

Union Calendar No. 123

116TH CONGRESS
1ST SESSION

H. R. 397

[Report No. 116–159, Parts I and II]

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

JULY 18, 2019

Reported from the Committee on Ways and Means with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

JULY 19, 2019

Reported from the Committee on Education and Labor with an amendment

[Strike out all after the enacting clause and insert the part printed in **boldface roman**]

JULY 19, 2019

Additional sponsors: Ms. MOORE, Mr. CLEAVER, Mr. LYNCH, Ms. SCHAKOWSKY, Mr. HUIZENGA, Mr. RYAN, Mr. SEAN PATRICK MALONEY of New York, Mr. FITZPATRICK, Ms. KELLY of Illinois, Ms. MCCOLLUM, Ms. BROWNLEY of California, Mr. KHANNA, Ms. WILSON of Florida, Mr. HASTINGS, Mr. LOEBSACK, Mrs. BEATTY, Ms. PINGREE, Mr. SIREs, Mr. STAUBER, Mr. HIGGINS of New York, Ms. SEWELL of Alabama, Mr. LAMB, Ms. VELÁZQUEZ, Miss RICE of New York, Mrs. BUSTOS, Mr. COHEN, Mr. ESPAILLAT, Mr. LIPINSKI, Mr. SABLAN, Mr. KILDEE, Mr.

BRINDISI, Ms. TITUS, Ms. CRAIG, Mr. PALLONE, Mr. SCHIFF, Mr. SMITH of Washington, Ms. DELAURO, Mr. SERRANO, Ms. NORTON, Mr. KRISHNAMOORTHY, Ms. ROYBAL-ALLARD, Mr. GALLEG0, Mrs. NAPOLITANO, Mr. TED LIEU of California, Mr. VISCLOSKY, Mr. MCGOVERN, Mr. LEVIN of Michigan, Mr. PRICE of North Carolina, Ms. FUDGE, Ms. BONAMICI, Mr. SUOZZI, Ms. HILL of California, Mr. KIND, Mr. POCAN, Mr. MORELLE, Ms. OMAR, Mr. FOSTER, Ms. LEE of California, Mr. SCHRADER, Mr. GARAMENDI, Ms. WASSERMAN SCHULTZ, Ms. STEVENS, Mr. BLUMENAUER, Mr. COURTNEY, Mr. KIM, Mr. GARCÍA of Illinois, Ms. WILD, Ms. OCASIO-CORTEZ, Mrs. TRAHAN, Ms. LOFGREN, Mr. ROSE of New York, Ms. HAALAND, Mr. GONZALEZ of Texas, Mr. RASKIN, Mr. DEFazio, Mr. NEGUSE, Mr. DAVID SCOTT of Georgia, Mr. PHILLIPS, Ms. JAYAPAL, Ms. DEGETTE, Mr. RUPPERSBERGER, Mr. WELCH, Ms. KUSTER of New Hampshire, Mrs. WATSON COLEMAN, Mr. QUIGLEY, Mr. TONKO, Mr. DESAULNIER, Mr. SWALWELL of California, Mr. VEASEY, Ms. SLOTKIN, Mr. MICHAEL F. DOYLE of Pennsylvania, Mr. CONNOLLY, Mr. DELGADO, Ms. KENDRA S. HORN of Oklahoma, Ms. CASTOR of Florida, Mr. CICILLINE, Mr. CARTWRIGHT, Mr. MCEACHIN, Mr. LUJÁN, Mr. YARMUTH, Mr. PETERS, Ms. FINKENAUER, Mr. AGUILAR, Mr. GRIJALVA, Ms. ESHOO, Mr. CRIST, Mr. DANNY K. DAVIS of Illinois, Mr. CASTRO of Texas, Mr. PERLMUTTER, Mr. PASCRELL, Mrs. AXNE, Ms. JACKSON LEE, Mr. EVANS, Mrs. DAVIS of California, Ms. ADAMS, Mr. LANGEVIN, Mr. LARSON of Connecticut, Ms. SCHRIER, Mr. RUIZ, Mr. GREEN of Texas, Mr. MCNERNEY, Mr. KENNEDY, Mrs. LURIA, Ms. MENG, Mr. MOULTON, Ms. BLUNT ROCHESTER, Mrs. MCBATH, Mr. JEFFRIES, Mr. LOWENTHAL, Mr. BUTTERFIELD, Ms. SPANBERGER, Ms. SPEIER, Mr. SCHNEIDER, Mr. THOMPSON of Mississippi, Ms. JOHNSON of Texas, Mr. CARBAJAL, Mrs. DEMINGS, Mr. PANETTA, Mr. TAKANO, Ms. DEAN, Ms. SCANLON, Mr. STANTON, Mr. GOLDEN, Ms. SÁNCHEZ, Mr. LAWSON of Florida, Mr. BISHOP of Georgia, Mr. O'HALLERAN, Mrs. KIRKPATRICK, Mr. NADLER, Mr. CÁRDENAS, Mr. VAN DREW, Mr. HIMES, Mr. SHERMAN, Mr. HARDER of California, Ms. TLAIB, Mr. ROUDA, Mr. TRONE, Ms. SHALALA, Mrs. HAYES, Mr. PAPPAS, Mrs. LEE of Nevada, Ms. CLARK of Massachusetts, Mrs. LAWRENCE, Mr. HORSFORD, Mr. PETERSON, Ms. JUDY CHU of California, Ms. HOULAHAN, Mr. CLAY, Ms. DELBENE, Mr. SOTO, Mr. MALINOWSKI, Ms. BARRAGÁN, Mr. BRENDAN F. BOYLE of Pennsylvania, Mr. CROW, Mr. VARGAS, Mr. LARSEN of Washington, Mr. DOGGETT, Mr. PAYNE, Mr. COOK, Mr. MEEKS, Mr. GOMEZ, Mr. BEYER, Mr. LEWIS, Mr. KEATING, Mr. KILMER, Mr. CARSON of Indiana, Mrs. MURPHY, Mr. THOMPSON of California, Mr. LEVIN of California, Mr. BROWN of Maryland, Ms. GARCIA of Texas, Ms. SHERRILL, Mr. HUFFMAN, Mrs. TORRES of California, Mr. HOYER, Ms. WEXTON, Mr. GOTTHEIMER, Ms. FRANKEL, Mrs. CAROLYN B. MALONEY of New York, and Mr. ENGEL

JULY 19, 2019

The Committee on Appropriations discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on January 9, 2019]

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,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Rehabilitation for Multi-*
5 *employer Pensions Act of 2019”.*

6 **SEC. 2. PENSION REHABILITATION ADMINISTRATION; ES-**
7 **TABLISHMENT; POWERS.**

8 *(a) ESTABLISHMENT.—There is established in the De-*
9 *partment of the Treasury an agency to be known as the*
10 *“Pension Rehabilitation Administration”.*

11 *(b) DIRECTOR.—*

12 *(1) ESTABLISHMENT OF POSITION.—There shall*
13 *be at the head of the Pension Rehabilitation Adminis-*
14 *tration a Director, who shall be appointed by the*
15 *President.*

16 *(2) TERM.—*

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

19 *(B) SERVICE UNTIL APPOINTMENT OF SUC-*
20 *CESSOR.—An individual serving as Director at*
21 *the expiration of a term may continue to serve*
22 *until a successor is appointed.*

23 *(3) POWERS.—*

24 *(A) APPOINTMENT OF DEPUTY DIRECTORS,*
25 *OFFICERS, AND EMPLOYEES.—The Director may*

1 *appoint Deputy Directors, officers, and employ-*
2 *ees, including attorneys, in accordance with*
3 *chapter 51 and subchapter III of chapter 53 of*
4 *title 5, United States Code.*

5 *(B) CONTRACTING.—*

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

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

24 *(c) TRANSFER OF FUNDS.—The Secretary of the Treas-*
25 *ury may transfer for any fiscal year, from unobligated*

1 amounts appropriated to the Department of the Treasury,
 2 to the Pension Rehabilitation Administration such sums as
 3 may be reasonably necessary for the administrative and op-
 4 erating expenses of the Pension Rehabilitation Administra-
 5 tion.

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

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

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

11 “(a) *CREATION OF TRUST FUND.*—There is established
 12 in the Treasury of the United States a trust fund to be
 13 known as the ‘Pension Rehabilitation Trust Fund’ (here-
 14 after in this section referred to as the ‘Fund’), consisting
 15 of such amounts as may be appropriated or credited to the
 16 Fund as provided in this section and 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 of the Rehabili-
 21 tation for Multiemployer Pensions Act of 2019.

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 of 2019 shall deposit*
2 *in the Fund any amounts received from a plan*
3 *as payment of interest or principal on a loan*
4 *under section 4 of such Act.*

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

8 *“(3) TRANSFERS FROM SECRETARY.—The Direc-*
9 *tor 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 Multiem-*
20 *ployer Pensions Act of 2019,*

21 *“(2) for the payment of principal and interest*
22 *on obligations 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 for*
 2 *subchapter A of chapter 98 of the Internal Revenue Code*
 3 *of 1986 is amended by adding at the end the following new*
 4 *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 author-*
 10 *ized—*

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

16 (i) *are in critical and declining status*
 17 *(within the meaning of section 432(b)(6) of*
 18 *such Code and section 305(b)(6) of the Em-*
 19 *ployee Retirement and Income Security*
 20 *Act) as of the date of the enactment of this*
 21 *section, or with respect to which a suspen-*
 22 *sion of benefits has been approved under*
 23 *section 432(e)(9) of such Code and section*
 24 *305(e)(9) of such Act as of such date;*

1 (ii) as of such date of enactment, are
 2 in critical status (within the meaning of
 3 section 432(b)(2) of such Code and section
 4 305(b)(2) of such Act), have a modified
 5 funded percentage of less than 40 percent,
 6 and have a ratio of active to inactive par-
 7 ticipants which is less than 2 to 5; or

8 (iii) are insolvent for purposes of sec-
 9 tion 418E of such Code as of such date of
 10 enactment, if they became insolvent after
 11 December 16, 2014, and have not been ter-
 12 minated; and

13 (B) subject to subsection (b), to establish ap-
 14 propriate terms for such loans.

