

116TH CONGRESS
1ST SESSION

H. R. 397

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.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 9, 2019

Mr. NEAL (for himself, Mr. KING of New York, Mr. SCOTT of Virginia, Mr. YOUNG, Mrs. DINGELL, Mr. SMITH of New Jersey, Mr. NORCROSS, Mr. KATKO, Ms. KAPTUR, and Mr. FORTENBERRY) introduced the following bill; which was referred to the Committee on Education and Labor, and in addition to the Committees on Ways and Means, and Appropriations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

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”.

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.

23 (c) TRANSFER OF FUNDS.—The Secretary of the
24 Treasury may transfer for any fiscal year, from unobli-
25 gated amounts appropriated to the Department of the

1 Treasury, to the Pension Rehabilitation Administration
2 such sums as may be reasonably necessary for the admin-
3 istrative and operating expenses of the Pension Rehabilita-
4 tion Administration.

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

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

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

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

17 “(b) TRANSFERS TO FUND.—

18 “(1) AMOUNTS ATTRIBUTABLE TO TREASURY
19 BONDS.—There shall be credited to the Fund the
20 amounts transferred under section 6(b) of the Reha-
21 bilitation for Multiemployer Pensions Act.

22 “(2) LOAN INTEREST AND PRINCIPAL.—

23 “(A) IN GENERAL.—The Director of the
24 Pension Rehabilitation Administration estab-
25 lished under section 2 of the Rehabilitation for

1 Multiemployer Pensions Act shall deposit in the
2 Fund any amounts received from a plan as pay-
3 ment of interest or principal on a loan under
4 section 4 of such Act.

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

8 “(3) TRANSFERS FROM SECRETARY.—The Di-
9 rector of the Pension Rehabilitation Administration
10 shall deposit in the Fund any amounts received from
11 the Secretary under section 2(c) of such Act.

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

15 “(c) EXPENDITURES FROM FUND.—Amounts in the
16 Fund are available without further appropriation to the
17 Pension Rehabilitation Administration—

18 “(1) for the purpose of making the loans de-
19 scribed in section 4 of the Rehabilitation for Multi-
20 employer Pensions Act,

21 “(2) for the payment of principal and interest
22 on bonds issued under section 6 of such Act, and

23 “(3) for administrative and operating expenses
24 of such Administration.”.

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

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

5 **SEC. 4. LOAN PROGRAM FOR MULTIEMPLOYER DEFINED**
6 **BENEFIT PLANS.**

7 (a) LOAN AUTHORITY.—

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

11 (A) to make loans to multiemployer plans
12 (as defined in section 414(f) of the Internal
13 Revenue Code of 1986) which are defined ben-
14 efit plans (as defined in section 414(j) of such
15 Code) and which—

16 (i) are in critical and declining status
17 (within the meaning of section 432(b)(6)
18 of such Code and section 305(b)(6) of the
19 Employee Retirement Income Security Act
20 of 1974), including any plan with respect
21 to which a suspension of benefits has been
22 approved under section 432(e)(9) of such
23 Code and section 305(e)(9) of such Act; or

24 (ii) are insolvent for purposes of sec-
25 tion 418E of such Code, if they became in-

1 solvent after December 16, 2014, and have
2 not been terminated; and

3 (B) subject to subsection (b), to establish
4 appropriate terms for such loans.

5 (2) CONSULTATION.—The Director of the Pen-
6 sion Rehabilitation Administration shall consult with
7 the Secretary of the Treasury, the Secretary of
8 Labor, and the Director of the Pension Benefit
9 Guaranty Corporation before making any loan under
10 paragraph (1), and shall share with such persons the
11 application and plan information with respect to
12 each such loan.

13 (3) ESTABLISHMENT OF LOAN PROGRAM.—

14 (A) IN GENERAL.—A program to make the
15 loans authorized under this section shall be es-
16 tablished not later than April 30, 2019, with
17 guidance regarding such program to be promul-
18 gated by the Director of the Pension Rehabilita-
19 tion Administration, in consultation with the
20 Pension Benefit Guaranty Corporation and the
21 Department of Labor, not later than July 1,
22 2019.

