

Public Law 103-403
103d Congress

An Act

To amend the Small Business Act and the Small Business Investment Act of 1958, and for other purposes.

Oct. 22, 1994
[S. 2060]

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Small Business Administration Reauthorization and Amendments Act of 1994”.

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

Small Business
Administration
Reauthorization
and
Amendments
Act of 1994.
15 USC 631 note.

Sec. 1. Short title; table of contents.

TITLE I—AUTHORIZATIONS

Sec. 101. Authorizations.

TITLE II—FINANCIAL ASSISTANCE PROGRAMS

- Sec. 201. Microloan financing pilot.
 Sec. 202. Eligibility of Native American Tribal Governments to be microloan intermediaries.
 Sec. 203. Microloan program extension.
 Sec. 204. Microloan program funding and State limitations.
 Sec. 205. Distribution of intermediaries.
 Sec. 206. Microloan intermediary loan limitation.
 Sec. 207. Microloan technical assistance to nonborrowers.
 Sec. 208. Microloan technical assistance grants for intermediaries serving economically distressed areas.
 Sec. 209. Loans to exporters.
 Sec. 210. Working capital international trade loans.
 Sec. 211. Guarantees on international trade loans.
 Sec. 212. Accredited lenders program.
 Sec. 213. Interest rate on certified development company loans.
 Sec. 214. Certifications of eligibility for SBIC and SSBIC financing.
 Sec. 215. Participating securities for smaller SBICs.
 Sec. 216. Report on SBIC program.
 Sec. 217. Premier Certified Lenders Program.

TITLE III—SIZE STANDARDS AND BOND GUARANTEES

- Sec. 301. Establishment of size standards.
 Sec. 302. Pilot preferred surety bond guarantee program extension.
 Sec. 303. Manufacturing contracts through manufacturing application and education centers.
 Sec. 304. Pilot program for very small business concerns.
 Sec. 305. Handicapped workshop participation in small business set aside contracts.

TITLE IV—BUSINESS DEVELOPMENT ASSISTANCE

Subtitle A—General Provisions

- Sec. 401. Sunset on cosponsored training.
 Sec. 402. Small business development center program level.

- Sec. 403. Federal contracts with small business development centers.
- Sec. 404. Small business development center program examination and certification.
- Sec. 405. Central European small business development.
- Sec. 406. Mobile resource center pilot program.
- Sec. 407. Information concerning franchising.

Subtitle B—Development of Woman-Owned Businesses

- Sec. 411. Extension of authority for demonstration projects.
- Sec. 412. Establishment of Office of Women's Business Ownership.
- Sec. 413. Development of women's business enterprise.
- Sec. 414. Transition reimbursement.
- Sec. 415. Gift authority.
- Sec. 416. Conforming amendment.

TITLE V—RELIEF FROM DEBENTURE PREPAYMENT PENALTIES

- Sec. 501. Short title.
- Sec. 502. Intention of Congress.
- Sec. 503. Prepayment of development company debentures.

TITLE VI—MISCELLANEOUS AMENDMENTS

- Sec. 601. SBA interest payments to Treasury.
- Sec. 602. Imposition of fees.
- Sec. 603. Job creation and community benefit.
- Sec. 604. Microloan program amendments.
- Sec. 605. Technical clarification.
- Sec. 606. Study and data base: guaranteed business loan program and development company program.
- Sec. 607. SBIR vendors.
- Sec. 608. Program extension.
- Sec. 609. Prohibition on the use of funds for individuals not lawfully within the United States.
- Sec. 610. Office of Advocacy employees.
- Sec. 611. Prohibition on the provision of assistance.
- Sec. 612. Certification of compliance with child support obligations.
- Sec. 613. Advocacy study of paperwork and tax impact.

TITLE I—AUTHORIZATIONS

SEC. 101. AUTHORIZATIONS.

Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended by striking subsections (k) (as added by section 405(3) of the Small Business Credit and Business Opportunity Enhancement Act of 1992) through (p) and inserting the following:

“(1) The following program levels are authorized for fiscal year 1995:

“(1) For the programs authorized by this Act, the Administration is authorized to make—

“(A) \$45,000,000 in technical assistance grants as provided in section 7(m); and

“(B) \$130,000,000 in direct and immediate participation loans, and of such sum, the Administration is authorized to make—

“(i) not more than \$10,000,000 in loans, as provided in section 7(a)(10); and

“(ii) not more than \$120,000,000 in loans, as provided in section 7(m).

“(2) For the programs authorized by this Act, the Administration is authorized to make \$13,420,000,000 in deferred participation loans and other financings. Of such sum, the Administration is authorized to make—

“(A) \$9,150,000,000 in general business loans as provided in section 7(a);

Grants.
Contracts.
Loans.

“(B) \$2,250,000,000 in financings as provided in section 7(a)(13) and section 504 of the Small Business Investment Act of 1958;

“(C) \$2,000,000,000 in loans as provided in section 7(a)(21); and

“(D) \$20,000,000 in loans as provided in section 7(m).

“(3) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make—

“(A) \$23,000,000 in purchases of preferred securities;

“(B) \$244,000,000 in guarantees of debentures, of which \$44,000,000 is authorized in guarantees of debentures from companies operating pursuant to section 301(d) of such Act; and

“(C) \$400,000,000 in guarantees of participating securities.

“(4) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed \$1,800,000,000, of which not more than \$600,000,000 may be in bonds approved pursuant to the provisions of section 411(a)(3) of such Act.

“(5) The Administration is authorized to make grants or enter into cooperative agreements—

“(A) for the Service Corps of Retired Executives program authorized by section 8(b)(1), \$3,500,000;

“(B) for the Small Business Institute program authorized by section 8(b)(1), \$3,000,000; and

“(C) for activities of small business development centers pursuant to section 21(c)(3)(G), \$5,000,000, to remain available until expended.

“(m)(1) There are authorized to be appropriated to the Administration for fiscal year 1995 such sums as may be necessary to carry out the provisions of this Act, including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out the provisions of the Small Business Investment Act of 1958, including salaries and expenses of the Administration.

Appropriations
authorization.

“(2) Notwithstanding paragraph (1), for fiscal year 1995—

“(A) no funds are authorized to be provided to carry out the loan program authorized by section 7(a)(21) except by transfer from another Federal department or agency to the Administration, unless the program level authorized for general business loans under subsection (1)(2)(A) is fully funded; and

“(B) the Administration may not approve loans on behalf of the Administration or on behalf of any other department or agency, by contract or otherwise, under terms and conditions other than those specifically authorized under this Act or the Small Business Investment Act of 1958, except that it may approve loans under section 7(a)(21) of this Act in gross amounts of not more than \$1,250,000.

“(n) The following program levels are authorized for fiscal year 1996:

“(1) For the programs authorized by this Act, the Administration is authorized to make—

“(A) \$65,000,000 in technical assistance grants as provided in section 7(m); and

“(B) \$191,000,000 in direct and immediate participation loans, and of such sum, the Administration is authorized to make—

“(i) \$11,000,000 in loans, as provided in section 7(a)(10); and

“(ii) \$180,000,000 in loans, as provided in section 7(m).

“(2) For the programs authorized by this Act, the Administration is authorized to make \$15,680,000,000 in deferred participation loans and other financings. Of such sum, the Administration is authorized to make—

“(A) \$10,500,000,000 in general business loans as provided in section 7(a);

“(B) \$2,650,000,000 in financings as provided in section 7(a)(13) and section 504 of the Small Business Investment Act of 1958;

“(C) \$2,500,000,000 in loans as provided in section 7(a)(21); and

“(D) \$30,000,000 in loans as provided in section 7(m).

“(3) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make—

“(A) \$24,000,000 in purchases of preferred securities;

“(B) \$256,000,000 in guarantees of debentures, of which \$46,000,000 is authorized in guarantees of debentures from companies operating pursuant to section 301(d) of such Act; and

“(C) \$650,000,000 in guarantees of participating securities.

“(4) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed \$1,900,000,000, of which not more than \$625,000,000 may be in bonds approved pursuant to the provisions of section 411(a)(3) of such Act.

“(5) The Administration is authorized to make grants or enter cooperative agreements—

“(A) for the Service Corps of Retired Executives program authorized by section 8(b)(1), \$3,700,000;

“(B) for the Small Business Institute program authorized by section 8(b)(1), \$3,200,000; and

“(C) for activities of small business development centers pursuant to section 21(c)(3)(G), not to exceed \$10,000,000, to remain available until expended.

“(o)(1) There are authorized to be appropriated to the Administration for fiscal year 1996 such sums as may be necessary to carry out the provisions of this Act, including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out the provisions of the Small Business Investment Act of 1958, including salaries and expenses of the Administration.

“(2) Notwithstanding paragraph (1), for fiscal year 1996—

“(A) no funds are authorized to be provided to carry out the loan program authorized by section 7(a)(21) except by transfer from another Federal department or agency to the Administration, unless the program level authorized for general business loans under subsection (n)(2)(A) is fully funded; and

Appropriations
authorization.

“(B) the Administration may not approve loans on behalf of the Administration or on behalf of any other department or agency, by contract or otherwise, under terms and conditions other than those specifically authorized under this Act or the Small Business Investment Act of 1958, except that it may approve loans under section 7(a)(21) of this Act in gross amounts of not more than \$1,250,000.

