

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 397
OFFERED BY MR. NEAL OF MASSACHUSETTS**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

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

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

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

9 (b) **DIRECTOR.**—

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

14 (2) **TERM.**—

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

17 (B) **SERVICE UNTIL APPOINTMENT OF
18 SUCCESSOR.**—An individual serving as Director

1 at the expiration of a term may continue to
2 serve until a successor is appointed.

3 (3) POWERS.—

4 (A) APPOINTMENT OF DEPUTY DIREC-
5 TORS, OFFICERS, AND EMPLOYEES.—The Di-
6 rector may appoint Deputy Directors, officers,
7 and employees, including attorneys, in accord-
8 ance with chapter 51 and subchapter III of
9 chapter 53 of title 5, United States Code.

10 (B) CONTRACTING.—

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

1 (ii) SUBJECT TO APPROPRIATIONS.—
2 Contract authority under clause (i) shall be
3 effective for any fiscal year only to the ex-
4 tent that appropriations are available for
5 that purpose.

6 (c) TRANSFER OF FUNDS.—The Secretary of the
7 Treasury may transfer for any fiscal year, from unobli-
8 gated amounts appropriated to the Department of the
9 Treasury, to the Pension Rehabilitation Administration
10 such sums as may be reasonably necessary for the admin-
11 istrative and operating expenses of the Pension Rehabilita-
12 tion Administration.

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

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

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

18 “(a) CREATION OF TRUST FUND.—There is estab-
19 lished in the Treasury of the United States a trust fund
20 to be known as the ‘Pension Rehabilitation Trust Fund’
21 (hereafter in this section referred to as the ‘Fund’), con-
22 sisting of such amounts as may be appropriated or cred-
23 ited to the Fund as provided in this section and section
24 9602(b).

25 “(b) TRANSFERS TO FUND.—

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

5 “(2) LOAN INTEREST AND PRINCIPAL.—

6 “(A) IN GENERAL.—The Director of the
7 Pension Rehabilitation Administration estab-
8 lished under section 2 of the Rehabilitation for
9 Multiemployer Pensions Act of 2019 shall de-
10 posit in the Fund any amounts received from a
11 plan as payment of interest or principal on a
12 loan under section 4 of such Act.

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

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

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

23 “(c) EXPENDITURES FROM FUND.—Amounts in the
24 Fund are available without further appropriation to the
25 Pension Rehabilitation Administration—

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

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

7 “(3) for administrative and operating expenses
8 of such Administration.”.

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

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

13 **SEC. 4. LOAN PROGRAM FOR MULTIEMPLOYER DEFINED**
14 **BENEFIT PLANS.**

15 (a) LOAN AUTHORITY.—

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

19 (A) to make loans to multiemployer plans
20 (as defined in section 414(f) of the Internal
21 Revenue Code of 1986) which are defined ben-
22 efit plans (as defined in section 414(j) of such
23 Code) and which—

24 (i) are in critical and declining status
25 (within the meaning of section 432(b)(6)

1 of such Code and section 305(b)(6) of the
2 Employee Retirement and Income Security
3 Act) as of the date of the enactment of
4 this section, or with respect to which a sus-
5 pension of benefits has been approved
6 under section 432(e)(9) of such Code and
7 section 305(e)(9) of such Act as of such
8 date;

9 (ii) as of such date of enactment, are
10 in critical status (within the meaning of
11 section 432(b)(2) of such Code and section
12 305(b)(2) of such Act), have a modified
13 funded percentage of less than 40 percent,
14 and have a ratio of active to inactive par-
15 ticipants which is less than 2 to 5; or

16 (iii) are insolvent for purposes of sec-
17 tion 418E of such Code as of such date of
18 enactment, if they became insolvent after
19 December 16, 2014, and have not been
20 terminated; and

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

23 For purposes of subparagraph (A)(ii), the term
24 “modified funded percentage” means the percentage
25 equal to a fraction the numerator of which is current

1 value of plan assets (as defined in section 3(26) of
2 such Act) and the denominator of which is current
3 liabilities (as defined in section 431(c)(6)(D) of such
4 Code and section 304(c)(6)(D) of such Act).

