

104TH CONGRESS
2D SESSION

S. 1923

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 28, 1996

Mr. BINGAMAN (for himself and Mr. JEFFORDS) 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 \$5,000.

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 \$5,000.

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 1996,
6 each of the \$5,000 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 1995. 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 CONTRIBUTIONS.—
4

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 employer 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 414(q)(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(q)(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 6 months of service
2 with the employer at any time during such
3 year, and

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

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

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

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

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

19 “(m) SPECIAL RULES FOR PENSION PROSAVE
20 PLANS.—

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

1 tions for such contributions shall be subject to the
2 following limitations:

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

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

11 “(C) The amount deductible in a taxable
12 year for a Pension ProSave Account shall not
13 exceed the maximum amount which may be
14 contributed pursuant to section 432(c), and
15 shall be deductible without regard to the
16 amount contributed under any other plan sub-
17 ject to this section.

18 “(2) EFFECT ON STOCK BONUS AND PROFIT-
19 SHARING TRUST.—For any taxable year for which
20 the employer has a deduction under paragraph (1),
21 the otherwise applicable limitations in subsection
22 (a)(3)(A) with respect to a stock bonus or profit-
23 sharing trust maintained by the same employer shall
24 be reduced by the amount of the allowable deduction
25 under paragraph (1).

1 “(3) COORDINATION WITH SUBSECTION
2 (a)(7).—For purposes of applying the limitation of
3 subsection (a)(7) with respect to a plan to which this
4 section applies (other than a Pension ProSave Plan),
5 a Pension ProSave Plan shall be treated as if it were
6 a separate stock bonus or profit-sharing trust of the
7 employer maintaining the plan.”

8 (c) INCREASE IN EXCLUSION FOR ELECTIVE DEFER-
9 RALS.—

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

16 (2) ELECTIVE DEFERRAL.—Section 402(g)(3)
17 of such Code is amended by striking “and” at the
18 end of subparagraph (B), by striking the period at
19 the end of subparagraph (C) and inserting “, and”,
20 and by adding after subparagraph (C) the following
21 new subparagraph:

22 “(D) any elective employee contribution
23 under section 432(e).”

24 (d) CONFORMING AMENDMENTS.—

1 (1) Subsections (b) and (c) of section 414 of
2 the Internal Revenue Code of 1986 are each amend-
3 ed by striking “and 416” and inserting “416, and
4 432”.

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

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

11 “A Pension ProSave Plan described in section 432 shall
12 not be subject to this section, except that if an employer
13 that maintains such plan also maintains 1 or more plans,
14 annuities, or accounts subject to this section, such plan
15 shall be taken into account in determining whether any
16 such other plans, annuities, or accounts satisfy the re-
17 quirements of this section.”

18 (4) The table of parts for subchapter D of
19 chapter 1 of such Code is amended by inserting
20 after the item relating to part II the following new
21 item:

“Part III. Pension ProSave Plans.”

22 (e) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to years beginning after December
24 31, 1996.

1 **TITLE II—ESTABLISHMENT OF**
2 **PENSION PROSAVE SYSTEM**
3 **Subtitle A—Definitions**

4 **SEC. 201. DEFINITIONS.**

5 For purposes of this Act—

6 (1) **ADVISORY COUNCIL.**—The term “Advisory
7 Council” means the Pension Portability Clearing-
8 house Advisory Council established under section
9 303.

10 (2) **BOARD.**—The term “Board” means the
11 board of directors of the Pension Portability Clear-
12 inghouse.

13 (3) **CHAIRMAN.**—The term “Chairman” means
14 the chairman of the board of directors of the Pen-
15 sion Portability Clearinghouse.

16 (4) **CLEARINGHOUSE.**—The term “Clearing-
17 house” means the Pension Portability Clearinghouse
18 established under section 301.

19 (5) **PENSION PROSAVE PLAN.**—The term “Pen-
20 sion ProSave Plan” has the meaning given such
21 term by section 432 of the Internal Revenue Code
22 of 1986.

