

Whereas the Centers for Disease Control and Prevention, the premier infectious disease research institution in the world, was well situated at the beginning of the COVID-19 outbreak to both assist the response of the people and Government of the People's Republic of China and prepare the people and Government of the United States to handle the virus in the case of international spread;

Whereas the National Health Commission of China failed to include individuals who tested positive for COVID-19 but remained asymptomatic in its daily tally of confirmed COVID-19 cases, hampering the ability of public health authorities in the United States to accurately account for the rate of spread and the health risks of the virus;

Whereas a Foreign Ministry Spokesman of the Government of the People's Republic of China, Zhao Lijian, claimed that COVID-19 originated in the United States and that the United States Army brought COVID-19 to Wuhan to wage biological warfare on China;

Whereas other officials of the Government of the People's Republic of China, including scientists working on the COVID-19 response of China, the Ambassador to South Africa of China, and the Ambassador to Australia of China, have claimed that there is no evidence that COVID-19 originated in China;

Whereas, on March 4, 2020, Xinhua News Agency, an official mouthpiece of the Government of the People's Republic of China, published an article threatening to cut off medical supply exports to the United States and "plunge [the United States] into the mighty sea of coronavirus";

Whereas, on March 17, 2020, the Government of the People's Republic of China expelled nationals of the United States working at the Wall Street Journal, the Washington Post, and the New York Times, reducing the spread of reliable information on the COVID-19 outbreak in China; and

Whereas a study by the University of Southampton found that if the Government of the People's Republic of China had taken action 3 weeks earlier, the spread of COVID-19 would be reduced by 95 percent globally: Now, therefore, be it

*Resolved*, That the Senate—

(1) calls on the Government of the People's Republic of China to—

(A) publicly state that there is no evidence that COVID-19 originated anywhere else but China;

(B) denounce the baseless conspiracy that the United States Army placed COVID-19 in Wuhan;

(C) revoke the expulsion of journalists of the United States;

(D) end the detainment of Uyghur Muslims and other persecuted ethnic minorities; and

(E) end all forced labor programs;

(2) condemns—

(A) the censorship of the Government of the People's Republic of China of doctors and journalists during the early days of the COVID-19 outbreak, particularly the treatment of the deceased Dr. Li Wenliang;

(B) the refusal of the Government of the People's Republic of China to allow scientists from the Centers for Disease Control and Prevention to assist its response to COVID-19 for more than a month after co-operation was offered, needlessly endangering the lives of its own citizens and hampering the early attempts of the United States to learn more about COVID-19; and

(C) the duplicitous denial of the National Health Commission of China of the person-to-person transmissibility of COVID-19; and

(3) calls for the Director-General of the World Health Organization, Dr. Tedros Adhanom Ghebreyesus, to retract highly misleading statements of support for the response of the Government of the People's Republic of China to COVID-19, especially his

praise for the "commitment from top leadership [of the Government of the People's Republic of China], and the transparency they have demonstrated".

## AMENDMENTS SUBMITTED AND PROPOSED

SA 1574. Mr. CRAMER submitted an amendment intended to be proposed by him to the bill H.R. 748, to amend the Internal Revenue Code of 1986 to repeal the excise tax on high cost employer-sponsored health coverage; which was ordered to lie on the table.

SA 1575. Mr. MORAN submitted an amendment intended to be proposed by him to the bill H.R. 748, supra; which was ordered to lie on the table.

SA 1576. Mr. SASSE (for himself and Mrs. CAPITO) submitted an amendment intended to be proposed by him to the bill H.R. 748, supra; which was ordered to lie on the table.

## TEXT OF AMENDMENTS

**SA 1574.** Mr. CRAMER submitted an amendment intended to be proposed by him to the bill H.R. 748, to amend the Internal Revenue Code of 1986 to repeal the excise tax on high cost employer-sponsored health coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

### TITLE —BUTCH LEWIS ACT OF 2020

#### SEC. \_\_\_\_ 1. SHORT TITLE.

This title may be cited as the "Butch Lewis Act of 2020".

