Union Calendar No. 123

116TH CONGRESS
1ST SESSION

H. R. 397

[Report No. 116–159, Parts I and II]

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

IN THE HOUSE OF REPRESENTATIVES

JANUARY 9, 2019

Mr. Neal (for himself, Mr. King of New York, Mr. Scott of Virginia, Mr. Young, Mrs. Dingell, Mr. Smith of New Jersey, Mr. Norcross, Mr. Katko, Ms. Kaptur, and Mr. Fortenberry) introduced the following bill; which was referred to the Committee on Education and Labor, and in addition to the Committees on Ways and Means, and Appropriations, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

JULY 18, 2019

Reported from the Committee on Ways and Means with an amendment

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

JULY 19, 2019

Reported from the Committee on Education and Labor with an amendment

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

JULY 19, 2019

Additional sponsors: Ms. Moore, Mr. Cleaver, Mr. Lynch, Ms. Schakowsky, Mr. Huizenga, Mr. Ryan, Mr. Sean Patrick Maloney of New York, Mr. Fitzpatrick, Ms. Kelly of Illinois, Ms. McCollum, Ms. Brownley of California, Mr. Kihanna, Ms. Wilson of Florida, Mr. Hastings, Mr. Loeb, Mrs. Beatty, Ms. Pingree, Mr. Shires, Mr. Stauber, Mr. Higgins of New York, Ms. Sewell of Alabama, Mr. Lamb, Ms. Velázquez, Miss Rice of New York, Mrs. Bustos, Mr. Cohen, Mr. Espaillat, Mr. Lipinski, Mr. Sablan, Mr. Kildee, Mr.
Brindisi, Ms. Titus, Ms. Craig, Mr. Pallone, Mr. Schiff, Mr. Smith of Washington, Ms. DeLauro, Mr. Serrano, Ms. Norton, Mr. Krishnamoorthi, Ms. Roybal-Allard, Mr. Gallego, Mrs. Napolitano, Mr. Ted Lieu of California, Mr. Visclosky, Mr. McGovern, Mr. Levin of Michigan, Mr. Price of North Carolina, Ms. Fudge, Ms. Bonamici, Mr. Soto, Ms. Hill of California, Mr. Kind, Mr. Pocan, Mr. Morelle, Ms. Omar, Mr. Foster, Ms. Lee of California, Mr. Schrader, Mr. Garamendi, Ms. Wasserman Schultz, Ms. Stevens, Mr. Blumenauer, Mr. Courtney, Mr. Kim, Mr. Garcia of Illinois, Ms. Wild, Ms. Ocasio-Cortez, Mrs. Trahan, Ms. Lofgren, Mr. Rose of New York, Ms. Haland, Mr. Gonzalez of Texas, Mr. Raskin, Mr. DeFazio, Mr. Neguse, Mr. David Scott of Georgia, Mr. Phillips, Ms. Jayapal, Ms. DeGette, Mr. Ruppersberger, Mr. Welch, Ms. Kuster of New Hampshire, Mrs. Watson Coleman, Mr. Quigley, Mr. Tonko, Mr. DeSaulnier, Mr. Swalwell of California, Mr. Veasey, Ms. Slotkin, Mr. Michael F. Doyle of Pennsylvania, Mr. Connolly, Mr. Delgado, Ms. Kendra S. Horn of Oklahoma, Ms. Castor of Florida, Mr. Cicilline, Mr. Cartwright, Mr. McEachin, Mr. Lucan, Mr. Yarmuth, Mr. Peters, Ms. Finkenauer, Mr. Aguilar, Mr. Grijalva, Ms. Eshoo, Mr. Crist, Mr. Danny K. Davis of Illinois, Mr. Castro of Texas, Mr. Perlmutter, Mr. Pascrell, Ms. Axne, Ms. Jackson Lee, Mr. Evans, Mrs. Davis of California, Ms. Adams, Mr. Langevin, Mr. Larson of Connecticut, Ms. Schrier, Mr. Ruiz, Mr. Green of Texas, Mr. McNerney, Mr. Kennedy, Mrs. Luria, Ms. Meng, Mr. Moulton, Ms. Blunt Rochester, Mrs. McBath, Mr. Jeffries, Mr. Lowenthal, Mr. Butterfield, Ms. Spanberger, Ms. Speier, Mr. Schneider, Mr. Thompson of Mississippi, Ms. Johnson of Texas, Mr. Carbajal, Mrs. Demings, Ms. Panetta, Mr. Takano, Ms. Dean, Ms. Scanlon, Mr. Stanton, Mr. Golden, Ms. Sánchez, Mr. Lawson of Florida, Mr. Bishop of Georgia, Mr. O’Halleran, Mrs. Kirkpatrick, Mr. Nadler, Mr. Cárdenas, Mr. Van Drew, Mr. Himes, Mr. Sherman, Mr. Harder of California, Ms. Tlaib, Mr. Rouda, Mr. Trone, Ms. Shalala, Mrs. Hayes, Mr. Pappas, Mrs. Lee of Nevada, Ms. Clark of Massachusetts, Mrs. Lawrence, Mr. Horsford, Mr. Peterson, Ms. Judy Chu of California, Ms. Houlahan, Mr. Clay, Ms. DelBene, Mr. Soto, Mr. Malinowski, Ms. Barragán, Mr. Brendan F. Boyle of Pennsylvania, Mr. Crow, Mr. Vargas, Mr. Larsen of Washington, Mr. Doggett, Mr. Payne, Mr. Cook, Mr. Meeks, Mr. Gomez, Mr. Beyer, Mr. Lewis, Mr. Keating, Mr. Kilmer, Mr. Carson of Indiana, Mrs. Murphy, Mr. Thompson of California, Mr. Levin of California, Mr. Brown of Maryland, Ms. Garcia of Texas, Ms. Sherrill, Mr. Huffman, Mrs. Torres of California, Mr. Hoyer, Ms. Wexton, Mr. Gottheimer, Ms. Frankel, Mrs. Carolyn B. Maloney of New York, and Mr. Engel.
July 19, 2019

