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# H. R. 397

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IN THE SENATE OF THE UNITED STATES

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## AN ACT

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

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

3       **SECTION 1. SHORT TITLE.**

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

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

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

6 (b) DIRECTOR.—

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

11 (2) TERM.—

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

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

18 (3) POWERS.—

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

25 (B) CONTRACTING.—

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

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

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

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

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

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

9       “(b) TRANSFERS TO FUND.—

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

14           “(2) LOAN INTEREST AND PRINCIPAL.—

15           “(A) IN GENERAL.—The Director of the  
16 Pension Rehabilitation Administration estab-  
17 lished under section 2 of the Rehabilitation for  
18 Multiemployer Pensions Act of 2019 shall de-  
19 posit in the Fund any amounts received from a  
20 plan as payment of interest or principal on a  
21 loan under section 4 of such Act.

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

1           “(3) AVAILABILITY OF FUNDS.—Amounts cred-  
 2           ited to or deposited in the Fund shall remain avail-  
 3           able until expended.

4           “(c) EXPENDITURES FROM FUND.—Amounts in the  
 5 Fund are available without further appropriation to the  
 6 Pension Rehabilitation Administration—

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

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

13           “(3) for administrative and operating expenses  
 14           of such Administration.”.

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

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

19 **SEC. 4. LOAN PROGRAM FOR MULTIEMPLOYER DEFINED**  
 20 **BENEFIT PLANS.**

21           (a) LOAN AUTHORITY.—

22           (1) IN GENERAL.—The Pension Rehabilitation  
 23 Administration established under section 2 is au-  
 24 thorized—

1 (A) to make loans to multiemployer plans  
2 (as defined in section 414(f) of the Internal  
3 Revenue Code of 1986) which are defined ben-  
4 efit plans (as defined in section 414(j) of such  
5 Code) and which—

6 (i) are in critical and declining status  
7 (within the meaning of section 432(b)(6)  
8 of such Code and section 305(b)(6) of the  
9 Employee Retirement and Income Security  
10 Act) as of the date of the enactment of  
11 this section, or with respect to which a sus-  
12 pension of benefits has been approved  
13 under section 432(e)(9) of such Code and  
14 section 305(e)(9) of such Act as of such  
15 date;

16 (ii) as of such date of enactment, are  
17 in critical status (within the meaning of  
18 section 432(b)(2) of such Code and section  
19 305(b)(2) of such Act), have a modified  
20 funded percentage of less than 40 percent,  
21 and have a ratio of active to inactive par-  
22 ticipants which is less than 2 to 5; or

23 (iii) are insolvent for purposes of sec-  
24 tion 418E of such Code as of such date of  
25 enactment, if they became insolvent after

1 December 16, 2014, and have not been  
2 terminated; and

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

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

12 (2) CONSULTATION.—The Director of the Pen-  
13 sion Rehabilitation Administration shall consult with  
14 the Secretary of the Treasury, the Secretary of  
15 Labor, and the Director of the Pension Benefit  
16 Guaranty Corporation before making any loan under  
17 paragraph (1), and shall share with such persons the  
18 application and plan information with respect to  
19 each such loan.

20 (3) ESTABLISHMENT OF LOAN PROGRAM.—

21 (A) IN GENERAL.—A program to make the  
22 loans authorized under this section shall be es-  
23 tablished not later than September 30, 2019,  
24 with guidance regarding such program to be  
25 promulgated by the Director of the Pension Re-

1 habilitation Administration, in consultation with  
2 the Director of the Pension Benefit Guaranty  
3 Corporation, the Secretary of the Treasury, and  
4 the Secretary of Labor, not later than Decem-  
5 ber 31, 2019.

6 (B) LOANS AUTHORIZED BEFORE PRO-  
7 GRAM DATE.—Without regard to whether the  
8 program under subparagraph (A) has been es-  
9 tablished, a plan may apply for a loan under  
10 this section before either date described in such  
11 subparagraph, and the Pension Rehabilitation  
12 Administration shall approve the application  
13 and make the loan before establishment of the  
14 program if necessary to avoid any suspension of  
15 the accrued benefits of participants.

16 (b) LOAN TERMS.—

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

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

24 (B) final payment of interest and principal  
25 shall be due in the 30th year after the date of



1 the loan (except as provided in an election  
2 under subsection (c)(5)); and

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

5 (i) except as provided in clause (ii),  
6 the plan will not increase benefits, allow  
7 any employer participating in the plan to  
8 reduce its contributions, or accept any col-  
9 lective bargaining agreement which pro-  
10 vides for reduced contribution rates, dur-  
11 ing the 30-year period described in sub-  
12 paragraphs (A) and (B);

13 (ii) in the case of a plan with respect  
14 to which a suspension of benefits has been  
15 approved under section 432(e)(9) of the  
16 Internal Revenue Code of 1986 and section  
17 305(e)(9) of the Employee Retirement In-  
18 come Security Act of 1974, or under sec-  
19 tion 418E of such Code, before the loan,  
20 the plan will reinstate the suspended bene-  
21 fits (or will not carry out any suspension  
22 which has been approved but not yet im-  
23 plemented);

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

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

8 (v) the plan and plan administrator  
9 will meet such other requirements as the  
10 Director of the Pension Rehabilitation Ad-  
11 ministration provides in the loan terms.

12 The terms of the loan shall not make reference  
13 to whether the plan is receiving financial assist-  
14 ance under section 4261(d) of the Employee  
15 Retirement Income Security Act of 1974 (29  
16 U.S.C. 1431(d)) or to any adjustment of the  
17 loan amount under subsection (d)(2)(A)(ii).