#### SEC. \_\_\_\_ 2. PENSION REHABILITATION ADMINISTRATION; ESTABLISHMENT; POWERS.

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

(b) **DIRECTOR.**—

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

(2) **TERM.**—

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

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

(3) **POWERS.**—

(A) **APPOINTMENT OF DEPUTY DIRECTORS, OFFICERS, AND EMPLOYEES.**—The Director may appoint Deputy Directors, officers, and employees, including attorneys, in accordance with chapter 51 and subchapter III of chapter 53 of title 5, United States Code.

(B) **CONTRACTING.**—

(i) **IN GENERAL.**—The Director may contract for financial and administrative services (including those related to budget and accounting, financial reporting, personnel, and procurement) with the General Services Administration, or such other Federal agency as the Director determines appropriate, for which payment shall be made in advance, or by reimbursement, from funds of the Pension Rehabilitation Administration in such amounts as may be agreed upon by the Director and the head of the Federal agency providing the services.

(ii) **SUBJECT TO APPROPRIATIONS.**—Contract authority under clause (i) shall be effective for any fiscal year only to the extent that appropriations are available for that purpose.

(c) **TRANSFER OF FUNDS.**—The Secretary of the Treasury may transfer for any fiscal

year, from unobligated amounts appropriated to the Department of the Treasury, to the Pension Rehabilitation Administration such sums as may be reasonably necessary for the administrative and operating expenses of the Pension Rehabilitation Administration.

#### SEC. \_\_\_\_ 3. PENSION REHABILITATION TRUST FUND.

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

#### "SEC. 9512. PENSION REHABILITATION TRUST FUND.

"(a) **CREATION OF TRUST FUND.**—There is established in the Treasury of the United States a trust fund to be known as the 'Pension Rehabilitation Trust Fund' (hereafter in this section referred to as the 'Fund'), consisting of such amounts as may be appropriated or credited to the Fund as provided in this section and section 9602(b).

"(b) **TRANSFERS TO FUND.**—

"(1) **AMOUNTS ATTRIBUTABLE TO TREASURY BONDS.**—There shall be credited to the Fund the amounts transferred under the Butch Lewis Act of 2020.

"(2) **LOAN INTEREST AND PRINCIPAL.**—

"(A) **IN GENERAL.**—The Director of the Pension Rehabilitation Administration established under the Butch Lewis Act of 2020 shall deposit in the Fund any amounts received from a plan as payment of interest or principal on a loan under such Act.

"(B) **INTEREST.**—For purposes of subparagraph (A), the term 'interest' includes points and other similar amounts.

"(3) **TRANSFERS FROM SECRETARY.**—The Director of the Pension Rehabilitation Administration shall deposit in the Fund any amounts received from the Secretary for administrative and operating expenses pursuant to such Act.

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

"(c) **EXPENDITURES FROM FUND.**—Amounts in the Fund are available without further appropriation to the Pension Rehabilitation Administration—

"(1) for the purpose of making the loans described in the Butch Lewis Act of 2020,

"(2) for the payment of principal and interest on obligations issued under such Act, and

"(3) for administrative and operating expenses of such Administration."

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

"Sec. 9512. Pension Rehabilitation Trust Fund."

#### SEC. \_\_\_\_ 4. LOAN PROGRAM FOR MULTIEMPLOYER DEFINED BENEFIT PLANS.

(a) **LOAN AUTHORITY.**—

(1) **IN GENERAL.**—The Pension Rehabilitation Administration established under this Act is authorized—

(A) to make loans to multiemployer plans (as defined in section 414(f) of the Internal Revenue Code of 1986) which are defined benefit plans (as defined in section 414(j) of such Code) and which—

(i) are in critical and declining status (within the meaning of section 432(b)(6) of such Code and section 305(b)(6) of such Act) as of the date of the enactment of this Act, or with respect to which a suspension of benefits has been approved under section 432(e)(9) of such Code and section 305(e)(9) of such Act as of such date;

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

305(b)(2) of such Act), have a funded percentage of less than 40 percent (as determined for purposes of section 432 of such Code and section 305 of such Act), and have a ratio of active to inactive participants which is less than 2 to 3; or

(iii) are insolvent for purposes of section 418E of such Code as of such date of enactment, if they became insolvent after December 16, 2014, and have not been terminated; and

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

(2) CONSULTATION.—The Director of the Pension Rehabilitation Administration shall consult with the Secretary of the Treasury, the Secretary of Labor, and the Director of the Pension Benefit Guaranty Corporation before making any loan under paragraph (1), and shall share with such persons the application and plan information with respect to each such loan.

