H.R. 4444

116TH CONGRESS
1ST SESSION

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

IN THE HOUSE OF REPRESENTATIVES

Mr. Neal introduced the following bill; which was referred to the Committee on _______________________

A BILL

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

1 Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

3 SECTION 1. SHORT TITLE.

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

SEC. 2. PENSION REHABILITATION ADMINISTRATION; ESTABLISHMENT; POWERS.

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

(b) Director.—

(1) Establishment of position.—There shall be at the head of the Pension Rehabilitation Administration a Director, who shall be appointed by the President.

(2) Term.—

(A) In general.—The term of office of the Director shall be 5 years.

(B) Service until appointment of successor.—An individual serving as Director at the expiration of a term may continue to serve until a successor is appointed.

(3) Powers.—

(A) Appointment of deputy directors, officers, and employees.—The Director may appoint Deputy Directors, officers, and employees, including attorneys, in accordance with chapter 51 and subchapter III of chapter 53 of title 5, United States Code.

(B) Contracting.—
(i) **In General.**—The Director may contract for financial and administrative services (including those related to budget and accounting, financial reporting, personnel, and procurement) with the General Services Administration, or such other Federal agency as the Director determines appropriate, for which payment shall be made in advance, or by reimbursement, from funds of the Pension Rehabilitation Administration in such amounts as may be agreed upon by the Director and the head of the Federal agency providing the services.

(ii) **Subject to Appropriations.**—Contract authority under clause (i) shall be effective for any fiscal year only to the extent that appropriations are available for that purpose.

(c) **Transfer of Funds.**—The Secretary of the Treasury may transfer for any fiscal year, from unobligated amounts appropriated to the Department of the Treasury, to the Pension Rehabilitation Administration such sums as may be reasonably necessary for the admin-
3 SEC. 3. PENSION REHABILITATION TRUST FUND.

(a) In General.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

“SEC. 9512. PENSION REHABILITATION TRUST FUND.

“(a) Creation of Trust Fund.—There is established in the Treasury of the United States a trust fund to be known as the ‘Pension Rehabilitation Trust Fund’ (hereafter in this section referred to as the ‘Fund’), consisting of such amounts as may be appropriated or credited to such Trust Fund as provided in this section and section 9602(b).

“(b) Transfers to Fund.—

“(1) Amounts attributable to Treasury bonds.—There shall be credited to the Fund the amounts transferred under section 6(b) of the Rehabilitation for Multiemployer Pensions Act.

“(2) Loan interest and principal.—

“(A) In General.—The Director of the Pension Rehabilitation Administration established under section 2 of the Rehabilitation for Multiemployer Pensions Act shall deposit in the Fund any amounts received from a plan as pay-
ment of interest or principal on a loan under section 4 of such Act.

“(B) INTEREST.—For purposes of subparagraph (A), the term ‘interest’ includes points and other similar amounts.

“(3) TRANSFERS FROM SECRETARY.—The Director of the Pension Rehabilitation Administration shall deposit in the Fund any amounts received from the Secretary under section 2(e) of such Act.

“(4) AVAILABILITY OF FUNDS.—Amounts credited to or deposited in the Fund shall remain available until expended.

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

“(1) for the purpose of making the loans described in section 4 of the Rehabilitation for Multi-employer Pensions Act,

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

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

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 98 of the Internal Revenue
Code of 1986 is amended by adding at the end the following new item:

“Sec. 9512. Pension Rehabilitation Trust Fund.”

SEC. 4. LOAN PROGRAM FOR MULTIEMPLOYER DEFINED BENEFIT PLANS.

(a) LOAN AUTHORITY.—

(1) IN GENERAL.—The Pension Rehabilitation Administration established under section 2 is authorized—

(A) to make loans to multiemployer plans (as defined in section 414(f) of the Internal Revenue Code of 1986) which are defined benefit plans (as defined in section 414(j) of such Code) and which—

(i) are in critical and declining status (within the meaning of section 432(b)(6) of such Code and section 305(b)(6) of the Employee Retirement Income Security Act of 1974), including any plan with respect to which a suspension of benefits has been approved under section 432(e)(9) of such Code and section 305(e)(9) of such Act; or

(ii) are insolvent for purposes of section 418E of such Code, if they became insolvent after December 16, 2014, and have not been terminated; and
(B) subject to subsection (b), to establish appropriate terms for such loans.