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

24 (A) not be lower than the rate of interest  
25 on 30-year Treasury securities on the first day

1 of the calendar year in which the loan is issued;  
2 and

3 (B) not exceed the greater of—

4 (i) a rate 0.2 percentage points higher  
5 than such rate of interest on such date; or

6 (ii) the rate necessary to collect reve-  
7 nues sufficient to administer the program  
8 under this section.

9 (c) LOAN APPLICATION.—

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

12 (A) demonstrate that, except as provided  
13 in subparagraph (C)—

14 (i) the loan will enable the plan to  
15 avoid insolvency for at least the 30-year  
16 period described in subparagraphs (A) and  
17 (B) of subsection (b)(1) or, in the case of  
18 a plan which is already insolvent, to  
19 emerge from insolvency within and avoid  
20 insolvency for the remainder of such pe-  
21 riod; and

22 (ii) the plan is reasonably expected to  
23 be able to pay benefits and the interest on  
24 the loan during such period and to accu-

1           mulate sufficient funds to repay the prin-  
2           cipal when due;

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

7           (C) stipulate whether the plan is also ap-  
8           plying for financial assistance under section  
9           4261(d) of the Employee Retirement Income  
10          Security Act of 1974 (29 U.S.C. 1431(d)) in  
11          combination with the loan to enable the plan to  
12          avoid insolvency and to pay benefits, or is al-  
13          ready receiving such financial assistance as a  
14          result of a previous application;

15          (D) state in what manner the loan pro-  
16          ceeds will be invested pursuant to subsection  
17          (d), the person from whom any annuity con-  
18          tracts under such subsection will be purchased,  
19          and the person who will be the investment man-  
20          ager for any portfolio implemented under such  
21          subsection; and

22          (E) include such other information and  
23          certifications as the Director of the Pension Re-  
24          habilitation Administration shall require.

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

15          (3) REQUIRED ACTIONS; DEEMED APPROVAL.—  
16          The Director of the Pension Rehabilitation Adminis-  
17          tration shall approve or deny any application under  
18          this subsection within 90 days after the submission  
19          of such application. An application shall be deemed  
20          approved unless, within such 90 days, the Director  
21          notifies the plan sponsor of the denial of such appli-  
22          cation and the reasons for such denial. Any approval  
23          or denial of an application by the Director of the  
24          Pension Rehabilitation Administration shall be treat-  
25          ed as a final agency action for purposes of section

1       704 of title 5, United States Code. The Pension Re-  
2       habilitation Administration shall make the loan pur-  
3       suant to any application promptly after the approval  
4       of such application.

5           (4) CERTAIN PLANS REQUIRED TO APPLY.—

6       The plan sponsor of any plan with respect to which  
7       a suspension of benefits has been approved under  
8       section 432(e)(9) of the Internal Revenue Code of  
9       1986 and section 305(e)(9) of the Employee Retire-  
10      ment Income Security Act of 1974 or under section  
11      418E of such Code, before the date of the enactment  
12      of this Act shall apply for a loan under this section.

13      The Director of the Pension Rehabilitation Adminis-  
14      tration shall provide for such plan sponsors to use  
15      the simplified application under subsection  
16      (d)(2)(B).

17           (5) INCENTIVE FOR EARLY REPAYMENT.—The

18      plan sponsor may elect at the time of the application  
19      to repay the loan principal, along with the remaining  
20      interest, at least as rapidly as equal installments  
21      over the 10-year period beginning with the 21st year  
22      after the date of the loan. In the case of a plan mak-  
23      ing this election, the interest on the loan shall be re-  
24      duced by 0.5 percentage points.

25           (d) LOAN AMOUNT AND USE.—

1 (1) AMOUNT OF LOAN.—

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

14 (B) PLANS WITH SUSPENDED BENE-  
15 FITS.—In the case of a plan with respect to  
16 which a suspension of benefits has been ap-  
17 proved under section 432(e)(9) of the Internal  
18 Revenue Code of 1986 and section 305(e)(9) of  
19 the Employee Retirement Income Security Act  
20 of 1974 (29 U.S.C. 1085(e)(9)) or under sec-  
21 tion 418E of such Code—

22 (i) the suspension of benefits shall not  
23 be taken into account in applying subpara-  
24 graph (A); and

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

10           (2) COORDINATION WITH PBGC FINANCIAL AS-  
11           SISTANCE.—

12           (A) IN GENERAL.—In the case of a plan  
13           which is also applying for financial assistance  
14           under section 4261(d) of the Employee Retirement  
15           Income Security Act of 1974 (29 U.S.C.  
16           1431(d))—

17           (i) the plan sponsor shall submit the  
18           loan application and the application for fi-  
19           nancial assistance jointly to the Pension  
20           Rehabilitation Administration and the Pen-  
21           sion Benefit Guaranty Corporation with  
22           the information necessary to determine the  
23           eligibility for and amount of the loan under  
24           this section and the financial assistance  
25           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)

1 shall only be used to purchase annuity contracts  
2 which meet the requirements of subparagraph  
3 (B) or to implement a portfolio described in  
4 subparagraph (C) (or a combination of the two)  
5 to provide the benefits described in paragraph  
6 (1).

