

[DISCUSSION DRAFT]

116TH CONGRESS
1ST SESSION

H. R. _____

To amend the Internal Revenue Code of 1986 to create a Pension Rehabilitation Trust Fund, to establish a Pension Rehabilitation Administration within the Department of the Treasury to make loans to multiemployer defined benefit plans, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. NEAL introduced the following bill; which was referred to the Committee
on _____

A BILL

To amend the Internal Revenue Code of 1986 to create a Pension Rehabilitation Trust Fund, to establish a Pension Rehabilitation Administration within the Department of the Treasury to make loans to multiemployer defined benefit plans, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

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

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

3 (a) ESTABLISHMENT.—There is established in the
4 Department of the Treasury an agency to be known as
5 the “Pension Rehabilitation Administration”.

6 (b) DIRECTOR.—

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

11 (2) TERM.—

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

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

18 (3) POWERS.—

19 (A) APPOINTMENT OF DEPUTY DIREC-
20 TORS, OFFICERS, AND EMPLOYEES.—The Di-
21 rector may appoint Deputy Directors, officers,
22 and employees, including attorneys, in accord-
23 ance with chapter 51 and subchapter III of
24 chapter 53 of title 5, United States Code.

25 (B) CONTRACTING.—

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

15 (ii) SUBJECT TO APPROPRIATIONS.—
16 Contract authority under clause (i) shall be
17 effective for any fiscal year only to the ex-
18 tent that appropriations are available for
19 that purpose.

20 (c) TRANSFER OF FUNDS.—The Secretary of the
21 Treasury may transfer for any fiscal year, from unobli-
22 gated amounts appropriated to the Department of the
23 Treasury, to the Pension Rehabilitation Administration
24 such sums as may be reasonably necessary for the admin-

1 istrative and operating expenses of the Pension Rehabilita-
2 tion Administration.

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

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

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

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

15 “(b) TRANSFERS TO FUND.—

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

20 “(2) LOAN INTEREST AND PRINCIPAL.—

21 “(A) IN GENERAL.—The Director of the
22 Pension Rehabilitation Administration estab-
23 lished under section 2 of the Rehabilitation for
24 Multiemployer Pensions Act of 2019 shall de-
25 posit in the Fund any amounts received from a

1 plan as payment of interest or principal on a
2 loan under section 4 of such Act.

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

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

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

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

16 “(1) for the purpose of making the loans de-
17 scribed in section 4 of the Rehabilitation for Multi-
18 employer Pensions 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 the
17 Employee Retirement and Income Security
18 Act) as of the date of the enactment of
19 this section, or with respect to which a sus-
20 pension of benefits has been approved
21 under section 432(e)(9) of such Code and
22 section 305(e)(9) of such Act as of such
23 date;

24 (ii) as of such date of enactment, are
25 in critical status (within the meaning of

1 section 432(b)(2) of such Code and section
2 305(b)(2) of such Act), have a modified
3 funded percentage of less than 40 percent,
4 and have a ratio of active to inactive par-
5 ticipants which is less than 2 to 5; or

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

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

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

20 (2) CONSULTATION.—The Director of the Pen-
21 sion Rehabilitation Administration shall consult with
22 the Secretary of the Treasury, the Secretary of
23 Labor, and the Director of the Pension Benefit
24 Guaranty Corporation before making any loan under
25 paragraph (1), and shall share with such persons the

1 application and plan information with respect to
2 each such loan.

3 (3) ESTABLISHMENT OF LOAN PROGRAM.—

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

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

24 (b) LOAN TERMS.—

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

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

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

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

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

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

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

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

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

15 (v) the plan and plan administrator
16 will meet such other requirements as the
17 Director of the Pension Rehabilitation Ad-
18 ministration provides in the loan terms.