“(p) The following program levels are authorized for fiscal year 1997:

“(1) For the programs authorized by this Act, the Administration is authorized to make—

“(A) \$98,000,000 in technical assistance grants as provided in section 7(m); and

“(B) \$262,000,000 in direct and immediate participation loans, and of such sum, the Administration is authorized to make—

“(i) \$12,000,000 in loans, as provided in section 7(a)(10); and

“(ii) \$250,000,000 in loans, as provided in section 7(m).

“(2) For the programs authorized by this Act, the Administration is authorized to make \$19,390,000,000 in deferred participation loans and other financings. Of such sum, the Administration is authorized to make—

“(A) \$13,100,000,000 in general business loans as provided in section 7(a);

“(B) \$3,250,000,000 in financings as provided in section 7(a)(13) and section 504 of the Small Business Investment Act of 1958;

“(C) \$3,000,000,000 in loans as provided in section 7(a)(21); and

“(D) \$40,000,000 in loans as provided in section 7(m).

“(3) For the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make—

“(A) \$25,000,000 in purchases of preferred securities;

“(B) \$268,000,000 in guarantees of debentures, of which \$48,000,000 is authorized in guarantees of debentures from companies operating pursuant to section 301(d) of such Act; and

“(C) \$900,000,000 in guarantees of participating securities.

“(4) For the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed \$2,000,000,000, of which not more than \$650,000,000 may be in bonds approved pursuant to the provisions of section 411(a)(3) of such Act.

“(5) The Administration is authorized to make grants or enter cooperative agreements—

“(A) for the Service Corps of Retired Executives program authorized by section 8(b)(1), \$3,900,000;

“(B) for the Small Business Institute program authorized by section 8(b)(1), \$3,400,000; and

“(C) for activities of small business development centers pursuant to section 21(c)(3)(G), not to exceed \$15,000,000, to remain available until expended.

“(q)(1) There are authorized to be appropriated to the Administration for fiscal year 1997 such sums as may be necessary to carry out the provisions of this Act, including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out the provisions of the Small Business Investment Act of 1958, including salaries and expenses of the Administration.

“(2) Notwithstanding paragraph (1), for fiscal year 1997—

“(A) no funds are authorized to be provided to carry out the loan program authorized by section 7(a)(21) except by transfer from another Federal department or agency to the Administration, unless the program level authorized for general business loans under subsection (p)(2)(A) is fully funded; and

“(B) the Administration may not approve loans on behalf of the Administration or on behalf of any other department or agency, by contract or otherwise, under terms and conditions other than those specifically authorized under this Act or the Small Business Investment Act of 1958, except that it may approve loans under section 7(a)(21) of this Act in gross amounts of not more than \$1,250,000.”

TITLE II—FINANCIAL ASSISTANCE PROGRAMS

SEC. 201. MICROLOAN FINANCING PILOT.

Section 7(m) of the Small Business Act (15 U.S.C. 636(m)) is amended by adding at the end the following new paragraph:

“(12) DEFERRED PARTICIPATION LOAN PILOT.—In lieu of making direct loans to intermediaries as authorized in paragraph (1)(B), during fiscal years 1995 through 1997, the Administration may, on a pilot program basis, participate on a deferred basis of not less than 90 percent and not more than 100 percent on loans made to intermediaries by a for-profit or nonprofit entity or by alliances of such entities, subject to the following conditions:

“(A) NUMBER OF LOANS.—In carrying out this paragraph, the Administration shall not participate in providing financing on a deferred basis to more than 10 intermediaries in urban areas or more than 10 intermediaries in rural areas.

“(B) TERM OF LOANS.—The term of each loan shall be 10 years. During the first year of the loan, the intermediary shall not be required to repay any interest or principal. During the second through fifth years of the loan, the intermediary shall be required to pay interest only. During the sixth through tenth years of the loan, the intermediary shall be required to make interest payments and fully amortize the principal.

“(C) INTEREST RATE.—The interest rate on each loan shall be the rate specified by paragraph (3)(F) for direct loans.”

SEC. 202. ELIGIBILITY OF NATIVE AMERICAN TRIBAL GOVERNMENTS TO BE MICROLOAN INTERMEDIARIES.

Section 7(m)(11)(A) of the Small Business Act (15 U.S.C. 636(m)(11)(A)) is amended—

- (1) in clause (iii), by striking “or” at the end;
- (2) in clause (iv), by striking the comma at the end and inserting “, or”; and
- (3) by adding at the end the following new clause:
 - “(v) an agency of or nonprofit entity established by a Native American Tribal Government.”.

SEC. 203. MICROLOAN PROGRAM EXTENSION.

Section 609(j) of Public Law 102-140 (105 Stat. 831) is amended by striking “5 years after the date of enactment of this Act”, and inserting “on October 1, 1997”.

15 USC 636 note.

SEC. 204. MICROLOAN PROGRAM FUNDING AND STATE LIMITATIONS.

Section 7(m)(7) of the Small Business Act (15 U.S.C. 636(m)(7)) is amended to read as follows:

“(7) PROGRAM FUNDING FOR MICROLOANS.—

“(A) NUMBER OF PARTICIPANTS.—During the demonstration program authorized by this subsection, the Administration may fund, on a competitive basis, not more than 200 microloan programs.

“(B) STATE LIMITATIONS.—During any fiscal year, a State shall not receive new loan funds from the Administration that exceed 125 percent of the State’s pro rata share of the microloan program authorization during such fiscal year, such share to be based on the population of the State, as compared to the total population of the United States.”.

SEC. 205. DISTRIBUTION OF INTERMEDIARIES.

Section 7(m)(8) of the Small Business Act (15 U.S.C. 636(m)(8)) is amended to read as follows:

“(8) EQUITABLE DISTRIBUTION OF INTERMEDIARIES.—In approving microloan program applicants under this subsection, the Administration shall select such intermediaries as will ensure appropriate availability of loans for small businesses in all industries located throughout each State, particularly those located in urban and in rural areas.”.

Urban areas.
Rural areas.**SEC. 206. MICROLOAN INTERMEDIARY LOAN LIMITATION.**

Section 7(m)(3)(C) of the Small Business Act (15 U.S.C. 636(m)(3)(C)) is amended by striking “\$1,250,000” and inserting “\$2,500,000”.

SEC. 207. MICROLOAN TECHNICAL ASSISTANCE TO NONBORROWERS.

Section 7(m)(4) of the Small Business Act (15 U.S.C. 636(m)(4)) is amended by adding at the end the following new subparagraph:

“(E) ASSISTANCE TO CERTAIN SMALL BUSINESS CONCERNS.—Each intermediary may expend an amount not to exceed 15 percent of the grant funds received under paragraph (1)(B)(ii) to provide information and technical assistance to small business concerns that are prospective borrowers under this subsection.”.

SEC. 208. MICROLOAN TECHNICAL ASSISTANCE GRANTS FOR INTERMEDIARIES SERVING ECONOMICALLY DISTRESSED AREAS.

(a) **GRANT ELIGIBILITY.—**Section 7(m)(4) of the Small Business Act (15 U.S.C. 636(m)(4)) is amended—

(1) in subparagraph (B), by inserting “except for a grant made to an intermediary that provides not less than 50 percent of its loans to small business concerns located in or owned by one or more residents of an economically distressed area,” after “under subparagraph (A),”; and

(2) in subparagraph (C), by striking clause (i) and inserting the following:

“(i) IN GENERAL.—In addition to grants made under subparagraph (A), each intermediary shall be eligible to receive a grant equal to 5 percent of the total outstanding balance of loans made to the intermediary under this subsection if—

“(I) the intermediary provides not less than 25 percent of its loans to small business concerns located in or owned by one or more residents of an economically distressed area; or

“(II) the intermediary has a portfolio of loans made under this subsection that averages not more than \$7,500 during the period of the intermediary’s participation in the program.”.

(b) DEFINITION.—Section 7(m)(11) of the Small Business Act (15 U.S.C. 636(m)(11)) is amended—

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

(2) by adding at the end the following new subparagraph:

“(D) the term ‘economically distressed area’, as used in paragraph (4), means a county or equivalent division of local government of a State in which the small business concern is located, in which, according to the most recent data available from the Bureau of the Census, Department of Commerce, not less than 40 percent of residents have an annual income that is at or below the poverty level.”.

15 USC 636 note.

(c) TERMINATION.—The amendments made by this section shall remain in effect during the period beginning on the date of enactment of this Act and ending on October 1, 1997.

SEC. 209. LOANS TO EXPORTERS.

Section 7(a)(14)(A) of the Small Business Act (15 U.S.C. 636(a)(14)(A)) is amended to read as follows:

“(14)(A) The Administration may provide extensions of credit, standby letters of credit, revolving lines of credit for export purposes, and other financing to enable small business concerns, including small business export trading companies and small business export management companies, to develop foreign markets. A bank or participating lending institution may establish the rate of interest on such financings as may be legal and reasonable.”.

SEC. 210. WORKING CAPITAL INTERNATIONAL TRADE LOANS.