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

17 (C) PORTFOLIO.—

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

20 (I) a cash matching portfolio or  
21 duration matching portfolio consisting  
22 of investment grade (as rated by a na-  
23 tionally recognized statistical rating  
24 organization) fixed income invest-  
25 ments, including United States dollar-

1           denominated public or private debt  
2           obligations issued or guaranteed by  
3           the United States or a foreign issuer,  
4           which are tradeable in United States  
5           currency and are issued at fixed or  
6           zero coupon rates; or

7           (II) any other portfolio pre-  
8           scribed by the Secretary of the Treas-  
9           ury in regulations which has a similar  
10          risk profile to the portfolios described  
11          in subclause (I) and is equally protec-  
12          tive of the interests of participants  
13          and beneficiaries.

14         Once implemented, such a portfolio shall  
15         be maintained until all liabilities to partici-  
16         pants and beneficiaries in pay status, and  
17         terminated vested participants, at the time  
18         of the loan are satisfied.

19                 (ii) FIDUCIARY DUTY.—Any invest-  
20         ment manager of a portfolio under this  
21         subparagraph shall acknowledge in writing  
22         that such person is a fiduciary under the  
23         Employee Retirement Income Security Act  
24         of 1974 with respect to the plan.

1 (iii) TREATMENT OF PARTICIPANTS  
2 AND BENEFICIARIES.—Participants and  
3 beneficiaries covered by a portfolio under  
4 this subparagraph shall continue to be  
5 treated as participants and beneficiaries of  
6 the plan, including for purposes of title IV  
7 of the Employee Retirement Income Secu-  
8 rity Act of 1974.

9 (D) ACCOUNTING.—

10 (i) IN GENERAL.—Annuity contracts  
11 purchased and portfolios implemented  
12 under this paragraph shall be used solely  
13 to provide the benefits described in para-  
14 graph (1) until all such benefits have been  
15 paid and shall be accounted for separately  
16 from the other assets of the plan.

17 (ii) OVERSIGHT OF NON-ANNUITY IN-  
18 VESTMENTS.—

19 (I) IN GENERAL.—Any portfolio  
20 implemented under this paragraph  
21 shall be subject to oversight by the  
22 Pension Rehabilitation Administra-  
23 tion, including a mandatory triennial  
24 review of the adequacy of the portfolio  
25 to provide the benefits described in

1 paragraph (1) and approval (to be  
2 provided within a reasonable period of  
3 time) of any decision by the plan  
4 sponsor to change the investment  
5 manager of the portfolio.

6 (II) REMEDIAL ACTION.—If the  
7 oversight under subclause (I) deter-  
8 mines an inadequacy, the plan spon-  
9 sor shall take remedial action to en-  
10 sure that the inadequacy will be cured  
11 within 2 years of such determination.

12 (E) OMBUDSPERSON.—The Participant  
13 and Plan Sponsor Advocate established under  
14 section 4004 of the Employee Retirement In-  
15 come Security Act of 1974 shall act as  
16 ombudsperson for participants and beneficiaries  
17 on behalf of whom annuity contracts are pur-  
18 chased or who are covered by a portfolio under  
19 this paragraph.

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

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

9       (g) AUTHORITY TO ISSUE RULES, ETC.—The Direc-  
10 tor of the Pension Rehabilitation Administration, in con-  
11 sultation with the Director of the Pension Benefit Guar-  
12 anty Corporation, the Secretary of the Treasury, and the  
13 Secretary of Labor, is authorized to issue rules regarding  
14 the form, content, and process of applications for loans  
15 under this section, actuarial standards and assumptions  
16 to be used in making estimates and projections for pur-  
17 poses of such applications, and assumptions regarding in-  
18 terest rates, mortality, and distributions with respect to  
19 a portfolio described in subsection (d)(3)(C).

20       (h) REPORT TO CONGRESS ON STATUS OF CERTAIN  
21 PLANS WITH LOANS.—Not later than 1 year after the  
22 date of the enactment of this Act, and annually thereafter,  
23 the Director of the Pension Rehabilitation Administration  
24 shall submit to the Committee on Ways and Means and  
25 the Committee on Education and Labor of the House of

1 Representatives, and the Committee on Finance and the  
2 Committee on Health, Education, Labor and Pensions of  
3 the Senate, a report identifying any plan that—

4           (1) has failed to make any scheduled payment  
5       on a loan under this section;

6           (2) has negotiated revised terms for repayment  
7       of such loan (including any installment payments or  
8       forgiveness of a portion of the loan principal); or

9           (3) the Director has determined is no longer  
10      reasonably expected to be able to—

11                (A) pay benefits and the interest on the  
12      loan; or

13                (B) accumulate sufficient funds to repay  
14      the principal when due.

15 Such report shall include the details of any such failure,  
16 revised terms, or determination, as the case may be.

17       (i) COORDINATION WITH TAXATION OF UNRELATED  
18 BUSINESS INCOME.—Subparagraph (A) of section  
19 514(c)(6) of the Internal Revenue Code of 1986 is amend-  
20 ed—

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

22           (2) by striking the period at the end of clause

23       (ii)(II) and inserting “, or”; and

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

1                   “(iii) indebtedness with respect to a  
 2                   multiemployer plan under a loan made by  
 3                   the Pension Rehabilitation Administration  
 4                   pursuant to section 4 of the Rehabilitation  
 5                   for Multiemployer Pensions Act of 2019.”.