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

13 (3) ESTABLISHMENT OF LOAN PROGRAM.—

14 (A) IN GENERAL.—A program to make the
15 loans authorized under this section shall be es-
16 tablished not later than September 30, 2019,
17 with guidance regarding such program to be
18 promulgated by the Director of the Pension Re-
19 habilitation Administration, in consultation with
20 the Director of the Pension Benefit Guaranty
21 Corporation, the Secretary of the Treasury, and
22 the Secretary of Labor, not later than Decem-
23 ber 31, 2019.

24 (B) LOANS AUTHORIZED BEFORE PRO-
25 GRAM DATE.—Without regard to whether the

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

9 (b) LOAN TERMS.—

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

12 (A) the plan shall make payments of inter-
13 est on the loan for a period of 29 years begin-
14 ning on the date of the loan (or 19 years in the
15 case of a plan making the election under sub-
16 section (c)(5));

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

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

23 (i) except as provided in clause (ii),
24 the plan will not increase benefits, allow
25 any employer participating in the plan to

1 reduce its contributions, or accept any col-
2 lective bargaining agreement which pro-
3 vides for reduced contribution rates, dur-
4 ing the 30-year period described in sub-
5 paragraphs (A) and (B);

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

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

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

24 (v) the plan and plan administrator
25 will meet such other requirements as the

1 Director of the Pension Rehabilitation Ad-
2 ministration provides in the loan terms.

3 The terms of the loan shall not make reference
4 to whether the plan is receiving financial assist-
5 ance under section 4261(d) of the Employee
6 Retirement Income Security Act of 1974 (29
7 U.S.C. 1431(d)) or to any adjustment of the
8 loan amount under subsection (d)(2)(A)(ii).

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

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

19 (B) not exceed the greater of—

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

22 (ii) the rate necessary to collect reve-
23 nues sufficient to administer the program
24 under this section.

25 (c) LOAN APPLICATION.—

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

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

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

13 (ii) the plan is reasonably expected to
14 be able to pay benefits and the interest on
15 the loan during such period and to accu-
16 mulate sufficient funds to repay the prin-
17 cipal when due;

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

22 (C) stipulate whether the plan is also ap-
23 plying for financial assistance under section
24 4261(d) of the Employee Retirement Income
25 Security Act of 1974 (29 U.S.C. 1431(d)) in

1 combination with the loan to enable the plan to
2 avoid insolvency and to pay benefits, or is al-
3 ready receiving such financial assistance as a
4 result of a previous application;

5 (D) state in what manner the loan pro-
6 ceeds will be invested pursuant to subsection
7 (d), the person from whom any annuity con-
8 tracts under such subsection will be purchased,
9 and the person who will be the investment man-
10 ager for any portfolio implemented under such
11 subsection; and

12 (E) include such other information and
13 certifications as the Director of the Pension Re-
14 habilitation Administration shall require.

15 (2) STANDARD FOR ACCEPTING ACTUARIAL AND
16 PLAN SPONSOR DETERMINATIONS AND DEMONSTRA-
17 TIONS IN THE APPLICATION.—In evaluating the plan
18 sponsor’s application, the Director of the Pension
19 Rehabilitation Administration shall accept the deter-
20 minations and demonstrations in the application un-
21 less the Director, in consultation with the Director
22 of the Pension Benefit Guaranty Corporation, the
23 Secretary of the Treasury, and the Secretary of
24 Labor, concludes that any such determinations or
25 demonstrations in the application (or any underlying

1 assumptions) are unreasonable or are inconsistent
2 with any rules issued by the Director pursuant to
3 subsection (g).

4 (3) REQUIRED ACTIONS; DEEMED APPROVAL.—

5 The Director of the Pension Rehabilitation Adminis-
6 tration shall approve or deny any application under
7 this subsection within 90 days after the submission
8 of such application. An application shall be deemed
9 approved unless, within such 90 days, the Director
10 notifies the plan sponsor of the denial of such appli-
11 cation and the reasons for such denial. Any approval
12 or denial of an application by the Director of the
13 Pension Rehabilitation Administration shall be treat-
14 ed as a final agency action for purposes of section
15 704 of title 5, United States Code. The Pension Re-
16 habilitation Administration shall make the loan pur-
17 suant to any application promptly after the approval
18 of such application.

