

117TH CONGRESS
2D SESSION

S. 3766

To increase the benefits guaranteed in connection with certain pension plans,
and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 7, 2022

Mr. BROWN (for himself, Mr. PORTMAN, Ms. STABENOW, Mr. PETERS, and
Mr. YOUNG) introduced the following bill; which was read twice and re-
ferred to the Committee on Finance

A BILL

To increase the benefits guaranteed in connection with
certain pension 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 “Susan Muffley Act of
5 2022”.

6 **SEC. 2. GUARANTEED BENEFIT CALCULATION FOR CER-**
7 **TAIN PLANS.**

8 (a) IN GENERAL.—

9 (1) INCREASE TO FULL VESTED PLAN BEN-
10 EFIT.—

1 (A) IN GENERAL.—For purposes of deter-
2 mining what benefits are guaranteed under sec-
3 tion 4022 of the Employee Retirement Income
4 Security Act of 1974 (29 U.S.C. 1322) with re-
5 spect to an eligible participant or beneficiary
6 under a covered plan specified in paragraph (4)
7 in connection with the termination of such plan,
8 the amount of monthly benefits shall be equal
9 to the full vested plan benefit with respect to
10 the participant.

11 (B) NO EFFECT ON PREVIOUS DETER-
12 MINATIONS.—Nothing in this Act shall be con-
13 strued to change the allocation of assets and re-
14 coveries under sections 4044(a) and 4022(c) of
15 the Employee Retirement Income Security Act
16 of 1974 (29 U.S.C. 1344(a); 1322(c)) as pre-
17 viously determined by the Pension Benefit
18 Guaranty Corporation (referred to in this sec-
19 tion as the “corporation”) for the covered plans
20 specified in paragraph (4), and the corpora-
21 tion’s applicable rules, practices, and policies on
22 benefits payable in terminated single-employer
23 plans shall, except as otherwise provided in this
24 section, continue to apply with respect to such
25 covered plans.

1 (2) RECALCULATION OF CERTAIN BENEFITS.—

2 (A) IN GENERAL.—In any case in which
3 the amount of monthly benefits with respect to
4 an eligible participant or beneficiary described
5 in paragraph (1) was calculated prior to the
6 date of enactment of this Act, the corporation
7 shall recalculate such amount pursuant to para-
8 graph (1), and shall adjust any subsequent pay-
9 ments of such monthly benefits accordingly, as
10 soon as practicable after such date.

11 (B) LUMP-SUM PAYMENTS OF PAST-DUE
12 BENEFITS.—Not later than 180 days after the
13 date of enactment of this Act, the corporation,
14 in consultation with the Secretary of the Treas-
15 ury and the Secretary of Labor, shall make a
16 lump-sum payment to each eligible participant
17 or beneficiary whose guaranteed benefits are re-
18 calculated under subparagraph (A) in an
19 amount equal to—

20 (i) in the case of an eligible partici-
21 pant, the excess of—

22 (I) the total of the full vested
23 plan benefits of the participant for all
24 months for which such guaranteed

1 benefits were paid prior to such recal-
2 culation, over

3 (II) the sum of any applicable
4 payments made to the eligible partici-
5 pant; and

6 (ii) in the case of an eligible bene-
7 ficiary, the sum of—

8 (I) the amount that would be de-
9 termined under clause (i) with respect
10 to the participant of which the eligible
11 beneficiary is a beneficiary if such
12 participant were still in pay status;
13 plus

14 (II) the excess of—

15 (aa) the total of the full
16 vested plan benefits of the eligi-
17 ble beneficiary for all months for
18 which such guaranteed benefits
19 were paid prior to such recalcula-
20 tion, over

21 (bb) the sum of any applica-
22 ble payments made to the eligible
23 beneficiary.

24 Notwithstanding the previous sentence, the cor-
25 poration shall increase each lump-sum payment

1 made under this subparagraph to account for
2 foregone interest in an amount determined by
3 the corporation designed to reflect a 6 percent
4 annual interest rate on each past-due amount
5 attributable to the underpayment of guaranteed
6 benefits for each month prior to such recalcula-
7 tion.

8 (C) ELIGIBLE PARTICIPANTS AND BENE-
9 FICIARIES.—

10 (i) IN GENERAL.—For purposes of
11 this section, an eligible participant or bene-
12 ficiary is a participant or beneficiary
13 who—

14 (I) as of the date of the enact-
15 ment of this Act, is in pay status
16 under a covered plan or is eligible for
17 future payments under such plan;

18 (II) has received or will receive
19 applicable payments in connection
20 with such plan (within the meaning of
21 clause (ii)) that does not exceed the
22 full vested plan benefits of such par-
23 ticipant or beneficiary; and

24 (III) is not covered by the 1999
25 agreements between General Motors

1 and various unions providing a top-up
2 benefit to certain hourly employees
3 who were transferred from the Gen-
4 eral Motors Hourly-Rate Employees
5 Pension Plan to the Delphi Hourly-
6 Rate Employees Pension Plan.