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

8           (a) AMENDMENT TO INTERNAL REVENUE CODE OF  
 9 1986.—Section 432 of the Internal Revenue Code of 1986  
 10 is amended by adding at the end the following new sub-  
 11 section:

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

14                   “(1) DETERMINATION OF WITHDRAWAL LIABIL-  
 15 ITY.—

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



1 “(i) by applying section 4219(c)(1)(D)  
2 of the Employee Retirement Income Secu-  
3 rity Act of 1974 as if the plan were termi-  
4 nating by the withdrawal of every employer  
5 from the plan, and

6 “(ii) by determining the value of non-  
7 forfeitable benefits under the plan at the  
8 time of the deemed termination by using  
9 the interest assumptions prescribed for  
10 purposes of section 4044 of the Employee  
11 Retirement Income Security Act of 1974,  
12 as prescribed in the regulations under sec-  
13 tion 4281 of the Employee Retirement In-  
14 come Security Act of 1974 in the case of  
15 such a mass withdrawal.

16 “(B) ANNUITY CONTRACTS AND INVEST-  
17 MENT PORTFOLIOS PURCHASED WITH LOAN  
18 FUNDS.—Annuity contracts purchased and  
19 portfolios implemented under section 4(d)(3) of  
20 the Rehabilitation for Multiemployer Pensions  
21 Act of 2019 shall not be taken into account as  
22 plan assets in determining the withdrawal liabil-  
23 ity of any employer under subparagraph (A),  
24 but the amount equal to the greater of—

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

4 “(ii) the remaining payments due on  
5 the loan under section 4(a) of such Act,  
6 shall be taken into account as unfunded vested  
7 benefits in determining such withdrawal liabil-  
8 ity.

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

13 “(A) annuity contracts purchased and  
14 portfolios implemented under section 4(d)(3) of  
15 such Act, and the benefits provided to partici-  
16 pants and beneficiaries under such contracts or  
17 portfolios, shall not be taken into account in de-  
18 termining minimum required contributions  
19 under section 412,

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

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

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

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

14           “(1) DETERMINATION OF WITHDRAWAL LIABIL-  
 15   ITY.—

16           “(A) IN GENERAL.—If any employer par-  
 17           ticipating in a plan at the time the plan receives  
 18           a loan under section 4(a) of the Rehabilitation  
 19           for Multiemployer Pensions Act of 2019 with-  
 20           draws from the plan before the end of the 30-  
 21           year period beginning on the date of the loan,  
 22           the withdrawal liability of such employer shall  
 23           be determined—

24           “(i) by applying section 4219(c)(1)(D)  
 25           as if the plan were terminating by the

1 withdrawal of every employer from the  
2 plan, and

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

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

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

22 “(ii) the remaining payments due on  
23 the loan under section 4(a) of such Act,

1           shall be taken into account as unfunded vested  
2           benefits in determining such withdrawal liabil-  
3           ity.

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

8                   “(A) annuity contracts purchased and  
9                   portfolios implemented under section 4(d)(3) of  
10                  such Act, and the benefits provided to partici-  
11                  pants and beneficiaries under such contracts or  
12                  portfolios, shall not be taken into account in de-  
13                  termining minimum required contributions  
14                  under section 302,

15                   “(B) payments on the interest and prin-  
16                   cipal under the loan, and any benefits owed in  
17                   excess of those provided under such contracts  
18                   or portfolios, shall be taken into account as li-  
19                   abilities for purposes of such section, and

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

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

2       The Secretary of the Treasury shall from time to time  
 3 transfer from the general fund of the Treasury to the Pen-  
 4 sion Rehabilitation Trust Fund established under section  
 5 9512 of the Internal Revenue Code of 1986 such amounts  
 6 as are necessary to fund the loan program under section  
 7 4 of this Act, including from proceeds from the Secretary’s  
 8 issuance of obligations under chapter 31 of title 31,  
 9 United States Code.

10 **SEC. 7. REPORTS OF PLANS RECEIVING PENSION REHA-**  
 11 **BILITATION LOANS.**

12       (a) IN GENERAL.—Subpart E of part III of sub-  
 13 chapter A of chapter 61 of the Internal Revenue Code of  
 14 1986 is amended by adding at the end the following new  
 15 section:

16 **“SEC. 6059A. REPORTS OF PLANS RECEIVING PENSION RE-**  
 17 **HABILITATION LOANS.**

18       “(a) IN GENERAL.—In the case of a plan receiving  
 19 a loan under section 4(a) of the Rehabilitation for Multi-  
 20 employer Pensions Act of 2019, with respect to the first  
 21 plan year beginning after the date of the loan and each  
 22 of the 29 succeeding plan years, not later than the 90th  
 23 day of each such plan year the plan sponsor shall file with  
 24 the Secretary a report (including appropriate documenta-  
 25 tion and actuarial certifications from the plan actuary, as  
 26 required by the Secretary) that contains—

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

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

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

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

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

20          “(6) funding standard account projections for  
21          such plan year and the 9 succeeding plan years, and  
22          the assumptions relied upon in making such projec-  
23          tions,

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

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

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

7           “(10) a list of employers that paid withdrawal  
8           liability to the plan during the plan year preceding  
9           such plan year and, for each employer, a total as-  
10          sessment of the withdrawal liability paid, the annual  
11          payment amount, and the number of years remain-  
12          ing in the payment schedule with respect to such  
13          withdrawal liability,

14          “(11) any material changes to benefits, accrual  
15          rates, or contribution rates during the plan year pre-  
16          ceding such plan year, and whether such changes re-  
17          late to the terms of the loan,

18          “(12) details regarding any funding improve-  
19          ment plan or rehabilitation plan and updates to such  
20          plan,

21          “(13) the number of participants during the  
22          plan year preceding such plan year who are active  
23          participants, the number of participants and bene-  
24          ficiaries in pay status, and the number of terminated  
25          vested participants and beneficiaries,



1           “(14) the amount of any financial assistance re-  
2           ceived under section 4261 of the Employee Retirement  
3           Income Security Act of 1974 to pay benefits  
4           during the preceding plan year, and the total  
5           amount of such financial assistance received for all  
6           preceding years,

7           “(15) the information contained on the most re-  
8           cent annual funding notice submitted by the plan  
9           under section 101(f) of the Employee Retirement In-  
10          come Security Act of 1974,

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

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

1       “(b) ELECTRONIC SUBMISSION.—The report re-  
 2       quired under subsection (a) shall be submitted electroni-  
 3       cally.

