

AMENDMENT NO. _____ Calendar No. _____

Purpose: In the nature of a substitute.

IN THE SENATE OF THE UNITED STATES—111th Cong., 2d Sess.

H. R. 5297

To create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended
to be proposed by Mr. REID (for himself, Mr. BAUCUS,
and Ms. LANDRIEU)

Viz:

- 1 Strike all after the enacting clause and insert the fol-
- 2 lowing:
- 3 **SECTION 1. SHORT TITLE.**
- 4 This Act may be cited as the “Small Business Jobs
- 5 Act of 2010”.

1 SEC. 2. TABLE OF CONTENTS.

2 The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.

TITLE I—SMALL BUSINESSES

- Sec. 1001. Definitions.

Subtitle A—Small Business Access to Credit

- Sec. 1101. Short title.

PART I—NEXT STEPS FOR MAIN STREET CREDIT AVAILABILITY

- Sec. 1111. Section 7(a) business loans.
- Sec. 1112. Maximum loan amounts under 504 program.
- Sec. 1113. Maximum loan limits under microloan program.
- Sec. 1114. Temporary fee reductions.
- Sec. 1115. New Markets Venture Capital company investment limitations.
- Sec. 1116. Alternative size standards.
- Sec. 1117. Sale of 7(a) loans in secondary market.
- Sec. 1118. Online lending platform.
- Sec. 1119. SBA Secondary Market Guarantee Authority.

PART II—SMALL BUSINESS ACCESS TO CAPITAL

- Sec. 1122. Low-interest refinancing under the local development business loan program.

PART III—OTHER MATTERS

- Sec. 1131. Small business intermediary lending pilot program.
- Sec. 1132. Public policy goals.
- Sec. 1133. Draft floor plan pilot program extension.
- Sec. 1134. Guarantees for bonds and notes issued for community or economic development purposes.
- Sec. 1135. Temporary express loan enhancement.
- Sec. 1136. Prohibition on using TARP funds or tax in creases.

Subtitle B—Small Business Trade and Exporting

- Sec. 1201. Short title.
- Sec. 1202. Definitions.
- Sec. 1203. Office of International Trade.
- Sec. 1204. Duties of the Office of International Trade.
- Sec. 1205. Export assistance centers.
- Sec. 1206. International trade finance programs.
- Sec. 1207. State Trade and Export Promotion Grant Program.
- Sec. 1208. Rural export promotion.
- Sec. 1209. International trade cooperation by small business development centers.

Subtitle C—Small Business Contracting

PART I—CONTRACT BUNDLING

3

- Sec. 1311. Small Business Act.
- Sec. 1312. Leadership and oversight.
- Sec. 1313. Consolidation of contract requirements.
- Sec. 1314. Small business teams pilot program.

PART II—SUBCONTRACTING INTEGRITY

- Sec. 1321. Subcontracting misrepresentations.
- Sec. 1322. Small business subcontracting improvements.

PART III—ACQUISITION PROCESS

- Sec. 1331. Reservation of prime contract awards for small businesses.
- Sec. 1332. Micro-purchase guidelines.
- Sec. 1333. Agency accountability.
- Sec. 1334. Payment of subcontractors.
- Sec. 1335. Repeal of Small Business Competitiveness Demonstration Program.

PART IV—SMALL BUSINESS SIZE AND STATUS INTEGRITY

- Sec. 1341. Policy and presumptions.
- Sec. 1342. Annual certification.
- Sec. 1343. Training for contracting and enforcement personnel.
- Sec. 1344. Updated size standards.
- Sec. 1345. Study and report on the mentor-protége program.
- Sec. 1346. Contracting goals reports.
- Sec. 1347. Small business contracting parity.

Subtitle D—Small Business Management and Counseling Assistance

- Sec. 1401. Matching requirements under small business programs.
- Sec. 1402. Grants for SBDCs.

Subtitle E—Disaster Loan Improvement

- Sec. 1501. Aquaculture business disaster assistance.

Subtitle F—Small Business Regulatory Relief

- Sec. 1601. Requirements providing for more detailed analyses.
- Sec. 1602. Office of advocacy.

Subtitle G—Appropriations Provisions

- Sec. 1701. Salaries and expenses.
- Sec. 1702. Business loans program account.
- Sec. 1703. Community Development Financial Institutions Fund program account.

TITLE II—TAX PROVISIONS

- Sec. 2001. Short title.

Subtitle A—Small Business Relief

PART I—PROVIDING ACCESS TO CAPITAL

- Sec. 2011. Temporary exclusion of 100 percent of gain on certain small business stock.

4

- Sec. 2012. General business credits of eligible small businesses for 2010 carried back 5 years.
- Sec. 2013. General business credits of eligible small businesses in 2010 not subject to alternative minimum tax.
- Sec. 2014. Temporary reduction in recognition period for built-in gains tax.

PART II—ENCOURAGING INVESTMENT

- Sec. 2021. Increased expensing limitations for 2010 and 2011; certain real property treated as section 179 property.
- Sec. 2022. Additional first-year depreciation for 50 percent of the basis of certain qualified property.

PART III—PROMOTING ENTREPRENEURSHIP

- Sec. 2031. Increase in amount allowed as deduction for start-up expenditures in 2010.
- Sec. 2032. Authorization of appropriations for the United States Trade Representative to develop market access opportunities for United States small- and medium-sized businesses and to enforce trade agreements.

PART IV—PROMOTING SMALL BUSINESS FAIRNESS

- Sec. 2041. Limitation on penalty for failure to disclose reportable transactions based on resulting tax benefits.
- Sec. 2042. Deduction for health insurance costs in computing self-employment taxes in 2010.

Subtitle B—Revenue Provisions

PART I—REDUCING THE TAX GAP

- Sec. 2101. Information reporting for rental property expense payments.
- Sec. 2102. Increase in information return penalties.
- Sec. 2103. Report on tax shelter penalties and certain other enforcement actions.
- Sec. 2104. Application of levy to payments to Federal vendors relating to property.
- Sec. 2105. Application of continuous levy to tax liabilities of certain Federal contractors.
- Sec. 2106. Application of bad checks penalty to electronic payments.

PART II—PROMOTING RETIREMENT PREPARATION

- Sec. 2111. Participants in government section 457 plans allowed to treat elective deferrals as Roth contributions.
- Sec. 2112. Rollovers from elective deferral plans to designated Roth accounts.

PART III—CLOSING UNINTENDED LOOPHOLES

- Sec. 2121. Crude tall oil ineligible for cellulosic biofuel producer credit.

PART IV—TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES

- Sec. 2131. Time for payment of corporate estimated taxes.

TITLE III—SMALL BUSINESS LENDING

Subtitle A—Small Business Lending Fund

- Sec. 3101. Purpose.
- Sec. 3102. Definitions.
- Sec. 3103. Small business lending fund.
- Sec. 3104. Additional authorities of the Secretary.
- Sec. 3105. Considerations.
- Sec. 3106. Reports.
- Sec. 3107. Oversight and audits.
- Sec. 3108. Credit reform; funding.
- Sec. 3109. Termination and continuation of authorities.
- Sec. 3110. Preservation of authority.
- Sec. 3111. Assurances.
- Sec. 3112. Study and report with respect to women-owned, veteran-owned, and minority-owned businesses.
- Sec. 3113. Sense of congress.

Subtitle B—State Small Business Credit Initiative

- Sec. 3201. Short title.
- Sec. 3202. Definitions.
- Sec. 3203. Federal funds allocated to States.
- Sec. 3204. Approving States for participation.
- Sec. 3205. Approving State capital access programs.
- Sec. 3206. Approving collateral support and other innovative credit access and guarantee initiatives for small businesses and manufacturers.
- Sec. 3207. Reports.
- Sec. 3208. Remedies for State program termination or failures.
- Sec. 3209. Implementation and administration.
- Sec. 3210. Regulations.
- Sec. 3211. Oversight and audits.

TITLE IV—BUDGETARY PROVISIONS

- Sec. 4001. Determination of budgetary effects.

1 **TITLE I—SMALL BUSINESSES**

2 **SEC. 1001. DEFINITIONS.**

3 In this title—

4 (1) the terms “Administration” and “Adminis-
5 trator” mean the Small Business Administration
6 and the Administrator thereof, respectively; and

7 (2) the term “small business concern” has the
8 meaning given that term under section 3 of the
9 Small Business Act (15 U.S.C. 632).

1 **Subtitle A—Small Business Access**
2 **to Credit**

3 **SEC. 1101. SHORT TITLE.**

4 This subtitle may be cited as the “Small Business
5 Job Creation and Access to Capital Act of 2010”.

6 **PART I—NEXT STEPS FOR MAIN STREET CREDIT**
7 **AVAILABILITY**

8 **SEC. 1111. SECTION 7(a) BUSINESS LOANS.**

9 (a) AMENDMENT.—Section 7(a) of the Small Busi-
10 ness Act (15 U.S.C. 636(a)) is amended—

11 (1) in paragraph (2)(A)—

12 (A) in clause (i), by striking “75 percent”
13 and inserting “90 percent”; and

14 (B) in clause (ii), by striking “85 percent”
15 and inserting “90 percent”; and

16 (2) in paragraph (3)(A), by striking
17 “\$1,500,000 (or if the gross loan amount would ex-
18 ceed \$2,000,000” and inserting “\$4,500,000 (or if
19 the gross loan amount would exceed \$5,000,000”.

20 (b) PROSPECTIVE REPEAL.—Effective January 1,
21 2011, section 7(a) of the Small Business Act (15 U.S.C.
22 636(a)) is amended—

23 (1) in paragraph (2)(A)—

24 (A) in clause (i), by striking “90 percent”
25 and inserting “75 percent”; and

1 (B) in clause (ii), by striking “90 percent”
2 and inserting “85 percent”; and
3 (2) in paragraph (3)(A), by striking
4 “\$4,500,000” and inserting “\$3,750,000”.

5 **SEC. 1112. MAXIMUM LOAN AMOUNTS UNDER 504 PRO-**
6 **GRAM.**

7 Section 502(2)(A) of the Small Business Investment
8 Act of 1958 (15 U.S.C. 696(2)(A)) is amended—

9 (1) in clause (i), by striking “\$1,500,000” and
10 inserting “\$5,000,000”;

11 (2) in clause (ii), by striking “\$2,000,000” and
12 inserting “\$5,000,000”;

13 (3) in clause (iii), by striking “\$4,000,000” and
14 inserting “\$5,500,000”;

15 (4) in clause (iv), by striking “\$4,000,000” and
16 inserting “\$5,500,000”; and

17 (5) in clause (v), by striking “\$4,000,000” and
18 inserting “\$5,500,000”.

19 **SEC. 1113. MAXIMUM LOAN LIMITS UNDER MICROLOAN**
20 **PROGRAM.**

21 Section 7(m) of the Small Business Act (15 U.S.C.
22 636(m)) is amended—

23 (1) in paragraph (1)(B)(iii), by striking
24 “\$35,000” and inserting “\$50,000”;

25 (2) in paragraph (3)—

1 (A) in subparagraph (C), by striking
2 “\$3,500,000” and inserting “\$5,000,000”; and

3 (B) in subparagraph (E), by striking
4 “\$35,000” each place that term appears and
5 inserting “\$50,000”; and

6 (3) in paragraph (11)(B), by striking
7 “\$35,000” and inserting “\$50,000”.

8 **SEC. 1114. TEMPORARY FEE REDUCTIONS.**

9 Section 501 of the American Recovery and Reinvest-
10 ment Act of 2009 (Public Law 111–5; 123 Stat. 151) is
11 amended by striking “September 30, 2010” each place
12 that term appears and inserting “December 31, 2010”.

13 **SEC. 1115. NEW MARKETS VENTURE CAPITAL COMPANY IN-**
14 **VESTMENT LIMITATIONS.**

15 Section 355 of the Small Business Investment Act
16 of 1958 (15 U.S.C. 689d) is amended by adding at the
17 end the following:

18 “(e) INVESTMENT LIMITATIONS.—

19 “(1) DEFINITION.—In this subsection, the term
20 ‘covered New Markets Venture Capital company’
21 means a New Markets Venture Capital company—

22 “(A) granted final approval by the Admin-
23 istrator under section 354(e) on or after March
24 1, 2002; and

1 “(B) that has obtained a financing from
2 the Administrator.

3 “(2) LIMITATION.—Except to the extent ap-
4 proved by the Administrator, a covered New Markets
5 Venture Capital company may not acquire or issue
6 commitments for securities under this title for any
7 single enterprise in an aggregate amount equal to
8 more than 10 percent of the sum of—

9 “(A) the regulatory capital of the covered
10 New Markets Venture Capital company; and

11 “(B) the total amount of leverage pro-
12 jected in the participation agreement of the cov-
13 ered New Markets Venture Capital.”.

14 **SEC. 1116. ALTERNATIVE SIZE STANDARDS.**

15 Section 3(a) of the Small Business Act (15 U.S.C.
16 632(a)) is amended by adding at the end the following:

17 “(5) ALTERNATIVE SIZE STANDARD.—

18 “(A) IN GENERAL.—The Administrator shall
19 establish an alternative size standard for applicants
20 for business loans under section 7(a) and applicants
21 for development company loans under title V of the
22 Small Business Investment Act of 1958 (15 U.S.C.
23 695 et seq.), that uses maximum tangible net worth
24 and average net income as an alternative to the use
25 of industry standards.

1 “(B) INTERIM RULE.—Until the date on which
2 the alternative size standard established under sub-
3 paragraph (A) is in effect, an applicant for a busi-
4 ness loan under section 7(a) or an applicant for a
5 development company loan under title V of the
6 Small Business Investment Act of 1958 may be eli-
7 gible for such a loan if—

8 “(i) the maximum tangible net worth of
9 the applicant is not more than \$15,000,000;
10 and

11 “(ii) the average net income after Federal
12 income taxes (excluding any carry-over losses)
13 of the applicant for the 2 full fiscal years before
14 the date of the application is not more than
15 \$5,000,000.”.

16 **SEC. 1117. SALE OF 7(a) LOANS IN SECONDARY MARKET.**

17 Section 5(g) of the Small Business Act (15 U.S.C.
18 634(g)) is amended by adding at the end the following:

19 “(6) If the amount of the guaranteed portion of any
20 loan under section 7(a) is more than \$500,000, the Ad-
21 ministrators shall, upon request of a pool assembler, divide
22 the loan guarantee into increments of \$500,000 and 1 in-
23 crement of any remaining amount less than \$500,000, in
24 order to permit the maximum amount of any loan in a
25 pool to be not more than \$500,000. Only 1 increment of

1 any loan guarantee divided under this paragraph may be
2 included in the same pool. Increments of loan guarantees
3 to different borrowers that are divided under this para-
4 graph may be included in the same pool.”.

5 **SEC. 1118. ONLINE LENDING PLATFORM.**

6 It is the sense of Congress that the Administrator
7 of the Small Business Administration should establish a
8 website that—

9 (1) lists each lender that makes loans guaran-
10 teed by the Small Business Administration and pro-
11 vides information about the loan rates of each such
12 lender; and

13 (2) allows prospective borrowers to compare
14 rates on loans guaranteed by the Small Business
15 Administration.

16 **SEC. 1119. SBA SECONDARY MARKET GUARANTEE AUTHOR-**
17 **ITY.**

18 Section 503(f) of division A of the American Recovery
19 and Reinvestment Act of 2009 (Public Law 111–5; 123
20 Stat. 155) is amended by striking “on the date 2 years
21 after the date of enactment of this section” and inserting
22 “2 years after the date of the first sale of a pool of first
23 lien position 504 loans guaranteed under this section to
24 a third-party investor”.

1 **PART II—SMALL BUSINESS ACCESS TO CAPITAL**

2 **SEC. 1122. LOW-INTEREST REFINANCING UNDER THE**
3 **LOCAL DEVELOPMENT BUSINESS LOAN PRO-**
4 **GRAM.**

5 (a) REFINANCING.—Section 502(7) of the Small
6 Business Investment Act of 1958 (15 U.S.C. 696(7)) is
7 amended by adding at the end the following:

8 “(C) REFINANCING NOT INVOLVING EX-
9 PANSIONS.—

10 “(i) DEFINITIONS.—In this subpara-
11 graph—

12 “(I) the term ‘borrower’ means a
13 small business concern that submits
14 an application to a development com-
15 pany for financing under this sub-
16 paragraph;

17 “(II) the term ‘eligible fixed
18 asset’ means tangible property relat-
19 ing to which the Administrator may
20 provide financing under this section;
21 and

22 “(III) the term ‘qualified debt’
23 means indebtedness—

24 “(aa) that—

25 “(AA) was incurred not
26 less than 2 years before the

1 date of the application for
2 assistance under this sub-
3 paragraph;

4 “(BB) is a commercial
5 loan;

6 “(CC) is not subject to
7 a guarantee by a Federal
8 agency;

9 “(DD) the proceeds of
10 which were used to acquire
11 an eligible fixed asset;

12 “(EE) was incurred for
13 the benefit of the small busi-
14 ness concern; and

15 “(FF) is collateralized
16 by eligible fixed assets; and

17 “(bb) for which the borrower
18 has been current on all payments
19 for not less than 1 year before
20 the date of the application.

21 “(ii) AUTHORITY.—A project that
22 does not involve the expansion of a small
23 business concern may include the refi-
24 nancing of qualified debt if—

1 “(I) the amount of the financing
2 is not more than 90 percent of the
3 value of the collateral for the financ-
4 ing, except that, if the appraised value
5 of the eligible fixed assets serving as
6 collateral for the financing is less than
7 the amount equal to 125 percent of
8 the amount of the financing, the bor-
9 rower may provide additional cash or
10 other collateral to eliminate any defi-
11 ciency;

12 “(II) the borrower has been in
13 operation for all of the 2-year period
14 ending on the date of the loan; and

15 “(III) for a financing for which
16 the Administrator determines there
17 will be an additional cost attributable
18 to the refinancing of the qualified
19 debt, the borrower agrees to pay a fee
20 in an amount equal to the anticipated
21 additional cost.

22 “(iii) FINANCING FOR BUSINESS EX-
23 PENSES.—

24 “(I) FINANCING FOR BUSINESS
25 EXPENSES.—The Administrator may

1 provide financing to a borrower that
2 receives financing that includes a refi-
3 nancing of qualified debt under clause
4 (ii), in addition to the refinancing
5 under clause (ii), to be used solely for
6 the payment of business expenses.

7 “(II) APPLICATION FOR FINANC-
8 ING.—An application for financing
9 under subclause (I) shall include—

10 “(aa) a specific description
11 of the expenses for which the ad-
12 ditional financing is requested;
13 and

14 “(bb) an itemization of the
15 amount of each expense.

16 “(III) CONDITION ON ADDI-
17 TIONAL FINANCING.—A borrower may
18 not use any part of the financing
19 under this clause for non-business
20 purposes.

21 “(iv) LOANS BASED ON JOBS.—

22 “(I) JOB CREATION AND RETEN-
23 TION GOALS.—

24 “(aa) IN GENERAL.—The
25 Administrator may provide fi-

1 financing under this subparagraph
2 for a borrower that meets the job
3 creation goals under subsection
4 (d) or (e) of section 501.

5 “(bb) ALTERNATE JOB RE-
6 TENTION GOAL.—The Adminis-
7 trator may provide financing
8 under this subparagraph to a
9 borrower that does not meet the
10 goals described in item (aa) in an
11 amount that is not more than the
12 product obtained by multiplying
13 the number of employees of the
14 borrower by \$65,000.

15 “(II) NUMBER OF EMPLOYEES.—
16 For purposes of subclause (I), the
17 number of employees of a borrower is
18 equal to the sum of—

19 “(aa) the number of full-
20 time employees of the borrower
21 on the date on which the bor-
22 rower applies for a loan under
23 this subparagraph; and

24 “(bb) the product obtained
25 by multiplying—

1 “(AA) the number of
2 part-time employees of the
3 borrower on the date on
4 which the borrower applies
5 for a loan under this sub-
6 paragraph; by

7 “(BB) the quotient ob-
8 tained by dividing the aver-
9 age number of hours each
10 part time employee of the
11 borrower works each week
12 by 40.

13 “(v) NONDELEGATION.—Notwith-
14 standing section 508(e), the Administrator
15 may not permit a premier certified lender
16 to approve or disapprove an application for
17 assistance under this subparagraph.

18 “(vi) TOTAL AMOUNT OF LOANS.—
19 The Administrator may provide not more
20 than a total of \$7,500,000,000 of financ-
21 ing under this subparagraph for each fiscal
22 year.”.

23 (b) PROSPECTIVE REPEAL.—Effective 2 years after
24 the date of enactment of this Act, section 502(7) of the

1 Small Business Investment Act of 1958 (15 U.S.C.
2 696(7)) is amended by striking subparagraph (C).

3 (c) TECHNICAL CORRECTION.—Section 502(2)(A)(i)
4 of the Small Business Investment Act of 1958 (15 U.S.C.
5 696(2)(A)(i)) is amended by striking “subparagraph (B)
6 or (C)” and inserting “clause (ii), (iii), (iv), or (v)”.

7 **PART III—OTHER MATTERS**

8 **SEC. 1131. SMALL BUSINESS INTERMEDIARY LENDING**
9 **PILOT PROGRAM.**

10 (a) IN GENERAL.—Section 7 of the Small Business
11 Act (15 U.S.C. 636) is amended by striking subsection
12 (l) and inserting the following:

13 “(l) SMALL BUSINESS INTERMEDIARY LENDING
14 PILOT PROGRAM.—

15 “(1) DEFINITIONS.—In this subsection—

16 “(A) the term ‘eligible intermediary’—

17 “(i) means a private, nonprofit entity
18 that—

19 “(I) seeks or has been awarded a
20 loan from the Administrator to make
21 loans to small business concerns
22 under this subsection; and

23 “(II) has not less than 1 year of
24 experience making loans to startup,

1 newly established, or growing small
2 business concerns; and

3 “(ii) includes—

4 “(I) a private, nonprofit commu-
5 nity development corporation;

6 “(II) a consortium of private,
7 nonprofit organizations or nonprofit
8 community development corporations;
9 and

10 “(III) an agency of or nonprofit
11 entity established by a Native Amer-
12 ican Tribal Government; and

13 “(B) the term ‘Program’ means the small
14 business intermediary lending pilot program es-
15 tablished under paragraph (2).

16 “(2) ESTABLISHMENT.—There is established a
17 3-year small business intermediary lending pilot pro-
18 gram, under which the Administrator may make di-
19 rect loans to eligible intermediaries, for the purpose
20 of making loans to startup, newly established, and
21 growing small business concerns.

22 “(3) PURPOSES.—The purposes of the Program
23 are—

24 “(A) to assist small business concerns in
25 areas suffering from a lack of credit due to

1 poor economic conditions or changes in the fi-
2 nancial market; and

3 “(B) to establish a loan program under
4 which the Administrator may provide loans to
5 eligible intermediaries to enable the eligible
6 intermediaries to provide loans to startup,
7 newly established, and growing small business
8 concerns for working capital, real estate, or the
9 acquisition of materials, supplies, or equipment.

10 “(4) LOANS TO ELIGIBLE INTERMEDIARIES.—

11 “(A) APPLICATION.—Each eligible inter-
12 mediary desiring a loan under this subsection
13 shall submit an application to the Adminis-
14 trator that describes—

15 “(i) the type of small business con-
16 cerns to be assisted;

17 “(ii) the size and range of loans to be
18 made;

19 “(iii) the interest rate and terms of
20 loans to be made;

21 “(iv) the geographic area to be served
22 and the economic, poverty, and unemploy-
23 ment characteristics of the area;

1 “(v) the status of small business con-
2 cerns in the area to be served and an anal-
3 ysis of the availability of credit; and

4 “(vi) the qualifications of the appli-
5 cant to carry out this subsection.

6 “(B) LOAN LIMITS.—No loan may be
7 made to an eligible intermediary under this sub-
8 section if the total amount outstanding and
9 committed to the eligible intermediary by the
10 Administrator would, as a result of such loan,
11 exceed \$1,000,000 during the participation of
12 the eligible intermediary in the Program.

13 “(C) LOAN DURATION.—Loans made by
14 the Administrator under this subsection shall be
15 for a term of 20 years.

16 “(D) APPLICABLE INTEREST RATES.—
17 Loans made by the Administrator to an eligible
18 intermediary under the Program shall bear an
19 annual interest rate equal to 1.00 percent.

20 “(E) FEES; COLLATERAL.—The Adminis-
21 trator may not charge any fees or require col-
22 lateral with respect to any loan made to an eli-
23 gible intermediary under this subsection.

24 “(F) DELAYED PAYMENTS.—The Adminis-
25 trator shall not require the repayment of prin-

1 cipal or interest on a loan made to an eligible
2 intermediary under the Program during the 2-
3 year period beginning on the date of the initial
4 disbursement of funds under that loan.

5 “(G) MAXIMUM PARTICIPANTS AND
6 AMOUNTS.—During each of fiscal years 2011,
7 2012, and 2013, the Administrator may make
8 loans under the Program—

9 “(i) to not more than 20 eligible inter-
10 mediaries; and

11 “(ii) in a total amount of not more
12 than \$20,000,000.

13 “(5) LOANS TO SMALL BUSINESS CONCERNS.—

14 “(A) IN GENERAL.—The Administrator,
15 through an eligible intermediary, shall make
16 loans to startup, newly established, and growing
17 small business concerns for working capital,
18 real estate, and the acquisition of materials,
19 supplies, furniture, fixtures, and equipment.

20 “(B) MAXIMUM LOAN.—An eligible inter-
21 mediary may not make a loan under this sub-
22 section of more than \$200,000 to any 1 small
23 business concern.

24 “(C) APPLICABLE INTEREST RATES.—A
25 loan made by an eligible intermediary to a small

1 business concern under this subsection, may
2 have a fixed or a variable interest rate, and
3 shall bear an interest rate specified by the eligi-
4 ble intermediary in the application of the eligi-
5 ble intermediary for a loan under this sub-
6 section.

7 “(D) REVIEW RESTRICTIONS.—The Ad-
8 ministrator may not review individual loans
9 made by an eligible intermediary to a small
10 business concern before approval of the loan by
11 the eligible intermediary.

12 “(6) TERMINATION.—The authority of the Ad-
13 ministrator to make loans under the Program shall
14 terminate 3 years after the date of enactment of the
15 Small Business Job Creation and Access to Capital
16 Act of 2010.”.

17 (b) RULEMAKING AUTHORITY.—Not later than 180
18 days after the date of enactment of this Act, the Adminis-
19 trator shall issue regulations to carry out section 7(l) of
20 the Small Business Act, as amended by subsection (a).

21 (c) AVAILABILITY OF FUNDS.—Any amounts pro-
22 vided to the Administrator for the purposes of carrying
23 out section 7(l) of the Small Business Act, as amended
24 by subsection (a), shall remain available until expended.

1 **SEC. 1132. PUBLIC POLICY GOALS.**

2 Section 501(d)(3) of the Small Business Investment
3 Act of 1958 (15 U.S.C. 695(d)(3)) is amended—

4 (1) in subparagraph (J), by striking “or” at the
5 end;

6 (2) in subparagraph (K), by striking the period
7 at the end and inserting “, or”; and

8 (3) by adding at the end the following:

9 “(L) reduction of rates of unemployment
10 in labor surplus areas, as such areas are deter-
11 mined by the Secretary of Labor.”.

12 **SEC. 1133. DRAFT FLOOR PLAN PILOT PROGRAM EXTEN-**
13 **SION.**

14 (a) **IN GENERAL.**—Section 7(a) of the Small Busi-
15 ness Act (15 U.S.C. 636(a)) is amended—

16 (1) by redesignating paragraph (32), relating to
17 increased veteran participation, as added by section
18 208 of the Military Reservist and Veteran Small
19 Business Reauthorization and Opportunity Act of
20 2008 (Public Law 110–186; 122 Stat. 631), as
21 paragraph (33); and

22 (2) by adding at the end the following:

23 “(34) **DEALER FLOOR PLAN FINANCING PRO-**
24 **GRAM.**—

25 “(A) **DEFINITION.**—In this paragraph, the
26 term ‘eligible retail good’—

1 “(i) means a good for which a title
2 may be obtained under State law; and

3 “(ii) includes an automobile, rec-
4 reational vehicle, boat, and manufactured
5 home.

6 “(B) PROGRAM.—The Administrator may
7 guarantee the timely payment of an open-end
8 extension of credit to a small business concern,
9 the proceeds of which may be used for the pur-
10 chase of eligible retail goods for resale.

11 “(C) AMOUNT.—An open-end extension of
12 credit guaranteed under this paragraph shall be
13 in an amount not less than \$500,000 and not
14 more than \$5,000,000.

15 “(D) TERM.—An open-end extension of
16 credit guaranteed under this paragraph shall
17 have a term of not more than 5 years.

18 “(E) GUARANTEE PERCENTAGE.—The Ad-
19 ministrator may guarantee—

20 “(i) not less than 60 percent of an
21 open-end extension of credit under this
22 paragraph; and

23 “(ii) not more than 75 percent of an
24 open-end extension of credit under this
25 paragraph.

1 “(F) ADVANCE RATE.—The lender for an
2 open-end extension of credit guaranteed under
3 this paragraph may allow the borrower to draw
4 funds on the line of credit in an amount equal
5 to not more than 100 percent of the value of
6 the eligible retail goods to be purchased.”.

7 (b) SUNSET.—Effective September 30, 2013, section
8 7(a) of the Small Business Act (15 U.S.C. 636(a)) is
9 amended—

10 (1) by striking paragraph (34); and

11 (2) by redesignating paragraph (35), as added
12 by section 1206 of this Act, as paragraph (34).

13 **SEC. 1134. GUARANTEES FOR BONDS AND NOTES ISSUED**
14 **FOR COMMUNITY OR ECONOMIC DEVELOP-**
15 **MENT PURPOSES.**

16 The Riegle Community Development and Regulatory
17 Improvement Act of 1994 (12 U.S.C. 4701 et seq.) is
18 amended by inserting after section 114 (12 U.S.C. 4713)
19 the following:

20 **“SEC. 114A. GUARANTEES FOR BONDS AND NOTES ISSUED**
21 **FOR COMMUNITY OR ECONOMIC DEVELOP-**
22 **MENT PURPOSES.**

23 “(a) DEFINITIONS.—In this section, the following
24 definitions shall apply:

1 “(1) ELIGIBLE COMMUNITY DEVELOPMENT FI-
2 NANCIAL INSTITUTION.—The term ‘eligible commu-
3 nity development financial institution’ means a com-
4 munity development financial institution (as de-
5 scribed in section 1805.201 of title 12, Code of Fed-
6 eral Regulations, or any successor thereto) certified
7 by the Secretary that has applied to a qualified
8 issuer for, or been granted by a qualified issuer, a
9 loan under the Program.

10 “(2) ELIGIBLE COMMUNITY OR ECONOMIC DE-
11 VELOPMENT PURPOSE.—The term ‘eligible commu-
12 nity or economic development purpose’—

13 “(A) means any purpose described in sec-
14 tion 108(b); and

15 “(B) includes the provision of community
16 or economic development in low-income or un-
17 derserved rural areas.

