

AMENDMENT TO H.R. 7148, AS REPORTED
OFFERED BY MRS. SPARTZ OF INDIANA

At the end of division B (before the short title), add
the following:

1 **SEC. ____ . GUARANTEED BENEFIT CALCULATION FOR CER-**
2 **TAIN PLANS.**

3 (a) IN GENERAL.—

4 (1) INCREASE TO FULL VESTED PLAN BEN-
5 EFIT.—

6 (A) IN GENERAL.—For purposes of deter-
7 mining what benefits are guaranteed under sec-
8 tion 4022 of the Employee Retirement Income
9 Security Act of 1974 (in this section referred to
10 as “ERISA”) with respect to an eligible partici-
11 pant or beneficiary under a covered plan speci-
12 fied in paragraph (4) in connection with the
13 termination of such plan, the amount of month-
14 ly benefits shall be equal to the full vested plan
15 benefit with respect to the participant.

16 (B) NO EFFECT ON PREVIOUS DETER-
17 MINATIONS.—Nothing in this Act shall be con-
18 strued to change the allocation of assets and re-
19 coveries under sections 4044(a) and 4022(c) of

1 ERISA as previously determined by the Pension
2 Benefit Guaranty Corporation (in the section
3 referred to as the “corporation”) for the cov-
4 ered plans specified in paragraph (4), and the
5 corporation’s applicable rules, practices, and
6 policies on benefits payable in terminated sin-
7 gle-employer plans shall, except as otherwise
8 provided in this section, continue to apply with
9 respect to such covered plans.

10 (2) RECALCULATION OF CERTAIN BENEFITS.—

11 (A) IN GENERAL.—In any case in which
12 the amount of monthly benefits with respect to
13 an eligible participant or beneficiary described
14 in paragraph (1) was calculated prior to the
15 date of enactment of this Act, the corporation
16 shall recalculate such amount pursuant to para-
17 graph (1), and shall adjust any subsequent pay-
18 ments of such monthly benefits accordingly, as
19 soon as practicable after such date.

20 (B) LUMP-SUM PAYMENTS OF PAST-DUE
21 BENEFITS.—Not later than 180 days after the
22 date of enactment of this Act, the corporation,
23 in consultation with the Secretary of the Treas-
24 ury and the Secretary of Labor, shall make a
25 lump-sum payment to each eligible participant

1 or beneficiary whose guaranteed benefits are re-
2 calculated under subparagraph (A) in an
3 amount equal to—

4 (i) in the case of an eligible partici-
5 pant, the excess of—

6 (I) the total of the full vested
7 plan benefits of the participant for all
8 months for which such guaranteed
9 benefits were paid prior to such recal-
10 culation, over

11 (II) the sum of any applicable
12 payments made to the eligible partici-
13 pant; and

14 (ii) in the case of an eligible bene-
15 ficiary, the sum of—

16 (I) the amount that would be de-
17 termined under clause (i) with respect
18 to the participant of which the eligible
19 beneficiary is a beneficiary if such
20 participant were still in pay status;
21 plus

22 (II) the excess of—

23 (aa) the total of the full
24 vested plan benefits of the eligi-
25 ble beneficiary for all months for

1 which such guaranteed benefits
2 were paid prior to such recalcula-
3 tion, over

4 (bb) the sum of any applica-
5 ble payments made to the eligible
6 beneficiary.

7 Notwithstanding the previous sentence, the cor-
8 poration shall increase each lump-sum payment
9 made under this subparagraph to account for
10 foregone interest in an amount determined by
11 the corporation designed to reflect a 6 percent
12 annual interest rate on each past-due amount
13 attributable to the underpayment of guaranteed
14 benefits for each month prior to such recalcula-
15 tion.

16 (C) ELIGIBLE PARTICIPANTS AND BENE-
17 FICIARIES.—

18 (i) IN GENERAL.—For purposes of
19 this section, an eligible participant or bene-
20 ficiary is a participant or beneficiary
21 who—

22 (I) as of the date of the enact-
23 ment of this Act, is in pay status
24 under a covered plan or is eligible for
25 future payments under such plan;

1 (II) has received or will receive
2 applicable payments in connection
3 with such plan (within the meaning of
4 clause (ii)) that does not exceed the
5 full vested plan benefits of such par-
6 ticipant or beneficiary; and

7 (III) is not covered by the 1999
8 agreements between General Motors
9 and various unions providing a top-up
10 benefit to certain hourly employees
11 who were transferred from the Gen-
12 eral Motors Hourly-Rate Employees
13 Pension Plan to the Delphi Hourly-
14 Rate Employees Pension Plan.

15 (ii) APPLICABLE PAYMENTS.—For
16 purposes of this paragraph, applicable pay-
17 ments to a participant or beneficiary in
18 connection with a plan consist of the fol-
19 lowing:

20 (I) Payments under the plan
21 equal to the normal benefit guarantee
22 of the participant or beneficiary.

