MEMO# 9040

July 3, 1997

SENATORS BINGAMAN AND JEFFORDS INTRODUCE PROSAVE BILL

1 See Institute Memorandum to Pension Members No. 30-96, dated July 17, 1996. July 3, 1997 TO: PENSION COMMITTEE No. 25-97 RE: SENATORS BINGAMAN AND JEFFORDS INTRODUCE PROSAVE BILL

____ Last week Senators Bingaman and Jeffords introduced the attached Pension ProSave Act legislation. This legislation, which is substantially similar to the ProSave bill introduced last year1, would (1) create a simplified pension plan based upon a payroll deduction system administered through a federal clearinghouse system, and (2) ease the regulatory requirements for employers that establish both defined contribution and defined benefit plans, if each plan satisfies specified criteria. Under the bill, any employer may establish a "Pension ProSave Plan," which is a simplified defined contribution plan administered by a central government clearinghouse. Participating employers would be required to make a nonelective contribution of at least 1 percent of compensation for each eligible employee up to a maximum of $6,000, adjusted for inflation. Employers would be able to contribute more than 1 percent of compensation and, with proper notice, may suspend contributions or contribute less than 1 percent of compensation in 2 out of every 5 years. Employees would be permitted to make elective contributions of up to the greater of twice the nonelective contribution amount or $2,000. Employee elective contributions, including certain catch-up contributions allowable under the bill, would be capped at $6,000, adjusted for inflation. All contributions, both nonelective and elective, would be immediately vested. All employer contributions to a Pension ProSave Plan would be deductible. Employee elective contributions to a ProSave Plan would not count against the section 402(g) annual limit for elective deferrals. The bill would establish a Pension Portability Clearinghouse, a government corporation that would administer the plans. Employers would establish a Pension ProSave Plan by filing a form with the clearinghouse. All contributions would be sent to the clearinghouse. The clearinghouse would be responsible for the reporting and disclosure requirements under ERISA, including providing and filing summary plan descriptions, providing investment information and providing periodic account statements to plan participants. The clearinghouse would be exempt from any federal or state laws regarding the provision of investment advice. Administrative costs of account maintenance would be assessed to the individual accounts, first to earnings and then to account balances. Unlike last year's bill, this year's ProSave bill does not exempt employers from fiduciary liability under a Pension ProSave Plan. The clearinghouse would enter into arrangements with qualified professional asset managers to establish funds into which participants would direct contributions. The bill provides for the following 6 funds: fixed income, equity, government securities, small business capitalization, infrastructure and international equity. The bill would allow the clearinghouse to offer additional funds, including a common stock index fund, select more than one asset manager per fund and set limits on the amount allocated to any one asset manager. Distributions from a Pension ProSave Plan may be in the form of an annuity or lump- sum at the age 59 1/2 or at the death or disability of the participant and are subject to the joint and survivor annuity rules. Loans would be permitted for purposes of home purchases, education, cases of extended unemployment and for medical expenses. The bill also provides that if employers maintain both a "simplified" defined contribution plan and a "simplified" defined benefit plan (as defined in the bill), then each plan would be subject to modified plan qualification rules. The modifications include raising the current limitation on includible compensation to $200,000, increasing the full funding limitation to 150 percent of current liability, waiving the section 415(e) combined plan limit, and treating nondiscrimination rules, coverage and participation requirements and sanctioned disparity standards as having been satisfied. "Simplified" defined contribution plans require the following: (1) all employees are eligible to participate; (2) a nonelective minimum employer contribution of at least 3 percent of compensation; (3) immediate vesting for all benefits; (4) benefits distributable only upon separation from service, death, disability or pursuant to section 401(a)(9) minimum distribution rules; and (5) benefits paid in the form of an annuity or pursuant to a trustee-to-trustee transfer. A Pension ProSave Plan with a 3 percent employer contribution would satisfy the requirements of a simplified defined contribution plan. "Simplified" defined benefit plans require that all employees of the employer be eligible to participate in the plan, including certain part-time workers, and that the benefits be calculated pursuant to a formula described in the bill. We will keep you informed of developments. Kathryn A. Ricard Assistant Counsel - Pension Attachment

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