

116TH CONGRESS
1ST SESSION

S. 2254

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 SENATE OF THE UNITED STATES

JULY 24, 2019

Mr. BROWN (for himself, Ms. BALDWIN, Mr. BLUMENTHAL, Mr. BOOKER, Mr. CASEY, Ms. DUCKWORTH, Mr. DURBIN, Ms. HARRIS, Ms. HASSAN, Mr. HEINRICH, Ms. HIRONO, Mr. JONES, Mr. KAINE, Ms. KLOBUCHAR, Mr. MANCHIN, Mr. MARKEY, Mr. MERKLEY, Mr. PETERS, Ms. ROSEN, Mr. SANDERS, Mr. SCHUMER, Mrs. SHAHEEN, Ms. SMITH, Ms. STABENOW, Mr. VAN HOLLEN, Ms. WARREN, and Mr. WHITEHOUSE) introduced the following bill; which was read twice and referred to the Committee on Finance

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 “Butch Lewis Act of
3 2019”.

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

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

9 (b) **DIRECTOR.**—

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

14 (2) **TERM.**—

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

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

21 (3) **POWERS.**—

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

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

3 (B) CONTRACTING.—

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

18 (ii) SUBJECT TO APPROPRIATIONS.—

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

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 the Fund as provided in this section and section
 16 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 Butch
 21 Lewis 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 Butch Lewis Act

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

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

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

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

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

17 “(1) for the purpose of making the loans de-
18 scribed in section 4 of the Butch Lewis Act of 2019,

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

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

24 (b) CLERICAL AMENDMENT.—The table of sections
25 for subchapter A of chapter 98 of the Internal Revenue

1 Code of 1986 is amended by adding at the end the fol-
 2 lowing new item:

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

3 **SEC. 4. LOAN PROGRAM FOR MULTIEMPLOYER DEFINED**
 4 **BENEFIT PLANS.**

5 (a) LOAN AUTHORITY.—

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

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

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

23 (ii) as of such date of enactment, are
 24 in critical status (within the meaning of
 25 section 432(b)(2) of such Code and section

1 305(b)(2) of such Act), have a funded per-
2 centage of less than 40 percent (as deter-
3 mined for purposes of section 432 of such
4 Code and section 305 of such Act), and
5 have a ratio of active to inactive partici-
6 pants which is less than 2 to 3; or

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

12 (B) subject to subsection (b), to establish
13 appropriate terms for such loans.

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

22 (3) ESTABLISHMENT OF LOAN PROGRAM.—

23 (A) IN GENERAL.—A program to make the
24 loans authorized under this section shall be es-
25 tablished not later than September 30, 2019,

1 with guidance regarding such program to be
2 promulgated by the Director of the Pension Re-
3 habilitation Administration, in consultation with
4 the Pension Benefit Guaranty Corporation and
5 the Department of Labor, not later than De-
6 cember 31, 2019.

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

17 (b) LOAN TERMS.—

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

20 (A) the plan shall make payments of inter-
21 est on the loan for a period of 29 years begin-
22 ning on the date of the loan (or 19 years in the
23 case of a plan making the election under sub-
24 section (c)(5));

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

5 (C) as a condition of the loan, the plan
6 sponsor stipulates that—

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

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

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

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

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

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

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

24 (A) not be lower than the rate of interest
25 on 30-year Treasury securities on the first day

1 of the calendar year in which the loan is issued;
2 and

3 (B) not exceed the greater of—

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

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

9 (c) LOAN APPLICATION.—

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

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

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

22 (ii) the plan is reasonably expected to
23 be able to pay benefits and the interest on
24 the loan during such period and to accu-

1 mulate sufficient funds to repay the prin-
2 cipal when due;

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

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

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

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

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

13 (3) REQUIRED ACTIONS; DEEMED APPROVAL.—
14 The Director of the Pension Rehabilitation Adminis-
15 tration shall approve or deny any application under
16 this subsection within 90 days after the submission
17 of such application. An application shall be deemed
18 approved unless, within such 90 days, the Director
19 notifies the plan sponsor of the denial of such appli-
20 cation and the reasons for such denial. Any approval
21 or denial of an application by the Director of the
22 Pension Rehabilitation Administration shall be treat-
23 ed as a final agency action for purposes of section
24 704 of title 5, United States Code. The Pension Re-
25 habilitation Administration shall make the loan pur-

1 suant to any application promptly after the approval
2 of such application.