18 “(3) GUARANTEE.—The term ‘guarantee’
19 means a written agreement between the Secretary
20 and a qualified issuer (or trustee), pursuant to
21 which the Secretary ensures repayment of the
22 verifiable losses of principal, interest, and call pre-
23 mium, if any, on notes or bonds issued by a qualified
24 issuer to finance or refinance loans to eligible com-
25 munity development financial institutions.

1 “(4) LOAN.—The term ‘loan’ means any credit
2 instrument that is extended under the Program for
3 any eligible community or economic development
4 purpose.

5 “(5) MASTER SERVICER.—

6 “(A) IN GENERAL.—The term ‘master
7 servicer’ means any entity approved by the Sec-
8 retary in accordance with subparagraph (B) to
9 oversee the activities of servicers, as provided in
10 subsection (f)(4).

11 “(B) APPROVAL CRITERIA FOR MASTER
12 SERVICERS.—The Secretary shall approve or
13 deny any application to become a master
14 servicer under the Program not later than 90
15 days after the date on which all required infor-
16 mation is submitted to the Secretary, based on
17 the capacity and experience of the applicant
18 in—

19 “(i) loan administration, servicing,
20 and loan monitoring;

21 “(ii) managing regional or national
22 loan intake, processing, or servicing oper-
23 ational systems and infrastructure;

1 “(iii) managing regional or national
2 originator communication systems and in-
3 frastructure;

4 “(iv) developing and implementing
5 training and other risk management strat-
6 egies on a regional or national basis; and

7 “(v) compliance monitoring, investor
8 relations, and reporting.

9 “(6) PROGRAM.—The term ‘Program’ means
10 the guarantee Program for bonds and notes issued
11 for eligible community or economic development pur-
12 poses established under this section.

13 “(7) PROGRAM ADMINISTRATOR.—The term
14 ‘Program administrator’ means an entity designated
15 by the issuer to perform administrative duties, as
16 provided in subsection (f)(2).

17 “(8) QUALIFIED ISSUER.—

18 “(A) IN GENERAL.—The term ‘qualified
19 issuer’ means a community development finan-
20 cial institution (or any entity designated to
21 issue notes or bonds on behalf of such commu-
22 nity development financial institution) that
23 meets the qualification requirements of this
24 paragraph.

1 “(B) APPROVAL CRITERIA FOR QUALIFIED
2 ISSUERS.—

3 “(i) IN GENERAL.—The Secretary
4 shall approve a qualified issuer for a guar-
5 antee under the Program in accordance
6 with the requirements of this paragraph,
7 and such additional requirements as the
8 Secretary may establish, by regulation.

9 “(ii) TERMS AND QUALIFICATIONS.—
10 A qualified issuer shall—

11 “(I) have appropriate expertise,
12 capacity, and experience, or otherwise
13 be qualified to make loans for eligible
14 community or economic development
15 purposes;

16 “(II) provide to the Secretary—
17 “(aa) an acceptable state-
18 ment of the proposed sources and
19 uses of the funds; and

20 “(bb) a capital distribution
21 plan that meets the requirements
22 of subsection (c)(1); and

23 “(III) certify to the Secretary
24 that the bonds or notes to be guaran-
25 teed are to be used for eligible com-

1 munity or economic development pur-
2 poses.

3 “(C) DEPARTMENT OPINION; TIMING.—

4 “(i) DEPARTMENT OPINION.—Not
5 later than 30 days after the date of a re-
6 quest by a qualified issuer for approval of
7 a guarantee under the Program, the Sec-
8 retary shall provide an opinion regarding
9 compliance by the issuer with the require-
10 ments of the Program under this section.

11 “(ii) TIMING.—The Secretary shall
12 approve or deny a guarantee under this
13 section after consideration of the opinion
14 provided to the Secretary under clause (i),
15 and in no case later than 90 days after re-
16 ceipt of all required information by the
17 Secretary with respect to a request for
18 such guarantee.

19 “(9) SECRETARY.—The term ‘Secretary’ means
20 the Secretary of the Treasury.

21 “(10) SERVICER.—The term ‘servicer’ means
22 an entity designated by the issuer to perform various
23 servicing duties, as provided in subsection (f)(3).

24 “(b) GUARANTEES AUTHORIZED.—The Secretary
25 shall guarantee payments on bonds or notes issued by any

1 qualified issuer, if the proceeds of the bonds or notes are
2 used in accordance with this section to make loans to eligi-
3 ble community development financial institutions—

4 “(1) for eligible community or economic devel-
5 opment purposes; or

6 “(2) to refinance loans or notes issued for such
7 purposes.

8 “(c) GENERAL PROGRAM REQUIREMENTS.—

9 “(1) IN GENERAL.—A capital distribution plan
10 meets the requirements of this subsection, if not less
11 than 90 percent of the principal amount of guaran-
12 teed bonds or notes (other than costs of issuance
13 fees) are used to make loans for any eligible commu-
14 nity or economic development purpose, measured an-
15 nually, beginning at the end of the 1-year period be-
16 ginning on the issuance date of such guaranteed
17 bonds or notes.

18 “(2) RELENDING ACCOUNT.—Not more than 10
19 percent of the principal amount of guaranteed bonds
20 or notes, multiplied by an amount equal to the out-
21 standing principal balance of issued notes or bonds,
22 minus the risk-share pool amount under subsection
23 (d), may be held in a relending account and may be
24 made available for new eligible community or eco-
25 nomic development purposes.

1 “(3) LIMITATIONS ON UNPAID PRINCIPAL BAL-
2 ANCES.—The proceeds of guaranteed bonds or notes
3 under the Program may not be used to pay fees
4 (other than costs of issuance fees), and shall be held
5 in—

6 “(A) community or economic development
7 loans;

8 “(B) a relending account, to the extent au-
9 thorized under paragraph (2); or

10 “(C) a risk-share pool established under
11 subsection (d).

12 “(4) REPAYMENT.—If a qualified issuer fails to
13 meet the requirements of paragraph (1) by the end
14 of the 90-day period beginning at the end of the an-
15 nual measurement period, repayment shall be made
16 on that portion of bonds or notes necessary to bring
17 the bonds or notes that remain outstanding after
18 such repayment into compliance with the 90 percent
19 requirement of paragraph (1).

20 “(5) PROHIBITED USES.—The Secretary shall,
21 by regulation—

22 “(A) prohibit, as appropriate, certain uses
23 of amounts from the guarantee of a bond or
24 note under the Program, including the use of
25 such funds for political activities, lobbying, out-

1 reach, counseling services, or travel expenses;
2 and

3 “(B) provide that the guarantee of a bond
4 or note under the Program may not be used for
5 salaries or other administrative costs of—

6 “(i) the qualified issuer; or

7 “(ii) any recipient of amounts from
8 the guarantee of a bond or note.

9 “(d) RISK-SHARE POOL.—Each qualified issuer
10 shall, during the term of a guarantee provided under the
11 Program, establish a risk-share pool, capitalized by con-
12 tributions from eligible community development financial
13 institution participants an amount equal to 3 percent of
14 the guaranteed amount outstanding on the subject notes
15 and bonds.

16 “(e) GUARANTEES.—

17 “(1) IN GENERAL.—A guarantee issued under
18 the Program shall—

19 “(A) be for the full amount of a bond or
20 note, including the amount of principal, inter-
21 est, and call premiums;

22 “(B) be fully assignable and transferable
23 to the capital market, on terms and conditions
24 that are consistent with comparable Govern-

1 ment-guaranteed bonds, and satisfactory to the
2 Secretary;

3 “(C) represent the full faith and credit of
4 the United States; and

5 “(D) not exceed 30 years.

6 “(2) LIMITATIONS.—

7 “(A) ANNUAL NUMBER OF GUARAN-
8 TEES.—The Secretary shall issue not more than
9 10 guarantees in any calendar year under the
10 Program.

11 “(B) GUARANTEE AMOUNT.—The Sec-
12 retary may not guarantee any amount under
13 the Program equal to less than \$100,000,000,
14 but the total of all such guarantees in any fiscal
15 year may not exceed \$1,000,000,000.

16 “(f) SERVICING OF TRANSACTIONS.—

17 “(1) IN GENERAL.—To maximize efficiencies
18 and minimize cost and interest rates, loans made
19 under this section may be serviced by qualified Pro-
20 gram administrators, bond servicers, and a master
21 servicer.

22 “(2) DUTIES OF PROGRAM ADMINISTRATOR.—
23 The duties of a Program administrator shall in-
24 clude—

1 “(A) approving and qualifying eligible com-
2 munity development financial institution appli-
3 cations for participation in the Program;

4 “(B) compliance monitoring;

5 “(C) bond packaging in connection with
6 the Program; and

7 “(D) all other duties and related services
8 that are customarily expected of a Program ad-
9 ministrator.

10 “(3) DUTIES OF SERVICER.—The duties of a
11 servicer shall include—

12 “(A) billing and collecting loan payments;

13 “(B) initiating collection activities on past-
14 due loans;

15 “(C) transferring loan payments to the
16 master servicing accounts;

17 “(D) loan administration and servicing;

18 “(E) systematic and timely reporting of
19 loan performance through remittance and serv-
20 icing reports;

21 “(F) proper measurement of annual out-
22 standing loan requirements; and

23 “(G) all other duties and related services
24 that are customarily expected of servicers.

1 “(4) DUTIES OF MASTER SERVICER.—The du-
2 ties of a master servicer shall include—

3 “(A) tracking the movement of funds be-
4 tween the accounts of the master servicer and
5 any other servicer;

6 “(B) ensuring orderly receipt of the
7 monthly remittance and servicing reports of the
8 servicer;

9 “(C) monitoring the collection comments
10 and foreclosure actions;

11 “(D) aggregating the reporting and dis-
12 tribution of funds to trustees and investors;

13 “(E) removing and replacing a servicer, as
14 necessary;

15 “(F) loan administration and servicing;

16 “(G) systematic and timely reporting of
17 loan performance compiled from all bond
18 servicers’ reports;

19 “(H) proper distribution of funds to inves-
20 tors; and

21 “(I) all other duties and related services
22 that are customarily expected of a master
23 servicer.

24 “(g) FEES.—

1 “(1) IN GENERAL.—A qualified issuer that re-
2 ceives a guarantee issued under this section on a
3 bond or note shall pay a fee to the Secretary, in an
4 amount equal to 10 basis points of the amount of
5 the unpaid principal of the bond or note guaranteed.

6 “(2) PAYMENT.—A qualified issuer shall pay
7 the fee required under this subsection on an annual
8 basis.

9 “(3) USE OF FEES.—Fees collected by the Sec-
10 retary under this subsection shall be used to reim-
11 burse the Department of the Treasury for any ad-
12 ministrative costs incurred by the Department in im-
13 plementing the Program established under this sec-
14 tion.

15 “(h) AUTHORIZATION OF APPROPRIATIONS.—

16 “(1) IN GENERAL.—There are authorized to be
17 appropriated to the Secretary, such sums as are nec-
18 essary to carry out this section.

19 “(2) USE OF FEES.—To the extent that the
20 amount of funds appropriated for a fiscal year under
21 paragraph (1) are not sufficient to carry out this
22 section, the Secretary may use the fees collected
23 under subsection (g) for the cost of providing guar-
24 antees of bonds and notes under this section.

1 “(i) INVESTMENT IN GUARANTEED BONDS INELI-
2 GIBLE FOR COMMUNITY REINVESTMENT ACT PUR-
3 POSES.—Notwithstanding any other provision of law, any
4 investment by a financial institution in bonds or notes
5 guaranteed under the Program shall not be taken into ac-
6 count in assessing the record of such institution for pur-
7 poses of the Community Reinvestment Act of 1977 (12
8 U.S.C. 2901).

9 “(j) ADMINISTRATION.—

10 “(1) REGULATIONS.—Not later than 1 year
11 after the date of enactment of this section, the Sec-
12 retary shall promulgate regulations to carry out this
13 section.

14 “(2) IMPLEMENTATION.—Not later than 2
15 years after the date of enactment of this section, the
16 Secretary shall implement this section.

17 “(k) TERMINATION.—This section is repealed, and
18 the authority provided under this section shall terminate,
19 on September 30, 2014.”.

20 **SEC. 1135. TEMPORARY EXPRESS LOAN ENHANCEMENT.**

21 (a) IN GENERAL.—Section 7(a)(31)(D) of the Small
22 Business Act (15 U.S.C. 636(a)(31)(D)) is amended by
23 striking “\$350,000” and inserting “\$1,000,000”.

24 (b) PROSPECTIVE REPEAL.—Effective 1 year after
25 the date of enactment of this Act, section 7(a)(31)(D) of

1 the Small Business Act (15 U.S.C. 636(a)(31)(D)) is
2 amended by striking “\$1,000,000” and inserting
3 “\$350,000”.

4 **SEC. 1136. PROHIBITION ON USING TARP FUNDS OR TAX IN**
5 **CREASES.**

6 (a) IN GENERAL.—Except as provided in subsection
7 (b), nothing in section 1111, 1112, 1113, 1114, 1115,
8 1116, 1117, 1118, 1122, or 1131, or an amendment made
9 by such sections, shall be construed to limit the ability
10 of Congress to appropriate funds.

11 (b) TARP FUNDS AND TAX INCREASES.—

12 (1) IN GENERAL.—Any covered amounts may
13 not be used to carry out section 1111, 1112, 1113,
14 1114, 1115, 1116, 1117, 1118, 1122, or 1131, or
15 an amendment made by such sections.

16 (2) DEFINITION.—In this subsection, the term
17 “covered amounts” means—

18 (A) the amounts made available to the Sec-
19 retary of the Treasury under title I of the
20 Emergency Economic Stabilization Act of 2008
21 S.C. 5201 et seq.) to purchase (under section
22 101) or guarantee (under section 102) assets
23 under that Act; and

24 (B) any revenue increase attributable to
25 any amendment to the Internal Revenue Code

1 of 1986 made during the period beginning on
2 the date of enactment of this Act and ending on
3 December 31, 2010.

4 **Subtitle B—Small Business Trade**
5 **and Exporting**

6 **SEC. 1201. SHORT TITLE.**

7 This subtitle may be cited as the “Small Business
8 Export Enhancement and International Trade Act of
9 2010”.

10 **SEC. 1202. DEFINITIONS.**

11 (a) **DEFINITIONS.**—In this subtitle—

12 (1) the term “Associate Administrator” means
13 the Associate Administrator for International Trade
14 appointed under section 22(a)(2) of the Small Busi-
15 ness Act, as amended by this subtitle;

16 (2) the term “Export Assistance Center” means
17 a one-stop shop referred to in section 2301(b)(8) of
18 the Omnibus Trade and Competitiveness Act of
19 1988 (15 U.S.C. 4721(b)(8)); and

20 (3) the term “rural small business concern”
21 means a small business concern located in a rural
22 area, as that term is defined in section 1393(a)(2)
23 of the Internal Revenue Code of 1986.

24 (b) **TECHNICAL AND CONFORMING AMENDMENTS.**—

1 (1) DEFINITIONS.—Section 3 of the Small
2 Business Act (15 U.S.C. 632) is amended by adding
3 at the end the following:

4 “(t) SMALL BUSINESS DEVELOPMENT CENTER.—In
5 this Act, the term ‘small business development center’
6 means a small business development center described in
7 section 21.

8 “(u) REGION OF THE ADMINISTRATION.—In this
9 Act, the term ‘region of the Administration’ means the
10 geographic area served by a regional office of the Adminis-
11 tration established under section 4(a).”.

12 (2) CONFORMING AMENDMENT.—Section
13 4(b)(3)(B)(x) of the Small Business Act (15 U.S.C.
14 633(b)(3)(B)(x)) is amended by striking “Adminis-
15 tration district and region” and inserting “district
16 and region of the Administration”.

17 **SEC. 1203. OFFICE OF INTERNATIONAL TRADE.**

18 (a) ESTABLISHMENT.—Section 22 of the Small Busi-
19 ness Act (15 U.S.C. 649) is amended—

20 (1) by striking “SEC. 22. (a) There” and in-
21 serting the following:

22 **“SEC. 22. OFFICE OF INTERNATIONAL TRADE.**

23 “(a) ESTABLISHMENT.—

24 “(1) OFFICE.—There”; and

25 (2) in subsection (a)—

1 (A) in paragraph (1), as so designated, by
2 striking the period and inserting “for the pri-
3 mary purposes of increasing—

4 “(A) the number of small business con-
5 cerns that export; and

6 “(B) the volume of exports by small busi-
7 ness concerns.”; and

8 (B) by adding at the end the following:

9 “(2) ASSOCIATE ADMINISTRATOR.—The head of
10 the Office shall be the Associate Administrator for
11 International Trade, who shall be responsible to the
12 Administrator.”.

13 (b) AUTHORITY FOR ADDITIONAL ASSOCIATE AD-
14 MINISTRATOR.—Section 4(b)(1) of the Small Business Act
15 (15 U.S.C. 633(b)(1)) is amended—

16 (1) in the fifth sentence, by striking “five Asso-
17 ciate Administrators” and inserting “Associate Ad-
18 ministrators”; and

19 (2) by adding at the end the following: “One
20 such Associate Administrator shall be the Associate
21 Administrator for International Trade, who shall be
22 the head of the Office of International Trade estab-
23 lished under section 22.”.

24 (c) DISCHARGE OF INTERNATIONAL TRADE RESPON-
25 SIBILITIES OF ADMINISTRATION.—Section 22 of the Small

1 Business Act (15 U.S.C. 649) is amended by adding at
2 the end the following:

3 “(h) DISCHARGE OF INTERNATIONAL TRADE RE-
4 SPONSIBILITIES OF ADMINISTRATION.—The Adminis-
5 trator shall ensure that—

6 “(1) the responsibilities of the Administration
7 regarding international trade are carried out by the
8 Associate Administrator;

9 “(2) the Associate Administrator has sufficient
10 resources to carry out such responsibilities; and

11 “(3) the Associate Administrator has direct su-
12 pervision and control over—

13 “(A) the staff of the Office; and

14 “(B) any employee of the Administration
15 whose principal duty station is an Export As-
16 sistance Center, or any successor entity.”.

17 (d) ROLE OF ASSOCIATE ADMINISTRATOR IN CAR-
18 RYING OUT INTERNATIONAL TRADE POLICY.—Section
19 2(b)(1) of the Small Business Act (15 U.S.C. 631(b)(1))
20 is amended in the matter preceding subparagraph (A)—

21 (1) by inserting “the Administrator of” before
22 “the Small Business Administration”; and

23 (2) by inserting “through the Associate Admin-
24 istrator for International Trade, and” before “in co-
25 operation with”.

1 (e) IMPLEMENTATION DATE.—Not later than 90
2 days after the date of enactment of this Act, the Adminis-
3 trator of the Small Business Administration shall appoint
4 an Associate Administrator for International Trade under
5 section 22(a) of the Small Business Act (15 U.S.C.
6 649(a)), as added by this section.

7 **SEC. 1204. DUTIES OF THE OFFICE OF INTERNATIONAL**
8 **TRADE.**

9 (a) AMENDMENTS TO SECTION 22.—Section 22 of
10 the Small Business Act (15 U.S.C. 649) is amended—

11 (1) by striking subsection (b) and inserting the
12 following:

13 “(b) TRADE DISTRIBUTION NETWORK.—The Asso-
14 ciate Administrator, working in close cooperation with the
15 Secretary of Commerce, the United States Trade Rep-
16 resentative, the Secretary of Agriculture, the Secretary of
17 State, the President of the Export-Import Bank of the
18 United States, the President of the Overseas Private In-
19 vestment Corporation, Director of the United States
20 Trade and Development Agency, and other relevant Fed-
21 eral agencies, small business development centers engaged
22 in export promotion efforts, Export Assistance Centers,
23 regional and district offices of the Administration, the
24 small business community, and relevant State and local
25 export promotion programs, shall—

1 “(1) maintain a distribution network, using re-
2 gional and district offices of the Administration, the
3 small business development center network, net-
4 works of women’s business centers, the Service
5 Corps of Retired Executives authorized by section
6 8(b)(1), and Export Assistance Centers, for pro-
7 grams relating to—

8 “(A) trade promotion;

9 “(B) trade finance;

10 “(C) trade adjustment assistance;

11 “(D) trade remedy assistance; and

12 “(E) trade data collection;

13 “(2) aggressively market the programs de-
14 scribed in paragraph (1) and disseminate informa-
15 tion, including computerized marketing data, to
16 small business concerns on exporting trends, market-
17 specific growth, industry trends, and international
18 prospects for exports;

19 “(3) promote export assistance programs
20 through the district and regional offices of the Ad-
21 ministration, the small business development center
22 network, Export Assistance Centers, the network of
23 women’s business centers, chapters of the Service
24 Corps of Retired Executives, State and local export

1 promotion programs, and partners in the private
2 sector; and

3 “(4) give preference in hiring or approving the
4 transfer of any employee into the Office or to a posi-
5 tion described in subsection (c)(9) to otherwise
6 qualified applicants who are fluent in a language in
7 addition to English, to—

8 “(A) accompany small business concerns
9 on foreign trade missions; and

10 “(B) translate documents, interpret con-
11 versations, and facilitate multilingual trans-
12 actions, including by providing referral lists for
13 translation services, if required.”;

14 (2) in subsection (c)—

15 (A) by striking “(c) The Office” and in-
16 serting the following:

17 “(c) PROMOTION OF SALES OPPORTUNITIES.—The
18 Associate Administrator”;

19 (B) by redesignating paragraphs (1)
20 through (8) as paragraphs (2) through (9), re-
21 spectively;

22 (C) by inserting before paragraph (2), as
23 so redesignated, the following:

24 “(1) establish annual goals for the Office relat-
25 ing to—

1 “(A) enhancing the exporting capability of
2 small business concerns and small manufactur-
3 ers;

4 “(B) facilitating technology transfers;

5 “(C) enhancing programs and services to
6 assist small business concerns and small manu-
7 facturers to compete effectively and efficiently
8 against foreign entities;

9 “(D) increasing the ability of small busi-
10 ness concerns to access capital; and

11 “(E) disseminating information concerning
12 Federal, State, and private programs and initia-
13 tives;”;

14 (D) in paragraph (2), as so redesignated,
15 by striking “mechanism for” and all that fol-
16 lows through “(D) assisting” and inserting the
17 following: “mechanism for—

18 “(A) identifying subsectors of the small
19 business community with strong export poten-
20 tial;

21 “(B) identifying areas of demand in for-
22 eign markets;

23 “(C) prescreening foreign buyers for com-
24 mercial and credit purposes; and

25 “(D) assisting”;

- 1 (E) in paragraph (3), as so redesignated,
2 by striking “assist small businesses in the for-
3 mation and utilization of” and inserting “assist
4 small business concerns in forming and using”;
- 5 (F) in paragraph (4), as so redesignated—
- 6 (i) by striking “local” and inserting
7 “district”;
- 8 (ii) by striking “existing”;
- 9 (iii) by striking “Small Business De-
10 velopment Center network” and inserting
11 “small business development center net-
12 work”; and
- 13 (iv) by striking “Small Business De-
14 velopment Center Program” and inserting
15 “small business development center pro-
16 gram”;
- 17 (G) in paragraph (5), as so redesignated—
- 18 (i) in subparagraph (A), by striking
19 “Gross State Produce” and inserting
20 “Gross State Product”;
- 21 (ii) in subparagraph (B), by striking
22 “SIC” each place it appears and inserting
23 “North American Industry Classification
24 System”; and

1 (iii) in subparagraph (C), by striking
2 “small businesses” and inserting “small
3 business concerns”;

4 (H) in paragraph (6), as so redesignated,
5 by striking the period at the end and inserting
6 a semicolon;

7 (I) in paragraph (7), as so redesignated—
8 (i) in the matter preceding subpara-
9 graph (A)—

10 (I) by inserting “concerns” after
11 “small business”; and

12 (II) by striking “current” and in-
13 serting “up to date”;

14 (ii) in subparagraph (A), by striking
15 “Administration’s regional offices” and in-
16 serting “regional and district offices of the
17 Administration”;

18 (iii) in subparagraph (B) by striking
19 “current”;

20 (iv) in subparagraph (C), by striking
21 “current”; and

22 (v) by striking “small businesses”
23 each place that term appears and inserting
24 “small business concerns”;

1 (J) in paragraph (8), as so redesignated,
2 by striking and at the end;

3 (K) in paragraph (9), as so redesignated—
4 (i) in the matter preceding subpara-
5 graph (A)—

6 (I) by striking “full-time export
7 development specialists to each Ad-
8 ministration regional office and as-
9 signing”; and

10 (II) by striking “person in each
11 district office. Such specialists” and
12 inserting “individual in each district
13 office and providing each Administra-
14 tion regional office with a full-time ex-
15 port development specialist, who”;

16 (ii) in subparagraph (B)—

17 (I) by striking “current”; and

18 (II) by striking “with” and in-
19 serting “in”;

20 (iii) in subparagraph (D)—

21 (I) by striking “Administration
22 personnel involved in granting” and
23 inserting “personnel of the Adminis-
24 tration involved in making”; and

25 (II) by striking “and” at the end;

1 (iv) in subparagraph (E)—

2 (I) by striking “small businesses’
3 needs” and inserting “the needs of
4 small business concerns”; and

5 (II) by striking the period at the
6 end and inserting a semicolon;

7 (v) by adding at the end the following:

8 “(F) participate, jointly with employees of
9 the Office, in an annual training program that
10 focuses on current small business needs for ex-
11 porting; and

12 “(G) develop and conduct training pro-
13 grams for exporters and lenders, in cooperation
14 with the Export Assistance Centers, the De-
15 partment of Commerce, the Department of Ag-
16 riculture, small business development centers,
17 women’s business centers, the Export-Import
18 Bank of the United States, the Overseas Pri-
19 vate Investment Corporation, and other relevant
20 Federal agencies;” and

21 (vi) by striking “small businesses”
22 each place that term appears and inserting
23 “small business concerns”; and

24 (L) by adding at the end the following:

1 “(10) make available on the website of the Ad-
2 ministration the name and contact information of
3 each individual described in paragraph (9);

4 “(11) carry out a nationwide marketing effort
5 using technology, online resources, training, and
6 other strategies to promote exporting as a business
7 development opportunity for small business con-
8 cerns;

9 “(12) disseminate information to the small
10 business community through regional and district of-
11 fices of the Administration, the small business devel-
12 opment center network, Export Assistance Centers,
13 the network of women’s business centers, chapters of
14 the Service Corps of Retired Executives authorized
15 by section 8(b)(1), State and local export promotion
16 programs, and partners in the private sector regard-
17 ing exporting trends, market-specific growth, indus-
18 try trends, and prospects for exporting; and

19 “(13) establish and carry out training programs
20 for the staff of the regional and district offices of
21 the Administration and resource partners of the Ad-
22 ministration on export promotion and providing as-
23 sistance relating to exports.”;

24 (3) in subsection (d)—

1 (A) by redesignating paragraphs (1)
2 through (5) as clauses (i) through (v), respec-
3 tively, and adjusting the margins accordingly;

4 (B) by striking “(d) The Office” and in-
5 serting the following:

6 “(d) EXPORT FINANCING PROGRAMS.—

7 “(1) IN GENERAL.—The Associate Adminis-
8 trator”; and

9 (C) by striking “To accomplish this goal,
10 the Office shall work” and inserting the fol-
11 lowing:

12 “(2) TRADE FINANCE SPECIALIST.—To accom-
13 plish the goal established under paragraph (1), the
14 Associate Administrator shall—

15 “(A) designate at least 1 individual within
16 the Administration as a trade finance specialist
17 to oversee international loan programs and as-
18 sist Administration employees with trade fi-
19 nance issues; and

20 “(B) work”;

21 (4) in subsection (e), by striking “(e) The Of-
22 fice” and inserting the following:

23 “(e) TRADE REMEDIES.—The Associate Adminis-
24 trator”;

1 (5) by amending subsection (f) to read as fol-
2 lows:

3 “(f) REPORTING REQUIREMENT.—The Associate Ad-
4 ministrators shall submit an annual report to the Com-
5 mittee on Small Business and Entrepreneurship of the
6 Senate and the Committee on Small Business of the
7 House of Representatives that contains—

8 “(1) a description of the progress of the Office
9 in implementing the requirements of this section;

10 “(2) a detailed account of the results of export
11 growth activities of the Administration, including the
12 activities of each district and regional office of the
13 Administration, based on the performance measures
14 described in subsection (i);

15 “(3) an estimate of the total number of jobs
16 created or retained as a result of export assistance
17 provided by the Administration and resource part-
18 ners of the Administration;

19 “(4) for any travel by the staff of the Office,
20 the destination of such travel and the benefits to the
21 Administration and to small business concerns re-
22 sulting from such travel; and

23 “(5) a description of the participation by the
24 Office in trade negotiations.”;

1 (6) in subsection (g), by striking “(g) The Of-
2 fice” and inserting the following:

3 “(g) STUDIES.—The Associate Administrator”; and

4 (7) by adding after subsection (h), as added by
5 section 1203 of this subtitle, the following:

6 “(i) EXPORT AND TRADE COUNSELING.—

7 “(1) DEFINITION.—In this subsection—

8 “(A) the term ‘lead small business develop-
9 ment center’ means a small business develop-
10 ment center that has received a grant from the
11 Administration; and

12 “(B) the term ‘lead women’s business cen-
13 ter’ means a women’s business center that has
14 received a grant from the Administration.

15 “(2) CERTIFICATION PROGRAM.—The Adminis-
16 trator shall establish an export and trade counseling
17 certification program to certify employees of lead
18 small business development centers and lead wom-
19 en’s business centers in providing export assistance
20 to small business concerns.

21 “(3) NUMBER OF CERTIFIED EMPLOYEES.—

22 The Administrator shall ensure that the number of
23 employees of each lead small business development
24 center who are certified in providing export assist-
25 ance is not less than the lesser of—

1 “(A) 5; or

2 “(B) 10 percent of the total number of em-
3 ployees of the lead small business development
4 center.

5 “(4) REIMBURSEMENT FOR CERTIFICATION.—

6 “(A) IN GENERAL.—Subject to the avail-
7 ability of appropriations, the Administrator
8 shall reimburse a lead small business develop-
9 ment center or a lead women’s business center
10 for costs relating to the certification of an em-
11 ployee of the lead small business center or lead
12 women’s business center in providing export as-
13 sistance under the program established under
14 paragraph (2).

15 “(B) LIMITATION.—The total amount re-
16 imbursed by the Administrator under subpara-
17 graph (A) may not exceed \$350,000 in any fis-
18 cal year.