1 **Subtitle B—Establishment of**
 2 **Pension ProSave System**

3 **PART I—IN GENERAL**

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

5 The Board shall by regulation establish a system of
 6 Pension ProSave Accounts under which—

7 (1) employers and employees may make con-
 8 tributions on behalf of employees under a Pension
 9 ProSave Plan,

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

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

14 (4) loans and distributions of amounts in the
 15 Pension ProSave Accounts are made as provided in
 16 this title.

17 **PART II—CONTRIBUTIONS AND DISTRIBUTIONS**

18 **SEC. 221. CONTRIBUTIONS TO PENSION PROSAVE AC-**
 19 **COUNTS.**

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

23 (1) contributions under a Pension ProSave
 24 Plan, or

25 (2) qualified rollover contributions.

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

6 (c) QUALIFIED ROLLOVER CONTRIBUTIONS.—For
7 purposes of this title—

8 (1) IN GENERAL.—The term “qualified rollover
9 contribution” means—

10 (A) the transfer to a Pension ProSave Ac-
11 count, within 60 days of receipt, of any eligible
12 rollover distribution described in section 402(c)
13 or 403(a)(4) of the Internal Revenue Code of
14 1986, or

15 (B) any direct trustee-to-trustee transfer
16 described in section 401(a)(31) of such Code
17 from a qualified trust to a Pension ProSave Ac-
18 count.

19 (2) COORDINATION WITH TAX CODE.—For pur-
20 poses of the Internal Revenue Code of 1986, a Pen-
21 sion ProSave Account shall be treated as an eligible
22 retirement plan under section 402(c)(8)(B) of such
23 Code.

24 **SEC. 222. REQUIREMENTS RELATING TO DISTRIBUTIONS.**

25 (a) TIME FOR DISTRIBUTIONS.—

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

5 (A) the death or disability of the partici-
6 pant, or

7 (B) the attainment of age 59½.

8 (2) MANDATORY DISTRIBUTIONS.—Notwith-
9 standing paragraph (1), the provisions of section
10 401(a)(9) of the Internal Revenue Code of 1986
11 shall apply to a Pension ProSave Account.

12 (b) FORMS OF DISTRIBUTIONS.—

13 (1) IN GENERAL.—The system established
14 under section 211 shall provide for distributions in
15 such forms as the Board may provide, except that
16 the Board shall provide for—

17 (A) a life annuity,

18 (B) a joint and survivor annuity,

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

20 (D) a lump-sum distribution.

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

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

6 **SEC. 223. LOAN REQUIREMENTS.**

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

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

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

13 (2) may not in the aggregate exceed the portion
14 of the balance to the credit of the account attrib-
15 utable to elective employee contributions (and earn-
16 ings allocable thereto), and

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

19 (c) LOAN PURPOSES.—Loans may be made under
20 subsection (a)—

21 (1) for the payment of acquisition costs of a
22 principal residence of the participant or the partici-
23 pant's spouse, child, or grandchild, but only if the
24 individual had no present ownership interest in a
25 principal residence during the prior 2 years,

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

8 (3) if the participant during the calendar year
9 or the preceding calendar year received unemploy-
10 ment compensation for 12 consecutive weeks under
11 any Federal or State law, and

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

17 **PART III—CLEARINGHOUSE INVESTMENTS**

18 **SEC. 231. INVESTMENT OPTIONS.**

19 (a) IN GENERAL.—The Board shall, pursuant to the
20 system established under section 211, enter into arrange-
21 ments, on a competitive basis, with qualified professional
22 asset managers to provide individuals with the opportunity
23 to invest sums in a Pension ProSave Account in each of
24 the funds described in subsection (b).

25 (b) TYPE OF FUNDS.—

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

3 (A) A fixed income investment fund.

4 (B) An equity fund.

5 (C) A government securities investment
6 fund.

7 (D) A small business capitalization fund.

8 (E) A public infrastructure fund.

9 (F) An international equity fund.

