

contracts, and transactions with respect to commodities are carried out on a regulated exchange, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. LEVIN (for himself, Mr. BOND, Ms. STABENOW, Mr. VOINOVICH, Mr. BROWN, Mr. SPECTER, and Mr. CASEY):  
S. 3715. A bill to provide for emergency bridge loan assistance to automobile manufacturers and component suppliers; to the Committee on Appropriations.

By Mrs. McCASKILL (for herself, Mr. GRASSLEY, Ms. COLLINS, Mr. LIEBERMAN, and Mr. BUNNING):

S. 3716. A bill to amend the Emergency Economic Stabilization Act of 2008 (Public Law 110-343) to provide the Special Inspector General with additional personnel, audit, and investigation authorities; to the Committee on Banking, Housing, and Urban Affairs.

By Ms. STABENOW (for herself and Mr. CORNYN):

S. 3717. A bill to amend the Internal Revenue Code of 1986 to allow reimbursement from flexible spending accounts for certain dental products; to the Committee on Finance.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CRAPO (for himself, Mrs. CLINTON, Mr. LIEBERMAN, Ms. MURKOWSKI, Mr. SCHUMER, and Mr. BAYH):

S. Res. 710. A resolution designating the week of February 2 through February 6, 2009, as "National Teen Dating Violence Awareness and Prevention Week"; to the Committee on the Judiciary.

By Ms. COLLINS (for herself, Mrs. FEINSTEIN, Ms. SNOWE, Ms. LANDRIEU, Ms. STABENOW, and Mrs. CLINTON):

S. Res. 711. A resolution condemning the tragic and senseless death by stoning of a 13-year-old girl from Somalia; considered and agreed to.

By Mr. SPECTER (for himself, Mr. CASEY, Mr. MENENDEZ, Mr. LAUTENBERG, and Mr. BUNNING):

S. Res. 712. A resolution congratulating the Philadelphia Phillies on winning the 2008 World Series; considered and agreed to.

By Mr. FEINGOLD (for himself, Mr. BROWNBACK, Mr. LEAHY, Mr. HARKIN, Mr. DURBIN, Mr. KERRY, Mr. DODD, Ms. SNOWE, Mr. LIEBERMAN, Mr. MENENDEZ, Mr. ISAKSON, Ms. KLOBUCHAR, Mrs. BOXER, Mr. WYDEN, Mr. BOND, Mr. COLEMAN, Mr. LAUTENBERG, and Mr. NELSON of Florida):

S. Res. 713. A resolution calling on all parties to the escalating violence in eastern Democratic Republic of Congo to implement an immediate ceasefire and work with the support of the international community toward a comprehensive and lasting solution to the crisis; considered and agreed to.

By Mrs. BOXER (for herself and Mrs. FEINSTEIN):

S. Res. 714. A resolution honoring the firefighters and emergency workers who courageously fought fires in California in 2008; considered and agreed to.

By Mr. REID:

S. Res. 715. A resolution extending the authority for the Senate National Security Working Group; considered and agreed to.

By Mr. VITTER:

S. Res. 716. A resolution acknowledging the accomplishments and goals of the Youth Impact Program; to the Committee on the Judiciary.

By Ms. COLLINS (for herself and Ms. SNOWE):

S. Res. 717. A resolution designating December 13, 2008, as "Wreaths Across America Day"; to the Committee on the Judiciary.

By Mr. CHAMBLISS (for himself, Mrs. LINCOLN, and Mr. ISAKSON):

S. Res. 718. A resolution designating November 30, 2008, as "Drive Safer Sunday"; to the Committee on the Judiciary.

By Mr. DORGAN (for himself, Ms. MURKOWSKI, Mrs. BOXER, Mrs. CLINTON, Mr. SCHUMER, Mr. SALAZAR, Mr. FEINGOLD, Mr. TESTER, Mr. DOMENICI, Mr. MCCAIN, Mr. WYDEN, Mr. BAUCUS, Ms. CANTWELL, Mr. NELSON of Nebraska, Mrs. FEINSTEIN, Mr. BAYH, Mr. THUNE, Mr. BINGAMAN, Mr. CONRAD, and Mr. JOHNSON):

S. Res. 719. A resolution recognizing National American Indian and Alaska Native Heritage Month and celebrating the heritage and culture of American Indians and Alaska Natives and the contributions of American Indians and Alaska Natives to the United States; to the Committee on Indian Affairs.

By Mrs. CLINTON (for herself, Mr. CASEY, and Mr. SPECTER):

S. Res. 720. A resolution supporting the goals and ideals of Pancreatic Cancer Awareness Month; to the Committee on Health, Education, Labor, and Pensions.

By Mr. NELSON of Florida:

S. Con. Res. 106. A concurrent resolution commending the Government of Switzerland for ongoing assistance in the case of Robert Levinson, urging the Government of the Islamic Republic of Iran to intensify cooperation with the Government of Switzerland and the Federal Bureau of Investigation on the case of Robert Levinson, and expressing sympathy to the family of Robert Levinson; to the Committee on Foreign Relations.

## ADDITIONAL COSPONSORS

S. 2743

At the request of Mr. CASEY, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 2743, a bill to amend the Internal Revenue Code of 1986 to provide for the establishment of financial security accounts for the care of family members with disabilities, and for other purposes.

S. 2756

At the request of Mr. BAYH, his name was added as a cosponsor of S. 2756, a bill to amend the National Child Protection Act of 1993 to establish a permanent background check system.

S. 3361

At the request of Mr. VITTER, the names of the Senator from Maryland (Mr. CARDIN) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of S. 3361, a bill to amend title IV of the Social Security Act to require States to implement a drug testing program for applicants for and recipients of assistance under the Temporary Assistance for Needy Families (TANF) program.

S. 3490

At the request of Mr. CARDIN, the name of the Senator from Florida (Mr. NELSON) was added as a cosponsor of S. 3490, a bill to amend the Neotropical Migratory Bird Conservation Act to reauthorize the Act.

S. 3672

At the request of Mr. BAUCUS, the names of the Senator from Idaho (Mr.

CRAPO) and the Senator from North Dakota (Mr. CONRAD) were added as cosponsors of S. 3672, a bill to amend title 23, United States Code, to improve economic opportunity and development in rural States through highway investment, and for other purposes.

At the request of Mr. THUNE, his name was added as a cosponsor of S. 3672, *supra*.

S. 3673

At the request of Mr. BAUCUS, the names of the Senator from Idaho (Mr. CRAPO) and the Senator from North Dakota (Mr. CONRAD) were added as cosponsors of S. 3673, a bill to amend title 23, United States Code, to improve highway transportation in the United States, including rural and metropolitan areas.

At the request of Mr. THUNE, his name was added as a cosponsor of S. 3673, *supra*.

S. 3683

At the request of Mr. INHOFE, the names of the Senator from Mississippi (Mr. WICKER) and the Senator from Wyoming (Mr. ENZI) were added as cosponsors of S. 3683, a bill to amend the Emergency Economic Stabilization Act to require approval by the Congress for certain expenditures for the Troubled Asset Relief Program.

S. 3698

At the request of Mrs. FEINSTEIN, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from Minnesota (Mr. COLEMAN) were added as cosponsors of S. 3698, a bill to prohibit any recipient of emergency Federal economic assistance from using such funds for lobbying expenditures or political contributions, to improve transparency, enhance accountability, encourage responsible corporate governance, and for other purposes.

S. RES. 640

At the request of Mr. CARDIN, the name of the Senator from North Dakota (Mr. CONRAD) was added as a cosponsor of S. Res. 640, a resolution expressing the sense of the Senate that there should be an increased Federal commitment to public health and the prevention of diseases and injuries for all people in the United States.

S. RES. 709

At the request of Mr. KERRY, the names of the Senator from Hawaii (Mr. INOUE) and the Senator from Rhode Island (Mr. WHITEHOUSE) were added as cosponsors of S. Res. 709, a resolution expressing the sense of the Senate that the United States should pursue the adoption of bluefin tuna conservation and management measures at the 16th Special Meeting of the International Commission on the Conservation of Atlantic Tunas.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CRAIG:

S. 16. A bill to provide for certain land to be held in trust for the Burns Paiute Tribe; to the Committee on Indian Affairs.

