

[DISCUSSION DRAFT]

DECEMBER 8, 2008

110TH CONGRESS
2D SESSION

H. R. _____

To authorize financial assistance to eligible automobile manufacturers, and
for other purposes.

IN THE HOUSE OF REPRESENTATIVES

M. _____ introduced the following bill; which was referred to the
Committee on _____

A BILL

To authorize financial assistance to eligible automobile
manufacturers, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Auto Industry Financing and Restructuring Act”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings and purposes.

- Sec. 3. Presidential designation.
- Sec. 4. Bridge financing.
- Sec. 5. Restructuring progress assessment.
- Sec. 6. Submission of plans.
- Sec. 7. Long-term financing.
- Sec. 8. Allocation.
- Sec. 9. Funding.
- Sec. 10. Terms and conditions.
- Sec. 11. Taxpayer protection.
- Sec. 12. Oversight and audits.
- Sec. 13. Automobile manufacturers' study on potential manufacturing of transit vehicles.
- Sec. 14. Reporting and monitoring.
- Sec. 15. Submission of plans and request for additional authority or legislation.
- Sec. 16. Guarantee of leases of qualified transportation property.
- Sec. 17. Coordination with other laws.
- Sec. 18. Emergency designation.

1 SEC. 2. FINDINGS AND PURPOSES.

2 (a) FINDINGS.—The Congress finds the following:

3 (1) A combination of factors, including errors
4 in the business model of domestic automobile manu-
5 facturers, and emergency economic circumstances,
6 has prevented the domestic automobile industry from
7 securing credit from other sources, and has led to
8 the possibility of the failure of the automobile indus-
9 try, which failure would have a systemic adverse ef-
10 fect on the economy.

11 (2) Therefore, action in the form of financial
12 aid to the domestic automobile industry is necessary
13 to stabilize the economy.

14 (b) PURPOSES.—The purposes of this Act are—

15 (1) to immediately provide authority and facili-
16 ties to restore liquidity and stability to the domestic
17 automobile industry in the United States; and

1 (2) to ensure that such authority and such fa-
2 cilities are used in a manner that—

3 (A) stimulates manufacturing and sales of
4 automobiles produced by automobile manufac-
5 turers in the United States;

6 (B) enhances the ability and the capacity
7 of the domestic automobile industry to pursue
8 the timely and aggressive production of energy-
9 efficient advanced technology vehicles;

10 (C) preserves and promotes the jobs of
11 355,000 workers in the United States directly
12 employed by the automobile industry and an
13 additional 4,500,000 workers in the United
14 States employed in related industries;

15 (D) safeguards the ability of the domestic
16 automobile industry to provide retirement and
17 health care benefits for 1,000,000 retirees and
18 their dependents; and

19 (E) results in a viable and competitive do-
20 mestic automobile industry that minimizes ad-
21 verse effects on the environment.

22 **SEC. 3. PRESIDENTIAL DESIGNATION.**

23 (a) DESIGNATION.—The President shall designate 1
24 or more officers from the Executive Branch having appro-
25 priate expertise in such areas as economic stabilization,

1 financial aid to commerce and industry, financial restruc-
2 turing, energy efficiency, and environmental protection
3 (who shall hereinafter in this Act be collectively referred
4 to as the “President’s designee”) to carry out the purposes
5 of this Act, including the facilitation of restructuring to
6 achieve the long-term financial viability of the domestic
7 automobile manufacturing industry, who shall serve at the
8 pleasure of the President.

9 (b) **ADDITIONAL PERSONS.**—The President also may
10 employ additional persons having such expertise as the
11 President believes will assist the Government in carrying
12 out the purposes of this Act.

13 (c) **PARTICIPATION BY OTHER AGENCY PER-**
14 **SONNEL.**—Other Federal agencies may provide, at the re-
15 quest of the President’s designee, staff on detail from such
16 agencies for purposes of carrying out this Act.

17 **SEC. 4. BRIDGE FINANCING.**

18 (a) **IN GENERAL.**—The President’s designee shall au-
19 thorize and direct the disbursement of bridge loans or
20 enter into commitments for lines of credit to each auto-
21 mobile manufacturer that submitted a plan to the Con-
22 gress on December 2, 2008 (hereafter in this Act referred
23 to as an “eligible automobile manufacturer”), and has
24 submitted a request for such loan or commitment.