3 (4) CERTAIN PLANS REQUIRED TO APPLY.—

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

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

15 (5) INCENTIVE FOR EARLY REPAYMENT.—The
16 plan sponsor may elect at the time of the application
17 to repay the loan principal, along with the remaining
18 interest, over the 10-year period beginning with the
19 21st year after the date of the loan. In the case of
20 a plan making this election, the interest on the loan
21 shall be reduced by 0.5 percent.

22 (d) LOAN AMOUNT AND USE.—

23 (1) AMOUNT OF LOAN.—

24 (A) IN GENERAL.—Except as provided in
25 subparagraphs (B) and (C) and paragraph (2),

1 the amount of any loan under subsection (a)
2 shall be, as demonstrated by the plan sponsor
3 on the application under subsection (c), the
4 amount needed to purchase annuity contracts
5 or to implement a portfolio described in para-
6 graph (3)(C) (or a combination of the two) suf-
7 ficient to provide benefits of participants and
8 beneficiaries of the plan in pay status, and ter-
9 minated vested benefits, at the time the loan is
10 made.

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

24 (C) PLANS WITH SUSPENDED BENEFITS.—
25 In the case of a plan with respect to which a

1 suspended benefits has been approved under
2 section 432(e)(9) of the Internal Revenue Code
3 of 1986 and section 305(e)(9) of the Employee
4 Retirement Income Security Act of 1974 (29
5 U.S.C. 1085(e)(9)) or under section 418E of
6 such Code—

7 (i) the suspension of benefits shall not
8 be taken into account in applying subpara-
9 graph (A); and

10 (ii) except as provided in subpara-
11 graph (B), the loan amount shall be the
12 amount sufficient to provide benefits of
13 participants and beneficiaries of the plan
14 in pay status and terminated vested bene-
15 fits at the time the loan is made, deter-
16 mined without regard to the suspension,
17 including retroactive payment of benefits
18 which would otherwise have been payable
19 during the period of the suspension.

20 (2) COORDINATION WITH PBGC FINANCIAL AS-
21 SISTANCE.—

22 (A) IN GENERAL.—In the case of a plan
23 which is also applying for financial assistance
24 under section 4261(d) of the Employee Retire-

1 ment Income Security Act of 1974 (29 U.S.C.
2 1431(d))—

3 (i) the plan sponsor shall submit the
4 loan application and the application for fi-
5 nancial assistance jointly to the Pension
6 Rehabilitation Administration and the Pen-
7 sion Benefit Guaranty Corporation with
8 the information necessary to determine the
9 eligibility for and amount of the loan under
10 this section and the financial assistance
11 under section 4261(d) of such Act; and

12 (ii) if such financial assistance is
13 granted, the amount of the loan under sub-
14 section (a) shall not exceed an amount
15 equal to the excess of—

16 (I) the amount determined under
17 paragraph (1)(A) or (1)(C)(ii) (which-
18 ever is applicable), without regard to
19 paragraph (1)(B); over

20 (II) the amount of such financial
21 assistance.

22 (B) PLANS ALREADY RECEIVING PBGC AS-
23 SISTANCE.—The Director of the Pension Reha-
24 bilitation Administration shall provide for a
25 simplified application for the loan under this

1 section which may be used by an insolvent plan
2 which has not been terminated and which is al-
3 ready receiving financial assistance (other than
4 under section 4261(d) of such Act) from the
5 Pension Benefit Guaranty Corporation at the
6 time of the application for the loan under this
7 section.