Mr. CRAIG. Mr. President, the purpose of introducing this bill today is to start the process of granting the Burns-Paiute Tribe of Eastern Oregon land in trust. This is an opportunity to allow this tribe to become self-sufficient by producing a viable gaming operation. The project would be designed to have a minimal component tied to gaming with a much larger share of the development related to entertainment and tourism. One of the goals would be to develop activities and bring in components that enhance the overall Treasure Valley and southwest Idaho economic environment. The goal is to create new reasons for people to travel to the region and to work with local businesses to generate ongoing supply and support ongoing business opportunities. This legislation, should it be implemented, will create new jobs and provide an economic boost for eastern Oregon and western Idaho.

By Ms. SNOWE:

S. 18. A bill to improve the authority of the Special Inspector General charged with overseeing the Troubled Asset Relief Program, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Ms. SNOWE. Mr. President, with the size and complexity of the Treasury Department's efforts to administer the Troubled Asset Relief Program, TARP, which is unprecedented in recent U.S. history, it is essential to have a Special Inspector General, IG, who is focused exclusively on conducting effective oversight. When Congress passed the Emergency Economic Stabilization Act, I was proud to join Senator BAUCUS, as well as 31 of my other colleagues, to insist that the legislation direct the Treasury Secretary to appoint a Special IG as soon as possible. Notably, we tasked the Special IG with ensuring program transparency by collecting data on the Treasury's actions and reporting regularly to Congress. One might say that the Special IG is the cop on the beat dedicated to protecting taxpayers' interests.

Many would argue that the Treasury's current authority is almost completely unrestrained. There is a saying about what absolute power does to people and organizations, namely that absolute power corrupts absolutely. We must not allow unrestrained power to corrupt the Treasury Department's authority or mission. It is essential that proper oversight exists so that the Treasury Department is held accountable for how it expends taxpayer dollars.

A strong IG is even more critical now that the Treasury Department is directly injecting capital into banks, as well as potentially aiding other entities that provide consumer credit. The oversight requirements originally designed by Congress to scrutinize the purchase of toxic assets do not accurately or adequately describe the Treasury's equity investments and, therefore, do not provide the strong

taxpayer protections Congress requires.

With the Treasury Department changing the plan day-by-day, there is growing market uncertainty about how best to address the economic crisis. The Treasury needs to inspire confidence. It must not follow Wall Street's example and play fast and loose on the public's dime. The bottom line is we must ensure the government respects the public's money more than Wall Street ever did. That will be the Special Inspector General's job. It is imperative then that the Special IG be adequately equipped with authority and resources to carry out this mission.

On Monday, the Finance Committee held a hearing to consider the nomination of Neil Barofsky to be the Special IG for TARP. Mr. Barofsky has had a distinguished career as a Federal prosecutor investigating white-collar crimes, but regardless of how impressive his resume might be, he cannot succeed at his job if his hands are tied with inadequate authority and resources. At this hearing, I noted a number of concerns that I have with the authority, or lack thereof, given to the Special IG, and for this reason, I rise today, to offer legislation, the Troubled Asset Relief Program Inspector General Improvement Act, that will give the Special IG the teeth that he needs to provide the oversight that taxpayers deserve with their precious tax dollars at stake.

Time is of the essence with the Treasury already having committed \$290 billion without the Special IG's oversight. We cannot afford any further delay in the office of the Special IG becoming operational. Accordingly, because the Emergency Economic Stabilization Act (EESA) did not specify the timing the Treasury Department must observe to transfer \$50 million to the Special IG to set up his office, my legislation would direct the Treasury Secretary to provide the TARP IG with \$50 million within three days after he is confirmed by the Senate. In addition, because the TARP IG must hire personnel to get up and running, my bill includes a proposal to waive applicable civil service rules that could delay that process. I am concerned that without this change, it may be summer before the TARP IG's office is sufficiently staffed to discharge its responsibilities.

Notably, EESA requires the TARP to address deficiencies that the Comptroller General identifies, or to certify to the appropriate committees of Congress that no action is necessary, but it places no similar requirement on the TARP regarding audit findings by the Special IG. My bill would place the same requirements on the TARP to address recommendations by the Special IG as are required by the findings of the Comptroller General.

Additionally, now that the Treasury Department has changed course and decided to inject capital directly into fi-

nancial institutions rather than purchase toxic and illiquid assets as originally contemplated, Congress must be sure that the Special IG has the authority to fully investigate any other type of transaction undertaken by TARP. Although many contend that the underlying statute provides the Special IG with the ability to investigate equity injections, with Treasury Secretary Paulson hinting that TARP may be expanded to benefit credit card, student loan, and car loan companies, and with the possibility that the incoming administration might enlarge the program further still in ways that we are not fully able to anticipate, it is imperative that the Special IG have the ability to conduct oversight over whatever way funds are ultimately expended. My legislation mandates that the Special IG can go wherever necessary to protect taxpayers.

Last but not least, as there is tremendous concern in many quarters that financial institutions will use the \$250 billion in equity injections they have been allocated pursuant to TARP to either purchase their weaker competitors or simply pay dividends to shareholders, I believe it is absolutely critical that the public understand exactly how these funds are being committed. Although I hope the funds will be used to promote lending, which is so critical to restoring economic growth and job creation, we must be sure that such lending occurs. Accordingly, my bill would require the TARP IG to prepare by July 1, 2009, an analysis for Congress of what exactly banks did with the \$250 billion they have received.

Finally, Mr. President, I would be remiss not to acknowledge similar legislation introduced yesterday by my colleagues Senators MCCASKILL, GRASSLEY, COLLINS, and LIEBERMAN. Although their legislation would speed the hiring process to allow the TARP IG to quickly begin operations, as well as allow the IG to investigate any initiative created as part of the program, it would not make some of the other changes I believe are absolutely vital. All that said, I hope that we can work together on a consensus, bipartisan package that can expeditiously clear the Senate.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 18

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Troubled Asset Relief Program Inspector General Improvement Act".

#### SEC. 2. FUNDING OF THE OFFICE OF THE SPECIAL INSPECTOR GENERAL.

Section 121(g)(1) of the Emergency Economic Stabilization Act of 2008 (division A of Public Law 110-343) is amended by inserting before the period at the end the following: ";

not later than 3 days after the date on which the nomination of the Special Inspector General is first confirmed by the Senate”.

### SEC. 3. OBLIGATION TO RESPOND TO AUDITS.

Section 121 of the Emergency Economic Stabilization Act of 2008 (division A of Public Law 110-343) is amended—

(1) by redesignating subsections (f), (g), and (h) as subsections (g), (h), and (i), respectively; and

(2) by inserting after subsection (e) the following:

“(f) CORRECTIVE RESPONSES TO AUDIT PROBLEMS.—The Secretary shall—

“(1) take action to address deficiencies identified by the Special Inspector General or other auditor engaged by the TARP; or

“(2) certify to appropriate committees of Congress that no action is necessary or appropriate.”.

### SEC. 4. ADDITIONAL OVERSIGHT MECHANISMS.

Section 121(c)(1) of the Emergency Economic Stabilization Act of 2008 (division A of Public Law 110-343) is amended by striking “purchase, management” and all that follows through “including” and inserting “activities of the Secretary in the expenditure or obligation of funds under this title, including”.

### SEC. 5. REPORTING REQUIREMENT.

Section 121(g) of the Emergency Economic Stabilization Act of 2008 (division A of Public Law 110-343), as so designated by this Act, is amended—

(1) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(2) by inserting after paragraph (1) the following:

“(2) Not later than July 1, 2009, the Special Inspector General shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives a report analyzing the use of any funds received by a financial institution under the TARP.”.

### SEC. 6. PERSONNEL AUTHORITIES.

Section 121(e)(1) of the Emergency Economic Stabilization Act of 2008 (division A of Public Law 110-343) is amended—

(1) by inserting “(A)” after “(1)”;

(2) by adding at the end the following:

“(B)(i) Subject to clause (ii), the Special Inspector General may exercise the employment authorities of subsections (b) through (i) of section 3161 of title 5, United States Code (without regard to subsection (a) of that section).

“(ii) In exercising the employment authorities under subsection (b) of section 3161 of title 5, United States Code, (as provided under clause (i)) the Special Inspector General may not make any appointment on or after the date occurring 1 year after the date of the first confirmation of a nomination for the Special Inspector General.”.

By Mrs. CLINTON (for herself and Mrs. MURRAY):

S. 20. A bill to prohibit the implementation or enforcement of certain regulations; to the Committee on Health, Education, Labor, and Pensions.

Mrs. CLINTON. Mr. President, as this session comes rapidly to a close, my colleague Senator MURRAY and I are introducing critical legislation to suspend the Bush administration's latest attempt to put ideology before women's health. The rule being proposed by the administration would limit patients' access to basic reproductive health care services and information.