(2) CONSULTATION.—The Director of the Pension Rehabilitation Administration shall consult with the Secretary of the Treasury, the Secretary of Labor, and the Director of the Pension Benefit Guaranty Corporation before making any loan under paragraph (1), and shall share with such persons the application and plan information with respect to each such loan.

(3) ESTABLISHMENT OF LOAN PROGRAM.—

(A) IN GENERAL.—A program to make the loans authorized under this section shall be established not later than April 30, 2019, with guidance regarding such program to be promulgated by the Director of the Pension Rehabilitation Administration, in consultation with the Pension Benefit Guaranty Corporation and the Department of Labor, not later than July 1, 2019.

(B) LOANS AUTHORIZED BEFORE PROGRAM DATE.—Without regard to whether the program under subparagraph (A) has been established, a plan may apply for a loan under this section before either date described in such
subparagraph, and the Pension Rehabilitation Administration shall approve the application and make the loan before establishment of the program if necessary to avoid any suspension of the accrued benefits of participants.

(b) **LOAN TERMS.**—The terms of any loan made under subsection (a) shall state that—

1. the plan shall make payments of interest on the loan for a period of 29 years beginning on the date of the loan;

2. final payment of interest and principal shall be due in the 30th year after the date of the loan; and

3. as a condition of the loan, the plan sponsor stipulates that—

   (A) except as provided in subparagraph (B), the plan will not increase benefits, allow any employer participating in the plan to reduce its contributions, or accept any collective bargaining agreement which provides for reduced contribution rates, during the 30-year period described in paragraphs (1) and (2); and

   (B) in the case of a plan with respect to which a suspension of benefits has been approved under section 432(e)(9) of the Internal
Revenue Code of 1986 and section 305(e)(9) of the Employee Retirement Income Security Act of 1974, or under section 418E of such Code, before the loan, the plan will reinstate the suspended benefits (or will not carry out any suspension which has been approved but not yet implemented); (C) the plan sponsor will comply with the requirements of section 6059A of the Internal Revenue Code of 1986; and (D) the plan and plan administrator will meet such other requirements as the Director of the Pension Rehabilitation Administration provides in the loan terms.

(c) LOAN APPLICATION.—

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

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

(i) the loan will enable the plan to avoid insolvency for at least the 30-year period described in paragraphs (1) and (2) of subsection (b) or, in the case of a plan which is already insolvent, to emerge from
insolvency within and avoid insolvency for the remainder of such period; and

(ii) the plan is reasonably expected to be able to pay benefits and the interest on the loan during such period and to accumulate sufficient funds to repay the principal when due;

(B) provide the information necessary to determine the loan amount under subsection (d);

(C) stipulate whether the plan is also applying for financial assistance under section 4261(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1431(d)) in combination with the loan to enable the plan to avoid insolvency and to pay benefits, or is already receiving such financial assistance as a result of a previous application;

(D) state in what manner the loan proceeds will be invested pursuant to subsection (d), the person from whom any annuity contracts under such subsection will be purchased, and the person who will be the investment manager for any portfolio implemented under such subsection; and
(E) include such other information and
certifications as the Director of the Pension Re-
habilitation Administration shall require.

(2) STANDARD FOR ACCEPTING ACTUARIAL AND
PLAN SPONSOR DETERMINATIONS AND DEMONSTRA-
TIONS IN THE APPLICATION.—In evaluating the plan
sponsor’s application, the Director of the Pension
Rehabilitation Administration shall accept the deter-
minations and demonstrations in the application un-
less the Director, in consultation with the Director
of the Pension Benefit Guaranty Corporation and
the Secretary of Labor, concludes that the deter-
minations and demonstrations in the application
were clearly erroneous.