23 (B) LOANS AUTHORIZED BEFORE PRO-
24 GRAM DATE.—Without regard to whether the
25 program under subparagraph (A) has been es-

1 tablished, a plan may apply for a loan under
2 this section before either date described in such
3 subparagraph, and the Pension Rehabilitation
4 Administration shall approve the application
5 and make the loan before establishment of the
6 program if necessary to avoid any suspension of
7 the accrued benefits of participants.

8 (b) LOAN TERMS.—The terms of any loan made
9 under subsection (a) shall state that—

10 (1) the plan shall make payments of interest on
11 the loan for a period of 29 years beginning on the
12 date of the loan;

13 (2) final payment of interest and principal shall
14 be due in the 30th year after the date of the loan;
15 and

16 (3) as a condition of the loan, the plan sponsor
17 stipulates that—

18 (A) except as provided in subparagraph
19 (B), the plan will not increase benefits, allow
20 any employer participating in the plan to re-
21 duce its contributions, or accept any collective
22 bargaining agreement which provides for re-
23 duced contribution rates, during the 30-year pe-
24 riod described in paragraphs (1) and (2);

1 (B) in the case of a plan with respect to
2 which a suspension of benefits has been ap-
3 proved under section 432(e)(9) of the Internal
4 Revenue Code of 1986 and section 305(e)(9) of
5 the Employee Retirement Income Security Act
6 of 1974, or under section 418E of such Code,
7 before the loan, the plan will reinstate the sus-
8 pended benefits (or will not carry out any sus-
9 pension which has been approved but not yet
10 implemented);

11 (C) the plan sponsor will comply with the
12 requirements of section 6059A of the Internal
13 Revenue Code of 1986; and

14 (D) the plan and plan administrator will
15 meet such other requirements as the Director of
16 the Pension Rehabilitation Administration pro-
17 vides in the loan terms.

18 (c) LOAN APPLICATION.—

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

21 (A) demonstrate that, except as provided
22 in subparagraph (C)—

23 (i) the loan will enable the plan to
24 avoid insolvency for at least the 30-year
25 period described in paragraphs (1) and (2)

1 of subsection (b) or, in the case of a plan
2 which is already insolvent, to emerge from
3 insolvency within and avoid insolvency for
4 the remainder of such period; and

5 (ii) the plan is reasonably expected to
6 be able to pay benefits and the interest on
7 the loan during such period and to accu-
8 mulate sufficient funds to repay the prin-
9 cipal when due;

10 (B) provide the information necessary to
11 determine the loan amount under subsection
12 (d);

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

21 (D) state in what manner the loan pro-
22 ceeds will be invested pursuant to subsection
23 (d), the person from whom any annuity con-
24 tracts under such subsection will be purchased,
25 and the person who will be the investment man-

1 ager for any portfolio implemented under such
2 subsection; and

3 (E) include such other information and
4 certifications as the Director of the Pension Re-
5 habilitation Administration shall require.

6 (2) STANDARD FOR ACCEPTING ACTUARIAL AND
7 PLAN SPONSOR DETERMINATIONS AND DEMONSTRA-
8 TIONS IN THE APPLICATION.—In evaluating the plan
9 sponsor’s application, the Director of the Pension
10 Rehabilitation Administration shall accept the deter-
11 minations and demonstrations in the application un-
12 less the Director, in consultation with the Director
13 of the Pension Benefit Guaranty Corporation and
14 the Secretary of Labor, concludes that the deter-
15 minations and demonstrations in the application
16 were clearly erroneous.