8 (3) USE OF LOAN FUNDS.—

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

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

1 (C) PORTFOLIO.—

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

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

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

23 Once implemented, such a portfolio shall
24 be maintained until all liabilities to partici-

1 pants and beneficiaries in pay status at the
2 time of the loan are satisfied.

3 (ii) FIDUCIARY DUTY.—Any invest-
4 ment manager of a portfolio under this
5 subparagraph shall acknowledge in writing
6 that such person is a fiduciary under the
7 Employee Retirement Income Security Act
8 of 1974 with respect to the plan.

9 (iii) TREATMENT OF PARTICIPANTS
10 AND BENEFICIARIES.—Participants and
11 beneficiaries covered by a portfolio under
12 this subparagraph shall continue to be
13 treated as participants and beneficiaries of
14 the plan, including for purposes of title IV
15 of the Employee Retirement Income Secu-
16 rity Act of 1974.

17 (D) ACCOUNTING.—

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

1 (ii) OVERSIGHT OF NON-ANNUITY IN-
2 VESTMENTS.—

3 (I) IN GENERAL.—Any portfolio
4 implemented under this paragraph
5 shall be subject to oversight by the
6 Pension Rehabilitation Administra-
7 tion, including a mandatory triennial
8 review of the adequacy of the portfolio
9 to provide the benefits described in
10 paragraph (1) and approval (to be
11 provided within a reasonable period of
12 time) of any decision by the plan
13 sponsor to change the investment
14 manager of the portfolio.

15 (II) REMEDIAL ACTION.—If the
16 triennial review under subclause (I)
17 determines an inadequacy, the plan
18 sponsor shall take remedial action to
19 ensure that the inadequacy will be
20 cured within 5 years of the review.

21 (E) OMBUDSPERSON.—The Participant
22 and Plan Sponsor Advocate established under
23 section 4004 of the Employee Retirement In-
24 come Security Act of 1974 shall act as
25 ombudsperson for participants and beneficiaries

1 on behalf of whom annuity contracts are pur-
2 chased or who are covered by a portfolio under
3 this paragraph.

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

9 (f) LOAN DEFAULT.—If a plan is unable to make any
10 payment on a loan under this section when due, the Pen-
11 sion Rehabilitation Administration shall negotiate with the
12 plan sponsor revised terms for repayment (including in-
13 stallment payments over a reasonable period or forgive-
14 ness of a portion of the loan principal), but only to the
15 extent necessary to avoid insolvency in the subsequent 18
16 months.

17 (g) AUTHORITY TO ISSUE RULES, ETC.—The Direc-
18 tor of the Pension Rehabilitation Administration, in con-
19 sultation with the Pension Benefit Guaranty Corporation
20 and the Department of Labor, is authorized to issue rules
21 regarding the form, content, and process of applications
22 for loans under this section, actuarial standards and as-
23 sumptions to be used in making estimates and projections
24 for purposes of such applications, and assumptions re-

1 guarding interest rates, mortality, and distributions with
 2 respect to a portfolio described in subsection (d)(3)(C).

3 (h) COORDINATION WITH TAXATION OF UNRELATED
 4 BUSINESS INCOME.—Subparagraph (A) of section
 5 514(c)(6) of the Internal Revenue Code of 1986 is amend-
 6 ed—

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

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

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

12 “(iii) indebtedness with respect to a
 13 multiemployer plan under a loan made by
 14 the Pension Rehabilitation Administration
 15 pursuant to section 4 of the Butch Lewis
 16 Act of 2019.”.