(3) ESTABLISHMENT OF LOAN PROGRAM.—

(A) IN GENERAL.—A program to make the loans authorized under this section shall be established not later than September 30, 2019, with guidance regarding such program to be promulgated by the Director of the Pension Rehabilitation Administration, in consultation with the Pension Benefit Guaranty Corporation and the Department of Labor, not later than December 31, 2019.

(B) LOANS AUTHORIZED BEFORE PROGRAM DATE.—Without regard to whether the program under subparagraph (A) has been established, a plan may apply for a loan under this section before either date described in such subparagraph, and the Pension Rehabilitation Administration shall approve the application and make the loan before establishment of the program if necessary to avoid any suspension of the accrued benefits of participants.

(b) LOAN TERMS.—

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

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

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

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

(i) except as provided in clause (ii), the plan will not increase benefits, allow any employer participating in the plan to reduce its contributions, or accept any collective bargaining agreement which provides for reduced contribution rates, during the 30-year period described in subparagraphs (A) and (B);

(ii) 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, or under section 418E of such Code, before the loan, the plan will reinstate the suspended benefits (or will not carry out any suspension which has been approved but not yet implemented);

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

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

(v) the plan and plan administrator will meet such other requirements as the Director of the Pension Rehabilitation Administration provides in the loan terms.

The terms of the loan shall not make reference to whether the plan is receiving fi-

ancial assistance under section 4261(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1431(d)) or to any adjustment of the loan amount under subsection (d)(2)(A)(ii).

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

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

(B) not exceed the greater of—

(i) a rate 1.2 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

(ii) the plan is reasonably expected to be able to pay benefits and the interest on the loan during such period and to accumulate sufficient funds to repay the principal when due;

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

(C) stipulate whether the plan is also applying for financial assistance under section 4261(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1431(d)) in combination with the loan to enable the plan to avoid insolvency and to pay benefits, or is already receiving such financial assistance as a result of a previous application;

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

(E) include such other information and certifications as the Director of the Pension Rehabilitation Administration shall require.

(2) STANDARD FOR ACCEPTING ACTUARIAL AND PLAN SPONSOR DETERMINATIONS AND DEMONSTRATIONS IN THE APPLICATION.—In evaluating the plan sponsor's application, the Director of the Pension Rehabilitation Administration shall accept the determinations and demonstrations in the application unless the Director, in consultation with the Director of the Pension Benefit Guaranty Corporation and the Secretary of Labor, concludes that the determinations and demonstrations in the application are unreasonable or are inconsistent with any rules issued by the Director pursuant to subsection (g).

(3) REQUIRED ACTIONS; DEEMED APPROVAL.—The Director of the Pension Rehabilitation Administration shall approve or deny any application under this subsection within 90 days after the submission of such application. An application shall be deemed approved unless, within such 90 days, the Director notifies the plan sponsor of the denial of such application and the reasons for such denial. Any approval or denial of an application by the Director of the Pension Rehabilitation Administration shall be treated as a

final agency action for purposes of section 704 of title 5, United States Code. The Pension Rehabilitation Administration shall make the loan pursuant to any application promptly after the approval of such application.

(4) CERTAIN PLANS REQUIRED TO APPLY.—The plan sponsor of any 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 or under section 418E of such Code, before the date of the enactment of this Act shall apply for a loan under this section. The Director of the Pension Rehabilitation Administration shall provide for such plan sponsors to use the simplified application under subsection (d)(2)(B).