15 For purposes of subparagraph (A)(ii), the term
 16 “modified funded percentage” means the percentage
 17 equal to a fraction the numerator of which is current
 18 value of plan assets (as defined in section 3(26) of
 19 such Act) and the denominator of which is current li-
 20 abilities (as defined in section 431(c)(6)(D) of such
 21 Code and section 304(c)(6)(D) of such Act).

22 (2) CONSULTATION.—The Director of the Pension
 23 Rehabilitation Administration shall consult with the
 24 Secretary of the Treasury, the Secretary of Labor,
 25 and the Director of the Pension Benefit Guaranty

1 *Corporation before making any loan under paragraph*
2 *(1), and shall share with such persons the application*
3 *and plan information with respect to each such loan.*

4 *(3) ESTABLISHMENT OF LOAN PROGRAM.—*

5 *(A) IN GENERAL.—A program to make the*
6 *loans authorized under this section shall be es-*
7 *tablished not later than September 30, 2019,*
8 *with guidance regarding such program to be pro-*
9 *mulgated by the Director of the Pension Reha-*
10 *bilitation Administration, in consultation with*
11 *the Director of the Pension Benefit Guaranty*
12 *Corporation, the Secretary of the Treasury, and*
13 *the Secretary of Labor, not later than December*
14 *31, 2019.*

15 *(B) LOANS AUTHORIZED BEFORE PROGRAM*
16 *DATE.—Without regard to whether the program*
17 *under subparagraph (A) has been established, a*
18 *plan may apply for a loan under this section be-*
19 *fore either date described in such subparagraph,*
20 *and the Pension Rehabilitation Administration*
21 *shall approve the application and make the loan*
22 *before establishment of the program if necessary*
23 *to avoid any suspension of the accrued benefits*
24 *of participants.*

25 *(b) LOAN TERMS.—*

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

3 (A) *the plan shall make payments of inter-*
4 *est on the loan for a period of 29 years begin-*
5 *ning on the date of the loan (or 19 years in the*
6 *case of a plan making the election under sub-*
7 *section (c)(5));*

8 (B) *final payment of interest and principal*
9 *shall be due in the 30th year after the date of the*
10 *loan (except as provided in an election under*
11 *subsection (c)(5)); and*

12 (C) *as a condition of the loan, the plan*
13 *sponsor stipulates that—*

14 (i) *except as provided in clause (ii),*
15 *the plan will not increase benefits, allow*
16 *any employer participating in the plan to*
17 *reduce its contributions, or accept any col-*
18 *lective bargaining agreement which provides*
19 *for reduced contribution rates, during the*
20 *30-year period described in subparagraphs*
21 *(A) and (B);*

22 (ii) *in the case of a plan with respect*
23 *to which a suspension of benefits has been*
24 *approved under section 432(e)(9) of the In-*
25 *ternal Revenue Code of 1986 and section*

1 305(e)(9) of the *Employee Retirement In-*
2 *come Security Act of 1974, or under section*
3 *418E of such Code, before the loan, the plan*
4 *will reinstate the suspended benefits (or will*
5 *not carry out any suspension which has*
6 *been approved but not yet implemented);*

7 (iii) *the plan sponsor will comply with*
8 *the requirements of section 6059A of the In-*
9 *ternal Revenue Code of 1986;*

10 (iv) *the plan will continue to pay all*
11 *premiums due under section 4007 of the*
12 *Employee Retirement Income Security Act*
13 *of 1974; and*

14 (v) *the plan and plan administrator*
15 *will meet such other requirements as the Di-*
16 *rector of the Pension Rehabilitation Admin-*
17 *istration provides in the loan terms.*

18 *The terms of the loan shall not make reference to*
19 *whether the plan is receiving financial assistance*
20 *under section 4261(d) of the Employee Retire-*
21 *ment Income Security Act of 1974 (29 U.S.C.*
22 *1431(d)) or to any adjustment of the loan*
23 *amount under subsection (d)(2)(A)(ii).*

24 (2) *INTEREST RATE.—Except as provided in the*
25 *second sentence of this paragraph and subsection*

1 (c)(5), loans made under subsection (a) shall have as
 2 low an interest rate as is feasible. Such rate shall be
 3 determined by the Pension Rehabilitation Adminis-
 4 tration and shall—

5 (A) not be lower than the rate of interest on
 6 30-year Treasury securities on the first day of
 7 the calendar year in which the loan is issued,
 8 and

9 (B) not exceed the greater of—

10 (i) a rate .2 percent higher than such
 11 rate of interest on such date, or

12 (ii) the rate necessary to collect reve-
 13 nues sufficient to administer the program
 14 under this section.

15 (c) LOAN APPLICATION.—

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

18 (A) demonstrate that, except as provided in
 19 subparagraph (C)—

20 (i) the loan will enable the plan to
 21 avoid insolvency for at least the 30-year pe-
 22 riod described in subparagraphs (A) and
 23 (B) of subsection (b)(1) or, in the case of a
 24 plan which is already insolvent, to emerge

1 *from insolvency within and avoid insol-*
2 *vency for the remainder of such period; and*
3 (ii) *the plan is reasonably expected to*
4 *be able to pay benefits and the interest on*
5 *the loan during such period and to accumu-*
6 *late sufficient funds to repay the principal*
7 *when due;*

8 (B) *provide the plan's most recently filed*
9 *Form 5500 as of the date of application and any*
10 *other information necessary to determine the*
11 *loan amount under subsection (d);*

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

20 (D) *state in what manner the loan proceeds*
21 *will be invested pursuant to subsection (d), the*
22 *person from whom any annuity contracts under*
23 *such subsection will be purchased, and the person*
24 *who will be the investment manager for any*
25 *portfolio implemented under such subsection; and*

1 (E) include such other information and cer-
2 tifications as the Director of the Pension Reha-
3 bilitation Administration shall require.

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

18 (3) *REQUIRED ACTIONS; DEEMED APPROVAL.*—
19 The Director of the Pension Rehabilitation Adminis-
20 tration shall approve or deny any application under
21 this subsection within 90 days after the submission of
22 such application. An application shall be deemed ap-
23 proved unless, within such 90 days, the Director noti-
24 fies the plan sponsor of the denial of such application
25 and the reasons for such denial. Any approval or de-

1 *nial of an application by the Director of the Pension*
2 *Rehabilitation Administration shall be treated as a*
3 *final agency action for purposes of section 704 of title*
4 *5, United States Code. The Pension Rehabilitation*
5 *Administration shall make the loan pursuant to any*
6 *application promptly after the approval of such ap-*
7 *plication.*

8 (4) *CERTAIN PLANS REQUIRED TO APPLY.—The*
9 *plan sponsor of any plan with respect to which a sus-*
10 *pension of benefits has been approved under section*
11 *432(e)(9) of the Internal Revenue Code of 1986 and*
12 *section 305(e)(9) of the Employee Retirement Income*
13 *Security Act of 1974 or under section 418E of such*
14 *Code, before the date of the enactment of this Act shall*
15 *apply for a loan under this section. The Director of*
16 *the Pension Rehabilitation Administration shall pro-*
17 *vide for such plan sponsors to use the simplified ap-*
18 *plication under subsection (d)(2)(B).*

19 (5) *INCENTIVE FOR EARLY REPAYMENT.—The*
20 *plan sponsor may elect at the time of the application*
21 *to repay the loan principal, along with the remaining*
22 *interest, at least as rapidly as equal installments over*
23 *the 10-year period beginning with the 21st year after*
24 *the date of the loan. In the case of a plan making this*

election, the interest on the loan shall be reduced by
0.5 percent.

(d) *LOAN AMOUNT AND USE.*—

(1) *AMOUNT OF LOAN.*—

(A) *IN GENERAL.*—*Except as provided in subparagraph (B) and paragraph (2), the amount of any loan under subsection (a) shall be, as demonstrated by the plan sponsor on the application under subsection (c), the amount needed to purchase annuity contracts or to implement a portfolio described in paragraph (3)(C) (or a combination of the two) sufficient to provide benefits of participants and beneficiaries of the plan in pay status, and terminated vested benefits, at the time the loan is made.*

(B) *PLANS WITH SUSPENDED BENEFITS.*—

In the case of a plan with respect to which a suspension of benefits has been approved under section 432(e)(9) of the Internal Revenue Code of 1986 and section 305(e)(9) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1085(e)(9)) or under section 418E of such Code—

1 *(i) the suspension of benefits shall not*
 2 *be taken into account in applying subpara-*
 3 *graph (A); and*

4 *(ii) the loan amount shall be the*
 5 *amount sufficient to provide benefits of par-*
 6 *ticipants and beneficiaries of the plan in*
 7 *pay status and terminated vested benefits at*
 8 *the time the loan is made, determined with-*
 9 *out regard to the suspension, including ret-*
 10 *roactive payment of benefits which would*
 11 *otherwise have been payable during the pe-*
 12 *riod of the suspension.*

13 (2) *COORDINATION WITH PBGC FINANCIAL AS-*
 14 *SISTANCE.—*

15 *(A) IN GENERAL.—In the case of a plan*
 16 *which is also applying for financial assistance*
 17 *under section 4261(d) of the Employee Retire-*
 18 *ment Income Security Act of 1974 (29 U.S.C.*
 19 *1431(d))—*

20 *(i) the plan sponsor shall submit the*
 21 *loan application and the application for fi-*
 22 *nancial assistance jointly to the Pension*
 23 *Rehabilitation Administration and the Pen-*
 24 *sion Benefit Guaranty Corporation with the*
 25 *information necessary to determine the eli-*

gibility for and amount of the loan under this section and the financial assistance 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

1 1986 and section 305(f)(2)(A)(ii) of such Act, the
 2 loan received under subsection (a) shall only be
 3 used to purchase annuity contracts which meet
 4 the requirements of subparagraph (B) or to im-
 5 plement a portfolio described in subparagraph
 6 (C) (or a combination of the two) to provide the
 7 benefits described in paragraph (1).