The Protecting Patients and Health Care Act would prevent HHS from im-

plementing this ill-conceived, midnight regulation.

As you know, Senator MURRAY and I have been speaking out against this rule since July. The rule, as it was then proposed in August by the Department of Health and Human Services, is a serious threat to patients' access to information and care.

Then in September, Senator MURRAY and I had a very frank conversation with Secretary Leavitt about how this rule could create a slippery slope leading to patients being denied access to contraception and other important information or care. However, despite the important concerns we raised to the Secretary, the New York Times reported this past Monday that in the coming days, HHS plans to release a final regulation that would undermine women's health.

I am hopeful that my Senate colleagues from both sides of the aisle will join me today in supporting this important piece of legislation to protect patients' rights and health care.

By Mr. REID (for himself and Mr. HARKIN):

S. 3709. A bill to amend the Farm Security and Rural Investment Act of 2002 to expand the Rural Energy for America Program to include schools in rural areas; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. REID. Mr. President, today I am introducing legislation, along with my colleague Senator HARKIN, to create opportunities for schools, located in rural communities across this country, to compete for grants and loans to purchase energy systems or make energy efficiency improvements.

The recently passed Farm Bill authorized roughly \$1 billion in mandatory spending for renewable energy programs. One of those programs is The Rural Energy for America Program, REAP. This program provides loans, loan guarantees, and grants to agricultural producers and rural small businesses to invest in energy saving improvements to their current energy systems or to purchase renewable energy systems. Examples include purchasing or replacing equipment with more efficiency units, such as lighting or insulation, or the wholesale installment of energy projects that produce energy from wind, solar, biomass, geothermal, and hydrogen-based sources to produce any form of energy including, heat, electricity, or fuel.

My legislation would authorize an additional \$100 million over 5 years for these grants and in effect expand the scope of the program, allowing it to better meet the needs of rural communities and creating important incentives for institutions to invest in renewable technology. It is my hope that Congress will support this legislation and its goal of helping rural communities play a key role in our Nation's energy future.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3709

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. RURAL ENERGY FOR AMERICA PROGRAM.

(a) IN GENERAL.—Section 9007 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8107) is amended—

(1) by striking “and rural small businesses” each place it appears and inserting “, rural small businesses, and rural schools”; and

(2) in subsection (b)(6) and (c)(3)(A), by striking “or rural small business” each place it appears and insert “, rural small business, or rural school”.

(b) DEFINITION OF RURAL SCHOOL.—Section 9007(a) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8107(a) is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting appropriately; and

(2) by striking “The Secretary” and inserting the following:

“(1) DEFINITION OF RURAL SCHOOL.—In this section, the term ‘rural school’ means a school in a rural area (as defined in section 343(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a))).

“(2) ESTABLISHMENT.—The Secretary”.

(c) MANDATORY FUNDING.—Section 9007(g)(1) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8107(g)(1) is amended—

(1) by redesignating subparagraphs (A) through (D) as clauses (i) through (iv), respectively, and indenting appropriately;

(2) by striking “Of the funds” and inserting the following:

“(A) IN GENERAL.—Of the funds”; and

(3) by adding at the end the following:

“(B) FUNDING FOR RURAL SCHOOLS.—In addition to amounts made available under subparagraph (A), of the funds of the Commodity Credit Corporation, the Secretary shall use to provide assistance to rural schools under this section, \$20,000,000 for each of fiscal years 2009 through 2013, to remain available until expended.”.

Mr. HARKIN. Mr. President, today I am proud to cosponsor this legislation to expand the Rural Energy for America Program, REAP, to include schools in rural areas. This amendment to the program will encourage our rural schools to carry out energy efficiency projects and install renewable energy systems, thus reducing their dependence on fossil energy and reducing future energy costs. I am proud to join my colleague, Senator REID of Nevada, as a cosponsor of this bill.

The Rural Energy for America Program, enacted in the 2008 farm bill—the Food, Conservation, and Energy Act of 2008—is an expansion of the very successful section 9006 program which was established by the 2002 farm bill. The program has supported over 2,000 renewable energy and energy efficiency projects for farmers, ranchers, and rural small businesses since its enactment. Most impressive is the fact that the Federal investments in these projects were matched by almost 10 times as much in funding from the developers of the projects and other sources. This truly is a hallmark of a

successful Federal program, exactly the kind of program that deserves expansion, especially because it supports rural economic development while helping to provide us with cleaner and more sustainable energy systems. Expanding this program to rural schools just makes sense—they foster rural economic development and should be able to take part in this transition to better energy systems and to realize the associated environmental and economic benefits.

I urge my Senate colleagues to join me in passing this important legislation.

By Mr. REID (for himself, Mr. MCCONNELL, Mr. LEAHY, Mr. HATCH, Mr. GRASSLEY, Mrs. FEINSTEIN, and Mr. BINGAMAN):

S. 3711. A bill to authorize a cost of living adjustment for the Federal judiciary; considered and passed.

Mr. REID. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be placed in the RECORD, as follows:

S. 3711

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. COST OF LIVING ADJUSTMENT FOR THE FEDERAL JUDICIARY.

Pursuant to section 140 of Public Law 97-92, justices and judges of the United States are authorized during fiscal year 2009 to receive a salary adjustment in accordance with section 461 of title 28, United States Code.

By Mr. DURBIN (for himself and Mr. AKAKA):

S. 3713: A bill to provide for the integration of the Captain James A. Lovell Federal Health Care Center and the Great Lakes Naval Health Clinic, and for other purposes; to the Committee on Armed Services.

Mr. DURBIN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be placed in the RECORD, as follows:

S. 3713

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Captain James A. Lovell Federal Health Care Center Act of 2008”.

#### SEC. 2. TRANSFER OF PROPERTY.

(a) TRANSFER.—

(1) TRANSFER AUTHORIZED.—Upon the conclusion of a resource-sharing agreement between the Secretary of Defense and the Secretary of Veterans Affairs providing for the joint use by the Department of Defense and the Department of Veterans Affairs of a facility and supporting facilities in North Chicago, Illinois, and Great Lakes, Illinois, and for joint use of related medical personal property and equipment, the Secretary of Defense may transfer, without reimbursement, to the Department of Veterans Affairs the Navy ambulatory care center (on which construction commenced in July 2008), parking structure, and supporting facilities, and

related medical personal property and equipment, located in Great Lakes, Illinois.

(2) DESIGNATION OF JOINT USE FACILITY.—The facility and supporting facilities subject to joint use under the agreement and transfer under this subsection shall be designated as known as the “Captain James A. Lovell Federal Health Care Center”.

(b) REVERSION.—

(1) IN GENERAL.—If any of the real and related personal property transferred pursuant to subsection (a) is subsequently used for purposes other than the purposes specified in the joint use specified in the resource-sharing agreement described in that subsection or otherwise determined by the Secretary of Veterans Affairs to be excess to the needs of the Department of Veterans Affairs, the Secretary of Veterans Affairs shall offer to transfer such property, without reimbursement, to the Secretary of Defense. Any such transfer shall be completed not later than one year after the acceptance of the offer of transfer.

(2) REVERSION IN EVENT OF LACK OF FACILITIES INTEGRATION.—

(A) WITHIN INITIAL PERIOD.—During the 5-year period beginning on the date of the transfer of the real and related personal property described in subsection (a), if the Secretary of Veterans Affairs and the Secretary of Defense jointly determine that the integration of the facilities described in that subsection should not continue, the real and related personal property of the Navy ambulatory care center, parking structure, and support facilities described in that subsection shall be transferred, without reimbursement, to the Secretary of Defense. Such transfer shall occur not later than 180 days after the date of such determination by the Secretaries.

(B) AFTER INITIAL PERIOD.—After the end of the 5-year period described in subparagraph (A), if either the Secretary of Veterans Affairs or the Secretary of Defense determines that the integration of the facilities described in subsection (a) should not continue, the Secretary of Veterans Affairs shall transfer, without reimbursement, to the Secretary of Defense the real and related personal property described in paragraph (1). Such transfer shall occur not later than one year after the date of the determination by the Secretary concerned.

#### SEC. 3. TRANSFER OF CIVILIAN PERSONNEL OF THE DEPARTMENT OF DEFENSE.

(a) AUTHORIZATION FOR TRANSFER OF FUNCTIONS.—

(1) IN GENERAL.—The Secretary of Defense may transfer to the Department of Veterans Affairs, and the Secretary of Veterans Affairs may accept from the Department of Defense, functions necessary for the effective operation of the Captain James A. Lovell Federal Health Care Center.