(5) INCENTIVE FOR EARLY REPAYMENT.—The plan sponsor may elect at the time of the application to repay the loan principal, along with the remaining interest, over the 10-year period beginning with the 21st year after 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 subparagraphs (B) and (C) 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) LIMITATION BASED ON ABILITY TO REPAY.—If at the time of the application under subsection (c) the plan sponsor determines that, based on a repayment schedule that would provide for repayment of the full amount determined under subparagraph (A) or (C)(ii) within the 30-year period described in subsection (b)(1), making payments would cause the plan to be within 18 months of becoming insolvent at any point during such period, the loan amount shall be such lesser amount as the plan sponsor determines the plan will be able to repay without becoming within 18 months of insolvency.

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

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

(ii) except as provided in subparagraph (B), the loan amount shall be the amount 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, determined without regard to the suspension, including retroactive payment of benefits which would otherwise have been payable during the period of the suspension.

(2) COORDINATION WITH PBGC FINANCIAL ASSISTANCE.—

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

(i) the plan sponsor shall submit the loan application and the application for financial assistance jointly to the Pension Rehabilitation Administration and the Pension Benefit Guaranty Corporation with the information

necessary to determine the eligibility 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)(C)(ii) (whichever is applicable), without regard to paragraph (1)(B); 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.—The loan received under subsection (a) shall be used to purchase annuity contracts which meet the requirements of subparagraph (B) or to implement a portfolio described in subparagraph (C) (or a combination of the two) to provide the benefits described in paragraph (1).

(B) ANNUITY CONTRACT REQUIREMENTS.—The annuity contracts purchased under subparagraph (A) shall be issued by an insurance company which is licensed to do business under the laws of any State and which is rated A or better by a nationally recognized statistical rating organization, and the purchase of such contracts shall meet all applicable fiduciary standards under the Employee Retirement Income Security Act of 1974.

(C) PORTFOLIO.—

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

(I) a cash matching portfolio or duration matching portfolio consisting of investment grade (as rated by a nationally recognized statistical rating organization) fixed income investments, including United States dollar-denominated public or private debt obligations issued or guaranteed by the United States or a foreign issuer, which are tradeable in United States currency and are issued at fixed or zero coupon rates; or

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

Once implemented, such a portfolio shall be maintained until all liabilities to participants and beneficiaries in pay status at the time of the loan are satisfied.

(ii) FIDUCIARY DUTY.—Any investment manager of a portfolio under this subparagraph shall acknowledge in writing that such person is a fiduciary under the Employee Retirement Income Security Act of 1974 with respect to the plan.

(iii) TREATMENT OF PARTICIPANTS AND BENEFICIARIES.—Participants and beneficiaries covered by a portfolio under this subparagraph shall continue to be treated as participants and beneficiaries of the plan, including for purposes of title IV of the Employee Retirement Income Security Act 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 change the investment manager of the portfolio.

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

(E) OMBUDSPERSON.—The Participant and Plan Sponsor Advocate established under section 4004 of the Employee Retirement Income Security Act of 1974 shall act as ombudsperson for participants and beneficiaries on behalf of whom annuity contracts are purchased or who are covered by a portfolio under this paragraph.

(e) COLLECTION OF REPAYMENT.—Except as provided in subsection (f), the Pension Rehabilitation Administration shall make every effort to collect repayment of loans under this section in accordance with section 3711 of title 31, United States Code.

(f) LOAN DEFAULT.—If a plan is unable to make any payment on a loan under this section when due, the Pension Rehabilitation Administration shall negotiate with the plan sponsor revised terms for repayment (including installment payments over a reasonable period or forgiveness of a portion of the loan principal), but only to the extent necessary to avoid insolvency in the subsequent 18 months.

(g) AUTHORITY TO ISSUE RULES, ETC.—The Director of the Pension Rehabilitation Administration, in consultation with the Pension Benefit Guaranty Corporation and the Department of Labor, is authorized to issue rules regarding the form, content, and process of applications for loans under this section, actuarial standards and assumptions to be used in making estimates and projections for purposes of such applications, and assumptions regarding interest rates, mortality, and distributions with respect to a portfolio described in subsection (d)(3)(C).