1 (b) AVAILABILITY OF FUNDS.—All funds that are
2 available pursuant to section 9 to provide bridge financing
3 or commitments for lines of credit to eligible automobile
4 manufacturers, after taking into account the reservation
5 of funds under section 9(a)(2), shall be used for the pur-
6 poses described in section 9(a).

7 (c) AMOUNT OF ASSISTANCE.—The President’s des-
8 ignee shall authorize financial assistance to each eligible
9 automobile manufacturer in an amount that is intended
10 to facilitate the continued operations of the eligible auto-
11 mobile manufacturer and to prevent the failure of the eli-
12 gible automobile manufacturer, consistent with the plan
13 submitted on December 2, 2008, and subject to available
14 funds.

15 (d) ALLOCATION.—The President’s designee shall au-
16 thorize the disbursements or commitments under this sec-
17 tion in accordance with the allocation priorities set forth
18 in subsections (a) and (b) of section 8.

19 **SEC. 5. RESTRUCTURING PROGRESS ASSESSMENT.**

20 (a) ESTABLISHMENT OF MEASURES FOR ASSESSING
21 PROGRESS.—Not later than January 1, 2009, the Presi-
22 dent’s designee shall determine appropriate measures for
23 assessing the progress of each eligible automobile manu-
24 facturer toward transforming the plan submitted by such
25 manufacturer to the Congress on December 2, 2008, into

1 the long-term restructuring plan to be submitted under
2 section 6(b).

3 (b) EVALUATION OF PROGRESS ON BASIS OF RE-
4 STRUCTURING PROGRESS ASSESSMENT MEASURES.—

5 (1) IN GENERAL.—The President’s designee
6 shall evaluate the progress of each eligible auto-
7 mobile manufacturer toward the development of a
8 restructuring plan, on the basis of the restructuring
9 progress assessment measures established under sec-
10 tion 6(b) for such manufacturer.

11 (2) TIMING.—Each evaluation required under
12 paragraph (1) for any manufacturer shall be con-
13 ducted at the end of the 45-day period beginning on
14 the date on which the restructuring progress assess-
15 ment measures were established by the President’s
16 designee for such manufacturer.

17 **SEC. 6. SUBMISSION OF PLANS.**

18 (a) NEGOTIATED PLANS.—

19 (1) FACILITATION.—

20 (A) IN GENERAL.—Beginning on the date
21 of the enactment of this Act, the President’s
22 designee shall seek to facilitate agreement on
23 any long-term restructuring plan negotiated
24 and agreed to by representatives of all inter-
25 ested parties (hereafter in this Act referred to

1 as a “negotiated plan”) with respect to any eli-
2 gible automobile manufacturer.

3 (B) INTERESTED PARTIES.—For purposes
4 of this section, the term “interested party”
5 shall be construed broadly so as to include all
6 persons who have a financial or other recogniz-
7 able interest in a particular automobile manu-
8 facturer, including—

- 9 (i) employees and retirees of the eligi-
10 ble automobile manufacturer;
- 11 (ii) trade unions;
- 12 (iii) creditors;
- 13 (iv) suppliers;
- 14 (v) automobile dealers; and
- 15 (vi) shareholders.

16 (2) ACTIONS OF THE PRESIDENT’S DES-
17 IGNEE.—

18 (A) IN GENERAL.—For the purpose of
19 achieving a negotiated plan, the President’s
20 designee may convene, chair, and conduct for-
21 mal and informal meetings, discussions, and
22 consultations, as appropriate, with interested
23 parties of an eligible automobile manufacturer.

24 (B) CLARIFICATION.—The Federal Advi-
25 sory Committee Act shall not apply with respect

1 to any of the activities conducted or taken by
2 the President's designee pursuant to this Act.

3 (3) REPORTING TO THE CONGRESS.—The
4 President's designee shall report to the Congress pe-
5 riodically, but no less frequently than every 15 days,
6 beginning on the date of the commencement of the
7 negotiation period, on the progress of efforts to
8 achieve a negotiated plan for each eligible auto-
9 mobile manufacturer.