(3) REQUIRED ACTION; DEEMED APPROVAL.—
The Director of the Pension Rehabilitation Adminis-
tration shall approve or deny any application under
this subsection within 90 days after the submission
of such application. An application shall be deemed
approved unless, within such 90 days, the Director
notifies the plan sponsor that the determinations or
demonstrations in the application were deemed clear-
ly erroneous under paragraph (2). Any approval or
denial of an application by the Director of the Pen-
sion Rehabilitation Administration shall be treated
as a final agency action for purposes of section 704 of title 5, United States Code.

(4) CERTAIN PLANS REQUIRED TO APPLY.— The plan sponsor of any plan with respect to which a suspension of benefits has been approved under section 432(e)(9) of the Internal Revenue Code of 1986 and section 305(e)(9) of the Employee Retirement Income Security Act of 1974 or under section 418E of such Code, before the date of the enactment of this Act shall apply for a loan under this section. The Director of the Pension Rehabilitation Administration shall provide for such plan sponsors to use the simplified application under subsection (d)(2)(B).

(d) LOAN AMOUNT AND USE.—

(1) AMOUNT OF LOAN.—

(A) IN GENERAL.—Except as provided in subparagraph (B) and paragraph (2), the amount of any loan under subsection (a) shall be, as demonstrated by the plan sponsor on the application under subsection (c), the amount needed to purchase annuity contracts or to implement a portfolio described in paragraph (3)(C) (or a combination of the two) sufficient to provide benefits of participants and bene-
ficiaries of the plan in pay status at the time
the loan is made.

(B) PLANS WITH SUSPENDED BENEFITS.—In the case of a plan which has sus-
pended benefits under section 432(e)(9) of the
Internal Revenue Code of 1986 and section
305(e)(9) of the Employee Retirement Income
Security Act of 1974 (29 U.S.C. 1085(e)(9)) or
under section 418E of such Code—

(i) the suspension of benefits shall not
be taken into account in applying para-
graph (1); and

(ii) the loan amount shall be the
amount sufficient to provide benefits of
participants and beneficiaries of the plan
in pay status at the time the loan is made,
determined without regard to the suspen-
sion, including retroactive payment of ben-
efits which would otherwise have been pay-
able during the period of the suspension.

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

(A) IN GENERAL.—In the case of a plan
which is also applying for financial assistance
under section 4261(d) of the Employee Retire-
ment Income Security Act of 1974 (29 U.S.C. 1431(d))—

(i) the plan sponsor shall submit the loan application and the application for financial assistance jointly to the Pension Rehabilitation Administration and the Pension Benefit Guaranty Corporation with the information necessary to determine the amount under subparagraph (B); and

(ii) if such financial assistance is granted, the amount of the loan under subsection (a) shall be the amount described in paragraph (1) reduced by the amount of such financial assistance.

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

(A) IN GENERAL.—The loan received under subsection (a) shall be used to purchase annuity contracts which meet the requirements of subparagraph (B) or to implement a portfolio described in subparagraph (C) (or a combination of the two) to provide the benefits described in paragraph (1).

(B) ANNUITY CONTRACT REQUIREMENTS.—The annuity contracts purchased under subparagraph (A) shall be issued by an insurance company which is licensed to do business under the laws of any State and which is rated A or better by a nationally recognized statistical rating organization, and the purchase of such contracts shall meet all applicable fiduciary standards under the Employee Retirement Income Security Act of 1974.

(C) PORTFOLIO.—

(i) IN GENERAL.—A portfolio described in this subparagraph is—

(I) a cash matching portfolio or duration matching portfolio consisting of investment grade (as rated by a nationally recognized statistical rating
organization) fixed income investments, including United States dollar-denominated public or private debt obligations issued or guaranteed by the United States or a foreign issuer, which are tradeable in United States currency and are issued at fixed or zero coupon rates; or

(II) any other portfolio prescribed by the Secretary of the Treasury in regulations which has a similar risk profile to the portfolios described in subclause (I) and is equally protective of the interests of participants and beneficiaries.