19 (4) CERTAIN PLANS REQUIRED TO APPLY.—

20 The plan sponsor of any plan with respect to which
21 a suspension of benefits has been approved under
22 section 432(e)(9) of the Internal Revenue Code of
23 1986 and section 305(e)(9) of the Employee Retire-
24 ment Income Security Act of 1974 or under section
25 418E of such Code, before the date of the enactment

1 of this Act shall apply for a loan under this section.
2 The Director of the Pension Rehabilitation Adminis-
3 tration shall provide for such plan sponsors to use
4 the simplified application under subsection
5 (d)(2)(B).

6 (5) INCENTIVE FOR EARLY REPAYMENT.—The
7 plan sponsor may elect at the time of the application
8 to repay the loan principal, along with the remaining
9 interest, at least as rapidly as equal installments
10 over the 10-year period beginning with the 21st year
11 after the date of the loan. In the case of a plan mak-
12 ing this election, the interest on the loan shall be re-
13 duced by 0.5 percent.

14 (d) LOAN AMOUNT AND USE.—

15 (1) AMOUNT OF LOAN.—

16 (A) IN GENERAL.—Except as provided in
17 subparagraph (B) and paragraph (2), the
18 amount of any loan under subsection (a) shall
19 be, as demonstrated by the plan sponsor on the
20 application under subsection (c), the amount
21 needed to purchase annuity contracts or to im-
22 plement a portfolio described in paragraph
23 (3)(C) (or a combination of the two) sufficient
24 to provide benefits of participants and bene-
25 ficiaries of the plan in pay status, and termi-

1 nated vested benefits, at the time the loan is
2 made.

3 (B) PLANS WITH SUSPENDED BENE-
4 FITS.—In the case of a plan with respect to
5 which a suspension of benefits has been ap-
6 proved under section 432(e)(9) of the Internal
7 Revenue Code of 1986 and section 305(e)(9) of
8 the Employee Retirement Income Security Act
9 of 1974 (29 U.S.C. 1085(e)(9)) or under sec-
10 tion 418E of such Code—

11 (i) the suspension of benefits shall not
12 be taken into account in applying subpara-
13 graph (A); and

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

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

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

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

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

19 (I) the amount determined under
20 paragraph (1)(A) or (1)(B)(ii) (which-
21 ever is applicable); over

22 (II) the amount of such financial
23 assistance.

24 (B) PLANS ALREADY RECEIVING PBGC AS-
25 SISTANCE.—The Director of the Pension Reha-

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

10 (3) USE OF LOAN FUNDS.—

11 (A) IN GENERAL.—Notwithstanding sec-
12 tion 432(f)(2)(A)(ii) of the Internal Revenue
13 Code of 1986 and section 305(f)(2)(A)(ii) of
14 such Act, the loan received under subsection (a)
15 shall only be used to purchase annuity contracts
16 which meet the requirements of subparagraph
17 (B) or to implement a portfolio described in
18 subparagraph (C) (or a combination of the two)
19 to provide the benefits described in paragraph
20 (1).

21 (B) ANNUITY CONTRACT REQUIRE-
22 MENTS.—The annuity contracts purchased
23 under subparagraph (A) shall be issued by an
24 insurance company which is licensed to do busi-
25 ness under the laws of any State and which is

1 rated A or better by a nationally recognized sta-
2 tistical rating organization, and the purchase of
3 such contracts shall meet all applicable fidu-
4 ciary standards under the Employee Retirement
5 Income Security Act of 1974.

6 (C) PORTFOLIO.—

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

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

21 (II) any other portfolio pre-
22 scribed by the Secretary of the Treas-
23 ury in regulations which has a similar
24 risk profile to the portfolios described
25 in subclause (I) and is equally protec-

1 tive of the interests of participants
2 and beneficiaries.