10 (b) LONG-TERM RESTRUCTURING PLAN ENSURING
11 VIABILITY, INTERNATIONAL COMPETITIVENESS, AND EN-
12 ERGY EFFICIENCY.—Not later than March 31, 2009, each
13 eligible automobile manufacturer shall submit to the
14 President's designee a long-term restructuring plan to
15 achieve and sustain the long-term viability and inter-
16 national competitiveness of the domestic automobile indus-
17 try that will result in—

18 (1) the repayment of all Government-provided
19 financing, consistent with the terms specified in sec-
20 tion 10, or otherwise agreed to;

21 (2) the ability—

22 [(A) to comply with any and all Federal
23 and State fuel efficiency requirements and the
24 commencement of domestic advanced technology
25 vehicle manufacturing, as required in the En-

1 ergy Independence and Security Act of 2007;
2 and】

3 (B) to develop plans for new and existing
4 products and capacity (including transit vehi-
5 cles, as described in section 13);

6 (3) the achievement of a positive net present
7 value, using reasonable assumptions and taking into
8 account all existing and projected future costs, in-
9 cluding repayment of any financial assistance pro-
10 vided pursuant to this Act;

11 (4) efforts to rationalize costs, capitalization,
12 and capacity with respect to the manufacturing
13 workforce, suppliers, and dealerships of the eligible
14 automobile manufacturer;

15 (5) proposals to restructure existing debt, in-
16 cluding, where appropriate, the conversion of debt to
17 equity, to improve the ability of the eligible auto-
18 mobile manufacturer to raise private capital; and

19 (6) a product mix and cost structure that is
20 competitive in the United States marketplace.

21 (c) EXTENSION OF NEGOTIATIONS AND PLAN DEAD-
22 LINE.—Notwithstanding the time limitations in subsection
23 (b), the President’s designee, upon making a determina-
24 tion that the interested parties are negotiating in good
25 faith, are making significant progress, and that an addi-

1 tional period of time would likely facilitate agreement on
2 a negotiated plan, and upon notification of the Congress,
3 may extend for not longer than 30 additional days the ne-
4 gotiation period under subsection (b) and the period dur-
5 ing which a report is required to be submitted to Congress
6 under section 14.

7 **SEC. 7. LONG-TERM FINANCING.**

8 Upon approval of a long-term restructuring plan of
9 an eligible automobile manufacturer submitted under sec-
10 tion 6, the President's designee may provide long-term fi-
11 nancial assistance to such eligible automobile manufac-
12 turer to implement such plan.

13 **SEC. 8. ALLOCATION.**

14 (a) **PRIORITIZING ALLOCATION.**—The President's
15 designee shall prioritize allocation of the provision of fi-
16 nancial assistance under this Act to any eligible auto-
17 mobile manufacturer, based on—

18 (1) the necessity of the financial assistance for
19 the continued operation of the eligible automobile
20 manufacturer;

21 (2) the potential impact of the failure of the eli-
22 gible automobile manufacturer on the United States
23 economy; and

24 (3) the ability to utilize the financial assistance
25 optimally to satisfy the operational and long-term re-

1 structuring requirements of the eligible automobile
2 manufacturer.

3 (b) ORDER OF PRIORITY; SECTION 4.—For purposes
4 of allocating bridge loans or commitments pursuant to sec-
5 tion 4, the President’s designee shall prioritize the consid-
6 erations set forth in subsection (a) in the following order:
7 paragraph (1), paragraph (2), and paragraph (3).

8 (c) ORDER OF PRIORITY; SECTION 7.—For purposes
9 of allocating long-term financial assistance pursuant to
10 section 7, the President’s designee shall prioritize the con-
11 siderations set forth in subsection (a) in the following
12 order: paragraph (3), paragraph (2), and paragraph (1).

13 **SEC. 9. FUNDING.**

14 (a) FINANCIAL ASSISTANCE.—

15 (1) IN GENERAL.—For the purpose of providing
16 funds to the President’s designee for financial assist-
17 ance under this Act, the Secretary of Energy shall
18 make available to the President’s designee funds
19 made available under section 129 of division A of
20 the Consolidated Security, Disaster Assistance, and
21 Continuing Appropriations Act, 2009, relating to
22 funding for the manufacture of advanced technology
23 vehicles, including State standards established pur-
24 suant to the Energy Independence and Security Act
25 of 2007.

1 (2) RESERVATION FOR CERTAIN PURPOSES.—

2 The Secretary of Energy shall reserve \$500,000,000
3 of the amounts made available under paragraph (1)
4 for purposes of section 136 of the Energy Independ-
5 ence and Security Act of 2007 (Public Law 110-140;
6 42 U.S.C. 17013).

7 (3) CONTINUING APPLICATION PROCESS.—No

8 provision of this section shall be construed as pro-
9 hibiting or limiting the Secretary of Energy from
10 processing applications for loans under section 136
11 of the Energy Independence and Security Act of
12 2007.

