

116TH CONGRESS
1ST SESSION

H. R. 397

AN ACT

To amend the Internal Revenue Code of 1986 to create a Pension Rehabilitation Trust Fund, to establish a Pension Rehabilitation Administration within the Department of the Treasury to make loans to multiemployer defined benefit plans, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Rehabilitation for Mul-
3 tiemployer Pensions Act of 2019”.

4 **SEC. 2. PENSION REHABILITATION ADMINISTRATION; ES-**
5 **TABLISHMENT; POWERS.**

6 (a) **ESTABLISHMENT.**—There is established in the
7 Department of the Treasury an agency to be known as
8 the “Pension Rehabilitation Administration”.

9 (b) **DIRECTOR.**—

10 (1) **ESTABLISHMENT OF POSITION.**—There
11 shall be at the head of the Pension Rehabilitation
12 Administration a Director, who shall be appointed
13 by the President.

14 (2) **TERM.**—

15 (A) **IN GENERAL.**—The term of office of
16 the Director shall be 5 years.

17 (B) **SERVICE UNTIL APPOINTMENT OF**
18 **SUCCESSOR.**—An individual serving as Director
19 at the expiration of a term may continue to
20 serve until a successor is appointed.

21 (3) **POWERS.**—

22 (A) **APPOINTMENT OF DEPUTY DIREC-**
23 **TORS, OFFICERS, AND EMPLOYEES.**—The Di-
24 rector may appoint Deputy Directors, officers,
25 and employees, including attorneys, in accord-

1 ance with chapter 51 and subchapter III of
2 chapter 53 of title 5, United States Code.

3 (B) CONTRACTING.—

4 (i) IN GENERAL.—The Director may
5 contract for financial and administrative
6 services (including those related to budget
7 and accounting, financial reporting, per-
8 sonnel, and procurement) with the General
9 Services Administration, or such other
10 Federal agency as the Director determines
11 appropriate, for which payment shall be
12 made in advance, or by reimbursement,
13 from funds of the Pension Rehabilitation
14 Administration in such amounts as may be
15 agreed upon by the Director and the head
16 of the Federal agency providing the serv-
17 ices.

18 (ii) SUBJECT TO APPROPRIATIONS.—
19 Contract authority under clause (i) shall be
20 effective for any fiscal year only to the ex-
21 tent that appropriations are available for
22 that purpose.

1 **SEC. 3. PENSION REHABILITATION TRUST FUND.**

2 (a) IN GENERAL.—Subchapter A of chapter 98 of the
3 Internal Revenue Code of 1986 is amended by adding at
4 the end the following new section:

5 **“SEC. 9512. PENSION REHABILITATION TRUST FUND.**

6 “(a) CREATION OF TRUST FUND.—There is estab-
7 lished in the Treasury of the United States a trust fund
8 to be known as the ‘Pension Rehabilitation Trust Fund’
9 (hereafter in this section referred to as the ‘Fund’), con-
10 sisting of such amounts as may be appropriated or cred-
11 ited to the Fund as provided in this section and section
12 9602(b).

13 “(b) TRANSFERS TO FUND.—

14 “(1) AMOUNTS ATTRIBUTABLE TO TREASURY
15 BONDS.—There shall be credited to the Fund the
16 amounts transferred under section 6 of the Rehabili-
17 tation for Multiemployer Pensions Act of 2019.

18 “(2) LOAN INTEREST AND PRINCIPAL.—

19 “(A) IN GENERAL.—The Director of the
20 Pension Rehabilitation Administration estab-
21 lished under section 2 of the Rehabilitation for
22 Multiemployer Pensions Act of 2019 shall de-
23 posit in the Fund any amounts received from a
24 plan as payment of interest or principal on a
25 loan under section 4 of such Act.

1 “(B) INTEREST.—For purposes of sub-
 2 paragraph (A), the term ‘interest’ includes
 3 points and other similar amounts.

4 “(3) AVAILABILITY OF FUNDS.—Amounts cred-
 5 ited to or deposited in the Fund shall remain avail-
 6 able until expended.

7 “(c) EXPENDITURES FROM FUND.—Amounts in the
 8 Fund are available without further appropriation to the
 9 Pension Rehabilitation Administration—

10 “(1) for the purpose of making the loans de-
 11 scribed in section 4 of the Rehabilitation for Multi-
 12 employer Pensions Act of 2019,

13 “(2) for the payment of principal and interest
 14 on obligations issued under section 6 of such Act,
 15 and

16 “(3) for administrative and operating expenses
 17 of such Administration.”.

18 (b) CLERICAL AMENDMENT.—The table of sections
 19 for subchapter A of chapter 98 of the Internal Revenue
 20 Code of 1986 is amended by adding at the end the fol-
 21 lowing new item:

“Sec. 9512. Pension Rehabilitation Trust Fund.”.

22 **SEC. 4. LOAN PROGRAM FOR MULTIEMPLOYER DEFINED**
 23 **BENEFIT PLANS.**

24 (a) LOAN AUTHORITY.—

1 (1) IN GENERAL.—The Pension Rehabilitation
2 Administration established under section 2 is au-
3 thorized—

4 (A) to make loans to multiemployer plans
5 (as defined in section 414(f) of the Internal
6 Revenue Code of 1986) which are defined ben-
7 efit plans (as defined in section 414(j) of such
8 Code) and which—

9 (i) are in critical and declining status
10 (within the meaning of section 432(b)(6)
11 of such Code and section 305(b)(6) of the
12 Employee Retirement and Income Security
13 Act) as of the date of the enactment of
14 this section, or with respect to which a sus-
15 pension of benefits has been approved
16 under section 432(e)(9) of such Code and
17 section 305(e)(9) of such Act as of such
18 date;

19 (ii) as of such date of enactment, are
20 in critical status (within the meaning of
21 section 432(b)(2) of such Code and section
22 305(b)(2) of such Act), have a modified
23 funded percentage of less than 40 percent,
24 and have a ratio of active to inactive par-
25 ticipants which is less than 2 to 5; or

1 (iii) are insolvent for purposes of sec-
2 tion 418E of such Code as of such date of
3 enactment, if they became insolvent after
4 December 16, 2014, and have not been
5 terminated; and

6 (B) subject to subsection (b), to establish
7 appropriate terms for such loans.

8 For purposes of subparagraph (A)(ii), the term
9 “modified funded percentage” means the percentage
10 equal to a fraction the numerator of which is current
11 value of plan assets (as defined in section 3(26) of
12 such Act) and the denominator of which is current
13 liabilities (as defined in section 431(c)(6)(D) of such
14 Code and section 304(c)(6)(D) of such Act).

15 (2) CONSULTATION.—The Director of the Pen-
16 sion Rehabilitation Administration shall consult with
17 the Secretary of the Treasury, the Secretary of
18 Labor, and the Director of the Pension Benefit
19 Guaranty Corporation before making any loan under
20 paragraph (1), and shall share with such persons the
21 application and plan information with respect to
22 each such loan.

23 (3) ESTABLISHMENT OF LOAN PROGRAM.—

24 (A) IN GENERAL.—A program to make the
25 loans authorized under this section shall be es-

1 tablished not later than September 30, 2019,
2 with guidance regarding such program to be
3 promulgated by the Director of the Pension Re-
4 habilitation Administration, in consultation with
5 the Director of the Pension Benefit Guaranty
6 Corporation, the Secretary of the Treasury, and
7 the Secretary of Labor, not later than Decem-
8 ber 31, 2019.

