

An Amendment to the Amendment in the Nature of a Substitute to H.R. 397 was offered by Rep. Estes of Kansas.

An amendment by Rep. Estes, which would provide for variable rate premiums for multiemployer plans, was defeated by a roll call vote of 17 yeas to 25 nays. The vote was as follows:

<b>Representative</b>	<b>Yea</b>	<b>Nay</b>	<b>Present</b>	<b>Representative</b>	<b>Yea</b>	<b>Nay</b>	<b>Present</b>
MR. NEAL		X		MR. BRADY	X		
MR. LEWIS		X		MR. NUNES	X		
MR. DOGGETT		X		MR. BUCHANAN	X		
MR. THOMPSON		X		MR. SMITH	X		
MR. LARSON		X		MR. MARCHANT	X		
MR. BLUMENAUER		X		MR. REED	X		
MR. KIND		X		MR. KELLY	X		
MR. PASCRELL		X		MR. HOLDING	X		
MR. DAVIS		X		MR. SMITH	X		
MS. SANCHEZ		X		MR. RICE	X		
MR. HIGGINS		X		MR. SCHWEIKERT	X		
MS. SEWELL		X		MS. WALORSKI	X		
MS. DELBENE		X		MR. LAHOOD (IL)	X		
MS. CHU (CA)		X		MR. WENSTRUP	X		
MS. MOORE		X		MR. ARRINGTON	X		
MR. KILDEE		X		MR. FERGUSON	X		
MR. BOYLE		X		MR. ESTES	X		
MR. BEYER		X					
MR. EVANS		X					
MR. SCHNEIDER		X					
MR. SUOZZI		X					
MR. PANETTA		X					
MS. MURPHY		X					
MR. GOMEZ		X					
MR. HORSFORD		X					

**AMENDMENT TO H.R.**  
**OFFERED BY MR. Estes**

At the end, add the following:

1 **SEC. 9. DISQUALIFICATION OF MULTIEMPLOYER PLANS**  
2 **WHICH DO NOT MAKE CERTAIN PAYMENTS**  
3 **TO PBGC.**

4 (a) IN GENERAL.—Section 401(a) of the Internal  
5 Revenue Code of 1986 is amended by adding at the end  
6 the following new paragraph:

7 “(38) CERTAIN PAYMENTS TO PBGC BY MULTI-  
8 EMPLOYER PLANS.—

9 “(A) IN GENERAL.—In the case of multi-  
10 employer plan, a trust shall not constitute a  
11 qualified trust unless such plan makes pay-  
12 ments to the Pension Benefit Guarantee Cor-  
13 poration in an amount equal to the sum of—

14 “(i) the excess (if any) of—

15 “(I) the payments that such plan  
16 would be required to make under title  
17 IV of the Employee Retirement In-  
18 come Security Act of 1974 if the  
19 modifications described in section 418  
20 were in effect, over

1                   “(II) the payments that such  
2                   plan would be required to make under  
3                   such title without regard to section  
4                   418, plus

5                   “(ii) in the case of an employer which  
6                   withdraws from a multiemployer plan in a  
7                   complete or a partial withdrawal (within  
8                   the meaning of part 1 of subtitle E of such  
9                   Act) after July 10, 2019, 10 times the em-  
10                  ployer’s premium share for the plan year  
11                  preceding the plan year which included the  
12                  date of such withdrawal.

13                  “(B) PREMIUM SHARE.—For purposes of  
14                  this paragraph, the term ‘premium share’  
15                  means, with respect to an employer that con-  
16                  tributes to a multiemployer plan for a plan year  
17                  beginning in a calendar year after 2018, an  
18                  amount equal to the product of—

19                  “(i) the amount in effect for plan  
20                  years beginning in such calendar year  
21                  under section 4006(a)(3)(N)(i)(II) of such  
22                  Act, multiplied by

23                  “(ii) the number of participants who  
24                  have accrued or may become eligible for a  
25                  benefit under the plan attributable to serv-

1                   ice with the employer in the plan during  
2                   the plan year.”.

3           (b) DETERMINATION OF PAYMENT AMOUNT BASED  
4 ON VARIABLE RATE PREMIUMS.—Subpart B of part I of  
5 subchapter D of chapter 1 of such Code is amended by  
6 adding at the end the following new section:

7   **“SEC. 418. VARIABLE RATE PAYMENTS BY MULTIEmployer**  
8                   **PLANS.**

9           “(a) IN GENERAL.—For purposes of section  
10 401(a)(38), the modifications described in this section are  
11 the modifications described in subsections (b), subject to  
12 subsection (c).