13 (b) AUTHORIZATION.—There are authorized to be ap-
14 propriated to the Secretary of Energy, sums as may be
15 necessary for the purpose of replenishing the funds made
16 available to the President's designee under subsection
17 (a)(1).

18 **SEC. 10. TERMS AND CONDITIONS.**

19 (a) DURATION.—The duration of any loan made
20 under this Act shall be 7 years, or such longer period as
21 the President's designee may determine with respect to
22 such loan, subject to such repayment terms as the Presi-
23 dent's designee shall determine.

24 (b) RATE OF INTEREST.—The annual rate of interest
25 for a loan under this Act shall be—

1 (1) 5 percent during the 5-year period begin-
2 ning on the date on which the President's designee
3 disburses the loan; and

4 (2) 9 percent after the end of the period de-
5 scribed in paragraph (1).

6 (c) NO PREPAYMENT PENALTY.—A loan made under
7 this Act shall be prepayable without penalty at any time.

8 (d) INFORMATION ACCESS.—As a condition for the
9 receipt of any financial assistance made under this Act,
10 an eligible automobile manufacturer shall agree—

11 (1) to allow the President's designee to examine
12 any books, papers, records, or other data of the eli-
13 gible automobile manufacturer, and those of any
14 subsidiary, affiliate, or entity holding an ownership
15 interest of 50 percent or more of such automobile
16 manufacturer, that may be relevant to the financial
17 assistance, including compliance with the terms of a
18 loan or any conditions imposed under this Act; and

19 (2) to provide in a timely manner any informa-
20 tion requested by the President's designee, including
21 requiring any officer or employee of the eligible
22 automobile manufacturer, any subsidiary, affiliate,
23 or entity referred to in paragraph (1) with respect
24 to such manufacturer, or any person having posses-
25 sion, custody, or care of the reports and records re-

1 quired under paragraph (1), to appear before the
2 President's designee at a time and place requested
3 and to provide such books, papers, records, or other
4 data, as requested, as may be relevant or material.

5 (e) OVERSIGHT OF TRANSACTIONS AND FINANCIAL
6 CONDITION.—

7 (1) DUTY TO INFORM.—During the period in
8 which any loan extended under this Act remains out-
9 standing, the eligible automobile manufacturer which
10 received such loan shall promptly inform the Presi-
11 dent's designee of—

12 (A) any asset sale, investment, contract,
13 commitment, or other transaction proposed to
14 be entered into by such eligible automobile
15 manufacturer that has a value in excess of
16 \$25,000,000; and

17 (B) any other material change in the fi-
18 nancial condition of such eligible automobile
19 manufacturer.

20 (2) AUTHORITY OF THE PRESIDENT'S DES-
21 IGNEE.—During the period in which any loan ex-
22 tended under this Act remains outstanding, the
23 President's designee may—

1 (A) review any asset sale, investment, con-
2 tract, commitment, or other transaction de-
3 scribed in paragraph (1); and

4 (B) prohibit the eligible automobile manu-
5 facturer which received the loan from consum-
6 mating any such proposed sale, investment,
7 contract, commitment, or other transaction.

8 (3) PROCEDURES.—The President’s designee
9 may establish procedures for conducting any review
10 under this subsection.

11 (f) CONSEQUENCES FOR FAILURE TO COMPLY.—The
12 terms of any financial assistance made under this Act
13 shall provide that if—

14 (1) an evaluation by the President’s designee
15 under section 5(b) demonstrates that the eligible
16 automobile manufacturer which received the finan-
17 cial assistance has failed to make adequate progress
18 towards meeting the restructuring progress assess-
19 ment measures established by the President’s des-
20 ignee under section 5(a) with respect to such recipi-
21 ent;

22 (2) after March 31, 2009, the eligible auto-
23 mobile manufacturer which received the financial as-
24 sistance fails to submit an acceptable long-term re-
25 structuring plan under section 6(b), **or** fails to

1 comply with any other condition or requirement ap-
2 plicable under this Act or any Federal or State fuel
3 efficiency requirement】; or

4 (3) after a long-term restructuring plan of an
5 eligible automobile manufacturer has been approved
6 by the President’s designee, the auto manufacturer
7 fails to make adequate progress in the implementa-
8 tion of the plan, as determined by the President’s
9 designee,

10 the repayment of any loan may be accelerated to such ear-
11 lier date or dates as the President’s designee may deter-
12 mine and any other financial assistance may be cancelled
13 by the President’s designee.

