds in the Clearinghouse.

4 **SEC. 303. PENSION PORTABILITY CLEARINGHOUSE ADVI-**
 5 **SORY COUNCIL.**

6 (a) APPOINTMENT.—There is hereby established the
 7 Pension Portability Clearinghouse Advisory Council which
 8 shall consist of 15 members appointed by the President,
 9 from among individuals who have substantial experience,
 10 training, and expertise in the management of financial in-
 11 vestments and pension benefit plans, including representa-
 12 tives of—

- 13 (1) the insurance industry,
- 14 (2) the fields of accounting, actuarial science,
- 15 and investment counseling and management,
- 16 (3) mutual funds,
- 17 (4) the employment and human resource profes-
- 18 sion, small plan sponsors, pension advocacy organi-
- 19 zations, and retiree groups, and
- 20 (5) the general public.

21 (b) TERMS.—

22 (1) IN GENERAL.—A member of the Advisory
 23 Council shall be appointed for a term of 3 years, ex-
 24 cept that of the members first appointed—

1 (A) 5 shall be appointed for a term of 3
2 years,

3 (B) 5 shall be appointed for a term of 2
4 years, and

5 (C) 5 shall be appointed for a term of 1
6 year.

7 (2) VACANCIES.—A vacancy on the Advisory
8 Council shall be filled in the same manner in which
9 the original appointment was made. Any individual
10 so appointed shall serve for the unexpired term of
11 the member replaced.

12 (3) SUCCESSOR REQUIRED.—The term of any
13 member shall not expire before the date on which
14 the member's successor takes office.

15 (c) ACTIONS.—The Advisory Council shall act by res-
16 olution of a majority of its members.

17 (d) DUTIES.—The Advisory Council shall—

18 (1) advise the Board on the establishment of
19 the Pension ProSave system under title II,

20 (2) advise the Board on matters relating to—

21 (A) investment policies for the Clearing-
22 house, including standards for limiting amounts
23 administered by any asset manager, and

24 (B) the administration of this Act, and

1 (3) perform such other duties as the Board may
2 request.

3 **TITLE IV—SIMPLIFIED DEFINED** 4 **BENEFIT PLANS**

5 **SEC. 401. SIMPLIFIED METHOD FOR COMPLYING WITH PEN-** 6 **SION REQUIREMENTS.**

7 (a) GENERAL RULE.—Subpart B of part I of sub-
8 chapter D of chapter 1 of the Internal Revenue Code of
9 1986 is amended by adding at the end the following new
10 section:

11 **“SEC. 417A. SIMPLIFIED METHOD FOR COMPLYING WITH** 12 **PENSION REQUIREMENTS.**

13 “(a) GENERAL RULE.—An employer is entitled to the
14 benefits of this section for any year if—

15 “(1) such employer maintains a qualified sim-
16 plified defined contribution plan during such year,
17 and

18 “(2) such employer maintains a qualified sim-
19 plified defined benefit plan during such year.

20 “(b) BENEFITS OF SECTION.—If an employer is enti-
21 tled to the benefits of this section for any year—

22 “(1) INCREASE IN PERMITTED COMPENSA-
23 TION.—In applying sections 401(a)(17) and 404(l)
24 to the qualified simplified defined contribution plan
25 and the qualified simplified defined benefit plan, the

1 dollar limitation contained in such sections shall be
2 \$200,000. The Secretary shall adjust the \$200,000
3 amount contained in the preceding sentence at the
4 same time and in the same manner as the adjust-
5 ment under section 401(a)(17)(B).

6 “(2) MODIFICATION OF FUNDING RULES.—

7 “(A) INCREASE IN FULL FUNDING LIMITA-
8 TION.—The full funding limitation for the
9 qualified simplified defined benefit plan shall be
10 determined under section 412(c)(7)(A) as if
11 such section did not include subclause (I) of
12 clause (i) thereof (relating to 150 percent of
13 current liability).

14 “(B) WAIVER OF QUARTERLY CONTRIBU-
15 TION REQUIREMENTS.—Section 412(m) shall
16 not apply to the qualified simplified defined
17 benefit plan.