9 (B) LOANS AUTHORIZED BEFORE PRO-
10 GRAM DATE.—Without regard to whether the
11 program under subparagraph (A) has been es-
12 tablished, a plan may apply for a loan under
13 this section before either date described in such
14 subparagraph, and the Pension Rehabilitation
15 Administration shall approve the application
16 and make the loan before establishment of the
17 program if necessary to avoid any suspension of
18 the accrued benefits of participants.

19 (b) LOAN TERMS.—

20 (1) IN GENERAL.—The terms of any loan made
21 under subsection (a) shall state that—

22 (A) the plan shall make payments of inter-
23 est on the loan for a period of 29 years begin-
24 ning on the date of the loan (or 19 years in the

1 case of a plan making the election under sub-
2 section (c)(5));

3 (B) final payment of interest and principal
4 shall be due in the 30th year after the date of
5 the loan (except as provided in an election
6 under subsection (c)(5)); and

7 (C) as a condition of the loan, the plan
8 sponsor stipulates that—

9 (i) except as provided in clause (ii),
10 the plan will not increase benefits, allow
11 any employer participating in the plan to
12 reduce its contributions, or accept any col-
13 lective bargaining agreement which pro-
14 vides for reduced contribution rates, dur-
15 ing the 30-year period described in sub-
16 paragraphs (A) and (B);

17 (ii) in the case of a plan with respect
18 to which a suspension of benefits has been
19 approved under section 432(e)(9) of the
20 Internal Revenue Code of 1986 and section
21 305(e)(9) of the Employee Retirement In-
22 come Security Act of 1974, or under sec-
23 tion 418E of such Code, before the loan,
24 the plan will reinstate the suspended bene-
25 fits (or will not carry out any suspension

1 which has been approved but not yet im-
2 plemented);

3 (iii) the plan sponsor will comply with
4 the requirements of section 6059A of the
5 Internal Revenue Code of 1986;

6 (iv) the plan will continue to pay all
7 premiums due under section 4007 of the
8 Employee Retirement Income Security Act
9 of 1974; and

10 (v) the plan and plan administrator
11 will meet such other requirements as the
12 Director of the Pension Rehabilitation Ad-
13 ministration provides in the loan terms.

14 The terms of the loan shall not make reference
15 to whether the plan is receiving financial assist-
16 ance under section 4261(d) of the Employee
17 Retirement Income Security Act of 1974 (29
18 U.S.C. 1431(d)) or to any adjustment of the
19 loan amount under subsection (d)(2)(A)(ii).

20 (2) INTEREST RATE.—Except as provided in
21 the second sentence of this paragraph and sub-
22 section (c)(5), loans made under subsection (a) shall
23 have as low an interest rate as is feasible. Such rate
24 shall be determined by the Pension Rehabilitation
25 Administration and shall—

1 (A) not be lower than the rate of interest
2 on 30-year Treasury securities on the first day
3 of the calendar year in which the loan is issued;
4 and

5 (B) not exceed the greater of—

6 (i) a rate 0.2 percentage points higher
7 than such rate of interest on such date; or

8 (ii) the rate necessary to collect reve-
9 nues sufficient to administer the program
10 under this section.

11 (c) LOAN APPLICATION.—

12 (1) IN GENERAL.—In applying for a loan under
13 subsection (a), the plan sponsor shall—

14 (A) demonstrate that, except as provided
15 in subparagraph (C)—

16 (i) the loan will enable the plan to
17 avoid insolvency for at least the 30-year
18 period described in subparagraphs (A) and
19 (B) of subsection (b)(1) or, in the case of
20 a plan which is already insolvent, to
21 emerge from insolvency within and avoid
22 insolvency for the remainder of such pe-
23 riod; and

24 (ii) the plan is reasonably expected to
25 be able to pay benefits and the interest on

1 the loan during such period and to accu-
2 mulate sufficient funds to repay the prin-
3 cipal when due;

4 (B) provide the plan's most recently filed
5 Form 5500 as of the date of application and
6 any other information necessary to determine
7 the loan amount under subsection (d);

8 (C) stipulate whether the plan is also ap-
9 plying for financial assistance under section
10 4261(d) of the Employee Retirement Income
11 Security Act of 1974 (29 U.S.C. 1431(d)) in
12 combination with the loan to enable the plan to
13 avoid insolvency and to pay benefits, or is al-
14 ready receiving such financial assistance as a
15 result of a previous application;

16 (D) state in what manner the loan pro-
17 ceeds will be invested pursuant to subsection
18 (d), the person from whom any annuity con-
19 tracts under such subsection will be purchased,
20 and the person who will be the investment man-
21 ager for any portfolio implemented under such
22 subsection; and

23 (E) include such other information and
24 certifications as the Director of the Pension Re-
25 habilitation Administration shall require.

1 (2) STANDARD FOR ACCEPTING ACTUARIAL AND
2 PLAN SPONSOR DETERMINATIONS AND DEMONSTRA-
3 TIONS IN THE APPLICATION.—In evaluating the plan
4 sponsor’s application, the Director of the Pension
5 Rehabilitation Administration shall accept the deter-
6 minations and demonstrations in the application un-
7 less the Director, in consultation with the Director
8 of the Pension Benefit Guaranty Corporation, the
9 Secretary of the Treasury, and the Secretary of
10 Labor, concludes that any such determinations or
11 demonstrations in the application (or any underlying
12 assumptions) are unreasonable or are inconsistent
13 with any rules issued by the Director pursuant to
14 subsection (g).

15 (3) REQUIRED ACTIONS; DEEMED APPROVAL.—
16 The Director of the Pension Rehabilitation Adminis-
17 tration shall approve or deny any application under
18 this subsection within 90 days after the submission
19 of such application. An application shall be deemed
20 approved unless, within such 90 days, the Director
21 notifies the plan sponsor of the denial of such appli-
22 cation and the reasons for such denial. Any approval
23 or denial of an application by the Director of the
24 Pension Rehabilitation Administration shall be treat-
25 ed as a final agency action for purposes of section

1 704 of title 5, United States Code. The Pension Re-
2 habilitation Administration shall make the loan pur-
3 suant to any application promptly after the approval
4 of such application.

5 (4) CERTAIN PLANS REQUIRED TO APPLY.—

6 The plan sponsor of any plan with respect to which
7 a suspension of benefits has been approved under
8 section 432(e)(9) of the Internal Revenue Code of
9 1986 and section 305(e)(9) of the Employee Retirement
10 Income Security Act of 1974 or under section
11 418E of such Code, before the date of the enactment
12 of this Act shall apply for a loan under this section.

13 The Director of the Pension Rehabilitation Adminis-
14 tration shall provide for such plan sponsors to use
15 the simplified application under subsection
16 (d)(2)(B).

17 (5) INCENTIVE FOR EARLY REPAYMENT.—The

18 plan sponsor may elect at the time of the application
19 to repay the loan principal, along with the remaining
20 interest, at least as rapidly as equal installments
21 over the 10-year period beginning with the 21st year
22 after the date of the loan. In the case of a plan mak-
23 ing this election, the interest on the loan shall be re-
24 duced by 0.5 percentage points.