14 (g) WITHDRAWAL FROM CERTAIN ACTIONS.—The
15 terms of any financial assistance under this Act shall pro-
16 hibit the eligible automobile manufacturer from partici-
17 pating in, pursuing, funding, or supporting in any way,
18 any legal challenge (existing or contemplated) to State
19 laws concerning greenhouse gas emission standards.

20 **SEC. 11. TAXPAYER PROTECTION.**

21 (a) WARRANTS.—

22 (1) IN GENERAL.—The President’s designee
23 may not provide financing under this Act, unless the
24 President’s designee receives from the eligible auto-
25 mobile manufacturer—

1 (A) in the case of an eligible automobile
2 manufacturer, the securities of which are traded
3 on a national securities exchange, a warrant
4 giving the right to the President's designee to
5 receive nonvoting common stock or preferred
6 stock in such eligible automobile manufacturer,
7 or voting stock, with respect to which the Presi-
8 dent's designee agrees not to exercise voting
9 power, as the President's designee determines
10 appropriate; or

11 (B) in the case of an eligible automobile
12 manufacturer other than one described in sub-
13 paragraph (A), a warrant for common or pre-
14 ferred stock, or an instrument that is the eco-
15 nomic equivalent of such a warrant in the eligi-
16 ble automobile manufacturer, or any holding
17 company or company that controls a majority
18 stake in the eligible automobile manufacturer,
19 as determined by the President's designee.

20 (2) AMOUNT.—

21 (A) IN GENERAL.—A warrant or instru-
22 ment described in paragraph (1) shall have a
23 value equal to 20 percent of the amount of the
24 financing provided to the eligible automobile

1 manufacturer, or such greater value as may be
2 determined by the President's designee.

3 (B) WARRANT PRICE.—The exercise price
4 on a warrant or instrument described in para-
5 graph (1) shall be the 15-day average of the
6 market price of the common stock of the eligi-
7 ble automobile manufacturer which received fi-
8 nancing under this Act (or the economic equiva-
9 lent) as determined by the President's designee
10 prior to December 2, 2008.

11 (3) APPLICATION OF OTHER PROVISIONS OF
12 LAW.—The requirements for the purchase of war-
13 rants under section 113(d)(2) of the Emergency
14 Economic Stabilization Act of 2008 (division A of
15 Public Law 110–343) shall apply to any warrant or
16 instrument described in paragraph (1), including the
17 antidilution protection provisions therein.

18 (b) EXECUTIVE COMPENSATION AND CORPORATE
19 GOVERNANCE.—

20 (1) IN GENERAL.—During the period in which
21 any financial assistance under this Act remains out-
22 standing, the eligible automobile manufacturer which
23 received such assistance shall be subject to—

24 (A) the standards established by the Presi-
25 dent's designee under paragraph (2); and

1 (B) the provisions of section 162(m)(5) of
2 the Internal Revenue Code of 1986, as applica-
3 ble.

4 (2) STANDARDS REQUIRED.—The President’s
5 designee shall require any eligible automobile manu-
6 facturer which received any financial assistance
7 under this Act to meet appropriate standards for ex-
8 ecutive compensation and corporate governance.

9 (3) SPECIFIC REQUIREMENTS.—The standards
10 established under paragraph (2) shall include—

11 (A) limits on compensation that exclude in-
12 centives for senior executive officers of an eligi-
13 ble automobile manufacturer which received as-
14 sistance under this Act to take unnecessary and
15 excessive risks that threaten the value of such
16 manufacturer during the period that the loan is
17 outstanding;

18 (B) a provision for the recovery by such
19 automobile manufacturer of any bonus or incen-
20 tive compensation paid to a senior executive of-
21 ficer based on statements of earnings, gains, or
22 other criteria that are later found to be materi-
23 ally inaccurate;

24 (C) a prohibition on such automobile man-
25 ufacturer making any golden parachute pay-

1 ment to a senior executive officer during the pe-
2 riod that the loan is outstanding;

3 (D) a prohibition on such automobile man-
4 ufacturer paying or accruing any bonus or in-
5 centive compensation during the period that the
6 loan is outstanding to the **[25]** most highly-
7 compensated employees; and

8 (E) a prohibition on any compensation
9 plan that would encourage manipulation of such
10 automobile manufacturer's reported earnings to
11 enhance the compensation of any of its employ-
12 ees.