Section 7(a)(3)(B) of the Small Business Act (15 U.S.C. 636(a)(3)(B)) is amended to read as follows:

“(B) if the total amount outstanding and committed (on a deferred basis) solely for the purposes provided in paragraph (16) to the borrower from the business loan and investment fund established by this Act would exceed \$1,250,000, of which not more than \$750,000 may be used for working capital, supplies, or financings under section 7(a)(14) for export purposes; and”.

SEC. 211. GUARANTEES ON INTERNATIONAL TRADE LOANS.

Section 7(a)(2)(B)(iv) of the Small Business Act (15 U.S.C. 636(a)(2)(B)(iv)) is amended to read as follows:

“(iv) not less than 85 percent nor more than 90 percent of the financing outstanding at the time of disbursement if such financing is a loan under paragraph (14) or (16).”.

SEC. 212. ACCREDITED LENDERS PROGRAM.

(a) **ESTABLISHMENT.**—Title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.) is amended by adding at the end the following new section:

“SEC. 507. ACCREDITED LENDERS PROGRAM.

15 USC 697d.

“(a) **ESTABLISHMENT.**—The Administration is authorized to establish an Accredited Lenders Program for qualified State and local development companies that meet the requirements of subsection (b).

“(b) **REQUIREMENTS.**—The Administration may designate a qualified State or local development company as an accredited lender if such company—

“(1) has been an active participant in the Development Company Program authorized by sections 502, 503, and 504 for not less than the preceding 12 months;

“(2) has well-trained, qualified personnel who are knowledgeable in the Administration’s lending policies and procedures for such Development Company Program;

“(3) has the ability to process, close, and service financing for plant and equipment under such Development Company Program;

“(4) has a loss rate on the company’s debentures that is reasonable and acceptable to the Administration;

“(5) has a history of submitting to the Administration complete and accurate debenture guaranty application packages; and

“(6) has demonstrated the ability to serve small business credit needs for financing plant and equipment through the Development Company Program.

“(c) **EXPEDITED PROCESSING OF LOAN APPLICATIONS.**—The Administration shall develop an expedited procedure for processing a loan application or servicing action submitted by a qualified State or local development company that has been designated as an accredited lender in accordance with subsection (b).

“(d) **SUSPENSION OR REVOCATION OF DESIGNATION.**—

“(1) **IN GENERAL.**—The designation of a qualified State or local development company as an accredited lender may be suspended or revoked if the Administration determines that—

“(A) the development company has not continued to meet the criteria for eligibility under subsection (b); or

“(B) the development company has failed to adhere to the Administration’s rules and regulations or is violating any other applicable provision of law.

“(2) **EFFECT.**—A suspension or revocation under paragraph (1) shall not affect any outstanding debenture guarantee.

“(e) **DEFINITION.**—For purposes of this section, the term ‘qualified State or local development company’ has the same meaning as in section 503(e).”.

15 USC 697d
note.

(b) REGULATIONS.—Not later than 120 days after the date of enactment of this Act, the Administration shall promulgate final regulations to carry out this section.

15 USC 697d
note.

(c) REPORT.—Not later than 1 year after the effective date of regulations promulgated under subsection (b), and biennially thereafter, the Administration shall report to the Committees on Small Business of the Senate and the House of Representatives on the implementation of this section. Such report shall include data on the number of development companies designated as accredited lenders, their debenture guarantee volume, their loss rates, the average processing time on their guarantee applications, and such other information as the Administration deems appropriate.

SEC. 213. INTEREST RATE ON CERTIFIED DEVELOPMENT COMPANY LOANS.

Section 112(c) of the Small Business Administration Reauthorization and Amendment Act of 1988 (102 Stat. 2996) is amended—

15 USC 697.

(1) in paragraph (1), by striking “(1) IN GENERAL.—Section 503” and inserting “Section 503”; and

15 USC 697d
note.

(2) by striking paragraph (2).

SEC. 214. CERTIFICATIONS OF ELIGIBILITY FOR SBIC AND SSBIC FINANCING.

Section 308 of the Small Business Investment Act of 1958 (15 U.S.C. 687) is amended by adding at the end the following new subsection:

“(h) CERTIFICATIONS OF ELIGIBILITY.—

“(1) CERTIFICATION BY SMALL BUSINESS CONCERN.—Prior to receiving financial assistance from a company licensed pursuant to subsection (c) or (d) of section 301, a small business concern shall certify in writing that it meets the eligibility requirements of the Small Business Investment Company Program or the Specialized Small Business Investment Company Program, as applicable.

“(2) CERTIFICATION BY COMPANY.—Prior to providing financial assistance to a small business concern under this Act, a company licensed pursuant to subsection (c) or (d) of section 301 shall certify in writing that it has reviewed the application for assistance of the small business concern and that all documentation and other information supports the eligibility of the applicant.

“(3) RETENTION OF CERTIFICATIONS.—Certificates made pursuant to paragraphs (1) and (2) shall be retained by the company licensed pursuant to subsection (c) or (d) of section 301 for the duration of the financial assistance.”

SEC. 215. PARTICIPATING SECURITIES FOR SMALLER SBICS.

Section 303(g) of the Small Business Investment Act of 1958 (15 U.S.C. 683(g)) is amended by adding at the end the following new paragraph:

“(13) PARTICIPATING SECURITIES FOR SMALLER SMALL BUSINESS INVESTMENT COMPANIES.—

“(A) IN GENERAL.—Subject to the provisions of subparagraph (B), of the amount of the annual program level of participating securities approved in appropriations Acts, 50 percent shall be reserved for funding small business investment companies with private capital of not more than \$20,000,000.

“(B) EXCEPTION.—During the last quarter of each fiscal year, if the Administrator determines that there is a lack of qualified applicants with private capital of not more than \$20,000,000, the Administrator may utilize all or any part of the program level for securities reserved under subparagraph (A) for qualified applicants with private capital of more than \$20,000,000.”.

SEC. 216. REPORT ON SBIC PROGRAM.

Not later than May 15, 1995, the Small Business Administration shall submit to the Committees on Small Business of the House of Representatives and the Senate a comprehensive report on—

(1) the status and disposition of all small business investment companies participating in the Small Business Investment Company Program under subsections (c) and (d) of section 301 of the Small Business Investment Act of 1958, whether active or in liquidation;

(2) a complete accounting of the assets in and the basis of the portfolios of such companies;

(3) the projected and actual loss rates for all portfolios in liquidation or active; and

(4) a detailed accounting of valuation of the Small Business Investment Company Program's investments.

SEC. 217. PREMIER CERTIFIED LENDERS PROGRAM.

(a) IN GENERAL.—Title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.) is amended by adding at the end the following new section:

“SEC. 508. PREMIER CERTIFIED LENDERS PROGRAM.

15 USC 697e.

“(a) ESTABLISHMENT.—On a pilot program basis, the Administration may establish a Premier Certified Lenders Program for not more than 15 certified development companies that meet the requirements of subsection (b).

“(b) REQUIREMENTS.—

“(1) APPLICATION.—To be eligible to participate in the Premier Certified Lenders Program established under subsection (a), a certified development company shall prepare and submit to the Administration an application at such time, in such manner, and containing such information as the Administration may require.

“(2) DESIGNATION.—The Administration may designate a certified development company as a premier certified lender if such company—

“(A) has been an active participant in the accredited lenders program during the 12-month period preceding the date on which the company submits an application under paragraph (1), except that, prior to January 1, 1996, the Administration may waive this requirement if the company is qualified to participate in the accredited lenders program;

“(B) has a history of submitting to the Administration adequately analyzed debenture guarantee application packages; and

“(C) agrees to assume and to reimburse the Administration for 10 percent of any loss sustained by the Administration as a result of default by the company in the payment of principal or interest on a debenture issued by

such company and guaranteed by the Administration under this section.

“(c) LOSS RESERVE.—

“(1) ESTABLISHMENT.—A company designated as a premier certified lender shall establish a loss reserve for financings approved pursuant to this section.

“(2) AMOUNT.—The amount of the loss reserve shall be based upon the greater of—

“(A) the historic loss rate on debentures issued by such company; or

“(B) 10 percent of the amount of the company’s exposure as determined under subsection (b)(2)(C).

“(3) ASSETS.—The loss reserve shall be comprised of segregated assets of the company which shall be securitized in favor of the Administration.

“(4) CONTRIBUTIONS.—The company shall make contributions to the loss reserve in the following amounts and at the following intervals:

“(A) 50 percent when a debenture is closed.

“(B) 25 percent not later than 1 year after a debenture is closed.

“(C) 25 percent not later than 2 years after a debenture is closed.

“(d) LOAN APPROVAL AUTHORITY.—

“(1) IN GENERAL.—Notwithstanding section 503(b)(6), and subject to such terms and conditions as the Administration may establish, the Administration may permit a company designated as a premier certified lender under this section to approve loans that are funded with the proceeds of a debenture issued by such company and may authorize the guarantee of such debenture.

“(2) SCOPE OF REVIEW.—The approval of a loan by a premier certified lender shall be subject to final approval as to eligibility of any guarantee by the Administration pursuant to section 503(a), but such final approval shall not include review of decisions by the lender involving creditworthiness, loan closing, or compliance with legal requirements imposed by law or regulation.