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

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

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

11 (B) not exceed the greater of—

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

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

17 (c) LOAN APPLICATION.—

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

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

22 (i) the loan will enable the plan to
23 avoid insolvency for at least the 30-year
24 period described in subparagraphs (A) and

25 (B) of subsection (b)(1) or, in the case of

1 a plan which is already insolvent, to
2 emerge from insolvency within and avoid
3 insolvency for the remainder of such pe-
4 riod; and

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

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

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

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

1 and the person who will be the investment man-
2 ager for any portfolio implemented under such
3 subsection; and

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

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

21 (3) REQUIRED ACTIONS; DEEMED APPROVAL.—
22 The Director of the Pension Rehabilitation Adminis-
23 tration shall approve or deny any application under
24 this subsection within 90 days after the submission
25 of such application. An application shall be deemed

1 approved unless, within such 90 days, the Director
2 notifies the plan sponsor of the denial of such appli-
3 cation and the reasons for such denial. Any approval
4 or denial of an application by the Director of the
5 Pension Rehabilitation Administration shall be treat-
6 ed as a final agency action for purposes of section
7 704 of title 5, United States Code. The Pension Re-
8 habilitation Administration shall make the loan pur-
9 suant to any application promptly after the approval
10 of such application.

11 (4) CERTAIN PLANS REQUIRED TO APPLY.—
12 The plan sponsor of any plan with respect to which
13 a suspension of benefits has been approved under
14 section 432(e)(9) of the Internal Revenue Code of
15 1986 and section 305(e)(9) of the Employee Retire-
16 ment Income Security Act of 1974 or under section
17 418E of such Code, before the date of the enactment
18 of this Act shall apply for a loan under this section.
19 The Director of the Pension Rehabilitation Adminis-
20 tration shall provide for such plan sponsors to use
21 the simplified application under subsection
22 (d)(2)(B).

23 (5) INCENTIVE FOR EARLY REPAYMENT.—The
24 plan sponsor may elect at the time of the application
25 to repay the loan principal, along with the remaining

1 interest, at least as rapidly as equal installments
2 over the 10-year period beginning with the 21st year
3 after the date of the loan. In the case of a plan mak-
4 ing this election, the interest on the loan shall be re-
5 duced by 0.5 percent.

6 (d) LOAN AMOUNT AND USE.—

7 (1) AMOUNT OF LOAN.—

8 (A) IN GENERAL.—Except as provided in
9 subparagraph (B) and paragraph (2), the
10 amount of any loan under subsection (a) shall
11 be, as demonstrated by the plan sponsor on the
12 application under subsection (c), the amount
13 needed to purchase annuity contracts or to im-
14 plement a portfolio described in paragraph
15 (3)(C) (or a combination of the two) sufficient
16 to provide benefits of participants and bene-
17 ficiaries of the plan in pay status, and termi-
18 nated vested benefits, at the time the loan is
19 made.

20 (B) PLANS WITH SUSPENDED BENE-
21 FITS.—In the case of a plan with respect to
22 which a suspension of benefits has been ap-
23 proved under section 432(e)(9) of the Internal
24 Revenue Code of 1986 and section 305(e)(9) of
25 the Employee Retirement Income Security Act

1 of 1974 (29 U.S.C. 1085(e)(9)) or under sec-
2 tion 418E of such Code—

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

6 (ii) the loan amount shall be the
7 amount sufficient to provide benefits of
8 participants and beneficiaries of the plan
9 in pay status and terminated vested bene-
10 fits at the time the loan is made, deter-
11 mined without regard to the suspension,
12 including retroactive payment of benefits
13 which would otherwise have been payable
14 during the period of the suspension.

15 (2) COORDINATION WITH PBGC FINANCIAL AS-
16 SISTANCE.—

17 (A) IN GENERAL.—In the case of a plan
18 which is also applying for financial assistance
19 under section 4261(d) of the Employee Retirement
20 Income Security Act of 1974 (29 U.S.C.
21 1431(d))—

22 (i) the plan sponsor shall submit the
23 loan application and the application for fi-
24 nancial assistance jointly to the Pension
25 Rehabilitation Administration and the Pen-

1 sion Benefit Guaranty Corporation with
2 the information necessary to determine the
3 eligibility for and amount of the loan under
4 this section and the financial assistance
5 under section 4261(d) of such Act; and

6 (ii) if such financial assistance is
7 granted, the amount of the loan under sub-
8 section (a) shall not exceed an amount
9 equal to the excess of—

10 (I) the amount determined under
11 paragraph (1)(A) or (1)(B)(ii) (which-
12 ever is applicable); over

13 (II) the amount of such financial
14 assistance.

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

1 (3) USE OF LOAN FUNDS.—

2 (A) IN GENERAL.—Notwithstanding sec-
3 tion 432(f)(2)(A)(ii) of the Internal Revenue
4 Code of 1986 and section 305(f)(2)(A)(ii) of
5 such Act, the loan received under subsection (a)
6 shall only be used to purchase annuity contracts
7 which meet the requirements of subparagraph
8 (B) or to implement a portfolio described in
9 subparagraph (C) (or a combination of the two)
10 to provide the benefits described in paragraph
11 (1).