25 (d) LOAN AMOUNT AND USE.—

1 (1) AMOUNT OF LOAN.—

2 (A) IN GENERAL.—Except as provided in
3 subparagraph (B) and paragraph (2), the
4 amount of any loan under subsection (a) shall
5 be, as demonstrated by the plan sponsor on the
6 application under subsection (c), the amount
7 needed to purchase annuity contracts or to im-
8 plement a portfolio described in paragraph
9 (3)(C) (or a combination of the two) sufficient
10 to provide benefits of participants and bene-
11 ficiaries of the plan in pay status, and termi-
12 nated vested benefits, at the time the loan is
13 made.

14 (B) PLANS WITH SUSPENDED BENE-
15 FITS.—In the case of a plan with respect to
16 which a suspension of benefits has been ap-
17 proved under section 432(e)(9) of the Internal
18 Revenue Code of 1986 and section 305(e)(9) of
19 the Employee Retirement Income Security Act
20 of 1974 (29 U.S.C. 1085(e)(9)) or under sec-
21 tion 418E of such Code—

22 (i) the suspension of benefits shall not
23 be taken into account in applying subpara-
24 graph (A); and

1 (ii) the loan amount shall be the
2 amount sufficient to provide benefits of
3 participants and beneficiaries of the plan
4 in pay status and terminated vested bene-
5 fits at the time the loan is made, deter-
6 mined without regard to the suspension,
7 including retroactive payment of benefits
8 which would otherwise have been payable
9 during the period of the suspension.

10 (2) COORDINATION WITH PBGC FINANCIAL AS-
11 SISTANCE.—

12 (A) IN GENERAL.—In the case of a plan
13 which is also applying for financial assistance
14 under section 4261(d) of the Employee Retirement
15 Income Security Act of 1974 (29 U.S.C.
16 1431(d))—

17 (i) the plan sponsor shall submit the
18 loan application and the application for fi-
19 nancial assistance jointly to the Pension
20 Rehabilitation Administration and the Pen-
21 sion Benefit Guaranty Corporation with
22 the information necessary to determine the
23 eligibility for and amount of the loan under
24 this section and the financial assistance
25 under section 4261(d) of such Act; and

(ii) if such financial assistance is granted, the amount of the loan under subsection (a) shall not exceed an amount equal to the excess of—

(I) the amount determined under paragraph (1)(A) or (1)(B)(ii) (whichever is applicable); over

(II) the amount of such financial assistance.

(B) PLANS ALREADY RECEIVING PBGC ASSISTANCE.—The Director of the Pension Rehabilitation Administration shall provide for a simplified application for the loan under this section which may be used by an insolvent plan which has not been terminated and which is already receiving financial assistance (other than under section 4261(d) of such Act) from the Pension Benefit Guaranty Corporation at the time of the application for the loan under this section.

(3) USE OF LOAN FUNDS.—

(A) IN GENERAL.—Notwithstanding section 432(f)(2)(A)(ii) of the Internal Revenue Code of 1986 and section 305(f)(2)(A)(ii) of such Act, the loan received under subsection (a)

1 shall only be used to purchase annuity contracts
2 which meet the requirements of subparagraph
3 (B) or to implement a portfolio described in
4 subparagraph (C) (or a combination of the two)
5 to provide the benefits described in paragraph
6 (1).

7 (B) ANNUITY CONTRACT REQUIRE-
8 MENTS.—The annuity contracts purchased
9 under subparagraph (A) shall be issued by an
10 insurance company which is licensed to do busi-
11 ness under the laws of any State and which is
12 rated A or better by a nationally recognized sta-
13 tistical rating organization, and the purchase of
14 such contracts shall meet all applicable fidu-
15 ciary standards under the Employee Retirement
16 Income Security Act of 1974.

17 (C) PORTFOLIO.—

18 (i) IN GENERAL.—A portfolio de-
19 scribed in this subparagraph is—

20 (I) a cash matching portfolio or
21 duration matching portfolio consisting
22 of investment grade (as rated by a na-
23 tionally recognized statistical rating
24 organization) fixed income invest-
25 ments, including United States dollar-

1 denominated public or private debt
2 obligations issued or guaranteed by
3 the United States or a foreign issuer,
4 which are tradeable in United States
5 currency and are issued at fixed or
6 zero coupon rates; or

7 (II) any other portfolio pre-
8 scribed by the Secretary of the Treas-
9 ury in regulations which has a similar
10 risk profile to the portfolios described
11 in subclause (I) and is equally protec-
12 tive of the interests of participants
13 and beneficiaries.

14 Once implemented, such a portfolio shall
15 be maintained until all liabilities to partici-
16 pants and beneficiaries in pay status, and
17 terminated vested participants, at the time
18 of the loan are satisfied.

19 (ii) FIDUCIARY DUTY.—Any invest-
20 ment manager of a portfolio under this
21 subparagraph shall acknowledge in writing
22 that such person is a fiduciary under the
23 Employee Retirement Income Security Act
24 of 1974 with respect to the plan.

1 (iii) TREATMENT OF PARTICIPANTS
2 AND BENEFICIARIES.—Participants and
3 beneficiaries covered by a portfolio under
4 this subparagraph shall continue to be
5 treated as participants and beneficiaries of
6 the plan, including for purposes of title IV
7 of the Employee Retirement Income Secu-
8 rity Act of 1974.

9 (D) ACCOUNTING.—

10 (i) IN GENERAL.—Annuity contracts
11 purchased and portfolios implemented
12 under this paragraph shall be used solely
13 to provide the benefits described in para-
14 graph (1) until all such benefits have been
15 paid and shall be accounted for separately
16 from the other assets of the plan.

17 (ii) OVERSIGHT OF NON-ANNUITY IN-
18 VESTMENTS.—

19 (I) IN GENERAL.—Any portfolio
20 implemented under this paragraph
21 shall be subject to oversight by the
22 Pension Rehabilitation Administra-
23 tion, including a mandatory triennial
24 review of the adequacy of the portfolio
25 to provide the benefits described in

1 paragraph (1) and approval (to be
2 provided within a reasonable period of
3 time) of any decision by the plan
4 sponsor to change the investment
5 manager of the portfolio.

6 (II) REMEDIAL ACTION.—If the
7 oversight under subclause (I) deter-
8 mines an inadequacy, the plan spon-
9 sor shall take remedial action to en-
10 sure that the inadequacy will be cured
11 within 2 years of such determination.

12 (E) OMBUDSPERSON.—The Participant
13 and Plan Sponsor Advocate established under
14 section 4004 of the Employee Retirement In-
15 come Security Act of 1974 shall act as
16 ombudsperson for participants and beneficiaries
17 on behalf of whom annuity contracts are pur-
18 chased or who are covered by a portfolio under
19 this paragraph.

20 (e) COLLECTION OF REPAYMENT.—Except as pro-
21 vided in subsection (f), the Pension Rehabilitation Admin-
22 istration shall make every effort to collect repayment of
23 loans under this section in accordance with section 3711
24 of title 31, United States Code.

1 (f) LOAN DEFAULT.—If a plan is unable to make any
2 payment on a loan under this section when due, the Pen-
3 sion Rehabilitation Administration shall negotiate with the
4 plan sponsor revised terms for repayment (including in-
5 stallment payments over a reasonable period or forgive-
6 ness of a portion of the loan principal), but only to the
7 extent necessary to avoid insolvency in the subsequent 18
8 months.