8 (B) ANNUITY CONTRACT REQUIREMENTS.—

9 The annuity contracts purchased under subpara-
 10 graph (A) shall be issued by an insurance com-
 11 pany which is licensed to do business under the
 12 laws of any State and which is rated A or better
 13 by a nationally recognized statistical rating or-
 14 ganization, and the purchase of such contracts
 15 shall meet all applicable fiduciary standards
 16 under the Employee Retirement Income Security
 17 Act of 1974.

18 (C) PORTFOLIO.—

19 (i) IN GENERAL.—A portfolio described
 20 in this subparagraph is—

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

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

8 (II) any other portfolio prescribed
9 by the Secretary of the Treasury in
10 regulations which has a similar risk
11 profile to the portfolios described in
12 subclause (I) and is equally protective
13 of the interests of participants and
14 beneficiaries.

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

20 (ii) *FIDUCIARY DUTY.*—Any invest-
21 ment manager of a portfolio under this sub-
22 paragraph shall acknowledge in writing
23 that such person is a fiduciary under the
24 Employee Retirement Income Security Act
25 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 to*
 13 *provide the benefits described in paragraph*
 14 *(1) until all such benefits have been paid*
 15 *and shall be accounted for separately from*
 16 *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 Pen-*
 22 *sion Rehabilitation Administration,*
 23 *including a mandatory triennial re-*
 24 *view of the adequacy of the portfolio to*
 25 *provide the benefits described in para-*

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

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

12 (E) *OMBUDSPERSON.*—The Participant and
13 Plan Sponsor Advocate established under section
14 4004 of the Employee Retirement Income Secu-
15 rity Act of 1974 shall act as ombudsperson for
16 participants and beneficiaries on behalf of whom
17 annuity contracts are purchased or who are cov-
18 ered by a portfolio under this paragraph.

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

24 (f) *LOAN DEFAULT.*—If a plan is unable to make any
25 payment on a loan under this section when due, the Pension

1 *Rehabilitation Administration shall negotiate with the plan*
 2 *sponsor revised terms for repayment (including installment*
 3 *payments over a reasonable period or forgiveness of a por-*
 4 *tion of the loan principal), but only to the extent necessary*
 5 *to avoid insolvency in the subsequent 18 months.*

6 (g) *AUTHORITY TO ISSUE RULES, ETC.—The Director*
 7 *of the Pension Rehabilitation Administration, in consulta-*
 8 *tion with the Director of the Pension Benefit Guaranty Cor-*
 9 *poration, the Secretary of the Treasury, and the Secretary*
 10 *of Labor, is authorized to issue rules regarding the form,*
 11 *content, and process of applications for loans under this*
 12 *section, actuarial standards and assumptions to be used in*
 13 *making estimates and projections for purposes of such ap-*
 14 *plications, and assumptions regarding interest rates, mor-*
 15 *tality, and distributions with respect to a portfolio de-*
 16 *scribed in subsection (d)(3)(C).*

17 (h) *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 PENSION*
 13 *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-year*
 21 *period beginning on the date of the loan, the*
 22 *withdrawal liability of such employer shall be*
 23 *determined under the Employee Retirement In-*
 24 *come 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 the
9 interest assumptions prescribed for purposes
10 of section 4044 of the *Employee Retirement*
11 *Income Security Act of 1974, as prescribed*
12 *in the regulations under section 4281 of the*
13 *Employee Retirement Income Security Act*
14 *of 1974 in the case of such a mass with-*
15 *drawal.*

16 “(B) ANNUITY CONTRACTS AND INVESTMENT
17 PORTFOLIOS PURCHASED WITH LOAN FUNDS.—
18 *Annuity contracts purchased and portfolios im-*
19 *plemented under section 4(d)(3) of the Rehabili-*
20 *tation for Multiemployer Pensions Act of 2019*
21 *shall not be taken into account as plan assets in*
22 *determining the withdrawal liability of any em-*
23 *ployer under subparagraph (A), but the amount*
24 *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 liability.
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 port-
14 folios implemented under section 4(d)(3) of such
15 Act, and the benefits provided to participants
16 and beneficiaries under such contracts or port-
17 folios, shall not be taken into account in deter-
18 mining minimum required contributions under
19 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 or
23 portfolios, shall be taken into account as liabil-
24 ities 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 INCOME*
 8 *SECURITY ACT OF 1974.*—Section 305 of the Employee Re-
 9 irement Income Security Act of 1974 (29 U.S.C. 1085) is
 10 amended by adding at the end the following new subsection:

11 “(k) *SPECIAL RULES FOR PLANS RECEIVING PENSION*
 12 *REHABILITATION LOANS.*—

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

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

22 “(i) by applying section 4219(c)(1)(D)
 23 as if the plan were terminating by the with-
 24 drawal of every employer from the plan,
 25 and

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

8 “(B) ANNUITY CONTRACTS AND INVESTMENT
 9 PORTFOLIOS PURCHASED WITH LOAN FUNDS.—
 10 Annuity contracts purchased and portfolios im-
 11 plemented under section 4(d)(3) of the Rehabili-
 12 tation for Multiemployer Pensions Act shall not
 13 be taken into account in determining the with-
 14 drawal liability of any employer under subpara-
 15 graph (A), but the amount equal to the greater
 16 of—

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

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

23 “(2) COORDINATION WITH FUNDING REQUIRE-
 24 MENTS.—In the case of a plan which receives a loan

1 *under section 4(a) of the Rehabilitation for Multiem-*
2 *ployer Pensions Act—*

3 “(A) *annuity contracts purchased and port-*
4 *folios implemented under section 4(d)(3) of such*
5 *Act, and the benefits provided to participants*
6 *and beneficiaries under such contracts or port-*
7 *folios, shall not be taken into account in deter-*
8 *mining minimum required contributions under*
9 *section 302,*

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

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

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

22 *The Secretary of the Treasury shall from time to time*
23 *transfer from the general fund of the Treasury to the Pen-*
24 *sion Rehabilitation Trust Fund established under section*
25 *9512 of the Internal Revenue Code of 1986 such amounts*

1 *as are necessary to fund the loan program under section*
 2 *4 of this Act, including from proceeds from the Secretary’s*
 3 *issuance of obligations under chapter 31 of title 31, United*
 4 *States Code.*

5 **SEC. 7. REPORTS OF PLANS RECEIVING PENSION REHABILI-**
 6 **TATION LOANS.**

7 *(a) IN GENERAL.—Subpart E of part III of subchapter*
 8 *A of chapter 61 of the Internal Revenue Code of 1986 is*
 9 *amended by adding at the end the following new section:*
 10 **“SEC. 6059A. REPORTS OF PLANS RECEIVING PENSION RE-**
 11 **HABILITATION LOANS.**

12 *“(a) IN GENERAL.—In the case of a plan receiving a*
 13 *loan under section 4(a) of the Rehabilitation for Multiem-*
 14 *ployer Pensions Act of 2019, with respect to the first plan*
 15 *year beginning after the date of the loan and each of the*
 16 *29 succeeding plan years, not later than the 90th day of*
 17 *each such plan year the plan sponsor shall file with the*
 18 *Secretary a report (including appropriate documentation*
 19 *and actuarial certifications from the plan actuary, as re-*
 20 *quired by the Secretary) that contains—*

21 *“(1) the funded percentage (as defined in section*
 22 *432(j)(2)) as of the first day of such plan year, and*
 23 *the underlying actuarial value of assets (determined*
 24 *with regard, and without regard, to annuity contracts*
 25 *purchased and portfolios implemented with proceeds*

1 *of such loan) and liabilities (including any amounts*
2 *due with respect to such loan) taken into account in*
3 *determining such percentage,*

4 “(2) *the market value of the assets of the plan*
5 *(determined as provided in paragraph (1)) as of the*
6 *last day of the plan year preceding such plan year,*

7 “(3) *the total value of all contributions made by*
8 *employers and employees during the plan year pre-*
9 *ceding such plan year,*

10 “(4) *the total value of all benefits paid during*
11 *the plan year preceding such plan year,*

12 “(5) *cash flow projections for such plan year and*
13 *the 9 succeeding plan years, and the assumptions*
14 *used in making such projections,*

15 “(6) *funding standard account projections for*
16 *such plan year and the 9 succeeding plan years, and*
17 *the assumptions relied upon in making such projec-*
18 *tions,*

19 “(7) *the total value of all investment gains or*
20 *losses during the plan year preceding such plan year,*

21 “(8) *any significant reduction in the number of*
22 *active participants during the plan year preceding*
23 *such plan year, and the reason for such reduction,*

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

4 “(10) a list of employers that paid withdrawal
5 liability to the plan during the plan year preceding
6 such plan year and, for each employer, a total assess-
7 ment of the withdrawal liability paid, the annual
8 payment amount, and the number of years remaining
9 in the payment schedule with respect to such with-
10 drawal liability,