“(e) REVIEW.—After the issuance and sale of debentures under this section, the Administration, at intervals not greater than 12 months, shall review the financings made by each premier certified lender. The review shall include the lender’s credit decisions and general compliance with the eligibility requirements for each financing approved under the program authorized under this section. The Administration shall consider the findings of the review in carrying out its responsibilities under subsection (f), but such review shall not affect any outstanding debenture guarantee.

“(f) SUSPENSION OR REVOCATION.—The designation of a State or local development company as a premier certified lender may be suspended or revoked if the Administration determines that the company—

“(1) has not continued to meet the criteria for eligibility under subsection (b);

“(2) has not established or maintained the loss reserve required under subsection (c);

“(3) is failing to adhere to the Administration’s rules and regulations; or

“(4) is violating any other applicable provision of law.

“(g) EFFECT OF SUSPENSION OR DESIGNATION.—A suspension or revocation under subsection (f) shall not affect any outstanding debenture guarantee.

“(h) REGULATIONS.—Not later than 180 days after the date of enactment of this section, the Administration shall promulgate regulations to carry out this section.

“(i) REPORT.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Administration shall report to the Committees on Small Business of the Senate and the House of Representatives on the implementation of this section. Each report shall include—

“(1) the number of certified development companies designated as premier certified lenders;

“(2) the debenture guarantee volume of such companies;

“(3) a comparison of the loss rate for premier certified lenders to the loss rate for accredited and other lenders; and

“(4) such other information as the Administration deems appropriate.”

(b) REPEAL.—Effective on October 1, 1997, section 508 of the Small Business Investment Act of 1958, as added by subsection (a), is repealed.

Effective date.
15 USC 697e.

TITLE III—SIZE STANDARDS AND BOND GUARANTEES

SEC. 301. ESTABLISHMENT OF SIZE STANDARDS.

Section 3(a)(2) of the Small Business Act (15 U.S.C. 632(a)(2)) is amended to read as follows:

“(2) ESTABLISHMENT OF SIZE STANDARDS.—

“(A) IN GENERAL.—In addition to the criteria specified in paragraph (1), the Administrator may specify detailed definitions or standards by which a business concern may be determined to be a small business concern for the purposes of this Act or any other Act.

“(B) ADDITIONAL CRITERIA.—The standards described in paragraph (1) may utilize number of employees, dollar volume of business, net worth, net income, a combination thereof, or other appropriate factors.

“(C) REQUIREMENTS.—Unless specifically authorized by statute, no Federal department or agency may prescribe a size standard for categorizing a business concern as a small business concern, unless such proposed size standard—

“(i) is proposed after an opportunity for public notice and comment;

“(ii) provides for determining—

“(I) the size of a manufacturing concern as measured by the manufacturing concern’s average employment based upon employment during each of the manufacturing concern’s pay periods for the preceding 12 months;

“(II) the size of a business concern providing services on the basis of the annual average gross receipts of the business concern over a period of not less than 3 years;

“(III) the size of other business concerns on the basis of data over a period of not less than 3 years; or

“(IV) other appropriate factors; and
“(iii) is approved by the Administrator.”.

SEC. 302. PILOT PREFERRED SURETY BOND GUARANTEE PROGRAM EXTENSION.

Section 207 of the Small Business Administration Reauthorization and Amendment Act of 1988 (15 U.S.C. 694b note) is amended by striking “September 30, 1994” and inserting “September 30, 1995”.

15 USC 644 note.

SEC. 303. MANUFACTURING CONTRACTS THROUGH MANUFACTURING APPLICATION AND EDUCATION CENTERS.

(a) **IN GENERAL.**—The Small Business Administration shall promote the award of Federal manufacturing contracts to small business concerns that participate in manufacturing application and education centers by working with the Department of Commerce and other agencies to identify components and subsystems that are both critical and currently foreign-sourced.

(b) **QUALIFICATIONS.**—In order to qualify as a manufacturing application and education center under this section, an entity shall have the capacity to assist small business concerns in a shared-use production environment and to offer the following services:

- (1) Technology demonstration.
- (2) Technology education.
- (3) Technology application support.
- (4) Technology advancement support.

(c) **INAPPLICABILITY OF CERTAIN REQUIREMENTS.**—The requirements of section 15(o)(1)(B) of the Small Business Act shall not apply with respect to any manufacturing contract carried out by a small business concern in conjunction with a manufacturing application and education center under this section.

(d) **REGULATIONS.**—Not later than 180 days after the date of enactment of this Act, the Administrator of the Small Business Administration shall promulgate final regulations to carry out this section.

(e) **TERMINATION OF AUTHORITY.**—The authority of the Small Business Administration under this section shall terminate on September 30, 1997.

(f) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Small Business Administration, such sums as may be necessary to carry out this section.

15 USC 644 note.

SEC. 304. PILOT PROGRAM FOR VERY SMALL BUSINESS CONCERNS.

(a) **ESTABLISHMENT.**—The Administrator shall establish and carry out a pilot program in accordance with the requirements of this section to provide improved access to Federal contract opportunities for very small business concerns.

(b) **PROCUREMENT CONTRACTS.**—

(1) **IN GENERAL.**—In carrying out subsection (a), the Administrator shall identify procurement contracts of Federal agencies for award under the program.

(2) **CONTRACT AWARDS.**—Under the program established pursuant to this section, the award of a procurement contract of a Federal agency identified by the Administration pursuant to paragraph (1) shall be made by the agency to an eligible

program participant selected, and determined to be responsible, by the agency.

(3) **COMPETITION.**—All contract opportunities offered for award under the program shall be awarded on the basis of competition among eligible very small business concerns.

(c) **ELIGIBILITY.**—Only a very small business concern shall be eligible to compete for a contract to be awarded under the program. A contracting officer may rely in good faith on a written certification that a small business concern is a very small business concern.

(d) **DELEGATION OF AUTHORITY.**—The authority of the Administrator under subsections (b)(1) and (c) shall be delegated to not less than 5 and not more than 10 districts of the Administration to promote the award of contracts that can be performed by very small business concerns.

(e) **FINANCIAL ASSISTANCE.**—In order to assist very small business concerns receiving contract awards under the program, the Administrator shall establish a preauthorization program for such concerns for the purpose of receiving financial assistance under section 7(a) of the Small Business Act.

(f) **ATTAINMENT OF CONTRACT GOALS.**—All contract awards made under the program shall be counted toward the attainment of the goals specified in section 15(g) of the Small Business Act.

(g) **REGULATIONS.**—The Administrator shall—

(1) issue proposed regulations to carry out this section not later than 180 days after the date of enactment of this Act; and

(2) issue final regulations to carry out this section not later than 270 days after the date of enactment of this Act.

(h) **REPORT TO CONGRESS.**—Not later than April 30, 1997, the Administrator shall transmit to the Congress a report on the results of the program, together with such recommendations as the Administrator deems appropriate.

(i) **PROGRAM TERM.**—Implementation of the program shall begin not later than August 30, 1995. The program authorized by this section shall expire on September 30, 1998.

(j) **DEFINITIONS.**—For purposes of this section, the following definitions shall apply:

(1) **ADMINISTRATION.**—The term “Administration” means the Small Business Administration.

(2) **ADMINISTRATOR.**—The term “Administrator” means the Administrator of the Small Business Administration.

(3) **PROGRAM.**—The term “program” means a program established pursuant to subsection (a).

(4) **VERY SMALL BUSINESS CONCERN.**—The term “very small business concern” means a small business concern that—

(A) has not more than 15 employees; and

(B) has average annual receipts that total not more than \$1,000,000.

SEC. 305. HANDICAPPED WORKSHOP PARTICIPATION IN SMALL BUSINESS SET ASIDE CONTRACTS.

Section 15(c) of the Small Business Act (15 U.S.C. 644(c)) is amended—

(1) by amending paragraph (2)(A) to read as follows:

“(2)(A) During fiscal year 1995, public or private organizations for the handicapped shall be eligible to participate in programs

authorized under this section in an aggregate amount not to exceed \$40,000,000.”; and

(2) by adding at the end the following new paragraph:

“(7) Agencies awarding one or more contracts to such an organization pursuant to the provisions of this subsection may use multiyear contracts, if appropriate.”.

TITLE IV—BUSINESS DEVELOPMENT ASSISTANCE

Subtitle A—General Provisions

SEC. 401. SUNSET ON COSPONSORED TRAINING.

15 USC 637 note.

(a) IN GENERAL.—

(1) REPEAL.—The amendments made by section 5(a) of Small Business Computer Security and Education Act of 1984 (15 U.S.C. 633 note) are hereby repealed.

(2) EFFECTIVE DATE.—Paragraph (1) shall take effect on September 30, 1997.

(b) CONFORMING AMENDMENT.—Section 7(b) of the Small Business Computer Security and Education Act of 1984 (15 U.S.C. 633 note) is amended in the second sentence by striking “and the amendments made to section 8(b)(1)(A) of the Small Business Act by section 5(a)(2) of this Act are” and inserting “is”.

SEC. 402. SMALL BUSINESS DEVELOPMENT CENTER PROGRAM LEVEL.