9 (g) AUTHORITY TO ISSUE RULES, ETC.—The Direc-
10 tor of the Pension Rehabilitation Administration, in con-
11 sultation with the Director of the Pension Benefit Guar-
12 anty Corporation, the Secretary of the Treasury, and the
13 Secretary of Labor, is authorized to issue rules regarding
14 the form, content, and process of applications for loans
15 under this section, actuarial standards and assumptions
16 to be used in making estimates and projections for pur-
17 poses of such applications, and assumptions regarding in-
18 terest rates, mortality, and distributions with respect to
19 a portfolio described in subsection (d)(3)(C).

20 (h) REPORT TO CONGRESS ON STATUS OF CERTAIN
21 PLANS WITH LOANS.—Not later than 1 year after the
22 date of the enactment of this Act, and annually thereafter,
23 the Director of the Pension Rehabilitation Administration
24 shall submit to the Committee on Ways and Means and
25 the Committee on Education and Labor of the House of

1 Representatives, and the Committee on Finance and the
2 Committee on Health, Education, Labor and Pensions of
3 the Senate, a report identifying any plan that—

4 (1) has failed to make any scheduled payment
5 on a loan under this section;

6 (2) has negotiated revised terms for repayment
7 of such loan (including any installment payments or
8 forgiveness of a portion of the loan principal); or

9 (3) the Director has determined is no longer
10 reasonably expected to be able to—

11 (A) pay benefits and the interest on the
12 loan; or

13 (B) accumulate sufficient funds to repay
14 the principal when due.

15 Such report shall include the details of any such failure,
16 revised terms, or determination, as the case may be.

17 (i) COORDINATION WITH TAXATION OF UNRELATED
18 BUSINESS INCOME.—Subparagraph (A) of section
19 514(c)(6) of the Internal Revenue Code of 1986 is amend-
20 ed—

21 (1) by striking “or” at the end of clause (i);

22 (2) by striking the period at the end of clause

23 (ii)(II) and inserting “, or”; and

24 (3) by adding at the end the following new
25 clause:

1 “(iii) indebtedness with respect to a
 2 multiemployer plan under a loan made by
 3 the Pension Rehabilitation Administration
 4 pursuant to section 4 of the Rehabilitation
 5 for Multiemployer Pensions Act of 2019.”.

6 **SEC. 5. COORDINATION WITH WITHDRAWAL LIABILITY AND**
 7 **FUNDING RULES.**

8 (a) AMENDMENT TO INTERNAL REVENUE CODE OF
 9 1986.—Section 432 of the Internal Revenue Code of 1986
 10 is amended by adding at the end the following new sub-
 11 section:

12 “(k) SPECIAL RULES FOR PLANS RECEIVING PEN-
 13 SION REHABILITATION LOANS.—

14 “(1) DETERMINATION OF WITHDRAWAL LIABIL-
 15 ITY.—

16 “(A) IN GENERAL.—If any employer par-
 17 ticipating in a plan at the time the plan receives
 18 a loan under section 4(a) of the Rehabilitation
 19 for Multiemployer Pensions Act of 2019 with-
 20 draws from the plan before the end of the 30-
 21 year period beginning on the date of the loan,
 22 the withdrawal liability of such employer shall
 23 be determined under the Employee Retirement
 24 Income Security Act of 1974—

1 “(i) by applying section 4219(c)(1)(D)
2 of the Employee Retirement Income Secu-
3 rity Act of 1974 as if the plan were termi-
4 nating by the withdrawal of every employer
5 from the plan, and

6 “(ii) by determining the value of non-
7 forfeitable benefits under the plan at the
8 time of the deemed termination by using
9 the interest assumptions prescribed for
10 purposes of section 4044 of the Employee
11 Retirement Income Security Act of 1974,
12 as prescribed in the regulations under sec-
13 tion 4281 of the Employee Retirement In-
14 come Security Act of 1974 in the case of
15 such a mass withdrawal.

16 “(B) ANNUITY CONTRACTS AND INVEST-
17 MENT PORTFOLIOS PURCHASED WITH LOAN
18 FUNDS.—Annuity contracts purchased and
19 portfolios implemented under section 4(d)(3) of
20 the Rehabilitation for Multiemployer Pensions
21 Act of 2019 shall not be taken into account as
22 plan assets in determining the withdrawal liabil-
23 ity of any employer under subparagraph (A),
24 but the amount equal to the greater of—

1 “(i) the benefits provided under such
2 contracts or portfolios to participants and
3 beneficiaries, or

4 “(ii) the remaining payments due on
5 the loan under section 4(a) of such Act,
6 shall be taken into account as unfunded vested
7 benefits in determining such withdrawal liabil-
8 ity.

9 “(2) COORDINATION WITH FUNDING REQUIRE-
10 MENTS.—In the case of a plan which receives a loan
11 under section 4(a) of the Rehabilitation for Multiem-
12 ployer Pensions Act of 2019—

13 “(A) annuity contracts purchased and
14 portfolios implemented under section 4(d)(3) of
15 such Act, and the benefits provided to partici-
16 pants and beneficiaries under such contracts or
17 portfolios, shall not be taken into account in de-
18 termining minimum required contributions
19 under section 412,

20 “(B) payments on the interest and prin-
21 cipal under the loan, and any benefits owed in
22 excess of those provided under such contracts
23 or portfolios, shall be taken into account as li-
24 abilities for purposes of such section, and

1 “(C) if such a portfolio is projected due to
 2 unfavorable investment or actuarial experience
 3 to be unable to fully satisfy the liabilities which
 4 it covers, the amount of the liabilities projected
 5 to be unsatisfied shall be taken into account as
 6 liabilities for purposes of such section.”.

7 (b) AMENDMENT TO EMPLOYEE RETIREMENT IN-
 8 COME SECURITY ACT OF 1974.—Section 305 of the Em-
 9 ployee Retirement Income Security Act of 1974 (29
 10 U.S.C. 1085) is amended by adding at the end the fol-
 11 lowing new subsection:

12 “(k) SPECIAL RULES FOR PLANS RECEIVING PEN-
 13 SION REHABILITATION LOANS.—

14 “(1) DETERMINATION OF WITHDRAWAL LIABIL-
 15 ITY.—

16 “(A) IN GENERAL.—If any employer par-
 17 ticipating in a plan at the time the plan receives
 18 a loan under section 4(a) of the Rehabilitation
 19 for Multiemployer Pensions Act of 2019 with-
 20 draws from the plan before the end of the 30-
 21 year period beginning on the date of the loan,
 22 the withdrawal liability of such employer shall
 23 be determined—

24 “(i) by applying section 4219(c)(1)(D)
 25 as if the plan were terminating by the

1 withdrawal of every employer from the
2 plan, and

3 “(ii) by determining the value of non-
4 forfeitable benefits under the plan at the
5 time of the deemed termination by using
6 the interest assumptions prescribed for
7 purposes of section 4044, as prescribed in
8 the regulations under section 4281 in the
9 case of such a mass withdrawal.