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

15 “(12) details regarding any funding improve-
16 ment plan or rehabilitation plan and updates to such
17 plan,

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

23 “(14) the amount of any financial assistance re-
24 ceived under section 4261 of the Employee Retirement
25 Income Security Act of 1974 to pay benefits during

1 *the preceding plan year, and the total amount of such*
2 *financial assistance received for all preceding years,*

3 *“(15) the information contained on the most re-*
4 *cent annual funding notice submitted by the plan*
5 *under section 101(f) of the Employee Retirement In-*
6 *come Security Act of 1974,*

7 *“(16) the information contained on the most re-*
8 *cent annual return under section 6058 and actuarial*
9 *report under section 6059 of the plan, and*

10 *“(17) copies of the plan document and amend-*
11 *ments, other retirement benefit or ancillary benefit*
12 *plans relating to the plan and contribution obliga-*
13 *tions under such plans, a breakdown of administra-*
14 *tive expenses of the plan, participant census data and*
15 *distribution of benefits, the most recent actuarial*
16 *valuation report as of the plan year, copies of collec-*
17 *tive bargaining agreements, and financial reports,*
18 *and such other information as the Secretary, in con-*
19 *sultation with the Director of the Pension Rehabilita-*
20 *tion Administration, may require.*

21 *“(b) ELECTRONIC SUBMISSION.—The report required*
22 *under subsection (a) shall be submitted electronically.*

23 *“(c) INFORMATION SHARING.—The Secretary shall*
24 *share the information in the report under subsection (a)*

1 *with the Secretary of Labor and the Director of the Pension*
 2 *Benefit Guaranty Corporation.*

3 “(d) *REPORT TO PARTICIPANTS, BENEFICIARIES, AND*
 4 *EMPLOYERS.—Each plan sponsor required to file a report*
 5 *under subsection (a) shall, before the expiration of the time*
 6 *prescribed for the filing of such report, also provide a sum-*
 7 *mary (written in a manner so as to be understood by the*
 8 *average plan participant) of the information in such report*
 9 *to participants and beneficiaries in the plan and to each*
 10 *employer with an obligation to contribute to the plan.”.*

11 (b) *PENALTY.—Subsection (e) of section 6652 of the*
 12 *Internal Revenue Code of 1986 is amended—*

13 (1) *by inserting “, 6059A (relating to reports of*
 14 *plans receiving pension rehabilitation loans)” after*
 15 *“deferred compensation)”;*

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

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

22 (c) *CLERICAL AMENDMENT.—The table of sections for*
 23 *subpart E of part III of subchapter A of chapter 61 of the*
 24 *Internal Revenue Code of 1986 is amended by adding at*
 25 *the end the following new item:*

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

1 **SEC. 8. PBGC FINANCIAL ASSISTANCE.**

2 (a) *IN GENERAL.*—Section 4261 of the *Employee Re-*
 3 *tirement Income Security Act of 1974* (29 U.S.C. 1431) is
 4 *amended by adding at the end the following new subsection:*

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

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

8 “(B) *which is insolvent but has not been termi-*
 9 *nated and is receiving assistance from the corporation*
 10 *(other than assistance under this subsection),*

11 *and which is applying for a loan under section 4(a) of the*
 12 *Rehabilitation for Multiemployer Pensions Act may also*
 13 *apply to the corporation for financial assistance under this*
 14 *subsection, by jointly submitting such applications in ac-*
 15 *cordance with section 4(d)(2) of such Act. The application*
 16 *for financial assistance under this subsection shall dem-*
 17 *onstrate, based on projections by the plan actuary, that*
 18 *after the receipt of the anticipated loan amount under sec-*
 19 *tion 4(a) of such Act, the plan will still become (or remain)*
 20 *insolvent within the 30-year period beginning on the date*
 21 *of the loan.*

22 “(2) *In the case of a plan described in paragraph*
 23 *(1)(A), the financial assistance provided pursuant to such*
 24 *application under this subsection shall be the amount (de-*
 25 *termined by the plan actuary and submitted on the applica-*
 26 *tion) equal to the sum of—*

1 “(A) the percentage of benefits of participants
2 and beneficiaries of the plan in pay status at the time
3 of the application, and

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

7 which, if such percentage were paid by the corporation in
8 combination with the loan, would allow the plan to avoid
9 the projected insolvency and be projected to have increasing
10 assets over any 5-year period following the repayment of
11 the loan. Such amount shall not exceed the maximum guar-
12 anteed benefit with respect to all participants and bene-
13 ficiaries of the plan under sections 4022A and 4022B. For
14 this purpose, the maximum guaranteed benefit amount
15 shall be determined by disregarding any loan available
16 from the Pension Rehabilitation Administration and shall
17 be determined as if the plan were insolvent on the date of
18 the application. Further, the present value of the maximum
19 guaranteed benefit amount with respect to such partici-
20 pants and beneficiaries may be calculated in the aggregate,
21 rather than by reference to the benefit of each such partici-
22 pant or beneficiary.

23 “(3) In the case of a plan described in paragraph
24 (1)(B), the financial assistance provided pursuant to such
25 application under this subsection shall be the amount (de-

1 *terminated by the plan actuary and submitted on the applica-*
2 *tion) which, if such amount were paid by the corporation*
3 *in combination with the loan and any other assistance*
4 *being provided to the plan by the corporation at the time*
5 *of the application, would enable the plan to emerge from*
6 *insolvency.*

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

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

18 (b) APPROPRIATIONS.—There is appropriated to the
19 Director of the Pension Benefit Guaranty Corporation such
20 sums as may be necessary for each fiscal year to provide
21 the financial assistance described in section 4261(d) of the
22 Employee Retirement Income Security Act of 1974 (29
23 U.S.C. 1431(d)) (as added by this section) (including nec-
24 essary administrative and operating expenses relating to
25 such assistance).

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

3 **SECTION 1. SHORT TITLE.**

4 **This Act may be cited as the “Rehabilita-**
5 **tion for Multiemployer Pensions Act of 2019”.**

6 **SEC. 2. PENSION REHABILITATION ADMINISTRATION; ES-**
7 **TABLISHMENT; POWERS.**

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

12 **(b) DIRECTOR.—**

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

17 **(2) TERM.—**

18 **(A) IN GENERAL.—The term of of-**
19 **fice of the Director shall be 5 years.**

20 **(B) SERVICE UNTIL APPOINTMENT OF**
21 **SUCCESSOR.—An individual serving as**
22 **Director at the expiration of a term**
23 **may continue to serve until a suc-**
24 **cessor is appointed.**

25 **(3) POWERS.—**

1 **(A) APPOINTMENT OF DEPUTY DIREC-**
2 **TORS, OFFICERS, AND EMPLOYEES.—The**
3 **Director may appoint Deputy Direc-**
4 **tors, officers, and employees, includ-**
5 **ing attorneys, in accordance with**
6 **chapter 51 and subchapter III of**
7 **chapter 53 of title 5, United States**
8 **Code.**

9 **(B) CONTRACTING.—**

10 **(i) IN GENERAL.—The Director**
11 **may contract for financial and ad-**
12 **ministrative services (including**
13 **those related to budget and ac-**
14 **counting, financial reporting, per-**
15 **sonnel, and procurement) with**
16 **the General Services Administra-**
17 **tion, or such other Federal agen-**
18 **cy as the Director determines ap-**
19 **propriate, for which payment**
20 **shall be made in advance, or by**
21 **reimbursement, from funds of the**
22 **Pension Rehabilitation Adminis-**
23 **tration in such amounts as may**
24 **be agreed upon by the Director**

1 **and the head of the Federal agen-**
2 **cy providing the services.**

3 **(ii) SUBJECT TO APPROPRIA-**
4 **TIONS.—Contract authority under**
5 **clause (i) shall be effective for**
6 **any fiscal year only to the extent**
7 **that appropriations are available**
8 **for that purpose.**

9 **(c) TRANSFER OF FUNDS.—The Secretary of**
10 **the Treasury may transfer for any fiscal year,**
11 **from unobligated amounts appropriated to**
12 **the Department of the Treasury, to the Pen-**
13 **sion Rehabilitation Administration such sums**
14 **as may be reasonably necessary for the ad-**
15 **ministrative and operating expenses of the**
16 **Pension Rehabilitation Administration.**

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

18 **(a) IN GENERAL.—Subchapter A of chapter**
19 **98 of the Internal Revenue Code of 1986 is**
20 **amended by adding at the end the following**
21 **new section:**

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

23 **“(a) CREATION OF TRUST FUND.—There is**
24 **established in the Treasury of the United**
25 **States a trust fund to be known as the ‘Pen-**

1 sion Rehabilitation Trust Fund’ (hereafter in
2 this section referred to as the ‘Fund’), con-
3 sisting of such amounts as may be appro-
4 priated or credited to the Fund as provided
5 in this section and section 9602(b).

6 “(b) TRANSFERS TO FUND.—

7 “(1) AMOUNTS ATTRIBUTABLE TO TREAS-
8 URY BONDS.—There shall be credited to
9 the Fund the amounts transferred under
10 section 6 of the Rehabilitation for Multi-
11 employer Pensions Act of 2019.

12 “(2) LOAN INTEREST AND PRINCIPAL.—

13 “(A) IN GENERAL.—The Director of
14 the Pension Rehabilitation Adminis-
15 tration established under section 2 of
16 the Rehabilitation for Multiemployer
17 Pensions Act of 2019 shall deposit in
18 the Fund any amounts received from
19 a plan as payment of interest or prin-
20 cipal on a loan under section 4 of
21 such Act.