(2) TREATMENT OF TRANSFERS.—Any transfer of functions under this subsection is a transfer of functions within the meaning of section 3503 of title 5, United States Code.

(b) TERMS OF AGREEMENT.—

(1) RESOURCE-SHARING AGREEMENT.—Any transfer of functions under subsection (a) shall be effectuated in a resource-sharing agreement between the Secretary of Defense and the Secretary of Veterans Affairs.

(2) ELEMENTS.—Notwithstanding any other provision of law, including but not limited to any provisions of title 5, United States Code, relating to transfers of function or reductions-in-force, the agreement described in paragraph (1) shall be controlling and may make provision for—

(A) the transfer of civilian employee positions of the Department of Defense identified in the agreement to the Department of Veterans Affairs and of the incumbent civilian employees in such positions;

(B) the transition of transferred employees to pay, benefits, and personnel systems of the Department of Veterans Affairs in a manner which will not result in any reduction of pay, grade, or employment progression of any employee or any change in employment status for employees who have already successfully completed or are in the process of completing a one-year probationary period under title 5, United States Code;

(C) the establishment of integrated seniority lists and other personnel management provisions that recognize an employee's experience and training so as to provide comparable recognition of employees previously with the Department of Veterans Affairs and employees newly transferred to such Department; and

(D) such other matters relating to civilian personnel management as the Secretary of Defense and the Secretary of Veterans Affairs consider appropriate.

(c) PRESERVATION OF AUTHORITY.—Notwithstanding subsections (a) and (b), nothing in this section shall be construed as limiting the authority of the Secretary of Defense to establish civilian employee positions in the Department of Defense and utilize all civilian personnel authorities otherwise available to the Secretary if the Secretary determines that such actions are necessary and appropriate to meet mission requirements of the Department of Defense.

#### SEC. 4. EXTENSION AND EXPANSION OF JOINT INCENTIVE FUND.

(a) TEN-YEAR EXTENSION OF AUTHORITY FOR JOINT INCENTIVES PROGRAM.—Paragraph (3) of section 811(d) of title 38, United States Code, is amended by striking “2010” and inserting “2020”.

(b) FUNDING OF MAINTENANCE AND MINOR CONSTRUCTION FROM THE JOINT INCENTIVE FUND.—Paragraph (2) of such section is amended by adding at the end the following new sentence: “Such purposes shall include real property maintenance and minor construction projects that are not required to be specifically authorized by law under section 8104 of this title and section 2805 of title 10.”.

#### SEC. 5. HEALTH CARE ELIGIBILITY FOR SERVICES AT THE CAPTAIN JAMES A. LOVELL FEDERAL HEALTH CARE CENTER.

(a) IN GENERAL.—For purposes of eligibility for health care under chapter 55 of title 10, United States Code, the Captain James A. Lovell Federal Health Care Center authorized by this Act may be deemed to be a facility of the uniformed services to the extent provided in an agreement between the Secretary of Defense and the Secretary of Veterans Affairs under subsection (b).

(b) ELEMENTS OF AGREEMENT.—Subsection (a) may be implemented through an agreement between the Secretary of Veterans Affairs and the Secretary of Defense. The agreement may—

(1) establish an integrated priority list for access to available care at the facility described in subsection (a), integrating the respective priority lists of the Secretaries, taking into account categories of beneficiaries, enrollment program status, and such other factors as the Secretaries determine appropriate;

(2) incorporate any resource-related limitations for access to care at that facility established by the Secretary of Defense for purposes of administering space-available eligibility for care in facilities of the uniformed services under chapter 55 of title 10, United States Code;

(3) allocate financial responsibility for care provided at that facility for individuals who are eligible for care under both title 38, United States Code, and chapter 55 of title 10, United States Code; and

(4) waive the applicability to that facility of any provision of section 8111(e) of title 38, United States Code, as specified by the Secretaries.

By Mr. HARKIN:

S. 3714. A bill to amend the Commodity Exchange Act to ensure that all agreements, contracts, and transactions with respect to commodities are carried out on a regulated exchange, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. HARKIN. Mr. President, today, I am introducing legislation—the Derivatives Trading Integrity Act—which calls for establishing stronger standards of openness, transparency and integrity in the trading of financial swaps and other over-the-counter derivatives as a critical step toward rebuilding and restoring confidence in the financial system. With the total face value of swaps reaching a high of some \$531 trillion at the middle of this year—8-and-a-half times the world GDP of \$62 trillion—it is long past time for accountability in these markets. Over the years, the Commodity Futures Trading Commission and Congress have responded to concerns of the swaps industry by allowing instruments that are in form and function futures contracts to be privately negotiated without the safeguards provided through exchange trading.

The economic downturn in this country is forcing us to examine all contributing factors to the crisis in our financial markets. By restoring reasonable safeguards and regulation of swaps, including credit default swaps, along with all other futures contracts, this legislation will go a long way to restore confidence in the markets and reestablish soundness and integrity in the financial system. My bill will end the unregulated “casino capitalism” that has engendered great risks in swaps trading. And it will bring these transactions out into the sunlight where they can be monitored and appropriately and responsibly regulated. This legislation will establish authority and safeguards to ensure that parties can meet their obligations to manage and reduce danger and risk to the entire financial system and economy.

Virtually all contracts now commonly referred to as swaps fall under the definition of futures contracts and function basically in the same manner as futures contracts. This bill amends the Commodity Exchange Act to eliminate the distinction in futures contracts among “excluded” and “exempt” commodities and regulated, exchange-traded commodities; futures contracts for all commodities would be treated the same.

In addition, the bill eliminates the statutory exclusion of swap transactions from regulation, and it ends the Commodity Futures Trading Commission’s authority to exempt such transactions from the general requirement that a contract for the purchase or sale of a commodity for future deliv-

ery can only trade on a regulated board of trade. In effect, this means that all futures contracts must trade on a designated contract market or a derivatives transaction execution facility.

Last month, the Senate Committee on Agriculture, Nutrition and Forestry heard dramatic testimony about the impact of unregulated financial derivatives on the U.S. economy. We have seen large negative consequences from the lack of price transparency and the failure to properly measure and collateralize the risk in trading over-the-counter derivatives. The problems have not been in the trading of financial futures on regulated futures markets, subject to the oversight of the Commodity Futures Trading Commission.

This legislation I am introducing will establish the standards that all futures contracts trade on regulated exchange. The regulated exchanges will work with the Commodity Futures Trading Commission to ensure that trading on the exchange is fair and equitable and not subject to abuses. The Commodity Futures Trading Commission has the experience and expertise to oversee these matters.

Bringing necessary openness, transparency, soundness, and integrity to trading in contracts which are now unregulated over-the-counter swaps and related derivatives is a key element in restoring trust and confidence in the financial system so that we can rebuild our economy on a solid foundation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3714

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Derivatives Trading Integrity Act of 2008”.

#### SEC. 2. REGULATION OF CERTAIN AGREEMENTS, CONTRACTS, AND TRANSACTIONS.

(a) DEFINITIONS.—Section 1a of the Commodity Exchange Act (7 U.S.C. 1a) is amended—

(1) by striking paragraphs (10), (11), (13), (14), and (33); and

(2) by redesignating—

(A) paragraph (12) as paragraph (10);

(B) paragraphs (15) through (32) as paragraphs (11) through (28), respectively; and

(C) paragraph (34) as paragraph (29).

(b) EXCLUSIONS.—Section 2 of the Commodity Exchange Act (7 U.S.C. 2) is amended—

(1) by striking subsections (d), (e), (g), (h), and (i); and

(2) by redesignating subsection (f) as subsection (d).

(c) RESTRICTION OF FUTURES TRADING TO CONTRACT MARKETS OR DERIVATIVES TRANSACTION EXECUTION FACILITIES.—Section 4 of the Commodity Exchange Act (7 U.S.C. 6) is amended—

(1) in subsection (a), in the matter preceding paragraph (1), by striking “Unless exempted by the Commission pursuant to subsection (c), it shall” and inserting “It shall”;

(2) by striking subsection (c); and

(3) by redesignating subsection (d) as subsection (c).

(d) EXEMPT BOARDS OF TRADE.—Section 5d of the Commodity Exchange Act (7 U.S.C. 7a-3) is repealed.