Once implemented, such a portfolio shall be maintained until all liabilities to participants and beneficiaries in pay status at the time of the loan are satisfied.

(ii) FIDUCIARY DUTY.—Any investment manager of a portfolio under this subparagraph shall acknowledge in writing that such person is a fiduciary under the Employee Retirement Income Security Act of 1974 with respect to the plan.
(iii) Treatment of Participants and Beneficiaries.—Participants and beneficiaries covered by a portfolio under this subparagraph shall continue to be treated as participants and beneficiaries of the plan.

(D) Accounting.—

(i) In general.—Annuity contracts purchased and portfolios implemented under this paragraph shall be accounted for separately from the other assets of the plan, and the proceeds thereof shall be used solely to provide the benefits described in paragraph (1) until all such benefits have been paid.

(ii) Oversight of Non-annuity Investments.—

(I) In general.—Any portfolio implemented under this paragraph shall be subject to oversight by the Pension Rehabilitation Administration, including a mandatory triennial review of the adequacy of the portfolio to provide the benefits described in paragraph (1) and approval (to be
provided within a reasonable period of time) of any decision by the plan sponsor to change the investment manager of the portfolio.

(II) Remedial Action.—If the triennial review under subclause (I) determines an inadequacy, the plan sponsor shall take remedial action to ensure that the inadequacy will be cured within 5 years of the review.

(E) Ombudsperson.—The Participant and Plan Sponsor Advocate established under section 4004 of the Employee Retirement Income Security Act of 1974 shall act as ombudsperson for participants and beneficiaries on behalf of whom annuity contracts are purchased or who are covered by a portfolio under this paragraph.

(c) Loan Default.—If a plan is unable to make any payment on a loan under this section when due, the Pension Rehabilitation Administration shall negotiate with the plan sponsor revised terms for repayment reflecting the plan’s ability to make payments, which may include installment payments over a reasonable period and, if the Pension Rehabilitation Administration deems necessary to
avoid any suspension of the accrued benefits of participants, forgiveness of a portion of the loan principal.

(f) AUTHORITY TO ISSUE RULES, ETC.—The Director of the Pension Rehabilitation Administration established under section 2, in consultation with the Pension Benefit Guaranty Corporation and the Department of Labor, is authorized to issue rules regarding the form, content, and process of applications for loans under this section, actuarial standards and assumptions to be used in making estimates and projections for purposes of such applications, and assumptions regarding interest rates, mortality, and distributions with respect to a portfolio described in subsection (d)(3)(C).

(g) COORDINATION WITH TAXATION OF UNRELATED BUSINESS INCOME.—Subparagraph (A) of section 514(c)(6) of the Internal Revenue Code of 1986 is amended—

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

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

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

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

SEC. 5. COORDINATION WITH WITHDRAWAL LIABILITY AND FUNDING RULES.

(a) Amendment to Internal Revenue Code of 1986.—Section 432 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(k) Special Rules for Plans Receiving Pension Rehabilitation Loans.—

“(1) Determination of withdrawal liability.—

“(A) In general.—If any employer participating in a plan at the time the plan receives a loan under section 4(a) of the Rehabilitation for Multiemployer Pensions Act withdraws from the plan before the end of the 30-year period beginning on the date of the loan, the withdrawal liability of such employer shall be determined under the Employee Retirement Income Security Act of 1974—