19 “(j) PERFORMANCE MEASURES.—

20 “(1) IN GENERAL.—The Associate Adminis-
21 trator shall develop performance measures for the
22 Administration to support export growth goals for
23 the activities of the Office under this section that in-
24 clude—

1 “(A) the number of small business con-
2 cerns that—

3 “(i) receive assistance from the Ad-
4 ministration;

5 “(ii) had not exported goods or serv-
6 ices before receiving the assistance de-
7 scribed in clause (i); and

8 “(iii) export goods or services;

9 “(B) the number of small business con-
10 cerns receiving assistance from the Administra-
11 tion that export goods or services to a market
12 outside the United States into which the small
13 business concern did not export before receiving
14 the assistance;

15 “(C) export revenues by small business
16 concerns assisted by programs of the Adminis-
17 tration;

18 “(D) the number of small business con-
19 cerns referred to an Export Assistance Center
20 or a small business development center by the
21 staff of the Office;

22 “(E) the number of small business con-
23 cerns referred to the Administration by an Ex-
24 port Assistance Center or a small business de-
25 velopment center; and

1 “(F) the number of small business con-
2 cerns referred to the Department of Commerce,
3 the Department of Agriculture, the Department
4 of State, the Export-Import Bank of the United
5 States, the Overseas Private Investment Cor-
6 poration, or the United States Trade and De-
7 velopment Agency by the staff of the Office, an
8 Export Assistance Center, or a small business
9 development center.

10 “(2) JOINT PERFORMANCE MEASURES.—The
11 Associate Administrator shall develop joint perform-
12 ance measures for the district offices of the Adminis-
13 tration and the Export Assistance Centers that in-
14 clude the number of export loans made under—

15 “(A) section 7(a)(16);

16 “(B) the Export Working Capital Program
17 established under section 7(a)(14);

18 “(C) the Preferred Lenders Program, as
19 defined in section 7(a)(2)(C)(ii); and

20 “(D) the export express program estab-
21 lished under section 7(a)(34).

22 “(3) CONSISTENCY OF TRACKING.—The Asso-
23 ciate Administrator, in coordination with the depart-
24 ments and agencies that are represented on the
25 Trade Promotion Coordinating Committee estab-

1 lished under section 2312 of the Export Enhance-
2 ment Act of 1988 (15 U.S.C. 4727) and the small
3 business development center network, shall develop a
4 system to track exports by small business concerns,
5 including information relating to the performance
6 measures developed under paragraph (1), that is
7 consistent with systems used by the departments
8 and agencies and the network.”.

9 (b) REPORT.—Not later than 60 days after the date
10 of enactment of this Act, the Administrator shall submit
11 a report to the Committee on Small Business and Entre-
12 preneurship of the Senate and the Committee on Small
13 Business of the House of Representatives on any travel
14 by the staff of the Office of International Trade of the
15 Administration, during the period beginning on October
16 1, 2004, and ending on the date of enactment of the Act,
17 including the destination of such travel and the benefits
18 to the Administration and to small business concerns re-
19 sulting from such travel.

20 **SEC. 1205. EXPORT ASSISTANCE CENTERS.**

21 (a) EXPORT ASSISTANCE CENTERS.—Section 22 of
22 the Small Business Act (15 U.S.C. 649), as amended by
23 this subtitle, is amended by adding at the end the fol-
24 lowing:

25 “(k) EXPORT ASSISTANCE CENTERS.—

1 “(1) EXPORT FINANCE SPECIALISTS.—

2 “(A) MINIMUM NUMBER OF EXPORT FI-
3 NANCE SPECIALISTS.—On and after the date
4 that is 90 days after the date of enactment of
5 this subsection, the Administrator, in coordina-
6 tion with the Secretary of Commerce, shall en-
7 sure that the number of export finance special-
8 ists is not less than the number of such employ-
9 ees so assigned on January 1, 2003.

10 “(B) EXPORT FINANCE SPECIALISTS AS-
11 SIGNED TO EACH REGION OF THE ADMINISTRA-
12 TION.—On and after the date that is 2 years
13 after the date of enactment of this subsection,
14 the Administrator, in coordination with the Sec-
15 retary of Commerce, shall ensure that there are
16 not fewer than 3 export finance specialists in
17 each region of the Administration.

18 “(2) PLACEMENT OF EXPORT FINANCE SPE-
19 CIALISTS.—

20 “(A) PRIORITY.—The Administrator shall
21 give priority, to the maximum extent prac-
22 ticable, to placing employees of the Administra-
23 tion at any Export Assistance Center that—

1 “(i) had an Administration employee
2 assigned to the Export Assistance Center
3 before January 2003; and

4 “(ii) has not had an Administration
5 employee assigned to the Export Assist-
6 ance Center during the period beginning
7 January 2003, and ending on the date of
8 enactment of this subsection, either
9 through retirement or reassignment.

10 “(B) NEEDS OF EXPORTERS.—The Ad-
11 ministrators shall, to the maximum extent prac-
12 ticable, strategically assign Administration em-
13 ployees to Export Assistance Centers, based on
14 the needs of exporters.

15 “(C) RULE OF CONSTRUCTION.—Nothing
16 in this subsection may be construed to require
17 the Administrator to reassign or remove an ex-
18 port finance specialist who is assigned to an
19 Export Assistance Center on the date of enact-
20 ment of this subsection.

21 “(3) GOALS.—The Associate Administrator
22 shall work with the Department of Commerce, the
23 Export-Import Bank of the United States, and the
24 Overseas Private Investment Corporation to estab-

1 lish shared annual goals for the Export Assistance
2 Centers.

3 “(4) OVERSIGHT.—The Associate Adminis-
4 trator shall designate an individual within the Ad-
5 ministration to oversee all activities conducted by
6 Administration employees assigned to Export Assist-
7 ance Centers.

8 “(1) DEFINITIONS.—In this section—

9 “(1) the term ‘Associate Administrator’ means
10 the Associate Administrator for International Trade
11 described in subsection (a)(2);

12 “(2) the term ‘Export Assistance Center’ means
13 a one-stop shop for United States exporters estab-
14 lished by the United States and Foreign Commercial
15 Service of the Department of Commerce pursuant to
16 section 2301(b)(8) of the Omnibus Trade and Com-
17 petitiveness Act of 1988 (15 U.S.C. 4721(b)(8));

18 “(3) the term ‘export finance specialist’ means
19 a full-time equivalent employee of the Office as-
20 signed to an Export Assistance Center to carry out
21 the duties described in subsection (e); and

22 “(4) the term ‘Office’ means the Office of
23 International Trade established under subsection
24 (a)(1).”.

1 (b) STUDY AND REPORT ON FILLING GAPS IN HIGH-
2 AND-LOW-EXPORT VOLUME AREAS.—

3 (1) STUDY AND REPORT.—Not later than 6
4 months after the date of enactment of this Act, and
5 every 2 years thereafter, the Administrator shall—

6 (A) conduct a study of—

7 (i) the volume of exports for each
8 State;

9 (ii) the availability of export finance
10 specialists in each State;

11 (iii) the number of exporters in each
12 State that are small business concerns;

13 (iv) the percentage of exporters in
14 each State that are small business con-
15 cerns;

16 (v) the change, if any, in the number
17 of exporters that are small business con-
18 cerns in each State—

19 (I) for the first study conducted
20 under this subparagraph, during the
21 10-year period ending on the date of
22 enactment of this Act; and

23 (II) for each subsequent study,
24 during the 10-year period ending on
25 the date the study is commenced;

1 (vi) the total value of the exports in
2 each State by small business concerns;

3 (vii) the percentage of the total vol-
4 ume of exports in each State that is attrib-
5 utable to small business concerns; and

6 (viii) the change, if any, in the per-
7 centage of the total volume of exports in
8 each State that is attributable to small
9 business concerns—

10 (I) for the first study conducted
11 under this subparagraph, during the
12 10-year period ending on the date of
13 enactment of this Act; and

14 (II) for each subsequent study,
15 during the 10-year period ending on
16 the date the study is commenced; and

17 (B) submit to the Committee on Small
18 Business and Entrepreneurship of the Senate
19 and the Committee on Small Business of the
20 House of Representatives a report containing—

21 (i) the results of the study under sub-
22 paragraph (A);

23 (ii) to the extent practicable, a rec-
24 ommendation regarding how to eliminate
25 gaps between the supply of and demand

1 for export finance specialists in the 15
2 States that have the greatest volume of ex-
3 ports, based upon the most recent data
4 available from the Department of Com-
5 merce;

6 (iii) to the extent practicable, a rec-
7 ommendation regarding how to eliminate
8 gaps between the supply of and demand
9 for export finance specialists in the 15
10 States that have the lowest volume of ex-
11 ports, based upon the most recent data
12 available from the Department of Com-
13 merce; and

14 (iv) such additional information as the
15 Administrator determines is appropriate.

16 (2) DEFINITION.—In this subsection, the term
17 “export finance specialist” has the meaning given
18 that term in section 22(l) of the Small Business Act,
19 as added by this title.

20 **SEC. 1206. INTERNATIONAL TRADE FINANCE PROGRAMS.**

21 (a) LOAN LIMITS.—

22 (1) TOTAL AMOUNT OUTSTANDING.—Section
23 7(a)(3)(B) of the Small Business Act (15 U.S.C.
24 636(a)(3)(B)) is amended by striking “\$1,750,000,
25 of which not more than \$1,250,000” and inserting

1 “\$4,500,000 (or if the gross loan amount would ex-
2 ceed \$5,000,000), of which not more than
3 \$4,000,000”.

4 (2) PARTICIPATION.—Section 7(a)(2) of the
5 Small Business Act (15 U.S.C. 636(a)(2)) is amend-
6 ed—

7 (A) in subparagraph (A), in the matter
8 preceding clause (i), by striking “subparagraph
9 (B)” and inserting “subparagraphs (B), (D),
10 and (E)”;

11 (B) in subparagraph (D), by striking
12 “Notwithstanding subparagraph (A), in” and
13 inserting “In”; and

14 (C) by adding at the end the following:

15 “(E) PARTICIPATION IN INTERNATIONAL
16 TRADE LOAN.—In an agreement to participate
17 in a loan on a deferred basis under paragraph
18 (16), the participation by the Administration
19 may not exceed 90 percent.”.

20 (b) WORKING CAPITAL.—Section 7(a)(16)(A) of the
21 Small Business Act (15 U.S.C. 636(a)(16)(A)) is amend-
22 ed—

23 (1) in the matter preceding clause (i), by strik-
24 ing “in—” and inserting “—”;

25 (2) in clause (i)—

1 (A) by inserting “in” after “(i)”; and

2 (B) by striking “or” at the end;

3 (3) in clause (ii)—

4 (A) by inserting “in” after “(ii)”; and

5 (B) by striking the period at the end and

6 inserting “, including any debt that qualifies for

7 refinancing under any other provision of this

8 subsection; or”; and

9 (4) by adding at the end the following:

10 “(iii) by providing working capital.”.

11 (c) COLLATERAL.—Section 7(a)(16)(B) of the Small

12 Business Act (15 U.S.C. 636(a)(16)(B)) is amended—

13 (1) by striking “Each loan” and inserting the

14 following:

15 “(i) IN GENERAL.—Except as pro-

16 vided in clause (ii), each loan”; and

17 (2) by adding at the end the following:

18 “(ii) EXCEPTION.—A loan under this

19 paragraph may be secured by a second lien

20 position on the property or equipment fi-

21 nanced by the loan or on other assets of

22 the small business concern, if the Adminis-

23 trator determines the lien provides ade-

24 quate assurance of the payment of the

25 loan.”.

1 (d) EXPORT WORKING CAPITAL PROGRAM.—Section
2 7(a) of the Small Business Act (15 U.S.C. 636(a)) is
3 amended—

4 (1) in paragraph (2)(D), by striking “not ex-
5 ceed” and inserting “be”; and

6 (2) in paragraph (14)—

7 (A) by striking “(A) The Administration”
8 and inserting the following: “EXPORT WORKING
9 CAPITAL PROGRAM.—

10 “(A) IN GENERAL.—The Administrator”;

11 (B) by striking “(B) When considering”
12 and inserting the following:

13 “(C) CONSIDERATIONS.—When consid-
14 ering”;

15 (C) by striking “(C) The Administration”
16 and inserting the following:

17 “(D) MARKETING.—The Administrator”;

18 and

19 (D) by inserting after subparagraph (A)
20 the following:

21 “(B) TERMS.—

22 “(i) LOAN AMOUNT.—The Adminis-
23 trator may not guarantee a loan under this
24 paragraph of more than \$5,000,000.

25 “(ii) FEES.—

1 “(I) IN GENERAL.—For a loan
2 under this paragraph, the Adminis-
3 trator shall collect the fee assessed
4 under paragraph (23) not more fre-
5 quently than once each year.

6 “(II) UNTAPPED CREDIT.—The
7 Administrator may not assess a fee on
8 capital that is not accessed by the
9 small business concern.”.

10 (e) PARTICIPATION IN PREFERRED LENDERS PRO-
11 GRAM.—Section 7(a)(2)(C) of the Small Business Act (15
12 U.S.C. 636(a)(2)(C)) is amended—

13 (1) by redesignating clause (ii) as clause (iii);

14 and

15 (2) by inserting after clause (i) the following:

16 “(ii) EXPORT-IMPORT BANK LEND-
17 ERS.—Any lender that is participating in
18 the Delegated Authority Lender Program
19 of the Export-Import Bank of the United
20 States (or any successor to the Program)
21 shall be eligible to participate in the Pre-
22 ferred Lenders Program.”.

23 (f) EXPORT EXPRESS PROGRAM.—Section 7(a) of the
24 Small Business Act (15 U.S.C. 636(a)) is amended by
25 adding at the end the following:

1 “(VIII) providing term loans or
2 other financing to enable a small busi-
3 ness concern, including an export
4 trading company and an export man-
5 agement company, to develop a mar-
6 ket outside the United States; and

7 “(IX) acquiring, constructing,
8 renovating, modernizing, improving,
9 or expanding a production facility or
10 equipment to be used in the United
11 States in the production of goods or
12 services for export; and

13 “(ii) the term ‘express loan’ means a
14 loan in which a lender uses to the max-
15 imum extent practicable the loan analyses,
16 procedures, and documentation of the lend-
17 er to provide expedited processing of the
18 loan application.

19 “(B) AUTHORITY.—The Administrator
20 may guarantee the timely payment of an ex-
21 press loan to a small business concern made for
22 an export development activity.

23 “(C) LEVEL OF PARTICIPATION.—

24 “(i) MAXIMUM AMOUNT.—The max-
25 imum amount of an express loan guaran-

1 teed under this paragraph shall be
2 \$500,000.

3 “(ii) PERCENTAGE.—For an express
4 loan guaranteed under this paragraph, the
5 Administrator shall guarantee—

6 “(I) 90 percent of a loan that is
7 not more than \$350,000; and

8 “(II) 75 percent of a loan that is
9 more than \$350,000 and not more
10 than \$500,000.”.

11 (g) ANNUAL LISTING OF EXPORT FINANCE LEND-
12 ERS.—Section 7(a)(16) of the Small Business Act (15
13 U.S.C. 636(a)(16)) is amended by adding at the end the
14 following:

15 “(F) LIST OF EXPORT FINANCE LEND-
16 ERS.—

17 “(i) PUBLICATION OF LIST RE-
18 QUIRED.—The Administrator shall publish
19 an annual list of the banks and partici-
20 pating lending institutions that, during the
21 1-year period ending on the date of publi-
22 cation of the list, have made loans guaran-
23 teed by the Administration under—

24 “(I) this paragraph;

25 “(II) paragraph (14); or

1 “(III) paragraph (34).

2 “(ii) AVAILABILITY OF LIST.—The
3 Administrator shall—

4 “(I) post the list published under
5 clause (i) on the website of the Ad-
6 ministration; and

7 “(II) make the list published
8 under clause (i) available, upon re-
9 quest, at each district office of the
10 Administration.”.

11 (h) APPLICABILITY.—The amendments made by sub-
12 sections (a) through (f) shall apply with respect to any
13 loan made after the date of enactment of this Act.

14 **SEC. 1207. STATE TRADE AND EXPORT PROMOTION GRANT**
15 **PROGRAM.**

16 (a) DEFINITIONS.—In this section—

17 (1) the term “eligible small business concern”
18 means a small business concern that—

19 (A) has been in business for not less than
20 the 1-year period ending on the date on which
21 assistance is provided using a grant under this
22 section;

23 (B) is operating profitably, based on oper-
24 ations in the United States;

1 (C) has demonstrated understanding of the
2 costs associated with exporting and doing busi-
3 ness with foreign purchasers, including the
4 costs of freight forwarding, customs brokers,
5 packing and shipping, as determined by the As-
6 sociate Administrator; and

7 (D) has in effect a strategic plan for ex-
8 porting;

9 (2) the term “program” means the State Trade
10 and Export Promotion Grant Program established
11 under subsection (b);

12 (3) the term “small business concern owned
13 and controlled by women” has the meaning given
14 that term in section 3 of the Small Business Act (15
15 U.S.C. 632);

16 (4) the term “socially and economically dis-
17 advantaged small business concern” has the mean-
18 ing given that term in section 8(a)(4)(A) of the
19 Small Business Act (15 U.S.C. 6537(a)(4)(A)); and

20 (5) the term “State” means each of the several
21 States, the District of Columbia, the Commonwealth
22 of Puerto Rico, the Virgin Islands, Guam, and
23 American Samoa.

24 (b) ESTABLISHMENT OF PROGRAM.—The Associate
25 Administrator shall establish a 3-year trade and export

1 promotion pilot program to be known as the State Trade
2 and Export Promotion Grant Program, to make grants
3 to States to carry out export programs that assist eligible
4 small business concerns in—

5 (1) participation in a foreign trade mission;

6 (2) a foreign market sales trip;

7 (3) a subscription to services provided by the
8 Department of Commerce;

9 (4) the payment of website translation fees;

10 (5) the design of international marketing
11 media;

12 (6) a trade show exhibition;

13 (7) participation in training workshops; or

14 (8) any other export initiative determined ap-
15 propriate by the Associate Administrator.

16 (c) GRANTS.—

17 (1) JOINT REVIEW.—In carrying out the pro-
18 gram, the Associate Administrator may make a
19 grant to a State to increase the number of eligible
20 small business concerns in the State that export or
21 to increase the value of the exports by eligible small
22 business concerns in the State.

23 (2) CONSIDERATIONS.—In making grants
24 under this section, the Associate Administrator may

1 give priority to an application by a State that pro-
2 poses a program that—

3 (A) focuses on eligible small business con-
4 cerns as part of an export promotion program;

5 (B) demonstrates success in promoting ex-
6 ports by—

7 (i) socially and economically disadvan-
8 tagged small business concerns;

9 (ii) small business concerns owned or
10 controlled by women; and

11 (iii) rural small business concerns;

12 (C) promotes exports from a State that is
13 not 1 of the 10 States with the highest percent-
14 age of exporters that are small business con-
15 cerns, based upon the latest data available from
16 the Department of Commerce; and

17 (D) promotes new-to-market export oppor-
18 tunities to the People's Republic of China for
19 eligible small business concerns in the United
20 States.

21 (3) LIMITATIONS.—

22 (A) SINGLE APPLICATION.—A State may
23 not submit more than 1 application for a grant
24 under the program in any 1 fiscal year.

1 (B) PROPORTION OF AMOUNTS.—The total
2 value of grants under the program made during
3 a fiscal year to the 10 States with the highest
4 number of exporters that are small business
5 concerns, based upon the latest data available
6 from the Department of Commerce, shall be not
7 more than 40 percent of the amounts appro-
8 priated for the program for that fiscal year.

9 (4) APPLICATION.—A State desiring a grant
10 under the program shall submit an application at
11 such time, in such manner, and accompanied by
12 such information as the Associate Administrator
13 may establish.

14 (d) COMPETITIVE BASIS.—The Associate Adminis-
15 trator shall award grants under the program on a competi-
16 tive basis.

17 (e) FEDERAL SHARE.—The Federal share of the cost
18 of an export program carried out using a grant under the
19 program shall be—

20 (1) for a State that has a high export volume,
21 as determined by the Associate Administrator, not
22 more than 65 percent; and

23 (2) for a State that does not have a high export
24 volume, as determined by the Associate Adminis-
25 trator, not more than 75 percent.

1 (f) NON-FEDERAL SHARE.—The non-Federal share
2 of the cost of an export program carried using a grant
3 under the program shall be comprised of not less than 50
4 percent cash and not more than 50 percent of indirect
5 costs and in-kind contributions, except that no such costs
6 or contributions may be derived from funds from any
7 other Federal program.

8 (g) REPORTS.—

9 (1) INITIAL REPORT.—Not later than 120 days
10 after the date of enactment of this Act, the Asso-
11 ciate Administrator shall submit to the Committee
12 on Small Business and Entrepreneurship of the Sen-
13 ate and the Committee on Small Business of the
14 House of Representatives a report, which shall in-
15 clude—

16 (A) a description of the structure of and
17 procedures for the program;

18 (B) a management plan for the program;

19 and

20 (C) a description of the merit-based review
21 process to be used in the program.

22 (2) ANNUAL REPORTS.—The Associate Admin-
23 istrator shall submit an annual report to the Com-
24 mittee on Small Business and Entrepreneurship of
25 the Senate and the Committee on Small Business of

1 the House of Representatives regarding the pro-
2 gram, which shall include—

3 (A) the number and amount of grants
4 made under the program during the preceding
5 year;

6 (B) a list of the States receiving a grant
7 under the program during the preceding year,
8 including the activities being performed with
9 grant; and

10 (C) the effect of each grant on exports by
11 eligible small business concerns in the State re-
12 ceiving the grant.

13 (h) REVIEWS BY INSPECTOR GENERAL.—

14 (1) IN GENERAL.—The Inspector General of
15 the Administration shall conduct a review of—

16 (A) the extent to which recipients of grants
17 under the program are measuring the perform-
18 ance of the activities being conducted and the
19 results of the measurements; and

20 (B) the overall management and effective-
21 ness of the program.

22 (2) REPORT.—Not later than September 30,
23 2012, the Inspector General of the Administration
24 shall submit to the Committee on Small Business
25 and Entrepreneurship of the Senate and the Com-

1 mittee on Small Business of the House of Rep-
2 resentatives a report regarding the review conducted
3 under paragraph (1).

4 (i) AUTHORIZATION OF APPROPRIATIONS.—There is
5 authorized to be appropriated to carry out the program
6 \$30,000,000 for each of fiscal years 2011, 2012, and
7 2013.

8 (j) TERMINATION.—The authority to carry out the
9 program shall terminate 3 years after the date on which
10 the Associate Administrator establishes the program.

11 **SEC. 1208. RURAL EXPORT PROMOTION.**

12 Not later than 6 months after the date of enactment
13 of this Act, the Administrator, in consultation with the
14 Secretary of Agriculture and the Secretary of Commerce,
15 shall submit to the Committee on Small Business and En-
16 trepreneurship of the Senate and the Committee on Small
17 Business of the House of Representatives a report that
18 contains—

19 (1) a description of each program of the Ad-
20 ministration that promotes exports by rural small
21 business concerns, including—

22 (A) the number of rural small business
23 concerns served by the program;

24 (B) the change, if any, in the number of
25 rural small business concerns as a result of par-

1 participation in the program during the 10-year
2 period ending on the date of enactment of this
3 Act;

4 (C) the volume of exports by rural small
5 business concerns that participate in the pro-
6 gram; and

7 (D) the change, if any, in the volume of
8 exports by rural small businesses that partici-
9 pate in the program during the 10-year period
10 ending on the date of enactment of this Act;

11 (2) a description of the coordination between
12 programs of the Administration and other Federal
13 programs that promote exports by rural small busi-
14 ness concerns;

15 (3) recommendations, if any, for improving the
16 coordination described in paragraph (2);

17 (4) a description of any plan by the Administra-
18 tion to market the international trade financing pro-
19 grams of the Administration through lenders that—

20 (A) serve rural small business concerns;

21 and

22 (B) are associated with financing programs
23 of the Department of Agriculture;

24 (5) recommendations, if any, for improving co-
25 ordination between the counseling programs and ex-

1 port financing programs of the Administration, in
2 order to increase the volume of exports by rural
3 small business concerns; and

4 (6) any additional information the Adminis-
5 trator determines is necessary.

6 **SEC. 1209. INTERNATIONAL TRADE COOPERATION BY**
7 **SMALL BUSINESS DEVELOPMENT CENTERS.**

8 Section 21(a) of the Small Business Act (15 U.S.C.
9 648(a)) is amended—

10 (1) by striking “(2) The Small Business Devel-
11 opment Centers” and inserting the following:

12 “(2) COOPERATION TO PROVIDE INTER-
13 NATIONAL TRADE SERVICES.—

14 “(A) INFORMATION AND SERVICES.—The
15 small business development centers”; and

16 (2) in paragraph (2)—

17 (A) in subparagraph (A), as so designated,
18 by inserting “(including State trade agencies),”
19 after “local agencies”; and

20 (B) by adding at the end the following:

21 “(B) COOPERATION WITH STATE TRADE
22 AGENCIES AND EXPORT ASSISTANCE CEN-
23 TERS.—A small business development center
24 that counsels a small business concern on issues
25 relating to international trade shall—

1 “(2) any other indefinite delivery, indefinite
2 quantity contract that is entered into by the head of
3 a Federal agency with 2 or more sources pursuant
4 to the same solicitation.”.

5 **SEC. 1312. LEADERSHIP AND OVERSIGHT.**

6 (a) IN GENERAL.—Section 15 of the Small Business
7 Act (15 U.S.C. 644) is amended by adding at the end the
8 following:

9 “(q) BUNDLING ACCOUNTABILITY MEASURES.—

10 “(1) TEAMING REQUIREMENTS.—Each Federal
11 agency shall include in each solicitation for any mul-
12 tiple award contract above the substantial bundling
13 threshold of the Federal agency a provision soliciting
14 bids from any responsible source, including respon-
15 sible small business concerns and teams or joint ven-
16 tures of small business concerns.

17 “(2) POLICIES ON REDUCTION OF CONTRACT
18 BUNDLING.—

19 “(A) IN GENERAL.—Not later than 1 year
20 after the date of enactment of this subsection,
21 the Federal Acquisition Regulatory Council es-
22 tablished under section 25(a) of the Office of
23 Federal Procurement Policy Act (41 U.S.C.
24 4219(a)) shall amend the Federal Acquisition

1 Regulation issued under section 25 of such Act
2 to—

3 “(i) establish a Government-wide pol-
4 icy regarding contract bundling, including
5 regarding the solicitation of teaming and
6 joint ventures under paragraph (1); and

7 “(ii) require that the policy estab-
8 lished under clause (i) be published on the
9 website of each Federal agency.

10 “(B) RATIONALE FOR CONTRACT BUN-
11 DLING.—Not later than 30 days after the date
12 on which the head of a Federal agency submits
13 data certifications to the Administrator for
14 Federal Procurement Policy, the head of the
15 Federal agency shall publish on the website of
16 the Federal agency a list and rationale for any
17 bundled contract for which the Federal agency
18 solicited bids or that was awarded by the Fed-
19 eral agency.

20 “(3) REPORTING.—Not later than 90 days after
21 the date of enactment of this subsection, and every
22 3 years thereafter, the Administrator shall submit to
23 the Committee on Small Business and Entrepre-
24 neurship of the Senate and the Committee on Small
25 Business of the House of Representatives a report

1 regarding procurement center representatives and
2 commercial market representatives, which shall—

3 “(A) identify each area for which the Ad-
4 ministration has assigned a procurement center
5 representative or a commercial market rep-
6 resentative;

7 “(B) explain why the Administration se-
8 lected the areas identified under subparagraph
9 (A); and

10 “(C) describe the activities performed by
11 procurement center representatives and com-
12 mercial market representatives.”.

13 (b) TECHNICAL CORRECTION.—Section 15(g) of the
14 Small Business Act (15 U.S.C. 644(g)) is amended by
15 striking “Administrator of the Office of Federal Procure-
16 ment Policy” each place it appears and inserting “Admin-
17 istrator for Federal Procurement Policy”.

18 (c) REPORT.—

19 (1) IN GENERAL.—Not later than 180 days
20 after the date of enactment of this Act, the Comp-
21 troller General of the United States shall submit to
22 Congress a report regarding the procurement center
23 representative program of the Administration.

24 (2) CONTENTS.—The report submitted under
25 paragraph (1) shall—

1 (A) address ways to improve the effective-
2 ness of the procurement center representative
3 program in helping small business concerns ob-
4 tain Federal contracts;

5 (B) evaluate the effectiveness of procure-
6 ment center representatives and commercial
7 marketing representatives; and

8 (C) include recommendations, if any, on
9 how to improve the procurement center rep-
10 resentative program.

11 (d) ELECTRONIC PROCUREMENT CENTER REP-
12 RESENTATIVE.—

13 (1) IN GENERAL.—Not later than 1 year after
14 the date of enactment of this Act, the Administrator
15 shall implement a 3-year pilot electronic procure-
16 ment center representative program.

17 (2) REPORT.—Not later than 30 days after the
18 pilot program under paragraph (1) ends, the Comp-
19 troller General of the United States shall submit to
20 the Committee on Small Business and Entrepre-
21 neurship of the Senate and the Committee on Small
22 Business of the House of Representatives a report
23 regarding the pilot program.

1 **SEC. 1313. CONSOLIDATION OF CONTRACT REQUIREMENTS.**

2 (a) IN GENERAL.—The Small Business Act (15
3 U.S.C. 631 et seq.) is amended—

4 (1) by redesignating section 44 as section 45;

5 and

6 (2) by inserting after section 43 the following:

7 **“SEC. 44. CONSOLIDATION OF CONTRACT REQUIREMENTS.**

8 “(a) DEFINITIONS.—In this section—

9 “(1) the term ‘Chief Acquisition Officer’ means
10 the employee of a Federal agency designated as the
11 Chief Acquisition Officer for the Federal agency
12 under section 16(a) of the Office of Federal Pro-
13 curement Policy Act (41 U.S.C. 414(a));

14 “(2) the term ‘consolidation of contract require-
15 ments’, with respect to contract requirements of a
16 Federal agency, means a use of a solicitation to ob-
17 tain offers for a single contract or a multiple award
18 contract to satisfy 2 or more requirements of the
19 Federal agency for goods or services that have been
20 provided to or performed for the Federal agency
21 under 2 or more separate contracts lower in cost
22 than the total cost of the contract for which the of-
23 fers are solicited; and

24 “(3) the term ‘senior procurement executive’
25 means an official designated under section 16(e) of
26 the Office of Federal Procurement Policy Act (41

1 U.S.C. 414(c)) as the senior procurement executive
2 for a Federal agency.

3 “(b) POLICY.—The head of each Federal agency shall
4 ensure that the decisions made by the Federal agency re-
5 garding consolidation of contract requirements of the Fed-
6 eral agency are made with a view to providing small busi-
7 ness concerns with appropriate opportunities to partici-
8 pate as prime contractors and subcontractors in the pro-
9 curements of the Federal agency.

10 “(c) LIMITATION ON USE OF ACQUISITION STRATE-
11 GIES INVOLVING CONSOLIDATION.—

12 “(1) IN GENERAL.—Subject to paragraph (4),
13 the head of a Federal agency may not carry out an
14 acquisition strategy that includes a consolidation of
15 contract requirements of the Federal agency with a
16 total value of more than \$2,000,000, unless the sen-
17 ior procurement executive or Chief Acquisition Offi-
18 cer for the Federal agency, before carrying out the
19 acquisition strategy—

20 “(A) conducts market research;

21 “(B) identifies any alternative contracting
22 approaches that would involve a lesser degree of
23 consolidation of contract requirements;

1 “(C) makes a written determination that
2 the consolidation of contract requirements is
3 necessary and justified;

4 “(D) identifies any negative impact by the
5 acquisition strategy on contracting with small
6 business concerns; and

7 “(E) certifies to the head of the Federal
8 agency that steps will be taken to include small
9 business concerns in the acquisition strategy.