7 (ii) APPLICABLE PAYMENTS.—For
8 purposes of this paragraph, applicable pay-
9 ments to a participant or beneficiary in
10 connection with a plan consist of the fol-
11 lowing:

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

15 (II) Payments to the participant
16 or beneficiary made pursuant to sec-
17 tion 4022(c) of the Employee Retirement
18 Income Security Act of 1974
19 (29 U.S.C. 1322(c)) or otherwise re-
20 ceived from the corporation in connec-
21 tion with the termination of the plan.

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

24 (A) FULL VESTED PLAN BENEFIT.—The
25 term “full vested plan benefit” means the

1 amount of monthly benefits that would be guar-
2 anteed under section 4022 of the Employee Re-
3 tirement Income Security Act of 1974 (29
4 U.S.C. 1322) as of the date of plan termination
5 with respect to an eligible participant or bene-
6 ficiary if such section were applied without re-
7 gard to the phase-in limit under subsection
8 (b)(1) of such section and the maximum guar-
9 anteed benefit limitation under subsection
10 (b)(3) of such section (including the accrued-at-
11 normal limitation).

12 (B) NORMAL BENEFIT GUARANTEE.—The
13 term “normal benefit guarantee” means the
14 amount of monthly benefits guaranteed under
15 section 4022 of the Employee Retirement In-
16 come Security Act of 1974 (29 U.S.C. 1322)
17 with respect to an eligible participant or bene-
18 ficiary without regard to this Act.

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

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

23 (B) The Delphi Retirement Program for
24 Salaried Employees.

1 (C) The PHI Non-Bargaining Retirement
2 Plan.

3 (D) The ASEC Manufacturing Retirement
4 Program.

5 (E) The PHI Bargaining Retirement Plan.

6 (F) The Delphi Mechatronic Systems Re-
7 tirement Program.

8 (5) TREATMENT OF PBGC DETERMINATIONS.—

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

17 (b) TRUST FUND FOR PAYMENT OF INCREASED
18 BENEFITS.—

19 (1) ESTABLISHMENT.—There is established in
20 the Treasury a trust fund to be known as the “Del-
21 phi Full Vested Plan Benefit Trust Fund” (referred
22 to in this subsection as the “Fund”), consisting of
23 such amounts as may be appropriated or credited to
24 the Fund as provided in this section.

1 (2) FUNDING.—There is appropriated, out of
2 amounts in the Treasury not otherwise appropriated,
3 such amounts as are necessary for the costs of pay-
4 ments of the portions of monthly benefits guaran-
5 teed to participants and beneficiaries pursuant to
6 subsection (a) and for necessary administrative and
7 operating expenses of the corporation relating to
8 such payments. The Fund shall be credited with
9 amounts from time to time as the Secretary of the
10 Treasury, in coordination with the Director of the
11 corporation, determines appropriate, out of amounts
12 in the Treasury not otherwise appropriated.

13 (3) EXPENDITURES FROM FUND.—Amounts in
14 the Fund shall be available for the payment of the
15 portion of monthly benefits guaranteed to a partici-
16 pant or beneficiary pursuant to subsection (a) and
17 for necessary administrative and operating expenses
18 of the corporation relating to such payment.

19 (c) REGULATIONS.—The corporation, in consultation
20 with the Secretary of the Treasury and the Secretary of
21 Labor, may issue such regulations as necessary to carry
22 out this section.

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

24 (1) IN GENERAL.—Unless the taxpayer elects
25 (at such time and in such manner as the Secretary

1 may provide) to have this paragraph not apply with
2 respect to any lump-sum payment under subsection
3 (a)(2)(B), the amount of such payment shall be in-
4 cluded in the taxpayer's gross income ratably over
5 the 3-taxable-year period beginning with the taxable
6 year in which such payment is received.

7 (2) SPECIAL RULES RELATED TO DEATH.—

8 (A) IN GENERAL.—If the taxpayer dies be-
9 fore the end of the 3-taxable-year period de-
10 scribed in paragraph (1), any amount to which
11 paragraph (1) applies which has not been in-
12 cluded in gross income for a taxable year end-
13 ing before the taxable year in which such death
14 occurs shall be included in gross income for
15 such taxable year.

16 (B) SPECIAL ELECTION FOR SURVIVING
17 SPOUSES OF ELIGIBLE PARTICIPANTS.—If—

18 (i) a taxpayer with respect to whom
19 paragraph (1) applies dies,

20 (ii) such taxpayer is an eligible partic-
21 ipant,

22 (iii) the surviving spouse of such eligi-
23 ble participant is entitled to a survivor
24 benefit from the corporation with respect
25 to such eligible participant, and

1 (iv) such surviving spouse elects (at
2 such time and in such manner as the Sec-
3 retary may provide) the application of this
4 subparagraph,
5 subparagraph (A) shall not apply and any
6 amount which would have (but for such tax-
7 payer's death) been included in the gross in-
8 come of such taxpayer under paragraph (1) for
9 any taxable year beginning after the date of
10 such death shall be included in the gross in-
11 come of such surviving spouse for the taxable
12 year of such surviving spouse ending with or
13 within such taxable year of the taxpayer.

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