22 “(B) INTEREST.—For purposes of
23 subparagraph (A), the term ‘interest’
24 includes points and other similar
25 amounts.

1 **“(3) TRANSFERS FROM SECRETARY.—The**
2 **Director of the Pension Rehabilitation**
3 **Administration shall deposit in the Fund**
4 **any amounts received from the Secretary**
5 **under section 2(c) of such Act.**

6 **“(4) AVAILABILITY OF FUNDS.—Amounts**
7 **credited to or deposited in the Fund shall**
8 **remain available until expended.**

9 **“(c) EXPENDITURES FROM FUND.—Amounts**
10 **in the Fund are available without further ap-**
11 **propriation to the Pension Rehabilitation Ad-**
12 **ministration—**

13 **“(1) for the purpose of making the**
14 **loans described in section 4 of the Reha-**
15 **bilitation for Multiemployer Pensions Act**
16 **of 2019,**

17 **“(2) for the payment of principal and**
18 **interest on obligations issued under sec-**
19 **tion 6 of such Act, and**

20 **“(3) for administrative and operating**
21 **expenses of such Administration.”.**

22 **(b) CLERICAL AMENDMENT.—The table of**
23 **sections for subchapter A of chapter 98 of the**
24 **Internal Revenue Code of 1986 is amended by**
25 **adding at the end the following new item:**

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

1 SEC. 4. LOAN PROGRAM FOR MULTIEMPLOYER DEFINED
2 BENEFIT PLANS.

3 (a) LOAN AUTHORITY.—

4 (1) IN GENERAL.—The Pension Reha-
5 bilitation Administration established
6 under section 2 is authorized—

7 (A) to make loans to multiem-
8 ployer plans (as defined in section
9 414(f) of the Internal Revenue Code of
10 1986) which are defined benefit plans
11 (as defined in section 414(j) of such
12 Code) and which—

13 (i) are in critical and declin-
14 ing status (within the meaning of
15 section 432(b)(6) of such Code and
16 section 305(b)(6) of such Act) as of
17 the date of the enactment of this
18 Act, or with respect to which a
19 suspension of benefits has been
20 approved under section 432(e)(9)
21 of such Code and section 305(e)(9)
22 of such Act as of such date;

23 (ii) as of such date of enact-
24 ment, are in critical status (with-
25 in the meaning of section
26 432(b)(2) of such Code and section

1 **305(b)(2) of such Act), have a**
2 **funded percentage of less than 40**
3 **percent (as determined for pur-**
4 **poses of section 432 of such Code**
5 **and section 305 of such Act), and**
6 **have a ratio of active to inactive**
7 **participants which is less than 2**
8 **to 3; or**

9 **(iii) are insolvent for purposes**
10 **of section 418E of such Code as of**
11 **such date of enactment, if they**
12 **became insolvent after December**
13 **16, 2014, and have not been termi-**
14 **nated; and**

15 **(B) subject to subsection (b), to**
16 **establish appropriate terms for such**
17 **loans.**

18 **(2) CONSULTATION.—The Director of**
19 **the Pension Rehabilitation Administra-**
20 **tion shall consult with the Secretary of**
21 **the Treasury, the Secretary of Labor, and**
22 **the Director of the Pension Benefit Guar-**
23 **anty Corporation before making any loan**
24 **under paragraph (1), and shall share with**

1 **such persons the application and plan in-**
2 **formation with respect to each such loan.**

3 **(3) ESTABLISHMENT OF LOAN PRO-**
4 **GRAM.—**

5 **(A) IN GENERAL.—A program to**
6 **make the loans authorized under this**
7 **section shall be established not later**
8 **than September 30, 2019, with guid-**
9 **ance regarding such program to be**
10 **promulgated by the Director of the**
11 **Pension Rehabilitation Administra-**
12 **tion, in consultation with the Pension**
13 **Benefit Guaranty Corporation and**
14 **the Department of Labor, not later**
15 **than December 31, 2019.**

16 **(B) LOANS AUTHORIZED BEFORE**
17 **PROGRAM DATE.—Without regard to**
18 **whether the program under subpara-**
19 **graph (A) has been established, a plan**
20 **may apply for a loan under this sec-**
21 **tion before either date described in**
22 **such subparagraph, and the Pension**
23 **Rehabilitation Administration shall**
24 **approve the application and make the**
25 **loan before establishment of the pro-**

1 **gram if necessary to avoid any sus-**
2 **pension of the accrued benefits of**
3 **participants.**

4 **(b) LOAN TERMS.—**

5 **(1) IN GENERAL.—The terms of any**
6 **loan made under subsection (a) shall**
7 **state that—**

8 **(A) the plan shall make payments**
9 **of interest on the loan for a period of**
10 **29 years beginning on the date of the**
11 **loan (or 19 years in the case of a plan**
12 **making the election under subsection**
13 **(c)(5));**

14 **(B) final payment of interest and**
15 **principal shall be due in the 30th**
16 **year after the date of the loan (except**
17 **as provided in an election under sub-**
18 **section (c)(5)); and**

19 **(C) as a condition of the loan, the**
20 **plan sponsor stipulates that—**

21 **(i) except as provided in**
22 **clause (ii), the plan will not in-**
23 **crease benefits, allow any em-**
24 **ployer participating in the plan to**
25 **reduce its contributions, or ac-**

1 cept any collective bargaining
2 agreement which provides for re-
3 duced contribution rates, during
4 the 30-year period described in
5 subparagraphs (A) and (B);

6 (ii) in the case of a plan with
7 respect to which a suspension of
8 benefits has been approved under
9 section 432(e)(9) of the Internal
10 Revenue Code of 1986 and section
11 305(e)(9) of the Employee Retire-
12 ment Income Security Act of 1974,
13 or under section 418E of such
14 Code, before the loan, the plan
15 will reinstate the suspended bene-
16 fits (or will not carry out any sus-
17 pension which has been approved
18 but not yet implemented);

19 (iii) the plan sponsor will
20 comply with the requirements of
21 section 6059A of the Internal Rev-
22 enue Code of 1986;

23 (iv) the plan will continue to
24 pay all premiums due under sec-
25 tion 4007 of the Employee Retire-

1 **ment Income Security Act of 1974;**
2 **and**

3 **(v) the plan and plan adminis-**
4 **trator will meet such other re-**
5 **quirements as the Director of the**
6 **Pension Rehabilitation Adminis-**
7 **tration provides in the loan**
8 **terms.**

9 **The terms of the loan shall not make**
10 **reference to whether the plan is re-**
11 **ceiving financial assistance under**
12 **section 4261(d) of the Employee Re-**
13 **irement Income Security Act of 1974**
14 **(29 U.S.C. 1431(d)) or to any adjust-**
15 **ment of the loan amount under sub-**
16 **section (d)(2)(A)(ii).**

17 **(2) INTEREST RATE.—Except as pro-**
18 **vided in the second sentence of this para-**
19 **graph and subsection (c)(5), loans made**
20 **under subsection (a) shall have as low an**
21 **interest rate as is feasible. Such rate**
22 **shall be determined by the Pension Reha-**
23 **bilitation Administration and shall—**

24 **(A) not be lower than the rate of**
25 **interest on 30-year Treasury securi-**

ties on the first day of the calendar year in which the loan is issued, and

(B) not exceed the greater of—

(i) a rate .2 percent higher than such rate of interest on such date, or

(ii) the rate necessary to collect revenues sufficient to administer the program under this section.

(c) LOAN APPLICATION.—

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

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

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

1 (ii) the plan is reasonably ex-
2 pected to be able to pay benefits
3 and the interest on the loan dur-
4 ing such period and to accumu-
5 late sufficient funds to repay the
6 principal when due;

7 (B) provide the plan's most re-
8 cently filed Form 5500 as of the date
9 of application and any other informa-
10 tion necessary to determine the loan
11 amount under subsection (d);

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

22 (D) state in what manner the loan
23 proceeds will be invested pursuant to
24 subsection (d), the person from whom
25 any annuity contracts under such

1 subsection will be purchased, and the
2 person who will be the investment
3 manager for any portfolio imple-
4 mented under such subsection; and

5 (E) include such other informa-
6 tion and certifications as the Director
7 of the Pension Rehabilitation Admin-
8 istration shall require.

9 (2) STANDARD FOR ACCEPTING ACTU-
10 ARIAL AND PLAN SPONSOR DETERMINATIONS
11 AND DEMONSTRATIONS IN THE APPLICA-
12 TION.—In evaluating the plan sponsor's
13 application, the Director of the Pension
14 Rehabilitation Administration shall ac-
15 cept the determinations and demonstra-
16 tions in the application unless the Direc-
17 tor, in consultation with the Director of
18 the Pension Benefit Guaranty Corpora-
19 tion and the Secretary of Labor, con-
20 cludes that the determinations and dem-
21 onstrations in the application are unrea-
22 sonable or are inconsistent with any
23 rules issued by the Director pursuant to
24 subsection (g).

