

# **AMENDMENT TO THE SENATE AMENDMENT TO H.R. 1**

## **OFFERED BY MS. TENNEY OF NEW YORK**

At the end of Title VIII, on page 770, line 16 after the period, insert the following:

### **Subtitle I – Pension Restoration**

#### **SEC. 88001. Guaranteed benefit calculation for certain plans.**

(a) In general.—

(1) INCREASE TO FULL VESTED PLAN BENEFIT.—

(A) IN GENERAL.—For purposes of determining what benefits are guaranteed under section 4022 of the Employee Retirement Income Security Act of 1974 (in this Subtitle referred to as “ERISA”) with respect to an eligible participant or beneficiary under a covered plan specified in paragraph (4) in connection with the termination of such plan, the amount of monthly benefits shall be equal to the full vested plan benefit with respect to the participant.

(B) NO EFFECT ON PREVIOUS DETERMINATIONS.—Nothing in this Subtitle shall be construed to change the allocation of assets and recoveries under sections 4044(a) and 4022(c) of ERISA as previously determined by the Pension Benefit Guaranty Corporation (in the section referred to as the “corporation”) for the covered plans specified in paragraph (4), and the corporation’s applicable rules, practices, and policies on benefits payable in terminated single-employer plans shall, except as otherwise provided in this Subtitle, continue to apply with respect to such covered plans.

(2) RECALCULATION OF CERTAIN BENEFITS.—

(A) IN GENERAL.—In any case in which the amount of monthly benefits with respect to an eligible participant or beneficiary described in paragraph (1) was calculated prior to the date of enactment of this Subtitle, the corporation shall recalculate such amount pursuant to paragraph (1), and shall adjust any subsequent payments of such monthly benefits accordingly, as soon as practicable after such date.

(B) LUMP-SUM PAYMENTS OF PAST-DUE BENEFITS.—Not later than 180 days after the date of enactment of this Subtitle, the corporation, in consultation with the Secretary of the Treasury and the Secretary of Labor, shall make a lump-

sum payment to each eligible participant or beneficiary whose guaranteed benefits are recalculated under subparagraph (A) in an amount equal to—

(i) in the case of an eligible participant, the excess of—

(I) the total of the full vested plan benefits of the participant for all months for which such guaranteed benefits were paid prior to such recalculation, over

(II) the sum of any applicable payments made to the eligible participant; and

(ii) in the case of an eligible beneficiary, the sum of—

(I) the amount that would be determined under clause (i) with respect to the participant of which the eligible beneficiary is a beneficiary if such participant were still in pay status; plus

(II) the excess of—

(aa) the total of the full vested plan benefits of the eligible beneficiary for all months for which such guaranteed benefits were paid prior to such recalculation, over

(bb) the sum of any applicable payments made to the eligible beneficiary.

Notwithstanding the previous sentence, the corporation shall increase each lump-sum payment made under this subparagraph to account for foregone interest in an amount determined by the corporation designed to reflect a 6 percent annual interest rate on each past-due amount attributable to the underpayment of guaranteed benefits for each month prior to such recalculation.

(C) ELIGIBLE PARTICIPANTS AND BENEFICIARIES.—

(i) IN GENERAL.—For purposes of this Subtitle, an eligible participant or beneficiary is a participant or beneficiary who—

(I) as of the date of the enactment of this Subtitle, is in pay status under a covered plan or is eligible for future payments under such plan;

(II) has received or will receive applicable payments in connection with such plan (within the meaning of clause (ii)) that does not

exceed the full vested plan benefits of such participant or beneficiary; and

(III) is not covered by the 1999 agreements between General Motors and various unions providing a top-up benefit to certain hourly employees who were transferred from the General Motors Hourly-Rate Employees Pension Plan to the Delphi Hourly-Rate Employees Pension Plan.

(ii) APPLICABLE PAYMENTS.—For purposes of this paragraph, applicable payments to a participant or beneficiary in connection with a plan consist of the following:

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

(II) Payments to the participant or beneficiary made pursuant to section 4022(c) or otherwise received from the corporation in connection with the termination of the plan.

(3) DEFINITIONS.—For purposes of this subsection—

(A) FULL VESTED PLAN BENEFIT.—The term “full vested plan benefit” means the amount of monthly benefits that would be guaranteed under section 4022 of ERISA as of the date of plan termination with respect to an eligible participant or beneficiary if such section were applied without regard to the phase-in limit in subsection (b)(1) of such Act and the maximum guaranteed benefit limitation in subsection (b)(3) of such Act (including the accrued-at-normal limitation).

(B) NORMAL BENEFIT GUARANTEE.—The term “normal benefit guarantee” means the amount of monthly benefits guaranteed under such section with respect to an eligible participant or beneficiary without regard to this Subtitle.

(4) COVERED PLANS.—The covered plans specified in this paragraph are the following:

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

(B) The Delphi Retirement Program for Salaried Employees.

(C) The PHI Non-Bargaining Retirement Plan.

(D) The ASEC Manufacturing Retirement Program.

(E) The PHI Bargaining Retirement Plan.

(F) The Delphi Mechatronic Systems Retirement Program.

(5) TREATMENT OF PBGC DETERMINATIONS.—Any determination made by the corporation under this Subtitle concerning a recalculation of benefits or lump-sum payment of past-due benefits shall be subject to administrative review by the corporation. Any new determination made by the corporation under this Subtitle shall be governed by the same administrative review process as any other benefit determination by the corporation.

(b) Trust fund for payment of increased benefits.—

(1) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund to be known as the “Delphi Full Vested Plan Benefit Trust Fund” (hereafter in this subsection referred to as the “Fund”), consisting of such amounts as may be appropriated or credited to the Fund as provided in this Subtitle.

(2) FUNDING.—There is appropriated from the general fund such amounts as are necessary for the costs of the payment of the portion of monthly benefits guaranteed to a participant or beneficiary pursuant to subsection (a) and for necessary administrative and operating expenses of the corporation relating to such payment. The Fund shall be credited with amounts from time to time as the Secretary of the Treasury, in conjunction with the Director of the corporation, determines appropriate, from the general fund of the Treasury.

(3) EXPENDITURES FROM FUND.—Amounts in the Fund shall be available for the payment of the portion of monthly benefits guaranteed to a participant or beneficiary pursuant to subsection (a) and for necessary administrative and operating expenses of the corporation relating to such payment.

(c) Regulations.—The corporation, in consultation with the Secretary of the Treasury and the Secretary of Labor, may issue such regulations as necessary to carry out this Subtitle.