#### SEC. 3. CONFORMING AMENDMENTS.

(a) Section 1a of the Commodity Exchange Act (7 U.S.C. 1a) (as amended by section 2(a)(2)) is amended—

(1) in paragraph (10)(A)(x), by striking “(other than an electronic trading facility with respect to a significant price discovery contract)”;

(2) in paragraph (25)—

(A) in subparagraph (C), by inserting “and” after the semicolon at the end;

(B) in subparagraph (D), by striking “; and” and inserting a period; and

(C) by striking subparagraph (E); and

(3) in paragraph (27), by striking “section 2(c), 2(d), 2(f), or 2(g) of this Act” and inserting “subsection (c) or (d) of section 2”.

(b) Section 2(c) of the Commodity Exchange Act (7 U.S.C. 2(c)) is amended—

(1) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking “5d.”; and

(B) in subparagraph (F), by striking “in an excluded commodity”;

(2) in paragraph (2)(B)(i)(II)—

(A) in item (cc), by striking “section 1a(20) of this Act” each place it appears and inserting “section 1a(16)”;

(B) in item (dd), by striking “section 1a(12)(A)(i) of this Act” and inserting “section 1a(10)(A)(ii)”.

(c) Section 4a of the Commodity Exchange Act (7 U.S.C. 6a) is amended—

(1) in subsection (a)—

(A) in the first sentence, by striking “or on electronic trading facilities with respect to a significant price discovery contract”;

(B) in the second sentence, by striking “or on an electronic trading facility with respect to a significant price discovery contract”;

(2) in subsection (b)—

(A) in paragraph (1), by striking “or electronic trading facility with respect to a significant price discovery contract”;

(B) in paragraph (2), in the matter preceding the proviso, by striking “or electronic trading facility with respect to a significant price discovery contract”;

(3) in subsection (e)—

(A) in the first sentence—

(i) in the matter preceding the proviso—

(I) by striking “or by any electronic trading facility”;

(II) by striking “or on an electronic trading facility”;

(III) by striking “or electronic trading facility”;

(ii) in the proviso, by striking “or electronic trading facility”;

(B) in the second sentence, in the matter preceding the proviso, by striking “or electronic trading facility with respect to a significant price discovery contract”.

(d) Section 4g(a) of the Commodity Exchange Act (7 U.S.C. 6g(a)) is amended by striking “and in any significant price discovery contract traded or executed on an electronic trading facility or”.

(e) Section 4i of the Commodity Exchange Act (7 U.S.C. 6i) is amended—

(1) in the matter preceding paragraph (1), by striking “or any significant price discovery contract traded or executed on an electronic trading facility”;

(2) in the matter following paragraph (2), by striking “or electronic trading facility”.

(f) Section 5a of the Commodity Exchange Act (7 U.S.C. 7a) is amended—

(1) in subsection (b)(2)—

(A) in subparagraph (D)(ii), by inserting “or” after the semicolon at the end;

(B) in subparagraph (E), by striking “; or” and inserting a period; and

(C) by striking subparagraph (F); and

(2) in subsection (g)—

(A) in the heading, by striking “ELECTION TO TRADE EXCLUDED AND EXEMPT COMMODITIES” and inserting “EXCLUDED SECURITIES”; and

(B) in paragraph (1)—

(i) by striking “excluded or exempt commodities other than” and inserting “commodities other than an agricultural commodity enumerated in section 1a(4) or”; and

(ii) by striking “, 2(d), (c), or 2(g) of this Act, or exempt under section 2(h) of this Act”.

(g) Section 5b of the Commodity Exchange Act (7 U.S.C. 7a-1) is amended—

(1) in subsection (a)(1), by striking “section 2(a)(1)(C)(i), 2(c), 2(d), 2(f), or 2(g) of this Act or title IV of the Commodity Futures Modernization Act of 2000, or exempted under section 2(h) or 4(c) of this Act” and inserting “subsection (a)(1)(C)(i), (c), or (d) of section 2 or title IV of the Commodity Futures Modernization Act of 2000 (Public Law 106-554; 114 Stat. 2763A457)”; and

(2) in subsection (b), by striking “section 2(c), 2(d), 2(f), or 2(g) of this Act or title IV of the Commodity Futures Modernization Act of 2000, or exempted under section 2(h) or 4(c) of this Act” and inserting “subsection (c) or (d) of section 2 or title IV of the Commodity Futures Modernization Act of 2000 (Public Law 106-554; 114 Stat. 2763A457)”.

(h) Section 5c of the Commodity Exchange Act (7 U.S.C. 7a-2) is amended—

(1) in subsection (a)(1), by striking “and section 2(h)(7) with respect to significant price discovery contracts,”;

(2) in subsection (b)—

(A) in paragraph (1), by striking “, derivatives transaction execution facility, or electronic trading facility with respect to a significant price discovery contract” and inserting “or derivatives transaction execution facility”; and

(B) in paragraphs (2) and (3), by striking “, derivatives transaction execution facility, or electronic trading facility” each place it appears and inserting “or derivatives transaction execution facility”; and

(3) in subsection (d)(1), in the matter preceding subparagraph (A), by striking “or 2(h)(7)(C) with respect to a significant price discovery contract traded or executed on an electronic trading facility,”.

(i) Section 5e of the Commodity Exchange Act (7 U.S.C. 7b) is amended by striking “or revocation of the right of an electronic trading facility to rely on the exemption set forth in section 2(h)(3) with respect to a significant price discovery contract,”.

(j) Section 5f(b)(1) of the Commodity Exchange Act (7 U.S.C. 7b-1(b)(1)) is amended in the matter preceding subparagraph (A), by striking “section 5f” and inserting “this section”.

(k) Section 6(b) of the Commodity Exchange Act (7 U.S.C. 8(b)) is amended—

(1) in the first sentence—

(A) by striking “or to revoke the right of an electronic trading facility to rely on the exemption set forth in section 2(h)(3) with respect to a significant price discovery contract,”; and

(B) by striking “or electronic trading facility”; and

(2) in the second sentence, in the matter preceding the proviso, by striking “or electronic trading facility”.

(l) Section 12(e) of the Commodity Exchange Act (7 U.S.C. 16(e)) is amended by striking paragraph (2) and inserting the following:

“(2) EFFECT.—This Act supersedes and preempts the application of any State or local law that prohibits or regulates gaming or the operation of bucket shops (other than antifraud provisions of general applicability) in the case of an agreement, contract, or

transaction that is excluded from this Act under—

“(A) subsection (c) or (d) of section 2; or

“(B) title IV of the Commodity Futures Modernization Act of 2000 (Public Law 106-554; 114 Stat. 2763A457).”.

(m) Section 15(b) of the Commodity Exchange Act (7 U.S.C. 19(b)) is amended by striking “4(c) or”.

(n) Section 22(b)(1)(A) of the Commodity Exchange Act (7 U.S.C. 25(b)(1)(A)) is amended by striking “by section 2(h)(7) or sections 5 through 5c” and inserting “under sections 5 through 5c”.

(o) Section 13106(b)(1) of the Food, Conservation, and Energy Act of 2008 (7 U.S.C. 2 note; Public Law 110-246) is amended by striking “section 1a(32)” and inserting “section 1a”.

By Mr. LEVIN (for himself, Mr. BOND, Ms. STABENOW, Mr. VOINOVICH, Mr. BROWN, Mr. SPECTER, and Mr. CASEY):

S. 3715. A bill to provide for emergency bridge loan assistance to automobile manufacturers and component suppliers; to the Committee on Appropriations.

Mr. President, I am pleased to introduce with my colleagues the Auto Industry Emergency Bridge Loan Act.

This legislation is the product of a bipartisan effort to provide bridge loans of up to \$25 billion to the auto industry. Auto industries around the world, including China and Europe, are requesting loans from their governments because of the dramatic decline of the global economy and the drastic reduction in car purchases and the availability of credit.

Our proposition is not only bipartisan. It is a hybrid proposal combining provisions from many sources.

We incorporate Leader REID’s provisions on strong taxpayer protections, including stock warrants for the government, provisions restricting executive compensation, including bonuses and golden parachutes, and provisions requiring long term plans for financial viability. Suppliers are also made eligible for the loans.

The language of Chairman BARNEY FRANK, of the House Financial Services Committee, was heavily utilized including retention of Section 136’s environmental standards, such as 25 percent improvement in fuel economy and Tier II emissions standards. His oversight board membership approach is also included.

The White House opposed the use of any of the \$700 billion, already-appropriated stabilization fund, and the Majority Leader said yesterday that there were not enough votes in the Senate to pass an amendment using those funds. We cannot allow the issue of which source of already appropriated funds will be used for the essential purpose of preventing the economy from sliding into a depression, which is a real possibility if one or more of the domestic auto companies goes under, given the impact of the auto industry on millions of jobs, on suppliers that are in most of our States and on all of our communities which have Big 3 auto dealers.