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

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

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

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

3 “(A) IN GENERAL.—If any employer par-
4 ticipating in a plan at the time the plan receives
5 a loan under section 4(a) of the Butch Lewis
6 Act of 2019 withdraws from the plan before the
7 end of the 30-year period beginning on the date
8 of the loan, the withdrawal liability of such em-
9 ployer shall be determined under the Employee
10 Retirement Income Security Act of 1974—

11 “(i) by applying section 4219(c)(1)(D)
12 of the Employee Retirement Income Secu-
13 rity Act of 1974 as if the plan were termi-
14 nating by the withdrawal of every employer
15 from the plan, and

16 “(ii) by determining the value of non-
17 forfeitable benefits under the plan at the
18 time of the deemed termination by using
19 the interest assumptions prescribed for
20 purposes of section 4044 of the Employee
21 Retirement Income Security Act of 1974,
22 as prescribed in the regulations under sec-
23 tion 4281 of the Employee Retirement In-
24 come Security Act of 1974 in the case of
25 such a mass withdrawal.

1 “(B) ANNUITY CONTRACTS AND INVEST-
2 MENT PORTFOLIOS PURCHASED WITH LOAN
3 FUNDS.—Annuity contracts purchased and
4 portfolios implemented under section 4(d)(3) of
5 the Butch Lewis Act of 2019 shall not be taken
6 into account in determining the withdrawal li-
7 ability of any employer under subparagraph
8 (A), but the amount equal to the greater of—

9 “(i) the benefits provided under such
10 contracts or portfolios to participants and
11 beneficiaries, or

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

14 shall be so taken into account.

15 “(2) COORDINATION WITH FUNDING REQUIRE-
16 MENTS.—In the case of a plan which receives a loan
17 under section 4(a) of the Butch Lewis Act of
18 2019—

19 “(A) annuity contracts purchased and
20 portfolios implemented under section 4(d)(3) of
21 such Act, and the benefits provided to partici-
22 pants and beneficiaries under such contracts or
23 portfolios, shall not be taken into account in de-
24 termining minimum required contributions
25 under section 412,

1 “(B) payments on the interest and prin-
 2 cipal under the loan, and any benefits owed in
 3 excess of those provided under such contracts
 4 or portfolios, shall be taken into account as li-
 5 abilities for purposes of such section, and

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

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

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

19 “(1) DETERMINATION OF WITHDRAWAL LIABIL-
 20 ITY.—

21 “(A) IN GENERAL.—If any employer par-
 22 ticipating in a plan at the time the plan receives
 23 a loan under section 4(a) of the Butch Lewis
 24 Act of 2019 withdraws from the plan before the
 25 end of the 30-year period beginning on the date

1 of the loan, the withdrawal liability of such em-
2 ployer shall be determined—

3 “(i) by applying section 4219(c)(1)(D)
4 as if the plan were terminating by the
5 withdrawal of every employer from the
6 plan, and

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

14 “(B) ANNUITY CONTRACTS AND INVEST-
15 MENT PORTFOLIOS PURCHASED WITH LOAN
16 FUNDS.—Annuity contracts purchased and
17 portfolios implemented under section 4(d)(3) of
18 the Butch Lewis Act of 2019 shall not be taken
19 into account in determining the withdrawal li-
20 ability of any employer under subparagraph
21 (A), but the amount equal to the greater of—

22 “(i) the benefits provided under such
23 contracts or portfolios to participants and
24 beneficiaries, or

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

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

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

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

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

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

2 The Secretary of the Treasury (in consultation with
3 the Director of the Pension Rehabilitation Administration
4 established under section 2) shall from time to time trans-
5 fer from the general fund of the Treasury to the Pension
6 Rehabilitation Trust Fund established under section 9512
7 of the Internal Revenue Code of 1986 such amounts as
8 are necessary to fund the loan program under section 4
9 of this Act, including from proceeds from the Secretary's
10 issuance of obligations under chapter 31 of title 31,
11 United States Code.

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 Butch Lewis Act of 2019,
22 with respect to the first plan year beginning after the date
23 of the loan and each of the 29 succeeding plan years, not
24 later than the 90th day of each such plan year the plan
25 sponsor shall file with the Secretary a report (including
26 appropriate documentation and actuarial certifications

1 from the plan actuary, as required by the Secretary) that
2 contains—

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

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

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

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

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

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

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

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

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

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

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

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

23 “(13) the number of participants and bene-
24 ficiaries during the plan year preceding such plan
25 year who are active participants, the number of par-

1 participants and beneficiaries in pay status, and the
2 number of terminated vested participants and bene-
3 ficiaries,

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

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

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

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

1 in consultation with the Director of the Pension Re-
2 habilitation Administration, may require.