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

8 (ii) FIDUCIARY DUTY.—Any invest-
9 ment manager of a portfolio under this
10 subparagraph shall acknowledge in writing
11 that such person is a fiduciary under the
12 Employee Retirement Income Security Act
13 of 1974 with respect to the plan.

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

22 (D) ACCOUNTING.—

23 (i) IN GENERAL.—Annuity contracts
24 purchased and portfolios implemented
25 under this paragraph shall be used solely

1 to provide the benefits described in para-
2 graph (1) until all such benefits have been
3 paid and shall be accounted for separately
4 from the other assets of the plan.

5 (ii) OVERSIGHT OF NON-ANNUITY IN-
6 VESTMENTS.—

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

19 (II) REMEDIAL ACTION.—If the
20 oversight under subclause (I) deter-
21 mines an inadequacy, the plan spon-
22 sor shall take remedial action to en-
23 sure that the inadequacy will be cured
24 within 2 years of such determination.

1 (E) OMBUDSPERSON.—The Participant
2 and Plan Sponsor Advocate established under
3 section 4004 of the Employee Retirement In-
4 come Security Act of 1974 shall act as
5 ombudsperson for participants and beneficiaries
6 on behalf of whom annuity contracts are pur-
7 chased or who are covered by a portfolio under
8 this paragraph.

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

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

22 (g) AUTHORITY TO ISSUE RULES, ETC.—The Direc-
23 tor of the Pension Rehabilitation Administration, in con-
24 sultation with the Director of the Pension Benefit Guar-
25 anty Corporation, the Secretary of the Treasury, and the

1 Secretary of Labor, is authorized to issue rules regarding
2 the form, content, and process of applications for loans
3 under this section, actuarial standards and assumptions
4 to be used in making estimates and projections for pur-
5 poses of such applications, and assumptions regarding in-
6 terest rates, mortality, and distributions with respect to
7 a portfolio described in subsection (d)(3)(C).

8 (h) COORDINATION WITH TAXATION OF UNRELATED
9 BUSINESS INCOME.—Subparagraph (A) of section
10 514(c)(6) of the Internal Revenue Code of 1986 is amend-
11 ed—

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

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

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

17 “(iii) indebtedness with respect to a
18 multiemployer plan under a loan made by
19 the Pension Rehabilitation Administration
20 pursuant to section 4 of the Rehabilitation
21 for Multiemployer Pensions Act of 2019.”.

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

24 (a) AMENDMENT TO INTERNAL REVENUE CODE OF
25 1986.—Section 432 of the Internal Revenue Code of 1986

1 is amended by adding at the end the following new sub-
2 section:

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

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

7 “(A) IN GENERAL.—If any employer par-
8 ticipating in a plan at the time the plan receives
9 a loan under section 4(a) of the Rehabilitation
10 for Multiemployer Pensions Act of 2019 with-
11 draws from the plan before the end of the 30-
12 year period beginning on the date of the loan,
13 the withdrawal liability of such employer shall
14 be determined under the Employee Retirement
15 Income Security Act of 1974—

16 “(i) by applying section 4219(c)(1)(D)
17 of the Employee Retirement Income Secu-
18 rity Act of 1974 as if the plan were termi-
19 nating by the withdrawal of every employer
20 from the plan, and

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

1 Retirement Income Security Act of 1974,
2 as prescribed in the regulations under sec-
3 tion 4281 of the Employee Retirement In-
4 come Security Act of 1974 in the case of
5 such a mass withdrawal.

6 “(B) ANNUITY CONTRACTS AND INVEST-
7 MENT PORTFOLIOS PURCHASED WITH LOAN
8 FUNDS.—Annuity contracts purchased and
9 portfolios implemented under section 4(d)(3) of
10 the Rehabilitation for Multiemployer Pensions
11 Act of 2019 shall not be taken into account as
12 plan assets in determining the withdrawal liabil-
13 ity of any employer under subparagraph (A),
14 but the amount equal to the greater of—

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

18 “(ii) the remaining payments due on
19 the loan under section 4(a) of such Act,
20 shall be taken into account as unfunded vested
21 benefits in determining such withdrawal liabil-
22 ity.