So we agreed that the only alternative which can prevent those disastrous results is for the funding stream for the loans to come from the so-called Section 136 appropriation that we provided earlier this year in the consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009. However, the structure of Section 136 is preserved in permanent law for the balance of its appropriation not utilized for loans, and the environmental standards of section 136, including strengthened fuel economy and emissions standards, are preserved. Also, loan repayments will be used to replenish Section 136, along with any proceeds from the sale of company stock owned by the government.

Under our proposal, this emergency bridge loan program would be administered by the Secretary of Commerce.

The time for Congress to act on this pressing issue is growing short. People in communities across this country are anxiously watching to see what we are going to do. They are sick with worry. Not acting on a solution will provoke anger and frustration in hundreds of communities which supply components or have auto dealers. This is a Main Street issue—a direct jobs issue for millions of families.

I know there is frustration with the past actions of the U.S. auto companies. Some blame them for the quality problems of the 1970s, or for paying their executives and their workers too much, or for not moving aggressively enough to produce advanced technology, fuel efficient cars. But we can’t throw millions of jobs, a vital segment of our industrial base and our economy overboard just because of this frustration.

President Bush, President-elect Obama, and the leadership and probably a majority of the Congress all agree that we needed to provide bridge loans to support the U.S. auto industry, and I am pleased that the leadership of the Congress has said that we will address this issue beginning December 8.

The stakes for our future economic security and well-being are enormous. One way or another, we must provide the bridge loans for the domestic auto industry—for the sake of millions of workers and their future and to keep our economy from being pushed into a depression.

I want to thank the cosponsors of this legislation, Senator BOND, Senator STABENOW, Senator VOINOVICH, Senator BROWN, Senator SPECTER and Senator CASEY for their assistance in preparing this bipartisan legislation, and I urge my colleagues to join us in supporting it.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:



S. 3715

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Auto Industry Emergency Bridge Loan Act”.

**SEC. 2. DEFINITIONS.**

In this Act:

(1) **AUTOMOBILE MANUFACTURER OR COMPONENT SUPPLIER.**—The term “automobile manufacturer or component supplier” means an automobile manufacturer or component supplier or any successor thereto.

(2) **GOLDEN PARACHUTE PAYMENT.**—The term “golden parachute payment” means any payment to a senior executive officer for departure from a company for any reason.

(3) **FINANCIAL VIABILITY.**—The term “financial viability” means, using generally acceptable accounting principles, that there is a reasonable prospect that the applicant will be able to make payments of principal and interest on the loan as and when such payments become due under the terms of the loan documents, and that the applicant has a net present value that is positive.

(4) **SECRETARY.**—The term “Secretary” means the Secretary of Commerce.

(5) **SENIOR EXECUTIVE OFFICER.**—The term “senior executive officer” means an individual who is 1 of the top 5 most highly paid executives of a public company, whose compensation is required to be disclosed pursuant to the Securities Exchange Act of 1934, and any regulations issued thereunder, and nonpublic company counterparts.

**SEC. 3. AUTO INDUSTRY EMERGENCY BRIDGE LOAN PROGRAM.**

On or before March 31, 2009, the Secretary shall make loans from funds provided under this section to automobile manufacturers or component suppliers that have—

(1) operations in the United States, the failure of which would have a systemic adverse effect on the overall United States economy or a significant loss of United States jobs, as determined by the Secretary;

(2) operated a manufacturing facility for the purposes of producing automobiles or automobile components in the United States throughout the 20-year period ending on the date of the enactment of this Act; and

(3) submitted a complete application for a loan under this section pursuant to section 4(a), which has been determined eligible under section 4(b).

**SEC. 4. PLAN TO ENSURE FINANCIAL VIABILITY OF BORROWER.**

(a) **IN GENERAL.**—At the time of application for a loan under this Act, an automobile manufacturer or component supplier shall submit to the Secretary a detailed plan that describes how the requested Government funds—

(1) would be utilized to ensure the financial viability of the manufacturer or supplier; and

(2) would stimulate automobile production in the United States; and

(3) would improve the capacity of the manufacturer or supplier to pursue the timely and aggressive production of energy-efficient advanced technology vehicles.

(b) **PLAN CONTENTS.**—A plan submitted under this section shall detail cost control measures and performance goals and milestones.

**SEC. 5. APPLICATIONS, ELIGIBILITY AND DISBURSEMENTS.**

(a) **APPLICATIONS.**—On and after the date that is 3 days after the date of the enactment of this Act, the Secretary shall accept applications for loans under this Act.

(b) **DETERMINATION OF ELIGIBILITY.**—Not later than 15 days after the date on which the Secretary receives a complete applica-

tion for a loan under subsection (a), the Secretary shall, after consultation with other Executive Branch officials, determine whether—

(1) the applicant meets the requirements described in sections 3 and 4;

(2) the disbursement of funds and the successful implementation of the required plan would ensure the financial viability of the applicant; and

(3) the applicant is therefore eligible to receive a loan under this Act.

(c) **DISBURSEMENT.**—The Secretary shall begin disbursement of the proceeds of a loan under this Act to an eligible applicant not later than 7 days after the date on which the Secretary receives a disbursement request from the applicant.

(d) **WARRANTS AND DEBT INSTRUMENTS.**—The Secretary may not make a loan under this Act unless the Secretary receives from the automobile manufacturer or component supplier a warrant or senior debt instrument from the manufacturer made in accordance with the requirements for a warrant or senior debt instrument by a financial institution under section 113(d) of the Emergency Economic Stabilization Act of 2008 (division A of Public Law 110-343).

**SEC. 6. REPLENISHMENT OF ADVANCED TECHNOLOGY VEHICLE MANUFACTURING INCENTIVE PROGRAM.**

(a) **EQUITY SALES.**—

(1) **SALES AUTHORIZED.**—The Secretary may sell, exercise, or surrender any equity instrument received under this Act.

(2) **TURNAROUND PROFITS TO RESTORE ADVANCED VEHICLES MANUFACTURING INCENTIVE PROGRAM.**—Proceeds received from a sale, exercise, or surrender under paragraph (1) may be credited to the appropriate Government financing account made available to fulfill the advanced technology vehicle manufacturing incentive purpose under section 136 of the Energy Independence and Security Act of 2007 (Public Law 110-140; 42 U.S.C. 17013) until the amount loaned under this Act has been repaid.

(3) **REDUCTION OF PUBLIC DEBT.**—Proceeds received from a sale, exercise, or surrender under paragraph (1) that takes place after the amount loaned under this Act has been repaid in accordance with paragraph (2) may be used to reduce the public debt.

(b) **REPAID LOAN FUNDS.**—

(1) **IN GENERAL.**—Loan amounts repaid under this Act may be credited to the appropriate Government financing account made available to fulfill the advanced technology vehicle manufacturing incentive purpose of section 136 of the Energy Independence and Security Act of 2007 until the amount loaned under this Act is repaid.

(2) **REDUCTION OF PUBLIC DEBT.**—Loan amounts repaid under this Act after the amount loaned under this Act has been repaid may be used to reduce the public debt.

**SEC. 7. LIMITS ON EXECUTIVE COMPENSATION.**

(a) **STANDARDS REQUIRED.**—The Secretary shall require any recipient of a loan under this Act to meet appropriate standards for executive compensation and corporate governance.

(b) **SPECIFIC REQUIREMENTS.**—The standards established under subsection (a) shall include the following:

(1) Limits on compensation that exclude incentives for senior executive officers of a recipient of a loan under this Act to take unnecessary and excessive risks that threaten the value of such recipient during the period that the loan is outstanding.

(2) A provision for the recovery by such recipient of any bonus or incentive compensation paid to a senior executive officer based on statements of earnings, gains, or other criteria that are later found to be materially inaccurate.

(3) A prohibition on such recipient making any golden parachute payment to a senior executive officer during the period that the loan under this Act is outstanding.

(4) A prohibition on such recipient paying or accruing any bonus or incentive compensation during the period that the loan under this Act is outstanding to any executive whose annual base compensation exceeds \$250,000 (which amount shall be adjusted by the Secretary for inflation).

(5) A prohibition on any compensation plan that could encourage manipulation of the reported earnings of the recipient to enhance compensation of any of its employees.

**SEC. 8. PROHIBITION ON THE USE OF LOAN PROCEEDS FOR LOBBYING ACTIVITIES.**

(a) **IN GENERAL.**—A recipient of a loan under this Act may not use such funds for any lobbying expenditures or political contributions.