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

14 (c) ASSET MANAGERS.—

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

18 (2) ASSET ALLOCATION.—The Board may place
19 limits on the amount which may be allocated to any
20 qualified professional asset manager to the extent
21 the Board determines necessary to prevent undue
22 impact on any financial market or undue risk to
23 participants.

24 (3) DEFINITION.—For purposes of this title,
25 the term “qualified professional asset manager” has

1 the meaning given such term by section 8438(a)(7)
2 of title 5, United States Code.

3 (d) PARTICIPANT ELECTIONS.—

4 (1) IN GENERAL.—The system established
5 under section 211 shall provide that an individual on
6 whose behalf a Pension ProSave Account is estab-
7 lished may—

8 (A) elect the investment funds into which
9 contributions to the account are to be invested,
10 and

11 (B) elect to transfer contributions (and
12 earnings) from one fund to another.

13 (2) TIME AND METHOD.—

14 (A) TIME.—Such system shall provide
15 that—

16 (i) any election under paragraph
17 (1)(A) shall be effective on the first day of
18 the month following the month in which
19 the election was made, and

20 (ii) any election under paragraph
21 (1)(B) shall be effective on the first busi-
22 ness day following the election.

23 (B) METHOD.—Any election shall be made
24 in the manner provided by the system, except

1 that the Board shall seek to ensure elections
2 may be made in a simple, timely manner.

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

6 **PART IV—ADMINISTRATIVE PROVISIONS;**

7 **FIDUCIARY RESPONSIBILITIES**

8 **SEC. 241. ACCOUNTING AND INFORMATION.**

9 (a) ESTABLISHMENT OF ACCOUNTS.—

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

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

17 (B) who transfers amounts, or on whose
18 behalf amounts are transferred, to the Clearing-
19 house in a qualified rollover contribution.

20 (2) ALLOCATIONS AND REDUCTIONS TO AC-
21 COUNT.—Such system shall provide for—

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

1 (B) a reduction in each such account for
2 the account's appropriate share of the adminis-
3 trative expenses to be paid out.

4 (3) EXAMINATION OF ACCOUNTS.—

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

21 (B) DETERMINATION OF COMPLIANCE.—

22 The public accountant conducting an examina-
23 tion under subparagraph (A) shall determine
24 whether the accounts, books, and records re-
25 ferred to in such paragraph have been main-

1 tained in conformity with generally accepted ac-
2 counting principles applied on a basis consistent
3 with the manner in which such principles were
4 applied during the examination conducted dur-
5 ing the preceding year. The public accountant
6 shall transmit to the Board and the Comptrol-
7 ler General of the United States a report on
8 such examination and determination.

9 (C) RELIANCE.—In making a determina-
10 tion under subparagraph (B), a public account-
11 ant may rely on the correctness of any actuarial
12 matter certified by an enrolled actuary if the
13 public accountant states his reliance in the re-
14 port to the Board.

15 (b) ERISA REPORTING AND DISCLOSURE REQUIRE-
16 MENTS.—The Pension Portability Clearinghouse shall
17 meet the reporting and disclosure requirements of title I
18 of the Employee Retirement Income Security Act of 1974
19 with respect to each Pension ProSave Plan establishing
20 Pension ProSave Accounts on behalf of participants in
21 such plan.

22 (c) ADDITIONAL INFORMATION.—

23 (1) IN GENERAL.—The system established
24 under section 211 shall provide for the furnishing of
25 information to employers and employees of the op-

1 portunity of establishing Pension ProSave Plans and
2 of transferring amounts to Pension ProSave Ac-
3 counts.

4 (2) ACCOUNT PARTICIPANTS.—

5 (A) IN GENERAL.—Such system shall pro-
6 vide that each individual for whom an account
7 is maintained shall be periodically furnished
8 with—

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

11 (ii) a summary description of the in-
12 vestment options under the account and an
13 evaluation of such option during the 5-year
14 period preceding the evaluation.

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

22 (3) INVESTMENT INFORMATION.—The Clearing-
23 house shall also make available to employees infor-
24 mation on how to make informed investment deci-
25 sions and how to achieve retirement objectives.