1 **(3) REQUIRED ACTIONS; DEEMED AP-**
2 **PROVAL.—The Director of the Pension Re-**
3 **habilitation Administration shall approve**
4 **or deny any application under this sub-**
5 **section within 90 days after the submis-**
6 **sion of such application. An application**
7 **shall be deemed approved unless, within**
8 **such 90 days, the Director notifies the**
9 **plan sponsor of the denial of such appli-**
10 **cation and the reasons for such denial.**
11 **Any approval or denial of an application**
12 **by the Director of the Pension Rehabilita-**
13 **tion Administration shall be treated as a**
14 **final agency action for purposes of sec-**
15 **tion 704 of title 5, United States Code.**
16 **The Pension Rehabilitation Administra-**
17 **tion shall make the loan pursuant to any**
18 **application promptly after the approval**
19 **of such application.**

20 **(4) CERTAIN PLANS REQUIRED TO**
21 **APPLY.—The plan sponsor of any plan**
22 **with respect to which a suspension of**
23 **benefits has been approved under section**
24 **432(e)(9) of the Internal Revenue Code of**
25 **1986 and section 305(e)(9) of the Em-**

1 **ployee Retirement Income Security Act of**
2 **1974 or under section 418E of such Code,**
3 **before the date of the enactment of this**
4 **Act shall apply for a loan under this sec-**
5 **tion. The Director of the Pension Reha-**
6 **bilitation Administration shall provide**
7 **for such plan sponsors to use the sim-**
8 **plified application under subsection**
9 **(d)(2)(B).**

10 **(5) INCENTIVE FOR EARLY REPAYMENT.—**
11 **The plan sponsor may elect at the time of**
12 **the application to repay the loan prin-**
13 **cipal, along with the remaining interest,**
14 **over the 10-year period beginning with**
15 **the 21st year after the date of the loan. In**
16 **the case of a plan making this election,**
17 **the interest on the loan shall be reduced**
18 **by 0.5 percent.**

19 **(d) LOAN AMOUNT AND USE.—**

20 **(1) AMOUNT OF LOAN.—**

21 **(A) IN GENERAL.—Except as pro-**
22 **vided in subparagraphs (B) and (C)**
23 **and paragraph (2), the amount of any**
24 **loan under subsection (a) shall be, as**
25 **demonstrated by the plan sponsor on**

1 the application under subsection (c),
2 the amount needed to purchase annu-
3 ity contracts or to implement a port-
4 folio described in paragraph (3)(C)
5 (or a combination of the two) suffi-
6 cient to provide benefits of partici-
7 pants and beneficiaries of the plan in
8 pay status, and terminated vested
9 benefits, at the time the loan is made.

10 (B) LIMITATION BASED ON ABILITY
11 TO REPAY.—If at the time of the appli-
12 cation under subsection (c) the plan
13 sponsor determines that, based on a
14 repayment schedule that would pro-
15 vide for repayment of the full amount
16 determined under subparagraph (A)
17 or (C)(ii) within the 30 year period
18 described in subsection (b)(1), making
19 payments would cause the plan to be
20 within 18 months of becoming insol-
21 vent at any point during such period,
22 the loan amount shall be such lesser
23 amount as the plan sponsor deter-
24 mines the plan will be able to repay

1 without becoming within 18 months
2 of insolvency.

3 (C) PLANS WITH SUSPENDED BENE-
4 FITS.—In the case of a plan with re-
5 spect to which a suspended benefits
6 has been approved under section
7 432(e)(9) of the Internal Revenue
8 Code of 1986 and section 305(e)(9) of
9 the Employee Retirement Income Se-
10 curity Act of 1974 (29 U.S.C.
11 1085(e)(9)) or under section 418E of
12 such Code—

13 (i) the suspension of benefits
14 shall not be taken into account in
15 applying subparagraph (A); and

16 (ii) except as provided in sub-
17 paragraph (B), the loan amount
18 shall be the amount sufficient to
19 provide benefits of participants
20 and beneficiaries of the plan in
21 pay status and terminated vested
22 benefits at the time the loan is
23 made, determined without regard
24 to the suspension, including ret-
25 roactive payment of benefits

1 which would otherwise have been
2 payable during the period of the
3 suspension.

4 **(2) COORDINATION WITH PBGC FINANCIAL**
5 **ASSISTANCE.—**

6 **(A) IN GENERAL.—In the case of a**
7 **plan which is also applying for finan-**
8 **cial assistance under section 4261(d)**
9 **of the Employee Retirement Income**
10 **Security Act of 1974 (29 U.S.C.**
11 **1431(d))—**

12 **(i) the plan sponsor shall sub-**
13 **mit the loan application and the**
14 **application for financial assist-**
15 **ance jointly to the Pension Reha-**
16 **bilitation Administration and the**
17 **Pension Benefit Guaranty Cor-**
18 **poration with the information**
19 **necessary to determine the eligi-**
20 **bility for and amount of the loan**
21 **under this section and the finan-**
22 **cial assistance under section**
23 **4261(d) of such Act; and**

24 **(ii) if such financial assistance**
25 **is granted, the amount of the loan**

1 under subsection (a) shall not ex-
2 ceed an amount equal to the ex-
3 cess of—

4 (I) the amount determined
5 under paragraph (1)(A) or
6 (1)(C)(ii) (whichever is appli-
7 cable), without regard to
8 paragraph (1)(B); over

9 (II) the amount of such fi-
10 nancial assistance.

11 **(B) PLANS ALREADY RECEIVING PBGC**
12 **ASSISTANCE.—The Director of the Pen-**
13 **sion Rehabilitation Administration**
14 **shall provide for a simplified applica-**
15 **tion for the loan under this section**
16 **which may be used by an insolvent**
17 **plan which has not been terminated**
18 **and which is already receiving finan-**
19 **cial assistance (other than under sec-**
20 **tion 4261(d) of such Act) from the**
21 **Pension Benefit Guaranty Corpora-**
22 **tion at the time of the application for**
23 **the loan under this section.**

24 **(3) USE OF LOAN FUNDS.—**

1 **(A) IN GENERAL.—**The loan re-
2 ceived under subsection (a) shall be
3 used to purchase annuity contracts
4 which meet the requirements of sub-
5 paragraph (B) or to implement a port-
6 folio described in subparagraph (C)
7 (or a combination of the two) to pro-
8 vide the benefits described in para-
9 graph (1).

10 **(B) ANNUITY CONTRACT REQUIRE-**
11 **MENTS.—**The annuity contracts pur-
12 chased under subparagraph (A) shall
13 be issued by an insurance company
14 which is licensed to do business
15 under the laws of any State and
16 which is rated A or better by a na-
17 tionally recognized statistical rating
18 organization, and the purchase of
19 such contracts shall meet all applica-
20 ble fiduciary standards under the
21 Employee Retirement Income Secu-
22 rity Act of 1974.

23 **(C) PORTFOLIO.—**

1 **(i) IN GENERAL.—A portfolio**
2 **described in this subparagraph**
3 **is—**

4 **(I) a cash matching port-**
5 **folio or duration matching**
6 **portfolio consisting of invest-**
7 **ment grade (as rated by a na-**
8 **tionally recognized statistical**
9 **rating organization) fixed in-**
10 **come investments, including**
11 **United States dollar-denomi-**
12 **nated public or private debt**
13 **obligations issued or guaran-**
14 **teed by the United States or a**
15 **foreign issuer, which are**
16 **tradeable in United States**
17 **currency and are issued at**
18 **fixed or zero coupon rates; or**

19 **(II) any other portfolio**
20 **prescribed by the Secretary of**
21 **the Treasury in regulations**
22 **which has a similar risk pro-**
23 **file to the portfolios described**
24 **in subclause (I) and is equally**
25 **protective of the interests of**

1 **participants and bene-**
2 **ficiaries.**

3 **Once implemented, such a port-**
4 **folio shall be maintained until all**
5 **liabilities to participants and**
6 **beneficiaries in pay status at the**
7 **time of the loan are satisfied.**

8 **(ii) FIDUCIARY DUTY.—Any in-**
9 **vestment manager of a portfolio**
10 **under this subparagraph shall ac-**
11 **knowledge in writing that such**
12 **person is a fiduciary under the**
13 **Employee Retirement Income Se-**
14 **curity Act of 1974 with respect to**
15 **the plan.**

16 **(iii) TREATMENT OF PARTICI-**
17 **PANTS AND BENEFICIARIES.—Partici-**
18 **pants and beneficiaries covered**
19 **by a portfolio under this subpara-**
20 **graph shall continue to be treated**
21 **as participants and beneficiaries**
22 **of the plan, including for pur-**
23 **poses of title IV of the Employee**
24 **Retirement Income Security Act**
25 **of 1974.**

(D) ACCOUNTING.—

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

(ii) OVERSIGHT OF NON-ANNUITY INVESTMENTS.—

(I) IN GENERAL.—Any portfolio implemented under this paragraph shall be subject to oversight by the Pension Rehabilitation Administration, including a mandatory triennial review of the adequacy of the portfolio to provide the benefits described in paragraph (1) and approval (to be provided within a reasonable period of time) of any decision by the plan sponsor to

1 **change the investment man-**
2 **ager of the portfolio.**

3 **(II) REMEDIAL ACTION.—If**
4 **the triennial review under**
5 **subclause (I) determines an**
6 **inadequacy, the plan sponsor**
7 **shall take remedial action to**
8 **ensure that the inadequacy**
9 **will be cured within 5 years of**
10 **the review.**

11 **(E) OMBUDSPERSON.—The Partici-**
12 **pant and Plan Sponsor Advocate es-**
13 **tablished under section 4004 of the**
14 **Employee Retirement Income Secu-**
15 **rity Act of 1974 shall act as**
16 **ombudsperson for participants and**
17 **beneficiaries on behalf of whom an-**
18 **nuity contracts are purchased or who**
19 **are covered by a portfolio under this**
20 **paragraph.**

21 **(e) COLLECTION OF REPAYMENT.—Except as**
22 **provided in subsection (f), the Pension Reha-**
23 **bilitation Administration shall make every ef-**
24 **fort to collect repayment of loans under this**

1 section in accordance with section 3711 of
2 title 31, United States Code.