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

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

To amend the Internal Revenue Code of 1986 to create a Pension Rehabilitation Trust Fund, to establish a Pension Rehabilitation Administration within the Department of the Treasury to make loans to multiemployer defined benefit plans, and for other purposes.
Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

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

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

(a) Establishment.—There is established in the De-
partment 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 Adminis-
tration 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 suc-
cessor.—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 section 6 of the Rehabilitation for Multiemployer Pensions Act of 2019.

“(2) LOAN INTEREST AND PRINCIPAL.—

“(A) IN GENERAL.—The Director of the Pension Rehabilitation Administration established under section 2 of the Rehabilitation for
Multiemployer Pensions Act of 2019 shall deposit
in the Fund any amounts received from a plan
as payment of interest or principal on a loan
under section 4 of 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 under section 2(c) of 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 section 4 of the Rehabilitation for Multiem-
ployer Pensions Act of 2019,

“(2) for the payment of principal and interest on obligations issued under section 6 of 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 section 2 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 the Employee Retirement and Income Security Act) as of the date of the enactment of this section, 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 modified
funded percentage of less than 40 percent,
and have a ratio of active to inactive par-
ticipants which is less than 2 to 5; or

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

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

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

(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 Director of the Pension Benefit Guaranty Corporation, the Secretary of the Treasury, and the Secretary 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 financial 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 .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 cert-
ifications as the Director of the Pension Reha-
bilitation Administration shall require.

