

115TH CONGRESS
1ST SESSION

S. 2147

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 SENATE OF THE UNITED STATES

NOVEMBER 16, 2017

Mr. BROWN (for himself, Ms. STABENOW, Mr. MANCHIN, Ms. HEITKAMP, Ms. BALDWIN, Mrs. MCCASKILL, Mr. FRANKEN, Ms. KLOBUCHAR, Mr. DURBIN, Mr. PETERS, Mr. DONNELLY, and Ms. DUCKWORTH) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

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

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Butch Lewis Act of
5 2017”.

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

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

6 (b) DIRECTOR.—

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

11 (2) TERM.—

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

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

18 (3) POWERS.—

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

25 (B) CONTRACTING.—

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

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

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

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

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

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

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

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

15 “(b) TRANSFERS TO FUND.—

16 “(1) AMOUNTS ATTRIBUTABLE TO TREASURY
 17 BONDS.—There shall be credited to the Fund the
 18 amounts transferred under section 6(b) of the Butch
 19 Lewis Act of 2017.

20 “(2) LOAN INTEREST AND PRINCIPAL.—

21 “(A) IN GENERAL.—The Director of the
 22 Pension Rehabilitation Administration estab-
 23 lished under section 2 of the Butch Lewis Act
 24 of 2017 shall deposit in the Fund any amounts

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

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

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

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

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

16 “(1) for the purpose of making the loans de-
17 scribed in section 4 of the Butch Lewis Act of 2017,

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

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

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

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

1 **SEC. 4. LOAN PROGRAM FOR MULTIEMPLOYER DEFINED**
2 **BENEFIT PLANS.**

3 (a) LOAN AUTHORITY.—

4 (1) IN GENERAL.—The Pension Rehabilitation
5 Administration established under section 2 is au-
6 thorized—

7 (A) to make loans to multiemployer plans
8 (as defined in section 414(f) of the Internal
9 Revenue Code of 1986) which are defined ben-
10 efit plans (as defined in section 414(j) of such
11 Code) and which—

12 (i) are in critical and declining status
13 (within the meaning of section 432(b)(6)
14 of such Code and section 305(b)(6) of such
15 Act), including any plan with respect to
16 which a suspension of benefits has been
17 approved under section 432(e)(9) of such
18 Code and section 305(e)(9) of such Act; or

19 (ii) are insolvent for purposes of sec-
20 tion 418E of such Code, if they became in-
21 solvent after December 16, 2014, and have
22 not been terminated; and

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

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

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

7 (3) ESTABLISHMENT OF LOAN PROGRAM.—

8 (A) IN GENERAL.—A program to make the
9 loans authorized under this section shall be es-
10 tablished not later than March 31, 2018, with
11 guidance regarding such program to be promul-
12 gated by the Director of the Pension Rehabilita-
13 tion Administration, in consultation with the
14 Pension Benefit Guaranty Corporation and the
15 Department of Labor, not later than June 1,
16 2018.

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

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

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

5 (1) the plan shall make payments of interest on
6 the loan for a period of 29 years beginning on the
7 date of the loan;

8 (2) final payment of interest and principal shall
9 be due in the 30th year after the date of the loan;
10 and

11 (3) as a condition of the loan, the plan sponsor
12 stipulates that—

13 (A) except as provided in subparagraph
14 (B), the plan will not increase benefits, allow
15 any employer participating in the plan to re-
16 duce its contributions, or accept any collective
17 bargaining agreement which provides for re-
18 duced contribution rates, during the 30-year pe-
19 riod described in paragraphs (1) and (2);

20 (B) in the case of a plan with respect to
21 which a suspension of benefits has been ap-
22 proved under section 432(e)(9) of the Internal
23 Revenue Code of 1986 and section 305(e)(9) of
24 the Employee Retirement Income Security Act
25 of 1974, or under section 418E of such Code,

1 before the loan, the plan will reinstate the sus-
2 pended benefits (or will not carry out any sus-
3 pension which has been approved but not yet
4 implemented);

5 (C) the plan sponsor will comply with the
6 requirements of section 6059A of the Internal
7 Revenue Code of 1986; and

8 (D) the plan and plan administrator will
9 meet such other requirements as the Director of
10 the Pension Rehabilitation Administration pro-
11 vides in the loan terms.

12 (c) LOAN APPLICATION.—

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

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

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

24 (ii) the plan is reasonably expected to
25 be able to pay benefits and the interest on

1 the loan during such period and to accu-
2 mulate sufficient funds to repay the prin-
3 cipal when due;

4 (B) provide the information necessary to
5 determine the loan amount under subsection
6 (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 and
9 the Secretary of Labor, concludes that the deter-
10 minations and demonstrations in the application
11 were clearly erroneous.

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

1 (4) CERTAIN PLANS REQUIRED TO APPLY.—

2 The plan sponsor of any plan with respect to which
3 a suspension of benefits has been approved under
4 section 432(e)(9) of the Internal Revenue Code of
5 1986 and section 305(e)(9) of the Employee Retirement
6 Income Security Act of 1974 or under section
7 418E of such Code, before the date of the enactment
8 of this Act shall apply for a loan under this section.
9 The Director of the Pension Rehabilitation Adminis-
10 tration shall provide for such plan sponsors to use
11 the simplified application under subsection
12 (d)(2)(B).