Section 21(a)(4) of the Small Business Act (15 U.S.C. 648(a)(4)) is amended to read as follows:

“(4) SMALL BUSINESS DEVELOPMENT CENTER PROGRAM LEVEL.—

“(A) IN GENERAL.—The Administration shall require as a condition of any grant (or amendment or modification thereof) made to an applicant under this section, that a matching amount (excluding any fees collected from recipients of such assistance) equal to the amount of such grant be provided from sources other than the Federal Government, to be comprised of not less than 50 percent cash and not more than 50 percent of indirect costs and in-kind contributions.

“(B) RESTRICTION.—The matching amount described in subparagraph (A) shall not include any indirect costs or in-kind contributions derived from any Federal program.

“(C) NATIONAL PROGRAM.—

“(i) IN GENERAL.—Except as provided in clause (ii), no State receiving funds under this section shall receive a grant that exceeds—

“(I) for fiscal year 1995, the sum of such State’s pro rata share of a national program based upon the population of the State as compared to the total population in the United States, and \$125,000; or

“(II) in each succeeding fiscal year, the sum of such State’s pro rata share of a national program based upon the population of the State as compared to the total population in the United States, and \$200,000.

“(ii) EXCEPTION.—Grants provided to a small business development center by the Administration or another agency to carry out the provisions of subsection (c)(3)(G)

shall not be included in the calculation of maximum funding of a small business development center.

“(iii) AMOUNT.—The amount of the national program shall be—

“(I) \$70,000,000 through September 30, 1996;

“(II) \$77,500,000 from October 1, 1996 through September 30, 1997; and

“(III) \$85,000,000 beginning October 1, 1997.

The amount for which a small business development center is eligible under this paragraph shall be based upon the amount of the national program in effect as of the date for commencement of performance of the small business development center's grant.”.

SEC. 403. FEDERAL CONTRACTS WITH SMALL BUSINESS DEVELOPMENT CENTERS.

Section 21(a)(5) of the Small Business Act (15 U.S.C. 648(a)(5)) is amended to read as follows:

“(5) FEDERAL CONTRACTS WITH SMALL BUSINESS DEVELOPMENT CENTERS.—

“(A) IN GENERAL.—Subject to the conditions set forth in subparagraph (B), a small business development center may enter into a contract with a Federal department or agency to provide specific assistance to small business concerns.

“(B) CONTRACT PREREQUISITES.—Before bidding on a contract described in subparagraph (A), a small business development center shall receive approval from the Associate Administrator of the small business development center program of the subject and general scope of the contract. Each approval under subparagraph (A) shall be based upon a determination that the contract will provide assistance to small business concerns and that performance of the contract will not hinder the small business development center in carrying out the terms of the grant received by the small business development center from the Administration.

“(C) EXEMPTION FROM MATCHING REQUIREMENT.—A contract under this paragraph shall not be subject to the matching funds or eligibility requirements of paragraph (4).

“(D) ADDITIONAL PROVISION.—Notwithstanding any other provision of law, a contract for assistance under this paragraph shall not be applied to any Federal department or agency's small business, woman-owned business, or socially and economically disadvantaged business contracting goal under section 15(g).”.

SEC. 404. SMALL BUSINESS DEVELOPMENT CENTER PROGRAM EXAMINATION AND CERTIFICATION.

Section 21(k) of the Small Business Act (15 U.S.C. 648(k)) is amended to read as follows:

“(k) PROGRAM EXAMINATION AND CERTIFICATION.—

“(1) EXAMINATION.—Not later than 180 days after the date of enactment of this subsection, the Administration shall develop and implement a biennial programmatic and financial examination of each small business development center established pursuant to this section.

“(2) CERTIFICATION.—The Administration may provide financial support, by contract or otherwise, to the association

authorized by subsection (a)(3)(A) for the purpose of developing a small business development center certification program.

“(3) EXTENSION OR RENEWAL OF COOPERATIVE AGREEMENTS.—In extending or renewing a cooperative agreement of a small business development center, the Administration shall consider the results of the examination and certification program conducted pursuant to paragraphs (1) and (2).”

SEC. 405. CENTRAL EUROPEAN SMALL BUSINESS DEVELOPMENT.

Section 25(i) of the Small Business Act (15 U.S.C. 652(i)) is amended by striking “and \$2,000,000 for each of fiscal years 1993 and 1994” and inserting “, \$2,000,000 for each of fiscal years 1993 and 1994, and \$1,000,000 for fiscal year 1995”.

15 USC 637 note.

SEC. 406. MOBILE RESOURCE CENTER PILOT PROGRAM.

(a) ESTABLISHMENT.—The Administrator of the Small Business Administration may establish and carry out in each of fiscal years 1995, 1996, and 1997 a mobile resource pilot program (hereafter in this section referred to as the “program”) in accordance with the requirements of this section.

(b) MOBILE RESOURCE CENTER VEHICLES.—Under the program, the Administration may use mobile resource center vehicles to provide technical assistance, information, and other services available from the Small Business Administration to traditionally underserved populations. Two of such vehicles should be utilized in rural areas and 2 of such vehicles should be utilized in urban areas.

(c) REPORT TO CONGRESS.—If the Administrator conducts the program authorized in this section, the Administrator shall, not later than December 31, 1996, transmit to the Congress a report containing the results of such program, together with recommendations for appropriate legislative and administrative action.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$900,000 for each of fiscal years 1995, 1996, and 1997, such sums to remain available until expended. Of such sums—

(1) \$800,000 may be made available for the purchase or lease of mobile resource center vehicles and operating expenses; and

(2) \$100,000 may be made available for studies, startup expenses, and other administrative expenses.

SEC. 407. INFORMATION CONCERNING FRANCHISING.

Section 8(b)(1)(A) of the Small Business Act (15 U.S.C. 637(b)(1)(A)) is amended by inserting “including information on the benefits and risks of franchising,” after “small-business enterprises,”.

Subtitle B—Development of Woman-Owned Businesses

SEC. 411. EXTENSION OF AUTHORITY FOR DEMONSTRATION PROJECTS.

The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by redesignating section 28 (as added by section 2 of the Women’s Business Development Act of 1991) as section 29; and

15 USC 656.

(2) in section 29(g), as redesignated, by striking "1995" 15 USC 656. and inserting "1997".

SEC. 412. ESTABLISHMENT OF OFFICE OF WOMEN'S BUSINESS OWNERSHIP.

Section 29 of the Small Business Act (15 U.S.C. 656), as redesignated by section 411 of this Act, is amended by adding at the end the following new subsection:

"(h) OFFICE OF WOMEN'S BUSINESS OWNERSHIP.—There is hereby established within the Administration an Office of Women's Business Ownership, which shall be responsible for the administration of the Administration's programs for the development of women's business enterprises, as such term is defined in section 408 of the Women's Business Ownership Act of 1988. The Office of Women's Business Ownership shall be administered by an Assistant Administrator, who shall be appointed by the Administrator."

SEC. 413. DEVELOPMENT OF WOMEN'S BUSINESS ENTERPRISE.

Title IV of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended to read as follows:

"TITLE IV—DEVELOPMENT OF WOMEN'S BUSINESS ENTERPRISE

"SEC. 401. ESTABLISHMENT OF THE INTERAGENCY COMMITTEE.

"There is established an interagency committee to be known as the Interagency Committee on Women's Business Enterprise.

"SEC. 402. DUTIES OF THE INTERAGENCY COMMITTEE.

"(a) IN GENERAL.—The Interagency Committee shall—

"(1) monitor, coordinate, and promote the plans, programs, and operations of the departments and agencies of the Federal Government that may contribute to the establishment and growth of women's business enterprise;

"(2) develop and promote new public sector initiatives, policies, programs, and plans designed to foster women's business enterprise;

"(3) review, monitor, and coordinate plans and programs, developed in the public sector, which affect the ability of women-owned businesses to obtain capital and credit;

"(4) promote and assist, as appropriate, in the development of surveys of women-owned business; and

"(5) design a comprehensive plan for a joint public-private sector effort to facilitate growth and development of women's business enterprise, which plan shall, not later than 1 year after the effective date of the Small Business Administration Reauthorization and Amendments Act of 1994, be submitted to the President for review.

"(b) MEETINGS.—The Interagency Committee shall meet not less than biannually at such times as the Interagency Committee determines to be necessary to perform the duties under subsection (a). A majority of the members of the Committee shall constitute a quorum for the approval of recommendations or reports issued pursuant to this section.

"(c) INTERACTION WITH COUNCIL.—In performing its duties under subsection (a), the Interagency Committee shall consult with

the Council. The Interagency Committee may meet jointly with the Council at the discretion of the chairperson of the Interagency Committee and the chairperson of the Council, but not less frequently than twice annually. The chairperson of the Interagency Committee shall serve as chairperson of any joint meetings of the Interagency Committee and the Council.

"SEC. 403. MEMBERSHIP OF THE INTERAGENCY COMMITTEE.

"(a) IN GENERAL.—

"(1) PARTICIPANTS.—The Interagency Committee shall be composed of 1 representative from each of the following:

"(A) The Department of Commerce.

"(B) The Department of Defense.