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

5 **SEC. 242. ADMINISTRATIVE COSTS.**

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

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

14 **SEC. 243. FIDUCIARY RESPONSIBILITIES; LIABILITY AND**
15 **PENALTIES; BONDING; INVESTIGATIVE AU-**
16 **THORITY.**

17 Except as provided by the Secretary of Labor in regu-
18 lations, the provisions of sections 8477, 8478, 8478a, and
19 8479(a) of title 5, United States Code, shall apply to the
20 Clearinghouse in the same manner as such provisions
21 apply to the Thrift Savings Fund.

22 **PART V—EFFECTIVE DATE**

23 **SEC. 251. EFFECTIVE DATE.**

24 The Pension ProSave system established under this
25 subtitle shall take effect on the first day of the sixth

1 month following the month in which final regulations de-
 2 scribed in section 211 are published in the Federal Reg-
 3 ister.

4 **TITLE III—PENSION**
 5 **PORTABILITY CLEARINGHOUSE**

6 **SEC. 301. ESTABLISHMENT OF PENSION PORTABILITY**
 7 **CLEARINGHOUSE.**

8 (a) ESTABLISHMENT.—There is established within
 9 the executive branch of the Government a body corporate
 10 to be known as the Pension Portability Clearinghouse.

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

15 (c) POWERS.—In carrying out its duties under this
 16 Act—

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

22 (2) SPECIFIC POWERS.—The Clearinghouse
 23 shall have—

24 (A) the specific powers granted to it by
 25 this Act, and

1 (B) powers identical to the powers con-
2 ferred on the Pension Benefit Guaranty Cor-
3 poration under paragraphs (1) through (8) of
4 section 4002(b) of the Employee Retirement In-
5 come Security Act of 1974 (29 U.S.C.
6 1302(b)).

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

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

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

17 **SEC. 302. BOARD OF DIRECTORS.**

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

22 (b) ADVICE AND CONSENT.—Appointments under
23 subsection (a) shall be made by and with the advice and
24 consent of the Senate.

1 (c) EXPERTISE.—Members of the Board shall have
2 substantial experience, training, and expertise in the man-
3 agement of financial investments and pension benefit
4 plans.

5 (d) TERMS.—

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

9 (A) the Chairman shall be appointed for a
10 term of 3 years,

11 (B) 2 members shall be appointed for a
12 term of 2 years, and

13 (C) 2 members shall be appointed for a
14 term of 1 year.

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

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

23 (e) GENERAL DUTIES AND POWERS.—

24 (1) GENERAL RULE.—The Board shall—

1 (A) establish policies for the establishment
2 and management of the system described in
3 section 211,

4 (B) establish policies for the investment
5 and management of the amounts in Pension
6 ProSave Accounts,

7 (C) review the performance of investments
8 made for the Clearinghouse, and

9 (D) review and approve the budgets of the
10 Clearinghouse and the Board.

11 (2) OVERSIGHT OF CLEARINGHOUSE.—The
12 Board may—

13 (A) provide for the hiring of employees of
14 the Clearinghouse, including the appointment of
15 the Executive Director,

16 (B) direct the Executive Director to take
17 such actions as the Board considers necessary
18 to carry out the provisions of this Act,

19 (C) upon the concurring votes of 4 mem-
20 bers of the Board, remove the Executive Direc-
21 tor for cause, and

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

24 (3) RESPONSIBILITIES.—

1 (A) IN GENERAL.—The members of the
2 Board shall discharge their responsibilities sole-
3 ly in the interests of participants and bene-
4 ficiaries under Pension ProSave Accounts.

5 (B) INVESTMENTS.—The Board may not
6 direct the Clearinghouse to invest or cause to be
7 invested any sums in a specific asset or to dis-
8 pose or cause to be disposed of any specific
9 asset.

10 (4) INVESTMENT POLICIES.—Any investment
11 policies adopted under paragraph (1)(B) shall pro-
12 vide for—

13 (A) prudent investments suitable for accu-
14 mulating funds for payment of retirement in-
15 come, and

16 (B) low administrative costs.