18 “(3) WAIVER OF CERTAIN DISCRIMINATION
19 RULES.—The requirements of section 401(k)(3)
20 shall be treated as satisfied with respect to any cash
21 or deferred arrangement maintained by the employer
22 during such year and the requirements of section
23 401(m) shall be treated as satisfied with respect to
24 any plan maintained by the employer during such
25 year.

1 “(4) COMBINED LIMIT WAIVED.—The require-
 2 ments of section 415(e) shall be treated as satisfied
 3 with respect to the qualified simplified defined con-
 4 tribution plan and the qualified simplified defined
 5 benefit plan.

6 “(5) OTHER REQUIREMENTS DEEMED SATIS-
 7 FIED.—The requirements of the following provisions
 8 shall be treated as satisfied with respect to the
 9 qualified simplified defined contribution plan and the
 10 qualified simplified defined benefit plan:

11 “(A) Section 401(a)(4).

12 “(B) Section 401(a)(26).

13 “(C) Section 401(l).

14 “(D) Subsections (a) and (b) of section
 15 410.

16 “(E) Subsection (b) of section 411.

17 “(F) Section 416.

18 “(c) SIMPLIFIED DEFINED CONTRIBUTION PLAN.—

19 “(1) IN GENERAL.—A defined contribution plan
 20 is a qualified simplified defined contribution plan
 21 if—

22 “(A) all employees of the employer (not ex-
 23 cluded pursuant to paragraph (2)) are eligible
 24 to participate in such plan,

1 “(B) the employer contribution for each
2 year for each participant in the plan is a uni-
3 form percentage (which is not less than 3 per-
4 cent) of such participant’s compensation (within
5 the meaning of section 414(s)),

6 “(C) such plan provides that each em-
7 ployee covered by the plan has a nonforfeitable
8 right to 100 percent of such employee’s accrued
9 benefit derived from employer contributions,
10 and

11 “(D) the balance to the credit of the em-
12 ployee under such plan—

13 “(i) except as required by section
14 401(a)(9), may not be distributed earlier
15 than separation from service, death, or dis-
16 ability, and

17 “(ii) in the case of any distribution
18 other than by reason of death, such dis-
19 tribution may be made only in the form
20 of—

21 “(I) an annuity for the life of the
22 employee (or a joint and survivor an-
23 nuity as provided in section 417), or

1 “(II) a direct trustee-to-trustee
2 transfer as provided in section
3 401(a)(31).

4 “(2) CERTAIN EXCLUSIONS PERMITTED.—For
5 purposes of paragraph (1), an employee may be ex-
6 cluded until such employee has completed 6 months
7 of service for the employer.

8 “(3) INCLUSION OF PENSION PROSAVE PLAN.—
9 A Pension ProSave Plan shall be treated as a quali-
10 fied simplified defined contribution plan for purposes
11 of this section for any year if the employer’s rate of
12 nonelective contributions under section 432(c)(2) for
13 such year is not less than 3 percent.

14 “(d) SIMPLIFIED DEFINED BENEFIT PLAN.—

15 “(1) IN GENERAL.—A defined benefit plan is a
16 qualified simplified defined benefit plan if—

17 “(A) all employees of the employer (not ex-
18 cluded pursuant to paragraph (3)) are eligible
19 to participate in such plan, and

20 “(B) the accrued benefit derived from em-
21 ployer contributions for each participant, when
22 expressed as an annual retirement benefit, is
23 equal to the required benefit determined under
24 paragraph (2).

25 “(2) AMOUNT OF REQUIRED BENEFIT.—

1 “(A) IN GENERAL.—The required benefit
2 determined under this paragraph is an amount
3 equal to the product of—

4 “(i) the plan’s qualified accrual rate
5 multiplied by the number of years of serv-
6 ice with the employer, and

7 “(ii) the participant’s average com-
8 pensation for the testing period.