10 “(B) ANNUITY CONTRACTS AND INVEST-
11 MENT PORTFOLIOS PURCHASED WITH LOAN
12 FUNDS.—Annuity contracts purchased and
13 portfolios implemented under section 4(d)(3) of
14 the Rehabilitation for Multiemployer Pensions
15 Act of 2019 shall not be taken into account in
16 determining the withdrawal liability of any em-
17 ployer under subparagraph (A), but the amount
18 equal to the greater of—

19 “(i) the benefits provided under such
20 contracts or portfolios to participants and
21 beneficiaries, or

22 “(ii) the remaining payments due on
23 the loan under section 4(a) of such Act,

1 shall be taken into account as unfunded vested
2 benefits in determining such withdrawal liabil-
3 ity.

4 “(2) COORDINATION WITH FUNDING REQUIRE-
5 MENTS.—In the case of a plan which receives a loan
6 under section 4(a) of the Rehabilitation for Multiem-
7 ployer Pensions Act of 2019—

8 “(A) annuity contracts purchased and
9 portfolios implemented under section 4(d)(3) of
10 such Act, and the benefits provided to partici-
11 pants and beneficiaries under such contracts or
12 portfolios, shall not be taken into account in de-
13 termining minimum required contributions
14 under section 302,

15 “(B) payments on the interest and prin-
16 cipal under the loan, and any benefits owed in
17 excess of those provided under such contracts
18 or portfolios, shall be taken into account as li-
19 abilities for purposes of such section, and

20 “(C) if such a portfolio is projected due to
21 unfavorable investment or actuarial experience
22 to be unable to fully satisfy the liabilities which
23 it covers, the amount of the liabilities projected
24 to be unsatisfied shall be taken into account as
25 liabilities for purposes of such section.”.

1 **SEC. 6. ISSUANCE OF TREASURY BONDS.**

2 The Secretary of the Treasury shall from time to time
 3 transfer from the general fund of the Treasury to the Pen-
 4 sion Rehabilitation Trust Fund established under section
 5 9512 of the Internal Revenue Code of 1986 such amounts
 6 as are necessary to fund the loan program under section
 7 4 of this Act, including from proceeds from the Secretary’s
 8 issuance of obligations under chapter 31 of title 31,
 9 United States Code.

10 **SEC. 7. REPORTS OF PLANS RECEIVING PENSION REHA-**
 11 **BILITATION LOANS.**

12 (a) IN GENERAL.—Subpart E of part III of sub-
 13 chapter A of chapter 61 of the Internal Revenue Code of
 14 1986 is amended by adding at the end the following new
 15 section:

16 **“SEC. 6059A. REPORTS OF PLANS RECEIVING PENSION RE-**
 17 **HABILITATION LOANS.**

18 “(a) IN GENERAL.—In the case of a plan receiving
 19 a loan under section 4(a) of the Rehabilitation for Multi-
 20 employer Pensions Act of 2019, with respect to the first
 21 plan year beginning after the date of the loan and each
 22 of the 29 succeeding plan years, not later than the 90th
 23 day of each such plan year the plan sponsor shall file with
 24 the Secretary a report (including appropriate documenta-
 25 tion and actuarial certifications from the plan actuary, as
 26 required by the Secretary) that contains—

1 “(1) the funded percentage (as defined in sec-
2 tion 432(j)(2)) as of the first day of such plan year,
3 and the underlying actuarial value of assets (deter-
4 mined with regard, and without regard, to annuity
5 contracts purchased and portfolios implemented with
6 proceeds of such loan) and liabilities (including any
7 amounts due with respect to such loan) taken into
8 account in determining such percentage,

9 “(2) the market value of the assets of the plan
10 (determined as provided in paragraph (1)) as of the
11 last day of the plan year preceding such plan year,

12 “(3) the total value of all contributions made by
13 employers and employees during the plan year pre-
14 ceding such plan year,

15 “(4) the total value of all benefits paid during
16 the plan year preceding such plan year,

17 “(5) cash flow projections for such plan year
18 and the 9 succeeding plan years, and the assump-
19 tions used in making such projections,

20 “(6) funding standard account projections for
21 such plan year and the 9 succeeding plan years, and
22 the assumptions relied upon in making such projec-
23 tions,

24 “(7) the total value of all investment gains or
25 losses during the plan year preceding such plan year,

1 “(8) any significant reduction in the number of
2 active participants during the plan year preceding
3 such plan year, and the reason for such reduction,

4 “(9) a list of employers that withdrew from the
5 plan in the plan year preceding such plan year, and
6 the resulting reduction in contributions,

7 “(10) a list of employers that paid withdrawal
8 liability to the plan during the plan year preceding
9 such plan year and, for each employer, a total as-
10 sessment of the withdrawal liability paid, the annual
11 payment amount, and the number of years remain-
12 ing in the payment schedule with respect to such
13 withdrawal liability,

14 “(11) any material changes to benefits, accrual
15 rates, or contribution rates during the plan year pre-
16 ceding such plan year, and whether such changes re-
17 late to the terms of the loan,

18 “(12) details regarding any funding improve-
19 ment plan or rehabilitation plan and updates to such
20 plan,

21 “(13) the number of participants during the
22 plan year preceding such plan year who are active
23 participants, the number of participants and bene-
24 ficiaries in pay status, and the number of terminated
25 vested participants and beneficiaries,

1 “(14) the amount of any financial assistance re-
2 ceived under section 4261 of the Employee Retirement
3 Income Security Act of 1974 to pay benefits
4 during the preceding plan year, and the total
5 amount of such financial assistance received for all
6 preceding years,

7 “(15) the information contained on the most re-
8 cent annual funding notice submitted by the plan
9 under section 101(f) of the Employee Retirement In-
10 come Security Act of 1974,

11 “(16) the information contained on the most re-
12 cent annual return under section 6058 and actuarial
13 report under section 6059 of the plan, and

14 “(17) copies of the plan document and amend-
15 ments, other retirement benefit or ancillary benefit
16 plans relating to the plan and contribution obliga-
17 tions under such plans, a breakdown of administra-
18 tive expenses of the plan, participant census data
19 and distribution of benefits, the most recent actu-
20 arial valuation report as of the plan year, copies of
21 collective bargaining agreements, and financial re-
22 ports, and such other information as the Secretary,
23 in consultation with the Director of the Pension Re-
24 habilitation Administration, may require.

1 “(b) ELECTRONIC SUBMISSION.—The report re-
 2 quired under subsection (a) shall be submitted electroni-
 3 cally.

4 “(c) INFORMATION SHARING.—The Secretary shall
 5 share the information in the report under subsection (a)
 6 with the Secretary of Labor and the Director of the Pen-
 7 sion Benefit Guaranty Corporation.

8 “(d) REPORT TO PARTICIPANTS, BENEFICIARIES,
 9 AND EMPLOYERS.—Each plan sponsor required to file a
 10 report under subsection (a) shall, before the expiration of
 11 the time prescribed for the filing of such report, also pro-
 12 vide a summary (written in a manner so as to be under-
 13 stood by the average plan participant) of the information
 14 in such report to participants and beneficiaries in the plan
 15 and to each employer with an obligation to contribute to
 16 the plan.”.