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

22 (C) PORTFOLIO.—

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

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

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

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

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

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

15 (D) ACCOUNTING.—

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

23 (ii) OVERSIGHT OF NON-ANNUITY IN-
24 VESTMENTS.—

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

13 (II) REMEDIAL ACTION.—If the
14 oversight under subclause (I) deter-
15 mines an inadequacy, the plan spon-
16 sor shall take remedial action to en-
17 sure that the inadequacy will be cured
18 within 2 years of such determination.

19 (E) OMBUDSPERSON.—The Participant
20 and Plan Sponsor Advocate established under
21 section 4004 of the Employee Retirement In-
22 come Security Act of 1974 shall act as
23 ombudsperson for participants and beneficiaries
24 on behalf of whom annuity contracts are pur-

1 chased or who are covered by a portfolio under
2 this paragraph.

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

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

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

1 terest rates, mortality, and distributions with respect to
2 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 Rehabilitation
16 for Multiemployer Pensions 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 Rehabilitation
6 for Multiemployer Pensions Act of 2019 with-
7 draws from the plan before the end of the 30-
8 year period beginning on the date of the loan,
9 the withdrawal liability of such employer shall
10 be determined under the Employee Retirement
11 Income Security Act of 1974—

12 “(i) by applying section 4219(c)(1)(D)
13 of the Employee Retirement Income Secu-
14 rity Act of 1974 as if the plan were termi-
15 nating by the withdrawal of every employer
16 from the 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 of the Employee
22 Retirement Income Security Act of 1974,
23 as prescribed in the regulations under sec-
24 tion 4281 of the Employee Retirement In-

1 come Security Act of 1974 in the case of
2 such a mass withdrawal.

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

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

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

20 “(2) COORDINATION WITH FUNDING REQUIRE-
21 MENTS.—In the case of a plan which receives a loan
22 under section 4(a) of the Rehabilitation for Multiem-
23 ployer Pensions Act of 2019—

24 “(A) annuity contracts purchased and
25 portfolios implemented under section 4(d)(3) of

1 such Act, and the benefits provided to partici-
2 pants and beneficiaries under such contracts or
3 portfolios, shall not be taken into account in de-
4 termining minimum required contributions
5 under section 412,

6 “(B) payments on the interest and prin-
7 cipal under the loan, and any benefits owed in
8 excess of those provided under such contracts
9 or portfolios, shall be taken into account as li-
10 abilities for purposes of such section, and

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

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

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

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

1 “(A) IN GENERAL.—If any employer par-
2 ticipating in a plan at the time the plan receives
3 a loan under section 4(a) of the Rehabilitation
4 for Multiemployer Pensions Act of 2019 with-
5 draws from the plan before the end of the 30-
6 year period beginning on the date of the loan,
7 the withdrawal liability of such employer shall
8 be determined—

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

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

20 “(B) ANNUITY CONTRACTS AND INVEST-
21 MENT PORTFOLIOS PURCHASED WITH LOAN
22 FUNDS.—Annuity contracts purchased and
23 portfolios implemented under section 4(d)(3) of
24 the Rehabilitation for Multiemployer Pensions
25 Act of 2019 shall not be taken into account in

1 determining the withdrawal liability of any em-
2 ployer under subparagraph (A), but the amount
3 equal to the greater of—

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

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

10 “(2) COORDINATION WITH FUNDING REQUIRE-
11 MENTS.—In the case of a plan which receives a loan
12 under section 4(a) of the Rehabilitation for Multiem-
13 ployer Pensions Act of 2019—

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

21 “(B) payments on the interest and prin-
22 cipal under the loan, and any benefits owed in
23 excess of those provided under such contracts
24 or portfolios, shall be taken into account as li-
25 abilities for purposes of such section, and

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

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

8 The Secretary of the Treasury shall from time to time
9 transfer from the general fund of the Treasury to the Pen-
10 sion Rehabilitation Trust Fund established under section
11 9512 of the Internal Revenue Code of 1986 such amounts
12 as are necessary to fund the loan program under section
13 4 of this Act, including from proceeds from the Secretary’s
14 issuance of obligations under chapter 31 of title 31,
15 United States Code.