(h) COORDINATION WITH TAXATION OF UNRELATED BUSINESS INCOME.—Subparagraph (A) of section 514(c)(6) of the Internal Revenue Code of 1986 is amended—

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

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

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

“(iii) indebtedness with respect to a multi-employer plan under a loan made by the Pension Rehabilitation Administration pursuant to the Butch Lewis Act of 2020.”.

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

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

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

“(1) DETERMINATION OF WITHDRAWAL LIABILITY.—

“(A) IN GENERAL.—If any employer participating in a plan at the time the plan receives a loan under the Butch Lewis Act of 2020 withdraws from the plan before the end of the 30-year period beginning on the date of the loan, the withdrawal liability of such employer shall be determined under the Employee Retirement Income Security Act of 1974—

“(i) by applying section 4219(c)(1)(D) of the Employee Retirement Income Security Act

of 1974 as if the plan were terminating by the withdrawal of every employer from the plan, and

“(ii) by determining the value of non-forfeitable benefits under the plan at the time of the deemed termination by using the interest assumptions prescribed for purposes of section 4044 of the Employee Retirement Income Security Act of 1974, as prescribed in the regulations under section 4281 of the Employee Retirement Income Security Act of 1974 in the case of such a mass withdrawal.

“(B) ANNUITY CONTRACTS AND INVESTMENT PORTFOLIOS PURCHASED WITH LOAN FUNDS.—Annuity contracts purchased and portfolios implemented using loan funds received under the Butch Lewis Act of 2020 shall not be taken into account in determining the withdrawal liability of any employer under subparagraph (A), but the amount equal to the greater of—

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

“(ii) the remaining payments due on the loan under such Act,

shall be so taken into account.

“(2) COORDINATION WITH FUNDING REQUIREMENTS.—In the case of a plan which receives a loan under the Butch Lewis Act of 2020—

“(A) annuity contracts purchased and portfolios implemented using loan funds received under such Act, and the benefits provided to participants and beneficiaries under such contracts or portfolios, shall not be taken into account in determining minimum required contributions under section 412,

“(B) payments on the interest and principal under the loan, and any benefits owed in excess of those provided under such contracts or portfolios, shall be taken into account as liabilities for purposes of such section, and

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

(b) AMENDMENT TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 305 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1085) is amended by adding at the end the following new subsection:

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

“(1) DETERMINATION OF WITHDRAWAL LIABILITY.—

“(A) IN GENERAL.—If any employer participating in a plan at the time the plan receives a loan under the Butch Lewis Act of 2020 withdraws from the plan before the end of the 30-year period beginning on the date of the loan, the withdrawal liability of such employer shall be determined—

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

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

“(B) ANNUITY CONTRACTS AND INVESTMENT PORTFOLIOS PURCHASED WITH LOAN FUNDS.—Annuity contracts purchased and portfolios implemented using loan funds received under the Butch Lewis Act of 2020 shall not be taken into account in determining the withdrawal liability of any employer under subparagraph (A), but the amount equal to the greater of—

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

“(ii) the remaining payments due on the loan under such Act, shall be so taken into account.

“(2) COORDINATION WITH FUNDING REQUIREMENTS.—In the case of a plan which receives a loan under the Butch Lewis Act of 2020—

“(A) annuity contracts purchased and portfolios implemented using loan funds received under such Act, and the benefits provided to participants and beneficiaries under such contracts or portfolios, shall not be taken into account in determining minimum required contributions under section 302,

“(B) payments on the interest and principal under the loan, and any benefits owed in excess of those provided under such contracts or portfolios, shall be taken into account as liabilities for purposes of such section, and

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

#### SEC. 6. ISSUANCE OF TREASURY BONDS.

The Secretary of the Treasury (in consultation with the Director of the Pension Rehabilitation Administration established under this Act) shall from time to time transfer from the general fund of the Treasury to the Pension Rehabilitation Trust Fund established under section 9512 of the Internal Revenue Code of 1986 such amounts as are necessary to fund the loan program under this Act, including from proceeds from the Secretary's issuance of obligations under chapter 31 of title 31, United States Code.