23 (II) Payments to the participant
24 or beneficiary made pursuant to sec-
25 tion 4022(c) or otherwise received

1 from the corporation in connection
2 with the termination of the plan.

3 (3) DEFINITIONS.—For purposes of this sub-
4 section—

5 (A) FULL VESTED PLAN BENEFIT.—The
6 term “full vested plan benefit” means the
7 amount of monthly benefits that would be guar-
8 anteed under section 4022 of ERISA as of the
9 date of plan termination with respect to an eli-
10 gible participant or beneficiary if such section
11 were applied without regard to the phase-in
12 limit in subsection (b)(1) of such Act and the
13 maximum guaranteed benefit limitation in sub-
14 section (b)(3) of such Act (including the ac-
15 crued-at-normal limitation).

16 (B) NORMAL BENEFIT GUARANTEE.—The
17 term “normal benefit guarantee” means the
18 amount of monthly benefits guaranteed under
19 such section with respect to an eligible partici-
20 pant or beneficiary without regard to this Act.

21 (4) COVERED PLANS.—The covered plans speci-
22 fied in this paragraph are the following:

23 (A) The Delphi Hourly-Rate Employees
24 Pension Plan.

1 (B) The Delphi Retirement Program for
2 Salaried Employees.

3 (C) The PHI Non-Bargaining Retirement
4 Plan.

5 (D) The ASEC Manufacturing Retirement
6 Program.

7 (E) The PHI Bargaining Retirement Plan.

8 (F) The Delphi Mechatronic Systems Re-
9 tirement Program.

10 (5) TREATMENT OF PBGC DETERMINATIONS.—

11 Any determination made by the corporation under
12 this section concerning a recalculation of benefits or
13 lump-sum payment of past-due benefits shall be sub-
14 ject to administrative review by the corporation. Any
15 new determination made by the corporation under
16 this section shall be governed by the same adminis-
17 trative review process as any other benefit deter-
18 mination by the corporation.

19 (b) FUNDING FOR PAYMENT OF INCREASED BENE-
20 FITS.—The costs of any payment for the portion of
21 monthly benefits guaranteed to a participant or bene-
22 ficiary pursuant to subsection (a) and necessary adminis-
23 trative and operating expenses of the corporation relating
24 to such payment shall be paid using amounts derived from
25 the unobligated balance of the fund established under sec-

1 tion 4005 of ERISA with respect to basic benefits guaran-
2 teed under section 4022 of ERISA.

3 (c) REGULATIONS.—The corporation, in consultation
4 with the Secretary of the Treasury and the Secretary of
5 Labor, may issue such regulations as necessary to carry
6 out this section.

7 (d) TAX TREATMENT OF LUMP-SUM PAYMENTS.—

8 (1) IN GENERAL.—Unless the taxpayer elects
9 (at such time and in such manner as the Secretary
10 may provide) to have this paragraph not apply with
11 respect to any lump-sum payment under subsection
12 (a)(2)(B), the amount of such payment shall be in-
13 cluded in the taxpayer's gross income ratably over
14 the 3-taxable-year period beginning with the taxable
15 year in which such payment is received.

16 (2) SPECIAL RULES RELATED TO DEATH.—

17 (A) IN GENERAL.—If the taxpayer dies be-
18 fore the end of the 3-taxable-year period de-
19 scribed in paragraph (1), any amount to which
20 paragraph (1) applies which has not been in-
21 cluded in gross income for a taxable year end-
22 ing before the taxable year in which such death
23 occurs shall be included in gross income for
24 such taxable year.

1 (B) SPECIAL ELECTION FOR SURVIVING
2 SPOUSES OF ELIGIBLE PARTICIPANTS.—If—

3 (i) a taxpayer with respect to whom
4 paragraph (1) applies dies,

5 (ii) such taxpayer is an eligible partic-
6 ipant,

7 (iii) the surviving spouse of such eligi-
8 ble participant is entitled to a survivor
9 benefit from the corporation with respect
10 to such eligible participant, and

11 (iv) such surviving spouse elects (at
12 such time and in such manner as the Sec-
13 retary may provide) the application of this
14 subparagraph,

15 subparagraph (A) shall not apply and any
16 amount which would have (but for such tax-
17 payer's death) been included in the gross in-
18 come of such taxpayer under paragraph (1) for
19 any taxable year beginning after the date of
20 such death shall be included in the gross in-
21 come of such surviving spouse for the taxable
22 year of such surviving spouse ending with or
23 within such taxable year of the taxpayer.

24 (e) AMENDMENT TO SECTION 4005 OF ERISA.—

25 Section 4005(b)(2)(A) of the Employee Retirement In-

1 come Security Act of 1974 (29 U.S.C. 1305(b)(2)(A)) is
2 amended by inserting after “4022” the following: “(in-
3 cluding any portion of monthly benefits guaranteed pursu-
4 ant to section 2(a) of the Delphi Retirees Pension Restora-
5 tion Act)”.