(2) STANDARD FOR ACCEPTING ACTUARIAL AND
PLAN SPONSOR DETERMINATIONS AND DEMONSTRA-
TIONS IN THE APPLICATION.—In evaluating the plan
sponsor’s application, the Director of the Pension Re-
habilitation Administration shall accept the deter-
minations and demonstrations in the application un-
less the Director, in consultation with the Director of
the Pension Benefit Guaranty Corporation, the Sec-
retary of the Treasury, and the Secretary of Labor,
concludes that any such determinations or demonstra-
tions in the application (or any underlying assump-
tions) 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 Adminis-
tration shall approve or deny any application under
this subsection within 90 days after the submission of
such application. An application shall be deemed ap-
proved unless, within such 90 days, the Director noti-
ifies the plan sponsor of the denial of such application
and the reasons for such denial. Any approval or de-
nial 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, at least as rapidly as equal installments 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 subparagraph (B) and paragraph (2), the amount of any loan under subsection (a) shall be, as demonstrated by the plan sponsor on the application under subsection (c), the amount needed to purchase annuity contracts or to implement a portfolio described in paragraph (3)(C) (or a combination of the two) sufficient to provide benefits of participants and beneficiaries of the plan in pay status, and terminated vested benefits, at the time the loan is made.

(B) **PLANS WITH SUSPENDED BENEFITS.**—

In the case of a plan with respect to which a suspension of benefits has been approved under section 432(e)(9) of the Internal Revenue Code of 1986 and section 305(e)(9) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1085(e)(9)) or under section 418E of such Code—
(i) the suspension of benefits shall not be taken into account in applying subparagrap

(iii) the loan amount shall be the amount sufficient to provide benefits of par
ticipants and beneficiaries of the plan in pay status and terminated vested benefits at the time the loan is made, determined with

troactive payment of benefits which would otherwise have been payable during the pe

(2) COORDINATION WITH PBGC FINANCIAL AS-

(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 fi

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gibility for and amount of the loan under this section and the financial assistance under section 4261(d) of such Act; and

(ii) if such financial assistance is granted, the amount of the loan under subsection (a) shall not exceed an amount equal to the excess of—

(I) the amount determined under paragraph (1)(A) or (1)(B)(ii) (whichever is applicable); over

(II) the amount of such financial assistance.

(B) Plans already receiving PBGC assistance.—The Director of the Pension Rehabilitation Administration shall provide for a simplified application for the loan under this section which may be used by an insolvent plan which has not been terminated and which is already receiving financial assistance (other than under section 4261(d) of such Act) from the Pension Benefit Guaranty Corporation at the time of the application for the loan under this section.

(3) Use of loan funds.—

(A) In general.—Notwithstanding section 432(f)(2)(A)(ii) of the Internal Revenue Code of
1986 and section 305(f)(2)(A)(ii) of such Act, the loan received under subsection (a) shall only 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 invest-
ments, 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, and terminated vested participants, 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 para-
(II) REMEDIAL ACTION.—If the oversight under subclause (I) determines an inadequacy, the plan sponsor shall take remedial action to ensure that the inadequacy will be cured within 2 years of such determination.

(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 Director of the Pension Benefit Guaranty Corporation, the Secretary of the Treasury, and the Secretary 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 multiemployer plan under a loan made by the Pension Rehabilitation Administration pursuant to section 4 of the Rehabilitation for Multiemployer Pensions Act of 2019.”.

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 section 4(a) of the Rehabilitation for Multiemployer Pensions Act of 2019 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 under section 4(d)(3) of the Rehabilitation for Multiemployer Pensions Act of 2019 shall not be taken into account as plan assets 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 section 4(a) of such Act, shall be taken into account as unfunded vested benefits in determining such withdrawal liability.

“(2) Coordination with funding requirements.—In the case of a plan which receives a loan under section 4(a) of the Rehabilitation for Multiemployer Pensions Act of 2019—

“(A) annuity contracts purchased and portfolios implemented under section 4(d)(3) of 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 section 4(a) of the Rehabilitation for Multiemployer Pensions Act 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,
“(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 regu-
lations 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 im-
plemented under section 4(d)(3) of the Rehabili-
tation for Multiemployer Pensions Act shall not
be taken into account in determining the with-
drawal liability of any employer under subpara-
graph (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 section 4(a) of such Act,
shall be so taken into account.