“(i) by applying section 4219(c)(1)(D) of the Employee Retirement Income Security Act of 1974 as if the plan were termi-
nating by the withdrawal of every employer
from the plan, and
“(ii) by determining the value of non-
forfeitable benefits under the plan at the
time of the deemed termination by using
the interest assumptions prescribed for
purposes of section 4044 of the Employee
Retirement Income Security Act of 1974,
as prescribed in the regulations under sec-
tion 4281 of the Employee Retirement In-
come Security Act of 1974 in the case of
such a mass withdrawal.
“(B) Annuity contracts and investment
portfolios purchased with loan
funds.—Annuity contracts purchased and
portfolios implemented under section 4(d)(3) of
the Rehabilitation for Multiemployer Pensions
Act shall not be taken into account in deter-
mining the withdrawal liability of any employer
under subparagraph (A), but the amount equal
to the greater of—
“(i) the benefits provided under such
contracts or portfolios to participants and
beneficiaries, or
“(ii) the remaining payments due on
the loan under section 4(a) of such Act,
shall be so taken into account.
“(2) COORDINATION WITH FUNDING REQUIRE-
MENTS.—In the case of a plan which receives a loan
under section 4(a) of the Rehabilitation for Multiem-
ployer Pensions Act—
“(A) annuity contracts purchased and
portfolios implemented under section 4(d)(3) of
such Act, and the benefits provided to partici-
pants and beneficiaries under such contracts or
portfolios, shall not be taken into account in de-
termining minimum required contributions
under section 412,
“(B) payments on the interest and prin-
cipal under the loan, and any benefits owed in
excess of those provided under such contracts
or portfolios, shall be taken into account as li-
abilities for purposes of such section, and
“(C) if such a portfolio is projected due to
unfavorable investment or actuarial experience
to be unable to fully satisfy the liabilities which
it covers, the amount of the liabilities projected
to be unsatisfied shall be taken into account as
liabilities for purposes of such section.”.
(b) Amendment to Employee Retirement Income Security Act of 1974.—Section 305 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1085) is amended by adding at the end the following new subsection:

“(k) Special Rules for Plans Receiving Pension Rehabilitation Loans.—

“(1) Determination of withdrawal liability.—

“(A) In general.—If any employer participating in a plan at the time the plan receives a loan under section 4(a) of the Rehabilitation for Multiemployer Pensions Act withdraws from the plan before the end of the 30-year period beginning on the date of the loan, the withdrawal liability of such employer shall be determined—

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

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

“(B) Annuity contracts and invest-
ment portfolios purchased with loan
funds.—Annuity contracts purchased and
portfolios implemented under section 4(d)(3) of
the Rehabilitation for Multiemployer Pensions
Act shall not be taken into account in deter-
mining the withdrawal liability of any employer
under subparagraph (A), but the amount equal
to the greater of—

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

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

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

“(A) annuity contracts purchased and
portfolios implemented under section 4(d)(3) of
such Act, and the benefits provided to partici-
pants and beneficiaries under such contracts or portfolios, shall not be taken into account in determining minimum required contributions under section 302,

“(B) payments on the interest and principal under the loan, and any benefits owed in excess of those provided under such contracts or portfolios, shall be taken into account as liabilities for purposes of such section, and

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

SEC. 6. ISSUANCE OF TREASURY BONDS.

(a) In General.—The Secretary of the Treasury shall issue bonds as authorized by section 3102 of title 31, United States Code, in an amount necessary to fund the loan program under section 4 of this Act, as determined in consultation with the Director of the Pension Rehabilitation Administration established under section 2.

(b) Transfers to Pension Rehabilitation Trust Fund.—The Secretary of the Treasury shall from time to time transfer an amount equal to the proceeds of
the issue under subsection (a), from the general fund of the Treasury to the Pension Rehabilitation Trust Fund established under section 9512 of the Internal Revenue Code of 1986.

SEC. 7. REPORTS OF PLANS RECEIVING PENSION REHABILITATION LOANS.

(a) In General.—Subpart E of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

“SEC. 6059A. REPORTS OF PLANS RECEIVING PENSION REHABILITATION LOANS.

“(a) In General.—In the case of a plan receiving a loan under section 4(a) of the Rehabilitation for Multiemployer Pensions Act, with respect to the first plan year beginning after the date of the loan and each of the 29 succeeding plan years, not later than the 90th day of each such plan year the plan sponsor shall file with the Secretary a report (including appropriate documentation and actuarial certifications from the plan actuary, as required by the Secretary) that contains—

“(1) the funded percentage (as defined in section 432(j)(2)) as of the first day of such plan year, and the underlying actuarial value of assets (determined with regard, and without regard, to annuity
contracts purchased and portfolios implemented with
proceeds of such loan) and liabilities (including any
amounts due with respect to such loan) taken into
account in determining such percentage,