13 (d) LOAN AMOUNT AND USE.—

14 (1) AMOUNT OF LOAN.—

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

1 (B) PLANS WITH SUSPENDED BENE-
2 FITS.—In the case of a plan which has sus-
3 pended benefits under section 432(e)(9) of the
4 Internal Revenue Code of 1986 and section
5 305(e)(9) of the Employee Retirement Income
6 Security Act of 1974 (29 U.S.C. 1085(e)(9)) or
7 under section 418E of such Code—

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

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

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

21 (A) IN GENERAL.—In the case of a plan
22 which is also applying for financial assistance
23 under section 4261(d) of the Employee Retirement
24 Income Security Act of 1974 (29 U.S.C.
25 1431(d))—

1 (i) the plan sponsor shall submit the
2 loan application and the application for fi-
3 nancial assistance jointly to the Pension
4 Rehabilitation Administration and the Pen-
5 sion Benefit Guaranty Corporation with
6 the information necessary to determine the
7 amount under subparagraph (B); and

8 (ii) if such financial assistance is
9 granted, the amount of the loan under sub-
10 section (a) shall be the amount described
11 in paragraph (1) reduced by the amount of
12 such financial assistance.

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

24 (3) USE OF LOAN FUNDS.—

1 (A) IN GENERAL.—The loan received
2 under subsection (a) shall be used to purchase
3 annuity contracts which meet the requirements
4 of subparagraph (B) or to implement a port-
5 folio described in subparagraph (C) (or a com-
6 bination of the two) to provide the benefits de-
7 scribed in paragraph (1).

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

18 (C) PORTFOLIO.—

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

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

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

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

15 Once implemented, such a portfolio shall
16 be maintained until all liabilities to partici-
17 pants and beneficiaries in pay status at the
18 time 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.

7 (D) ACCOUNTING.—

8 (i) IN GENERAL.—Annuity contracts
9 purchased and portfolios implemented
10 under this paragraph shall be accounted
11 for separately from the other assets of the
12 plan, and the proceeds thereof shall be
13 used solely to provide the benefits de-
14 scribed in paragraph (1) until all such ben-
15 efits have been paid.

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

18 (I) IN GENERAL.—Any portfolio
19 implemented under this paragraph
20 shall be subject to oversight by the
21 Pension Rehabilitation Administra-
22 tion, including a mandatory triennial
23 review of the adequacy of the portfolio
24 to provide the benefits described in
25 paragraph (1) and approval (to be

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

5 (II) REMEDIAL ACTION.—If the
6 triennial review under subclause (I)
7 determines an inadequacy, the plan
8 sponsor shall take remedial action to
9 ensure that the inadequacy will be
10 cured within 5 years of the review.

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

19 (e) LOAN DEFAULT.—If a plan is unable to make any
20 payment on a loan under this section when due, the Pen-
21 sion Rehabilitation Administration shall negotiate with the
22 plan sponsor revised terms for repayment reflecting the
23 plan's ability to make payments, which may include in-
24 stallment payments over a reasonable period and, if the
25 Pension Rehabilitation Administration deems necessary to

1 avoid any suspension of the accrued benefits of partici-
2 pants, forgiveness of a portion of the loan principal.

3 (f) AUTHORITY TO ISSUE RULES, ETC.—The Direc-
4 tor of the Pension Rehabilitation Administration estab-
5 lished under section 2, in consultation with the Pension
6 Benefit Guaranty Corporation and the Department of
7 Labor, is authorized to issue rules regarding the form,
8 content, and process of applications for loans under this
9 section, actuarial standards and assumptions to be used
10 in making estimates and projections for purposes of such
11 applications, and assumptions regarding interest rates,
12 mortality, and distributions with respect to a portfolio de-
13 scribed in subsection (d)(3)(C).

14 (g) COORDINATION WITH TAXATION OF UNRELATED
15 BUSINESS INCOME.—Subparagraph (A) of section
16 514(c)(6) of the Internal Revenue Code of 1986 is amend-
17 ed—

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

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

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

23 “(iii) indebtedness with respect to a
24 multiemployer plan under a loan made by
25 the Pension Rehabilitation Administration

1 pursuant to section 4 of the Butch Lewis
2 Act of 2017.”.

3 **SEC. 5. COORDINATION WITH WITHDRAWAL LIABILITY AND**
4 **FUNDING RULES.**

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

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

11 “(1) DETERMINATION OF WITHDRAWAL LIABIL-
12 ITY.—

13 “(A) IN GENERAL.—If any employer par-
14 ticipating in a plan at the time the plan receives
15 a loan under section 4(a) of the Butch Lewis
16 Act of 2017 withdraws from the plan before the
17 end of the 30-year period beginning on the date
18 of the loan, the withdrawal liability of such em-
19 ployer shall be determined under the Employee
20 Retirement Income Security Act of 1974—

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

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

11 “(B) ANNUITY CONTRACTS AND INVEST-
12 MENT PORTFOLIOS PURCHASED WITH LOAN
13 FUNDS.—Annuity contracts purchased and
14 portfolios implemented under section 4(d)(3) of
15 the Butch Lewis Act of 2017 shall not be taken
16 into account in determining the withdrawal li-
17 ability of any employer under subparagraph
18 (A), but the amount 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,
24 shall be so taken into account.