4       “(c) INFORMATION SHARING.—The Secretary shall  
 5       share the information in the report under subsection (a)  
 6       with the Secretary of Labor and the Director of the Pen-  
 7       sion Benefit Guaranty Corporation.

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

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

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

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

24           (3) by adding at the end the following: “In the  
 25      case of a failure with respect to section 6059A, the

1 amount imposed under this subsection shall not be  
2 paid from the assets of the plan.”.

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

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

7 **SEC. 8. PBGC FINANCIAL ASSISTANCE.**

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

12 “(d)(1) The plan sponsor of a multiemployer plan—  
13 “(A) which is in critical and declining status  
14 (within the meaning of section 305(b)(6)) as of the  
15 date of the enactment of this subsection, or with re-  
16 spect to which a suspension of benefits has been ap-  
17 proved under section 305(e)(9) as of such date;

18 “(B) which, as of such date of enactment, is in  
19 critical status (within the meaning of section  
20 305(b)(2)), has a modified funded percentage of less  
21 than 40 percent (as defined in section 4(a)(1) of the  
22 Rehabilitation for Multiemployer Pensions Act of  
23 2019), and has a ratio of active to inactive partici-  
24 pants which is less than 2 to 5; or

1           “(C) which is insolvent for purposes of section  
2           418E of the Internal Revenue Code of 1986 as of  
3           such date of enactment, if the plan became insolvent  
4           after December 16, 2014, and has not been termi-  
5           nated;

6           and which is applying for a loan under section 4(a) of the  
7           Rehabilitation for Multiemployer Pensions Act of 2019  
8           may also apply to the corporation for financial assistance  
9           under this subsection, by jointly submitting such applica-  
10          tions in accordance with section 4(d)(2) of such Act. The  
11          application for financial assistance under this subsection  
12          shall demonstrate, based on projections by the plan actu-  
13          ary, that after the receipt of the anticipated loan amount  
14          under section 4(a) of such Act, the plan will still become  
15          (or remain) insolvent within the 30-year period beginning  
16          on the date of the loan.

17          “(2) In reviewing an application under paragraph  
18          (1), the corporation shall review the determinations and  
19          demonstrations submitted with the loan application under  
20          section 4(c) of the Rehabilitation for Multiemployer Pen-  
21          sions Act of 2019 and provide guidance regarding such  
22          determinations and demonstrations prior to approving any  
23          application for financial assistance under this subsection.  
24          The corporation may deny any application if any such de-  
25          terminations or demonstrations (or any underlying as-

1 sumptions) are unreasonable, or inconsistent with rules  
2 issued by the corporation, and the plan and the corpora-  
3 tion are unable to reach agreement on such determinations  
4 or demonstrations. The corporation shall prescribe any  
5 such rules or guidance not later than December 31, 2019.

6 “(3)(A) In the case of a plan described in paragraph  
7 (1)(A) or (1)(B), the total financial assistance provided  
8 under this subsection shall be an amount equal to the  
9 smallest portion of the loan amount with respect to the  
10 plan under paragraph (1)(A) or (1)(B)(ii) of section 4(d)  
11 of the Rehabilitation for Multiemployer Pensions Act of  
12 2019 (determined without regard to paragraph (2) there-  
13 of) that, if provided as financial assistance under this sub-  
14 section instead of a loan, would allow the plan to avoid  
15 the projected insolvency.

16 “(B) Such amount shall not exceed the present value  
17 of the maximum guaranteed benefit with respect to all  
18 participants and beneficiaries of the plan under sections  
19 4022A and 4022B. For purposes of the preceding sen-  
20 tence, the present value of the maximum guaranteed ben-  
21 efit amount shall be determined by disregarding any loan  
22 available from the Pension Rehabilitation Administration  
23 and shall be determined as if the plan were insolvent on  
24 the date of the application, and the present value of the  
25 maximum guaranteed benefit amount with respect to such

1 participants and beneficiaries may be calculated in the ag-  
2 gregate, rather than by reference to the benefit of each  
3 such participant or beneficiary.

4 “(4) In the case of a plan described in paragraph  
5 (1)(C), the financial assistance provided pursuant to such  
6 application under this subsection shall be the present value  
7 of the amount (determined by the plan actuary and sub-  
8 mitted on the application) that, if such amount were paid  
9 by the corporation in combination with the loan and any  
10 other assistance being provided to the plan by the corpora-  
11 tion at the time of the application, would enable the plan  
12 to emerge from insolvency and avoid any other insolvency  
13 projected under paragraph (1).

14 “(5)(A)(i) Except as provided in subparagraph (B),  
15 if the corporation determines at the time of approval, or  
16 at the beginning of any plan year beginning thereafter,  
17 that the plan’s 5-year expenditure projection (determined  
18 without regard to loan payments described in clause  
19 (iii)(III)) exceeds the fair market value of the plan’s as-  
20 sets, the corporation shall (subject to the total amount of  
21 financial assistance approved under this subsection) pro-  
22 vide such assistance in an amount equal to the lesser of—

23 “(I) the amount by which the plan’s 5-year  
24 expenditure projection exceeds such fair market  
25 value; or

1                   “(II) the plan’s expected expenditures for  
2                   the plan year.