#### SEC. 7. REPORTS OF PLANS RECEIVING PENSION REHABILITATION LOANS.

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

##### “SEC. 6059A. REPORTS OF PLANS RECEIVING PENSION REHABILITATION LOANS.

“(a) IN GENERAL.—In the case of a plan receiving a loan under the Butch Lewis Act of 2020, with respect to the first plan year beginning after the date of the loan and each of the 29 succeeding plan years, not later than the 90th day of each such plan year the plan sponsor shall file with the Secretary a report (including appropriate documentation and actuarial certifications from the plan actuary, as required by the Secretary) that contains—

“(1) the funded percentage (as defined in section 432(i)(2)) as of the first day of such plan year, and the underlying actuarial value of assets (determined with regard, and without regard, to annuity contracts purchased and portfolios implemented with proceeds of such loan) and liabilities (including any amounts due with respect to such loan) taken into account in determining such percentage,

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

“(3) the total value of all contributions made by employers and employees during the plan year preceding such plan year,

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

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

“(6) funding standard account projections for such plan year and the 9 succeeding plan years, and the assumptions relied upon in making such projections,

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

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

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

“(10) a list of employers that paid withdrawal liability to the plan during the plan year preceding such plan year and, for each employer, a total assessment of the withdrawal liability paid, the annual payment amount, and the number of years remaining in the payment schedule with respect to such withdrawal liability,

“(11) any material changes to benefits, accrual rates, or contribution rates during the plan year preceding such plan year, and whether such changes relate to the terms of the loan,

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

“(13) the number of participants and beneficiaries during the plan year preceding such plan year who are active participants, the number of participants and beneficiaries in pay status, and the number of terminated vested participants and beneficiaries,

“(14) the amount of any financial assistance received under section 4261 of the Employee Retirement Income Security Act of 1974 to pay benefits during the preceding plan year, and the total amount of such financial assistance received for all preceding years,

“(15) the information contained on the most recent annual funding notice submitted by the plan under section 101(f) of the Employee Retirement Income Security Act of 1974,

“(16) the information contained on the most recent annual return under section 6058 and actuarial report under section 6059 of the plan, and

“(17) copies of the plan document and amendments, other retirement benefit or ancillary benefit plans relating to the plan and contribution obligations under such plans, a breakdown of administrative expenses of the plan, participant census data and distribution of benefits, the most recent actuarial valuation report as of the plan year, copies of collective bargaining agreements, and financial reports, and such other information as the Secretary, in consultation with the Director of the Pension Rehabilitation Administration, may require.

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

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

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

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

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

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

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

6059A, the amount imposed under this subsection shall not be paid from the assets of the plan.”

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

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

#### SEC. 8. PBGC FINANCIAL ASSISTANCE.

(a) IN GENERAL.—Section 4261 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1431) is amended by adding at the end the following new subsection:

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

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

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

“(C) which is insolvent for purposes of section 418E of the Internal Revenue Code of 1986 as of such date of enactment, if the plan became insolvent after December 16, 2014, and has not been terminated, and which is applying for a loan under the Butch Lewis Act of 2020 may also apply to the corporation for financial assistance under this subsection, by jointly submitting such applications in accordance with the rules of such Act. The application for financial assistance under this subsection shall demonstrate, based on projections by the plan actuary, that after the receipt of the anticipated loan amount under such Act, the plan will still become (or remain) insolvent within the 30-year period beginning on the date of the loan.

“(2) In reviewing an application under paragraph (1), the corporation shall review the demonstrations and assumptions submitted with the loan application under the Butch Lewis Act of 2020 and provide guidance regarding such assumptions prior to approving any application for financial assistance under this subsection. The corporation may deny any application if the assumptions and determinations are unreasonable, or inconsistent with rules issued by the corporation, and the plan and the corporation are unable to reach agreement on such assumptions and determinations.

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

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

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

which, if such percentage were paid by the corporation in combination with the loan, would allow the plan to avoid projected insolvency. Such amount shall not exceed the maximum guaranteed benefit with respect to all participants and beneficiaries of the plan under sections 4022A and 4022B. For this purpose, the maximum guaranteed benefit amount shall be determined by disregarding any loan available from the Pension Rehabilitation Administration and shall be determined as if the plan were insolvent on the

date of the application. Further, the present value of the maximum guaranteed benefit amount with respect to such participants and beneficiaries may be calculated in the aggregate, rather than by reference to the benefit of each such participant or beneficiary.