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

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

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

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

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

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

“(8) any significant reduction in the number of
active participants during the plan year preceding
such plan year, and the reason for such reduction,
“(9) a list of employers that withdrew from the plan in the plan year preceding such plan year, and the resulting reduction in contributions,

“(10) a list of employers that paid withdrawal liability to the plan during the plan year preceding such plan year and, for each employer, a total assessment of the withdrawal liability paid, the annual payment amount, and the number of years remaining in the payment schedule with respect to such withdrawal liability,

“(11) any material changes to benefits, accrual rates, or contribution rates during the plan year preceding such plan year, and whether such changes relate to the terms of the loan,

“(12) details regarding any funding improvement plan or rehabilitation plan and updates to such plan,

“(13) the number of participants and beneficiaries during the plan year preceding such plan year who are active participants, the number of participants and beneficiaries in pay status, and the number of terminated vested participants and beneficiaries,

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

“(15) the information contained on the most recent annual funding notice submitted by the plan under section 101(f) of the Employee Retirement Income Security Act of 1974,

“(16) the information contained on the most recent annual return under section 6058 and actuarial report under section 6059 of the plan, and

“(17) copies of the plan document and amendments, other retirement benefit or ancillary benefit plans relating to the plan and contribution obligations under such plans, a breakdown of administrative expenses of the plan, participant census data and distribution of benefits, the most recent actuarial valuation report as of the plan year, copies of collective bargaining agreements, and financial reports, and such other information as the Secretary, in consultation with the Director of the Pension Rehabilitation Administration, may require.

“(b) ELECTRONIC SUBMISSION.—The report required under subsection (a) shall be submitted electronically.
“(c) INFORMATION SHARING.—The Secretary shall share the information in the report under subsection (a) with the Secretary of Labor and the Director of the Pension Benefit Guaranty Corporation.

“(d) REPORT TO PARTICIPANTS, BENEFICIARIES, AND EMPLOYERS.—Each plan sponsor required to file a report under subsection (a) shall, before the expiration of the time prescribed for the filing of such report, also provide a summary (written in a manner so as to be understood by the average plan participant) of the information in such report to participants and beneficiaries in the plan and to each employer with an obligation to contribute to the plan.”.

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

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

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

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

(c) Clerical Amendment.—The table of sections for subpart E of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

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

SEC. 8. PBGC FINANCIAL ASSISTANCE.

(a) In General.—Section 4261 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1431) is amended by adding at the end the following new subsection:

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

“(A) which is in critical and declining status (within the meaning of section 305(b)(6)), or

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

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

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

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

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

which, if such percentage were paid by the corporation in
combination with the loan, would allow the plan to avoid
the projected insolvency and be projected to have increasing
assets over any 5-year period following the repayment
of the loan. Such amount shall not exceed the maximum
guaranteed benefit with respect to all participants and
beneficiaries of the plan under sections 4022A and 4022B.
For this purpose, the maximum guaranteed benefit
amount shall be determined by disregarding any loan
available from the Pension Rehabilitation Administration
and shall be determined as if the plan were insolvent on
the date of the application. Further, the present value of
the maximum guaranteed benefit amount with respect to such participants and beneficiaries may be calculated in the aggregate, rather than by reference to the benefit of each such participant or beneficiary.

“(3) In the case of a plan described in paragraph (1)(B), the financial assistance provided pursuant to such application under this subsection shall be the amount (determined by the plan actuary and submitted on the application) which, if such amount were paid by the corporation in combination with the loan and any other assistance being provided to the plan by the corporation at the time of the application, would enable the plan to emerge from insolvency.

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

“(5) The corporation may forgo repayment of the financial assistance provided under this subsection if necessary to avoid any suspension of the accrued benefits of participants.”.
(b) APPROPRIATIONS.—There is appropriated to the Director of the Pension Benefit Guaranty Corporation such sums as may be necessary for each fiscal year to provide the financial assistance described in section 4261(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1431(d)) (as added by this section) (including necessary administrative and operating expenses relating to such assistance).