(b) **DEFINITIONS.**—In this section:

(1) **LOBBYING EXPENDITURES.**—The term “lobbying expenditures” has the meaning given the term in section 4911(c)(1) of the Internal Revenue Code of 1986.

(2) **POLITICAL CONTRIBUTIONS.**—The term “political contribution” means any contribution on behalf of a political candidate or to a separate segregated fund described in section 316(b)(2)(C) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441b(b)(2)(C)).

**SEC. 9. PROHIBITION ON PAYMENT OF DIVIDENDS.**

No common stock dividends may be paid by any recipient of a loan under this Act for the duration of the loan.

**SEC. 10. AUTO INDUSTRY EMERGENCY BRIDGE LOAN OVERSIGHT BOARD.**

(a) **ESTABLISHMENT.**—There is established the Auto Industry Emergency Bridge Loan Oversight Board (in this section referred to as the “Board”), which shall be responsible for reviewing and providing advice concerning the exercise of authority under this Act, including—

(1) the progress of the applicant in meeting the performance goals and milestones under its financial viability plan required under section 4;

(2) recommending changes, as necessary and appropriate, to the Secretary in meeting the goals and milestones under the financial viability plan, and senior management and board of directors to the automobile manufacturers and component suppliers assisted under this Act; and

(3) reporting any suspected fraud, misrepresentation, or malfeasance to the Inspector General of the Department of Commerce or the Attorney General of the United States, consistent with section 535(b) of title 28, United States Code.

(b) **MEMBERSHIP.**—The Board shall be comprised of—

(1) the Secretary of Commerce;

(2) the Secretary of Energy;

(3) the Secretary of Transportation;

(4) the Secretary of the Treasury;

(5) the Secretary of Labor; and

(6) the Administrator of the Environmental Protection Agency.

(c) **CHAIRPERSON.**—The chairperson of the Board shall be the Secretary of Commerce.

(d) **MEETINGS.**—The Board shall meet—

(1) not later than 14 days after the first disbursement of funds provided under this Act; and

(2) not less frequently than monthly thereafter.

(e) **REPORTS.**—The Board shall report to the appropriate committees of Congress, not less frequently than quarterly, on the matters described under this section.

(f) **OVERSIGHT OF TRANSACTIONS AND FINANCIAL CONDITION.**—

(1) **DUTY TO INFORM.**—During the period in which any loan extended under this Act remains outstanding, the recipient of such

loan shall promptly inform the Secretary and the Board of—

(A) any asset sale, investment, or commitment for any asset sale or investment proposed to be entered into by such recipient that has a value in excess of \$25,000,000; and

(B) any other material change in the financial condition of such recipient.

(2) **AUTHORITY OF THE SECRETARY.**—During the period in which any loan extended under this Act remains outstanding, the Secretary, in consultation with the Board, may—

(A) promptly review any asset sale or investment described in paragraph (1) or any commitment for such asset sale or investment; and

(B) direct the recipient of the loan that it should not consummate such proposed sale or investment or commitment for such sale or investment.

(3) **REGULATIONS.**—The Board may establish, by regulation, procedures for conducting any review under this subsection.

(g) **TERMINATION.**—The Board, and its authority under this section, shall terminate not later than 6 months after the date on which the last loan amounts under this section are repaid.

#### **SEC. 11. PRIORITIZATION OF LOAN ALLOCATIONS.**

In allocating loan amounts under this Act, the Secretary shall consider the magnitude of the impact of the manufacturing operations of the applicant in the United States on the overall economy of the United States and other segments of the automobile industry, including the impact on levels of employment, domestic manufacturing of automobiles and automobile components, and automobile dealerships.

#### **SEC. 12. RATE OF INTEREST.**

The annual rate of interest for a loan under this Act shall be—

(a) 5 percent during the 5-year period beginning on the date on which the Secretary disburses the loan; and

(b) 9 percent after the end of the period described in paragraph (1).

#### **SEC. 13. NO PREPAYMENT PENALTY.**

A loan made under this Act shall be prepayable without penalty at any time.

#### **SEC. 14. DISCHARGE.**

A discharge under title 11, United States Code, shall not discharge the borrower from any debt for funds authorized to be disbursed under this Act.

#### **SEC. 15. FEES.**

(a) **IN GENERAL.**—The Secretary may charge and collect fees for disbursements under this Act in amounts that the Secretary determines are sufficient to cover applicable administrative expenses.

(b) **AVAILABILITY.**—Fees collected under this section—

(1) shall be deposited by the Secretary into the Treasury of the United States;

(2) shall be used by the Secretary to pay administrative expenses of making awards and loans under this Act; and

(3) shall remain available until expended, without further appropriation.

#### **SEC. 16. JUDICIAL REVIEW AND RELATED MATTERS.**

(a) **STANDARDS.**—Actions by the Secretary pursuant to the authority of this Act shall be subject to chapter 7 of title 5, United States Code, including that such final actions shall be held unlawful and set aside if found to be arbitrary, capricious, an abuse of discretion, or not in accordance with law.

(b) **LIMITATIONS ON EQUITABLE RELIEF.**—

(1) **INJUNCTION.**—No injunction or other form of equitable relief shall be issued against the Secretary for actions pursuant to this Act, other than to remedy a violation of the Constitution.

(2) **TEMPORARY RESTRAINING ORDER.**—Any request for a temporary restraining order against the Secretary for actions pursuant to this Act shall be considered and granted or denied by the court within 3 days of the date of the request.

(3) **PRELIMINARY INJUNCTION.**—Any request for a preliminary injunction against the Secretary for actions pursuant to this Act shall be considered and granted or denied by the court on an expedited basis consistent with the provisions of rule 65(b)(3) of the Federal Rules of Civil Procedure, or any successor to such rule.

(4) **PERMANENT INJUNCTION.**—Any request for a permanent injunction against the Secretary for actions pursuant to this Act shall be considered and granted or denied by the court on an expedited basis. Whenever possible, the court shall consolidate trial on the merits with any hearing on a request for a preliminary injunction, consistent with the provisions of rule 65(a)(2) of the Federal Rules of Civil Procedure, or any successor to such rule.

(5) **LIMITATION ON ACTIONS BY PARTICIPATING COMPANIES.**—No action or claims may be brought against the Secretary by any person that divests its assets with respect to its participation in a program under this Act, except as provided in paragraph (1), other than as expressly provided in a written contract with the Secretary.

(6) **STAYS.**—Any injunction or other form of equitable relief issued against the Secretary for actions pursuant to this Act shall be automatically stayed. The stay shall be lifted, unless the Secretary seeks a stay from a higher court within 3 calendar days after the date on which the relief is issued.

(c) **SAVINGS CLAUSE.**—Any exercise of the authority of the Secretary pursuant to this section shall not impair the claims or defenses that would otherwise apply with respect to persons other than the Secretary.

#### **SEC. 17. FUNDING.**

(a) **IN GENERAL.**—The \$7,500,000,000 appropriated for fiscal year 2009 for direct loans under section 129 of the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009 (division A of Public Law 110-329) is rescinded.

(b) **APPROPRIATIONS.**—There is appropriated to the Secretary of Commerce \$7,500,000,000 to the “Department of Commerce – Emergency Bridge Loan Program Account” for the cost of direct loans authorized under this Act, which shall remain available until expended. Commitments for direct loans using such amount shall not exceed \$25,000,000,000 in total loan principal. The cost of such direct loans, including the cost of modifying such loans, shall be calculated in accordance with section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a).

(c) **TRANSFERS FOR DIRECT LOANS.**—Following the receipt of a notice from the Secretary of Energy certifying the approval of a loan under the program authorized under section 136 of the Energy Independence and Security Act of 2007 (Public Law 110-140; 42 U.S.C. 17013), the Secretary may transfer amounts made available under this Act to the Secretary of Energy, in an amount sufficient for the cost of the direct loans if such transfer would not cause the Secretary to exceed the total appropriation and total commitment level authorized under subsection (b). Any amounts so transferred shall be available to the Secretary of Energy without fiscal year limitation and subject to the terms and conditions described in section 129 of the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009.

(d) **USE OF REMAINING AMOUNTS.**—Amounts appropriated under subsection (b) which re-

main available after March 31, 2009, shall be transferred to the Secretary of Energy and shall be used to carry out section 136 of the Energy Independence and Security Act of 2007, subject to the terms and conditions described in section 129 of the Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009.

#### **SEC. 18. COORDINATION WITH OTHER LAWS REGARDING PROMOTION OF ADVANCED TECHNOLOGY VEHICLE MANUFACTURING.**

Nothing in the Act may be construed as altering, affecting, or superseding the provisions of section 136 of the Energy Independence and Security Act of 2007, relating to the technology requirements for energy efficient vehicles.