17 (3) REQUIRED ACTION; DEEMED APPROVAL.—
18 The Director of the Pension Rehabilitation Adminis-
19 tration shall approve or deny any application under
20 this subsection within 90 days after the submission
21 of such application. An application shall be deemed
22 approved unless, within such 90 days, the Director
23 notifies the plan sponsor that the determinations or
24 demonstrations in the application were deemed clear-
25 ly erroneous under paragraph (2). Any approval or

1 denial of an application by the Director of the Pen-
2 sion Rehabilitation Administration shall be treated
3 as a final agency action for purposes of section 704
4 of title 5, United States Code.

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 (d) LOAN AMOUNT AND USE.—

18 (1) AMOUNT OF LOAN.—

19 (A) IN GENERAL.—Except as provided in
20 subparagraph (B) and paragraph (2), the
21 amount of any loan under subsection (a) shall
22 be, as demonstrated by the plan sponsor on the
23 application under subsection (c), the amount
24 needed to purchase annuity contracts or to im-
25 plement a portfolio described in paragraph

1 (3)(C) (or a combination of the two) sufficient
2 to provide benefits of participants and bene-
3 ficiaries of the plan in pay status at the time
4 the loan is made.

5 (B) PLANS WITH SUSPENDED BENE-
6 FITS.—In the case of a plan which has sus-
7 pended benefits under section 432(e)(9) of the
8 Internal Revenue Code of 1986 and section
9 305(e)(9) of the Employee Retirement Income
10 Security Act of 1974 (29 U.S.C. 1085(e)(9)) or
11 under section 418E of such Code—

12 (i) the suspension of benefits shall not
13 be taken into account in applying para-
14 graph (1); and

15 (ii) the loan amount shall be the
16 amount sufficient to provide benefits of
17 participants and beneficiaries of the plan
18 in pay status at the time the loan is made,
19 determined without regard to the suspen-
20 sion, including retroactive payment of ben-
21 efits which would otherwise have been pay-
22 able during the period of the suspension.

23 (2) COORDINATION WITH PBGC FINANCIAL AS-
24 SISTANCE.—

1 (A) IN GENERAL.—In the case of a plan
2 which is also applying for financial assistance
3 under section 4261(d) of the Employee Retirement
4 Income Security Act of 1974 (29 U.S.C.
5 1431(d))—

6 (i) the plan sponsor shall submit the
7 loan application and the application for fi-
8 nancial assistance jointly to the Pension
9 Rehabilitation Administration and the Pen-
10 sion Benefit Guaranty Corporation with
11 the information necessary to determine the
12 amount under subparagraph (B); and

13 (ii) if such financial assistance is
14 granted, the amount of the loan under sub-
15 section (a) shall be the amount described
16 in paragraph (1) reduced by the amount of
17 such financial assistance.

18 (B) PLANS ALREADY RECEIVING PBGC AS-
19 SISTANCE.—The Director of the Pension Reha-
20 bilitation Administration shall provide for a
21 simplified application for the loan under this
22 section which may be used by an insolvent plan
23 which has not been terminated and which is al-
24 ready receiving financial assistance (other than
25 under section 4261(d) of such Act) from the

1 Pension Benefit Guaranty Corporation at the
2 time of the application for the loan under this
3 section.

4 (3) USE OF LOAN FUNDS.—

5 (A) IN GENERAL.—The loan received
6 under subsection (a) shall be used to purchase
7 annuity contracts which meet the requirements
8 of subparagraph (B) or to implement a port-
9 folio described in subparagraph (C) (or a com-
10 bination of the two) to provide the benefits de-
11 scribed in paragraph (1).

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

22 (C) PORTFOLIO.—

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

1 (I) a cash matching portfolio or
2 duration matching portfolio consisting
3 of investment grade (as rated by a na-
4 tionally recognized statistical rating
5 organization) fixed income invest-
6 ments, including United States dollar-
7 denominated public or private debt
8 obligations issued or guaranteed by
9 the United States or a foreign issuer,
10 which are tradeable in United States
11 currency and are issued at fixed or
12 zero coupon rates; or

13 (II) any other portfolio pre-
14 scribed by the Secretary of the Treas-
15 ury in regulations which has a similar
16 risk profile to the portfolios described
17 in subclause (I) and is equally protec-
18 tive of the interests of participants
19 and beneficiaries.