13 (4) DIVESTITURE.—During the period in which
14 any financial assistance provided under this Act to
15 any eligible automobile manufacturer is outstanding,
16 the eligible automobile manufacturer may not own or
17 lease any private passenger aircraft, or any interest
18 in any such aircraft, except that such eligible auto-
19 mobile manufacturer shall not be treated as being in
20 violation of this provision with respect to any air-
21 craft or interest in any aircraft that was owned or
22 held by the manufacturer immediately before receiv-
23 ing such assistance, as long as the recipient dem-
24 onstrates to the satisfaction of the President's des-

1 ignee that all reasonable steps are being taken to
2 sell or divest such aircraft or interest.

3 (5) DEFINITIONS.—For purposes of this sub-
4 section, the following definitions shall apply:

5 (A) SENIOR EXECUTIVE OFFICER.—The
6 term “senior executive officer” means an indi-
7 vidual who is 1 of the top 5 highly paid execu-
8 tives of a public company, whose compensation
9 is required to be disclosed pursuant to the Se-
10 curities Exchange Act of 1934, and any regula-
11 tions issued thereunder, and non-public com-
12 pany counterparts.

13 (B) GOLDEN PARACHUTE PAYMENT.—The
14 term “golden parachute payment” means any
15 payment to a senior executive officer for depart-
16 ture from a company for any reason.

17 (c) PROHIBITION ON PAYMENT OF DIVIDENDS.—No
18 dividends or distributions of any kind, or the economic
19 equivalent thereof, as determined by the President’s des-
20 ignee, may be paid by any eligible automobile manufac-
21 turer which receives financial assistance under this Act,
22 or any holding company or company that controls a major-
23 ity stake in the automobile manufacturer, while such fi-
24 nancial assistance is outstanding.

25 (d) OTHER INTERESTS SUBORDINATED.—

1 (1) IN GENERAL.—In the case of an eligible
2 automobile manufacturer which received a loan
3 under this Act, any other obligation of such eligible
4 automobile manufacturer shall be subordinate to
5 such loan, and such loan shall be senior and prior
6 to all obligations, liabilities, and debts of the eligible
7 automobile manufacturer.

8 (2) APPLICABILITY IN CERTAIN CASES.—In the
9 case of an eligible automobile manufacturer referred
10 to in paragraph (1), the securities of which are not
11 traded on a national securities exchange, a loan
12 under this Act to the eligible automobile manufac-
13 turer shall be treated as a loan to any holding com-
14 pany or company that controls a majority stake in
15 the eligible automobile manufacturer, and shall be
16 senior and prior to all obligations, liabilities, and
17 debts of any such holding company or company that
18 controls a majority stake in the eligible automobile
19 manufacturer.

20 **SEC. 12. OVERSIGHT AND AUDITS.**

21 (a) COMPTROLLER GENERAL OVERSIGHT.—

22 (1) SCOPE OF OVERSIGHT.—The Comptroller
23 General of the United States shall conduct ongoing
24 oversight of the activities and performance of the
25 President’s designee.

1 (2) CONDUCT AND ADMINISTRATION OF OVER-
2 SIGHT.—

3 (A) GAO PRESENCE.—The President's
4 designee shall provide to the Comptroller Gen-
5 eral appropriate space and facilities for pur-
6 poses of this subsection.

7 (B) ACCESS TO RECORDS.—To the extent
8 otherwise consistent with law, the Comptroller
9 General shall have access, upon request, to any
10 information, data, schedules, books, accounts,
11 financial records, reports, files, electronic com-
12 munications, or other papers, things, or prop-
13 erty belonging to or in use by the President's
14 designee, at such reasonable time as the Comp-
15 troller General may request. The Comptroller
16 General shall be afforded full facilities for
17 verifying transactions with the balances or secu-
18 rities held by depositaries, fiscal agents, and
19 custodians. The Comptroller General may make
20 and retain copies of such books, accounts, and
21 other records as the Comptroller General deems
22 appropriate.

23 (3) REPORTING.—The Comptroller General
24 shall submit reports of findings under this section to
25 Congress, regularly and not less frequently than

1 once every 60 days. The Comptroller General may
2 also submit special reports under this subsection, as
3 warranted by the findings of its oversight activities.