16 **SEC. 7. REPORTS OF PLANS RECEIVING PENSION REHA-**
17 **BILITATION LOANS.**

18 (a) IN GENERAL.—Subpart E of part III of sub-
19 chapter A of chapter 61 of the Internal Revenue Code of
20 1986 is amended by adding at the end the following new
21 section:

22 **“SEC. 6059A. REPORTS OF PLANS RECEIVING PENSION RE-**
23 **HABILITATION LOANS.**

24 “(a) IN GENERAL.—In the case of a plan receiving
25 a loan under section 4(a) of the Rehabilitation for Multi-

1 employer Pensions Act of 2019, with respect to the first
2 plan year beginning after the date of the loan and each
3 of the 29 succeeding plan years, not later than the 90th
4 day of each such plan year the plan sponsor shall file with
5 the Secretary a report (including appropriate documenta-
6 tion and actuarial certifications from the plan actuary, as
7 required by the Secretary) that contains—

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

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

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

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

1 “(5) cash flow projections for such plan year
2 and the 9 succeeding plan years, and the assump-
3 tions used in making such projections,

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

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

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

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

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

23 “(11) any material changes to benefits, accrual
24 rates, or contribution rates during the plan year pre-

1 ceding such plan year, and whether such changes re-
2 late to the terms of the loan,

3 “(12) details regarding any funding improve-
4 ment plan or rehabilitation plan and updates to such
5 plan,

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

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

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

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

24 “(17) copies of the plan document and amend-
25 ments, other retirement benefit or ancillary benefit

1 plans relating to the plan and contribution obliga-
2 tions under such plans, a breakdown of administra-
3 tive expenses of the plan, participant census data
4 and distribution of benefits, the most recent actu-
5 arial valuation report as of the plan year, copies of
6 collective bargaining agreements, and financial re-
7 ports, and such other information as the Secretary,
8 in consultation with the Director of the Pension Re-
9 habilitation Administration, may require.

10 “(b) ELECTRONIC SUBMISSION.—The report re-
11 quired under subsection (a) shall be submitted electroni-
12 cally.

13 “(c) INFORMATION SHARING.—The Secretary shall
14 share the information in the report under subsection (a)
15 with the Secretary of Labor and the Director of the Pen-
16 sion Benefit Guaranty Corporation.

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

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

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

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

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

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

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

16 **SEC. 8. PBGC FINANCIAL ASSISTANCE.**

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

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

22 “(A) which is in critical and declining status
23 (within the meaning of section 305(b)(6)) as of the
24 date of the enactment of this subsection, or with re-

1 spect to which a suspension of benefits has been ap-
2 proved under section 305(e)(9) as of such date;

3 “(B) which, as of such date of enactment, is in
4 critical status (within the meaning of section
5 305(b)(2)), has a modified funded percentage of less
6 than 40 percent (as defined in section 4(a)(1) of the
7 Rehabilitation for Multiemployer Pensions Act of
8 2019), and has a ratio of active to inactive partici-
9 pants which is less than 2 to 5; or

10 “(C) which is insolvent for purposes of section
11 418E of the Internal Revenue Code of 1986 as of
12 such date of enactment, if the plan became insolvent
13 after December 16, 2014, and has not been termi-
14 nated;

15 and which is applying for a loan under section 4(a) of the
16 Rehabilitation for Multiemployer Pensions Act of 2019
17 may also apply to the corporation for financial assistance
18 under this subsection, by jointly submitting such applica-
19 tions in accordance with section 4(d)(2) of such Act. The
20 application for financial assistance under this subsection
21 shall demonstrate, based on projections by the plan actu-
22 ary, that after the receipt of the anticipated loan amount
23 under section 4(a) of such Act, the plan will still become
24 (or remain) insolvent within the 30-year period beginning
25 on the date of the loan.

1 “(2) In reviewing an application under paragraph
2 (1), the corporation shall review the determinations and
3 demonstrations submitted with the loan application under
4 section 4(c) of the Rehabilitation for Multiemployer Pen-
5 sions Act of 2019 and provide guidance regarding such
6 determinations and demonstrations prior to approving any
7 application for financial assistance under this subsection.
8 The corporation may deny any application if any such de-
9 terminations or demonstrations (or any underlying as-
10 sumptions) are unreasonable, or inconsistent with rules
11 issued by the corporation, and the plan and the corpora-
12 tion are unable to reach agreement on such determinations
13 or demonstrations. The corporation shall prescribe any
14 such rules or guidance not later than December 31, 2019.