"(C) The Department of Health and Human Services.

"(D) The Department of Labor.

"(E) The Small Business Administration.

"(F) The Department of Transportation.

"(G) The Department of the Treasury.

"(H) The General Services Administration.

"(I) The Board of Governors of the Federal Reserve.

"(J) The Executive staff of the President engaged in policymaking activities.

"(2) APPOINTMENTS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the head of each department and agency listed in paragraph (1) shall, not later than 45 days after the date of enactment of the Small Business Administration Reauthorization and Amendments Act of 1994, designate a representative who shall be a policymaking official within the department or agency.

"(B) SMALL BUSINESS ADMINISTRATION.—With respect to the Small Business Administration, the representative shall be the Assistant Administrator of the Office of Women's Business Ownership, who also shall serve as the vice chairperson of the Interagency Committee.

"(3) OTHER PARTICIPATION.—Other representatives of the Federal Government not listed in paragraph (1) may participate in the meetings and functions of the Interagency Committee on a temporary basis as needed to carry out specific Interagency Committee goals.

"(b) APPOINTMENT OF CHAIRPERSON.—Not later than 45 days after enactment of the Small Business Administration Reauthorization and Amendments Act of 1994, the President, in consultation with the Administrator of the Small Business Administration, shall appoint 1 of the members of the Interagency Committee to serve as chairperson.

"(c) NONCOMPENSATION.—The members of the Interagency Committee shall serve without additional pay for such membership.

"(d) DETAIL OF FEDERAL EMPLOYEES.—Upon request by the chairperson of the Interagency Committee, the head of any Federal department or agency may detail any of the personnel of such agency to assist the Interagency Committee in carrying out its duties under this title without regard to section 3341 of title 5, United States Code.

"SEC. 404. REPORTS FROM THE INTERAGENCY COMMITTEE.

"Not later than September 30, 1995, and annually thereafter, the Interagency Committee shall transmit to the President and

to the Committees on Small Business of the Senate and the House of Representatives, a report containing—

“(1) any recommendations of the Council and any comments of the Interagency Committee thereon;

“(2) a detailed description of the activities of the Interagency Committee;

“(3) the findings and conclusions of the Interagency Committee; and

“(4) the Interagency Committee’s recommendations for such legislation and administrative actions as the Interagency Committee considers appropriate to promote the development of small business concerns owned and controlled by women.

“SEC. 405. ESTABLISHMENT OF THE NATIONAL WOMEN’S BUSINESS COUNCIL.

“There is established a council to be known as the National Women’s Business Council, which shall serve as an independent source of advice and policy recommendations to the Interagency Committee, to the Administrator through the Assistant Administrator of the Office of Women’s Business Ownership, to the Congress, and to the President.

“SEC. 406. DUTIES OF THE COUNCIL.

“(a) **IN GENERAL.**—The Council shall advise and consult with the Interagency Committee on matters relating to the activities, functions, and policies of the Interagency Committee, as provided in this title. The Council shall meet jointly with the Interagency Committee at the discretion of the chairperson of the Council and the chairperson of the Interagency Committee, but not less than biannually.

“(b) **MEETINGS.**—The Council shall meet separately at such times as the Council deems necessary. A majority of the members of the Council shall constitute a quorum for the approval of recommendations or reports issued pursuant to this section.

“(c) **RECOMMENDATIONS.**—The Council shall make annual recommendations for consideration by the Interagency Committee. The Council shall also provide reports and make such other recommendations as it deems appropriate to the Interagency Committee, to the President, to the Administrator, and to the Committees on Small Business of the Senate and the House of Representatives.

“(d) **OTHER DUTIES.**—The Council shall—

“(1) review, coordinate, and monitor plans and programs developed in the public and private sectors, which affect the ability of women-owned business enterprises to obtain capital and credit;

“(2) promote and assist in the development of a women’s business census and other surveys of women-owned businesses;

“(3) monitor and promote the plans, programs, and operations of the departments and agencies of the Federal Government which may contribute to the establishment and growth of women’s business enterprise;

“(4) develop and promote new initiatives, policies, programs, and plans designed to foster women’s business enterprise; and

“(5) advise and consult with the Interagency Committee in the design of a comprehensive plan for a joint public-private sector effort to facilitate growth and development of women’s business enterprise.

"SEC. 407. MEMBERSHIP OF THE COUNCIL.

President.

"(a) **CHAIRPERSON.**—Not later than 45 days after the date of enactment of the Small Business Administration Reauthorization and Amendments Act of 1994, the President shall appoint an individual to serve as chairperson of the Council, in consultation with the Administrator. The chairperson of the Council shall be a prominent business woman who is qualified to head the Council by virtue of her education, training, and experience.

"(b) **OTHER MEMBERS.**—Not later than 60 days after the date of enactment of the Small Business Administration Reauthorization and Amendments Act of 1994, the Administrator shall appoint, in consultation with the Assistant Administrator of the Office of Women's Business Ownership and the chairperson of the Council appointed under subsection (a), 9 members of the Council, of whom—

"(1) 2 shall be—

"(A) owners of small businesses, as such term is defined in section 3 of the Small Business Act; and

"(B) members of the same political party as the President;

"(2) 2 shall—

"(A) be owners of small businesses, as such term is defined in section 3 of the Small Business Act; and

"(B) not be members of the same political party as the President; and

"(3) 5 shall be representatives of national women's business organizations.

"(c) **DIVERSITY.**—In appointing members of the Council, the Administrator shall, to the extent possible, ensure that the members appointed reflect geographic, racial, economic, and sectoral diversity.

"(d) **SERVICE TERM.**—The term of service of the members of the Council shall be 3 years.

"(e) **OTHER FEDERAL SERVICE.**—If any member of the Council subsequently becomes an officer or employee of the Federal Government or of the Congress, such individual may continue as a member of the Council for not longer than the 30-day period beginning on the date on which such individual becomes such an officer or employee.

"(f) **VACANCIES.**—A vacancy on the Council shall, not later than 30 days after the date on which the vacancy occurs, be filled in the same manner in which the original appointment was made.

"(g) **REIMBURSEMENTS.**—Members of the Council shall serve without pay for such membership, except that members shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the functions of the Council, in the same manner as persons serving on advisory boards pursuant to section 8(b) of the Small Business Act.

"(h) **EXECUTIVE DIRECTOR.**—Not later than 60 days after the date of enactment of the Small Business Administration Reauthorization Act of 1994, the Administrator, in consultation with the chairperson of the Council, shall appoint an executive director of the Council. Upon the recommendation by the executive director, the chairperson of the Council may appoint and fix the pay of 4 additional employees of the Council, at a rate of pay not to exceed the maximum rate of pay payable for a position at GS—

15 of the General Schedule. All such appointments shall be subject to the appropriation of funds.

“(i) **RATES OF PAY.**—The executive director and staff of the Council may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and except as provided in subsection (e), may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the executive director may not receive pay in excess of the annual rate of basic pay payable for a position at ES-3 of the Senior Executive Pay Schedule under section 5832 of title 5, United States Code.

“**SEC. 408. DEFINITIONS.**

“For purposes of this title—

“(1) the term ‘Administration’ means the Small Business Administration;

“(2) the term ‘Administrator’ means the Administrator of the Small Business Administration;

“(3) the term ‘control’ means exercising the power to make policy decisions concerning a business;

“(4) the term ‘Council’ means the National Women’s Business Council, established under section 405;

“(5) the term ‘Interagency Committee’ means the Interagency Committee on Women’s Business Enterprise, established under section 401;

“(6) the term ‘operate’ means being actively involved in the day-to-day management of a business;

“(7) the term ‘women’s business enterprise’ means—

“(A) a business or businesses owned by a woman or a group of women; or

“(B) the establishment, maintenance, or development of a business or businesses by a woman or a group of women; and

“(8) the term ‘women-owned business’ means a small business which a woman or a group of women—

“(A) control and operate; and

“(B) own not less than 51 percent of the business.

“**SEC. 409. AUTHORIZATION OF APPROPRIATIONS.**

“There are authorized to be appropriated for each of fiscal years 1995 through 1997, to carry out this title, \$350,000.”.

SEC. 414. TRANSITION REIMBURSEMENT.

15 USC 631 note.

(a) **IN GENERAL.**—Subject to the limitation contained in subsection (b), in order to provide continuity in the development of women-owned business, the Administration may approve reasonable amounts made available to carry out title IV of the Women’s Business Ownership Act of 1988 to be used to pay the salaries, if any, and expenses of the members and staff of the National Women’s Business Council that are appointed on or before the date of enactment of this Act.

(b) **TIME PERIOD.**—No payments shall be made under subsection (a) after the expiration of the 90-day period beginning on the date of enactment of this Act.

SEC. 415. GIFT AUTHORITY.

Section 8(b)(1)(G) of the Small Business Act (15 U.S.C. 637(b)(1)(G)) is amended by striking "section 8(b)(1) of this Act" and by inserting "this Act and to carry out the activities authorized by title IV of the Women's Business Ownership Act of 1988".

SEC. 416. CONFORMING AMENDMENT.