10 “(2) DETERMINATION THAT CONSOLIDATION IS
11 NECESSARY AND JUSTIFIED.—

12 “(A) IN GENERAL.—A senior procurement
13 executive or Chief Acquisition Officer may de-
14 termine that an acquisition strategy involving a
15 consolidation of contract requirements is nec-
16 essary and justified for the purposes of para-
17 graph (1)(C) if the benefits of the acquisition
18 strategy substantially exceed the benefits of
19 each of the possible alternative contracting ap-
20 proaches identified under paragraph (1)(B).

21 “(B) SAVINGS IN ADMINISTRATIVE OR
22 PERSONNEL COSTS.—For purposes of subpara-
23 graph (A), savings in administrative or per-
24 sonnel costs alone do not constitute a sufficient
25 justification for a consolidation of contract re-

1 quirements in a procurement unless the ex-
2 pected total amount of the cost savings, as de-
3 termined by the senior procurement executive
4 or Chief Acquisition Officer, is expected to be
5 substantial in relation to the total cost of the
6 procurement.

7 “(3) BENEFITS TO BE CONSIDERED.—The ben-
8 efits considered for the purposes of paragraphs (1)
9 and (2) may include cost and, regardless of whether
10 quantifiable in dollar amounts—

11 “(A) quality;

12 “(B) acquisition cycle;

13 “(C) terms and conditions; and

14 “(D) any other benefit.

15 “(4) DEPARTMENT OF DEFENSE.—

16 “(A) IN GENERAL.—The Department of
17 Defense and each military department shall
18 comply with this section until after the date de-
19 scribed in subparagraph (C).

20 “(B) RULE.—After the date described in
21 subparagraph (C), contracting by the Depart-
22 ment of Defense or a military department shall
23 be conducted in accordance with section 2382
24 of title 10, United States Code.

1 “(C) DATE.—The date described in this
2 subparagraph is the date on which the Adminis-
3 trator determines the Department of Defense or
4 a military department is in compliance with the
5 Government-wide contracting goals under sec-
6 tion 15.”.

7 (b) TECHNICAL AND CONFORMING AMENDMENT.—
8 Section 2382(b)(1) of title 10, United States Code, is
9 amended by striking “An official” and inserting “Subject
10 to section 44(c)(4), an official”.

11 **SEC. 1314. SMALL BUSINESS TEAMS PILOT PROGRAM.**

12 (a) DEFINITIONS.—In this section—

13 (1) the term “Pilot Program” means the Small
14 Business Teaming Pilot Program established under
15 subsection (b); and

16 (2) the term “eligible organization” means a
17 well-established national organization for small busi-
18 ness concerns with the capacity to provide assistance
19 to small business concerns (which may be provided
20 with the assistance of the Administrator) relating
21 to—

22 (A) customer relations and outreach;

23 (B) team relations and outreach; and

24 (C) performance measurement and quality
25 assurance.

1 (b) ESTABLISHMENT.—The Administrator shall es-
2 tablish a Small Business Teaming Pilot Program for
3 teaming and joint ventures involving small business con-
4 cerns.

5 (c) GRANTS.—Under the Pilot Program, the Admin-
6 istrator may make grants to eligible organizations to pro-
7 vide assistance and guidance to teams of small business
8 concerns seeking to compete for larger procurement con-
9 tracts.

10 (d) CONTRACTING OPPORTUNITIES.—The Adminis-
11 trator shall work with eligible organizations receiving a
12 grant under the Pilot Program to recommend appropriate
13 contracting opportunities for teams or joint ventures of
14 small business concerns.

15 (e) REPORT.—Not later than 1 year before the date
16 on which the authority to carry out the Pilot Program ter-
17 minates under subsection (f), the Administrator shall sub-
18 mit to the Committee on Small Business and Entrepre-
19 neurship of the Senate and the Committee on Small Busi-
20 ness of the House of Representatives a report on the effec-
21 tiveness of the Pilot Program.

22 (f) TERMINATION.—The authority to carry out the
23 Pilot Program shall terminate 5 years after the date of
24 enactment of this Act.

1 (g) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated for grants under sub-
3 section (c) \$5,000,000 for each of fiscal years 2010
4 through 2015.

5 **PART II—SUBCONTRACTING INTEGRITY**

6 **SEC. 1321. SUBCONTRACTING MISREPRESENTATIONS.**

7 Not later than 1 year after the date of enactment
8 of this Act, the Administrator, in consultation with the
9 Administrator for Federal Procurement Policy, shall pro-
10 mulgate regulations relating to, and the Federal Acquisi-
11 tion Regulatory Council established under section 25(a)
12 of the Office of Federal Procurement Policy Act (41
13 U.S.C. 421(a)) shall amend the Federal Acquisition Regu-
14 lation issued under section 25 of such Act to establish a
15 policy on, subcontracting compliance relating to small
16 business concerns, including assignment of compliance re-
17 sponsibilities between contracting offices, small business
18 offices, and program offices and periodic oversight and re-
19 view activities.

20 **SEC. 1322. SMALL BUSINESS SUBCONTRACTING IMPROVE-**
21 **MENTS.**

22 Section 8(d)(6) of the Small Business Act (15 U.S.C.
23 637(d)(6)) is amended—

24 (1) in subparagraph (E), by striking “and” at
25 the end;

1 (2) in subparagraph (F), by striking the period
2 at the end and inserting “; and”; and

3 (3) by adding at the end, the following:

4 “(G) a representation that the offeror or
5 bidder will—

6 “(i) make a good faith effort to ac-
7 quire articles, equipment, supplies, serv-
8 ices, or materials, or obtain the perform-
9 ance of construction work from the small
10 business concerns used in preparing and
11 submitting to the contracting agency the
12 bid or proposal, in the same amount and
13 quality used in preparing and submitting
14 the bid or proposal; and

15 “(ii) provide to the contracting officer
16 a written explanation if the offeror or bid-
17 der fails to acquire articles, equipment,
18 supplies, services, or materials or obtain
19 the performance of construction work as
20 described in clause (i).”.

1 **PART III—ACQUISITION PROCESS**
2 **SEC. 1331. RESERVATION OF PRIME CONTRACT AWARDS**
3 **FOR SMALL BUSINESSES.**

4 Section 15 of the Small Business Act (15 U.S.C.
5 644), as amended by this Act, is amended by adding at
6 the end the following:

7 “(r) **MULTIPLE AWARD CONTRACTS.**—Not later than
8 1 year after the date of enactment of this subsection, the
9 Administrator for Federal Procurement Policy and the
10 Administrator, in consultation with the Administrator of
11 General Services, shall, by regulation, establish guidance
12 under which Federal agencies may, at their discretion—

13 “(1) set aside part or parts of a multiple award
14 contract for small business concerns, including the
15 subcategories of small business concerns identified in
16 subsection (g)(2);

17 “(2) notwithstanding the fair opportunity re-
18 quirements under section 2304c(b) of title 10,
19 United States Code, and section 303J(b) of the Fed-
20 eral Property and Administrative Services Act of
21 1949 (41 U.S.C. 253j(b)), set aside orders placed
22 against multiple award contracts for small business
23 concerns, including the subcategories of small busi-
24 ness concerns identified in subsection (g)(2); and

25 “(3) reserve 1 or more contract awards for
26 small business concerns under full and open multiple

1 award procurements, including the subcategories of
2 small business concerns identified in subsection
3 (g)(2).”.

4 **SEC. 1332. MICRO-PURCHASE GUIDELINES.**

5 Not later than 1 year after the date of enactment
6 of this Act, the Director of the Office of Management and
7 Budget, in coordination with the Administrator of General
8 Services, shall issue guidelines regarding the analysis of
9 purchase card expenditures to identify opportunities for
10 achieving and accurately measuring fair participation of
11 small business concerns in purchases in an amount not
12 in excess of the micro-purchase threshold, as defined in
13 section 32 of the Office of Federal Procurement Policy
14 Act (41 U.S.C. 428) (in this section referred to as “micro-
15 purchases”), consistent with the national policy on small
16 business participation in Federal procurements set forth
17 in sections 2(a) and 15(g) of the Small Business Act (15
18 U.S.C. 631(a) and 644(g)), and dissemination of best
19 practices for participation of small business concerns in
20 micro-purchases.

21 **SEC. 1333. AGENCY ACCOUNTABILITY.**

22 Section 15(g)(2) of the Small Business Act (15
23 U.S.C. 644(g)(2)) is amended—

24 (1) by inserting “(A)” after “(2)”;

1 (2) by striking “Goals established” and insert-
2 ing the following:

3 “(B) Goals established”;

4 (3) by striking “Whenever” and inserting the
5 following:

6 “(C) Whenever”;

7 (4) by striking “For the purpose of” and insert-
8 ing the following:

9 “(D) For the purpose of”;

10 (5) by striking “The head of each Federal
11 agency, in attempting to attain such participation”
12 and inserting the following:

13 “(E) The head of each Federal agency, in attempting
14 to attain the participation described in subparagraph
15 (D)”.

16 (6) in subparagraph (E), as so designated—

17 (A) by striking “(A) contracts” and insert-
18 ing “(i) contracts”; and

19 (B) by striking “(B) contracts” and insert-
20 ing “(ii) contracts”; and

21 (7) by adding at the end the following:

22 “(F)(i) Each procurement employee or program man-
23 ager described in clause (ii) shall communicate to the sub-
24 ordinates of the procurement employee or program man-
25 ager the importance of achieving small business goals.

1 “(ii) A procurement employee or program manager
2 described in this clause is a senior procurement executive,
3 senior program manager, or Director of Small and Dis-
4 advantaged Business Utilization of a Federal agency hav-
5 ing contracting authority.”.

6 **SEC. 1334. PAYMENT OF SUBCONTRACTORS.**

7 Section 8(d) of the Small Business Act (15 U.S.C.
8 637(d)) is amended by adding at the end the following:

9 “(12) PAYMENT OF SUBCONTRACTORS.—

10 “(A) DEFINITION.—In this paragraph, the term
11 ‘covered contract’ means a contract relating to which
12 a prime contractor is required to develop a subcon-
13 tracting plan under paragraph (4) or (5).

14 “(B) NOTICE.—

15 “(i) IN GENERAL.—A prime contractor for
16 a covered contract shall notify in writing the
17 contracting officer for the covered contract if
18 the prime contractor pays a reduced price to a
19 subcontractor for goods and services upon com-
20 pletion of the responsibilities of the subcon-
21 tractor or the payment to a subcontractor is
22 more than 90 days past due for goods or serv-
23 ices provided for the covered contract for which
24 the Federal agency has paid the prime con-
25 tractor.

1 “(ii) CONTENTS.—A prime contractor shall
2 include the reason for the reduction in a pay-
3 ment to or failure to pay a subcontractor in any
4 notice made under clause (i).

5 “(C) PERFORMANCE.—A contracting officer for
6 a covered contract shall consider the unjustified fail-
7 ure by a prime contractor to make a full or timely
8 payment to a subcontractor in evaluating the per-
9 formance of the prime contractor.

10 “(D) CONTROL OF FUNDS.—If the contracting
11 officer for a covered contract determines that a
12 prime contractor has a history of unjustified, un-
13 timely payments to contractors, the contracting offi-
14 cer shall record the identity of the contractor in ac-
15 cordance with the regulations promulgated under
16 subparagraph (E).

17 “(E) REGULATIONS.—Not later than 1 year
18 after the date of enactment of this paragraph, the
19 Federal Acquisition Regulatory Council established
20 under section 25(a) of the Office of Federal Pro-
21 curement Policy Act (41 U.S.C. 421(a)) shall amend
22 the Federal Acquisition Regulation issued under sec-
23 tion 25 of such Act to—

24 “(i) describe the circumstances under
25 which a contractor may be determined to have

1 a history of unjustified, untimely payments to
2 subcontractors;

3 “(ii) establish a process for contracting of-
4 ficers to record the identity of a contractor de-
5 scribed in clause (i); and

6 “(iii) require the identity of a contractor
7 described in clause (i) to be incorporated in,
8 and made publicly available through, the Fed-
9 eral Awardee Performance and Integrity Infor-
10 mation System, or any successor thereto.”.

11 **SEC. 1335. REPEAL OF SMALL BUSINESS COMPETITIVENESS**

12 **DEMONSTRATION PROGRAM.**

13 (a) **IN GENERAL.**—The Business Opportunity Devel-
14 opment Reform Act of 1988 (Public Law 100–656) is
15 amended by striking title VII (15 U.S.C. 644 note).

16 (b) **EFFECTIVE DATE AND APPLICABILITY.**—The
17 amendment made by this section—

18 (1) shall take effect on the date of enactment
19 of this Act; and

20 (2) apply to the first full fiscal year after the
21 date of enactment of this Act.

1 **PART IV—SMALL BUSINESS SIZE AND STATUS**

2 **INTEGRITY**

3 **SEC. 1341. POLICY AND PRESUMPTIONS.**

4 Section 3 of the Small Business Act (15 U.S.C. 632),
5 as amended by section 1311, is amended by adding at the
6 end the following:

7 “(w) PRESUMPTION.—

8 “(1) IN GENERAL.—In every contract, sub-
9 contract, cooperative agreement, cooperative re-
10 search and development agreement, or grant which
11 is set aside, reserved, or otherwise classified as in-
12 tended for award to small business concerns, there
13 shall be a presumption of loss to the United States
14 based on the total amount expended on the contract,
15 subcontract, cooperative agreement, cooperative re-
16 search and development agreement, or grant when-
17 ever it is established that a business concern other
18 than a small business concern willfully sought and
19 received the award by misrepresentation.

20 “(2) DEEMED CERTIFICATIONS.—The following
21 actions shall be deemed affirmative, willful, and in-
22 tentional certifications of small business size and
23 status:

24 “(A) Submission of a bid or proposal for a
25 Federal grant, contract, subcontract, coopera-
26 tive agreement, or cooperative research and de-

1 velopment agreement reserved, set aside, or oth-
2 erwise classified as intended for award to small
3 business concerns.

4 “(B) Submission of a bid or proposal for
5 a Federal grant, contract, subcontract, coopera-
6 tive agreement, or cooperative research and de-
7 velopment agreement which in any way encour-
8 ages a Federal agency to classify the bid or pro-
9 posal, if awarded, as an award to a small busi-
10 ness concern.

11 “(C) Registration on any Federal elec-
12 tronic database for the purpose of being consid-
13 ered for award of a Federal grant, contract,
14 subcontract, cooperative agreement, or coopera-
15 tive research agreement, as a small business
16 concern.

17 “(3) CERTIFICATION BY SIGNATURE OF RE-
18 SPONSIBLE OFFICIAL.—

19 “(A) IN GENERAL.—Each solicitation, bid,
20 or application for a Federal contract, sub-
21 contract, or grant shall contain a certification
22 concerning the small business size and status of
23 a business concern seeking the Federal con-
24 tract, subcontract, or grant.

1 “(B) CONTENT OF CERTIFICATIONS.—A
2 certification that a business concern qualifies as
3 a small business concern of the exact size and
4 status claimed by the business concern for pur-
5 poses of bidding on a Federal contract or sub-
6 contract, or applying for a Federal grant, shall
7 contain the signature of an authorized official
8 on the same page on which the certification is
9 contained.

10 “(4) REGULATIONS.—The Administrator shall
11 promulgate regulations to provide adequate protec-
12 tions to individuals and business concerns from li-
13 ability under this subsection in cases of uninten-
14 tional errors, technical malfunctions, and other simi-
15 lar situations.”.

16 **SEC. 1342. ANNUAL CERTIFICATION.**

17 Section 3 of the Small Business Act (15 U.S.C. 632),
18 as amended by section 1341, is amended by adding at the
19 end the following:

20 “(x) ANNUAL CERTIFICATION.—

21 “(1) IN GENERAL.—Each business certified as
22 a small business concern under this Act shall annu-
23 ally certify its small business size and, if appro-
24 priate, its small business status, by means of a con-
25 firming entry on the Online Representations and

1 Certifications Application database of the Adminis-
2 tration, or any successor thereto.

3 “(2) REGULATIONS.—Not later than 1 year
4 after the date of enactment of this subsection, the
5 Administrator, in consultation with the Inspector
6 General and the Chief Counsel for Advocacy of the
7 Administration, shall promulgate regulations to en-
8 sure that—

9 “(A) no business concern continues to be
10 certified as a small business concern on the On-
11 line Representations and Certifications Applica-
12 tion database of the Administration, or any suc-
13 cessor thereto, without fulfilling the require-
14 ments for annual certification under this sub-
15 section; and

16 “(B) the requirements of this subsection
17 are implemented in a manner presenting the
18 least possible regulatory burden on small busi-
19 ness concerns.”.

20 **SEC. 1343. TRAINING FOR CONTRACTING AND ENFORCE-**
21 **MENT PERSONNEL.**

22 (a) IN GENERAL.—Not later than 1 year after the
23 date of enactment of this Act, the Federal Acquisition In-
24 stitute, in consultation with the Administrator for Federal
25 Procurement Policy, the Defense Acquisition University,

1 and the Administrator, shall develop courses for acqui-
2 sition personnel concerning proper classification of business
3 concerns and small business size and status for purposes
4 of Federal contracts, subcontracts, grants, cooperative
5 agreements, and cooperative research and development
6 agreements.

7 (b) POLICY ON PROSECUTIONS OF SMALL BUSINESS
8 SIZE AND STATUS FRAUD.—Section 3 of the Small Busi-
9 ness Act (15 U.S.C. 632), as amended by section 1342,
10 is amended by adding at the end the following:

11 “(y) POLICY ON PROSECUTIONS OF SMALL BUSINESS
12 SIZE AND STATUS FRAUD.—Not later than 1 year after
13 the date of enactment of this subsection, the Adminis-
14 trator, in consultation with the Attorney General, shall
15 issue a Government-wide policy on prosecution of small
16 business size and status fraud, which shall direct Federal
17 agencies to appropriately publicize the policy.”.

18 **SEC. 1344. UPDATED SIZE STANDARDS.**

19 (a) ROLLING REVIEW.—

20 (1) IN GENERAL.—The Administrator shall—

21 (A) during the 18-month period beginning
22 on the date of enactment of this Act, and dur-
23 ing every 18-month period thereafter, conduct a
24 detailed review of not less than $\frac{1}{3}$ of the size
25 standards for small business concerns estab-

1 lished under section 3(a)(2) of the Small Busi-
2 ness Act (15 U.S.C. 632(a)(2)), which shall in-
3 clude holding not less than 2 public forums lo-
4 cated in different geographic regions of the
5 United States;

6 (B) after completing each review under
7 subparagraph (A) make appropriate adjust-
8 ments to the size standards established under
9 section 3(a)(2) of the Small Business Act to re-
10 flect market conditions;

11 (C) make publicly available—

12 (i) information regarding the factors
13 evaluated as part of each review conducted
14 under subparagraph (A); and

15 (ii) information regarding the criteria
16 used for any revised size standards pro-
17 mulgated under subparagraph (B); and

18 (D) not later than 30 days after the date
19 on which the Administrator completes each re-
20 view under subparagraph (A), submit to the
21 Committee on Small Business and Entrepre-
22 neurship of the Senate and the Committee on
23 Small Business of the House of Representatives
24 and make publicly available a report regarding
25 the review, including why the Administrator—

1 (i) used the factors and criteria de-
2 scribed in subparagraph (C); and

3 (ii) adjusted or did not adjust each
4 size standard that was reviewed under the
5 review.

6 (2) COMPLETE REVIEW OF SIZE STANDARDS.—

7 The Administrator shall ensure that each size stand-
8 ard for small business concerns established under
9 section 3(a)(2) of the Small Business Act (15 U.S.C.
10 632(a)(2)) is reviewed under paragraph (1) not less
11 frequently than once every 5 years.

12 (b) RULES.—Not later than 1 year after the date of
13 enactment of this Act, the Administrator shall promulgate
14 rules for conducting the reviews required under subsection
15 (a).

16 **SEC. 1345. STUDY AND REPORT ON THE MENTOR-PROTEGE**
17 **PROGRAM.**

18 (a) IN GENERAL.—The Comptroller General of the
19 United States shall conduct a study of the mentor-protege
20 program of the Administration for small business concerns
21 participating in programs under section 8(a) of the Small
22 Business Act (15 U.S.C. 637(a)), and other relationships
23 and strategic alliances pairing a larger business and a
24 small business concern partner to gain access to Federal
25 Government contracts, to determine whether the programs

1 and relationships are effectively supporting the goal of in-
2 creasing the participation of small business concerns in
3 Government contracting.

4 (b) MATTERS TO BE STUDIED.—The study con-
5 ducted under this section shall include—

6 (1) a review of a broad cross-section of indus-
7 tries; and

8 (2) an evaluation of—

9 (A) how each Federal agency carrying out
10 a program described in subsection (a) admin-
11 isters and monitors the program;

12 (B) whether there are systems in place to
13 ensure that the mentor-protege relationship, or
14 similar affiliation, promotes real gain to the
15 protege, and is not just a mechanism to enable
16 participants that would not otherwise qualify
17 under section 8(a) of the Small Business Act
18 (15 U.S.C. 637(a)) to receive contracts under
19 that section; and

20 (C) the degree to which protege businesses
21 become able to compete for Federal contracts
22 without the assistance of a mentor.

23 (c) REPORT TO CONGRESS.—Not later than 180 days
24 after the date of enactment of this Act, the Comptroller
25 General shall submit to the Committee on Small Business

1 and Entrepreneurship of the Senate and the Committee
2 on Small Business of the House of Representatives a re-
3 port on the results of the study conducted under this sec-
4 tion.

5 **SEC. 1346. CONTRACTING GOALS REPORTS.**

6 Section 15(h)(2) of the Small Business Act (15
7 U.S.C. 644(h)(2)) is amended by striking “submit them”
8 and all that follows through “the following:” and inserting
9 “submit to the President and the Committee on Small
10 Business and Entrepreneurship of the Senate and the
11 Committee on Small Business of the House of Representa-
12 tives the compilation and analysis, which shall include the
13 following:”.

14 **SEC. 1347. SMALL BUSINESS CONTRACTING PARITY.**

15 (a) DEFINITIONS.—In this section—

16 (1) the terms “Administration” and “Adminis-
17 trator” mean the Small Business Administration
18 and the Administrator thereof, respectively; and

19 (2) the terms “HUBZone small business con-
20 cern”, “small business concern”, “small business
21 concern owned and controlled by service-disabled
22 veterans”, and “small business concern owned and
23 controlled by women” have the same meanings as in
24 section 3 of the Small Business Act (15 U.S.C.
25 632).

1 (b) CONTRACTING IMPROVEMENTS.—

2 (1) CONTRACTING OPPORTUNITIES.—Section
3 31(b)(2)(B) of the Small Business Act (15 U.S.C.
4 657a(b)(2)(B)) is amended by striking “shall” and
5 inserting “may”.

6 (2) CONTRACTING GOALS.—Section 15(g)(1) of
7 the Small Business Act (15 U.S.C. 644(g)(1)) is
8 amended in the fourth sentence by inserting “and
9 subcontract” after “not less than 3 percent of the
10 total value of all prime contract”.

11 (3) MENTOR-PROTEGE PROGRAMS.—The Ad-
12 ministrator may establish mentor-protege programs
13 for small business concerns owned and controlled by
14 service-disabled veterans, small business concerns
15 owned and controlled by women, and HUBZone
16 small business concerns modeled on the mentor-pro-
17 tege program of the Administration for small busi-
18 ness concerns participating in programs under sec-
19 tion 8(a) of the Small Business Act (15 U.S.C.
20 637(a)).

21 (c) SMALL BUSINESS CONTRACTING PROGRAMS PAR-
22 ITY.—Section 31(b)(2) of the Small Business Act (15
23 U.S.C. 657a(b)(2)) is amended—

1 (1) in the matter preceding subparagraph (A),
2 by striking “Notwithstanding any other provision of
3 law—”;

4 (2) in subparagraph (A)—

5 (A) in the matter preceding clause (i), by
6 striking “a contracting” and inserting “SOLE
7 SOURCE CONTRACTS.—A contracting”; and

8 (B) in clause (iii), by striking the semi-
9 colon at the end and inserting a period;

10 (3) in subparagraph (B)—

11 (A) by striking “a contract opportunity
12 shall” and inserting “RESTRICTED COMPETI-
13 TION.—A contract opportunity may”; and

14 (B) by striking “; and” and inserting a pe-
15 riod; and

16 (4) in subparagraph (C), by striking “not later”
17 and inserting “APPEALS.—Not later”.

18 **Subtitle D—Small Business Man-**
19 **agement and Counseling Assist-**
20 **ance**

21 **SEC. 1401. MATCHING REQUIREMENTS UNDER SMALL BUSI-**
22 **NESS PROGRAMS.**

23 (a) MICROLOAN PROGRAM.—Section 7(m) of the
24 Small Business Act (15 U.S.C. 636(m)) is amended—

25 (1) in paragraph (3)(B)—

1 (A) by striking “As a condition” and in-
2 serting the following:

3 “(i) IN GENERAL.—Subject to clause
4 (ii), as a condition”;

5 (B) by striking “the Administration” and
6 inserting “the Administrator”; and

7 (C) by adding at the end the following:

8 “(ii) WAIVER OF NON-FEDERAL
9 SHARE.—

10 “(I) IN GENERAL.—Upon request
11 by an intermediary, and in accordance
12 with this clause, the Administrator
13 may waive, in whole or in part, the re-
14 quirement to obtain non-Federal
15 funds under clause (i) for a fiscal
16 year. The Administrator may waive
17 the requirement to obtain non-Federal
18 funds under this clause for successive
19 fiscal years.

20 “(II) CONSIDERATIONS.—In de-
21 termining whether to waive the re-
22 quirement to obtain non-Federal
23 funds under this clause, the Adminis-
24 trator shall consider—

1 “(aa) the economic condi-
2 tions affecting the intermediary;

3 “(bb) the impact a waiver
4 under this clause would have on
5 the credibility of the microloan
6 program under this subsection;

7 “(cc) the demonstrated abil-
8 ity of the intermediary to raise
9 non-Federal funds; and

10 “(dd) the performance of
11 the intermediary.

12 “(III) LIMITATIONS.—

13 “(aa) IN GENERAL.—The
14 Administrator may not waive the
15 requirement to obtain non-Fed-
16 eral funds under this clause if
17 granting the waiver would under-
18 mine the credibility of the
19 microloan program under this
20 subsection.

21 “(bb) SUNSET.—The Ad-
22 ministrator may not waive the re-
23 quirement to obtain non-Federal
24 funds under this clause for fiscal

1 year 2013 or any fiscal year
2 thereafter.”; and

3 (2) in paragraph (4)(B)—

4 (A) by striking “As a condition” and all
5 that follows through “the Administration shall
6 require” and inserting the following:

7 “(i) IN GENERAL.—Subject to clause
8 (ii), as a condition of a grant made under
9 subparagraph (A), the Administrator shall
10 require”; and

11 (B) by adding at the end the following:

12 “(ii) WAIVER OF NON-FEDERAL
13 SHARE.—

14 “(I) IN GENERAL.—Upon request
15 by an intermediary, and in accordance
16 with this clause, the Administrator
17 may waive, in whole or in part, the re-
18 quirement to obtain non-Federal
19 funds under clause (i) for a fiscal
20 year. The Administrator may waive
21 the requirement to obtain non-Federal
22 funds under this clause for successive
23 fiscal years.

24 “(II) CONSIDERATIONS.—In de-
25 termining whether to waive the re-

1 requirement to obtain non-Federal
2 funds under this clause, the Adminis-
3 trator shall consider—

4 “(aa) the economic condi-
5 tions affecting the intermediary;

6 “(bb) the impact a waiver
7 under this clause would have on
8 the credibility of the microloan
9 program under this subsection;

10 “(cc) the demonstrated abil-
11 ity of the intermediary to raise
12 non-Federal funds; and

13 “(dd) the performance of
14 the intermediary.

15 “(III) LIMITATIONS.—

16 “(aa) IN GENERAL.—The
17 Administrator may not waive the
18 requirement to obtain non-Fed-
19 eral funds under this clause if
20 granting the waiver would under-
21 mine the credibility of the
22 microloan program under this
23 subsection.

24 “(bb) SUNSET.—The Ad-
25 ministrator may not waive the re-

1 requirement to obtain non-Federal
2 funds under this clause for fiscal
3 year 2013 or any fiscal year
4 thereafter.”.

5 (b) WOMEN’S BUSINESS CENTER PROGRAM.—Sec-
6 tion 29(c) of the Small Business Act (15 U.S.C. 656(c))
7 is amended—

8 (1) in paragraph (1), by striking “As a condi-
9 tion” and inserting “Subject to paragraph (5), as a
10 condition”; and

11 (2) by adding at the end the following:

12 “(5) WAIVER OF NON-FEDERAL SHARE RELAT-
13 ING TO TECHNICAL ASSISTANCE AND COUN-
14 SELING.—

15 “(A) IN GENERAL.—Upon request by a re-
16 cipient organization, and in accordance with
17 this paragraph, the Administrator may waive,
18 in whole or in part, the requirement to obtain
19 non-Federal funds under this subsection for the
20 technical assistance and counseling activities of
21 the recipient organization carried out using fi-
22 nancial assistance under this section for a fiscal
23 year. The Administrator may waive the require-
24 ment to obtain non-Federal funds under this
25 paragraph for successive fiscal years.

1 “(B) CONSIDERATIONS.—In determining
2 whether to waive the requirement to obtain
3 non-Federal funds under this paragraph, the
4 Administrator shall consider—

5 “(i) the economic conditions affecting
6 the recipient organization;

7 “(ii) the impact a waiver under this
8 clause would have on the credibility of the
9 women’s business center program under
10 this section;

11 “(iii) the demonstrated ability of the
12 recipient organization to raise non-Federal
13 funds; and

14 “(iv) the performance of the recipient
15 organization.

16 “(C) LIMITATIONS.—

17 “(i) IN GENERAL.—The Administrator
18 may not waive the requirement to obtain
19 non-Federal funds under this paragraph if
20 granting the waiver would undermine the
21 credibility of the women’s business center
22 program under this section.

23 “(ii) SUNSET.—The Administrator
24 may not waive the requirement to obtain
25 non-Federal funds under this paragraph

1 for fiscal year 2013 or any fiscal year
2 thereafter.”.

