

Summary of H.R. 7321 (Auto Industry Financing and Restructuring Act)
(12/10/08)

- **President's Designee** – The President shall designate 1 or more officers in the Executive Branch with appropriate expertise (President's Designee) to carry out the requirements of the Act. The President or the President's Designee also may employ, appoint or contract with additional advisors.
- **Bridge Financing**
 - Directs the President's Designee to authorize and direct the disbursement of bridge loans or commitments for lines of credit to eligible auto manufacturers that submitted a plan to Congress on 12/2/08 (Chrysler, Ford, and GM) (Auto Manufacturers) from funds previously appropriated for Section 136 of the Energy Independence and Security Act.
 - Approximately \$14 billion will be disbursed or committed for bridge financing.
 - No new funds will be available for bridge financing after the President's Designee approves the Auto Manufacturer's restructuring plan.
- **Assessment of Restructuring Progress** – The President's Designee must establish, not later than 1/1/09, appropriate measures to assess the progress of each Auto Manufacturer in developing a restructuring plan; and must evaluate the progress of each Auto Manufacturer against those measures in 45 days.
- **Restructuring Plan**
 - Not later than 3/31/09, each Auto Manufacturer must submit to the President's Designee a restructuring plan to achieve long-term viability, international competitiveness and energy efficiency, including repayment of government financing, compliance with applicable fuel efficiency and emissions requirements, achievement of positive net present value, rationalization of costs and capacity, and proposals for restructuring existing debt. The President's Designee may provide financial assistance to an Auto Manufacturer to implement an approved restructuring plan.
 - The President's Designee will facilitate agreement on a restructuring plan by the representatives of major stakeholders of each Auto Manufacturer.
 - If the President's Designee determines that adequate progress is not being made to reach agreement on a restructuring plan, the President's Designee will submit to Congress his own plan to achieve long-term viability for the Automobile Manufacturer.
- **Taxpayer Protections**
 - **Warrants:** The President's Designee may not provide any loan to an Automobile Manufacturer unless he receives from the Auto Manufacturer warrants for non-voting common stock or preferred stock equal to 20% of the loan amount. If the Automobile Manufacturer is privately held, as in Chrysler's case, the government will receive warrants or the economic equivalent of warrants in Chrysler's holding company or in Cerberus, the company that controls a majority stake in Chrysler.
 - **Executive Compensation:** All executive compensation restrictions of TARP apply to Auto Manufacturers receiving financial assistance for the duration of that assistance, **plus:** (1) no bonuses or incentives to 25 most highly paid employees; (2) stringent prohibition on golden parachutes; and (3) no compensation plan that could encourage manipulation of reported earnings to enhance compensation.
 - **Dividends:** Auto Manufacturers receiving financial assistance (including any holding company in case of Chrysler) generally may not pay dividends, distributions, or their economic equivalent for duration of the assistance.
 - **Super Seniority:** All other obligations of any Auto Manufacturer receiving loans (or in the case of Chrysler, Chrysler's holding company or Cerberus) will be subordinate to those loans to the extent permitted by the terms of such obligations in effect as of 12/2/08. Auto Manufacturer will pledge all available security and collateral against the loans.
 - **Discharge:** In the event of a bankruptcy of an Automobile Manufacturer, the debts to the government from the financial assistance will not be dischargeable.
 - **Aircraft:** An Auto Manufacturer must divest and may not own or lease any private passenger aircraft while financial assistance is outstanding.

- **Loans Called for Failure to Achieve Approved Plan** – If an Automobile Manufacturer fails to submit a restructuring plan that can be approved by the President’s Designee within the time provided by the Act, the loan will be called in 30 days, unless a restructuring plan is approved within that period.
- **Oversight** – Provisions similar to GAO and Special IG oversight provisions of TARP apply, **plus** explicit grant to GAO of access to Auto Manufacturers’ records (including records of any subsidiary, affiliate, or majority stakeholder in case of Chrysler/Cerberus). Extensive reporting requirements from GAO, Special IG, and President’s Designee to Congress.
- **Allocation of Funds** – The President’s Designee will prioritize allocation of financial assistance to Auto Manufacturers as follows:
 - For bridge loans, based in order on (1) necessity of the financial assistance, (2) potential impact of failure of the Auto Manufacturer on the U.S. economy, and (3) ability to utilize the financial assistance optimally.
 - For any long-term financial assistance, based in order on (1) ability to utilize the financial assistance optimally, (2) potential impact of failure of the Auto Manufacturer on the U.S. economy, and (3) necessity of the financial assistance.
- **Terms and Conditions of Loans**
 - **Term:** 7 years (or longer as may be determined by the President’s Designee).
 - **Interest Rate:** 5% for first 5 years and 9% thereafter.
 - **No prepayment penalty.**
 - **Full Information Access:** Automobile Manufacturers (including the majority stakeholder in case of Chrysler/Cerberus) receiving loans are required to provide the President’s Designee access to all information that may be relevant to monitor the interests of the government.
 - **Oversight of Transactions and Financial Condition:** For duration of the loan, the President’s Designee may review and prohibit any asset sale, investment, contract, or commitment proposed to be entered into by the Auto Manufacturer valued in excess of \$100 million if inconsistent with or detrimental to long-term viability.
 - **Consequences for Failure to Comply:** The President’s Designee may accelerate repayment of a loan or cancel other financial assistance of an Automobile Manufacturer if (1) the President’s Designee determines that the Automobile Manufacturer has failed to make adequate progress towards developing a restructuring plan, (2) the Automobile Manufacturer fails to submit an acceptable restructuring plan or fails comply with any other applicable condition or requirement of the loan program, or (3) the Automobile Manufacturer fails to make adequate progress in the implementation of an approved restructuring plan.
- **Energy Efficient Advanced Technology Vehicles:** Reserves \$500 million in credit subsidy equal to \$1.5 billion for Section 136 loans (manufacturing energy efficient advanced technology vehicles), and authorizes additional appropriations to replenish Section 136 funds.
- **Fuel Efficiency and Emissions Requirements:** Restructuring plan will not be approved unless the President’s Designee determines that the plan will result in the ability of the Automobile Manufacturer to comply with applicable fuel efficiency and emissions requirements. In addition, the President’s Designee may accelerate repayment of a loan or cancel other financial assistance if the Automobile Manufacturer fails to comply with applicable fuel efficiency and emissions requirements after 3/31/09.
- **Transit:** Each Automobile Manufacturer will analyze the potential use of excess production capacity to manufacture vehicles (including buses and rail cars) for sale to public transit agencies. Also includes provisions to guarantee leases of qualified public transit agencies.