“(2) Coordination with funding require-
ments.—In the case of a plan which receives a loan
under section 4(a) of the Rehabilitation for Multiemployer Pensions Act—

“(A) annuity contracts purchased and portfolios implemented under section 4(d)(3) of 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 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 section 4 of 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 section 4(a) of the Rehabilitation for Multiemployer Pensions Act of 2019, 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(j)(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 pre-
ceding 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 projec-
tions,

“(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 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)), or

“(B) which is insolvent but has not been terminated and is receiving assistance from the corporation (other than assistance under this subsection),

and which is applying for a loan under section 4(a) of the Rehabilitation for Multiemployer Pensions Act may also apply to the corporation for financial assistance under this subsection, by jointly submitting such applications in accordance with section 4(d)(2) 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 section 4(a) of such Act, the plan will still become (or remain) insolvent within the 30-year period beginning on the date of the loan.

“(2) In the case of a plan described in paragraph (1)(A), 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 the projected insolvency and be projected to have increasing assets over any 5-year period following the repayment of the loan. 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.

“(3) In the case of a plan described in paragraph (1)(B), the financial assistance provided pursuant to such application under this subsection shall be the amount (de-
termined by the plan actuary and submitted on the applica-

tion) 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

insolvency.

“(4) 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 section

4(a) of the Rehabilitation for Multiemployer Pensions Act

is repaid in full.

“(5) The corporation may forgo repayment of the fi-

nancial assistance provided under this subsection if nec-

essary to avoid any suspension of the accrued benefits of

participants.”.

(b) APPROPRIATIONS.—There is appropriated to the

Director of the Pension Benefit Guaranty 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 nec-

essary administrative and operating expenses relating to

such assistance).
Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Rehabilitation for Multiemployer Pensions Act of 2019”.

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 'Pen-
tion Rehabilitation Trust Fund’ (hereafter in
this section referred to as the ‘Fund’), con-
sisting of such amounts as may be appro-
priated or credited to the Fund as provided
in this section and section 9602(b).

“(b) TRANSFERS TO FUND.—

“(1) AMOUNTS ATTRIBUTABLE TO TREAS-
URY BONDS.—There shall be credited to
the Fund the amounts transferred under
section 6 of the Rehabilitation for Multi-

“(2) LOAN INTEREST AND PRINCIPAL.—

“(A) IN GENERAL.—The Director of
the Pension Rehabilitation Adminis-
tration established under section 2 of
the Rehabilitation for Multiemployer
Pensions Act of 2019 shall deposit in
the Fund any amounts received from
a plan as payment of interest or prin-
cipal on a loan under section 4 of
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 under section 2(c) of 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 section 4 of the Rehabilitation for Multiemployer Pensions Act of 2019,

“(2) for the payment of principal and interest on obligations issued under section 6 of 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 section 2 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 pro-
gram if necessary to avoid any sus-
pension 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 sub-
section (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 in-
crease benefits, allow any em-
ployer participating in the plan to
reduce its contributions, or ac-
cept any collective bargaining agreement which provides for re-
duced 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 Retire-
ment Income Security Act of 1974, or under section 418E of such Code, before the loan, the plan will reinstate the suspended bene-
fits (or will not carry out any sus-
pension which has been approved but not yet implemented);

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

(iv) the plan will continue to pay all premiums due under sec-
...
ment 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 financial 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 securi-
ties on the first day of the calendar year in which the loan is issued, and
(B) not exceed the greater of—
   (i) a rate .2 percent higher than such rate of interest on such date, or
   (ii) the rate necessary to collect revenues sufficient to administer the program under this section.