3 (c) PROSPECTIVE REPEALS.—Effective October 1,
4 2012, the Small Business Act (15 U.S.C. 631 et seq.) is
5 amended—

6 (1) in section 7(m) (15 U.S.C. 636(m))—

7 (A) in paragraph (3)(B)—

8 (i) by striking “INTERMEDIARY CON-
9 TRIBUTION.—” and all that follows
10 through “Subject to clause (ii), as” and in-
11 serting “INTERMEDIARY CONTRIBUTION.—
12 As”; and

13 (ii) by striking clause (ii); and

14 (B) in paragraph (4)(B)—

15 (i) by striking “CONTRIBUTION.—”
16 and all that follows through “Subject to
17 clause (ii), as” and inserting “CONTRIBU-
18 TION.—As”; and

19 (ii) by striking clause (ii); and

20 (2) in section 29(e) (15 U.S.C. 656(e))—

21 (A) in paragraph (1), by striking “Subject
22 to paragraph (5), as” and inserting “As”; and

23 (B) by striking paragraph (5).

1 **SEC. 1402. GRANTS FOR SBDCS.**

2 (a) IN GENERAL.—The Administrator may make
3 grants to small business development centers under sec-
4 tion 21 of the Small Business Act (15 U.S.C. 648) to pro-
5 vide targeted technical assistance to small business con-
6 cerns seeking access to capital or credit, Federal procure-
7 ment opportunities, energy efficiency audits to reduce en-
8 ergy bills, opportunities to export products or provide serv-
9 ices to foreign customers, adopting, making innovations
10 in, and using broadband technologies, or other assistance.

11 (b) ALLOCATION.—

12 (1) IN GENERAL.—Subject to paragraph (2),
13 and notwithstanding the requirements of section
14 21(a)(4)(C)(iii) of the Small Business Act (15
15 U.S.C. 648(a)(4)(C)(iii)), the amount appropriated
16 to carry out this section shall be allocated under the
17 formula under section 21(a)(4)(C)(i) of that Act.

18 (2) MINIMUM FUNDING.—The amount made
19 available under this section to each State shall be
20 not less than \$325,000.

21 (3) TYPES OF USES.—Of the total amount of
22 the grants awarded by the Administrator under this
23 section—

24 (A) not less than 80 percent shall be used
25 for counseling of small business concerns; and

1 (B) not more than 20 percent may be used
2 for classes or seminars.

3 (c) NO NON-FEDERAL SHARE REQUIRED.—Notwith-
4 standing section 21(a)(4)(A) of the Small Business Act
5 (15 U.S.C. 648(a)(4)(A)), the recipient of a grant made
6 under this section shall not be required to provide non-
7 Federal matching funds.

8 (d) DISTRIBUTION.—Not later than 30 days after the
9 date on which amounts are appropriated to carry out this
10 section, the Administrator shall disburse the total amount
11 appropriated.

12 (e) AUTHORIZATION OF APPROPRIATIONS.—There is
13 authorized to be appropriated to the Administrator
14 \$50,000,000 to carry out this section.

15 **Subtitle E—Disaster Loan** 16 **Improvement**

17 **SEC. 1501. AQUACULTURE BUSINESS DISASTER ASSIST-**
18 **ANCE.**

19 Section 3 of the Small Business Act (15 U.S.C. 632),
20 as amended by section 1343, is amended by adding at the
21 end the following:

22 “(z) AQUACULTURE BUSINESS DISASTER ASSIST-
23 ANCE.—Subject to section 18(a) and notwithstanding sec-
24 tion 18(b)(1), the Administrator may provide disaster as-

1 sistance under section 7(b)(2) to aquaculture enterprises
2 that are small businesses.”.

3 **Subtitle F—Small Business**
4 **Regulatory Relief**

5 **SEC. 1601. REQUIREMENTS PROVIDING FOR MORE DE-**
6 **TAILED ANALYSES.**

7 Section 604(a) of title 5, United States Code, is
8 amended—

9 (1) in paragraph (1), by striking “succinct”;

10 (2) in paragraph (2), by striking “summary”

11 each place it appears and inserting “statement”;

12 (3) by redesignating paragraphs (3), (4), and

13 (5) as paragraphs (4), (5), and (6), respectively; and

14 (4) by inserting after paragraph (2) the fol-

15 lowing:

16 “(3) the response of the agency to any com-

17 ments filed by the Chief Counsel for Advocacy of the

18 Small Business Administration in response to the

19 proposed rule, and a detailed statement of any

20 change made to the proposed rule in the final rule

21 as a result of the comments;”.

22 **SEC. 1602. OFFICE OF ADVOCACY.**

23 (a) IN GENERAL.—Section 203 of Public Law 94—

24 305 (15 U.S.C. 634c) is amended—

1 (1) in paragraph (4), by striking “and” at the
2 end;

3 (2) in paragraph (5), by striking the period and
4 inserting “; and”; and

5 (3) by adding at the end the following:

6 “(6) carry out the responsibilities of the Office
7 of Advocacy under chapter 6 of title 5, United
8 States Code.”.

9 (b) BUDGETARY LINE ITEM AND AUTHORIZATION OF
10 APPROPRIATIONS.—Title II of Public Law 94–305 (15
11 U.S.C. 634a et seq.) is amended by striking section 207
12 and inserting the following:

13 **“SEC. 207. BUDGETARY LINE ITEM AND AUTHORIZATION OF**
14 **APPROPRIATIONS.**

15 “(a) APPROPRIATION REQUESTS.—Each budget of
16 the United States Government submitted by the President
17 under section 1105 of title 31, United States Code, shall
18 include a separate statement of the amount of appropria-
19 tions requested for the Office of Advocacy of the Small
20 Business Administration, which shall be designated in a
21 separate account in the General Fund of the Treasury.

22 “(b) ADMINISTRATIVE OPERATIONS.—The Adminis-
23 trator of the Small Business Administration shall provide
24 the Office of Advocacy with appropriate and adequate of-
25 fice space at central and field office locations, together

1 with such equipment, operating budget, and communica-
2 tions facilities and services as may be necessary, and shall
3 provide necessary maintenance services for such offices
4 and the equipment and facilities located in such offices.

5 “(c) AUTHORIZATION OF APPROPRIATIONS.—There
6 are authorized to be appropriated such sums as are nec-
7 essary to carry out this title. Any amount appropriated
8 under this subsection shall remain available, without fiscal
9 year limitation, until expended.”.

10 **Subtitle G—Appropriations** 11 **Provisions**

12 **SEC. 1701. SALARIES AND EXPENSES.**

13 (a) APPROPRIATION.—There is appropriated, out of
14 any money in the Treasury not otherwise appropriated,
15 for the fiscal year ending September 30, 2010,
16 \$150,000,000, to remain available until September 30,
17 2012, for an additional amount for the appropriations ac-
18 count appropriated under the heading “SALARIES AND EX-
19 PENSES” under the heading “SMALL BUSINESS ADMINIS-
20 TRATION”, of which—

21 (1) \$50,000,000 is for grants to small business
22 development centers authorized under section 1402;

23 (2) \$1,000,000 is for the costs of administering
24 grants authorized under section 1402;

1 (3) \$30,000,000 is for grants to States for fis-
2 cal year 2011 to carry out export programs that as-
3 sist small business concerns authorized under section
4 1207;

5 (4) \$30,000,000 is for grants to States for fis-
6 cal year 2012 to carry out export programs that as-
7 sist small business concerns authorized under section
8 1207;

9 (5) \$2,500,000 is for the costs of administering
10 grants authorized under section 1207;

11 (6) \$5,000,000 is for grants for fiscal year
12 2011 under the Small Business Teaming Pilot Pro-
13 gram under section 1314; and

14 (7) \$5,000,000 is for grants for fiscal year
15 2012 under the Small Business Teaming Pilot Pro-
16 gram under section 1314.

17 (b) REPORT.—Not later than 60 days after the date
18 of enactment of this Act, the Administrator shall submit
19 to the Committee on Appropriations of the Senate and the
20 Committee on Appropriations of the House of Representa-
21 tives a detailed expenditure plan for using the funds pro-
22 vided under subsection (a).

23 **SEC. 1702. BUSINESS LOANS PROGRAM ACCOUNT.**

24 (a) IN GENERAL.—There is appropriated, out of any
25 money in the Treasury not otherwise appropriated, for the

1 fiscal year ending September 30, 2010, for an additional
2 amount for the appropriations account appropriated under
3 the heading “BUSINESS LOANS PROGRAM ACCOUNT” under
4 the heading “SMALL BUSINESS ADMINISTRATION”—

5 (1) \$8,000,000, to remain available until Sep-
6 tember 30, 2012, for fiscal year 2011 for the cost
7 of direct loans authorized under section 7(l) of the
8 Small Business Act, as added by section 1131 of
9 this title, including the cost of modifying the loans;

10 (2) \$8,000,000, to remain available until Sep-
11 tember 30, 2012, for fiscal year 2012 for the cost
12 of direct loans authorized under section 7(l) of the
13 Small Business Act, as added by section 1131 of
14 this title, including the cost of modifying the loans;

15 (3) \$6,500,000, to remain available until Sep-
16 tember 30, 2012, for administrative expenses to
17 carry out the direct loan program authorized under
18 section 7(l) of the Small Business Act, as added by
19 section 1131 of this title, which may be transferred
20 to and merged with the appropriations account ap-
21 propriated under the heading “SALARIES AND EX-
22 PENSES” under the heading “SMALL BUSINESS AD-
23 MINISTRATION”; and

24 (4) \$15,000,000, to remain available until Sep-
25 tember 30, 2011, for the cost of guaranteed loans as

1 authorized under section 7(a) of the Small Business
2 Act, including the cost of modifying the loans.

3 (b) DEFINITION.—In this section, the term “cost”
4 has the meaning given that term in section 502 of the
5 Congressional Budget Act of 1974.

6 **SEC. 1703. COMMUNITY DEVELOPMENT FINANCIAL INSTI-**
7 **TUTIONS FUND PROGRAM ACCOUNT.**

8 There is appropriated, out of any money in the Treas-
9 ury not otherwise appropriated, for the fiscal year ending
10 September 30, 2010, for an additional amount for the ap-
11 propriations account appropriated under the heading
12 “COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS
13 FUND PROGRAM ACCOUNT” under the heading “DE-
14 PARTMENT OF THE TREASURY”, \$13,500,000, to
15 remain available until September 30, 2012, for the costs
16 of administering guarantees for bonds and notes as au-
17 thorized under section 114A of the Riegle Community De-
18 velopment and Regulatory Improvement Act of 1994, as
19 added by section 1134 of this Act.

20 **TITLE II—TAX PROVISIONS**

21 **SEC. 2001. SHORT TITLE.**

22 This title may be cited as the “Creating Small Busi-
23 ness Jobs Act of 2010”.

1 **Subtitle A—Small Business Relief**

2 **PART I—PROVIDING ACCESS TO CAPITAL**

3 **SEC. 2011. TEMPORARY EXCLUSION OF 100 PERCENT OF**
4 **GAIN ON CERTAIN SMALL BUSINESS STOCK.**

5 (a) IN GENERAL.—Subsection (a) of section 1202 of
6 the Internal Revenue Code of 1986 is amended by adding
7 at the end the following new paragraph:

8 “(4) 100 PERCENT EXCLUSION FOR STOCK AC-
9 QUIRED DURING CERTAIN PERIODS IN 2010.—In the
10 case of qualified small business stock acquired after
11 the date of the enactment of the Creating Small
12 Business Jobs Act of 2010 and before January 1,
13 2011—

14 “(A) paragraph (1) shall be applied by
15 substituting ‘100 percent’ for ‘50 percent’,

16 “(B) paragraph (2) shall not apply, and

17 “(C) paragraph (7) of section 57(a) shall
18 not apply.”.

19 (b) CONFORMING AMENDMENT.—Paragraph (3) of
20 section 1202(a) of the Internal Revenue Code of 1986 is
21 amended—

22 (1) by inserting “CERTAIN PERIODS IN” before
23 “2010” in the heading, and

1 “(I) by substituting ‘25 taxable
2 years’ for ‘21 taxable years’ in sub-
3 paragraph (A) thereof, and

4 “(II) by substituting ‘24 taxable
5 years’ for ‘20 taxable years’ in sub-
6 paragraph (B) thereof.

7 “(B) ELIGIBLE SMALL BUSINESS CRED-
8 ITS.—For purposes of this subsection, the term
9 ‘eligible small business credits’ has the meaning
10 given such term by section 38(c)(5)(B).”.

11 (b) CONFORMING AMENDMENT.—Section
12 39(a)(3)(A) of the Internal Revenue Code of 1986 is
13 amended by inserting “or the eligible small business cred-
14 its” after “credit”).

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to credits determined in taxable
17 years beginning after December 31, 2009.

18 **SEC. 2013. GENERAL BUSINESS CREDITS OF ELIGIBLE**
19 **SMALL BUSINESSES IN 2010 NOT SUBJECT TO**
20 **ALTERNATIVE MINIMUM TAX.**

21 (a) IN GENERAL.—Section 38(c) of the Internal Rev-
22 enue Code of 1986 is amended by redesignating paragraph
23 (5) as paragraph (6) and by inserting after paragraph (4)
24 the following new paragraph:

1 “(5) SPECIAL RULES FOR ELIGIBLE SMALL
2 BUSINESS CREDITS IN 2010.—

3 “(A) IN GENERAL.—In the case of eligible
4 small business credits determined in taxable
5 years beginning in 2010—

6 “(i) this section and section 39 shall
7 be applied separately with respect to such
8 credits, and

9 “(ii) in applying paragraph (1) to
10 such credits—

11 “(I) the tentative minimum tax
12 shall be treated as being zero, and

13 “(II) the limitation under para-
14 graph (1) (as modified by subclause
15 (I)) shall be reduced by the credit al-
16 lowed under subsection (a) for the
17 taxable year (other than the eligible
18 small business credits).

19 “(B) ELIGIBLE SMALL BUSINESS CRED-
20 ITS.—For purposes of this subsection, the term
21 ‘eligible small business credits’ means the sum
22 of the credits listed in subsection (b) which are
23 determined for the taxable year with respect to
24 an eligible small business. Such credits shall not

1 be taken into account under paragraph (2), (3),
2 or (4).

3 “(C) ELIGIBLE SMALL BUSINESS.—For
4 purposes of this subsection, the term ‘eligible
5 small business’ means, with respect to any tax-
6 able year—

7 “(i) a corporation the stock of which
8 is not publicly traded,

9 “(ii) a partnership, or

10 “(iii) a sole proprietorship,

11 if the average annual gross receipts of such cor-
12 poration, partnership, or sole proprietorship for
13 the 3-taxable-year period preceding such taxable
14 year does not exceed \$50,000,000. For pur-
15 poses of applying the test under the preceding
16 sentence, rules similar to the rules of para-
17 graphs (2) and (3) of section 448(c) shall
18 apply.”.

19 (b) TECHNICAL AMENDMENT.—Section 55(e)(5) of
20 the Internal Revenue Code of 1986 is amended by striking
21 “38(c)(3)(B)” and inserting “38(c)(4)(B)”.

22 (c) EFFECTIVE DATE.—The amendments made by
23 subsection (a) shall apply to credits determined in taxable
24 years beginning after December 31, 2009, and to
25 carrybacks of such credits.

1 **SEC. 2014. TEMPORARY REDUCTION IN RECOGNITION PE-**
2 **RIOD FOR BUILT-IN GAINS TAX.**

3 (a) IN GENERAL.—Subparagraph (B) of section
4 1374(d)(7) of the Internal Revenue Code of 1986 is
5 amended to read as follows:

6 “(B) SPECIAL RULES FOR 2009, 2010, AND
7 2011.—No tax shall be imposed on the net rec-
8 ognized built-in gain of an S corporation—

9 “(i) in the case of any taxable year
10 beginning in 2009 or 2010, if the 7th tax-
11 able year in the recognition period pre-
12 ceded such taxable year, or

13 “(ii) in the case of any taxable year
14 beginning in 2011, if the 5th year in the
15 recognition period preceded such taxable
16 year.

17 The preceding sentence shall be applied sepa-
18 rately with respect to any asset to which para-
19 graph (8) applies.”.

20 (b) EFFECTIVE DATE.—The amendment made by
21 this section shall apply to taxable years beginning after
22 December 31, 2010.

1 **PART II—ENCOURAGING INVESTMENT**
2 **SEC. 2021. INCREASED EXPENSING LIMITATIONS FOR 2010**
3 **AND 2011; CERTAIN REAL PROPERTY TREAT-**
4 **ED AS SECTION 179 PROPERTY.**

5 (a) INCREASED LIMITATIONS.—Subsection (b) of sec-
6 tion 179 of the Internal Revenue Code of 1986 is amend-
7 ed—

8 (1) by striking “shall not exceed” and all that
9 follows in paragraph (1) and inserting “shall not ex-
10 ceed—

11 “(A) \$250,000 in the case of taxable years
12 beginning after 2007 and before 2010,

13 “(B) \$500,000 in the case of taxable years
14 beginning in 2010 or 2011, and

15 “(C) \$25,000 in the case of taxable years
16 beginning after 2011.”, and

17 (2) by striking “exceeds” and all that follows in
18 paragraph (2) and inserting “exceeds—

19 “(A) \$800,000 in the case of taxable years
20 beginning after 2007 and before 2010,

21 “(B) \$2,000,000 in the case of taxable
22 years beginning in 2010 or 2011, and

23 “(C) \$200,000 in the case of taxable years
24 beginning after 2011.”.

1 (b) INCLUSION OF CERTAIN REAL PROPERTY.—Sec-
2 tion 179 of the Internal Revenue Code of 1986 is amended
3 by adding at the end the following new subsection:

4 “(f) SPECIAL RULES FOR QUALIFIED REAL PROP-
5 erty.—

6 “(1) IN GENERAL.—If a taxpayer elects the ap-
7 plication of this subsection for any taxable year be-
8 ginning in 2010 or 2011, the term ‘section 179
9 property’ shall include any qualified real property
10 which is—

11 “(A) of a character subject to an allowance
12 for depreciation,

13 “(B) acquired by purchase for use in the
14 active conduct of a trade or business, and

15 “(C) not described in the last sentence of
16 subsection (d)(1).

17 “(2) QUALIFIED REAL PROPERTY.—For pur-
18 poses of this subsection, the term ‘qualified real
19 property’ means—

20 “(A) qualified leasehold improvement prop-
21 erty described in section 168(e)(6),

22 “(B) qualified restaurant property de-
23 scribed in section 168(e)(7) (without regard to
24 the dates specified in subparagraph (A)(i)
25 thereof), and

1 “(C) qualified retail improvement property
2 described in section 168(e)(8) (without regard
3 to subparagraph (E) thereof).

4 “(3) LIMITATION.—For purposes of applying
5 the limitation under subsection (b)(1)(B), not more
6 than \$250,000 of the aggregate cost which is taken
7 into account under subsection (a) for any taxable
8 year may be attributable to qualified real property.

9 “(4) CARRYOVER LIMITATION.—

10 “(A) IN GENERAL.—Notwithstanding sub-
11 section (b)(3)(B), no amount attributable to
12 qualified real property may be carried over to a
13 taxable year beginning after 2011.

14 “(B) TREATMENT OF DISALLOWED
15 AMOUNTS.—Except as provided in subpara-
16 graph (C), to the extent that any amount is not
17 allowed to be carried over to a taxable year be-
18 ginning after 2011 by reason of subparagraph
19 (A), this title shall be applied as if no election
20 under this section had been made with respect
21 to such amount.

22 “(C) AMOUNTS CARRIED OVER FROM
23 2010.—If subparagraph (B) applies to any
24 amount (or portion of an amount) which is car-
25 ried over from a taxable year other than the

1 taxpayer's last taxable year beginning in 2011,
2 such amount (or portion of an amount) shall be
3 treated for purposes of this title as attributable
4 to property placed in service on the first day of
5 the taxpayer's last taxable year beginning in
6 2011.

7 “(D) ALLOCATION OF AMOUNTS.—For
8 purposes of applying this paragraph and sub-
9 section (b)(3)(B) to any taxable year, the
10 amount which is disallowed under subsection
11 (b)(3)(A) for such taxable year which is attrib-
12 uted to qualified real property shall be the
13 amount which bears the same ratio to the total
14 amount so disallowed as—

15 “(i) the aggregate amount attrib-
16 utable to qualified real property placed in
17 service during such taxable year, increased
18 by the portion of any amount carried over
19 to such taxable year from a prior taxable
20 year which is attributable to such property,
21 bears to

22 “(ii) the total amount of section 179
23 property placed in service during such tax-
24 able year, increased by the aggregate

1 amount carried over to such taxable year
2 from any prior taxable year.

3 For purposes of the preceding sentence, only
4 section 179 property with respect to which an
5 election was made under subsection (c)(1) (de-
6 termined without regard to subparagraph (B)
7 of this paragraph) shall be taken into ac-
8 count.”.

9 (c) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to property placed in service after
11 December 31, 2009, in taxable years beginning after such
12 date.

13 **SEC. 2022. ADDITIONAL FIRST-YEAR DEPRECIATION FOR 50**
14 **PERCENT OF THE BASIS OF CERTAIN QUALI-**
15 **FIED PROPERTY.**

16 (a) IN GENERAL.—Paragraph (2) of section 168(k)
17 of the Internal Revenue Code of 1986 is amended—

18 (1) by striking “January 1, 2011” in subpara-
19 graph (A)(iv) and inserting “January 1, 2012”, and

20 (2) by striking “January 1, 2010” each place
21 it appears and inserting “January 1, 2011”.

22 (b) CONFORMING AMENDMENTS.—

23 (1) The heading for subsection (k) of section
24 168 of the Internal Revenue Code of 1986 is amend-

1 ed by striking “JANUARY 1, 2010” and inserting
2 “JANUARY 1, 2011”.

3 (2) The heading for clause (ii) of section
4 168(k)(2)(B) of such Code is amended by striking
5 “PRE-JANUARY 1, 2010” and inserting “PRE-JANU-
6 ARY 1, 2011”.

7 (3) Subparagraph (D) of section 168(k)(4) of
8 such Code is amended by striking “and” at the end
9 of clause (ii), by striking the period at the end of
10 clause (iii) and inserting a comma, and by adding at
11 the end the following new clauses:

12 “(iv) ‘January 1, 2011’ shall be sub-
13 stituted for ‘January 1, 2012’ in subpara-
14 graph (A)(iv) thereof, and

15 “(v) ‘January 1, 2010’ shall be sub-
16 stituted for ‘January 1, 2011’ each place it
17 appears in subparagraph (A) thereof.”.

18 (4) Subparagraph (B) of section 168(l)(5) of
19 such Code is amended by striking “January 1,
20 2010” and inserting “January 1, 2011”.

21 (5) Subparagraph (C) of section 168(n)(2) of
22 such Code is amended by striking “January 1,
23 2010” and inserting “January 1, 2011”.

1 (6) Subparagraph (D) of section 1400L(b)(2)
2 of such Code is amended by striking “January 1,
3 2010” and inserting “January 1, 2011”.

4 (7) Subparagraph (B) of section 1400N(d)(3)
5 of such Code is amended by striking “January 1,
6 2010” and inserting “January 1, 2011”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to property placed in service after
9 December 31, 2009, in taxable years beginning after such
10 date.

11 **PART III—PROMOTING ENTREPRENEURSHIP**

12 **SEC. 2031. INCREASE IN AMOUNT ALLOWED AS DEDUCTION**
13 **FOR START-UP EXPENDITURES IN 2010.**

14 (a) START-UP EXPENDITURES.—Subsection (b) of
15 section 195 of the Internal Revenue Code of 1986 is
16 amended by adding at the end the following new para-
17 graph:

18 “(3) SPECIAL RULE FOR TAXABLE YEARS BE-
19 GINNING IN 2010.—In the case of a taxable year be-
20 ginning in 2010, paragraph (1)(A)(ii) shall be ap-
21 plied—

22 “(A) by substituting ‘\$10,000’ for
23 ‘\$5,000’, and

24 “(B) by substituting ‘\$60,000’ for
25 ‘\$50,000’.”.

1 (b) EFFECTIVE DATE.—The amendment made by
2 this section shall apply to amounts paid or incurred in tax-
3 able years beginning after December 31, 2009.

4 **SEC. 2032. AUTHORIZATION OF APPROPRIATIONS FOR THE**
5 **UNITED STATES TRADE REPRESENTATIVE TO**
6 **DEVELOP MARKET ACCESS OPPORTUNITIES**
7 **FOR UNITED STATES SMALL- AND MEDIUM-**
8 **SIZED BUSINESSES AND TO ENFORCE TRADE**
9 **AGREEMENTS.**

10 (a) IN GENERAL.—There are authorized to be appro-
11 priated to the Office of the United States Trade Rep-
12 resentative \$5,230,000, to remain available until ex-
13 pended, for—

14 (1) analyzing and developing opportunities for
15 businesses in the United States to access the mar-
16 kets of foreign countries; and

17 (2) enforcing trade agreements to which the
18 United States is a party.

19 (b) REQUIREMENTS.—In obligating and expending
20 the funds authorized to be appropriated under subsection
21 (a), the United States Trade Representative shall—

22 (1) give preference to those initiatives that the
23 United States Trade Representative determines will
24 create or sustain the greatest number of jobs in the

1 United States or result in the greatest benefit to the
2 economy of the United States; and

3 (2) consider the needs of small- and medium-
4 sized businesses in the United States with respect
5 to—

6 (A) accessing the markets of foreign coun-
7 tries; and

8 (B) the enforcement of trade agreements
9 to which the United States is a party.

10 **PART IV—PROMOTING SMALL BUSINESS**

11 **FAIRNESS**

12 **SEC. 2041. LIMITATION ON PENALTY FOR FAILURE TO DIS-**
13 **CLOSE REPORTABLE TRANSACTIONS BASED**
14 **ON RESULTING TAX BENEFITS.**

15 (a) IN GENERAL.—Subsection (b) of section 6707A
16 of the Internal Revenue Code of 1986 is amended to read
17 as follows:

18 “(b) AMOUNT OF PENALTY.—

19 “(1) IN GENERAL.—Except as otherwise pro-
20 vided in this subsection, the amount of the penalty
21 under subsection (a) with respect to any reportable
22 transaction shall be 75 percent of the decrease in
23 tax shown on the return as a result of such trans-
24 action (or which would have resulted from such

1 transaction if such transaction were respected for
2 Federal tax purposes).

3 “(2) MAXIMUM PENALTY.—The amount of the
4 penalty under subsection (a) with respect to any re-
5 reportable transaction shall not exceed—

6 “(A) in the case of a listed transaction,
7 \$200,000 (\$100,000 in the case of a natural
8 person), or

9 “(B) in the case of any other reportable
10 transaction, \$50,000 (\$10,000 in the case of a
11 natural person).

12 “(3) MINIMUM PENALTY.—The amount of the
13 penalty under subsection (a) with respect to any
14 transaction shall not be less than \$10,000 (\$5,000
15 in the case of a natural person).”.

16 (b) EFFECTIVE DATE.—The amendment made by
17 this section shall apply to penalties assessed after Decem-
18 ber 31, 2006.

19 **SEC. 2042. DEDUCTION FOR HEALTH INSURANCE COSTS IN**
20 **COMPUTING SELF-EMPLOYMENT TAXES IN**
21 **2010.**

22 (a) IN GENERAL.—Paragraph (4) of section 162(l)
23 of the Internal Revenue Code of 1986 is amended by in-
24 serting “for taxable years beginning before January 1,
25 2010, or after December 31, 2010” before the period.

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2009.

4 **Subtitle B—Revenue Provisions**

5 **PART I—REDUCING THE TAX GAP**

6 **SEC. 2101. INFORMATION REPORTING FOR RENTAL PROP-** 7 **ERTY EXPENSE PAYMENTS.**

8 (a) IN GENERAL.—Section 6041 of the Internal Rev-
9 enue Code of 1986, as amended by section 9006 of the
10 Patient Protection and Affordable Care Act, is amended
11 by redesignating subsections (h) and (i) as subsections (i)
12 and (j), respectively, and by inserting after subsection (g)
13 the following new subsection:

14 “(h) TREATMENT OF RENTAL PROPERTY EXPENSE
15 PAYMENTS.—

16 “(1) IN GENERAL.—Solely for purposes of sub-
17 section (a) and except as provided in paragraph (2),
18 a person receiving rental income from real estate
19 shall be considered to be engaged in a trade or busi-
20 ness of renting property.

21 “(2) EXCEPTIONS.—Paragraph (1) shall not
22 apply to—

23 “(A) any individual, including any indi-
24 vidual who is an active member of the uni-
25 formed services or an employee of the intel-

1 ligence community (as defined in section
2 121(d)(9)(C)(iv)), if substantially all rental in-
3 come is derived from renting the principal resi-
4 dence (within the meaning of section 121) of
5 such individual on a temporary basis,

6 “(B) any individual who receives rental in-
7 come of not more than the minimal amount, as
8 determined under regulations prescribed by the
9 Secretary, and

10 “(C) any other individual for whom the re-
11 quirements of this section would cause hard-
12 ship, as determined under regulations pre-
13 scribed by the Secretary.”.

14 (b) **EFFECTIVE DATE.**—The amendments made by
15 subsection (a) shall apply to payments made after Decem-
16 ber 31, 2010.

17 **SEC. 2102. INCREASE IN INFORMATION RETURN PEN-**
18 **ALTIES.**

19 (a) **FAILURE TO FILE CORRECT INFORMATION RE-**
20 **TURNS.**—

21 (1) **IN GENERAL.**—Subsections (a)(1),
22 (b)(1)(A), and (b)(2)(A) of section 6721 of the In-
23 ternal Revenue Code of 1986 are each amended by
24 striking “\$50” and inserting “\$100”.

1 (2) AGGREGATE ANNUAL LIMITATION.—Sub-
2 sections (a)(1), (d)(1)(A), and (e)(3)(A) of section
3 6721 of such Code are each amended by striking
4 “\$250,000” and inserting “\$1,500,000”.

5 (b) REDUCTION WHERE CORRECTION WITHIN 30
6 DAYS.—

7 (1) IN GENERAL.—Subparagraph (A) of section
8 6721(b)(1) of the Internal Revenue Code of 1986 is
9 amended by striking “\$15” and inserting “\$30”.

10 (2) AGGREGATE ANNUAL LIMITATION.—Sub-
11 sections (b)(1)(B) and (d)(1)(B) of section 6721 of
12 such Code are each amended by striking “\$75,000”
13 and inserting “\$250,000”.

14 (c) REDUCTION WHERE CORRECTION ON OR BEFORE
15 AUGUST 1.—

16 (1) IN GENERAL.—Subparagraph (A) of section
17 6721(b)(2) of the Internal Revenue Code of 1986 is
18 amended by striking “\$30” and inserting “\$60”.

19 (2) AGGREGATE ANNUAL LIMITATION.—Sub-
20 sections (b)(2)(B) and (d)(1)(C) of section 6721 of
21 such Code are each amended by striking “\$150,000”
22 and inserting “\$500,000”.

23 (d) AGGREGATE ANNUAL LIMITATIONS FOR PER-
24 SONS WITH GROSS RECEIPTS OF NOT MORE THAN
25 \$5,000,000.—

1 (1) IN GENERAL.—Paragraph (1) of section
2 6721(d) of the Internal Revenue Code of 1986 is
3 amended—

4 (A) by striking “\$100,000” in subpara-
5 graph (A) and inserting “\$500,000”,

6 (B) by striking “\$25,000” in subpara-
7 graph (B) and inserting “\$75,000”, and

8 (C) by striking “\$50,000” in subparagraph
9 (C) and inserting “\$200,000”.