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

1 (6) LEGISLATIVE RECOMMENDATIONS.—The
2 Board may submit to the President, and, at the
3 same time, shall submit to each House of Congress,
4 any legislative recommendations of the Board relat-
5 ing to any of its functions under this Act or any
6 other provision of law.

7 (f) ADMINISTRATIVE PROVISIONS.—

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

11 (2) QUORUMS.—

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

15 (B) VACANCY.—A vacancy on the Board
16 shall not impair the authority of a quorum of
17 the Board to perform its duties and exercise its
18 powers.

19 (C) QUORUM.—3 members of the Board
20 shall constitute a quorum for the transaction of
21 business.

22 (3) COMPENSATION.—

23 (A) IN GENERAL.—Each member of the
24 Board who is not an officer or employee of the
25 Federal Government shall be compensated at

1 the daily rate of basic pay for level IV of the
2 Executive Schedule under title 5, United States
3 Code, for each day such member is performing
4 the duties of the Board.

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

12 (4) EXECUTIVE DIRECTOR.—

13 (A) APPOINTMENT.—The chief executive
14 officer of the Clearinghouse shall be the Execu-
15 tive Director appointed under subsection (e).

16 (B) DUTIES.—The Executive Director
17 shall—

18 (i) carry out policies established by
19 the Board, and

20 (ii) administer the Clearinghouse, in-
21 cluding—

22 (I) appointing such personnel as
23 may be necessary to carry out the du-
24 ties of the Clearinghouse,

1 (II) subject to approval by the
2 Board, procure the services of experts
3 and consultants, and

4 (III) pay compensation and other
5 expenses of the Clearinghouse from
6 funds in the Clearinghouse.

7 **SEC. 303. PENSION PORTABILITY CLEARINGHOUSE ADVI-**
8 **SORY COUNCIL.**

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

- 16 (1) the insurance industry,
17 (2) the fields of accounting, actuarial science,
18 and investment counseling and management,
19 (3) mutual funds,
20 (4) organized labor, small plan sponsors, pen-
21 sion advocacy organizations, and retiree groups, and
22 (5) the general public.

23 (b) TERMS.—

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

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

6 (B) 5 shall be appointed for a term of 2
7 years, and

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

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

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

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

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

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

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

1 (A) investment policies for the Clearing-
 2 house, including standards for limiting amounts
 3 administered by any asset manager, and

4 (B) the administration of this Act, and

5 (3) perform such other duties as the Board may
 6 request.

7 **TITLE IV—SIMPLIFIED DEFINED**
 8 **BENEFIT PLANS**

9 **SEC. 401. SIMPLIFIED METHOD FOR COMPLYING WITH PEN-**
 10 **SION REQUIREMENTS.**

11 (a) GENERAL RULE.—Subpart B of part I of sub-
 12 chapter D of chapter 1 of the Internal Revenue Code of
 13 1986 is amended by adding at the end the following new
 14 section:

15 **“SEC. 417A. SIMPLIFIED METHOD FOR COMPLYING WITH**
 16 **PENSION REQUIREMENTS.**

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

19 “(1) such employer maintains a qualified sim-
 20 plified defined contribution plan during such year,
 21 and

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

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

1 “(1) INCREASE IN PERMITTED COMPENSA-
2 TION.—In applying sections 401(a)(17) and 404(l)
3 to the qualified simplified defined contribution plan
4 and the qualified simplified defined benefit plan, the
5 dollar limitation contained in such sections shall be
6 \$200,000. The Secretary shall adjust the \$200,000
7 amount contained in the preceding sentence at the
8 same time and in the same manner as the adjust-
9 ment under section 401(a)(17)(B).

10 “(2) MODIFICATION OF FUNDING RULES.—

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

18 “(B) WAIVER OF QUARTERLY CONTRIBU-
19 TION REQUIREMENTS.—Section 412(m) shall
20 not apply to the qualified simplified defined
21 benefit plan.