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 of 2019—

3 “(A) annuity contracts purchased and
4 portfolios implemented under section 4(d)(3) of
5 such Act, and the benefits provided to partici-
6 pants and beneficiaries under such contracts or
7 portfolios, shall not be taken into account in de-
8 termining minimum required contributions
9 under section 412,

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
13 or portfolios, shall be taken into account as li-
14 abilities 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 (b) AMENDMENT TO EMPLOYEE RETIREMENT IN-
22 COME SECURITY ACT OF 1974.—Section 305 of the Em-
23 ployee Retirement Income Security Act of 1974 (29
24 U.S.C. 1085) is amended by adding at the end the fol-
25 lowing new subsection:

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

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

5 “(A) IN GENERAL.—If any employer par-
6 ticipating in a plan at the time the plan receives
7 a loan under section 4(a) of the Rehabilitation
8 for Multiemployer Pensions Act withdraws from
9 the plan before the end of the 30-year period
10 beginning on the date of the loan, the with-
11 drawal liability of such employer shall be deter-
12 mined—

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

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

24 “(B) ANNUITY CONTRACTS AND INVEST-
25 MENT PORTFOLIOS PURCHASED WITH LOAN

1 FUNDS.—Annuity contracts purchased and
2 portfolios implemented under section 4(d)(3) of
3 the Rehabilitation for Multiemployer Pensions
4 Act shall not be taken into account in deter-
5 mining the withdrawal liability of any employer
6 under subparagraph (A), but the amount equal
7 to the greater of—

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

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

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

18 “(A) annuity contracts purchased and
19 portfolios implemented under section 4(d)(3) of
20 such Act, and the benefits provided to partici-
21 pants and beneficiaries under such contracts or
22 portfolios, shall not be taken into account in de-
23 termining minimum required contributions
24 under section 302,

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

13 The Secretary of the Treasury shall from time to time
14 transfer from the general fund of the Treasury to the Pen-
15 sion Rehabilitation Trust Fund established under section
16 9512 of the Internal Revenue Code of 1986 such amounts
17 as are necessary to fund the loan program under section
18 4 of this Act, including from proceeds from the Secretary’s
19 issuance of obligations under chapter 31 of title 31,
20 United States Code.

21 **SEC. 7. REPORTS OF PLANS RECEIVING PENSION REHA-**
22 **BILITATION LOANS.**

23 (a) IN GENERAL.—Subpart E of part III of sub-
24 chapter A of chapter 61 of the Internal Revenue Code of

1 1986 is amended by adding at the end the following new
2 section:

3 **“SEC. 6059A. REPORTS OF PLANS RECEIVING PENSION RE-**
4 **HABILITATION LOANS.**

5 “(a) IN GENERAL.—In the case of a plan receiving
6 a loan under section 4(a) of the Rehabilitation for Multi-
7 employer Pensions Act of 2019, with respect to the first
8 plan year beginning after the date of the loan and each
9 of the 29 succeeding plan years, not later than the 90th
10 day of each such plan year the plan sponsor shall file with
11 the Secretary a report (including appropriate documenta-
12 tion and actuarial certifications from the plan actuary, as
13 required by the Secretary) that contains—

14 “(1) the funded percentage (as defined in sec-
15 tion 432(j)(2)) as of the first day of such plan year,
16 and the underlying actuarial value of assets (deter-
17 mined with regard, and without regard, to annuity
18 contracts purchased and portfolios implemented with
19 proceeds of such loan) and liabilities (including any
20 amounts due with respect to such loan) taken into
21 account in determining such percentage,

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

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

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

6 “(5) cash flow projections for such plan year
7 and the 9 succeeding plan years, and the assump-
8 tions used in making such projections,

9 “(6) funding standard account projections for
10 such plan year and the 9 succeeding plan years, and
11 the assumptions relied upon in making such projec-
12 tions,

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

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

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

21 “(10) a list of employers that paid withdrawal
22 liability to the plan during the plan year preceding
23 such plan year and, for each employer, a total as-
24 sessment of the withdrawal liability paid, the annual
25 payment amount, and the number of years remain-