“(4) In the case of a plan described in paragraph (1)(C), the financial assistance provided pursuant to such application under this subsection shall be the amount (determined by the plan actuary and submitted on the application) which, if such amount were paid by the corporation in combination with the loan and any other assistance being provided to the plan by the corporation at the time of the application, would enable the plan to emerge from the projected insolvency.

“(5)(A) Except as provided in subparagraph (B), the corporation shall provide the financial assistance under this subsection only in such amounts as the corporation determines, at the time of approval and at the beginning of each plan year beginning thereafter during the period of assistance, are necessary for the plan to avoid insolvency during the 5 plan year period beginning with the current plan year.

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

“(6) Subsections (b) and (c) shall apply to financial assistance under this subsection as if it were provided under subsection (a), except that the terms for repayment under subsection (b)(2) shall not require the financial assistance to be repaid before the date on which the loan under the Butch Lewis Act of 2020 is repaid in full.

“(7) The corporation may forgo repayment of the financial assistance provided under this subsection if necessary to avoid any suspension of the accrued benefits of participants.”.

(b) APPROPRIATIONS.—There is appropriated to the Director of the Pension Benefit Guar-

anty Corporation such sums as may be necessary for each fiscal year to provide the financial assistance described in section 4261(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1431(d)) (as added by this section) (including necessary administrative and operating expenses relating to such assistance).

**SA 1575.** Mr. MORAN submitted an amendment intended to be proposed by him to the bill H.R. 748, to amend the Internal Revenue Code of 1986 to repeal the excise tax on high cost employer-sponsored health coverage; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

**SEC. \_\_\_\_\_. PAID SICK AND FAMILY LEAVE PAY-ROLL CREDITS ALLOWED FOR STATE AND LOCAL AGENCIES PROVIDING HEALTH CARE.**

(a) PAID SICK LEAVE.—Section 7001(e)(4) of the Families First Coronavirus Response Act is amended by adding at the end the following: “The preceding sentence shall not apply to any agency or instrumentality of a State or political subdivision thereof if such agency or instrumentality primarily employs health care providers (as defined in section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 203)).”.

(b) PAID FAMILY LEAVE.—Section 7003(e)(4) of such Act is amended by adding at the end the following: “The preceding sentence shall not apply to any agency or instrumentality of a State or political subdivision thereof if such agency or instrumentality primarily employs health care providers (as defined in section 101 of the Family and Medical Leave Act of 1993 (29 U.S.C. 203)).”.

**SA 1576.** Mr. SASSE (for himself and Mrs. CAPITO) submitted an amendment intended to be proposed by him to the bill H.R. 748, to amend the Internal Revenue Code of 1986 to repeal the excise tax on high cost employer-spon-

sored health coverage; which was ordered to lie on the table; as follows:

Strike subparagraphs (C) and (D) of section 3215(a)(2) and insert the following:

(C) in the course of providing health care services that are within the scope of the license, registration, or certification of the volunteer, as defined by—

(i) the State in which the medical services are received or in which the act or omission occurs; or

(ii) in the case of medical services received in, or an act or omission that occurs in, a State other than the State in which the health care professional is licensed, registered, or certified, the State in which such professional is licensed, registered or certified; and

(D) in a good faith belief that the individual being treated is in need of health care services.

(b) OUT-OF-STATE PROVIDERS.—Notwithstanding any other provision of law, a health care provider may provide health care services in a State, even though the provider is not licensed in such State to provide such services, if—

(1) such services are offered and provided solely on a volunteer basis; and

(2) such provider is licensed, registered, or certified to practice in any other State, and such services are within the scope of practice of such provider (as defined by the State of licensure, registration, or certification).

## ADJOURNMENT UNTIL TOMORROW

Mr. McCONNELL. Madam President, if there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order.

There being no objection, the Senate, at 1:46 a.m., adjourned until Wednesday, March 25, 2020, at 12 noon.