17 (b) PENALTY.—Subsection (e) of section 6652 of the
 18 Internal Revenue Code of 1986 is amended—

19 (1) by inserting “, 6059A (relating to reports of
 20 plans receiving pension rehabilitation loans)” after
 21 “deferred compensation”;

22 (2) by inserting “(\$100 in the case of failures
 23 under section 6059A)” after “\$25”; and

24 (3) by adding at the end the following: “In the
 25 case of a failure with respect to section 6059A, the

1 amount imposed under this subsection shall not be
2 paid from the assets of the plan.”.

3 (c) CLERICAL AMENDMENT.—The table of sections
4 for subpart E of part III of subchapter A of chapter 61
5 of the Internal Revenue Code of 1986 is amended by add-
6 ing at the end the following new item:

“Sec. 6059A. Reports of plans receiving pension rehabilitation loans.”.

7 **SEC. 8. PBGC FINANCIAL ASSISTANCE.**

8 (a) IN GENERAL.—Section 4261 of the Employee Re-
9 tirement Income Security Act of 1974 (29 U.S.C. 1431)
10 is amended by adding at the end the following new sub-
11 section:

12 “(d)(1) The plan sponsor of a multiemployer plan—
13 “(A) which is in critical and declining status
14 (within the meaning of section 305(b)(6)) as of the
15 date of the enactment of this subsection, or with re-
16 spect to which a suspension of benefits has been ap-
17 proved under section 305(e)(9) as of such date;

18 “(B) which, as of such date of enactment, is in
19 critical status (within the meaning of section
20 305(b)(2)), has a modified funded percentage of less
21 than 40 percent (as defined in section 4(a)(1) of the
22 Rehabilitation for Multiemployer Pensions Act of
23 2019), and has a ratio of active to inactive partici-
24 pants which is less than 2 to 5; or

1 “(C) which is insolvent for purposes of section
2 418E of the Internal Revenue Code of 1986 as of
3 such date of enactment, if the plan became insolvent
4 after December 16, 2014, and has not been termi-
5 nated;

6 and which is applying for a loan under section 4(a) of the
7 Rehabilitation for Multiemployer Pensions Act of 2019
8 may also apply to the corporation for financial assistance
9 under this subsection, by jointly submitting such applica-
10 tions in accordance with section 4(d)(2) of such Act. The
11 application for financial assistance under this subsection
12 shall demonstrate, based on projections by the plan actu-
13 ary, that after the receipt of the anticipated loan amount
14 under section 4(a) of such Act, the plan will still become
15 (or remain) insolvent within the 30-year period beginning
16 on the date of the loan.

17 “(2) In reviewing an application under paragraph
18 (1), the corporation shall review the determinations and
19 demonstrations submitted with the loan application under
20 section 4(c) of the Rehabilitation for Multiemployer Pen-
21 sions Act of 2019 and provide guidance regarding such
22 determinations and demonstrations prior to approving any
23 application for financial assistance under this subsection.
24 The corporation may deny any application if any such de-
25 terminations or demonstrations (or any underlying as-

1 sumptions) are unreasonable, or inconsistent with rules
2 issued by the corporation, and the plan and the corpora-
3 tion are unable to reach agreement on such determinations
4 or demonstrations. The corporation shall prescribe any
5 such rules or guidance not later than December 31, 2019.

6 “(3)(A) In the case of a plan described in paragraph
7 (1)(A) or (1)(B), the total financial assistance provided
8 under this subsection shall be an amount equal to the
9 smallest portion of the loan amount with respect to the
10 plan under paragraph (1)(A) or (1)(B)(ii) of section 4(d)
11 of the Rehabilitation for Multiemployer Pensions Act of
12 2019 (determined without regard to paragraph (2) there-
13 of) that, if provided as financial assistance under this sub-
14 section instead of a loan, would allow the plan to avoid
15 the projected insolvency.

16 “(B) Such amount shall not exceed the present value
17 of the maximum guaranteed benefit with respect to all
18 participants and beneficiaries of the plan under sections
19 4022A and 4022B. For purposes of the preceding sen-
20 tence, the present value of the maximum guaranteed ben-
21 efit amount shall be determined by disregarding any loan
22 available from the Pension Rehabilitation Administration
23 and shall be determined as if the plan were insolvent on
24 the date of the application, and the present value of the
25 maximum guaranteed benefit amount with respect to such

1 participants and beneficiaries may be calculated in the ag-
2 gregate, rather than by reference to the benefit of each
3 such participant or beneficiary.

4 “(4) In the case of a plan described in paragraph
5 (1)(C), the financial assistance provided pursuant to such
6 application under this subsection shall be the present value
7 of the amount (determined by the plan actuary and sub-
8 mitted on the application) that, if such amount were paid
9 by the corporation in combination with the loan and any
10 other assistance being provided to the plan by the corpora-
11 tion at the time of the application, would enable the plan
12 to emerge from insolvency and avoid any other insolvency
13 projected under paragraph (1).

14 “(5)(A)(i) Except as provided in subparagraph (B),
15 if the corporation determines at the time of approval, or
16 at the beginning of any plan year beginning thereafter,
17 that the plan’s 5-year expenditure projection (determined
18 without regard to loan payments described in clause
19 (iii)(III)) exceeds the fair market value of the plan’s as-
20 sets, the corporation shall (subject to the total amount of
21 financial assistance approved under this subsection) pro-
22 vide such assistance in an amount equal to the lesser of—

23 “(I) the amount by which the plan’s 5-year
24 expenditure projection exceeds such fair market
25 value; or

1 “(II) the plan’s expected expenditures for
2 the plan year.

3 “(ii) For purposes of this subparagraph, the term ‘5-
4 year expenditure projection’ means, with respect to any
5 plan for a plan year, an amount equal to 500 percent of
6 the plan’s expected expenditures for the plan year.

7 “(iii) For purposes of this subparagraph, the term
8 ‘expected expenditures’ means, with respect to any plan
9 for a plan year, an amount equal to the sum of—

10 “(I) expected benefit payments for the plan
11 year;

12 “(II) expected administrative expense payments
13 for the plan year; plus

14 “(III) payments on the loan scheduled during
15 the plan year pursuant to the terms of the loan
16 under section 4(b) of the Rehabilitation for Multiem-
17 ployer Pensions Act of 2019.

18 “(iv) For purposes of this subparagraph, in the case
19 of any plan year during which a plan is approved for a
20 loan under section 4 of such Act, but has not yet received
21 the proceeds, such proceeds shall be included in deter-
22 mining the fair market value of the plan’s assets for the
23 plan year. The preceding sentence shall not apply in the
24 case of any plan that for the plan year beginning in 2015
25 was certified pursuant to section 305(b)(3) as being in

1 critical and declining status, and had more than 300,000
2 participants.

3 “(B) The financial assistance under this subsection
4 shall be provided in a lump sum if the plan sponsor dem-
5 onstrates in the application, and the corporation deter-
6 mines, that such a lump sum payment is necessary for
7 the plan to avoid the insolvency to which the application
8 relates. In the case of a plan described in paragraph
9 (1)(C), such lump sum shall be provided not later than
10 December 31, 2020.

11 “(6) Subsections (b) and (c) shall apply to financial
12 assistance under this subsection as if it were provided
13 under subsection (a), except that the terms for repayment
14 under subsection (b)(2) shall not require the financial as-
15 sistance to be repaid before the date on which the loan
16 under section 4(a) of the Rehabilitation for Multiemployer
17 Pensions Act of 2019 is repaid in full.