3 (f) LOAN DEFAULT.—If a plan is unable to
4 make any payment on a loan under this sec-
5 tion when due, the Pension Rehabilitation Ad-
6 ministration shall negotiate with the plan
7 sponsor revised terms for repayment (includ-
8 ing installment payments over a reasonable
9 period or forgiveness of a portion of the loan
10 principal), but only to the extent necessary to
11 avoid insolvency in the subsequent 18
12 months.

13 (g) AUTHORITY TO ISSUE RULES, ETC.—The
14 Director of the Pension Rehabilitation Admin-
15 istration, in consultation with the Pension
16 Benefit Guaranty Corporation and the De-
17 partment of Labor, is authorized to issue
18 rules regarding the form, content, and proc-
19 ess of applications for loans under this sec-
20 tion, actuarial standards and assumptions to
21 be used in making estimates and projections
22 for purposes of such applications, and as-
23 sumptions regarding interest rates, mortality,
24 and distributions with respect to a portfolio
25 described in subsection (d)(3)(C).

1 **(h) COORDINATION WITH TAXATION OF UNRE-**
2 **LATED BUSINESS INCOME.—Subparagraph (A) of**
3 **section 514(c)(6) of the Internal Revenue Code**
4 **of 1986 is amended—**

5 **(1) by striking “or” at the end of**
6 **clause (i);**

7 **(2) by striking the period at the end**
8 **of clause (ii)(II) and inserting “, or”; and**

9 **(3) by adding at the end the following**
10 **new clause:**

11 **“(iii) indebtedness with re-**
12 **spect to a multiemployer plan**
13 **under a loan made by the Pension**
14 **Rehabilitation Administration**
15 **pursuant to section 4 of the Reha-**
16 **bilitation for Multiemployer Pen-**
17 **sions Act of 2019.”.**

18 **SEC. 5. COORDINATION WITH WITHDRAWAL LIABILITY AND**
19 **FUNDING RULES.**

20 **(a) AMENDMENT TO INTERNAL REVENUE**
21 **CODE OF 1986.—Section 432 of the Internal**
22 **Revenue Code of 1986 is amended by adding**
23 **at the end the following new subsection:**

24 **“(k) SPECIAL RULES FOR PLANS RECEIVING**
25 **PENSION REHABILITATION LOANS.—**

1 **“(1) DETERMINATION OF WITHDRAWAL LI-**
2 **ABILITY.—**

3 **“(A) IN GENERAL.—If any employer**
4 **participating in a plan at the time the**
5 **plan receives a loan under section**
6 **4(a) of the Rehabilitation for Multi-**
7 **employer Pensions Act of 2019 with-**
8 **draws from the plan before the end of**
9 **the 30-year period beginning on the**
10 **date of the loan, the withdrawal li-**
11 **ability of such employer shall be de-**
12 **termined under the Employee Retire-**
13 **ment Income Security Act of 1974—**

14 **“(i) by applying section**
15 **4219(c)(1)(D) of the Employee Re-**
16 **tirement Income Security Act of**
17 **1974 as if the plan were termi-**
18 **nating by the withdrawal of every**
19 **employer from the plan, and**

20 **“(ii) by determining the value**
21 **of nonforfeitable benefits under**
22 **the plan at the time of the**
23 **deemed termination by using the**
24 **interest assumptions prescribed**
25 **for purposes of section 4044 of the**

1 **Employee Retirement Income Se-**
2 **curity Act of 1974, as prescribed**
3 **in the regulations under section**
4 **4281 of the Employee Retirement**
5 **Income Security Act of 1974 in the**
6 **case of such a mass withdrawal.**

7 **“(B) ANNUITY CONTRACTS AND IN-**
8 **VESTMENT PORTFOLIOS PURCHASED WITH**
9 **LOAN FUNDS.—Annuity contracts pur-**
10 **chased and portfolios implemented**
11 **under section 4(d)(3) of the Rehabili-**
12 **tation for Multiemployer Pensions**
13 **Act of 2019 shall not be taken into ac-**
14 **count in determining the withdrawal**
15 **liability of any employer under sub-**
16 **paragraph (A), but the amount equal**
17 **to the greater of—**

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

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

25 **shall be so taken into account.**

1 **“(2) COORDINATION WITH FUNDING RE-**
2 **QUIREMENTS.—In the case of a plan which**
3 **receives a loan under section 4(a) of the**
4 **Rehabilitation for Multiemployer Pen-**
5 **sions Act of 2019—**

6 **“(A) annuity contracts purchased**
7 **and portfolios implemented under**
8 **section 4(d)(3) of such Act, and the**
9 **benefits provided to participants and**
10 **beneficiaries under such contracts or**
11 **portfolios, shall not be taken into ac-**
12 **count in determining minimum re-**
13 **quired contributions under section**
14 **412,**

15 **“(B) payments on the interest and**
16 **principal under the loan, and any**
17 **benefits owed in excess of those pro-**
18 **vided under such contracts or port-**
19 **folios, shall be taken into account as**
20 **liabilities for purposes of such sec-**
21 **tion, and**

22 **“(C) if such a portfolio is pro-**
23 **jected due to unfavorable investment**
24 **or actuarial experience to be unable**
25 **to fully satisfy the liabilities which it**

1 covers, the amount of the liabilities
2 projected to be unsatisfied shall be
3 taken into account as liabilities for
4 purposes of such section.”.

5 (b) AMENDMENT TO EMPLOYEE RETIREMENT
6 INCOME SECURITY ACT OF 1974.—Section 305 of
7 the Employee Retirement Income Security
8 Act of 1974 (29 U.S.C. 1085) is amended by add-
9 ing at the end the following new subsection:
10 “(k) SPECIAL RULES FOR PLANS RECEIVING
11 PENSION REHABILITATION LOANS.—

12 “(1) DETERMINATION OF WITHDRAWAL LI-
13 ABILITY.—

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

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

1 terminating by the withdrawal of
2 every employer from the plan,
3 and

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

13 “(B) ANNUITY CONTRACTS AND IN-
14 VESTMENT PORTFOLIOS PURCHASED WITH
15 LOAN FUNDS.—Annuity contracts pur-
16 chased and portfolios implemented
17 under section 4(d)(3) of the Rehabili-
18 tation for Multiemployer Pensions
19 Act of 2019 shall not be taken into ac-
20 count in determining the withdrawal
21 liability of any employer under sub-
22 paragraph (A), but the amount equal
23 to the greater of—

24 “(i) the benefits provided
25 under such contracts or portfolios

1 to participants and beneficiaries,
2 or

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

6 shall be so taken into account.

7 “(2) COORDINATION WITH FUNDING RE-
8 QUIREMENTS.—In the case of a plan which
9 receives a loan under section 4(a) of the
10 Rehabilitation for Multiemployer Pen-
11 sions Act of 2019—

12 “(A) annuity contracts purchased
13 and portfolios implemented under
14 section 4(d)(3) of such Act, and the
15 benefits provided to participants and
16 beneficiaries under such contracts or
17 portfolios, shall not be taken into ac-
18 count in determining minimum re-
19 quired contributions under section
20 302,

21 “(B) payments on the interest and
22 principal under the loan, and any
23 benefits owed in excess of those pro-
24 vided under such contracts or port-
25 folios, shall be taken into account as

1 liabilities for purposes of such sec-
2 tion, and

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

11 SEC. 6. ISSUANCE OF TREASURY BONDS.

12 The Secretary of the Treasury (in con-
13 sultation with the Director of the Pension Re-
14 habilitation Administration established under
15 section 2) shall from time to time transfer
16 from the general fund of the Treasury to the
17 Pension Rehabilitation Trust Fund estab-
18 lished under section 9512 of the Internal Rev-
19 enue Code of 1986 such amounts as are nec-
20 essary to fund the loan program under section
21 4 of this Act, including from proceeds from
22 the Secretary’s issuance of obligations under
23 chapter 31 of title 31, United States Code.

1 SEC. 7. REPORTS OF PLANS RECEIVING PENSION REHA-
2 BILITATION LOANS.

3 (a) IN GENERAL.—Subpart E of part III of
4 subchapter A of chapter 61 of the Internal
5 Revenue Code of 1986 is amended by adding
6 at the end the following new section:

7 “SEC. 6059A. REPORTS OF PLANS RECEIVING PENSION RE-
8 HABILITATION LOANS.