9 “(B) QUALIFIED ACCRUAL RATE.—For
10 purposes of subparagraph (A)—

11 “(i) A plan’s qualified accrual rate is
12 the uniform accrual rate set forth in such
13 plan so long as such rate exceeds 0.5 per-
14 cent.

15 “(ii) A plan may provide that the ac-
16 crual rate with respect to so much of the
17 participant’s average compensation for the
18 testing period as does not exceed covered
19 compensation (as defined in section
20 401(l)(5)(E)) shall be less than the accrual
21 rate for compensation above covered com-
22 pensation (as so defined) so long as such
23 difference is not greater than 1 percentage
24 point. Nothing in the preceding sentence

1 shall be construed as permitting an accrual
2 rate of less than 0.5 percent.

3 “(C) YEARS OF SERVICE.—For purposes of
4 this paragraph, years of service shall be deter-
5 mined under the rules of paragraphs (4), (5),
6 and (6) of section 411(a).

7 “(D) ANNUAL RETIREMENT BENEFIT.—
8 For purposes of this paragraph, the term ‘an-
9 nual retirement benefit’ means a benefit pay-
10 able annually in the form of a single life annu-
11 ity (with no ancillary benefits) beginning at the
12 normal retirement age under the plan.

13 “(E) TESTING PERIOD.—For purposes of
14 this paragraph—

15 “(i) IN GENERAL.—A participant’s
16 testing period shall be the period of years
17 (not less than 3 nor exceeding 5) during
18 which the participant has the greatest ag-
19 gregate compensation from the employer.

20 “(ii) YEAR MUST BE INCLUDED IN
21 YEAR OF SERVICE.—The years taken into
22 account under clause (i) shall be properly
23 adjusted for years not included in a year of
24 service.

1 “(3) EXCLUDED EMPLOYEES.—For purposes of
2 this subsection—

3 “(A) IN GENERAL.—The employer may ex-
4 clude—

5 “(i) employees who have not com-
6 pleted 6 months of service,

7 “(ii) employees who normally perform
8 less than 1,000 hours of service (within the
9 meaning of section 410(a)(3)(C)) per year,

10 “(iii) employees who have not attained
11 age 21, and

12 “(iv) employees who are included in a
13 unit of employees covered by an agreement
14 which the Secretary of Labor finds to be a
15 collective bargaining agreement between
16 employee representatives and the employer.

17 “(B) EMPLOYEES COVERED BY EXISTING
18 DEFINED BENEFIT PLAN.—The employer may
19 exclude employees who are covered under an-
20 other defined benefit plan maintained by the
21 employer if—

22 “(i) such plan was in existence on the
23 date of the enactment of this section, and

1 “(ii) such plan meets the applicable
2 requirements of this part without regard to
3 this section.

4 The employer may exclude employees under the
5 preceding sentence only if all employees de-
6 scribed in the preceding sentence are so ex-
7 cluded.

8 “(C) SPECIAL RULE.—If accruals under
9 any defined benefit plan referred to in subpara-
10 graph (B) cease and the employees covered by
11 such defined benefit plan are covered by an-
12 other plan which would otherwise qualify under
13 this subsection, such other plan shall not be
14 treated as meeting the requirements of this sub-
15 section unless, in determining the annual retire-
16 ment benefit of each such employee under the
17 plan referred to in subparagraph (B), such em-
18 ployee’s average compensation for the testing
19 period (determined by treating such plans as 1
20 plan) is used.

21 “(e) AGGREGATION RULES.—All employees treated
22 as employed by a single employer under subsections (a)
23 and (b) of section 414 shall be so treated for purposes
24 of this section.”

1 (b) CLERICAL AMENDMENT.—The table of sections
2 for subpart B of part I of subchapter B of chapter 1 of
3 such Code is amended by adding at the end the following
4 new item:

“Sec. 417A. Simplified method for complying with pension re-
quirements.”

5 (c) EFFECTIVE DATE.—The amendments made by
6 this section shall apply to years to which section 432 of
7 the Internal Revenue Code of 1986 (as added by title I)
8 applies.

○