10 (2) TECHNICAL AMENDMENT.—Paragraph (1)
11 of section 6721(d) of such Code is amended by strik-
12 ing “such taxable year” and inserting “such cal-
13 endar year”.

14 (e) PENALTY IN CASE OF INTENTIONAL DIS-
15 REGARD.—Paragraph (2) of section 6721(e) of the Inter-
16 nal Revenue Code of 1986 is amended by striking “\$100”
17 and inserting “\$250”.

18 (f) ADJUSTMENT FOR INFLATION.—Section 6721 of
19 the Internal Revenue Code of 1986 is amended by adding
20 at the end the following new subsection:

21 “(f) ADJUSTMENT FOR INFLATION.—

22 “(1) IN GENERAL.—For each fifth calendar
23 year beginning after 2012, each of the dollar
24 amounts under subsections (a), (b), (d) (other than
25 paragraph (2)(A) thereof), and (e) shall be increased

1 by such dollar amount multiplied by the cost-of-liv-
2 ing adjustment determined under section 1(f)(3) de-
3 termined by substituting ‘calendar year 2011’ for
4 ‘calendar year 1992’ in subparagraph (B) thereof.

5 “(2) ROUNDING.—If any amount adjusted
6 under paragraph (1)—

7 “(A) is not less than \$75,000 and is not
8 a multiple of \$500, such amount shall be
9 rounded to the next lowest multiple of \$500,
10 and

11 “(B) is not described in subparagraph (A)
12 and is not a multiple of \$10, such amount shall
13 be rounded to the next lowest multiple of \$10.”.

14 (g) FAILURE TO FURNISH CORRECT PAYEE STATE-
15 MENTS.—Section 6722 of the Internal Revenue Code of
16 1986 is amended to read as follows:

17 **“SEC. 6722. FAILURE TO FURNISH CORRECT PAYEE STATE-**
18 **MENTS.**

19 “(a) IMPOSITION OF PENALTY.—

20 “(1) GENERAL RULE.—In the case of each fail-
21 ure described in paragraph (2) by any person with
22 respect to a payee statement, such person shall pay
23 a penalty of \$100 for each statement with respect to
24 which such a failure occurs, but the total amount

1 imposed on such person for all such failures during
2 any calendar year shall not exceed \$1,500,000.

3 “(2) FAILURES SUBJECT TO PENALTY.—For
4 purposes of paragraph (1), the failures described in
5 this paragraph are—

6 “(A) any failure to furnish a payee state-
7 ment on or before the date prescribed therefor
8 to the person to whom such statement is re-
9 quired to be furnished, and

10 “(B) any failure to include all of the infor-
11 mation required to be shown on a payee state-
12 ment or the inclusion of incorrect information.

13 “(b) REDUCTION WHERE CORRECTION IN SPECIFIED
14 PERIOD.—

15 “(1) CORRECTION WITHIN 30 DAYS.—If any
16 failure described in subsection (a)(2) is corrected on
17 or before the day 30 days after the required filing
18 date—

19 “(A) the penalty imposed by subsection (a)
20 shall be \$30 in lieu of \$100, and

21 “(B) the total amount imposed on the per-
22 son for all such failures during any calendar
23 year which are so corrected shall not exceed
24 \$250,000.

1 “(2) FAILURES CORRECTED ON OR BEFORE AU-
2 GUST 1.—If any failure described in subsection
3 (a)(2) is corrected after the 30th day referred to in
4 paragraph (1) but on or before August 1 of the cal-
5 endar year in which the required filing date occurs—

6 “(A) the penalty imposed by subsection (a)
7 shall be \$60 in lieu of \$100, and

8 “(B) the total amount imposed on the per-
9 son for all such failures during the calendar
10 year which are so corrected shall not exceed
11 \$500,000.

12 “(c) EXCEPTION FOR DE MINIMIS FAILURES.—

13 “(1) IN GENERAL.—If—

14 “(A) a payee statement is furnished to the
15 person to whom such statement is required to
16 be furnished,

17 “(B) there is a failure described in sub-
18 section (a)(2)(B) (determined after the applica-
19 tion of section 6724(a)) with respect to such
20 statement, and

21 “(C) such failure is corrected on or before
22 August 1 of the calendar year in which the re-
23 quired filing date occurs,

1 for purposes of this section, such statement shall be
2 treated as having been furnished with all of the cor-
3 rect required information.

4 “(2) LIMITATION.—The number of payee state-
5 ments to which paragraph (1) applies for any cal-
6 endar year shall not exceed the greater of—

7 “(A) 10, or

8 “(B) one-half of 1 percent of the total
9 number of payee statements required to be filed
10 by the person during the calendar year.

11 “(d) LOWER LIMITATIONS FOR PERSONS WITH
12 GROSS RECEIPTS OF NOT MORE THAN \$5,000,000.—

13 “(1) IN GENERAL.—If any person meets the
14 gross receipts test of paragraph (2) with respect to
15 any calendar year, with respect to failures during
16 such calendar year—

17 “(A) subsection (a)(1) shall be applied by
18 substituting ‘\$500,000’ for ‘\$1,500,000’,

19 “(B) subsection (b)(1)(B) shall be applied
20 by substituting ‘\$75,000’ for ‘\$250,000’, and

21 “(C) subsection (b)(2)(B) shall be applied
22 by substituting ‘\$200,000’ for ‘\$500,000’.

23 “(2) GROSS RECEIPTS TEST.—A person meets
24 the gross receipts test of this paragraph if such per-

1 son meets the gross receipts test of section
2 6721(d)(2).

3 “(e) PENALTY IN CASE OF INTENTIONAL DIS-
4 REGARD.—If 1 or more failures to which subsection (a)
5 applies are due to intentional disregard of the requirement
6 to furnish a payee statement (or the correct information
7 reporting requirement), then, with respect to each such
8 failure—

9 “(1) subsections (b), (c), and (d) shall not
10 apply,

11 “(2) the penalty imposed under subsection
12 (a)(1) shall be \$250, or, if greater—

13 “(A) in the case of a payee statement
14 other than a statement required under section
15 6045(b), 6041A(e) (in respect of a return re-
16 quired under section 6041A(b)), 6050H(d),
17 6050J(e), 6050K(b), or 6050L(c), 10 percent
18 of the aggregate amount of the items required
19 to be reported correctly, or

20 “(B) in the case of a payee statement re-
21 quired under section 6045(b), 6050K(b), or
22 6050L(c), 5 percent of the aggregate amount of
23 the items required to be reported correctly, and

24 “(3) in the case of any penalty determined
25 under paragraph (2)—

1 “(A) the \$1,500,000 limitation under sub-
2 section (a) shall not apply, and

3 “(B) such penalty shall not be taken into
4 account in applying such limitation to penalties
5 not determined under paragraph (2).

6 “(f) ADJUSTMENT FOR INFLATION.—

7 “(1) IN GENERAL.—For each fifth calendar
8 year beginning after 2012, each of the dollar
9 amounts under subsections (a), (b), (d)(1), and (e)
10 shall be increased by such dollar amount multiplied
11 by the cost-of-living adjustment determined under
12 section 1(f)(3) determined by substituting ‘calendar
13 year 2011’ for ‘calendar year 1992’ in subparagraph
14 (B) thereof.

15 “(2) ROUNDING.—If any amount adjusted
16 under paragraph (1)—

17 “(A) is not less than \$75,000 and is not
18 a multiple of \$500, such amount shall be
19 rounded to the next lowest multiple of \$500,
20 and

21 “(B) is not described in subparagraph (A)
22 and is not a multiple of \$10, such amount shall
23 be rounded to the next lowest multiple of \$10.”.

1 (h) EFFECTIVE DATE.—The amendments made by
2 this section shall apply with respect to information returns
3 required to be filed on or after January 1, 2011.

4 **SEC. 2103. REPORT ON TAX SHELTER PENALTIES AND CER-**
5 **TAIN OTHER ENFORCEMENT ACTIONS.**

6 (a) IN GENERAL.—The Commissioner of Internal
7 Revenue, in consultation with the Secretary of the Treas-
8 ury, shall submit to the Committee on Ways and Means
9 of the House of Representatives and the Committee on
10 Finance of the Senate an annual report on the penalties
11 assessed by the Internal Revenue Service during the pre-
12 ceding year under each of the following provisions of the
13 Internal Revenue Code of 1986:

14 (1) Section 6662A (relating to accuracy-related
15 penalty on understatements with respect to report-
16 able transactions).

17 (2) Section 6700(a) (relating to promoting abu-
18 sive tax shelters).

19 (3) Section 6707 (relating to failure to furnish
20 information regarding reportable transactions).

21 (4) Section 6707A (relating to failure to include
22 reportable transaction information with return).

23 (5) Section 6708 (relating to failure to main-
24 tain lists of advisees with respect to reportable
25 transactions).

1 (b) ADDITIONAL INFORMATION.—The report re-
2 quired under subsection (a) shall also include information
3 on the following with respect to each year:

4 (1) Any action taken under section 330(b) of
5 title 31, United States Code, with respect to any re-
6 portable transaction (as defined in section 6707A(c)
7 of the Internal Revenue Code of 1986).

8 (2) Any extension of the time for assessment of
9 tax enforced, or assessment of any amount under
10 such an extension, under paragraph (10) of section
11 6501(c) of the Internal Revenue Code of 1986.

12 (c) DATE OF REPORT.—The first report required
13 under subsection (a) shall be submitted not later than De-
14 cember 31, 2010.

15 **SEC. 2104. APPLICATION OF LEVY TO PAYMENTS TO FED-**
16 **ERAL VENDORS RELATING TO PROPERTY.**

17 (a) IN GENERAL.—Section 6331(h)(3) of the Inter-
18 nal Revenue Code of 1986 is amended by striking “goods
19 or services” and inserting “property, goods, or services”.

20 (b) EFFECTIVE DATE.—The amendment made by
21 this section shall apply to levies issued after the date of
22 the enactment of this Act.

1 **SEC. 2105. APPLICATION OF CONTINUOUS LEVY TO TAX LI-**
2 **ABILITIES OF CERTAIN FEDERAL CONTRAC-**
3 **TORS.**

4 (a) **IN GENERAL.**—Subsection (f) of section 6330 of
5 the Internal Revenue Code of 1986 is amended by striking
6 “or” at the end of paragraph (2), by inserting “or” at
7 the end of paragraph (3), and by inserting after paragraph
8 (3) the following new paragraph:

9 “(4) the Secretary has served a Federal con-
10 tractor levy,”.

11 (b) **FEDERAL CONTRACTOR LEVY.**—Subsection (h)
12 of section 6330 of the Internal Revenue Code of 1986 is
13 amended—

14 (1) by striking all that precedes “any levy in
15 connection with the collection” and inserting the fol-
16 lowing:

17 “(h) **DEFINITIONS RELATED TO EXCEPTIONS.**—For
18 purposes of subsection (f)—

19 “(1) **DISQUALIFIED EMPLOYMENT TAX LEVY.**—
20 A disqualified employment tax levy is”; and

21 (2) by adding at the end the following new
22 paragraph:

23 “(2) **FEDERAL CONTRACTOR LEVY.**—A Federal
24 contractor levy is any levy if the person whose prop-
25 erty is subject to the levy (or any predecessor there-
26 of) is a Federal contractor.”.

1 (c) CONFORMING AMENDMENT.—The heading of
2 subsection (f) of section 6330 of the Internal Revenue
3 Code of 1986 is amended by striking “JEOPARDY AND
4 STATE REFUND COLLECTION” and inserting “EXCEP-
5 TIONS”.

6 (d) EFFECTIVE DATE.—The amendments made by
7 this section shall apply to levies issued after the date of
8 the enactment of this Act.

9 **SEC. 2106. APPLICATION OF BAD CHECKS PENALTY TO**
10 **ELECTRONIC PAYMENTS.**

11 (a) IN GENERAL.—Section 6657 of the Internal Rev-
12 enue Code of 1986 is amended—

13 (1) by striking “If any check or money order in
14 payment of any amount” and inserting “If any in-
15 strument in payment, by any commercially accept-
16 able means, of any amount”, and

17 (2) by striking “such check” each place it ap-
18 pears and inserting “such instrument”.

19 (b) EFFECTIVE DATES.—The amendments made by
20 this section shall apply to instruments tendered after the
21 date of the enactment of this Act.

1 **PART II—PROMOTING RETIREMENT**
2 **PREPARATION**
3 **SEC. 2111. PARTICIPANTS IN GOVERNMENT SECTION 457**
4 **PLANS ALLOWED TO TREAT ELECTIVE DE-**
5 **FERRALS AS ROTH CONTRIBUTIONS.**

6 (a) **IN GENERAL.**—Section 402A(e)(1) of the Inter-
7 nal Revenue Code of 1986 is amended by striking “and”
8 at the end of subparagraph (A), by striking the period
9 at the end of subparagraph (B) and inserting “, and”,
10 and by adding at the end the following:

11 “(C) an eligible deferred compensation
12 plan (as defined in section 457(b)) of an eligible
13 employer described in section 457(e)(1)(A).”.

14 (b) **ELECTIVE DEFERRALS.**—Section 402A(e)(2) of
15 the Internal Revenue Code of 1986 is amended to read
16 as follows:

17 “(2) **ELECTIVE DEFERRAL.**—The term ‘elective
18 deferral’ means—

19 “(A) any elective deferral described in sub-
20 paragraph (A) or (C) of section 402(g)(3), and

21 “(B) any elective deferral of compensation
22 by an individual under an eligible deferred com-
23 pensation plan (as defined in section 457(b)) of
24 an eligible employer described in section
25 457(e)(1)(A).”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to taxable years beginning after
3 December 31, 2010.

4 **SEC. 2112. ROLLOVERS FROM ELECTIVE DEFERRAL PLANS**
5 **TO DESIGNATED ROTH ACCOUNTS.**

6 (a) IN GENERAL.—Section 402A(c) of the Internal
7 Revenue Code of 1986 is amended by adding at the end
8 the following new paragraph:

9 “(4) TAXABLE ROLLOVERS TO DESIGNATED
10 ROTH ACCOUNTS.—

11 “(A) IN GENERAL.—Notwithstanding sec-
12 tions 402(c), 403(b)(8), and 457(e)(16), in the
13 case of any distribution to which this paragraph
14 applies—

15 “(i) there shall be included in gross
16 income any amount which would be includ-
17 ible were it not part of a qualified rollover
18 contribution,

19 “(ii) section 72(t) shall not apply, and

20 “(iii) unless the taxpayer elects not to
21 have this clause apply, any amount re-
22 quired to be included in gross income for
23 any taxable year beginning in 2010 by rea-
24 son of this paragraph shall be so included
25 ratably over the 2-taxable-year period be-

1 ginning with the first taxable year begin-
2 ning in 2011.

3 Any election under clause (iii) for any distribu-
4 tions during a taxable year may not be changed
5 after the due date for such taxable year.

6 “(B) DISTRIBUTIONS TO WHICH PARA-
7 GRAPH APPLIES.—In the case of an applicable
8 retirement plan which includes a qualified Roth
9 contribution program, this paragraph shall
10 apply to a distribution from such plan other
11 than from a designated Roth account which is
12 contributed in a qualified rollover contribution
13 (within the meaning of section 408A(e)) to the
14 designated Roth account maintained under such
15 plan for the benefit of the individual to whom
16 the distribution is made.

17 “(C) COORDINATION WITH LIMIT.—Any
18 distribution to which this paragraph applies
19 shall not be taken into account for purposes of
20 paragraph (1).

21 “(D) OTHER RULES.—The rules of sub-
22 paragraphs (D), (E), and (F) of section
23 408A(d)(3) (as in effect for taxable years begin-
24 ning after 2009) shall apply for purposes of
25 this paragraph.”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to distributions after the date of
3 the enactment of this Act.

4 **PART III—CLOSING UNINTENDED LOOPHOLES**

5 **SEC. 2121. CRUDE TALL OIL INELIGIBLE FOR CELLULOSIC**
6 **BIOFUEL PRODUCER CREDIT.**

7 (a) IN GENERAL.—Clause (iii) of section 40(b)(6)(E)
8 of the Internal Revenue Code of 1986, as added by the
9 Health Care and Education Reconciliation Act of 2010,
10 is amended—

11 (1) by striking “or” at the end of subclause (I),

12 (2) by striking the period at the end of sub-
13 clause (II) and inserting “, or”,

14 (3) by adding at the end the following new sub-
15 clause:

16 “(III) such fuel has an acid num-
17 ber greater than 25.”, and

18 (4) by striking “UNPROCESSED” in the heading
19 and inserting “CERTAIN”.

20 (b) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to fuels sold or used on or after
22 January 1, 2010.

1 culture, Nutrition, and Forestry, the Committee
2 on Banking, Housing, and Urban Affairs, the
3 Committee on Finance, the Committee on the
4 Budget, and the Committee on Appropriations
5 of the Senate; and

6 (B) the Committee on Small Business, the
7 Committee on Agriculture, the Committee on
8 Financial Services, the Committee on Ways and
9 Means, the Committee on the Budget, and the
10 Committee on Appropriations of the House of
11 Representatives.

12 (2) APPROPRIATE FEDERAL BANKING AGEN-
13 CY.—The term “appropriate Federal banking agen-
14 cy” has the meaning given such term under section
15 3(q) of the Federal Deposit Insurance Act (12
16 U.S.C. 1813(q)).

17 (3) BANK HOLDING COMPANY.—The term
18 “bank holding company” has the meaning given
19 such term under section 2(a)(1) of the Bank Hold-
20 ing Company Act of 1956 (12 U.S.C.
21 1841(2)(a)(1)).

22 (4) CALL REPORT.—The term “call report”
23 means—

24 (A) reports of Condition and Income sub-
25 mitted to the Office of the Comptroller of the

1 Currency, the Board of Governors of the Fed-
2 eral Reserve System, and the Federal Deposit
3 Insurance Corporation;

4 (B) the Office of Thrift Supervision Thrift
5 Financial Report;

6 (C) any report that is designated by the
7 Office of the Comptroller of the Currency, the
8 Board of Governors of the Federal Reserve Sys-
9 tem, the Federal Deposit Insurance Corpora-
10 tion, or the Office of Thrift Supervision, as ap-
11 plicable, as a successor to any report referred to
12 in subparagraph (A) or (B);

13 (D) reports of Condition and Income as
14 designated through guidance developed by the
15 Secretary, in consultation with the Director of
16 the Community Development Financial Institu-
17 tions Fund; and

18 (E) with respect to an eligible institution
19 for which no report exists that is described
20 under subparagraph (A), (B), (C), or (D), such
21 other report or set of information as the Sec-
22 retary, in consultation with the Administrator
23 of the Small Business Administration, may pre-
24 scribe.

1 (5) CDCI.—The term “CDCI” means the Com-
2 munity Development Capital Initiative created by
3 the Secretary under the Troubled Asset Relief Pro-
4 gram established by the Emergency Economic Sta-
5 bilization Act of 2008.

6 (6) CDCI INVESTMENT.—The term “CDCI in-
7 vestment” means, with respect to any eligible insti-
8 tution, the principal amount of any investment made
9 by the Secretary in such eligible institution under
10 the CDCI that has not been repaid.

11 (7) CDFI; COMMUNITY DEVELOPMENT FINAN-
12 CIAL INSTITUTION.—The terms “CDFI” and “com-
13 munity development financial institution” have the
14 meaning given the term “community development fi-
15 nancial institution” under the Riegle Community
16 Development and Regulatory Improvement Act of
17 1994.

18 (8) CDLF; COMMUNITY DEVELOPMENT LOAN
19 FUND.—The terms “CDLF” and “community devel-
20 opment loan fund” mean any entity that—

21 (A) is certified by the Department of the
22 Treasury as a community development financial
23 institution loan fund;

24 (B) is exempt from taxation under the In-
25 ternal Revenue Code of 1986; and

1 (C) had assets less than or equal to
2 \$10,000,000,000 as of the end of the fourth
3 quarter of calendar year 2009.

4 (9) CPP.—The term “CPP” means the Capital
5 Purchase Program created by the Secretary under
6 the Troubled Asset Relief Program established by
7 the Emergency Economic Stabilization Act of 2008.

8 (10) CPP INVESTMENT.—The term “CPP in-
9 vestment” means, with respect to any eligible insti-
10 tution, the principal amount of any investment made
11 by the Secretary in such eligible institution under
12 the CPP that has not been repaid.

13 (11) ELIGIBLE INSTITUTION.—The term “eligi-
14 ble institution” means—

15 (A) any insured depository institution,
16 which—

17 (i) is not controlled by a bank holding
18 company or savings and loan holding com-
19 pany that is also an eligible institution;

20 (ii) has total assets of equal to or less
21 than \$10,000,000,000, as reported in the
22 call report of the insured depository insti-
23 tution as of the end of the fourth quarter
24 of calendar year 2009; and

1 (iii) is not directly or indirectly con-
2 trolled by any company or other entity that
3 has total consolidated assets of more than
4 \$10,000,000,000, as so reported;

5 (B) any bank holding company which has
6 total consolidated assets of equal to or less than
7 \$10,000,000,000, as reported in the call report
8 of the bank holding company as of the end of
9 the fourth quarter of calendar year 2009;

10 (C) any savings and loan holding company
11 which has total consolidated assets of equal to
12 or less than \$10,000,000,000, as reported in
13 the call report of the savings and loan holding
14 company as of the end of the fourth quarter of
15 calendar year 2009; and

16 (D) any community development financial
17 institution loan fund which has total assets of
18 equal to or less than \$10,000,000,000, as re-
19 ported in audited financial statements for the
20 fiscal year of the community development finan-
21 cial institution loan fund that ends in calendar
22 year 2009.

23 (12) FUND.—The term “Fund” means the
24 Small Business Lending Fund established under sec-
25 tion 3103(a)(1).

1 (13) INSURED DEPOSITORY INSTITUTION.—The
2 term “insured depository institution” has the mean-
3 ing given such term under section 3(c)(2) of the
4 Federal Deposit Insurance Act (12 U.S.C.
5 1813(c)(2)).

6 (14) MINORITY-OWNED AND WOMEN-OWNED
7 BUSINESS.—The terms “minority-owned business”
8 and “women-owned business” shall have the mean-
9 ing given the terms “minority-owned business” and
10 “women’s business”, respectively, under section
11 21A(r)(4) of the Federal Home Loan Bank Act (12
12 U.S.C. 1441A(r)(4)).

13 (15) PROGRAM.—The term “Program” means
14 the Small Business Lending Fund Program author-
15 ized under section 3103(a)(2).

16 (16) SAVINGS AND LOAN HOLDING COMPANY.—
17 The term “savings and loan holding company” has
18 the meaning given such term under section
19 10(a)(1)(D) of the Home Owners’ Loan Act (12
20 U.S.C. 1467a(a)(1)(D)).

21 (17) SECRETARY.—The term “Secretary”
22 means the Secretary of the Treasury.

23 (18) SMALL BUSINESS LENDING.—

24 (A) IN GENERAL.—The term “small busi-
25 ness lending” means lending, as defined by and

1 reported in an eligible institutions' quarterly
2 call report, where each loan comprising such
3 lending is one of the following types:

4 (i) Commercial and industrial loans.

5 (ii) Owner-occupied nonfarm, nonresi-
6 dential real estate loans.

7 (iii) Loans to finance agricultural pro-
8 duction and other loans to farmers.

9 (iv) Loans secured by farmland.

10 (B) EXCLUSION.—No loan that has an
11 original amount greater than \$10,000,000 or
12 that goes to a business with more than
13 \$50,000,000 in revenues shall be included in
14 the measure.

15 (C) TREATMENT OF HOLDING COMPA-
16 NIES.—In the case of eligible institutions that
17 are bank holding companies or savings and loan
18 holding companies having one or more insured
19 depository institution subsidiaries, small busi-
20 ness lending shall be measured based on the
21 combined small business lending reported in the
22 call report of the insured depository institution
23 subsidiaries.

24 (19) VETERAN-OWNED BUSINESS.—

1 (A) The term “veteran-owned business”
2 means a business—

3 (i) more than 50 percent of the own-
4 ership or control of which is held by 1 or
5 more veterans;

6 (ii) more than 50 percent of the net
7 profit or loss of which accrues to 1 or more
8 veterans; and

9 (iii) a significant percentage of senior
10 management positions of which are held by
11 veterans.

12 (B) For purposes of this paragraph, the
13 term “veteran” has the meaning given such
14 term in section 101(2) of title 38, United
15 States Code.

16 **SEC. 3103. SMALL BUSINESS LENDING FUND.**

17 (a) **FUND AND PROGRAM.—**

18 (1) **FUND ESTABLISHED.—**There is established
19 in the Treasury of the United States a fund to be
20 known as the “Small Business Lending Fund”,
21 which shall be administered by the Secretary.

22 (2) **PROGRAMS AUTHORIZED.—**The Secretary is
23 authorized to establish the Small Business Lending
24 Fund Program for using the Fund consistent with
25 this subtitle.

1 (b) USE OF FUND.—

2 (1) IN GENERAL.—Subject to paragraph (2),
3 the Fund shall be available to the Secretary, without
4 further appropriation or fiscal year limitation, for
5 the costs of purchases (including commitments to
6 purchase), and modifications of such purchases, of
7 preferred stock and other financial instruments from
8 eligible institutions on such terms and conditions as
9 are determined by the Secretary in accordance with
10 this subtitle. For purposes of this paragraph and
11 with respect to an eligible institution, the term
12 “other financial instruments” shall include only debt
13 instruments for which such eligible institution is
14 fully liable or equity equivalent capital of the eligible
15 institution. Such debt instruments may be subordi-
16 nated to the claims of other creditors of the eligible
17 institution.

18 (2) MAXIMUM PURCHASE LIMIT.—The aggre-
19 gate amount of purchases (and commitments to pur-
20 chase) made pursuant to paragraph (1) may not ex-
21 ceed \$30,000,000,000.

22 (3) PROCEEDS USED TO PAY DOWN PUBLIC
23 DEBT.—All funds received by the Secretary in con-
24 nection with purchases made pursuant to paragraph
25 (1), including interest payments, dividend payments,

1 and proceeds from the sale of any financial instru-
2 ment, shall be paid into the general fund of the
3 Treasury for reduction of the public debt.

4 (4) LIMITATION ON PURCHASES FROM
5 CDLFS.—

6 (A) IN GENERAL.—Not more than 1 per-
7 cent of the maximum purchase limit of the Pro-
8 gram, pursuant to paragraph (2), may be used
9 to make purchases from community develop-
10 ment loan funds.

11 (B) ELIGIBILITY STANDARDS.—The Sec-
12 retary, in consultation with the Community De-
13 velopment Financial Institutions Fund, shall
14 develop eligibility criteria to determine the fi-
15 nancial ability of a CDLF to participate in the
16 Program and repay the investment. Such cri-
17 teria shall include the following:

18 (i) Ratio of net assets to total assets
19 is at least 20 percent.

20 (ii) Ratio of loan loss reserves to loans
21 and leases 90 days or more delinquent (in-
22 cluding loans sold with full recourse) is at
23 least 30 percent.

24 (iii) Positive net income measured on
25 a 3-year rolling average.

1 (iv) Operating liquidity ratio of at
2 least 1.0 for the 4 most recent quarters
3 and for one or both of the two preceding
4 years.

5 (v) Ratio of loans and leases 90 days
6 or more delinquent (including loans sold
7 with full recourse) to total equity plus loan
8 loss reserves is less than 40 percent.

9 (C) REQUIREMENT TO SUBMIT AUDITED
10 FINANCIAL STATEMENTS.—CDLFs partici-
11 pating in the Program shall submit audited fi-
12 nancial statements to the Secretary, have a
13 clean audit opinion, and have at least 3 years
14 of operating experience.

15 (c) CREDITS TO THE FUND.—There shall be credited
16 to the Fund amounts made available pursuant to section
17 3108, to the extent provided by appropriations Acts.

18 (d) TERMS.—

19 (1) APPLICATION.—

20 (A) INSTITUTIONS WITH ASSETS OF
21 \$1,000,000,000 OR LESS.—Eligible institutions
22 having total assets equal to or less than
23 \$1,000,000,000, as reported in a call report as
24 of the end of the fourth quarter of calendar
25 year 2009, may apply to receive a capital in-

1 vestment from the Fund in an amount not ex-
2 ceeding 5 percent of risk-weighted assets, as re-
3 ported in the call report immediately preceding
4 the date of application, less the amount of any
5 CDCI investment and any CPP investment.

6 (B) INSTITUTIONS WITH ASSETS OF MORE
7 THAN \$1,000,000,000 AND LESS THAN OR EQUAL
8 TO \$10,000,000,000.—Eligible institutions having
9 total assets of more than \$1,000,000,000 but
10 less than \$10,000,000,000, as of the end of the
11 fourth quarter of calendar year 2009, may
12 apply to receive a capital investment from the
13 Fund in an amount not exceeding 3 percent of
14 risk-weighted assets, as reported in the call re-
15 port immediately preceding the date of applica-
16 tion, less the amount of any CDCI investment
17 and any CPP investment.

18 (C) TREATMENT OF HOLDING COMPA-
19 NIES.—In the case of an eligible institution that
20 is a bank holding company or a savings and
21 loan holding company having one or more in-
22 sured depository institution subsidiaries, total
23 assets shall be measured based on the combined
24 total assets reported in the call report of the in-
25 sured depository institution subsidiaries as of

1 the end of the fourth quarter of calendar year
2 2009 and risk-weighted assets shall be meas-
3 ured based on the combined risk-weighted as-
4 sets of the insured depository institution sub-
5 sidiaries as reported in the call report imme-
6 diately preceding the date of application.

7 (D) TREATMENT OF APPLICANTS THAT
8 ARE INSTITUTIONS CONTROLLED BY HOLDING
9 COMPANIES.—If an eligible institution that ap-
10 plies to receive a capital investment under the
11 Program is under the control of a bank holding
12 company or a savings and loan holding com-
13 pany, then the Secretary may use the Fund to
14 purchase preferred stock or other financial in-
15 struments from the top-tier bank holding com-
16 pany or savings and loan holding company of
17 such eligible institution, as applicable. For pur-
18 poses of this subparagraph, the term “control”
19 with respect to a bank holding company shall
20 have the same meaning as in section 2(a)(2) of
21 the Bank Holding Company Act of 1956 (12
22 U.S.C. 1841(2)(a)(2)). For purposes of this
23 subparagraph, the term “control” with respect
24 to a savings and loan holding company shall
25 have the same meaning as in 10(a)(2) of the

1 Home Owners' Loan Act (12 U.S.C.
2 1467a(a)(2)).

3 (E) REQUIREMENT TO PROVIDE A SMALL
4 BUSINESS LENDING PLAN.—At the time that an
5 applicant submits an application to the Sec-
6 retary for a capital investment under the Pro-
7 gram, the applicant shall deliver to the appro-
8 priate Federal banking agency, and, for appli-
9 cants that are State-chartered banks, to the ap-
10 propriate State banking regulator, a small busi-
11 ness lending plan describing how the applicant's
12 business strategy and operating goals will allow
13 it to address the needs of small businesses in
14 the areas it serves, as well as a plan to provide
15 linguistically and culturally appropriate out-
16 reach, where appropriate. In the case of eligible
17 institutions that are community development
18 loan funds, this plan shall be submitted to the
19 Secretary. This plan shall be confidential super-
20 visory information.