20 Once implemented, such a portfolio shall
21 be maintained until all liabilities to partici-
22 pants and beneficiaries in pay status at the
23 time of the loan are satisfied.

24 (ii) FIDUCIARY DUTY.—Any invest-
25 ment manager of a portfolio under this

1 subparagraph shall acknowledge in writing
2 that such person is a fiduciary under the
3 Employee Retirement Income Security Act
4 of 1974 with respect to the plan.

5 (iii) TREATMENT OF PARTICIPANTS
6 AND BENEFICIARIES.—Participants and
7 beneficiaries covered by a portfolio under
8 this subparagraph shall continue to be
9 treated as participants and beneficiaries of
10 the plan.

11 (D) ACCOUNTING.—

12 (i) IN GENERAL.—Annuity contracts
13 purchased and portfolios implemented
14 under this paragraph shall be accounted
15 for separately from the other assets of the
16 plan, and the proceeds thereof shall be
17 used solely to provide the benefits de-
18 scribed in paragraph (1) until all such ben-
19 efits have been paid.

20 (ii) OVERSIGHT OF NON-ANNUITY IN-
21 VESTMENTS.—

22 (I) IN GENERAL.—Any portfolio
23 implemented under this paragraph
24 shall be subject to oversight by the
25 Pension Rehabilitation Administra-

1 tion, including a mandatory triennial
2 review of the adequacy of the portfolio
3 to provide the benefits described in
4 paragraph (1) and approval (to be
5 provided within a reasonable period of
6 time) of any decision by the plan
7 sponsor to change the investment
8 manager of the portfolio.

9 (II) REMEDIAL ACTION.—If the
10 triennial review under subclause (I)
11 determines an inadequacy, the plan
12 sponsor shall take remedial action to
13 ensure that the inadequacy will be
14 cured within 5 years of the review.

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

23 (e) LOAN DEFAULT.—If a plan is unable to make any
24 payment on a loan under this section when due, the Pen-
25 sion Rehabilitation Administration shall negotiate with the

1 plan sponsor revised terms for repayment reflecting the
2 plan's ability to make payments, which may include in-
3 stallment payments over a reasonable period and, if the
4 Pension Rehabilitation Administration deems necessary to
5 avoid any suspension of the accrued benefits of partici-
6 pants, forgiveness of a portion of the loan principal.

7 (f) AUTHORITY TO ISSUE RULES, ETC.—The Direc-
8 tor of the Pension Rehabilitation Administration estab-
9 lished under section 2, in consultation with the Pension
10 Benefit Guaranty Corporation and the Department of
11 Labor, is authorized to issue rules regarding the form,
12 content, and process of applications for loans under this
13 section, actuarial standards and assumptions to be used
14 in making estimates and projections for purposes of such
15 applications, and assumptions regarding interest rates,
16 mortality, and distributions with respect to a portfolio de-
17 scribed in subsection (d)(3)(C).

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

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

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

24 (ii)(II) and inserting “, or”; and

1 (3) by adding at the end the following new
2 clause:

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

8 **SEC. 5. COORDINATION WITH WITHDRAWAL LIABILITY AND**
9 **FUNDING RULES.**

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

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

16 “(1) DETERMINATION OF WITHDRAWAL LIABIL-
17 ITY.—

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

1 mined under the Employee Retirement Income
2 Security Act of 1974—

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

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

18 “(B) ANNUITY CONTRACTS AND INVEST-
19 MENT PORTFOLIOS PURCHASED WITH LOAN
20 FUNDS.—Annuity contracts purchased and
21 portfolios implemented under section 4(d)(3) of
22 the Rehabilitation for Multiemployer Pensions
23 Act shall not be taken into account in deter-
24 mining the withdrawal liability of any employer

1 under subparagraph (A), but the amount equal
2 to the greater of—

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

6 “(ii) the remaining payments due on
7 the loan under section 4(a) of such Act,
8 shall be so taken into account.