(c) LOAN APPLICATION.—
   (1) IN GENERAL.—In applying for a loan under subsection (a), the plan sponsor shall—
      (A) demonstrate that, except as provided in subparagraph (C)—
         (i) the loan will enable the plan to avoid insolvency for at least the 30-year period described in subparagraphs (A) and (B) of subsection (b)(1) or, in the case of a plan which is already insolvent, to emerge from insolvency within and avoid insolvency for the remainder of such period; and
(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 imple-
mented under such subsection; and

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

(2) STANDARD FOR ACCEPTING ACTU-
ARIAL AND PLAN SPONSOR DETERMINATIONS
AND DEMONSTRATIONS IN THE APPLICA-
TION.—In evaluating the plan sponsor’s
application, the Director of the Pension
Rehabilitation Administration shall ac-
cept the determinations and demonstra-
tions in the application unless the Direc-
tor, in consultation with the Director of
the Pension Benefit Guaranty Corpora-
tion and the Secretary of Labor, con-
cludes that the determinations and dem-
onstrations in the application are unre-
asonable or are inconsistent with any
rules issued by the Director pursuant to
subsection (g).
(3) **REQU -- REQUIRED ACTIONS; DEEMED APPROVAL.**—The Director of the Pension Re rehabilitat -- habilitation Administration shall approve or deny any application under this sub-section within 90 days after the submiss -- sion 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 appli- -- cation and the reasons for such denial. Any approval or denial of an application by the Director of the Pension Rehabilita- -- tion Administration shall be treated as a final agency action for purposes of section 704 of title 5, United States Code. The Pension Rehabilitation Administra- -- tion 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 Em-
ployee 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 partici-
pants 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 appli-
cation under subsection (c) the plan sponsor determines that, based on a
repayment schedule that would pro-
vide 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 insol-
vent at any point during such period, the loan amount shall be such lesser
amount as the plan sponsor deter-
mines 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 multiemployer plan under a loan made by the Pension Rehabilitation Administration pursuant to section 4 of the Rehabilitation for Multiemployer Pensions Act of 2019.”.

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 section 4(a) of the Rehabilitation for Multiemployer Pensions Act of 2019 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 nonforfeitable benefits under the plan at the time of the deemed termination by using the interest assumptions prescribed for purposes of section 4044 of the

“(B) ANNUITY CONTRACTS AND INVESTMENT PORTFOLIOS PURCHASED WITH LOAN FUNDS.—Annuity contracts purchased and portfolios implemented under section 4(d)(3) of the Rehabilitation for Multiemployer Pensions Act of 2019 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 section 4(a) of such Act, shall be so taken into account.
“(2) Coordination with funding requirements.—In the case of a plan which receives a loan under section 4(a) of the Rehabilitation for Multiemployer Pensions Act of 2019—

“(A) annuity contracts purchased and portfolios implemented under section 4(d)(3) of 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 section 4(a) of the Rehabilitation for Multi-employer Pensions Act of 2019 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 nonforfeitable 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 under section 4(d)(3) of the Rehabilitation for Multiemployer Pensions Act of 2019 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 section 4(a)
of such Act,

shall be so taken into account.

“(2) 

COORDINATION WITH FUNDING REQUIREMENTS.—In the case of a plan which receives a loan under section 4(a) of the Rehabilitation for Multiemployer Pensions Act of 2019—

“(A) annuity contracts purchased
and portfolios implemented under
section 4(d)(3) of 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 section 2) 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 section 4 of 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 section 4(a) of the Rehabilitation for Multiemployer Pensions Act of 2019, 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 pro-
vide 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 Rev-
enue Code of 1986 is amended by adding at the end the following new item:

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

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“(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
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“(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 section 4(a) of the Rehabilitation for Multiemployer Pensions Act of 2019 may also apply to the corporation for financial assistance under this subsection, by jointly submitting such applications in accordance with section 4(d)(2) 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 section 4(a) of 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 section 4(c) of the Rehabilitation for Multiem-
ployer Pensions Act of 2019 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 section 4(a) of the Rehabilitation for Multiemployer Pensions Act of 2019 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 Guaranty 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).
A BILL

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

JULY 19, 2019

Reported from the Committee on Education and Labor

JULY 19, 2019

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