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

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

10           “(I) expected benefit payments for the plan  
11           year;

12           “(II) expected administrative expense payments  
13           for the plan year; plus

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

18           “(iv) For purposes of this subparagraph, in the case  
19 of any plan year during which a plan is approved for a  
20 loan under section 4 of such Act, but has not yet received  
21 the proceeds, such proceeds shall be included in deter-  
22 mining the fair market value of the plan’s assets for the  
23 plan year. The preceding sentence shall not apply in the  
24 case of any plan that for the plan year beginning in 2015  
25 was certified pursuant to section 305(b)(3) as being in

1 critical and declining status, and had more than 300,000  
2 participants.

3 “(B) The financial assistance under this subsection  
4 shall be provided in a lump sum if the plan sponsor dem-  
5 onstrates in the application, and the corporation deter-  
6 mines, that such a lump sum payment is necessary for  
7 the plan to avoid the insolvency to which the application  
8 relates. In the case of a plan described in paragraph  
9 (1)(C), such lump sum shall be provided not later than  
10 December 31, 2020.

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

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

22 (b) APPROPRIATIONS.—There is appropriated to the  
23 Director of the Pension Benefit Guaranty Corporation  
24 such sums as may be necessary for each fiscal year to pro-  
25 vide the financial assistance described in section 4261(d)



1 of the Employee Retirement Income Security Act of 1974  
 2 (29 U.S.C. 1431(d)) (as added by this section) (including  
 3 necessary administrative and operating expenses relating  
 4 to such assistance).

5 **SEC. 9. MODIFICATION OF REQUIRED DISTRIBUTION**  
 6 **RULES FOR DESIGNATED BENEFICIARIES.**

7 (a) MODIFICATION OF RULES WHERE EMPLOYEE  
 8 DIES BEFORE ENTIRE DISTRIBUTION.—

9 (1) IN GENERAL.—Section 401(a)(9) of the In-  
 10 ternal Revenue Code of 1986 is amended by adding  
 11 at the end the following new subparagraph:

12 “(H) SPECIAL RULES FOR CERTAIN DE-  
 13 FINED CONTRIBUTION PLANS.—In the case of a  
 14 defined contribution plan, if an employee dies  
 15 before the distribution of the employee’s entire  
 16 interest—

17 “(i) IN GENERAL.—Except in the case  
 18 of a beneficiary who is not a designated  
 19 beneficiary, subparagraph (B)(ii)—

20 “(I) shall be applied by sub-  
 21 stituting ‘10 years’ for ‘5 years’, and

22 “(II) shall apply whether or not  
 23 distributions of the employee’s inter-  
 24 ests have begun in accordance with  
 25 subparagraph (A).

1           “(ii) EXCEPTION ONLY FOR ELIGIBLE  
2 DESIGNATED BENEFICIARIES.—Subpara-  
3 graph (B)(iii) shall apply only in the case  
4 of an eligible designated beneficiary.

5           “(iii) RULES UPON DEATH OF ELIGI-  
6 BLE DESIGNATED BENEFICIARY.—If an el-  
7 igible designated beneficiary dies before the  
8 portion of the employee’s interest to which  
9 this subparagraph applies is entirely dis-  
10 tributed, the exception under clause (iii)  
11 shall not apply to any beneficiary of such  
12 eligible designated beneficiary and the re-  
13 mainder of such portion shall be distrib-  
14 uted within 10 years after the death of  
15 such eligible designated beneficiary.

16           “(iv) APPLICATION TO CERTAIN ELI-  
17 GIBLE RETIREMENT PLANS.—For purposes  
18 of applying the provisions of this subpara-  
19 graph in determining amounts required to  
20 be distributed pursuant to this paragraph,  
21 all eligible retirement plans (as defined in  
22 section 402(c)(8)(B), other than a defined  
23 benefit plan described in clause (iv) or (v)  
24 thereof or a qualified trust which is a part

1 of a defined benefit plan) shall be treated  
2 as a defined contribution plan.”.

3 (2) DEFINITION OF ELIGIBLE DESIGNATED  
4 BENEFICIARY.—Section 401(a)(9)(E) of such Code  
5 is amended to read as follows:

6 “(E) DEFINITIONS AND RULES RELATING  
7 TO DESIGNATED BENEFICIARY.—For purposes  
8 of this paragraph—

9 “(i) DESIGNATED BENEFICIARY.—The  
10 term ‘designated beneficiary’ means any  
11 individual designated as a beneficiary by  
12 the employee.

13 “(ii) ELIGIBLE DESIGNATED BENE-  
14 FICIARY.—The term ‘eligible designated  
15 beneficiary’ means, with respect to any em-  
16 ployee, any designated beneficiary who is—

17 “(I) the surviving spouse of the  
18 employee,

19 “(II) subject to clause (iii), a  
20 child of the employee who has not  
21 reached majority (within the meaning  
22 of subparagraph (F)),

23 “(III) disabled (within the mean-  
24 ing of section 72(m)(7)),

1                   “(IV) a chronically ill individual  
2                   (within the meaning of section  
3                   7702B(c)(2), except that the require-  
4                   ments of subparagraph (A)(i) thereof  
5                   shall only be treated as met if there is  
6                   a certification that, as of such date,  
7                   the period of inability described in  
8                   such subparagraph with respect to the  
9                   individual is an indefinite one which is  
10                  reasonably expected to be lengthy in  
11                  nature), or

12                  “(V) an individual not described  
13                  in any of the preceding subclauses  
14                  who is not more than 10 years young-  
15                  er than the employee.