The table of contents for the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note) is amended by striking the items relating to title IV and inserting the following:

"TITLE IV—DEVELOPMENT OF WOMEN'S BUSINESS ENTERPRISE

- "Sec. 401. Establishment of the Interagency Committee.
- "Sec. 402. Duties of the Interagency Committee.
- "Sec. 403. Membership of the Interagency Committee.
- "Sec. 404. Reports from the Interagency Committee.
- "Sec. 405. Establishment of the National Women's Business Council.
- "Sec. 406. Duties of the Council.
- "Sec. 407. Membership of the Council.
- "Sec. 408. Definitions.
- "Sec. 409. Authorization of Appropriations."

Small Business
Prepayment
Penalty Relief
Act of 1994.

TITLE V—RELIEF FROM DEBENTURE PREPAYMENT PENALTIES

15 USC 661 note.

SEC. 501. SHORT TITLE.

This title may be cited as the "Small Business Prepayment Penalty Relief Act of 1994".

15 USC 697f
note.

SEC. 502. INTENTION OF CONGRESS.

(a) **IN GENERAL.**—The Small Business Administration shall fully utilize the \$30,000,000 appropriated in Public Law 103-317 to reduce, in accordance with this title and the amendments made by this title, prepayment penalties imposed in connection with debentures issued under—

(1) section 303 or 503 of the Small Business Investment Act of 1958, which have been purchased by the Federal Financing Bank; and

(2) title III to companies operating under section 301(d) of such Act, which have been purchased by the Small Business Administration.

(b) **EQUAL OPPORTUNITY.**—In order to provide an equal opportunity to participate in the program authorized under this title, the Small Business Administration shall afford each borrower or issuer of a debenture subject to this title, not less than 45 days to elect to participate and to provide an earnest money deposit. The Administration shall subsequently allow a period of not less than 4 months, during which those borrowers or issuers that elect to participate shall be allowed to complete the prepayment process.

(c) **RESTRICTIONS ON PARTICIPATION.**—In no event shall the Small Business Administration—

(1) allow any borrower or issuer to participate in the program if the borrower or issuer fails to—

(A) make a timely election and provide the deposit on a timely basis; or

(B) complete the prepayment process within the required time; or

(2) allow any borrower or issuer to participate in the program at a percentage rate other than the rate finally determined to be applicable to all other borrowers or issuers with similar terms of years.

SEC. 503. PREPAYMENT OF DEVELOPMENT COMPANY DEBENTURES.

Title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.), as amended by section 217, is amended by adding at the end the following new section:

“SEC. 509. PREPAYMENT OF DEVELOPMENT COMPANY DEBENTURES. 15 USC 697f.

“(a) IN GENERAL.—

“(1) PREPAYMENT AUTHORIZED.—Subject to the requirements set forth in subsection (b), an issuer of a debenture purchased by the Federal Financing Bank and guaranteed by the Administration under this Act may, at the election of the borrower (in the case of a loan under section 503) or the issuer (in the case of a small business investment company) and with the approval of the Administration, prepay such debenture in accordance with the provisions of this section. A small business investment company operating under the authority of section 301(d) that has issued a debenture that was purchased by and is held by the Administration, may, under the same terms and conditions, prepay such debenture, and the penalty as provided in this section, and shall thereafter be immediately eligible to apply for additional assistance from the Administration.

“(2) PROCEDURE.—

“(A) IN GENERAL.—In making a prepayment under paragraph (1)—

“(i) the borrower (in the case of a loan under section 503) or the issuer (in the case of a small business investment company) shall pay to the Federal Financing Bank an amount that is equal to the sum of the unpaid principal balance due on the debenture as of the date of the prepayment (plus accrued interest at the coupon rate on the debenture) and the amount of the repurchase premium described in subparagraph (B); and

“(ii) the Administration shall pay to the Federal Financing Bank the difference between the repurchase premium paid by the borrower under this subsection and the repurchase premium that the Federal Financing Bank would otherwise have received.

“(B) REPURCHASE PREMIUM.—

“(i) IN GENERAL.—For purposes of subparagraph (A)(i), the repurchase premium is the amount equal to the product of—

“(I) the unpaid principal balance due on the debenture on the date of prepayment; and

“(II) the applicable percentage rate, as determined in accordance with clauses (ii) and (iii).

“(ii) APPLICABLE PERCENTAGE RATE.—For purposes of clause (i)(II), the applicable percentage rate means—

“(I) with respect to a 10-year term loan, 8.5 percent;

“(II) with respect to a 15-year term loan, 9.5 percent;

“(III) with respect to a 20-year term loan, 10.5 percent; and

“(IV) with respect to a 25-year term loan, 11.5 percent.

“(iii) **ADJUSTMENTS TO APPLICABLE PERCENTAGE RATE.**—The percentage rates described in clause (ii) shall be increased or decreased by the Administration by a factor not to exceed one-third, if the same factor is applied in each case and if the Administration determines that an adjustment is necessary, based on the number of borrowers having given notice of their intent to participate, in order to make the program (including the amounts appropriated for this purpose under Public Law 103-317) result in no substantial net gain or loss of revenue to the Federal Financing Bank or to the Administration. Amounts collected in excess of the amount necessary to ensure revenue neutrality shall be refunded to the borrowers.

“(b) **REQUIREMENTS.**—For purposes of subsection (a), the requirements of this subsection are that—

“(1) the debenture is outstanding and neither the loan that secures the debenture, if any, nor the debenture is in default on the date on which the prepayment is made;

“(2) State, local, or personal funds, or the proceeds of a refinancing in accordance with subsection (d) of this section under the programs authorized by this title, are used to prepay or roll over the debenture; and

“(3) with respect to a debenture issued under section 503, the issuer certifies that the benefits, net of fees and expenses authorized herein, associated with prepayment of the debenture are entirely passed through to the borrower.

“(c) **NO PREPAYMENT FEES OR PENALTIES.**—No fees or penalties other than those specified in this section may be imposed on the issuer, the borrower, the Administration, or any fund or account administered by the Administration as the result of a prepayment under this section.

“(d) **REFINANCING LIMITATIONS.**—

“(1) **IN GENERAL.**—The refinancing of a debenture under sections 504 and 505, in accordance with subsection (b)(2)—

“(A) shall not exceed the amount necessary to prepay existing debentures, including all costs associated with the refinancing and any applicable prepayment penalty or repurchase premium; and

“(B) except as provided in paragraphs (2) and (3), shall be subject to the provisions of sections 504 and 505 and the rules and regulations promulgated thereunder, including rules and regulations governing payment of authorized expenses, commissions, fees, and discounts to brokers and dealers in trust certificates issued pursuant to section 505.

“(2) **JOB CREATION.**—An applicant for refinancing under section 504 of a loan made pursuant to section 503 shall not be required to demonstrate that a requisite number of jobs will be created with the proceeds of a refinancing.

“(3) **LOAN PROCESSING FEE.**—To cover the cost of loan packaging, processing, and other administrative functions, a development company that provides refinancing under subsection

(b)(2) may impose a one-time loan processing fee, not to exceed 0.5 percent of the principal amount of the loan.

“(4) NEW DEBENTURES.—Issuers of debentures under title III may issue new debentures in accordance with such title in order to prepay existing debentures as authorized in this section.

“(5) PRELIMINARY NOTICE.—

“(A) IN GENERAL.—The Administration shall use certified mail and other reasonable means to notify each eligible borrower of the prepayment program provided in this title. Each preliminary notice shall specify the range and dollar amount of repurchase premiums which could be required of that borrower in order to participate in the program. In carrying out this program, the Administration shall provide a period of not less than 45 days following the receipt of such notice by the borrower during which the borrower must notify the Administration of the borrower’s intent to participate in the program. The Administration shall require that a borrower who gives notice of its intent to participate to make an earnest money deposit of \$1,000 which shall not be refundable but which shall be credited toward the final repurchase premium.

“(B) DEFINITION.—For purposes of this paragraph, the term ‘borrower’, in the case of a small business investment company or a specialized small business investment company, means ‘issuer’.

“(6) FINAL NOTICE.—Based upon the response to the preliminary notice under paragraph (5), the Administration shall make a final computation of the necessary prepayment premiums and shall notify each qualified respondent of the results of such computation. Each qualified respondent shall be afforded not less than 4 months to complete the prepayment.

“(e) DEFINITIONS.—For purposes of this section—

“(1) the term ‘issuer’ means—

“(A) the qualified State or local development company that issued a debenture pursuant to section 503, which has been purchased by the Federal Financing Bank; and

“(B) a small business investment company licensed pursuant to subsection (c) or (d) of section 301; or

“(2) the term ‘borrower’ means a small business concern whose loan secures a debenture issued pursuant to section 503.

“(f) REGULATIONS.—Not later than 30 days after the date of enactment of this section, the Administration shall promulgate such regulations as may be necessary to carry out this section.

“(g) AUTHORIZATION.—There are authorized to be appropriated \$30,000,000 to carry out the provisions of The Small Business Prepayment Penalty Relief Act of 1994.”.

TITLE VI—MISCELLANEOUS AMENDMENTS

SEC. 601. SBA INTEREST PAYMENTS TO TREASURY.