By Mrs. MCCASKILL (for herself,  
Mr. GRASSLEY, Ms. COLLINS, Mr.  
LIEBERMAN, and Mr. BUNNING):

S. 3716. A bill to amend the Emergency Economic Stabilization Act of 2008 (Public Law 110-343) to provide the Special Inspector General with additional personnel, audit, and investigation authorities; to the Committee on Banking, Housing, and Urban Affairs.

Mr. GRASSLEY. Mr. President, seven weeks ago Congress faced an extremely difficult decision of whether or not to pass an unprecedented \$700 billion economic stabilization bill to help our Nation's economy and financial markets. The Emergency Economic Stabilization Act, the Act, passed by Congress and signed into law by the President, was designed to provide new, expanded authority to the Department of the Treasury to take immediate action to stabilize our financial markets by purchasing troubled assets through a program called the Troubled Asset Relief Program or TARP. This new authority was designed to stop the continued declines in the financial services industry and the credit markets.

Like many of the thousands of constituents from Iowa I've heard from, I shared their concerns that the stabilization plan put hundreds of billions of taxpayer dollars at risk. During the debate on this legislation I made it clear that I would only support this package if it included significant checks on the spending through various oversight mechanisms. I wanted to make sure the legislation wasn't a blank check for Government bureaucrats to spend taxpayer dollars with impunity. I'm glad that Congress listened to my concerns and I'm glad that specific oversight reforms I recommended were included in the final package. For instance, the creation of a Special Inspector General for the Troubled Assets Relief Program (Inspector General) was something I worked to include in the final legislation to ensure that an independent watchdog would be looking out for taxpayer funds allocated to the TARP.

The legislation also has a number of additional oversight provisions such as the creation of a Financial Stability Oversight Board that is responsible for reviewing the exercise of the program to ensure the Treasury is operating as



envisioned. Additionally, the legislation included provisions requiring regular reports from the Treasury to Congress, Tranche reports outlining any assets Treasury chooses to purchase, and reports from the Comptroller General at the Government Accountability Office. The Act also places controls on executive compensation and corporate governance at participating entities. Taken together, these provisions were aimed to provide a sturdy foundation for ensuring the program is properly overseen.

However, despite these controls, many of these oversight provisions have been slowly implemented or outright ignored until recently. To date, the Senate has only held hearings on the nomination for the Special Inspector General and it is unclear when the nomination will be approved. Until then, the Inspector General at the Department of the Treasury has devoted some resources to overseeing the TARP, but we need to act expeditiously to approve the Special Inspector General to ensure someone is watching over all these taxpayer funds.

I do believe once we confirm a nominee to be the Special Inspector General that this office will face an uphill battle to work quickly to hire staff and to get operations moving to find out where all the billions of dollars are and how they were spent. This isn't an impossible task, but it is one that will take serious effort and great leadership to accomplish.

One concern I have with the Special Inspector General is the lack of authority that office will have to oversee the TARP and new, evolving programs under the TARP such as the Capital Purchase Plan, or CPP. The Secretary of the Treasury has indicated publicly that he intends to continue utilizing his authority under the Act to use the TARP and the CPP to continue to provide taxpayer funds via equity injections and stock warrant purchases to banks, financial institutions, and other entities, as opposed to purchasing distressed assets as the TARP was originally envisioned. While the Secretary is acting within his authority, this change was not necessarily envisioned from the oversight perspective when the Special Inspector General authorization was drafted. Instead, the current Act could be construed to only give the Special Inspector General the authority to review purchases of distressed assets and not the purchases and equity injections currently ongoing under the CPP. As a result, the Special Inspector General could be limited in authority to review the TARP before he takes office.

To rectify this, Senator MCCASKILL and I are here today to introduce a simple legislative fix to this provision that would amend the Act to allow the Special Inspector General to review all actions taken under the TARP, including those of the CPP. This is a straight forward solution to ensure that the Special Inspector General has all the

authority necessary to oversee the taxpayer dollars that are being used to stabilize the financial industry.

This legislation makes one other change to the Act that will help the Special Inspector General hit the ground running once the Senate confirms the nomination. Looking back to the last Special Inspector General Congress created, the Special Inspector General for Iraq Reconstruction, SIGIR, we noted that Congress provided SIGIR the authority to utilize special hiring authority to fill these important jobs quickly and not have them tied up in bureaucratic red tape. This section of our bill simply states that the Special Inspector General may utilize special expedited hiring authority authorized under 5 U.S.C. §3161 for the first six months after the date of enactment to get the office up and running. Further, the section also removes statutory limits for how long these special appointments may serve because we do not want to limit the length of time these employees can work for the Special Inspector General given we don't know how long they will be needed to oversee this program.

Taken together, these two simple provisions are necessary to ensure that the Special Inspector General is the aggressive, independent watchdog we envisioned when we passed the Act and not just a paper tiger. As a long time supporter of Inspectors General, I believe this legislation is necessary to ensure the success of the Special Inspector General. I urge my colleagues to support this urgent legislative fix to help ensure that American taxpayer dollars are not lost to fraud, waste, or abuse because of a simple oversight in the drafting of the original legislation.

By Ms. STABENOW (for herself and Mr. CORNYN):

S. 3717. A bill to amend the Internal Revenue Code of 1986 to allow reimbursement from flexible spending accounts for certain dental products; to the Committee on Finance.

Mr. CORNYN. Mr. President, I am pleased to join my colleague, Ms. STABENOW, in introducing the Dental Health Promotion Act of 2008. This bill would make expenditures on dental products used to prevent or treat diseases of the mouth to be considered "qualified" medical expenses eligible for reimbursement from a flexible spending arrangement, FSA. It is identical to H.R. 3109, which was introduced in the House of Representatives in July 2007.

FSAs are vehicles that allow individuals to use pretax dollars to pay for "qualified" medical and dental expenses that are not reimbursed by other sources, such as a health insurance plan. Qualified medical and dental expenses are defined in Section 213(d) of the Internal Revenue Code and its accompanying regulations and include prescription and over-the-counter products. For example, an individual can use FSA dollars to pay for items such

as cold medicine, Band-Aids, or pain relievers. In addition, some dental expenses are currently reimbursable, such as a crown or a regular dental checkup. But the money spent on dental products such as fluoride toothpaste, a spin toothbrush, or dental floss is not currently reimbursable, even though they help prevent tooth decay. In fact, toothpaste is specifically excluded from the definition of a qualified expense.

I believe this is an inequity in our tax law that needs to be corrected. More and more medical research is demonstrating the link between good oral health and overall health. For example, research shows that pregnant women with poor oral health tend to deliver lower birth rate babies. Unfortunately, the definition of dental expenses has not kept up with medical research.

The legislation Senator STABENOW and I are introducing today would update the rules governing FSAs to ensure that funds spent on dental products used to treat or prevent oral disease are treated the same as other over-the-counter medical expenses. For those concerned about abuse, this bill makes it clear that money spent on cosmetic products would not be considered a qualified expense that can be reimbursed by an FSA.

Mr. President, it makes sense to invest in disease prevention on the front end. Allowing individuals to set aside money in their FSA to pay for dental products that can help prevent cavity or periodontal disease will help to reduce future expenditures on more costly treatments.

#### SUBMITTED RESOLUTIONS

SENATE RESOLUTION 710—DESIGNATING THE WEEK OF FEBRUARY 2 THROUGH FEBRUARY 6, 2009, AS "NATIONAL TEEN DATING VIOLENCE AWARENESS AND PREVENTION WEEK"

Mr. CRAPO (for himself, Mrs. CLINTON, Mr. LIEBERMAN, Ms. MURKOWSKI, Mr. SCHUMER, and Mr. BAYH) submitted the following resolution; which was referred to the Committee on the Judiciary:

#### S. RES. 710

Whereas 1 in 11 adolescents reports being a victim of physical dating violence;

Whereas dating violence occurs more frequently among black students (13.9 percent) than among Hispanic (9.3 percent) or white (7 percent) students;

Whereas 1 in 5 teenagers in a serious relationship reports having been hit, slapped, or pushed by a partner;

Whereas more than 1 in 4 teenagers have been in a relationship where a partner is verbally abusive;

Whereas 30 percent of teenagers in a dating relationship have been text messaged 10, 20, or 30 times per hour by a partner attempting to find out where they are, what they are doing, or who they are with;

Whereas 40 percent of the youngest "tweens", those between the ages of 11 and