13           “(b) VARIABLE RATE PREMIUMS.—Solely for the  
14 purposes described in section 401(a)(38), section  
15 4006(a)(3) of the Employee Retirement Income Security  
16 Act of 1974 shall applied—

17                   “(1) in subparagraph (A)—

18                           “(A) in clause (v), by striking ‘or’ at the  
19                   end;

20                           “(B) in clause (vi)—

21                                   “(i) by inserting ‘and before January  
22                                   1, 2019,’ after ‘December 31, 2014,’; and

23   “(ii) by striking the period at the end  
24                                   and inserting ‘, or’; and

1           “(C) by adding at the end a new clause  
2           which reads as follows: (vii) in the case of a  
3           multiemployer plan, for plan years beginning  
4           after December 31, 2018, an amount for each  
5           individual who is a participant in such plan  
6           during the plan year equal to the sum of the  
7           additional variable-rate premium (if any) deter-  
8           mined under subparagraph (N) and \$29., and

9           “(2) by adding at the end new subparagraphs  
10          which read as follows:

11          “(N)(i) The additional variable-rate premium deter-  
12          mined under this subparagraph with respect to any plan  
13          for any plan year—

14                 “(I) shall be an amount equal to the amount  
15                 determined under clause (ii) divided by the number  
16                 of participants in such plan as of the close of the  
17                 preceding plan year; and

18                 “(II) in the case of plan years beginning in a  
19                 calendar year after 2018, shall not exceed \$195.

20          “(ii) The amount determined under this clause for  
21          any plan year shall be an amount equal to \$10 for each  
22          \$1,000 (or fraction thereof) of unfunded vested benefits  
23          under the plan as of the close of the preceding plan year.

24          “(iii) For each plan year beginning in a calendar year  
25          after 2019, there shall be substituted for the dollar

1 amount specified in clause (i)(II) an amount equal to the  
2 greater of—

3 “(I) the product derived by multiplying such  
4 dollar amount by the ratio of—

5 “(aa) the national average wage index (as  
6 defined in section 209(k)(1) of the Social Secu-  
7 rity Act) for the first of the 2 calendar years  
8 preceding the calendar year in which such plan  
9 year begins, to

10 “(bb) the national average wage index (as  
11 so defined) for 2016; or

12 “(II) such dollar amount in effect for plan  
13 years beginning in the preceding calendar year.

14 If the amount determined under this clause is not a mul-  
15 tiple of \$1, such product shall be rounded to the nearest  
16 multiple of \$1.

17 “(iv) For purposes of clause (ii), the term ‘unfunded  
18 vested benefits’ has the meaning given such term in sub-  
19 paragraph (E)(iii).

20 “(O) For each plan year beginning in a calendar year  
21 after 2018, there shall be substituted for the dollar  
22 amount specified in clause (vii) of subparagraph (A) an  
23 amount equal to the greater of—

24 “(i) the product derived by multiplying such  
25 dollar amount by the ratio of—

1           “(I) the national average wage index (as  
2           defined in section 209(k)(1) of the Social Secu-  
3           rity Act) for the first of the 2 calendar years  
4           preceding the calendar year in which such plan  
5           year begins, to

6           “(II) the national average wage index (as  
7           so defined) for 2016; and

8           “(ii) such dollar amount for plan years begin-  
9           ning in the preceding calendar year.

10 If the amount determined under this subparagraph is not  
11 a multiple of \$1, such product shall be rounded to the  
12 nearest multiple of \$1.

13       “(c) WAIVER.—

14       “(1) IN GENERAL.—Subject to paragraph (2),  
15       the Secretary, after consultation with the Pension  
16       Benefit Guarantee Corporation, may waive any addi-  
17       tional variable-rate premium determined under sec-  
18       tion 4006(a)(3)(N) of any plan in critical status, as  
19       described in subsection 305(b)(2) of the Employee  
20       Retirement Income Security Act of 1974, upon ap-  
21       plication by the designated payor of the plan, if  
22       there is a substantial risk that the timely payment  
23       of such premium will accelerate plan insolvency re-  
24       sulting in the provision of financial assistance from  
25       such corporation to the plan at an earlier date.

1           “(2) LIMITATION.—The total dollar amount of  
2           waivers provided under this subsection in a calendar  
3           year may not exceed the amount (if any) by which  
4           the amount equal to 20 percent of the total annual  
5           premiums payable to such corporation by all multi-  
6           employer plans under section 4006(a)(3) of such Act  
7           during the calendar year exceeds the total dollar  
8           amount of waivers provided under section  
9           4007(a)(1) of such Act.”.