1 “(2) COORDINATION WITH FUNDING REQUIRE-
2 MENTS.—In the case of a plan which receives a loan
3 under section 4(a) of the Butch Lewis Act of
4 2017—

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

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

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

23 (b) AMENDMENT TO EMPLOYEE RETIREMENT IN-
24 COME SECURITY ACT OF 1974.—Section 305 of the Em-
25 ployee Retirement Income Security Act of 1974 (29

1 U.S.C. 1085) is amended by adding at the end the fol-
2 lowing new subsection:

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

5 “(1) DETERMINATION OF WITHDRAWAL LIABIL-
6 ITY.—

7 “(A) IN GENERAL.—If any employer par-
8 ticipating in a plan at the time the plan receives
9 a loan under section 4(a) of the Butch Lewis
10 Act of 2017 withdraws from the plan before the
11 end of the 30-year period beginning on the date
12 of the loan, the withdrawal liability of such em-
13 ployer shall be determined—

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

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

1 “(B) ANNUITY CONTRACTS AND INVEST-
2 MENT PORTFOLIOS PURCHASED WITH LOAN
3 FUNDS.—Annuity contracts purchased and
4 portfolios implemented under section 4(d)(3) of
5 the Butch Lewis Act of 2017 shall not be taken
6 into account in determining the withdrawal li-
7 ability of any employer under subparagraph
8 (A), but the amount equal to the greater of—

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

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

14 shall be so taken into account.

15 “(2) COORDINATION WITH FUNDING REQUIRE-
16 MENTS.—In the case of a plan which receives a loan
17 under section 4(a) of the Butch Lewis Act of
18 2017—

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

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

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

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

13 (a) **IN GENERAL.**—The Secretary of the Treasury
14 shall issue bonds as authorized by section 3102 of title
15 31, United States Code, in an amount necessary to fund
16 the loan program under section 4 of this Act, as deter-
17 mined in consultation with the Director of the Pension Re-
18 habilitation Administration established under section 2.

19 (b) **TRANSFERS TO PENSION REHABILITATION**
20 **TRUST FUND.**—The Secretary of the Treasury shall from
21 time to time transfer an amount equal to the proceeds of
22 the issue under subsection (a), from the general fund of
23 the Treasury to the Pension Rehabilitation Trust Fund
24 established under section 9512 of the Internal Revenue
25 Code of 1986.

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

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

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

9 “(a) IN GENERAL.—In the case of a plan receiving
10 a loan under section 4(a) of the Butch Lewis Act of 2017,
11 with respect to the first plan year beginning after the date
12 of the loan and each of the 29 succeeding plan years, not
13 later than the 90th day of each such plan year the plan
14 sponsor shall file with the Secretary a report (including
15 appropriate documentation and actuarial certifications
16 from the plan actuary, as required by the Secretary) that
17 contains—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 “(B) which is insolvent but has not been termi-
10 nated and is receiving assistance from the corpora-
11 tion (other than assistance under this subsection),

12 and which is applying for a loan under section 4(a) of the
13 Butch Lewis Act of 2017 may also apply to the corpora-
14 tion for financial assistance under this subsection, by
15 jointly submitting such applications in accordance with
16 section 4(d)(2) of such Act. The application for financial
17 assistance under this subsection shall demonstrate, based
18 on projections by the plan actuary, that after the receipt
19 of the anticipated loan amount under section 4(a) of such
20 Act, the plan will still become (or remain) insolvent within
21 the 30-year period beginning on the date of the loan.

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

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

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

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

23 “(3) In the case of a plan described in paragraph
24 (1)(B), the financial assistance provided pursuant to such
25 application under this subsection shall be the amount (de-

1 terminated by the plan actuary and submitted on the appli-
2 cation) which, if such amount were paid by the corporation
3 in combination with the loan and any other assistance
4 being provided to the plan by the corporation at the time
5 of the application, would enable the plan to emerge from
6 insolvency.

7 “(4) Subsections (b) and (c) shall apply to financial
8 assistance under this subsection as if it were provided
9 under subsection (a), except that the terms for repayment
10 under subsection (b)(2) shall not require the financial as-
11 sistance to be repaid before the date on which the loan
12 under section 4(a) of the Butch Lewis Act of 2017 is re-
13 paid in full.

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

18 (b) APPROPRIATIONS.—There is appropriated to the
19 Director of the Pension Benefit Guaranty Corporation
20 such sums as may be necessary for each fiscal year to pro-
21 vide the financial assistance described in section 4261(d)
22 of the Employee Retirement Income Security Act of 1974
23 (29 U.S.C. 1431(d)) (as added by this section) (including

- 1 necessary administrative and operating expenses relating
- 2 to such assistance).

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