4 (b) SPECIAL INSPECTOR GENERAL.—It shall be the
5 duty of the Special Inspector General established under
6 section 121 of Public Law 110-343 to conduct, supervise,
7 and coordinate audits and investigations of the President’s
8 designee in addition to the duties of the Special Inspector
9 General under such section and for such purposes. The
10 Special Inspector General shall also have the duties, re-
11 sponsibilities, and authorities of inspectors general under
12 the Inspector General Act of 1978, including section 6 of
13 such Act.

14 (c) ACCESS TO RECORDS OF BORROWERS BY GAO.—
15 Notwithstanding any other provision of law, during the pe-
16 riod in which any financial assistance provided under this
17 Act is outstanding, the Comptroller General of the United
18 States shall have access, upon request, to any information,
19 data, schedules, books, accounts, financial records, re-
20 ports, files, electronic communications, or other papers,
21 things, or property belonging to or in use by the eligible
22 automobile manufacturer, and any subsidiary, affiliate, or
23 entity holding an ownership interest of 50 percent or more
24 of such eligible automobile manufacturer (collectively re-
25 ferred to in this section as “related entities”), and to any

1 officer, director, or other agent or representative of the
2 eligible automobile manufacturer and its related entities,
3 at such reasonable times as the Comptroller General may
4 request. The Comptroller General may make and retain
5 copies of such books, accounts, and other records as the
6 Comptroller General deems appropriate.

7 **SEC. 13. AUTOMOBILE MANUFACTURERS' STUDY ON PO-**
8 **TENTIAL MANUFACTURING OF TRANSIT VE-**
9 **HICLES.**

10 (a) IN GENERAL.—Each eligible automobile manu-
11 facturer which receives financial assistance under this Act
12 shall conduct an analysis of potential uses of any excess
13 production capacity (especially those of former sport util-
14 ity vehicle producers) to make vehicles for sale to public
15 transit agencies, including—

16 (1) the current and projected demand for bus
17 and rail cars by American public transit agencies;

18 (2) the potential growth for both sales and sup-
19 plies to such agencies in the short, medium, and
20 long term;

21 (3) a description of existing “Buy America”
22 provisions, and data provided by the Federal Transit
23 Administration regarding the use or request of waiv-
24 ers from such provisions; and

1 (4) any recommendations as to whether such
2 actions would result in a business line that makes
3 sense for the automobile manufacturer.

4 (b) GAO REVIEW AND REPORT.—The Comptroller
5 General of the United States shall review the analyses con-
6 ducted under this section, and shall provide reports there-
7 on to the Congress and the President’s designee.

8 **SEC. 14. REPORTING AND MONITORING.**

9 (a) REPORTING ON CONSUMMATION OF LOANS.—
10 The President’s designee shall submit a report to the Con-
11 gress on each bridge loan made under section 4 not later
12 than 5 days after the date of the consummation of such
13 loan.

14 (b) REPORTING ON RESTRUCTURING PROGRESS AS-
15 SESSMENT MEASURES.—The President’s designee shall
16 submit a report to the Congress on the restructuring
17 progress assessment measures established for each manu-
18 facturer under section 5(a) not later than 10 days after
19 establishing the restructuring progress assessment meas-
20 ures.

21 (c) REPORTING ON EVALUATIONS.—The President’s
22 designee shall submit a report to the Congress containing
23 the detailed findings and conclusions of the President’s
24 designee in connection with the evaluation of an eligible
25 automobile manufacturer under section 5(b).

1 (d) REPORTING ON CONSEQUENCES FOR FAILURE
2 TO COMPLY.—The President’s designee shall submit a re-
3 port to the Congress on the exercise of a right under sec-
4 tion 9(f) to accelerate indebtedness of an eligible auto-
5 mobile manufacturer under this Act or to cancel any other
6 financial assistance provided to such eligible automobile
7 manufacturer, and the facts and circumstances on which
8 such exercise was based, before the end of the 10-day pe-
9 riod beginning on the date of the exercise of the right.

10 (e) MONITORING.—The President’s designee shall
11 monitor the use of loan funds received by eligible auto-
12 mobile manufacturers under this Act, and shall report to
13 Congress once every 90 days (beginning 30 days after the
14 date of enactment of this Act) on the progress of the abil-
15 ity of the recipient of the loan to continue operations and
16 proceed with restructuring processes that restore the fi-
17 nancial soundness of the recipient and promote environ-
18 mental sustainability.