Section 4(c)(5)(B)(ii) of the Small Business Act (15 U.S.C. 633(c)(5)(B)(ii)) is amended to read as follows:

“(ii) Following the close of each fiscal year, the Administration shall pay into the miscellaneous receipts of the United States Treasury the actual interest that the Administration collects during that fiscal year on all financings made under this Act.”.

SEC. 602. IMPOSITION OF FEES.

Section 5(b) of the Small Business Act (15 U.S.C. 634(b)) is amended—

(1) in paragraph (10), by striking “and” at the end;
 (2) in paragraph (11), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:
 “(12) impose, retain, and use only those fees which are specifically authorized by law or which are in effect on September 30, 1994, and in the amounts and at the rates in effect on such date, except that the Administrator may, subject to approval in appropriations Acts, impose, retain, and utilize, additional fees—

“(A) not to exceed \$100 for each loan servicing action (other than a loan assumption) requested after disbursement of the loan, including any substitution of collateral, release or substitution of a guarantor, reamortization, or similar action;

“(B) not to exceed \$300 for loan assumptions;

“(C) not to exceed 1 percent of the amount of requested financings under title III of the Small Business Investment Act of 1958 for which the applicant requests a commitment from the Administration for funding during the following year; and

“(D) to recover the direct, incremental cost involved in the production and dissemination of compilations of information produced by the Administration under the authority of this Act and the Small Business Investment Act of 1958; and

“(13) collect, retain and utilize, subject to approval in appropriations Acts, any amounts collected by fiscal transfer agents and not used by such agent as payment of the cost of loan pooling or debenture servicing operations, except that amounts collected under this paragraph and paragraph (12) shall be utilized solely to facilitate the administration of the program that generated the excess amounts.”.

SEC. 603. JOB CREATION AND COMMUNITY BENEFIT.

Section 7(a)(21) of the Small Business Act (15 U.S.C. 636(a)(21)) is amended by adding at the end the following new subparagraph:

“(E) JOB CREATION AND COMMUNITY BENEFIT.—In providing assistance under this paragraph, the Administration shall develop procedures to ensure, to the maximum extent practicable, that such assistance is used for projects that—

“(i) have the greatest potential for—

“(I) creating new jobs for individuals whose employment is involuntarily terminated due to reductions in Federal defense expenditures; or

“(II) preventing the loss of jobs by employees of small business concerns described in subparagraph (A)(i); and

“(ii) have substantial potential for stimulating new economic activity in communities most affected by reductions in Federal defense expenditures.”.

SEC. 604. MICROLOAN PROGRAM AMENDMENTS.

Section 7(m)(9)(B) of the Small Business Act (15 U.S.C. 636(m)(9)(B)) is amended—

(1) by inserting “and loan guarantees” after “for loans”; and

(2) by inserting after “experienced microlending organizations” the following: “and national and regional nonprofit organizations that have demonstrated experience in providing training support for microenterprise development and financing.”.

SEC. 605. TECHNICAL CLARIFICATION.

(a) **DEFENSE CONVERSION.**—Section 7(a)(21)(A) of the Small Business Act (15 U.S.C. 636(a)(21)(A)) is amended by striking “under the” and inserting “on a guaranteed basis under the”.

(b) **ADDITIONAL TECHNICAL CLARIFICATION.**—Section 204 of Public Law 94-305 (15 U.S.C. 634d) is amended by striking “section 202” and inserting “this title”.

SEC. 606. STUDY AND DATA BASE: GUARANTEED BUSINESS LOAN PROGRAM AND DEVELOPMENT COMPANY PROGRAM.

(a) **STUDY AUTHORIZED.**—The Administration shall conduct a study of—

(1) the Guaranteed Business Loan program under section 7(a) of the Small Business Act; and

(2) the Development Company program under sections 502, 503, and 504 of the Small Business Investment Act of 1958.

(b) **EVALUATION.**—For purposes of the study conducted under subsection (a), the Administration shall evaluate the performance of the programs described in paragraphs (1) and (2) of subsection (a), using data from the most recent 4-year period. Such evaluation shall focus on the following factors:

(1) The number, dollar amount, and average size of the loans or financings under each program.

(2) The number, dollar amount, and average size of the loans or financings made to woman-owned and minority-owned businesses under each program.

(3) The geographic distribution of the loans or financings under each program.

(4) The jobs created or maintained attributable to the loans or financings under each program.

(5) The number, dollar amount, and average size of the loans or financings on which borrowers defaulted under each program.

(6) The amounts recovered by the Administration after default, foreclosure, or otherwise under each program.

(7) The number of companies which are no longer in business despite receiving the loans or financings under each program.

(8) The taxes paid by businesses which received the loans or financings under each program.

(9) Such other information as the Administration determines to be appropriate for a complete evaluation of each program.

(c) **CONTRACTING WITH INDEPENDENT ENTITIES.**—In carrying out subsections (a) and (b), the Administration may contract with an independent entity or entities—

- (1) to conduct the study pursuant to subsection (a); and
- (2) to develop a database of information to enable the Administration to maintain and access, on an ongoing basis, current information relating to the factors set forth in subsection (b).

(d) **DATE.**—The study authorized by subsection (a) shall be completed not later than September 30, 1995.

SEC. 607. SBIR VENDORS.

Section 9(q)(2) of the Small Business Act (15 U.S.C. 638(q)(2)) is amended to read as follows:

“(2) **VENDOR SELECTION.**—Each agency may select a vendor to assist small business concerns to meet the goals listed in paragraph (1) for a term not to exceed 3 years. Such selection shall be competitive and shall utilize merit-based criteria.”.

SEC. 608. PROGRAM EXTENSION.

Section 602(e) of the Business Opportunity Development Reform Act of 1988 (15 U.S.C. 637 note) is amended by striking “September 30, 1994”, and inserting “September 30, 1997”.

SEC. 609. PROHIBITION ON THE USE OF FUNDS FOR INDIVIDUALS NOT LAWFULLY WITHIN THE UNITED STATES.

Section 2 of the Small Business Act (15 U.S.C. 631) is amended by adding at the end the following new subsection:

“(i) **PROHIBITION ON THE USE OF FUNDS FOR INDIVIDUALS NOT LAWFULLY WITHIN THE UNITED STATES.**—None of the funds made available pursuant to this Act may be used to provide any direct benefit or assistance to any individual in the United States if the Administrator or the official to which the funds are made available receives notification that the individual is not lawfully within the United States.”.

SEC. 610. OFFICE OF ADVOCACY EMPLOYEES.

Section 204 of Public Law 94-305 (15 U.S.C. 634d) is amended—

(1) in the matter preceding paragraph (1), by striking “after consultation with and subject to the approval of the Administrator,”; and

(2) in paragraph (1), by striking “ten” and inserting “14”.

SEC. 611. PROHIBITION ON THE PROVISION OF ASSISTANCE.

Section 4 of the Small Business Act (15 U.S.C. 633) is amended by adding at the end the following new subsection:

“(e) **PROHIBITION ON THE PROVISION OF ASSISTANCE.**—Notwithstanding any other provision of law, the Administration is prohibited from providing any financial or other assistance to any business concern or other person engaged in the production or distribution of any product or service that has been determined to be obscene by a court of competent jurisdiction.”.

SEC. 612. CERTIFICATION OF COMPLIANCE WITH CHILD SUPPORT OBLIGATIONS.

Section 4 of the Small Business Act (15 U.S.C. 633), as amended by section 611, is amended by adding at the end the following new subsection:

“(f) CERTIFICATION OF COMPLIANCE WITH CHILD SUPPORT OBLIGATIONS.—

“(1) IN GENERAL.—For financial assistance approved after the promulgation of final regulations to implement this section, each recipient of financial assistance under this Act, including a recipient of a direct loan or a loan guarantee, shall certify that the recipient is not more than 60 days delinquent under the terms of any—

“(A) administrative order;

“(B) court order; or

“(C) repayment agreement entered into between the recipient and the custodial parent or State agency providing child support enforcement services, that requires the recipient to pay child support, as such term is defined in section 462(b) of the Social Security Act.

“(2) ENFORCEMENT.—Not later than 6 months after the date of enactment of this subsection, the Administration shall promulgate such regulations as may be necessary to enforce compliance with the requirements of this subsection.”.

Regulations.

SEC. 613. ADVOCACY STUDY OF PAPERWORK AND TAX IMPACT.

The Chief Counsel for Advocacy of the Small Business Administration shall conduct a study of the impact of all Federal regulatory, paperwork, and tax requirements upon small business, and report its findings to the Congress not later than 1 year after the date of enactment of this Act.

15 USC 634 note.

Reports.

Approved October 22, 1994.

LEGISLATIVE HISTORY—S. 2060 (H.R. 4801):

HOUSE REPORTS: Nos. 103-616 accompanying H.R. 4801 (Comm. on Small Business) and 103-824 (Comm. of Conference).

SENATE REPORTS: No. 103-332 (Comm. on Small Business).

CONGRESSIONAL RECORD, Vol. 140 (1994):

Aug. 18, considered and passed Senate.

Sept. 21, H.R. 4801 considered and passed House; S. 2060, amended, passed in lieu.

Oct. 4, House agreed to conference report.

Oct. 5, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 30 (1994):

Oct. 22, Presidential statement.