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—

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 withdraws from
20 the plan before the end of the 30-year period
21 beginning on the date of the loan, the with-
22 drawal liability of such employer shall be deter-
23 mined—

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 shall not be taken into account in deter-
16 mining the withdrawal liability of any employer
17 under subparagraph (A), but the amount equal
18 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,
24 shall be so taken into account.

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

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

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

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

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

24 (a) IN GENERAL.—The Secretary of the Treasury
25 shall issue bonds as authorized by section 3102 of title

1 31, United States Code, in an amount necessary to fund
2 the loan program under section 4 of this Act, as deter-
3 mined in consultation with the Director of the Pension Re-
4 habilitation Administration established under section 2.

5 (b) TRANSFERS TO PENSION REHABILITATION
6 TRUST FUND.—The Secretary of the Treasury shall from
7 time to time transfer an amount equal to the proceeds of
8 the issue under subsection (a), from the general fund of
9 the Treasury to the Pension Rehabilitation Trust Fund
10 established under section 9512 of the Internal Revenue
11 Code of 1986.

12 **SEC. 7. REPORTS OF PLANS RECEIVING PENSION REHA-**
13 **BILITATION LOANS.**

14 (a) IN GENERAL.—Subpart E of part III of sub-
15 chapter A of chapter 61 of the Internal Revenue Code of
16 1986 is amended by adding at the end the following new
17 section:

18 **“SEC. 6059A. REPORTS OF PLANS RECEIVING PENSION RE-**
19 **HABILITATION LOANS.**

20 “(a) IN GENERAL.—In the case of a plan receiving
21 a loan under section 4(a) of the Rehabilitation for Multi-
22 employer Pensions Act, with respect to the first plan year
23 beginning after the date of the loan and each of the 29
24 succeeding plan years, not later than the 90th day of each
25 such plan year the plan sponsor shall file with the Sec-

1 retary a report (including appropriate documentation and
2 actuarial certifications from the plan actuary, as required
3 by the Secretary) that contains—

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

12 “(2) the market value of the assets of the plan
13 (determined as provided in paragraph (1)) as of the
14 last day of the plan year preceding such plan year,

15 “(3) the total value of all contributions made by
16 employers and employees during the plan year pre-
17 ceding such plan year,

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

20 “(5) cash flow projections for such plan year
21 and the 9 succeeding plan years, and the assump-
22 tions used in making such projections,

23 “(6) funding standard account projections for
24 such plan year and the 9 succeeding plan years, and

1 the assumptions relied upon in making such projec-
2 tions,

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

5 “(8) any significant reduction in the number of
6 active participants during the plan year preceding
7 such plan year, and the reason for such reduction,

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

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

18 “(11) any material changes to benefits, accrual
19 rates, or contribution rates during the plan year pre-
20 ceeding such plan year, and whether such changes re-
21 late to the terms of the loan,

22 “(12) details regarding any funding improve-
23 ment plan or rehabilitation plan and updates to such
24 plan,

1 “(13) the number of participants and bene-
2 ficiaries during the plan year preceding such plan
3 year who are active participants, the number of par-
4 ticipants and beneficiaries in pay status, and the
5 number of terminated vested participants and bene-
6 ficiaries,

7 “(14) the amount of any financial assistance re-
8 ceived under section 4261 of the Employee Retire-
9 ment Income Security Act of 1974 to pay benefits
10 during the preceding plan year, and the total
11 amount of such financial assistance received for all
12 preceding years,

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

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

20 “(17) copies of the plan document and amend-
21 ments, other retirement benefit or ancillary benefit
22 plans relating to the plan and contribution obliga-
23 tions under such plans, a breakdown of administra-
24 tive expenses of the plan, participant census data
25 and distribution of benefits, the most recent actu-

1 arial valuation report as of the plan year, copies of
2 collective bargaining agreements, and financial re-
3 ports, and such other information as the Secretary,
4 in consultation with the Director of the Pension Re-
5 habilitation Administration, may require.