19 **SEC. 15. SUBMISSION OF PLANS AND REQUEST FOR ADDI-**
20 **TIONAL AUTHORITY OR LEGISLATION.**

21 (a) AUTHORITY TO FACILITATE A NEGOTIATED
22 PLAN.—At any such time as the President’s designee de-
23 termines that such action is necessary to avoid disruption
24 to the economy or to achieve a negotiated plan, the Presi-
25 dent’s designee shall submit to Congress a report outlining

1 any additional powers and authorities necessary to facili-
2 tate the completion of a negotiated plan required under
3 section 6.

4 (b) AUTHORITY TO IMPLEMENT RECOMMENDED
5 PLAN.—If the President’s designee determines, on the
6 basis on an evaluation by the President’s designee of the
7 progress being made by an eligible automobile manufac-
8 turer toward meeting the restructuring progress assess-
9 ment measures established under section 5, that adequate
10 progress is not being made toward achieving a negotiated
11 plan by March 31, 2009, the President’s designee shall
12 submit to Congress a report detailing—

13 (1) the impediments to achievement of a nego-
14 tiated plan by the auto manufacturer;

15 (2) a plan that represents the judgement of the
16 President’s designee as to the steps necessary to
17 achieve the long term financial viability for the man-
18 ufacturer;

19 (3) the assessment of the President’s designee
20 as to additional authority that would enable the
21 President’s designee to implement such a plan; and

22 (4) if the President’s designee believes that
23 such a plan must be implemented through legisla-
24 tion, the provisions of such legislation.

1 (c) SENSE OF THE CONGRESS.—It is the sense of the
2 Congress that, should an eligible automobile manufacturer
3 be unable to reach agreement with all interested parties
4 on a negotiated plan that can be approved by the Presi-
5 dent’s designee within the time frames provided by this
6 Act, the Congress should act expeditiously on the rec-
7 ommendations of the President’s designee on actions nec-
8 essary to achieve a viable long-term plan through nego-
9 tiated or legislated restructuring.

10 (d) RULE OF CONSTRUCTION.—No provision of this
11 section shall be construed as limiting in any way the au-
12 thority of the President’s designee to exercise any right
13 under section 9(f) to accelerate indebtedness of an auto-
14 mobile manufacturer under this Act or to cancel any other
15 financial assistance provided to such manufacturer.

16 **SEC. 16. GUARANTEE OF LEASES OF QUALIFIED TRANS-**
17 **PORTATION PROPERTY.**

18 (a) GUARANTEE.—Upon the request of a lessee of
19 qualified transportation property, the President’s designee
20 shall serve as a guarantor with respect to all obligations
21 of such lessee with respect to leases of such qualified
22 transportation property. Such guarantee shall be on such
23 terms and conditions as are determined by the President’s
24 designee, not later than 14 days after the date of enact-
25 ment of this section.

1 (b) DEFINITIONS.—For purposes of this section—

2 (1) the term “qualified transportation prop-
3 erty” means domestic property subject to a lease
4 that was approved by the Federal Transit Adminis-
5 tration prior to January 1, 2006; and

6 (2) the term “guarantor” includes, without lim-
7 itation, any guarantor, surety, and payment under-
8 taker.

9 **SEC. 17. COORDINATION WITH OTHER LAWS.**

10 (a) IN GENERAL.—No provision of this Act may be
11 construed as altering, affecting, or superseding—

12 (1) the provisions of section 129 of division A
13 of the Consolidated Security, Disaster Assistance,
14 and Continuing Appropriations Act, 2009, relating
15 to funding for the manufacture of advanced tech-
16 nology vehicles; or

17 (2) the authority of the Secretary of the Treas-
18 ury, the Chairman of the Board of Governors of the
19 Federal Reserve System, or the Federal Deposit In-
20 surance Corporation from using or establishing
21 funds and facilities to provide liquidity to the auto-
22 mobile manufacturers, their financing companies,
23 and their affiliated entities, as otherwise provided by
24 law.

1 (b) TEMPORARY SUSPENSION OF PROHIBITION ON
2 ANNUAL COST OF LIVING SALARY ADJUSTMENTS.—Pur-
3 suant to section 140 of Public Law 97–92, justices and
4 judges of the United States are authorized during fiscal
5 year 2009 to receive a salary adjustment in accordance
6 with section 461 of title 28, United States Code.

7 **SEC. 18. EMERGENCY DESIGNATION.**

8 Amounts provided by this Act are designated as an
9 emergency requirement and necessary to meet emergency
10 needs pursuant to section 204(a) of S. Con. Res. 21
11 (110th Congress), the concurrent resolution on the budget
12 for fiscal year 2008.