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

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

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

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

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

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

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

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

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

9 **SEC. 8. PBGC FINANCIAL ASSISTANCE.**

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

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

15 “(A) which is in critical and declining status
16 (within the meaning of section 305(b)(6)) as of the
17 date of the enactment of this subsection, or with re-
18 spect to which a suspension of benefits has been ap-
19 proved under section 305(e)(9) as of such date;

20 “(B) which, as of such date of enactment, is in
21 critical status (within the meaning of section
22 305(b)(2)), has a funded percentage of less than 40
23 percent (as determined for purposes of section 305),
24 and has a ratio of active to inactive participants
25 which is less than 2 to 3; or

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

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

16 “(2) In reviewing an application under paragraph
17 (1), the corporation shall review the demonstrations and
18 assumptions submitted with the loan application under
19 section 4(c) of the Butch Lewis Act of 2019 and provide
20 guidance regarding such assumptions prior to approving
21 any application for financial assistance under this sub-
22 section. The corporation may deny any application if the
23 assumptions and determinations are unreasonable, or in-
24 consistent with rules issued by the corporation, and the

1 plan and the corporation are unable to reach agreement
2 on such assumptions and determinations.

3 “(3) In the case of a plan described in paragraph
4 (1)(A) or (1)(B), the financial assistance provided pursu-
5 ant to such application under this subsection shall be the
6 amount (determined by the plan actuary and submitted
7 on the application) equal to the sum of—

8 “(A) the percentage of benefits of participants
9 and beneficiaries of the plan in pay status at the
10 time of the application; and

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

14 which, if such percentage were paid by the corporation in
15 combination with the loan, would allow the plan to avoid
16 projected insolvency. Such amount shall not exceed the
17 maximum guaranteed benefit with respect to all partici-
18 pants and beneficiaries of the plan under sections 4022A
19 and 4022B. For this purpose, the maximum guaranteed
20 benefit amount shall be determined by disregarding any
21 loan available from the Pension Rehabilitation Adminis-
22 tration and shall be determined as if the plan were insol-
23 vent on the date of the application. Further, the present
24 value of the maximum guaranteed benefit amount with re-
25 spect to such participants and beneficiaries may be cal-

1 culated in the aggregate, rather than by reference to the
2 benefit of each such participant or beneficiary.

3 “(4) In the case of a plan described in paragraph
4 (1)(C), the financial assistance provided pursuant to such
5 application under this subsection shall be the amount (de-
6 termined by the plan actuary and submitted on the appli-
7 cation) which, if such amount were paid by the corporation
8 in combination with the loan and any other assistance
9 being provided to the plan by the corporation at the time
10 of the application, would enable the plan to emerge from
11 the projected insolvency.

12 “(5)(A) Except as provided in subparagraph (B), the
13 corporation shall provide the financial assistance under
14 this subsection only in such amounts as the corporation
15 determines, at the time of approval and at the beginning
16 of each plan year beginning thereafter during the period
17 of assistance, are necessary for the plan to avoid insol-
18 vency during the 5 plan year period beginning with the
19 current plan year.

20 “(B) In the case of a plan described in paragraph
21 (1)(C), the financial assistance under this subsection shall
22 be provided in a lump sum if deemed necessary by the
23 corporation, and in no case later than December 31, 2020.

24 “(6) Subsections (b) and (c) shall apply to financial
25 assistance under this subsection as if it were provided

1 under subsection (a), except that the terms for repayment
2 under subsection (b)(2) shall not require the financial as-
3 sistance to be repaid before the date on which the loan
4 under section 4(a) of the Butch Lewis Act of 2019 is re-
5 paid in full.

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

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

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