16                  “(iii) SPECIAL RULE FOR CHIL-  
17                  DREN.—Subject to subparagraph (F), an  
18                  individual described in clause (ii)(II) shall  
19                  cease to be an eligible designated bene-  
20                  ficiary as of the date the individual reaches  
21                  majority and any remainder of the portion  
22                  of the individual’s interest to which sub-  
23                  paragraph (H)(ii) applies shall be distrib-  
24                  uted within 10 years after such date.

1                   “(iv) TIME FOR DETERMINATION OF  
2                   ELIGIBLE DESIGNATED BENEFICIARY.—

3                   The determination of whether a designated  
4                   beneficiary is an eligible designated bene-  
5                   ficiary shall be made as of the date of  
6                   death of the employee.”.

7                   (3) EFFECTIVE DATES.—

8                   (A) IN GENERAL.—Except as provided in  
9                   this paragraph and paragraphs (4) and (5), the  
10                  amendments made by this subsection shall  
11                  apply to distributions with respect to employees  
12                  who die after December 31, 2019.

13                  (B) COLLECTIVE BARGAINING EXCEP-  
14                  TION.—In the case of a plan maintained pursu-  
15                  ant to one or more collective bargaining agree-  
16                  ments between employee representatives and  
17                  one or more employers ratified before the date  
18                  of enactment of this Act, the amendments made  
19                  by this subsection shall apply to distributions  
20                  with respect to employees who die in calendar  
21                  years beginning after the earlier of—

22                               (i) the later of—

23                                       (I) the date on which the last of  
24                                       such collective bargaining agreements  
25                                       terminates (determined without re-

1                   gard to any extension thereof agreed  
2                   to on or after the date of the enact-  
3                   ment of this Act); or

4                   (II) December 31, 2019; or

5                   (ii) December 31, 2021.

6                   For purposes of clause (i)(I), any plan amend-  
7                   ment made pursuant to a collective bargaining  
8                   agreement relating to the plan which amends  
9                   the plan solely to conform to any requirement  
10                  added by this section shall not be treated as a  
11                  termination of such collective bargaining agree-  
12                  ment.

13                  (C) GOVERNMENTAL PLANS.—In the case  
14                  of a governmental plan (as defined in section  
15                  414(d) of the Internal Revenue Code of 1986),  
16                  subparagraph (A) shall be applied by sub-  
17                  stituting “December 31, 2021” for “December  
18                  31, 2019”.

19                  (4) EXCEPTION FOR CERTAIN EXISTING ANNU-  
20                  ITY CONTRACTS.—

21                  (A) IN GENERAL.—The amendments made  
22                  by this subsection shall not apply to a qualified  
23                  annuity which is a binding annuity contract in  
24                  effect on the date of enactment of this Act and  
25                  at all times thereafter.

1 (B) QUALIFIED ANNUITY.—For purposes  
2 of this paragraph, the term “qualified annuity”  
3 means, with respect to an employee, an annu-  
4 ity—

5 (i) which is a commercial annuity (as  
6 defined in section 3405(e)(6) of the Inter-  
7 nal Revenue Code of 1986);

8 (ii) under which the annuity payments  
9 are made over the life of the employee or  
10 over the joint lives of such employee and a  
11 designated beneficiary (or over a period  
12 not extending beyond the life expectancy of  
13 such employee or the joint life expectancy  
14 of such employee and a designated bene-  
15 ficiary) in accordance with the regulations  
16 described in section 401(a)(9)(A)(ii) of  
17 such Code (as in effect before such amend-  
18 ments) and which meets the other require-  
19 ments of section 401(a)(9) of such Code  
20 (as so in effect) with respect to such pay-  
21 ments; and

22 (iii) with respect to which—

23 (I) annuity payments to the em-  
24 ployee have begun before the date of  
25 enactment of this Act, and the em-

1            ployee has made an irrevocable elec-  
2            tion before such date as to the method  
3            and amount of the annuity payments  
4            to the employee or any designated  
5            beneficiaries; or

6            (II) if subclause (I) does not  
7            apply, the employee has made an ir-  
8            revocable election before the date of  
9            enactment of this Act as to the meth-  
10          od and amount of the annuity pay-  
11          ments to the employee or any des-  
12          ignated beneficiaries.

13            (5)    EXCEPTION    FOR    CERTAIN    BENE-  
14          FICIARIES.—

15            (A) IN GENERAL.—If an employee dies be-  
16          fore the effective date, then, in applying the  
17          amendments made by this subsection to such  
18          employee's designated beneficiary who dies after  
19          such date—

20            (i) such amendments shall apply to  
21          any beneficiary of such designated bene-  
22          ficiary; and

23            (ii) the designated beneficiary shall be  
24          treated as an eligible designated bene-  
25          ficiary for purposes of applying section



1           401(a)(9)(H)(ii) of the Internal Revenue  
2           Code of 1986 (as in effect after such  
3           amendments).

4           (B) EFFECTIVE DATE.—For purposes of  
5           this paragraph, the term “effective date” means  
6           the first day of the first calendar year to which  
7           the amendments made by this subsection apply  
8           to a plan with respect to employees dying on or  
9           after such date.