6 “(b) ELECTRONIC SUBMISSION.—The report re-
7 quired under subsection (a) shall be submitted electroni-
8 cally.

9 “(c) INFORMATION SHARING.—The Secretary shall
10 share the information in the report under subsection (a)
11 with the Secretary of Labor and the Director of the Pen-
12 sion Benefit Guaranty Corporation.

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

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

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

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

6 (3) by adding at the end the following: “In the
7 case of a failure with respect to section 6059A, the
8 amount imposed under this subsection shall not be
9 paid from the assets of the plan.”.

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

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

14 **SEC. 8. PBGC FINANCIAL ASSISTANCE.**

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

19 “(d)(1) The plan sponsor of a multiemployer plan—

20 “(A) which is in critical and declining status
21 (within the meaning of section 305(b)(6)), or

22 “(B) which is insolvent but has not been termi-
23 nated and is receiving assistance from the corpora-
24 tion (other than assistance under this subsection),

1 and which is applying for a loan under section 4(a) of the
2 Rehabilitation for Multiemployer Pensions Act may also
3 apply to the corporation for financial assistance under this
4 subsection, by jointly submitting such applications in ac-
5 cordance with section 4(d)(2) of such Act. The application
6 for financial assistance under this subsection shall dem-
7 onstrate, based on projections by the plan actuary, that
8 after the receipt of the anticipated loan amount under sec-
9 tion 4(a) of such Act, the plan will still become (or remain)
10 insolvent within the 30-year period beginning on the date
11 of the loan.

12 “(2) In the case of a plan described in paragraph
13 (1)(A), the financial assistance provided pursuant to such
14 application under this subsection shall be the amount (de-
15 termined by the plan actuary and submitted on the appli-
16 cation) equal to the sum of—

17 “(A) the percentage of benefits of participants
18 and beneficiaries of the plan in pay status at the
19 time of the application, and

20 “(B) the percentage of future benefits to which
21 participants who have separated from service but are
22 not yet in pay status are entitled,

23 which, if such percentage were paid by the corporation in
24 combination with the loan, would allow the plan to avoid
25 the projected insolvency and be projected to have increas-

1 ing assets over any 5-year period following the repayment
2 of the loan. Such amount shall not exceed the maximum
3 guaranteed benefit with respect to all participants and
4 beneficiaries of the plan under sections 4022A and 4022B.
5 For this purpose, the maximum guaranteed benefit
6 amount shall be determined by disregarding any loan
7 available from the Pension Rehabilitation Administration
8 and shall be determined as if the plan were insolvent on
9 the date of the application. Further, the present value of
10 the maximum guaranteed benefit amount with respect to
11 such participants and beneficiaries may be calculated in
12 the aggregate, rather than by reference to the benefit of
13 each such participant or beneficiary.

14 “(3) In the case of a plan described in paragraph
15 (1)(B), the financial assistance provided pursuant to such
16 application under this subsection shall be the amount (de-
17 termined by the plan actuary and submitted on the appli-
18 cation) which, if such amount were paid by the corporation
19 in combination with the loan and any other assistance
20 being provided to the plan by the corporation at the time
21 of the application, would enable the plan to emerge from
22 insolvency.

23 “(4) Subsections (b) and (c) shall apply to financial
24 assistance under this subsection as if it were provided
25 under subsection (a), except that the terms for repayment

1 under subsection (b)(2) shall not require the financial as-
2 sistance to be repaid before the date on which the loan
3 under section 4(a) of the Rehabilitation for Multiemployer
4 Pensions Act is repaid in full.

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

9 (b) APPROPRIATIONS.—There is appropriated to the
10 Director of the Pension Benefit Guaranty Corporation
11 such sums as may be necessary for each fiscal year to pro-
12 vide the financial assistance described in section 4261(d)
13 of the Employee Retirement Income Security Act of 1974
14 (29 U.S.C. 1431(d)) (as added by this section) (including
15 necessary administrative and operating expenses relating
16 to such assistance).

○