18 “(7) The corporation may forgo repayment of the fi-
19 nancial assistance provided under this subsection if nec-
20 essary to avoid any suspension of the accrued benefits of
21 participants.”.

22 (b) APPROPRIATIONS.—There is appropriated to the
23 Director of the Pension Benefit Guaranty Corporation
24 such sums as may be necessary for each fiscal year to pro-
25 vide the financial assistance described in section 4261(d)

1 of the Employee Retirement Income Security Act of 1974
 2 (29 U.S.C. 1431(d)) (as added by this section) (including
 3 necessary administrative and operating expenses relating
 4 to such assistance).

5 **SEC. 9. MODIFICATION OF REQUIRED DISTRIBUTION**
 6 **RULES FOR DESIGNATED BENEFICIARIES.**

7 (a) MODIFICATION OF RULES WHERE EMPLOYEE
 8 DIES BEFORE ENTIRE DISTRIBUTION.—

9 (1) IN GENERAL.—Section 401(a)(9) of the In-
 10 ternal Revenue Code of 1986 is amended by adding
 11 at the end the following new subparagraph:

12 “(H) SPECIAL RULES FOR CERTAIN DE-
 13 FINED CONTRIBUTION PLANS.—In the case of a
 14 defined contribution plan, if an employee dies
 15 before the distribution of the employee’s entire
 16 interest—

17 “(i) IN GENERAL.—Except in the case
 18 of a beneficiary who is not a designated
 19 beneficiary, subparagraph (B)(ii)—

20 “(I) shall be applied by sub-
 21 stituting ‘10 years’ for ‘5 years’, and

22 “(II) shall apply whether or not
 23 distributions of the employee’s inter-
 24 ests have begun in accordance with
 25 subparagraph (A).

1 “(ii) EXCEPTION ONLY FOR ELIGIBLE
2 DESIGNATED BENEFICIARIES.—Subpara-
3 graph (B)(iii) shall apply only in the case
4 of an eligible designated beneficiary.

5 “(iii) RULES UPON DEATH OF ELIGI-
6 BLE DESIGNATED BENEFICIARY.—If an el-
7 igible designated beneficiary dies before the
8 portion of the employee’s interest to which
9 this subparagraph applies is entirely dis-
10 tributed, the exception under clause (iii)
11 shall not apply to any beneficiary of such
12 eligible designated beneficiary and the re-
13 mainder of such portion shall be distrib-
14 uted within 10 years after the death of
15 such eligible designated beneficiary.

16 “(iv) APPLICATION TO CERTAIN ELI-
17 GIBLE RETIREMENT PLANS.—For purposes
18 of applying the provisions of this subpara-
19 graph in determining amounts required to
20 be distributed pursuant to this paragraph,
21 all eligible retirement plans (as defined in
22 section 402(c)(8)(B), other than a defined
23 benefit plan described in clause (iv) or (v)
24 thereof or a qualified trust which is a part

1 of a defined benefit plan) shall be treated
2 as a defined contribution plan.”.

3 (2) DEFINITION OF ELIGIBLE DESIGNATED
4 BENEFICIARY.—Section 401(a)(9)(E) of such Code
5 is amended to read as follows:

6 “(E) DEFINITIONS AND RULES RELATING
7 TO DESIGNATED BENEFICIARY.—For purposes
8 of this paragraph—

9 “(i) DESIGNATED BENEFICIARY.—The
10 term ‘designated beneficiary’ means any
11 individual designated as a beneficiary by
12 the employee.

13 “(ii) ELIGIBLE DESIGNATED BENE-
14 FICIARY.—The term ‘eligible designated
15 beneficiary’ means, with respect to any em-
16 ployee, any designated beneficiary who is—

17 “(I) the surviving spouse of the
18 employee,

19 “(II) subject to clause (iii), a
20 child of the employee who has not
21 reached majority (within the meaning
22 of subparagraph (F)),

23 “(III) disabled (within the mean-
24 ing of section 72(m)(7)),

1 “(IV) a chronically ill individual
2 (within the meaning of section
3 7702B(c)(2), except that the require-
4 ments of subparagraph (A)(i) thereof
5 shall only be treated as met if there is
6 a certification that, as of such date,
7 the period of inability described in
8 such subparagraph with respect to the
9 individual is an indefinite one which is
10 reasonably expected to be lengthy in
11 nature), or

12 “(V) an individual not described
13 in any of the preceding subclauses
14 who is not more than 10 years young-
15 er than the employee.

16 “(iii) SPECIAL RULE FOR CHIL-
17 DREN.—Subject to subparagraph (F), an
18 individual described in clause (ii)(II) shall
19 cease to be an eligible designated bene-
20 ficiary as of the date the individual reaches
21 majority and any remainder of the portion
22 of the individual’s interest to which sub-
23 paragraph (H)(ii) applies shall be distrib-
24 uted within 10 years after such date.

1 “(iv) TIME FOR DETERMINATION OF
2 ELIGIBLE DESIGNATED BENEFICIARY.—

3 The determination of whether a designated
4 beneficiary is an eligible designated bene-
5 ficiary shall be made as of the date of
6 death of the employee.”.

7 (3) EFFECTIVE DATES.—

8 (A) IN GENERAL.—Except as provided in
9 this paragraph and paragraphs (4) and (5), the
10 amendments made by this subsection shall
11 apply to distributions with respect to employees
12 who die after December 31, 2019.

13 (B) COLLECTIVE BARGAINING EXCEP-
14 TION.—In the case of a plan maintained pursu-
15 ant to one or more collective bargaining agree-
16 ments between employee representatives and
17 one or more employers ratified before the date
18 of enactment of this Act, the amendments made
19 by this subsection shall apply to distributions
20 with respect to employees who die in calendar
21 years beginning after the earlier of—

22 (i) the later of—

23 (I) the date on which the last of
24 such collective bargaining agreements
25 terminates (determined without re-

1 gard to any extension thereof agreed
2 to on or after the date of the enact-
3 ment of this Act); or

4 (II) December 31, 2019; or

5 (ii) December 31, 2021.

6 For purposes of clause (i)(I), any plan amend-
7 ment made pursuant to a collective bargaining
8 agreement relating to the plan which amends
9 the plan solely to conform to any requirement
10 added by this section shall not be treated as a
11 termination of such collective bargaining agree-
12 ment.

13 (C) GOVERNMENTAL PLANS.—In the case
14 of a governmental plan (as defined in section
15 414(d) of the Internal Revenue Code of 1986),
16 subparagraph (A) shall be applied by sub-
17 stituting “December 31, 2021” for “December
18 31, 2019”.

19 (4) EXCEPTION FOR CERTAIN EXISTING ANNU-
20 ITY CONTRACTS.—

21 (A) IN GENERAL.—The amendments made
22 by this subsection shall not apply to a qualified
23 annuity which is a binding annuity contract in
24 effect on the date of enactment of this Act and
25 at all times thereafter.