9 “(a) IN GENERAL.—In the case of a plan re-
10 ceiving a loan under section 4(a) of the Reha-
11 bilitation for Multiemployer Pensions Act of
12 2019, with respect to the first plan year begin-
13 ning after the date of the loan and each of the
14 29 succeeding plan years, not later than the
15 90th day of each such plan year the plan spon-
16 sor shall file with the Secretary a report (in-
17 cluding appropriate documentation and actu-
18 arial certifications from the plan actuary, as
19 required by the Secretary) that contains—

20 “(1) the funded percentage (as de-
21 fined in section 432(i)(2)) as of the first
22 day of such plan year, and the underlying
23 actuarial value of assets (determined
24 with regard, and without regard, to annu-
25 ity contracts purchased and portfolios
26 implemented with proceeds of such loan)

1 **and liabilities (including any amounts**
2 **due with respect to such loan) taken into**
3 **account in determining such percentage,**

4 **“(2) the market value of the assets of**
5 **the plan (determined as provided in para-**
6 **graph (1)) as of the last day of the plan**
7 **year preceding such plan year,**

8 **“(3) the total value of all contribu-**
9 **tions made by employers and employees**
10 **during the plan year preceding such plan**
11 **year,**

12 **“(4) the total value of all benefits paid**
13 **during the plan year preceding such plan**
14 **year,**

15 **“(5) cash flow projections for such**
16 **plan year and the 9 succeeding plan**
17 **years, and the assumptions used in mak-**
18 **ing such projections,**

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

23 **“(7) the total value of all investment**
24 **gains or losses during the plan year pre-**
25 **ceding such plan year,**

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

5 **“(9) a list of employers that withdrew**
6 **from the plan in the plan year preceding**
7 **such plan year, and the resulting reduc-**
8 **tion in contributions,**

9 **“(10) a list of employers that paid**
10 **withdrawal liability to the plan during**
11 **the plan year preceding such plan year**
12 **and, for each employer, a total assess-**
13 **ment of the withdrawal liability paid, the**
14 **annual payment amount, and the number**
15 **of years remaining in the payment sched-**
16 **ule with respect to such withdrawal li-**
17 **ability,**

18 **“(11) any material changes to bene-**
19 **fits, accrual rates, or contribution rates**
20 **during the plan year preceding such plan**
21 **year, and whether such changes relate to**
22 **the terms of the loan,**

23 **“(12) details regarding any funding**
24 **improvement plan or rehabilitation plan**
25 **and updates to such plan,**

1 **“(13) the number of participants and**
2 **beneficiaries during the plan year pre-**
3 **ceding such plan year who are active par-**
4 **ticipants, the number of participants and**
5 **beneficiaries in pay status, and the num-**
6 **ber of terminated vested participants and**
7 **beneficiaries,**

8 **“(14) the amount of any financial as-**
9 **sistance received under section 4261 of**
10 **the Employee Retirement Income Secu-**
11 **rity Act of 1974 to pay benefits during the**
12 **preceding plan year, and the total**
13 **amount of such financial assistance re-**
14 **ceived for all preceding years,**

15 **“(15) the information contained on**
16 **the most recent annual funding notice**
17 **submitted by the plan under section**
18 **101(f) of the Employee Retirement In-**
19 **come Security Act of 1974,**

20 **“(16) the information contained on**
21 **the most recent annual return under sec-**
22 **tion 6058 and actuarial report under sec-**
23 **tion 6059 of the plan, and**

24 **“(17) copies of the plan document and**
25 **amendments, other retirement benefit or**

1 ancillary benefit plans relating to the
2 plan and contribution obligations under
3 such plans, a breakdown of administra-
4 tive expenses of the plan, participant cen-
5 sus data and distribution of benefits, the
6 most recent actuarial valuation report as
7 of the plan year, copies of collective bar-
8 gaining agreements, and financial re-
9 ports, and such other information as the
10 Secretary, in consultation with the Direc-
11 tor of the Pension Rehabilitation Admin-
12 istration, may require.

13 “(b) ELECTRONIC SUBMISSION.—The report
14 required under subsection (a) shall be sub-
15 mitted electronically.

16 “(c) INFORMATION SHARING.—The Secretary
17 shall share the information in the report
18 under subsection (a) with the Secretary of
19 Labor and the Director of the Pension Benefit
20 Guaranty Corporation.

21 “(d) REPORT TO PARTICIPANTS, BENE-
22 FICIARIES, AND EMPLOYERS.—Each plan spon-
23 sor required to file a report under subsection
24 (a) shall, before the expiration of the time pre-
25 scribed for the filing of such report, also pro-

1 vide a summary (written in a manner so as to
2 be understood by the average plan partici-
3 pant) of the information in such report to par-
4 ticipants and beneficiaries in the plan and to
5 each employer with an obligation to con-
6 tribute to the plan.”.

7 (b) **PENALTY.**—Subsection (e) of section
8 6652 of the Internal Revenue Code of 1986 is
9 amended—

10 (1) by inserting “, 6059A (relating to
11 reports of plans receiving pension reha-
12 bilitation loans)” after “deferred com-
13 pensation)”;

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

17 (3) by adding at the end the fol-
18 lowing: “In the case of a failure with re-
19 spect to section 6059A, the amount im-
20 posed under this subsection shall not be
21 paid from the assets of the plan.”.

22 (c) **CLERICAL AMENDMENT.**—The table of
23 sections for subpart E of part III of sub-
24 chapter A of chapter 61 of the Internal Rev-

1 **Revenue Code of 1986 is amended by adding at**
2 **the end the following new item:**

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

3 **SEC. 8. PBGC FINANCIAL ASSISTANCE.**

4 **(a) IN GENERAL.—Section 4261 of the Em-**
5 **ployee Retirement Income Security Act of**
6 **1974 (29 U.S.C. 1431) is amended by adding at**
7 **the end the following new subsection:**

8 **“(d)(1) The plan sponsor of a multiem-**
9 **ployer plan—**

10 **“(A) which is in critical and declining**
11 **status (within the meaning of section**
12 **305(b)(6)) as of the date of the enactment**
13 **of this subsection, or with respect to**
14 **which a suspension of benefits has been**
15 **approved under section 305(e)(9) as of**
16 **such date;**

17 **“(B) which, as of such date of enact-**
18 **ment, is in critical status (within the**
19 **meaning of section 305(b)(2)), has a fund-**
20 **ed percentage of less than 40 percent (as**
21 **determined for purposes of section 305),**
22 **and has a ratio of active to inactive par-**
23 **ticipants which is less than 2 to 3; or**

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

7 and which is applying for a loan under sec-
8 tion 4(a) of the Rehabilitation for Multiem-
9 ployer Pensions Act of 2019 may also apply to
10 the corporation for financial assistance under
11 this subsection, by jointly submitting such ap-
12 plications in accordance with section 4(d)(2)
13 of such Act. The application for financial as-
14 sistance under this subsection shall dem-
15 onstrate, based on projections by the plan ac-
16 tuary, that after the receipt of the anticipated
17 loan amount under section 4(a) of such Act,
18 the plan will still become (or remain) insol-
19 vent within the 30-year period beginning on
20 the date of the loan.

21 “(2) In reviewing an application under
22 paragraph (1), the corporation shall review
23 the demonstrations and assumptions sub-
24 mitted with the loan application under sec-
25 tion 4(c) of the Rehabilitation for Multiem-

1 **ployer Pensions Act of 2019 and provide guid-**
2 **ance regarding such assumptions prior to ap-**
3 **proving any application for financial assist-**
4 **ance under this subsection. The corporation**
5 **may deny any application if the assumptions**
6 **and determinations are unreasonable, or in-**
7 **consistent with rules issued by the corpora-**
8 **tion, and the plan and the corporation are un-**
9 **able to reach agreement on such assumptions**
10 **and determinations.**

11 **“(3) In the case of a plan described in**
12 **paragraph (1)(A) or (1)(B), the financial assist-**
13 **ance provided pursuant to such application**
14 **under this subsection shall be the amount (de-**
15 **termined by the plan actuary and submitted**
16 **on the application) equal to the sum of—**

17 **“(A) the percentage of benefits of par-**
18 **ticipants and beneficiaries of the plan in**
19 **pay status at the time of the application,**
20 **and**

21 **“(B) the percentage of future benefits**
22 **to which participants who have sepa-**
23 **rated from service but are not yet in pay**
24 **status are entitled,**

1 which, if such percentage were paid by the
2 corporation in combination with the loan,
3 would allow the plan to avoid projected insol-
4 vency. Such amount shall not exceed the max-
5 imum guaranteed benefit with respect to all
6 participants and beneficiaries of the plan
7 under sections 4022A and 4022B. For this pur-
8 pose, the maximum guaranteed benefit
9 amount shall be determined by disregarding
10 any loan available from the Pension Rehabili-
11 tation Administration and shall be deter-
12 mined as if the plan were insolvent on the
13 date of the application. Further, the present
14 value of the maximum guaranteed benefit
15 amount with respect to such participants and
16 beneficiaries may be calculated in the aggre-
17 gate, rather than by reference to the benefit
18 of each such participant or beneficiary.

19 “(4) In the case of a plan described in
20 paragraph (1)(C), the financial assistance pro-
21 vided pursuant to such application under this
22 subsection shall be the amount (determined
23 by the plan actuary and submitted on the ap-
24 plication) which, if such amount were paid by
25 the corporation in combination with the loan

1 and any other assistance being provided to
2 the plan by the corporation at the time of the
3 application, would enable the plan to emerge
4 from the projected insolvency.

5 “(5)(A) Except as provided in subpara-
6 graph (B), the corporation shall provide the
7 financial assistance under this subsection
8 only in such amounts as the corporation de-
9 termines, at the time of approval and at the
10 beginning of each plan year beginning there-
11 after during the period of assistance, are nec-
12 essary for the plan to avoid insolvency during
13 the 5 plan year period beginning with the cur-
14 rent plan year.

15 “(B) In the case of a plan described in
16 paragraph (1)(C), the financial assistance
17 under this subsection shall be provided in a
18 lump sum if deemed necessary by the cor-
19 poration, and in no case later than December
20 31, 2020.

21 “(6) Subsections (b) and (c) shall apply to
22 financial assistance under this subsection as
23 if it were provided under subsection (a), ex-
24 cept that the terms for repayment under sub-
25 section (b)(2) shall not require the financial

1 assistance to be repaid before the date on
2 which the loan under section 4(a) of the Reha-
3 bilitation for Multiemployer Pensions Act of
4 2019 is repaid in full.

5 “(7) The corporation may forgo repayment
6 of the financial assistance provided under
7 this subsection if necessary to avoid any sus-
8 pension of the accrued benefits of partici-
9 pants.”.

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

Union Calendar No. 123

116TH CONGRESS
1ST Session

H. R. 397

[Report No. 116-159, Parts I and II]

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.

JULY 19, 2019

Reported from the Committee on Education and Labor
with an amendment

JULY 19, 2019

The Committee on Appropriations discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed