

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

Strike all after the enacting clause and insert the following:

1 **SECTION 1. SHORT TITLE.**

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

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

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

9 (b) **DIRECTOR.**—

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

14 (2) **TERM.**—

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

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

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

3 (3) POWERS.—

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

10 (B) CONTRACTING.—

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

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

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

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

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

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

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

25 “(b) TRANSFERS TO FUND.—

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

5 “(2) LOAN INTEREST AND PRINCIPAL.—

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

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

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

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

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

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

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

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

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

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

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

15 (a) LOAN AUTHORITY.—

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

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

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

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

8 (ii) as of such date of enactment, are
9 in critical status (within the meaning of
10 section 432(b)(2) of such Code and section
11 305(b)(2) of such Act), have a funded per-
12 centage of less than 40 percent (as deter-
13 mined for purposes of section 432 of such
14 Code and section 305 of such Act), and
15 have a ratio of active to inactive partici-
16 pants which is less than 2 to 3; or

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

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

24 (2) CONSULTATION.—The Director of the Pen-
25 sion Rehabilitation Administration shall consult with

1 the Secretary of the Treasury, the Secretary of
2 Labor, and the Director of the Pension Benefit
3 Guaranty Corporation before making any loan under
4 paragraph (1), and shall share with such persons the
5 application and plan information with respect to
6 each such loan.

7 (3) ESTABLISHMENT OF LOAN PROGRAM.—

8 (A) IN GENERAL.—A program to make the
9 loans authorized under this section shall be es-
10 tablished not later than September 30, 2019,
11 with guidance regarding such program to be
12 promulgated by the Director of the Pension Re-
13 habilitation Administration, in consultation with
14 the Pension Benefit Guaranty Corporation and
15 the Department of Labor, not later than De-
16 cember 31, 2019.

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

1 program if necessary to avoid any suspension of
2 the accrued benefits of participants.

3 (b) LOAN TERMS.—

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

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

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

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

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

1 (ii) in the case of a plan with respect
2 to which a suspension of benefits has been
3 approved under section 432(e)(9) of the
4 Internal Revenue Code of 1986 and section
5 305(e)(9) of the Employee Retirement In-
6 come Security Act of 1974, or under sec-
7 tion 418E of such Code, before the loan,
8 the plan will reinstate the suspended bene-
9 fits (or will not carry out any suspension
10 which has been approved but not yet im-
11 plemented);

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

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

19 (v) the plan and plan administrator
20 will meet such other requirements as the
21 Director of the Pension Rehabilitation Ad-
22 ministration provides in the loan terms.

23 The terms of the loan shall not make reference
24 to whether the plan is receiving financial assist-
25 ance under section 4261(d) of the Employee

1 Retirement Income Security Act of 1974 (29
2 U.S.C. 1431(d)) or to any adjustment of the
3 loan amount under subsection (d)(2)(A)(ii).

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

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

14 (B) not exceed the greater of—

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

17 (ii) the rate necessary to collect reve-
18 nues sufficient to administer the program
19 under this section.

20 (c) LOAN APPLICATION.—

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

23 (A) demonstrate that, except as provided
24 in subparagraph (C)—

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

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

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

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

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

8 (E) include such other information and
9 certifications as the Director of the Pension Re-
10 habilitation Administration shall require.

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

23 (3) REQUIRED ACTIONS; DEEMED APPROVAL.—
24 The Director of the Pension Rehabilitation Adminis-
25 tration shall approve or deny any application under

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

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

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

8 (d) LOAN AMOUNT AND USE.—

9 (1) AMOUNT OF LOAN.—

10 (A) IN GENERAL.—Except as provided in
11 subparagraphs (B) and (C) and paragraph (2),
12 the amount of any loan under subsection (a)
13 shall be, as demonstrated by the plan sponsor
14 on the application under subsection (c), the
15 amount needed to purchase annuity contracts
16 or to implement a portfolio described in para-
17 graph (3)(C) (or a combination of the two) suf-
18 ficient to provide benefits of participants and
19 beneficiaries of the plan in pay status, and ter-
20 minated vested benefits, at the time the loan is
21 made.

22 (B) LIMITATION BASED ON ABILITY TO
23 REPAY.—If at the time of the application under
24 subsection (c) the plan sponsor determines that,
25 based on a repayment schedule that would pro-

1 vide for repayment of the full amount deter-
2 mined under subparagraph (A) or (C)(ii) within
3 the 30 year period described in subsection
4 (b)(1), making payments would cause the plan
5 to be within 18 months of becoming insolvent at
6 any point during such period, the loan amount
7 shall be such lesser amount as the plan sponsor
8 determines the plan will be able to repay with-
9 out becoming within 18 months of insolvency.

10 (C) PLANS WITH SUSPENDED BENEFITS.—
11 In the case of a plan with respect to which a
12 suspended benefits has been approved under
13 section 432(e)(9) of the Internal Revenue Code
14 of 1986 and section 305(e)(9) of the Employee
15 Retirement Income Security Act of 1974 (29
16 U.S.C. 1085(e)(9)) or under section 418E of
17 such Code—

18 (i) the suspension of benefits shall not
19 be taken into account in applying subpara-
20 graph (A); and

21 (ii) except as provided in subpara-
22 graph (B), the loan amount shall be the
23 amount sufficient to provide benefits of
24 participants and beneficiaries of the plan
25 in pay status and terminated vested bene-

1 fits at the time the loan is made, deter-
2 mined without regard to the suspension,
3 including retroactive payment of benefits
4 which would otherwise have been payable
5 during the period of the suspension.

6 (2) COORDINATION WITH PBGC FINANCIAL AS-
7 SISTANCE.—

8 (A) IN GENERAL.—In the case of a plan
9 which is also applying for financial assistance
10 under section 4261(d) of the Employee Retirement
11 Income Security Act of 1974 (29 U.S.C.
12 1431(d))—

13 (i) the plan sponsor shall submit the
14 loan application and the application for fi-
15 nancial assistance jointly to the Pension
16 Rehabilitation Administration and the Pen-
17 sion Benefit Guaranty Corporation with
18 the information necessary to determine the
19 eligibility for and amount of the loan under
20 this section and the financial assistance
21 under section 4261(d) of such Act; and

22 (ii) if such financial assistance is
23 granted, the amount of the loan under sub-
24 section (a) shall not exceed an amount
25 equal to the excess of—

1 (I) the amount determined under
2 paragraph (1)(A) or (1)(C)(ii) (which-
3 ever is applicable), without regard to
4 paragraph (1)(B); over

5 (II) the amount of such financial
6 assistance.

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

18 (3) USE OF LOAN FUNDS.—

19 (A) IN GENERAL.—The loan received
20 under subsection (a) shall be used to purchase
21 annuity contracts which meet the requirements
22 of subparagraph (B) or to implement a port-
23 folio described in subparagraph (C) (or a com-
24 bination of the two) to provide the benefits de-
25 scribed in paragraph (1).

1 (B) ANNUITY CONTRACT REQUIRE-
2 MENTS.—The annuity contracts purchased
3 under subparagraph (A) shall be issued by an
4 insurance company which is licensed to do busi-
5 ness under the laws of any State and which is
6 rated A or better by a nationally recognized sta-
7 tistical rating organization, and the purchase of
8 such contracts shall meet all applicable fidu-
9 ciary standards under the Employee Retirement
10 Income Security Act of 1974.

11 (C) PORTFOLIO.—

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

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

1 (II) any other portfolio pre-
2 scribed by the Secretary of the Treas-
3 ury in regulations which has a similar
4 risk profile to the portfolios described
5 in subclause (I) and is equally protec-
6 tive of the interests of participants
7 and beneficiaries.

8 Once implemented, such a portfolio shall
9 be maintained until all liabilities to partici-
10 pants and beneficiaries in pay status at the
11 time of the loan are satisfied.

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

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

1 (D) ACCOUNTING.—

2 (i) IN GENERAL.—Annuity contracts
3 purchased and portfolios implemented
4 under this paragraph shall be used solely
5 to provide the benefits described in para-
6 graph (1) until all such benefits have been
7 paid and shall be accounted for separately
8 from the other assets of the plan.

9 (ii) OVERSIGHT OF NON-ANNUITY IN-
10 VESTMENTS.—

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

23 (II) REMEDIAL ACTION.—If the
24 triennial review under subclause (I)
25 determines an inadequacy, the plan

1 sponsor shall take remedial action to
2 ensure that the inadequacy will be
3 cured within 5 years of the review.

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

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

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

1 (g) AUTHORITY TO ISSUE RULES, ETC.—The Direc-
2 tor of the Pension Rehabilitation Administration, in con-
3 sultation with the Pension Benefit Guaranty Corporation
4 and the Department of Labor, is authorized to issue rules
5 regarding the form, content, and process of applications
6 for loans under this section, actuarial standards and as-
7 sumptions to be used in making estimates and projections
8 for purposes of such applications, and assumptions re-
9 garding interest rates, mortality, and distributions with
10 respect to a portfolio described in subsection (d)(3)(C).

11 (h) COORDINATION WITH TAXATION OF UNRELATED
12 BUSINESS INCOME.—Subparagraph (A) of section
13 514(c)(6) of the Internal Revenue Code of 1986 is amend-
14 ed—

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

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

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

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

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

3 (a) AMENDMENT TO INTERNAL REVENUE CODE OF
4 1986.—Section 432 of the Internal Revenue Code of 1986
5 is amended by adding at the end the following new sub-
6 section:

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

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

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

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

25 “(ii) by determining the value of non-
26 forfeitable benefits under the plan at the

1 time of the deemed termination by using
2 the interest assumptions prescribed for
3 purposes of section 4044 of the Employee
4 Retirement Income Security Act of 1974,
5 as prescribed in the regulations under sec-
6 tion 4281 of the Employee Retirement In-
7 come Security Act of 1974 in the case of
8 such a mass withdrawal.

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

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

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

24 “(2) COORDINATION WITH FUNDING REQUIRE-
25 MENTS.—In the case of a plan which receives a loan

1 under section 4(a) of the Rehabilitation for Multiem-
2 ployer Pensions Act of 2019—

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

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

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

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

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

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

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

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

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

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

1 FUNDS.—Annuity contracts purchased and
2 portfolios implemented under section 4(d)(3) of
3 the Rehabilitation for Multiemployer Pensions
4 Act of 2019 shall not be taken into account in
5 determining the withdrawal liability of any em-
6 ployer under subparagraph (A), but the amount
7 equal to the greater of—

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

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

14 “(2) COORDINATION WITH FUNDING REQUIRE-
15 MENTS.—In the case of a plan which receives a loan
16 under section 4(a) of the Rehabilitation for Multiem-
17 ployer Pensions Act of 2019—

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

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

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

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

13 The Secretary of the Treasury (in consultation with
14 the Director of the Pension Rehabilitation Administration
15 established under section 2) shall from time to time trans-
16 fer from the general fund of the Treasury to the Pension
17 Rehabilitation Trust Fund established under section 9512
18 of the Internal Revenue Code of 1986 such amounts as
19 are necessary to fund the loan program under section 4
20 of this Act, including from proceeds from the Secretary’s
21 issuance of obligations under chapter 31 of title 31,
22 United States Code.

1 **SEC. 7. REPORTS OF PLANS RECEIVING PENSION REHA-**
2 **BILITATION LOANS.**

3 (a) IN GENERAL.—Subpart E of part III of sub-
4 chapter A of chapter 61 of the Internal Revenue Code of
5 1986 is amended by adding at the end the following new
6 section:

7 **“SEC. 6059A. REPORTS OF PLANS RECEIVING PENSION RE-**
8 **HABILITATION LOANS.**

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

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

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

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

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

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

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

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

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

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

24 “(10) a list of employers that paid withdrawal
25 liability to the plan during the plan year preceding

1 such plan year and, for each employer, a total as-
2 sessment of the withdrawal liability paid, the annual
3 payment amount, and the number of years remain-
4 ing in the payment schedule with respect to such
5 withdrawal liability,

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

10 “(12) details regarding any funding improve-
11 ment plan or rehabilitation plan and updates to such
12 plan,

13 “(13) the number of participants and bene-
14 ficiaries during the plan year preceding such plan
15 year who are active participants, the number of par-
16 ticipants and beneficiaries in pay status, and the
17 number of terminated vested participants and bene-
18 ficiaries,

19 “(14) the amount of any financial assistance re-
20 ceived under section 4261 of the Employee Retire-
21 ment Income Security Act of 1974 to pay benefits
22 during the preceding plan year, and the total
23 amount of such financial assistance received for all
24 preceding years,

1 “(15) the information contained on the most re-
2 cent annual funding notice submitted by the plan
3 under section 101(f) of the Employee Retirement In-
4 come Security Act of 1974,

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

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

19 “(b) ELECTRONIC SUBMISSION.—The report re-
20 quired under subsection (a) shall be submitted electroni-
21 cally.

22 “(c) INFORMATION SHARING.—The Secretary shall
23 share the information in the report under subsection (a)
24 with the Secretary of Labor and the Director of the Pen-
25 sion Benefit Guaranty Corporation.

1 “(d) REPORT TO PARTICIPANTS, BENEFICIARIES,
2 AND EMPLOYERS.—Each plan sponsor required to file a
3 report under subsection (a) shall, before the expiration of
4 the time prescribed for the filing of such report, also pro-
5 vide a summary (written in a manner so as to be under-
6 stood by the average plan participant) of the information
7 in such report to participants and beneficiaries in the plan
8 and to each employer with an obligation to contribute to
9 the plan.”.

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

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

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

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

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

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

1 **SEC. 8. PBGC FINANCIAL ASSISTANCE.**

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

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

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

12 “(B) which, as of such date of enactment, is in
13 critical status (within the meaning of section
14 305(b)(2)), has a funded percentage of less than 40
15 percent (as determined for purposes of section 305),
16 and has a ratio of active to inactive participants
17 which is less than 2 to 3; or

18 “(C) which is insolvent for purposes of section
19 418E of the Internal Revenue Code of 1986 as of
20 such date of enactment, if the plan became insolvent
21 after December 16, 2014, and has not been termi-
22 nated;

23 and which is applying for a loan under section 4(a) of the
24 Rehabilitation for Multiemployer Pensions Act of 2019
25 may also apply to the corporation for financial assistance
26 under this subsection, by jointly submitting such applica-

1 tions in accordance with section 4(d)(2) of such Act. The
2 application for financial assistance under this subsection
3 shall demonstrate, based on projections by the plan actu-
4 ary, that after the receipt of the anticipated loan amount
5 under section 4(a) of such Act, the plan will still become
6 (or remain) insolvent within the 30-year period beginning
7 on the date of the loan.

8 “(2) In reviewing an application under paragraph
9 (1), the corporation shall review the demonstrations and
10 assumptions submitted with the loan application under
11 section 4(c) of the Rehabilitation for Multiemployer Pen-
12 sions Act of 2019 and provide guidance regarding such
13 assumptions prior to approving any application for finan-
14 cial assistance under this subsection. The corporation may
15 deny any application if the assumptions and determina-
16 tions are unreasonable, or inconsistent with rules issued
17 by the corporation, and the plan and the corporation are
18 unable to reach agreement on such assumptions and deter-
19 minations.

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

1 “(A) the percentage of benefits of participants
2 and beneficiaries of the plan in pay status at the
3 time of the application, and

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

7 which, if such percentage were paid by the corporation in
8 combination with the loan, would allow the plan to avoid
9 projected insolvency. Such amount shall not exceed the
10 maximum guaranteed benefit with respect to all partici-
11 pants and beneficiaries of the plan under sections 4022A
12 and 4022B. For this purpose, the maximum guaranteed
13 benefit amount shall be determined by disregarding any
14 loan available from the Pension Rehabilitation Adminis-
15 tration and shall be determined as if the plan were insol-
16 vent on the date of the application. Further, the present
17 value of the maximum guaranteed benefit amount with re-
18 spect to such participants and beneficiaries may be cal-
19 culated in the aggregate, rather than by reference to the
20 benefit of each such participant or beneficiary.

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

1 in combination with the loan and any other assistance
2 being provided to the plan by the corporation at the time
3 of the application, would enable the plan to emerge from
4 the projected insolvency.

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

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

17 “(6) Subsections (b) and (c) shall apply to financial
18 assistance under this subsection as if it were provided
19 under subsection (a), except that the terms for repayment
20 under subsection (b)(2) shall not require the financial as-
21 sistance to be repaid before the date on which the loan
22 under section 4(a) of the Rehabilitation for Multiemployer
23 Pensions Act of 2019 is repaid in full.

24 “(7) The corporation may forgo repayment of the fi-
25 nancial assistance provided under this subsection if nec-

1 essary to avoid any suspension of the accrued benefits of
2 participants.”.

3 (b) APPROPRIATIONS.—There is appropriated to the
4 Director of the Pension Benefit Guaranty Corporation
5 such sums as may be necessary for each fiscal year to pro-
6 vide the financial assistance described in section 4261(d)
7 of the Employee Retirement Income Security Act of 1974
8 (29 U.S.C. 1431(d)) (as added by this section) (including
9 necessary administrative and operating expenses relating
10 to such assistance).