22 “(3) WAIVER OF CERTAIN DISCRIMINATION
23 RULES.—The requirements of section 401(k)(3)
24 shall be treated as satisfied with respect to any cash
25 or deferred arrangement maintained by the employer

1 during such year and the requirements of section
2 401(m) shall be treated as satisfied with respect to
3 any plan maintained by the employer during such
4 year.

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

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

15 “(A) Section 401(a)(4).

16 “(B) Section 401(a)(26).

17 “(C) Section 401(l).

18 “(D) Subsections (a) and (b) of section
19 410.

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

21 “(F) Section 416.

22 “(c) SIMPLIFIED DEFINED CONTRIBUTION PLAN.—

23 “(1) IN GENERAL.—A defined contribution plan
24 is a qualified simplified defined contribution plan
25 if—

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

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

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

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

16 “(i) except as required by section
17 401(a)(9), may not be distributed earlier
18 than separation from service, death, or dis-
19 ability, and

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

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

4 “(II) a direct trustee-to-trustee
5 transfer as provided in section
6 401(a)(31).

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

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

17 “(d) SIMPLIFIED DEFINED BENEFIT PLAN.—

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

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

23 “(B) the accrued benefit derived from em-
24 ployer contributions for each participant, when
25 expressed as an annual retirement benefit, is

1 equal to the required benefit determined under
2 paragraph (2).

3 “(2) AMOUNT OF REQUIRED BENEFIT.—

4 “(A) IN GENERAL.—The required benefit
5 determined under this paragraph is an amount
6 equal to the product of—

7 “(i) the plan’s qualified accrual rate
8 multiplied by the number of years of serv-
9 ice with the employer, and

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

12 “(B) QUALIFIED ACCRUAL RATE.—For
13 purposes of subparagraph (A):

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

18 “(ii) A plan may provide that the ac-
19 crual rate with respect to so much of the
20 participant’s average compensation for the
21 testing period as does not exceed covered
22 compensation (as defined in section
23 401(l)(5)(E)) shall be less than the accrual
24 rate for compensation above covered com-
25 pensation (as so defined) so long as such

1 difference is not greater than 1 percentage
2 point. Nothing in the preceding sentence
3 shall be construed as permitting an accrual
4 rate of less than 0.5 percent.

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

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

15 “(E) TESTING PERIOD.—For purposes of
16 this paragraph—

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

22 “(ii) YEAR MUST BE INCLUDED IN
23 YEAR OF SERVICE.—The years taken into
24 account under clause (i) shall be properly

1 adjusted for years not included in a year of
2 service.

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

5 “(A) IN GENERAL.—The employer may ex-
6 clude—

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

9 “(ii) employees who normally work
10 less than 17½ hours per week,

11 “(iii) employees who normally work
12 during not more than 6 months during the
13 year,

14 “(iv) employees who have not attained
15 age 21, and

16 “(v) employees who are included in a
17 unit of employees covered by an agreement
18 which the Secretary of Labor finds to be a
19 collective bargaining agreement between
20 employee representatives and the employer.

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

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

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

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

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

23 “(e) SPECIAL RULES.—

24 “(1) AGGREGATION RULES.—All employees
25 treated as employed by a single employer under sub-

1 sections (a) and (b) of section 414 shall be so treat-
2 ed for purposes of this section.

3 “(2) INTEGRATION WITH SOCIAL SECURITY NOT
4 PERMITTED.—Except as provided in subsection
5 (d)(2)(B), a plan shall not be treated as meeting the
6 requirements of subsection (c) or (d) unless such
7 plan meets such requirements without taking into
8 account contributions or benefits under chapter 2
9 (relating to tax on self-employment income), chapter
10 21 (relating to Federal Insurance Contribution Act),
11 title II of the Social Security Act, or any other Fed-
12 eral or State law.”

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

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

17 (c) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to years to which section 432 of
19 the Internal Revenue Code of 1986 (as added by title I)
20 applies.

○