21 (F) TREATMENT OF APPLICANTS THAT
22 ARE COMMUNITY DEVELOPMENT LOAN
23 FUNDS.—Eligible institutions that are commu-
24 nity development loan funds may apply to re-
25 ceive a capital investment from the Fund in an

1 amount not exceeding 5 percent of total assets,
2 as reported in the audited financial statements
3 for the fiscal year of the eligible institution that
4 ends in calendar year 2009.

5 (2) CONSULTATION WITH REGULATORS.—For
6 each eligible institution that applies to receive a cap-
7 ital investment under the Program, the Secretary
8 shall—

9 (A) consult with the appropriate Federal
10 banking agency or, in the case of an eligible in-
11 stitution that is a non-depository community
12 development financial institution, the Commu-
13 nity Development Financial Institution Fund,
14 for the eligible institution to determine whether
15 the eligible institution may receive such capital
16 investment;

17 (B) in the case of an eligible institution
18 that is a State-chartered bank, consider any
19 views received from the State banking regulator
20 of the State of the eligible institution regarding
21 the financial condition of the eligible institution;
22 and

23 (C) in the case of a community develop-
24 ment financial institution loan fund, consult

1 with the Community Development Financial In-
2 stitution Fund.

3 (3) INELIGIBILITY OF INSTITUTIONS ON FDIC
4 PROBLEM BANK LIST.—

5 (A) IN GENERAL.—An eligible institution
6 may not receive any capital investment under
7 the Program if—

8 (i) such institution is on the FDIC
9 problem bank list; or

10 (ii) such institution has been removed
11 from the FDIC problem bank list for less
12 than 90 days.

13 (B) CONSTRUCTION.—Nothing in subpara-
14 graph (A) shall be construed as limiting the dis-
15 cretion of the Secretary to deny the application
16 of an eligible institution that is not on the
17 FDIC problem bank list.

18 (C) FDIC PROBLEM BANK LIST DE-
19 FINED.—For purposes of this subparagraph,
20 the term “FDIC problem bank list” means the
21 list of institutions with a current rating of 4 or
22 5 under the Uniform Financial Institutions
23 Rating System, or such other list designated by
24 the Federal Deposit Insurance Corporation.

25 (4) INCENTIVES TO LEND.—

1 (A) REQUIREMENTS ON PREFERRED
2 STOCK AND OTHER FINANCIAL INSTRU-
3 MENTS.—Any preferred stock or other financial
4 instrument issued to Treasury by an eligible in-
5 stitution receiving a capital investment under
6 the Program shall provide that—

7 (i) the rate at which dividends or in-
8 terest are payable shall be 5 percent per
9 annum initially;

10 (ii) within the first 2 years after the
11 date of the capital investment under the
12 Program, the rate may be adjusted based
13 on the amount of an eligible institution's
14 small business lending. Changes in the
15 amount of small business lending shall be
16 measured against the average amount of
17 small business lending reported by the eli-
18 gible institution in its call reports for the
19 4 full quarters immediately preceding the
20 date of enactment of this Act, minus ad-
21 justments from each quarterly balance in
22 respect of—

23 (I) net loan charge offs with re-
24 spect to small business lending; and

1 (II) gains realized by the eligible
2 institution resulting from mergers, ac-
3 quisitions or purchases of loans after
4 origination and syndication; which ad-
5 justments shall be determined in ac-
6 cordance with guidance promulgated
7 by the Secretary; and

8 (iii) during any calendar quarter dur-
9 ing the initial 2-year period referred to in
10 clause (ii), an institution's rate shall be ad-
11 justed to reflect the following schedule,
12 based on that institution's change in the
13 amount of small business lending relative
14 to the baseline—

15 (I) if the amount of small busi-
16 ness lending has increased by less
17 than 2.5 percent, the dividend or in-
18 terest rate shall be 5 percent;

19 (II) if the amount of small busi-
20 ness lending has increased by 2.5 per-
21 cent or greater, but by less than 5.0
22 percent, the dividend or interest rate
23 shall be 4 percent;

24 (III) if the amount of small busi-
25 ness lending has increased by 5.0 per-

1 cent or greater, but by less than 7.5
2 percent, the dividend or interest rate
3 shall be 3 percent;

4 (IV) if the amount of small busi-
5 ness lending has increased by 7.5 per-
6 cent or greater, and but by less than
7 10.0 percent, the dividend or interest
8 rate shall be 2 percent; or

9 (V) if the amount of small busi-
10 ness lending has increased by 10 per-
11 cent or greater, the dividend or inter-
12 est rate shall be 1 percent.

13 (B) BASIS OF INITIAL RATE.—The initial
14 dividend or interest rate shall be based on call
15 report data published in the quarter imme-
16 diately preceding the date of the capital invest-
17 ment under the Program.

18 (C) TIMING OF RATE ADJUSTMENTS.—Any
19 rate adjustment shall occur in the calendar
20 quarter following the publication of call report
21 data, such that the rate based on call report
22 data from any one calendar quarter, which is
23 published in the first following calendar quar-
24 ter, shall be adjusted in that first following cal-

1 endar quarter and payable in the second fol-
2 lowing quarter.

3 (D) RATE FOLLOWING INITIAL 2-YEAR PE-
4 RIOD.—Generally, the rate based on call report
5 data from the eighth calendar quarter after the
6 date of the capital investment under the Pro-
7 gram shall be payable until the expiration of
8 the 4½-year period that begins on the date of
9 the investment. In the case where the amount
10 of small business lending has remained the
11 same or decreased relative to the institution’s
12 baseline in the eighth quarter after the date of
13 the capital investment under the Program, the
14 rate shall be 7 percent until the expiration of
15 the 4½-year period that begins on the date of
16 the investment.

17 (E) RATE FOLLOWING INITIAL 4½ -YEAR
18 PERIOD.—The dividend or interest rate paid on
19 any preferred stock or other financial instru-
20 ment issued by an eligible institution that re-
21 ceives a capital investment under the Program
22 shall increase to 9 percent at the end of the
23 4½-year period that begins on the date of the
24 capital investment under the Program.

1 (F) LIMITATION ON RATE REDUCTIONS
2 WITH RESPECT TO CERTAIN AMOUNT.—The re-
3 duction in the dividend or interest rate payable
4 to Treasury by any eligible institution shall be
5 limited such that the rate reduction shall not
6 apply to a dollar amount of the investment
7 made by Treasury that is greater than the dol-
8 lar amount increase in the amount of small
9 business lending realized under this program.
10 The Secretary may issue guidelines that will
11 apply to new capital investments limiting the
12 amount of capital available to eligible institu-
13 tions consistent with this limitation.

14 (G) RATE ADJUSTMENTS FOR S CORPORA-
15 TION.—Before making a capital investment in
16 an eligible institution that is an S corporation
17 or a corporation organized on a mutual basis,
18 the Secretary may adjust the dividend or inter-
19 est rate on the financial instrument to be issued
20 to the Secretary, from the dividend or interest
21 rate that would apply under subparagraphs (A)
22 through (F), to take into account any differen-
23 tial tax treatment of securities issued by such
24 eligible institution. For purpose of this subpara-
25 graph, the term “S corporation” has the same

1 meaning as in section 1361(a) of the Internal
2 Revenue Code of 1986.

3 (H) REPAYMENT DEADLINE.—The capital
4 investment received by an eligible institution
5 under the Program shall be evidenced by pre-
6 ferred stock or other financial instrument
7 that—

8 (i) includes, as a term and condition,
9 that the capital investment will—

10 (I) be repaid not later than the
11 end of the 10-year period beginning
12 on the date of the capital investment
13 under the Program; or

14 (II) at the end of such 10-year
15 period, be subject to such additional
16 terms as the Secretary shall prescribe,
17 which shall include a requirement that
18 the stock or instrument shall carry
19 the highest dividend or interest rate
20 payable; and

21 (ii) provides that the term and condi-
22 tion described under clause (i) shall not
23 apply if the application of that term and
24 condition would adversely affect the capital
25 treatment of the stock or financial instru-

1 ment under current or successor applicable
2 capital provisions compared to a capital in-
3 strument with identical terms other than
4 the term and condition described under
5 clause (i).

6 (I) REQUIREMENTS ON FINANCIAL IN-
7 STRUMENTS ISSUED BY A COMMUNITY DEVEL-
8 OPMENT FINANCIAL INSTITUTION LOAN
9 FUND.—Any equity equivalent capital issued to
10 the Treasury by a community development loan
11 fund receiving a capital investment under the
12 Program shall provide that the rate at which in-
13 terest is payable shall be 2 percent per annum
14 for 8 years. After 8 years, the rate at which in-
15 terest is payable shall be 9 percent.

16 (5) ADDITIONAL INCENTIVES TO REPAY.—The
17 Secretary may, by regulation or guidance issued
18 under section 3104(9), establish repayment incen-
19 tives in addition to the incentive in paragraph (4)(E)
20 that will apply to new capital investments in a man-
21 ner that the Secretary determines to be consistent
22 with the purposes of this subtitle.

23 (6) CAPITAL PURCHASE PROGRAM REFI-
24 NANCE.—

1 (A) IN GENERAL.—The Secretary shall, in
2 a manner that the Secretary determines to be
3 consistent with the purposes of this subtitle,
4 issue regulations and other guidance to permit
5 eligible institutions to refinance securities
6 issued to Treasury under the CDCI and the
7 CPP for securities to be issued under the Pro-
8 gram.

9 (B) PROHIBITION ON PARTICIPATION BY
10 NON-PAYING CPP PARTICIPANTS.—Subpara-
11 graph (A) shall not apply to any eligible institu-
12 tion that has missed more than one dividend
13 payment due under the CPP. For purposes of
14 this subparagraph, a CPP dividend payment
15 that is submitted within 60 days of the due
16 date of such payment shall not be considered a
17 missed dividend payment.

18 (7) OUTREACH TO MINORITIES, WOMEN, AND
19 VETERANS.—The Secretary shall require eligible in-
20 stitutions receiving capital investments under the
21 Program to provide linguistically and culturally ap-
22 propriate outreach and advertising in the applicant
23 pool describing the availability and application proc-
24 ess of receiving loans from the eligible institution
25 that are made possible by the Program through the

1 use of print, radio, television or electronic media out-
2 lets which target organizations, trade associations,
3 and individuals that—

4 (A) represent or work within or are mem-
5 bers of minority communities;

6 (B) represent or work with or are women;
7 and

8 (C) represent or work with or are veterans.

9 (8) **ADDITIONAL TERMS.**—The Secretary may,
10 by regulation or guidance issued under section
11 3104(9), make modifications that will apply to new
12 capital investments in order to manage risks associ-
13 ated with the administration of the Fund in a man-
14 ner consistent with the purposes of this subtitle.

15 (9) **MINIMUM UNDERWRITING STANDARDS.**—
16 The appropriate Federal banking agency for an eli-
17 gible institution that receives funds under the Pro-
18 gram shall within 60 days issue guidance regarding
19 prudent underwriting standards that must be used
20 for loans made by the eligible institution using such
21 funds..

22 **SEC. 3104. ADDITIONAL AUTHORITIES OF THE SECRETARY.**

23 The Secretary may take such actions as the Secretary
24 deems necessary to carry out the authorities in this sub-
25 title, including, without limitation, the following:

1 (1) The Secretary may use the services of any
2 agency or instrumentality of the United States or
3 component thereof on a reimbursable basis, and any
4 such agency or instrumentality or component thereof
5 is authorized to provide services as requested by the
6 Secretary using all authorities vested in or delegated
7 to that agency, instrumentality, or component.

8 (2) The Secretary may enter into contracts, in-
9 cluding contracts for services authorized by section
10 3109 of title 5, United States Code.

11 (3) The Secretary may designate any bank, sav-
12 ings association, trust company, security broker or
13 dealer, asset manager, or investment adviser as a fi-
14 nancial agent of the Federal Government and such
15 institution shall perform all such reasonable duties
16 related to this subtitle as financial agent of the Fed-
17 eral Government as may be required. The Secretary
18 shall have authority to amend existing agreements
19 with financial agents, entered into during the 2-year
20 period before the date of enactment of this Act, to
21 perform reasonable duties related to this subtitle.

22 (4) The Secretary may exercise any rights re-
23 ceived in connection with any preferred stock or
24 other financial instruments or assets purchased or

1 acquired pursuant to the authorities granted under
2 this subtitle.

3 (5) Subject to section 3103(b)(3), the Secretary
4 may manage any assets purchased under this sub-
5 title, including revenues and portfolio risks there-
6 from.

7 (6) The Secretary may sell, dispose of, transfer,
8 exchange or enter into securities loans, repurchase
9 transactions, or other financial transactions in re-
10 gard to, any preferred stock or other financial in-
11 strument or asset purchased or acquired under this
12 subtitle, upon terms and conditions and at a price
13 determined by the Secretary.

14 (7) The Secretary may manage or prohibit con-
15 flicts of interest that may arise in connection with
16 the administration and execution of the authorities
17 provided under this subtitle.

18 (8) The Secretary may establish and use vehi-
19 cles, subject to supervision by the Secretary, to pur-
20 chase, hold, and sell preferred stock or other finan-
21 cial instruments and issue obligations.

22 (9) The Secretary may, in consultation with the
23 Administrator of the Small Business Administration,
24 issue such regulations and other guidance as may be

1 necessary or appropriate to define terms or carry
2 out the authorities or purposes of this subtitle.

3 **SEC. 3105. CONSIDERATIONS.**

4 In exercising the authorities granted in this subtitle,
5 the Secretary shall take into consideration—

6 (1) increasing the availability of credit for small
7 businesses;

8 (2) providing funding to minority-owned eligible
9 institutions and other eligible institutions that serve
10 small businesses that are minority-, veteran-, and
11 women-owned and that also serve low- and mod-
12 erate-income, minority, and other underserved or
13 rural communities;

14 (3) protecting and increasing American jobs;

15 (4) increasing the opportunity for small busi-
16 ness development in areas with high unemployment
17 rates that exceed the national average;

18 (5) ensuring that all eligible institutions may
19 apply to participate in the program established
20 under this subtitle, without discrimination based on
21 geography;

22 (6) providing transparency with respect to use
23 of funds provided under this subtitle;

24 (7) minimizing the cost to taxpayers of exer-
25 cising the authorities;

1 (8) promoting and engaging in financial edu-
2 cation to would-be borrowers; and

3 (9) providing funding to eligible institutions
4 that serve small businesses directly affected by the
5 discharge of oil arising from the explosion on and
6 sinking of the mobile offshore drilling unit Deep-
7 water Horizon and small businesses in communities
8 that have suffered negative economic effects as a re-
9 sult of that discharge with particular consideration
10 to States along the coast of the Gulf of Mexico.

11 **SEC. 3106. REPORTS.**

12 The Secretary shall provide to the appropriate com-
13 mittees of Congress—

14 (1) within 7 days of the end of each month
15 commencing with the first month in which trans-
16 actions are made under the Program, a written re-
17 port describing all of the transactions made during
18 the reporting period pursuant to the authorities
19 granted under this subtitle;

20 (2) after the end of March and the end of Sep-
21 tember, commencing September 30, 2010, a written
22 report on all projected costs and liabilities, all oper-
23 ating expenses, including compensation for financial
24 agents, and all transactions made by the Fund,
25 which shall include participating institutions and

1 amounts each institution has received under the Pro-
2 gram; and

3 (3) within 7 days of the end of each calendar
4 quarter commencing with the first calendar quarter
5 in which transactions are made under the Program,
6 a written report detailing how eligible institutions
7 participating in the Program have used the funds
8 such institutions received under the Program.

9 **SEC. 3107. OVERSIGHT AND AUDITS.**

10 (a) INSPECTOR GENERAL OVERSIGHT.—The Inspec-
11 tor General of the Department of the Treasury shall con-
12 duct, supervise, and coordinate audits and investigations
13 of the Program through the Office of Small Business
14 Lending Fund Program Oversight established under sub-
15 section (b).

16 (b) OFFICE OF SMALL BUSINESS LENDING FUND
17 PROGRAM OVERSIGHT.—

18 (1) ESTABLISHMENT.—There is hereby estab-
19 lished within the Office of the Inspector General of
20 the Department of the Treasury a new office to be
21 named the “Office of Small Business Lending Fund
22 Program Oversight” to provide oversight of the Pro-
23 gram.

24 (2) LEADERSHIP.—The Inspector General shall
25 appoint a Special Deputy Inspector General for

1 SBLF Program Oversight to lead the Office, with
2 commensurate staff, who shall report directly to the
3 Inspector General and who shall be responsible for
4 the performance of all auditing and investigative ac-
5 tivities relating to the Program.

6 (3) REPORTING.—

7 (A) IN GENERAL.—The Inspector General
8 shall issue a report no less than two times a
9 year to the Congress and the Secretary devoted
10 to the oversight provided by the Office, includ-
11 ing any recommendations for improvements to
12 the Program.

13 (B) RECOMMENDATIONS.—With respect to
14 any deficiencies identified in a report under
15 subparagraph (A), the Secretary shall either—

16 (i) take actions to address such defi-
17 ciencies; or

18 (ii) certify to the appropriate commit-
19 tees of Congress that no action is nec-
20 essary or appropriate.

21 (4) COORDINATION.—The Inspector General, in
22 maximizing the effectiveness of the Office, shall
23 work with other Offices of Inspector General, as ap-
24 propriate, to minimize duplication of effort and en-
25 sure comprehensive oversight of the Program.

1 (5) TERMINATION.—The Office shall terminate
2 at the end of the 6-month period beginning on the
3 date on which all capital investments are repaid
4 under the Program or the date on which the Sec-
5 retary determines that any remaining capital invest-
6 ments will not be repaid.

7 (6) DEFINITIONS.—For purposes of this sub-
8 section:

9 (A) OFFICE.—The term “Office” means
10 the Office of Small Business Lending Fund
11 Program Oversight established under paragraph
12 (1).

13 (B) INSPECTOR GENERAL.—The term “In-
14 specter General” means the Inspector General
15 of the Department of the Treasury.

16 (c) GAO AUDIT.—The Comptroller General of the
17 United States shall perform an annual audit of the Pro-
18 gram and issue a report to the appropriate committees
19 of Congress containing the results of such audit.

20 (d) REQUIRED CERTIFICATIONS.—

21 (1) ELIGIBLE INSTITUTION CERTIFICATION.—
22 Each eligible institution that participates in the Pro-
23 gram must certify that such institution is in compli-
24 ance with the requirements of section 103.121 of
25 title 31, Code of Federal Regulations, a regulation

1 that, at a minimum, requires financial institutions,
2 as that term is defined in 31 U.S.C. 5312(a)(2) and
3 (c)(1)(A), to implement reasonable procedures to
4 verify the identity of any person seeking to open an
5 account, to the extent reasonable and practicable,
6 maintain records of the information used to verify
7 the person's identity, and determine whether the
8 person appears on any lists of known or suspected
9 terrorists or terrorist organizations provided to the
10 financial institution by any government agency.

11 (2) LOAN RECIPIENTS.—With respect to funds
12 received by an eligible institution under the Pro-
13 gram, any business receiving a loan from the eligible
14 institution using such funds after the date of the en-
15 actment of this Act shall certify to such eligible in-
16 stitution that the principals of such business have
17 not been convicted of a sex offense against a minor
18 (as such terms are defined in section 111 of the Sex
19 Offender Registration and Notification Act (42
20 U.S.C. 16911)).

21 (e) PROHIBITION ON PORNOGRAPHY.—None of the
22 funds made available under this subtitle may be used to
23 pay the salary of any individual engaged in activities re-
24 lated to the Program who has been officially disciplined
25 for violations of subpart G of the Standards of Ethical

1 Conduct for Employees of the Executive Branch for view-
2 ing, downloading, or exchanging pornography, including
3 child pornography, on a Federal Government computer or
4 while performing official Federal Government duties.

5 **SEC. 3108. CREDIT REFORM; FUNDING.**

6 (a) CREDIT REFORM.—The cost of purchases of pre-
7 ferred stock and other financial instruments made as cap-
8 ital investments under this subtitle shall be determined as
9 provided under the Federal Credit Reform Act of 1990
10 (2 U.S.C. 661 et seq.).

11 (b) FUNDS MADE AVAILABLE.—There are hereby ap-
12 propriated, out of funds in the Treasury not otherwise ap-
13 propriated, such sums as may be necessary to pay the
14 costs of \$30,000,000,000 of capital investments in eligible
15 institutions, including the costs of modifying such invest-
16 ments, and reasonable costs of administering the program
17 of making, holding, managing, and selling the capital in-
18 vestments.

19 **SEC. 3109. TERMINATION AND CONTINUATION OF AU-**
20 **THORITIES.**

21 (a) TERMINATION OF INVESTMENT AUTHORITY.—
22 The authority to make capital investments in eligible insti-
23 tutions, including commitments to purchase preferred
24 stock or other instruments, provided under this subtitle

1 shall terminate 1 year after the date of enactment of this
2 Act.

3 (b) CONTINUATION OF OTHER AUTHORITIES.—The
4 authorities of the Secretary under section 3104 shall not
5 be limited by the termination date in subsection (a).

6 **SEC. 3110. PRESERVATION OF AUTHORITY.**

7 Nothing in this subtitle may be construed to limit the
8 authority of the Secretary under any other provision of
9 law.

10 **SEC. 3111. ASSURANCES.**

11 (a) SMALL BUSINESS LENDING FUND SEPARATE
12 FROM TARP.—The Small Business Lending Fund Pro-
13 gram is established as separate and distinct from the
14 Troubled Asset Relief Program established by the Emer-
15 gency Economic Stabilization Act of 2008. An institution
16 shall not, by virtue of a capital investment under the Small
17 Business Lending Fund Program, be considered a recipi-
18 ent of the Troubled Asset Relief Program.

19 (b) CHANGE IN LAW.—If, after a capital investment
20 has been made in an eligible institution under the Pro-
21 gram, there is a change in law that modifies the terms
22 of the investment or program in a materially adverse re-
23 spect for the eligible institution, the eligible institution
24 may, after consultation with the appropriate Federal

1 banking agency for the eligible institution, repay the in-
2 vestment without impediment.

3 **SEC. 3112. STUDY AND REPORT WITH RESPECT TO WOMEN-**
4 **OWNED, VETERAN-OWNED, AND MINORITY-**
5 **OWNED BUSINESSES.**

6 (a) STUDY.—The Secretary shall conduct a study of
7 the impact of the Program on women-owned businesses,
8 veteran-owned businesses, and minority-owned businesses.

9 (b) REPORT.—Not later than one year after the date
10 of enactment of this Act, the Secretary shall submit to
11 Congress a report on the results of the study conducted
12 pursuant to subsection (a). To the extent possible, the
13 Secretary shall disaggregate the results of such study by
14 ethnic group and gender.

15 (c) INFORMATION PROVIDED TO THE SECRETARY.—
16 Eligible institutions that participate in the Program shall
17 provide the Secretary with such information as the Sec-
18 retary may require to carry out the study required by this
19 section.

20 **SEC. 3113. SENSE OF CONGRESS.**

21 It is the sense of Congress that the Federal Deposit
22 Insurance Corporation and other bank regulators are
23 sending mixed messages to banks regarding regulatory
24 capital requirements and lending standards, which is a

1 contributing cause of decreased small business lending and
2 increased regulatory uncertainty at community banks.

3 **Subtitle B—State Small Business**
4 **Credit Initiative**

5 **SEC. 3201. SHORT TITLE.**

6 This subtitle may be cited as the “State Small Busi-
7 ness Credit Initiative Act of 2010”.

8 **SEC. 3202. DEFINITIONS.**

9 In this subtitle, the following definitions shall apply:

10 (1) APPROPRIATE COMMITTEES OF CON-
11 GRESS.—The term “appropriate committees of Con-
12 gress” means—

13 (A) the Committee on Small Business and
14 Entrepreneurship, the Committee on Agri-
15 culture, Nutrition, and Forestry, the Committee
16 on Banking, Housing, and Urban Affairs, the
17 Committee on Finance, the Committee on the
18 Budget, and the Committee on Appropriations
19 of the Senate; and

20 (B) the Committee on Small Business, the
21 Committee on Agriculture, the Committee on
22 Financial Services, the Committee on Ways and
23 Means, the Committee on the Budget, and the
24 Committee on Appropriations of the House of
25 Representatives.

1 (2) APPROPRIATE FEDERAL BANKING AGEN-
2 CY.—The term “appropriate Federal banking agen-
3 cy”—

4 (A) has the same meaning as in section
5 3(q) of the Federal Deposit Insurance Act (12
6 U.S.C. 1813(q)); and

7 (B) includes the National Credit Union
8 Administration Board in the case of any credit
9 union the deposits of which are insured in ac-
10 cordance with the Federal Credit Union Act.

11 (3) ENROLLED LOAN.—The term “enrolled
12 loan” means a loan made by a financial institution
13 lender that is enrolled by a participating State in an
14 approved State capital access program in accordance
15 with this subtitle.

16 (4) FEDERAL CONTRIBUTION.—The term “Fed-
17 eral contribution” means the portion of the contribu-
18 tion made by a participating State to, or for the ac-
19 count of, an approved State program that is made
20 with Federal funds allocated to the State by the Sec-
21 retary under section 3203.

22 (5) FINANCIAL INSTITUTION.—The term “fi-
23 nancial institution” means any insured depository
24 institution, insured credit union, or community de-
25 velopment financial institution, as those terms are

1 each defined in section 103 of the Riegle Community
2 Development and Regulatory Improvement Act of
3 1994 (12 U.S.C. 4702)

4 (6) PARTICIPATING STATE.—The term “partici-
5 pating State” means any State that has been ap-
6 proved for participation in the Program under sec-
7 tion 3204.

8 (7) PROGRAM.—The term “Program” means
9 the State Small Business Credit Initiative estab-
10 lished under this subtitle.

11 (8) QUALIFYING LOAN OR SWAP FUNDING FA-
12 CILITY.—The term “qualifying loan or swap funding
13 facility” means a contractual arrangement between a
14 participating State and a private financial entity
15 under which—

16 (A) the participating State delivers funds
17 to the entity as collateral;

18 (B) the entity provides funding from the
19 arrangement back to the participating State;
20 and

21 (C) the full amount of resulting funding
22 from the arrangement, less any fees and other
23 costs of the arrangement, is contributed to, or
24 for the account of, an approved State program.

1 (9) RESERVE FUND.—The term “reserve fund”
2 means a fund, established by a participating State,
3 dedicated to a particular financial institution lender,
4 for the purposes of—

5 (A) depositing all required premium
6 charges paid by the financial institution lender
7 and by each borrower receiving a loan under an
8 approved State program from that financial in-
9 stitution lender;

10 (B) depositing contributions made by the
11 participating State, including State contribu-
12 tions made with Federal contributions; and

13 (C) covering losses on enrolled loans by
14 disbursing accumulated funds.

15 (10) STATE.—The term “State” means—

16 (A) a State of the United States;

17 (B) the District of Columbia, the Common-
18 wealth of Puerto Rico, the Commonwealth of
19 Northern Mariana Islands, Guam, American
20 Samoa, and the United States Virgin Islands;

21 (C) when designated by a State of the
22 United States, a political subdivision of that
23 State that the Secretary determines has the ca-
24 pacity to participate in the Program; and

1 (D) under the circumstances described in
2 section 3204(d), a municipality of a State of
3 the United States to which the Secretary has
4 given a special permission under section
5 3204(d).

6 (11) STATE CAPITAL ACCESS PROGRAM.—The
7 term “State capital access program” means a pro-
8 gram of a State that—

9 (A) uses public resources to promote pri-
10 vate access to credit; and

11 (B) meets the eligibility criteria in section
12 3205(c).

13 (12) STATE OTHER CREDIT SUPPORT PRO-
14 GRAM.—The term “State other credit support pro-
15 gram”—

16 (A) means a program of a State that—

17 (i) uses public resources to promote
18 private access to credit;

19 (ii) is not a State capital access pro-
20 gram; and

21 (iii) meets the eligibility criteria in
22 section 3206(c); and

23 (B) includes, collateral support programs,
24 loan participation programs, State-run venture

1 capital fund programs, and credit guarantee
2 programs.

3 (13) STATE PROGRAM.—The term “State pro-
4 gram” means a State capital access program or a
5 State other credit support program.

6 (14) SECRETARY.—The term “Secretary”
7 means the Secretary of the Treasury.

8 **SEC. 3203. FEDERAL FUNDS ALLOCATED TO STATES.**

9 (a) PROGRAM ESTABLISHED; PURPOSE.—There is
10 established the State Small Business Credit Initiative, to
11 be administered by the Secretary. Under the Program, the
12 Secretary shall allocate Federal funds to participating
13 States and make the allocated funds available to the par-
14 ticipating States as provided in this section for the uses
15 described in this section.

16 (b) ALLOCATION FORMULA.—

17 (1) IN GENERAL.—Not later than 30 days after
18 the date of enactment of this Act, the Secretary
19 shall allocate Federal funds to participating States
20 so that each State is eligible to receive an amount
21 equal to the average of the respective amounts that
22 the State—

23 (A) would receive under the 2009 alloca-
24 tion, as determined under paragraph (2); and

1 (B) would receive under the 2010 alloca-
2 tion, as determined under paragraph (3).

3 (2) 2009 ALLOCATION FORMULA.—

4 (A) IN GENERAL.—The Secretary shall de-
5 termine the 2009 allocation by allocating Fed-
6 eral funds among the States in the proportion
7 that each such State’s 2008 State employment
8 decline bears to the aggregate of the 2008
9 State employment declines for all States.

10 (B) MINIMUM ALLOCATION.—The Sec-
11 retary shall adjust the allocations under sub-
12 paragraph (A) for each State to the extent nec-
13 essary to ensure that no State receives less than
14 0.9 percent of the Federal funds.

15 (C) 2008 STATE EMPLOYMENT DECLINE
16 DEFINED.—In this paragraph and with respect
17 to a State, the term “2008 State employment
18 decline” means the excess (if any) of—

19 (i) the number of individuals em-
20 ployed in such State determined for De-
21 cember 2007; over

22 (ii) the number of individuals em-
23 ployed in such State determined for De-
24 cember 2008.

25 (3) 2010 ALLOCATION FORMULA.—

1 (A) IN GENERAL.—The Secretary shall de-
2 termine the 2010 allocation by allocating Fed-
3 eral funds among the States in the proportion
4 that each such State’s 2009 unemployment
5 number bears to the aggregate of the 2009 un-
6 employment numbers for all of the States.

7 (B) MINIMUM ALLOCATION.—The Sec-
8 retary shall adjust the allocations under sub-
9 paragraph (A) for each State to the extent nec-
10 essary to ensure that no State receives less than
11 0.9 percent of the Federal funds.