15 “(3)(A) In the case of a plan described in paragraph
16 (1)(A) or (1)(B), the total financial assistance provided
17 under this subsection shall be an amount equal to the
18 smallest portion of the loan amount with respect to the
19 plan under paragraph (1)(A) or (1)(B)(ii) of section 4(d)
20 of the Rehabilitation for Multiemployer Pensions Act of
21 2019 (determined without regard to paragraph (2) there-
22 of) that, if provided as financial assistance under this sub-
23 section instead of a loan, would allow the plan to avoid
24 the projected insolvency.

1 “(B) Such amount shall not exceed the present value
2 of the maximum guaranteed benefit with respect to all
3 participants and beneficiaries of the plan under sections
4 4022A and 4022B. For purposes of the preceding sen-
5 tence, the present value of the maximum guaranteed ben-
6 efit amount shall be determined by disregarding any loan
7 available from the Pension Rehabilitation Administration
8 and shall be determined as if the plan were insolvent on
9 the date of the application, and the present value of the
10 maximum guaranteed benefit amount with respect to such
11 participants and beneficiaries may be calculated in the ag-
12 gregate, rather than by reference to the benefit of each
13 such participant or beneficiary.

14 “(4) In the case of a plan described in paragraph
15 (1)(C), the financial assistance provided pursuant to such
16 application under this subsection shall be the present value
17 of the amount (determined by the plan actuary and sub-
18 mitted on the application) that, if such amount were paid
19 by the corporation in combination with the loan and any
20 other assistance being provided to the plan by the corpora-
21 tion at the time of the application, would enable the plan
22 to emerge from insolvency and avoid any other insolvency
23 projected under paragraph (1).

1 “(5)(A)(i) Except as provided in subparagraph (B),
2 if the corporation determines at the time of approval, or
3 at the beginning of any plan year beginning thereafter,
4 that the plan’s 5-year expenditure projection (determined
5 without regard to loan payments described in clause
6 (iii)(III)) exceeds the fair market value of the plan’s as-
7 sets, the corporation shall (subject to the total amount of
8 financial assistance approved under this subsection) pro-
9 vide such assistance in an amount equal to the lesser of—

10 “(I) the amount by which the plan’s 5-year
11 expenditure projection exceeds such fair market
12 value, or

13 “(II) the plan’s expected expenditures for
14 the plan year.

15 “(ii) For purposes of this subparagraph, the term ‘5-
16 year expenditure projection’ means, with respect to any
17 plan for a plan year, an amount equal to 500 percent of
18 the plan’s expected expenditures for the plan year.

19 “(iii) For purposes of this subparagraph, the term
20 ‘expected expenditures’ means, with respect to any plan
21 for a plan year, an amount equal to the sum of—

22 “(I) expected benefit payments for the plan
23 year,

24 “(II) expected administrative expense payments
25 for the plan year, plus

1 “(III) payments on the loan scheduled during
2 the plan year pursuant to the terms of the loan
3 under section 4(b) of the Rehabilitation for Multiem-
4 ployer Pensions Act of 2019.

5 “(iv) For purposes of this subparagraph, in the case
6 of any plan year during which a plan is approved for a
7 loan under section 4 of such Act, but has not yet received
8 the proceeds, such proceeds shall be included in deter-
9 mining the fair market value of the plan’s assets for the
10 plan year. The preceding sentence shall not apply in the
11 case of any plan that for the plan year beginning in 2015
12 was certified pursuant to section 305(b)(3) as being in
13 critical and declining status, and had more than 300,000
14 participants.

15 “(B) The financial assistance under this subsection
16 shall be provided in a lump sum if the plan sponsor dem-
17 onstrates in the application, and the corporation deter-
18 mines, that such a lump sum payment is necessary for
19 the plan to avoid the insolvency to which the application
20 relates. In the case of a plan described in paragraph
21 (1)(C), such lump sum shall be provided not later than
22 December 31, 2020.

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

1 under subsection (b)(2) shall not require the financial as-
2 sistance to be repaid before the date on which the loan
3 under section 4(a) of the Rehabilitation for Multiemployer
4 Pensions Act of 2019 is repaid in full.

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

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