

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 expand the required disclosure for certain plans, was defeated by a roll call vote of 17 yeas to 24 nays. The vote was as follows:

Representative	Yea	Nay	Present	Representative	Yea	Nay	Present
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							

AMENDMENT

OFFERED BY MC. *Estes*

In section 4(c)(1), strike “and” at the end of subparagraph (D), redesignate subparagraph (E) as subparagraph (F), and insert after subparagraph (D) the following:

1 (E) provide disclosures or answers to each
2 of the following:

3 (i) PLAN ADMINISTRATION.—

4 (I) What are the qualifications
5 needed to be a plan trustee?

6 (II) What is the process by which
7 plan trustees are selected?

8 (III) What is the process by
9 which plan trustees may be removed?

10 (IV) May plan trustees or em-
11 ployees also be current or former offi-
12 cers, directors or employees of or serv-
13 ice providers to the employers or
14 unions sponsoring the plan?

15 (V) Are there any restrictions on
16 whether plan trustees or employees

1 may subsequently work for the union
2 or the employers?

3 (VI) Provide a written descrip-
4 tion of each pension trustee, with ma-
5 terial information including: the trust-
6 ee's current and past professional em-
7 ployment; the trustee's education and
8 any specialized training or accredita-
9 tion relevant to the role of trustee, the
10 trustee's age and physical city loca-
11 tion, the trustee's previous service as
12 trustee for any other pensions.

13 (VII) Provide a written descrip-
14 tion for each trustee of any potential
15 or actual conflicts of interest, includ-
16 ing any employment, contractual or
17 other business, financial or investment
18 relationships between any trustee and
19 any investment manager, planner,
20 consultant or other party subject to
21 decisions by the trustees.

22 (VIII) If the pension invests in
23 any entities or projects that employ,
24 contract with, or have other business,
25 financial or investment relationships

1 with the trustee, including any house-
2 hold or family member of a trustee,
3 that shall be disclosed and the terms,
4 including financial terms shall be fully
5 provided in the written description for
6 trustees.

7 (IX) All such relationships by
8 any household or family member of a
9 trustee shall be imputed to the trustee
10 and provided in that written descrip-
11 tion for the trustee.

12 (X) Provide a written discussion
13 of key employees of the pension who
14 are employees or in a contractual rela-
15 tionship with, or have other business,
16 financial or investment relationships
17 with any business or union funding or
18 sponsoring the plan, or any affiliated
19 business or union, and the amounts
20 such employees are paid or receive in
21 other forms of compensation. The
22 conflict of interest agreements, poli-
23 cies or requirements that apply to
24 trustees and employees, including key
25 employees shall be included.

1 (XI) Provide an annual ethics
2 disclosure by each trustee with a list-
3 ing of all information relevant to any
4 potential conflict of interest.

5 (XII) How are the plan's actu-
6 aries chosen?

7 (XIII) How often does the plan
8 evaluate its choice of actuaries?

9 (XIV) How does the plan evalu-
10 ate recommendations of actuarial as-
11 sumptions made by its actuaries?

12 (XV) How are the plan's invest-
13 ment policies chosen?

14 (XVI) How often are the plan's
15 investment policies re-evaluated?

16 (XVII) Does the plan have any
17 policy with regard to hiring actuaries
18 or other consultants who believe that
19 liabilities should not be discounted
20 based on expected rates of investment
21 return on assets?

22 (XVIII) Does the plan partici-
23 pate in the BDS movement against
24 Israel?

1 (XIX) Does the plan have any
2 policy on Economic, Social, Govern-
3 ance (hereinafter referred to as
4 “ESG”) investing?

5 (XX) Does the plan have any
6 ESG investments?

7 (XXI) Does the plan invest in
8 projects that employ plan partici-
9 pants?

10 (XXII) Does the plan have any
11 investments in any of the plan’s par-
12 ticipating employers?

13 (XXIII) How are the plan’s in-
14 vestment advisers chosen?

15 (XXIV) How does the plan evalu-
16 ate investment fees?

17 (XXV) Provide in spreadsheet
18 form all fees paid by the firm, broken
19 out by to whom paid and for what
20 purpose, and include a separate state-
21 ment of all investment fees and ex-
22 penses, regardless of whether such
23 costs are embedded in other costs.

1 (XXVI) In what manner does the
2 plan disclose to potential employers
3 potential withdrawal liability?

4 (XXVII) In what manner does
5 the plan disclose to active, separated,
6 and retired participants the possibility
7 that their benefits will be reduced if
8 the plan is not able to achieve its tar-
9 get rate of return on investments or
10 employers withdraw from the plan?

11 (XXVIII) For employees who do
12 not wish to take on this risk, are em-
13 ployee provided with options to bear
14 less risk, such as the choice of having
15 their contributions going either into a
16 separate pool with lower discount
17 rates or more conservative invest-
18 ments, or a 401(k) plan in which the
19 employee can make his or her own re-
20 tirement decisions?

21 (XXIX) Does the plan disclose to
22 participants whether any portion of
23 their contributions are in excess of the
24 value of their accruals (based on the

1 plan's assumptions), if any? How is
2 such disclosure, if any, made?