1 (B) QUALIFIED ANNUITY.—For purposes
2 of this paragraph, the term “qualified annuity”
3 means, with respect to an employee, an annu-
4 ity—

5 (i) which is a commercial annuity (as
6 defined in section 3405(e)(6) of the Inter-
7 nal Revenue Code of 1986);

8 (ii) under which the annuity payments
9 are made over the life of the employee or
10 over the joint lives of such employee and a
11 designated beneficiary (or over a period
12 not extending beyond the life expectancy of
13 such employee or the joint life expectancy
14 of such employee and a designated bene-
15 ficiary) in accordance with the regulations
16 described in section 401(a)(9)(A)(ii) of
17 such Code (as in effect before such amend-
18 ments) and which meets the other require-
19 ments of section 401(a)(9) of such Code
20 (as so in effect) with respect to such pay-
21 ments; and

22 (iii) with respect to which—

23 (I) annuity payments to the em-
24 ployee have begun before the date of
25 enactment of this Act, and the em-

1 employee has made an irrevocable elec-
 2 tion before such date as to the method
 3 and amount of the annuity payments
 4 to the employee or any designated
 5 beneficiaries; or

6 (II) if subclause (I) does not
 7 apply, the employee has made an ir-
 8 revocable election before the date of
 9 enactment of this Act as to the meth-
 10 od and amount of the annuity pay-
 11 ments to the employee or any des-
 12 ignated beneficiaries.

13 (5) EXCEPTION FOR CERTAIN BENE-
 14 FICIARIES.—

15 (A) IN GENERAL.—If an employee dies be-
 16 fore the effective date, then, in applying the
 17 amendments made by this subsection to such
 18 employee’s designated beneficiary who dies after
 19 such date—

20 (i) such amendments shall apply to
 21 any beneficiary of such designated bene-
 22 ficiary; and

23 (ii) the designated beneficiary shall be
 24 treated as an eligible designated bene-
 25 ficiary for purposes of applying section

1 401(a)(9)(H)(ii) of the Internal Revenue
2 Code of 1986 (as in effect after such
3 amendments).

4 (B) EFFECTIVE DATE.—For purposes of
5 this paragraph, the term “effective date” means
6 the first day of the first calendar year to which
7 the amendments made by this subsection apply
8 to a plan with respect to employees dying on or
9 after such date.

10 (b) PROVISIONS RELATING TO PLAN AMEND-
11 MENTS.—

12 (1) IN GENERAL.—If this subsection applies to
13 any plan amendment—

14 (A) such plan shall be treated as being op-
15 erated in accordance with the terms of the plan
16 during the period described in paragraph
17 (2)(B)(i); and

18 (B) except as provided by the Secretary of
19 the Treasury, such plan shall not fail to meet
20 the requirements of section 411(d)(6) of the In-
21 ternal Revenue Code of 1986 and section
22 204(g) of the Employee Retirement Income Se-
23 curity Act of 1974 by reason of such amend-
24 ment.

1 (2) AMENDMENTS TO WHICH SUBSECTION AP-
2 PLIES.—

3 (A) IN GENERAL.—This subsection shall
4 apply to any amendment to any plan or which
5 is made—

6 (i) pursuant to any amendment made
7 by this section or pursuant to any regula-
8 tion issued by the Secretary of the Treas-
9 ury under this section or such amend-
10 ments; and

11 (ii) on or before the last day of the
12 first plan year beginning after December
13 31, 2021, or such later date as the Sec-
14 retary of the Treasury may prescribe.

15 In the case of a governmental or collectively
16 bargained plan to which subparagraph (B) or
17 (C) of subsection (a)(4) applies, clause (ii) shall
18 be applied by substituting the date which is 2
19 years after the date otherwise applied under
20 such clause.

21 (B) CONDITIONS.—This subsection shall
22 not apply to any amendment unless—

23 (i) during the period—

24 (I) beginning on the date the leg-
25 islative or regulatory amendment de-

1 scribed in paragraph (1)(A) takes ef-
2 fect (or in the case of a plan amend-
3 ment not required by such legislative
4 or regulatory amendment, the effec-
5 tive date specified by the plan); and

6 (II) ending on the date described
7 in subparagraph (A)(ii) (or, if earlier,
8 the date the plan amendment is
9 adopted),

10 the plan is operated as if such plan amend-
11 ment were in effect; and

12 (ii) such plan amendment applies
13 retroactively for such period.

14 **SEC. 10. INCREASE IN PENALTY FOR FAILURE TO FILE.**

15 (a) IN GENERAL.—The second sentence of section
16 6651(a) of the Internal Revenue Code of 1986, as amend-
17 ed by the Taxpayer First Act, is amended by striking
18 “\$330” and inserting “\$435”.

19 (b) INFLATION ADJUSTMENT.—Section 6651(j)(1) of
20 such Code, as amended by such Act, is amended by strik-
21 ing “\$330” and inserting “\$435”.

22 (c) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to returns the due date for which
24 (including extensions) is after December 31, 2019.

1 **SEC. 11. INCREASED PENALTIES FOR FAILURE TO FILE RE-**
2 **TIREMENT PLAN RETURNS.**

3 (a) IN GENERAL.—Subsection (e) of section 6652 of
4 the Internal Revenue Code of 1986 is amended—

5 (1) by striking “\$25” and inserting “\$250”;
6 and

7 (2) by striking “\$15,000” and inserting
8 “\$150,000”.

9 (b) ANNUAL REGISTRATION STATEMENT AND NOTI-
10 FICATION OF CHANGES.—Subsection (d) of section 6652
11 of the Internal Revenue Code of 1986 is amended—

12 (1) by striking “\$1” both places it appears in
13 paragraphs (1) and (2) and inserting “\$10”;

14 (2) by striking “\$5,000” in paragraph (1) and
15 inserting “\$50,000”; and

16 (3) by striking “\$1,000” in paragraph (2) and
17 inserting “\$10,000”.

18 (c) FAILURE TO PROVIDE NOTICE.—Subsection (h)
19 of section 6652 of the Internal Revenue Code of 1986 is
20 amended—

21 (1) by striking “\$10” and inserting “\$100”;
22 and

23 (2) by striking “\$5,000” and inserting
24 “\$50,000”.

25 (d) EFFECTIVE DATE.—The amendments made by
26 this section shall apply to returns, statements, and notifi-

1 cations required to be filed, and notices required to be pro-
 2 vided, after December 31, 2019.

3 **SEC. 12. INCREASE INFORMATION SHARING TO ADMIN-**
 4 **ISTER EXCISE TAXES.**

5 (a) IN GENERAL.—Section 6103(o) of the Internal
 6 Revenue Code of 1986 is amended by adding at the end
 7 the following new paragraph:

8 “(3) TAXES IMPOSED BY SECTION 4481.—Re-
 9 turns and return information with respect to taxes
 10 imposed by section 4481 shall be open to inspection
 11 by or disclosure to officers and employees of United
 12 States Customs and Border Protection of the De-
 13 partment of Homeland Security whose official duties
 14 require such inspection or disclosure for purposes of
 15 administering such section.”.

16 (b) CONFORMING AMENDMENTS.—Paragraph (4) of
 17 section 6103(p) of the Internal Revenue Code of 1986 is
 18 amended by striking “or (o)(1)(A)” each place it appears
 19 and inserting “, (o)(1)(A), or (o)(3)”.

Passed the House of Representatives July 24, 2019.

Attest:

Clerk.

116TH CONGRESS
1ST Session

H. R. 397

AN ACT

To amend the Internal Revenue Code of 1986 to create a Pension Rehabilitation Trust Fund, to establish a Pension Rehabilitation Administration within the Department of the Treasury to make loans to multiemployer defined benefit plans, and for other purposes.