12 (C) 2009 UNEMPLOYMENT NUMBER DE-
13 FINED.—In this paragraph and with respect to
14 a State, the term “2009 unemployment num-
15 ber” means the number of individuals within
16 such State who were determined to be unem-
17 ployed by the Bureau of Labor Statistics for
18 December 2009.

19 (c) AVAILABILITY OF ALLOCATED AMOUNT.—The
20 amount allocated by the Secretary to each participating
21 State under subsection (b) shall be made available to the
22 State as follows:

23 (1) ALLOCATED AMOUNT GENERALLY TO BE
24 AVAILABLE TO STATE IN ONE-THIRDS.—

25 (A) IN GENERAL.—The Secretary shall—

1 (i) apportion the participating State's
2 allocated amount into thirds;

3 (ii) transfer to the participating State
4 the first $\frac{1}{3}$ when the Secretary approves
5 the State for participation under section
6 3204; and

7 (iii) transfer to the participating State
8 each successive $\frac{1}{3}$ when the State has cer-
9 tified to the Secretary that it has ex-
10 pended, transferred, or obligated 80 per-
11 cent of the last transferred $\frac{1}{3}$ for Federal
12 contributions to, or for the account of,
13 State programs.

14 (B) AUTHORITY TO WITHHOLD PENDING
15 AUDIT.—The Secretary may withhold the trans-
16 fer of any successive $\frac{1}{3}$ pending results of a fi-
17 nancial audit.

18 (C) INSPECTOR GENERAL AUDITS.—

19 (i) IN GENERAL.—The Inspector Gen-
20 eral of the Department of the Treasury
21 shall carry out an audit of the partici-
22 pating State's use of allocated Federal
23 funds transferred to the State.

24 (ii) RECOUPMENT OF MISUSED
25 TRANSFERRED FUNDS REQUIRED.—The al-

1 location agreement between the Secretary
2 and the participating State shall provide
3 that the Secretary shall recoup any allo-
4 cated Federal funds transferred to the par-
5 ticipating State if the results of the an
6 audit include a finding that there was an
7 intentional or reckless misuse of trans-
8 ferred funds by the State.

9 (iii) PENALTY FOR MISSTATEMENT.—

10 Any participating State that is found to
11 have intentionally misstated any report
12 issued to the Secretary under the Program
13 shall be ineligible to receive any additional
14 funds under the Program. Funds that had
15 been allocated or that would otherwise
16 have been allocated to such participating
17 State shall be paid into the general fund of
18 the Treasury for reduction of the public
19 debt.

20 (iv) MUNICIPALITIES.—In this sub-

21 paragraph, the term “participating State”
22 shall include a municipality given special
23 permission to participate in the Program,
24 under section 3204(d).

1 (D) EXCEPTION.—The Secretary may, in
2 the Secretary’s discretion, transfer the full
3 amount of the participating State’s allocated
4 amount to the State in a single transfer if the
5 participating State applies to the Secretary for
6 approval to use the full amount of the allocation
7 as collateral for a qualifying loan or swap fund-
8 ing facility.

9 (2) TRANSFERRED AMOUNTS.—Each amount
10 transferred to a participating State under this sec-
11 tion shall remain available to the State until used by
12 the State as permitted under paragraph (3).

13 (3) USE OF TRANSFERRED FUNDS.—Each par-
14 ticipating State may use funds transferred to it
15 under this section only—

16 (A) for making Federal contributions to, or
17 for the account of, an approved State program;

18 (B) as collateral for a qualifying loan or
19 swap funding facility;

20 (C) in the case of the first $\frac{1}{3}$ transferred,
21 for paying administrative costs incurred by the
22 State in implementing an approved State pro-
23 gram in an amount not to exceed 5 percent of
24 that first $\frac{1}{3}$; or

1 (D) in the case of each successive $\frac{1}{3}$ trans-
2 ferred, for paying administrative costs incurred
3 by the State in implementing an approved State
4 program in an amount not to exceed 3 percent
5 of that successive $\frac{1}{3}$.

6 (4) TERMINATION OF AVAILABILITY OF
7 AMOUNTS NOT TRANSFERRED WITHIN 2 YEARS OF
8 PARTICIPATION.—Any portion of a participating
9 State's allocated amount that has not been trans-
10 ferred to the State under this section by the end of
11 the 2-year period beginning on the date that the
12 Secretary approves the State for participation may
13 be deemed by the Secretary to be no longer allocated
14 to the State and no longer available to the State and
15 shall be returned to the General Fund of the Treas-
16 ury.

17 (5) TRANSFERRED AMOUNTS NOT ASSIST-
18 ANCE.—The amounts transferred to a participating
19 State under this section shall not be considered as-
20 sistance for purposes of subtitle V of title 31, United
21 States Code.

22 (6) DEFINITIONS.—In this section—

23 (A) the term “allocated amount” means
24 the total amount of Federal funds allocated by

1 the Secretary under subsection (b) to the par-
2 ticipating State; and

3 (B) the term “ $\frac{1}{3}$ ” means—

4 (i) in the case of the first $\frac{1}{3}$ and sec-
5 ond $\frac{1}{3}$, an amount equal to 33 percent of
6 a participating State’s allocated amount;
7 and

8 (ii) in the case of the last $\frac{1}{3}$, an
9 amount equal to 34 percent of a partici-
10 pating State’s allocated amount.

11 **SEC. 3204. APPROVING STATES FOR PARTICIPATION.**

12 (a) APPLICATION.—Any State may apply to the Sec-
13 retary for approval to be a participating State under the
14 Program and to be eligible for an allocation of Federal
15 funds under the Program.

16 (b) GENERAL APPROVAL CRITERIA.—The Secretary
17 shall approve a State to be a participating State, if—

18 (1) a specific department, agency, or political
19 subdivision of the State has been designated to im-
20 plement a State program and participate in the Pro-
21 gram;

22 (2) all legal actions necessary to enable such
23 designated department, agency, or political subdivi-
24 sion to implement a State program and participate
25 in the Program have been accomplished;

1 (3) the State has filed an application with the
2 Secretary for approval of a State capital access pro-
3 gram under section 3205 or approval as a State
4 other credit support program under section 3206, in
5 each case within the time period provided in the re-
6 spective section; and

7 (4) the State and the Secretary have executed
8 an allocation agreement that—

9 (A) conforms to the requirements of this
10 subtitle;

11 (B) ensures that the State program com-
12 plies with such national standards as are estab-
13 lished by the Secretary under section
14 3209(a)(2);

15 (C) sets forth internal control, compliance,
16 and reporting requirements as established by
17 the Secretary, and such other terms and condi-
18 tions necessary to carry out the purposes of this
19 subtitle, including an agreement by the State to
20 allow the Secretary to audit State programs;

21 (D) requires that the State program be
22 fully positioned, within 90 days of the State's
23 execution of the allocation agreement with the
24 Secretary, to act on providing the kind of credit

1 support that the State program was established
2 to provide; and

3 (E) includes an agreement by the State to
4 deliver to the Secretary, and update annually, a
5 schedule describing how the State intends to
6 apportion among its State programs the Fed-
7 eral funds allocated to the State.

8 (c) CONTRACTUAL ARRANGEMENTS FOR IMPLEMEN-
9 TATION OF STATE PROGRAMS.—A State may be approved
10 to be a participating State, and be eligible for an allocation
11 of Federal funds under the Program, if the State has con-
12 tractual arrangements for the implementation and admin-
13 istration of its State program with—

14 (1) an existing, approved State program admin-
15 istered by another State; or

16 (2) an authorized agent of, or entity supervised
17 by, the State, including for-profit and not-for-profit
18 entities.

19 (d) SPECIAL PERMISSION.—

20 (1) CIRCUMSTANCES WHEN A MUNICIPALITY
21 MAY APPLY DIRECTLY.—If a State does not, within
22 60 days after the date of enactment of this Act, file
23 with the Secretary a notice of its intent to apply for
24 approval by the Secretary of a State program or
25 within 9 months after the date of enactment of this

1 Act, file with the Secretary a complete application
2 for approval of a State program, the Secretary may
3 grant to municipalities of that State a special per-
4 mission that will allow them to apply directly to the
5 Secretary without the State for approval to be par-
6 ticipating municipalities.

7 (2) TIMING REQUIREMENTS APPLICABLE TO
8 MUNICIPALITIES APPLYING DIRECTLY.—To qualify
9 for the special permission, a municipality of a State
10 shall be required, within 12 months after the date
11 of enactment of this Act, to file with the Secretary
12 a complete application for approval by the Secretary
13 of a State program.

14 (3) NOTICES OF INTENT AND APPLICATIONS
15 FROM MORE THAN 1 MUNICIPALITY.—A municipality
16 of a State may combine with 1 or more other mu-
17 nicipalities of that State to file a joint notice of in-
18 tent to file and a joint application.

19 (4) APPROVAL CRITERIA.—The general ap-
20 proval criteria in paragraphs (2) and (4) shall apply.

21 (5) ALLOCATION TO MUNICIPALITIES.—

22 (A) IF MORE THAN 3.—If more than 3 mu-
23 nicipalities, or combination of municipalities as
24 provided in paragraph (3), of a State apply for
25 approval by the Secretary to be participating

1 municipalities under this subsection, and the
2 applications meet the approval criteria in para-
3 graph (4), the Secretary shall allocate Federal
4 funds to the 3 municipalities with the largest
5 populations.

6 (B) IF 3 OR FEWER.—If 3 or fewer mu-
7 nicipalities, or combination of municipalities as
8 provided in paragraph (3), of a State apply for
9 approval by the Secretary to be participating
10 municipalities under this subsection, and the
11 applications meet the approval criteria in para-
12 graph (4), the Secretary shall allocate Federal
13 funds to each applicant municipality or com-
14 bination of municipalities.

15 (6) APPORTIONMENT OF ALLOCATED AMOUNT
16 AMONG PARTICIPATING MUNICIPALITIES.—If the
17 Secretary approves municipalities to be participating
18 municipalities under this subsection, the Secretary
19 shall apportion the full amount of the Federal funds
20 that are allocated to that State to municipalities
21 that are approved under this subsection in amounts
22 proportionate to the population of those municipali-
23 ties, based on the most recent available decennial
24 census.

1 (7) APPROVING STATE PROGRAMS FOR MUNICI-
2 PALITIES.—If the Secretary approves municipalities
3 to be participating municipalities under this sub-
4 section, the Secretary shall take into account the ad-
5 ditional considerations in section 3206(d) in making
6 the determination under section 3205 or 3206 that
7 the State program or programs to be implemented
8 by the participating municipalities, including a State
9 capital access program, is eligible for Federal con-
10 tributions to, or for the account of, the State pro-
11 gram.

12 **SEC. 3205. APPROVING STATE CAPITAL ACCESS PROGRAMS.**

13 (a) APPLICATION.—A participating State that estab-
14 lishes a new, or has an existing, State capital access pro-
15 gram that meets the eligibility criteria in subsection (c)
16 may apply to Secretary to have the State capital access
17 program approved as eligible for Federal contributions to
18 the reserve fund.

19 (b) APPROVAL.—The Secretary shall approve such
20 State capital access program as eligible for Federal con-
21 tributions to the reserve fund if—

22 (1) within 60 days after the date of enactment
23 of this Act, the State has filed with the Secretary a
24 notice of intent to apply for approval by the Sec-
25 retary of a State capital access program;

1 (2) within 9 months after the date of enactment
2 of this Act, the State has filed with the Secretary a
3 complete application for approval by the Secretary of
4 a capital access program;

5 (3) the State satisfies the requirements of sub-
6 sections (a) and (b) of section 3204; and

7 (4) the State capital access program meets the
8 eligibility criteria in subsection (c).

9 (c) ELIGIBILITY CRITERIA FOR STATE CAPITAL AC-
10 CESS PROGRAMS.— For a State capital access program
11 to be approved under this section, that program shall be
12 required to be a program of the State that—

13 (1) provides portfolio insurance for business
14 loans based on a separate loan-loss reserve fund for
15 each financial institution;

16 (2) requires insurance premiums to be paid by
17 the financial institution lenders and by the business
18 borrowers to the reserve fund to have their loans en-
19 rolled in the reserve fund;

20 (3) provides for contributions to be made by the
21 State to the reserve fund in amounts at least equal
22 to the sum of the amount of the insurance premium
23 charges paid by the borrower and the financial insti-
24 tution to the reserve fund for any newly enrolled
25 loan; and

1 (4) provides its portfolio insurance solely for
2 loans that meet both the following requirements:

3 (A) The borrower has 500 employees or
4 less at the time that the loan is enrolled in the
5 Program.

6 (B) The loan amount does not exceed
7 \$5,000,000.

8 (d) FEDERAL CONTRIBUTIONS TO APPROVED STATE
9 CAPITAL ACCESS PROGRAMS.—A State capital access pro-
10 gram approved under this section will be eligible for receiv-
11 ing Federal contributions to the reserve fund in an
12 amount equal to the sum of the amount of the insurance
13 premium charges paid by the borrowers and by the finan-
14 cial institution to the reserve fund for loans that meet the
15 requirements in subsection (c)(4). A participating State
16 may use the Federal contribution to make its contribution
17 to the reserve fund of an approved State capital access
18 program.

19 (e) MINIMUM PROGRAM REQUIREMENTS FOR STATE
20 CAPITAL ACCESS PROGRAMS.—The Secretary shall, by
21 regulation or other guidance, prescribe Program require-
22 ments that meet the following minimum requirements:

23 (1) EXPERIENCE AND CAPACITY.—The partici-
24 pating State shall determine for each financial insti-
25 tution that participates in the State capital access

1 program, after consultation with the appropriate
2 Federal banking agency or, in the case of a financial
3 institution that is a nondepository community devel-
4 opment financial institution, the Community Devel-
5 opment Financial Institution Fund, that the finan-
6 cial institution has sufficient commercial lending ex-
7 perience and financial and managerial capacity to
8 participate in the approved State capital access pro-
9 gram. The determination by the State shall not be
10 reviewable by the Secretary.

11 (2) INVESTMENT AUTHORITY.—Subject to ap-
12 plicable State law, the participating State may in-
13 vest, or cause to be invested, funds held in a reserve
14 fund by establishing a deposit account at the finan-
15 cial institution lender in the name of the partici-
16 pating State. In the event that funds in the reserve
17 fund are not deposited in such an account, such
18 funds shall be invested in a form that the partici-
19 pating State determines is safe and liquid.

20 (3) LOAN TERMS AND CONDITIONS TO BE DE-
21 TERMINED BY AGREEMENT.—A loan to be filed for
22 enrollment in an approved State capital access pro-
23 gram may be made with such interest rate, fees, and
24 other terms and conditions, and the loan may be en-
25 rolled in the approved State capital access program

1 and claims may be filed and paid, as agreed upon
2 by the financial institution lender and the borrower,
3 consistent with applicable law.

4 (4) LENDER CAPITAL AT-RISK.—A loan to be
5 filed for enrollment in the State capital access pro-
6 gram shall require the financial institution lender to
7 have a meaningful amount of its own capital re-
8 sources at risk in the loan.

9 (5) PREMIUM CHARGES MINIMUM AND MAX-
10 IMUM AMOUNTS.—The insurance premium charges
11 payable to the reserve fund by the borrower and the
12 financial institution lender shall be prescribed by the
13 financial institution lender, within minimum and
14 maximum limits that require that the sum of the in-
15 surance premium charges paid in connection with a
16 loan by the borrower and the financial institution
17 lender may not be less than 2 percent nor more than
18 7 percent of the amount of the loan enrolled in the
19 approved State capital access program.

20 (6) STATE CONTRIBUTIONS.—In enrolling a
21 loan in an approved State capital access program,
22 the participating State may make a contribution to
23 the reserve fund to supplement Federal contribu-
24 tions made under this Program.

25 (7) LOAN PURPOSE.—

1 (A) PARTICULAR LOAN PURPOSE REQUIRE-
2 MENTS AND PROHIBITIONS.—In connection
3 with the filing of a loan for enrollment in an
4 approved State capital access program, the fi-
5 nancial institution lender—

6 (i) shall obtain an assurance from
7 each borrower that—

8 (I) the proceeds of the loan will
9 be used for a business purpose;

10 (II) the loan will not be used to
11 finance such business activities as the
12 Secretary, by regulation, may pro-
13 scribe as prohibited loan purposes for
14 enrollment in an approved State cap-
15 ital access program; and

16 (III) the borrower is not—

17 (aa) an executive officer, di-
18 rector, or principal shareholder of
19 the financial institution lender;

20 (bb) a member of the imme-
21 diate family of an executive offi-
22 cer, director, or principal share-
23 holder of the financial institution
24 lender; or

1 (cc) a related interest of any
2 such executive officer, director,
3 principal shareholder, or member
4 of the immediate family;

5 (ii) shall provide assurances to the
6 participating State that the loan has not
7 been made in order to place under the pro-
8 tection of the approved State capital access
9 program prior debt that is not covered
10 under the approved State capital access
11 program and that is or was owed by the
12 borrower to the financial institution lender
13 or to an affiliate of the financial institution
14 lender;

15 (iii) shall not allow the enrollment of
16 a loan to a borrower that is a refinancing
17 of a loan previously made to that borrower
18 by the financial institution lender or an af-
19 filiate of the financial institution lender;
20 and

21 (iv) may include additional restric-
22 tions on the eligibility of loans or bor-
23 rowers that are not inconsistent with the
24 provisions and purposes of this subtitle, in-
25 cluding compliance with all applicable Fed-

1 eral and State laws, regulations, ordi-
2 nances, and Executive orders.

3 (B) DEFINITIONS.—In this paragraph, the
4 terms “executive officer”, “director”, “principal
5 shareholder”, “immediate family”, and “related
6 interest” refer to the same relationship to a fi-
7 nancial institution lender as the relationship de-
8 scribed in part 215 of title 12 of the Code of
9 Federal Regulations, or any successor to such
10 part.

11 (8) CAPITAL ACCESS FOR SMALL BUSINESSES
12 IN UNDERSERVED COMMUNITIES.—At the time that
13 a State applies to the Secretary to have the State
14 capital access program approved as eligible for Fed-
15 eral contributions, the State shall deliver to the Sec-
16 retary a report stating how the State plans to use
17 the Federal contributions to the reserve fund to pro-
18 vide access to capital for small businesses in low-
19 and moderate-income, minority, and other under-
20 served communities, including women- and minority-
21 owned small businesses.

1 **SEC. 3206. APPROVING COLLATERAL SUPPORT AND OTHER**
2 **INNOVATIVE CREDIT ACCESS AND GUAR-**
3 **ANTEE INITIATIVES FOR SMALL BUSINESSES**
4 **AND MANUFACTURERS.**

5 (a) APPLICATION.—A participating State that estab-
6 lishes a new, or has an existing, credit support program
7 that meets the eligibility criteria in subsection (c) may
8 apply to the Secretary to have the State other credit sup-
9 port program approved as eligible for Federal contribu-
10 tions to, or for the account of, the State program.

11 (b) APPROVAL.—The Secretary shall approve such
12 State other credit support program as eligible for Federal
13 contributions to, or for the account of, the program if—

14 (1) the Secretary determines that the State sat-
15 isfies the requirements of paragraphs (1) through
16 (3) of section 3205(b);

17 (2) the Secretary determines that the State
18 other credit support program meets the eligibility
19 criteria in subsection (c);

20 (3) the Secretary determines the State other
21 credit support program to be eligible based on the
22 additional considerations in subsection (d); and

23 (4) within 9 months after the date of enactment
24 of this Act, the State has filed with Treasury a com-
25 plete application for Treasury approval.

1 (c) ELIGIBILITY CRITERIA FOR STATE OTHER CRED-
2 IT SUPPORT PROGRAMS.—For a State other credit sup-
3 port program to be approved under this section, that pro-
4 gram shall be required to be a program of the State that—

5 (1) can demonstrate that, at a minimum, \$1 of
6 public investment by the State program will cause
7 and result in \$1 of new private credit;

8 (2) can demonstrate a reasonable expectation
9 that, when considered with all other State programs
10 of the State, such State programs together have the
11 ability to use amounts of new Federal contributions
12 to, or for the account of, all such programs in the
13 State to cause and result in amounts of new small
14 business lending at least 10 times the new Federal
15 contribution amount;

16 (3) for those State other credit support pro-
17 grams that provide their credit support through 1 or
18 more financial institution lenders, requires the finan-
19 cial institution lenders to have a meaningful amount
20 of their own capital resources at risk in their small
21 business lending; and

22 (4) uses Federal funds allocated under this sub-
23 title to extend credit support that—

24 (A) targets an average borrower size of
25 500 employees or less;

1 (B) does not extend credit support to bor-
2 rowers that have more than 750 employees;

3 (C) targets support towards loans with an
4 average principal amount of \$5,000,000 or less;
5 and

6 (D) does not extend credit support to loans
7 that exceed a principal amount of \$20,000,000.

8 (d) ADDITIONAL CONSIDERATIONS.—In making a de-
9 termination that a State other credit support program is
10 eligible for Federal contributions to, or for the account
11 of, the State program, the Secretary shall take into ac-
12 count the following additional considerations:

13 (1) The anticipated benefits to the State, its
14 businesses, and its residents to be derived from the
15 Federal contributions to, or for the account of, the
16 approved State other credit support program, includ-
17 ing the extent to which resulting small business
18 lending will expand economic opportunities.

19 (2) The operational capacity, skills, and experi-
20 ence of the management team of the State other
21 credit support program.

22 (3) The capacity of the State other credit sup-
23 port program to manage increases in the volume of
24 its small business lending.

1 (4) The internal accounting and administrative
2 controls systems of the State other credit support
3 program, and the extent to which they can provide
4 reasonable assurance that funds of the State pro-
5 gram are safeguarded against waste, loss, unauthor-
6 ized use, or misappropriation.

7 (5) The soundness of the program design and
8 implementation plan of the State other credit sup-
9 port program.

10 (e) FEDERAL CONTRIBUTIONS TO APPROVED STATE
11 OTHER CREDIT SUPPORT PROGRAMS.—A State other
12 credit support program approved under this section will
13 be eligible for receiving Federal contributions to, or for
14 the account of, the State program in an amount consistent
15 with the schedule describing the apportionment of allo-
16 cated Federal funds among State programs delivered by
17 the State to the Secretary under the allocation agreement.

18 (f) MINIMUM PROGRAM REQUIREMENTS FOR STATE
19 OTHER CREDIT SUPPORT PROGRAMS.—

20 (1) FUND TO PRESCRIBE.—The Secretary shall,
21 by regulation or other guidance, prescribe Program
22 requirements for approved State other credit support
23 programs.

24 (2) CONSIDERATIONS FOR FUND.—In pre-
25 scribing minimum Program requirements for ap-

1 proved State other credit support programs, the Sec-
2 retary shall take into consideration, to the extent the
3 Secretary determines applicable and appropriate, the
4 minimum Program requirements for approved State
5 capital access programs in section 3205(e).

6 **SEC. 3207. REPORTS.**

7 (a) QUARTERLY USE-OF-FUNDS REPORT.—

8 (1) IN GENERAL.—Not later than 30 days after
9 the beginning of each calendar quarter, beginning
10 after the first full calendar quarter to occur after
11 the date the Secretary approves a State for partici-
12 pation, the participating State shall submit to the
13 Secretary a report on the use of Federal funding by
14 the participating State during the previous calendar
15 quarter.

16 (2) REPORT CONTENTS.—Each report under
17 this subsection shall—

18 (A) indicate the total amount of Federal
19 funding used by the participating State; and

20 (B) include a certification by the partici-
21 pating State that—

22 (i) the information provided in accord-
23 ance with subparagraph (A) is accurate;

24 (ii) funds continue to be available and
25 legally committed to contributions by the

1 State to, or for the account of, approved
2 State programs, less any amount that has
3 been contributed by the State to, or for the
4 account of, approved State programs sub-
5 sequent to the State being approved for
6 participation in the Program; and

7 (iii) the participating State is imple-
8 menting its approved State program or
9 programs in accordance with this subtitle
10 and regulations issued under section 3210.

11 (b) ANNUAL REPORT.—Not later than March 31 of
12 each year, beginning March 31, 2011, each participating
13 State shall submit to the Secretary an annual report that
14 shall include the following information:

15 (1) The number of borrowers that received new
16 loans originated under the approved State program
17 or programs after the State program was approved
18 as eligible for Federal contributions.

19 (2) The total amount of such new loans.

20 (3) Breakdowns by industry type, loan size, an-
21 nual sales, and number of employees of the bor-
22 rowers that received such new loans.

23 (4) The zip code of each borrower that received
24 such a new loan.

1 (5) Such other data as the Secretary, in the
2 Secretary's sole discretion, may require to carry out
3 the purposes of the Program.

4 (c) FORM.—The reports and data filed under sub-
5 sections (a) and (b) shall be in such form as the Secretary,
6 in the Secretary's sole discretion, may require.

7 (d) TERMINATION OF REPORTING REQUIRE-
8 MENTS.—The requirement to submit reports under sub-
9 sections (a) and (b) shall terminate for a participating
10 State with the submission of the completed reports due
11 on the first March 31 to occur after 5 complete 12-month
12 periods after the State is approved by the Secretary to
13 be a participating State.

14 **SEC. 3208. REMEDIES FOR STATE PROGRAM TERMINATION**
15 **OR FAILURES.**

16 (a) REMEDIES.—

17 (1) IN GENERAL.—If any of the events listed in
18 paragraph (2) occur, the Secretary, in the Sec-
19 retary's discretion, may—

20 (A) reduce the amount of Federal funds al-
21 located to the State under the Program; or

22 (B) terminate any further transfers of allo-
23 cated amounts that have not yet been trans-
24 ferred to the State.

1 (2) CAUSAL EVENTS.—The events referred to in
2 paragraph (1) are—

3 (A) termination by a participating State of
4 its participation in the Program;

5 (B) failure on the part of a participating
6 State to submit complete reports under section
7 3207 on a timely basis; or

8 (C) noncompliance by the State with the
9 terms of the allocation agreement between the
10 Secretary and the State.

11 (b) DEALLOCATED AMOUNTS TO BE REALLO-
12 CATED.—If, after 13 months, any portion of the amount
13 of Federal funds allocated to a participating State is
14 deemed by the Secretary to be no longer allocated to the
15 State after actions taken by the Secretary under sub-
16 section (a)(1), the Secretary shall reallocate that portion
17 among the participating States, excluding the State whose
18 allocated funds were deemed to be no longer allocated, as
19 provided in section 3203(b).

20 **SEC. 3209. IMPLEMENTATION AND ADMINISTRATION.**

21 (a) GENERAL AUTHORITIES AND DUTIES.—The Sec-
22 retary shall—

23 (1) consult with the Administrator of the Small
24 Business Administration and the appropriate Fed-

1 eral banking agencies on the administration of the
2 Program;

3 (2) establish minimum national standards for
4 approved State programs;

5 (3) provide technical assistance to States for
6 starting State programs and generally disseminate
7 best practices;

8 (4) manage, administer, and perform necessary
9 program integrity functions for the Program; and

10 (5) ensure adequate oversight of the approved
11 State programs, including oversight of the cash
12 flows, performance, and compliance of each approved
13 State program.

14 (b) APPROPRIATIONS.—There is hereby appropriated
15 to the Secretary, out of funds in the Treasury not other-
16 wise appropriated, \$900,000,000 to carry out the Pro-
17 gram, including to pay reasonable costs of administering
18 the Program.

19 (c) TERMINATION OF SECRETARY'S PROGRAM AD-
20 MINISTRATION FUNCTIONS.—The authorities and duties
21 of the Secretary to implement and administer the Program
22 shall terminate at the end of the 7-year period beginning
23 on the date of enactment of this Act.

24 (d) EXPEDITED CONTRACTING.—During the 1-year
25 period beginning on the date of enactment of this Act, the

1 Secretary may enter into contracts without regard to any
2 other provision of law regarding public contracts, for pur-
3 poses of carrying out this subtitle.

4 **SEC. 3210. REGULATIONS.**

5 The Secretary, in consultation with the Administrator
6 of the Small Business Administration, shall issue such
7 regulations and other guidance as the Secretary deter-
8 mines necessary or appropriate to implement this subtitle
9 including to define terms, to establish compliance and re-
10 porting requirements, and such other terms and conditions
11 necessary to carry out the purposes of this subtitle.

12 **SEC. 3211. OVERSIGHT AND AUDITS.**

13 (a) INSPECTOR GENERAL OVERSIGHT.—The Inspec-
14 tor General of the Department of the Treasury shall con-
15 duct, supervise, and coordinate audits and investigations
16 of the use of funds made available under the Program.

17 (b) GAO AUDIT.—The Comptroller General of the
18 United States shall perform an annual audit of the Pro-
19 gram and issue a report to the appropriate committees
20 of Congress containing the results of such audit.

21 (c) REQUIRED CERTIFICATION.—

22 (1) FINANCIAL INSTITUTIONS CERTIFI-
23 CATION.—With respect to funds received by a par-
24 ticipating State under the Program, any financial in-
25 stitution that receives a loan, a loan guarantee, or

1 other financial assistance using such funds after the
2 date of the enactment of this Act shall certify that
3 such institution is in compliance with the require-
4 ments of section 103.121 of title 31, Code of Fed-
5 eral Regulations, a regulation that, at a minimum,
6 requires financial institutions, as that term is de-
7 fined in section 5312 (a)(2) and (c)(1)(A) of title
8 31, United States Code, to implement reasonable
9 procedures to verify the identity of any person seek-
10 ing to open an account, to the extent reasonable and
11 practicable, maintain records of the information
12 used to verify the person's identity, and determine
13 whether the person appears on any lists of known or
14 suspected terrorists or terrorist organizations pro-
15 vided to the financial institution by any government
16 agency.

17 (2) SEX OFFENSE CERTIFICATION.—With re-
18 spect to funds received by a participating State
19 under the Program, any private entity that receives
20 a loan, a loan guarantee, or other financial assist-
21 ance using such funds after the date of the enact-
22 ment of this Act shall certify to the participating
23 State that the principals of such entity have not
24 been convicted of a sex offense against a minor (as
25 such terms are defined in section 111 of the Sex Of-

1 fender Registration and Notification Act (42 U.S.C.
2 16911)).

3 (d) PROHIBITION ON PORNOGRAPHY.—None of the
4 funds made available under this subtitle may be used to
5 pay the salary of any individual engaged in activities re-
6 lated to the Program who has been officially disciplined
7 for violations of subpart G of the Standards of Ethical
8 Conduct for Employees of the Executive Branch for view-
9 ing, downloading, or exchanging pornography, including
10 child pornography, on a Federal Government computer or
11 while performing official Federal Government duties.

12 **TITLE IV—BUDGETARY**
13 **PROVISIONS**

14 **SEC. 4001. DETERMINATION OF BUDGETARY EFFECTS.**

15 The budgetary effects of this Act, for the purpose of
16 complying with the Statutory Pay-As-You-Go-Act of 2010,
17 shall be determined by reference to the latest statement
18 titled “Budgetary Effects of PAYGO Legislation” for this
19 Act, submitted for printing in the Congressional Record
20 by the Chairman of the Senate Budget Committee, pro-
21 vided that such statement has been submitted prior to the
22 vote on passage.