3 (XXX) How does the plan dis-
4 close to participants the benefit
5 amount they are likely to receive
6 based on current plan funding?

7 (XXXI) For each of the last ten
8 years, how many employees or service
9 providers to the plan are also employ-
10 ees or service providers to the union
11 co-sponsoring plan or any affiliated
12 union?

13 (XXXII) How much are such
14 employees or entities paid?

15 (ii) PLAN EXPERIENCE GAINS AND
16 LOSSES.—

17 (I) List each of the plan's experi-
18 ence gains and losses in each year in
19 spreadsheet form.

20 (II) What would the plan's assets
21 be if the plan had investment returns
22 equal to the expected rate of return in
23 each year beginning with the year
24 2000.

25 (iii) MORTALITY.—

1 (I) What are the mortality as-
2 sumptions used by the plan and how
3 have the plan's assumptions changed
4 since the year 2000?

5 (II) How do mortality assump-
6 tions for the plan compare to the pre-
7 scribed single employer /current liabil-
8 ity mortality tables?

9 (III) How has that changed if
10 any, each year since the year 2000?

11 (IV) What have the mortality
12 gains and losses in each year for the
13 plan been since the year 2000?

14 (V) To what extent have those
15 gains or losses been to actual deaths
16 that occurred or did not occur versus
17 changes to the underlying mortality
18 assumptions?

19 (VI) What actual mortality devel-
20 opments (whether within a plan or in
21 the wider population) cause the plan
22 to change its mortality assumptions?

23 (VII) Provide a complete popu-
24 lation census of each participant in
25 the plan, their date of birth, dates of

1 service, employer, participant status,
2 and any other relevant data.

3 (VIII) Provide the actual mor-
4 tality experience in the plan for each
5 of the last 20 years.

6 (iv) EMPLOYERS, CONTRIBUTIONS,
7 AND ACCRUALS.—

8 (I) What due diligence does the
9 plan perform before accepting an em-
10 ployer as a sponsor of the plan?

11 (II) Does the plan take into ac-
12 count the likelihood of volatility in
13 funding and contribution levels that
14 may result from the plan's investment
15 policies in determining which employ-
16 ers should be accepted as a sponsor of
17 the plan?

18 (III) In spreadsheet form, list
19 each employer who has participated in
20 the plan in each year or that is a plan
21 signatory, the contributions made in
22 each year by each employer and the
23 contribution rate in each year for each
24 employer, the health care compensa-
25 tion, and total compensation paid by

1 each employer under the collective
2 bargaining agreement.

3 (IV) For each employer, list the
4 employer identification number and
5 entity name for the entity within the
6 employer's control group that files the
7 tax return. Treasury shall keep the
8 employer identification number con-
9 fidential.

10 (V) When did the plan last con-
11 duct a payroll audit?

12 (VI) How did the plan determine
13 which employers to audit?

14 (VII) What was the result?

15 (VIII) What percentage of such
16 employers in each plan, and in the ag-
17 gregate are publicly traded?

18 (IX) What is known about the fi-
19 nancial status of each employer that
20 participates in the plan?

21 (X) What due diligence does the
22 plan perform before accepting an em-
23 ployer as a sponsor of the plan?

1 (XI) How does the plan deter-
2 mine the accrual rate for new bene-
3 fits?

4 (XII) Does the plan take into ac-
5 count any changes in the market price
6 for group annuities when setting ac-
7 crual rates each year?

8 (XIII) What were the benefit ac-
9 crual rates in the plan for each plan
10 year?

11 (XIV) What were the contribu-
12 tion rates, contribution base units and
13 total contributions in each year?

14 (XV) How does the plan deter-
15 mine what contribution rate in a col-
16 lective bargaining agreement is ac-
17 ceptable?

18 (XVI) List each year, if any, in
19 which the plan did not receive its min-
20 imum required contribution.

21 (XVII) What measures were
22 taken to collect the additional
23 amount?

24 (XVIII) What adjustments were
25 made in the following plan year?

1 (XIX) For each year in which
2 the plan was underfunded, how did
3 the plan determine how high it could
4 require increased contribution rates or
5 lower accruals in collective bargaining
6 agreements?

7 (XX) List pension benefits that
8 are attributable to service with each
9 employer in each year the employer
10 has participated in the plan.

11 (XXI) What contributions did
12 each employer make to the plan in
13 each year and what was the value of
14 the accruals promised to each employ-
15 er's workers in each year if the con-
16 tributions had been used to buy
17 Treasury bonds with a duration
18 matched to the duration of the liabil-
19 ities?

20 (XXII) For each year, what were
21 the plan's assumptions about the fu-
22 ture levels of contribution base units?

23 (XXIII) For each year in which
24 the plan was in critical or endangered
25 status, how did the plan determine

1 how high it could require increased
2 contribution rates or lower accruals in
3 existing collective bargaining agree-
4 ments in order to come into come into
5 compliance with the funding improve-
6 ment plan or funding rehabilitation
7 plan?