1 ing in the payment schedule with respect to such
2 withdrawal liability,

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

7 “(12) details regarding any funding improve-
8 ment plan or rehabilitation plan and updates to such
9 plan,

10 “(13) the number of participants during the
11 plan year preceding such plan year who are active
12 participants, the number of participants and bene-
13 ficiaries in pay status, and the number of terminated
14 vested participants and beneficiaries,

15 “(14) the amount of any financial assistance re-
16 ceived under section 4261 of the Employee Retirement
17 Income Security Act of 1974 to pay benefits
18 during the preceding plan year, and the total
19 amount of such financial assistance received for all
20 preceding years,

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

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

4 “(17) copies of the plan document and amend-
5 ments, other retirement benefit or ancillary benefit
6 plans relating to the plan and contribution obliga-
7 tions under such plans, a breakdown of administra-
8 tive expenses of the plan, participant census data
9 and distribution of benefits, the most recent actu-
10 arial valuation report as of the plan year, copies of
11 collective bargaining agreements, and financial re-
12 ports, and such other information as the Secretary,
13 in consultation with the Director of the Pension Re-
14 habilitation Administration, may require.

15 “(b) ELECTRONIC SUBMISSION.—The report re-
16 quired under subsection (a) shall be submitted electroni-
17 cally.

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

22 “(d) REPORT TO PARTICIPANTS, BENEFICIARIES,
23 AND EMPLOYERS.—Each plan sponsor required to file a
24 report under subsection (a) shall, before the expiration of
25 the time prescribed for the filing of such report, also pro-

1 vide a summary (written in a manner so as to be under-
2 stood by the average plan participant) of the information
3 in such report to participants and beneficiaries in the plan
4 and to each employer with an obligation to contribute to
5 the plan.”.

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

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

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

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

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

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

21 **SEC. 8. PBGC FINANCIAL ASSISTANCE.**

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

1 “(d)(1) The plan sponsor of a multiemployer plan—
2 “(A) which is in critical and declining status
3 (within the meaning of section 305(b)(6)), or
4 “(B) which is insolvent but has not been termi-
5 nated and is receiving assistance from the corpora-
6 tion (other than assistance under this subsection),
7 and which is applying for a loan under section 4(a) of the
8 Rehabilitation for Multiemployer Pensions Act may also
9 apply to the corporation for financial assistance under this
10 subsection, by jointly submitting such applications in ac-
11 cordance with section 4(d)(2) of such Act. The application
12 for financial assistance under this subsection shall dem-
13 onstrate, based on projections by the plan actuary, that
14 after the receipt of the anticipated loan amount under sec-
15 tion 4(a) of such Act, the plan will still become (or remain)
16 insolvent within the 30-year period beginning on the date
17 of the loan.

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

23 “(A) the percentage of benefits of participants
24 and beneficiaries of the plan in pay status at the
25 time of the application, and

1 “(B) the percentage of future benefits to which
2 participants who have separated from service but are
3 not yet in pay status are entitled,
4 which, if such percentage were paid by the corporation in
5 combination with the loan, would allow the plan to avoid
6 the projected insolvency and be projected to have increas-
7 ing assets over any 5-year period following the repayment
8 of the loan. Such amount shall not exceed the maximum
9 guaranteed benefit with respect to all participants and
10 beneficiaries of the plan under sections 4022A and 4022B.
11 For this purpose, the maximum guaranteed benefit
12 amount shall be determined by disregarding any loan
13 available from the Pension Rehabilitation Administration
14 and shall be determined as if the plan were insolvent on
15 the date of the application. Further, the present value of
16 the maximum guaranteed benefit amount with respect to
17 such participants and beneficiaries may be calculated in
18 the aggregate, rather than by reference to the benefit of
19 each such participant or beneficiary.

20 “(3) In the case of a plan described in paragraph
21 (1)(B), the financial assistance provided pursuant to such
22 application under this subsection shall be the amount (de-
23 termined by the plan actuary and submitted on the appli-
24 cation) which, if such amount were paid by the corporation
25 in combination with the loan and any other assistance

1 being provided to the plan by the corporation at the time
2 of the application, would enable the plan to emerge from
3 insolvency.

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

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

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