10       (b) PROVISIONS RELATING TO PLAN AMEND-  
11       MENTS.—

12           (1) IN GENERAL.—If this subsection applies to  
13       any plan amendment—

14           (A) such plan shall be treated as being op-  
15           erated in accordance with the terms of the plan  
16           during the period described in paragraph  
17           (2)(B)(i); and

18           (B) except as provided by the Secretary of  
19           the Treasury, such plan shall not fail to meet  
20           the requirements of section 411(d)(6) of the In-  
21           ternal Revenue Code of 1986 and section  
22           204(g) of the Employee Retirement Income Se-  
23           curity Act of 1974 by reason of such amend-  
24           ment.

1           (2) AMENDMENTS TO WHICH SUBSECTION AP-  
2       PLIES.—

3           (A) IN GENERAL.—This subsection shall  
4       apply to any amendment to any plan or which  
5       is made—

6           (i) pursuant to any amendment made  
7       by this section or pursuant to any regula-  
8       tion issued by the Secretary of the Treas-  
9       ury under this section or such amend-  
10      ments; and

11          (ii) on or before the last day of the  
12      first plan year beginning after December  
13      31, 2021, or such later date as the Sec-  
14      retary of the Treasury may prescribe.

15      In the case of a governmental or collectively  
16      bargained plan to which subparagraph (B) or  
17      (C) of subsection (a)(4) applies, clause (ii) shall  
18      be applied by substituting the date which is 2  
19      years after the date otherwise applied under  
20      such clause.

21          (B) CONDITIONS.—This subsection shall  
22      not apply to any amendment unless—

23          (i) during the period—

24              (I) beginning on the date the leg-  
25      islative or regulatory amendment de-

1                   scribed in paragraph (1)(A) takes ef-  
2                   fect (or in the case of a plan amend-  
3                   ment not required by such legislative  
4                   or regulatory amendment, the effec-  
5                   tive date specified by the plan); and

6                   (II) ending on the date described  
7                   in subparagraph (A)(ii) (or, if earlier,  
8                   the date the plan amendment is  
9                   adopted),

10                  the plan is operated as if such plan amend-  
11                  ment were in effect; and

12                  (ii) such plan amendment applies  
13                  retroactively for such period.

14 **SEC. 10. INCREASE IN PENALTY FOR FAILURE TO FILE.**

15           (a) IN GENERAL.—The second sentence of section  
16 6651(a) of the Internal Revenue Code of 1986, as amend-  
17 ed by the Taxpayer First Act, is amended by striking  
18 “\$330” and inserting “\$435”.

19           (b) INFLATION ADJUSTMENT.—Section 6651(j)(1) of  
20 such Code, as amended by such Act, is amended by strik-  
21 ing “\$330” and inserting “\$435”.

22           (c) EFFECTIVE DATE.—The amendments made by  
23 this section shall apply to returns the due date for which  
24 (including extensions) is after December 31, 2019.

1 **SEC. 11. INCREASED PENALTIES FOR FAILURE TO FILE RE-**  
2 **TIREMENT PLAN RETURNS.**

3 (a) IN GENERAL.—Subsection (e) of section 6652 of  
4 the Internal Revenue Code of 1986 is amended—

5 (1) by striking “\$25” and inserting “\$250”;  
6 and

7 (2) by striking “\$15,000” and inserting  
8 “\$150,000”.

9 (b) ANNUAL REGISTRATION STATEMENT AND NOTI-  
10 FICATION OF CHANGES.—Subsection (d) of section 6652  
11 of the Internal Revenue Code of 1986 is amended—

12 (1) by striking “\$1” both places it appears in  
13 paragraphs (1) and (2) and inserting “\$10”;

14 (2) by striking “\$5,000” in paragraph (1) and  
15 inserting “\$50,000”; and

16 (3) by striking “\$1,000” in paragraph (2) and  
17 inserting “\$10,000”.

18 (c) FAILURE TO PROVIDE NOTICE.—Subsection (h)  
19 of section 6652 of the Internal Revenue Code of 1986 is  
20 amended—

21 (1) by striking “\$10” and inserting “\$100”;  
22 and

23 (2) by striking “\$5,000” and inserting  
24 “\$50,000”.

25 (d) EFFECTIVE DATE.—The amendments made by  
26 this section shall apply to returns, statements, and notifi-

1 cations required to be filed, and notices required to be pro-  
 2 vided, after December 31, 2019.

3 **SEC. 12. INCREASE INFORMATION SHARING TO ADMIN-**  
 4 **ISTER EXCISE TAXES.**

5 (a) IN GENERAL.—Section 6103(o) of the Internal  
 6 Revenue Code of 1986 is amended by adding at the end  
 7 the following new paragraph:

8 “(3) TAXES IMPOSED BY SECTION 4481.—Re-  
 9 turns and return information with respect to taxes  
 10 imposed by section 4481 shall be open to inspection  
 11 by or disclosure to officers and employees of United  
 12 States Customs and Border Protection of the De-  
 13 partment of Homeland Security whose official duties  
 14 require such inspection or disclosure for purposes of  
 15 administering such section.”.

16 (b) CONFORMING AMENDMENTS.—Paragraph (4) of  
 17 section 6103(p) of the Internal Revenue Code of 1986 is  
 18 amended by striking “or (o)(1)(A)” each place it appears  
 19 and inserting “, (o)(1)(A), or (o)(3)”.

Passed the House of Representatives July 24, 2019.

Attest: CHERYL L. JOHNSON,  
*Clerk.*

**Calendar No. 390**

116<sup>TH</sup> CONGRESS  
1<sup>ST</sup> Session

**H. R. 397**

**AN ACT**

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.

DECEMBER 19, 2019

Read the second time and placed on the calendar