8 (XXIV) If the plan has a funding
9 deficiency, on what basis did the plan
10 determine that it could not increase
11 contribution rates or lower accruals in
12 order to avoid the funding deficiency?

13 (XXV) Would the plan have been
14 able to require higher contributions or
15 lower accruals if the laws for with-
16 drawal liability had not contained any
17 limitation based on past contributions
18 rates and contribution base units and
19 the total level of unfunded liabilities
20 were measured using a Treasury dis-
21 count rate?

22 (XXVI) For each of the last
23 twenty years, what percentage of total
24 compensation in each collective bar-
25 gaining agreement has gone to the

1 pension plans and for health care, re-
2 spectively?

3 (XXVII) Provide a detailed writ-
4 ten description of any policies that
5 exist for lost, missing or otherwise un-
6 accounted pension beneficiaries, in-
7 cluding what procedures exist to de-
8 termine whether a pension beneficiary
9 is decided to be deceased, including
10 whether any verification is performed
11 of such a death, and whether the pen-
12 sion publicly discloses on its website
13 or otherwise a list of all pension bene-
14 ficiaries who are lost, missing, or oth-
15 erwise unaccounted for or who are de-
16 termined to be deceased. The descrip-
17 tion shall also include a description of
18 the use of funds intended for pension
19 beneficiaries who are lost, missing, or
20 otherwise unaccounted.

21 (v) PLAN RESILIENCE.—

22 (I) What would be the con-
23 sequences to the plan if investment re-
24 turns average an annualized negative
25 5 percent over the next three years?

1 (II) In the case of a plan not al-
2 ready in the critical status, what
3 annualized investment return does the
4 plan need for the next 10 years in
5 order to avoid moving into critical sta-
6 tus

7 (III) What annualized investment
8 return does the plan need for the next
9 10 years in order to avoid projecting
10 a funding deficiency for the 10 suc-
11 ceeding years?

12 (IV) What if any existing credit
13 balances were disregarded?

14 (V) What assumptions about the
15 contribution base are contained in
16 that projection?

17 (VI) How would that change if
18 the contribution base were to stay
19 constant?

20 (VII) What if the contribution
21 base were to decline by 5 percent an-
22 nually?

23 (VIII) If the plan were to become
24 underfunded this year, by what max-
25 imum amount and what percentage

1 would the plan be able to raise con-
2 tributions in the following 5 years?

3 (IX) How would that answer
4 change if the withdrawal liability rules
5 were changed so that an employer's
6 withdrawal liability were equal to its
7 share of the unfunded liabilities using
8 a Treasury discount rate to measure
9 the liabilities and were due in full
10 upon withdrawal?

11 (vi) WITHDRAWAL LIABILITY.—

12 (I) Which employers have with-
13 drawn from the plan in each year
14 since 1974?

15 (II) What have withdrawal liabil-
16 ity payments been by each such em-
17 ployer to the plan?

18 (III) How do withdrawal liability
19 payments compare to each with-
20 drawing employer's share of the un-
21 funded liabilities on an actuarial
22 basis? On a Treasury yield curve
23 basis?

24 (IV) What is the plan's policy on
25 what terms it offers employers who

1 withdraw with a lump sum, or other
2 period less than 20 years, rather than
3 paying over 20 years?

4 (vii) ASSETS.—

5 (I) What portion of each the
6 plan's assets consist of items that
7 have a readily ascertainable market
8 value, such as publicly traded stock,
9 Treasury bonds, or cash, versus items
10 whose value is not readily ascertain-
11 able?

12 (II) List all assets using eXten-
13 sible Business Reporting Language
14 (XBRL) in a manner to be specified
15 by the Department of the Treasury.

16 (viii) LIABILITIES.—

17 (I) For portions determined actu-
18 arially, provide a schedule of all un-
19 derlying assumptions, and a schedule
20 of the pension beneficiary population
21 with data regarding mortality and
22 morbidity characteristics relevant to a
23 modeling of annuity costs.

24 (II) Provide the expected benefit
25 payments by each plan for each of the

1 next eighty years and what portion of
2 the payments in each year by each
3 plan which would be covered by the
4 guarantee of the Pension Benefit
5 Guaranty Corporation.

Add at the end the following:

6 **SEC. 9. ADDITIONAL DISCLOSURES FOR LARGE MULTIEM-**
7 **PLOYER PLANS.**

8 (a) IN GENERAL.—Section 6058 of the Internal Rev-
9 enue Code of 1986 is amended by redesignating subsection
10 (f) as subsection (g) and by inserting after subsection (e)
11 the following new subsection:

12 “(f) ADDITIONAL DISCLOSURES FOR LARGE MULTI-
13 EMPLOYER PLANS.—In the case of a multiemployer plan
14 (as defined in section 414(f)(1)) the fair market value of
15 the assets of which is at least \$1,000,000,000, the return
16 required under this section shall include the disclosures
17 and answers required by section 4(c)(1)(E) of the Reha-
18 bilitation for Multiemployer Pensions Act of 2019.”.

19 (b) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to returns required to be filed after
21 the date of the enactment of this Act.

