

109TH CONGRESS  
1ST SESSION

# S. 138

To make improvements to the microenterprise programs administered by  
the Small Business Administration.

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IN THE SENATE OF THE UNITED STATES

JANUARY 24, 2005

Mr. KERRY (for himself and Mr. BINGAMAN) introduced the following bill;  
which was read twice and referred to the Committee on Small Business  
and Entrepreneurship

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## A BILL

To make improvements to the microenterprise programs  
administered by the Small Business Administration.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “SBA Microenterprise  
5       Improvements Act”.

6       **SEC. 2. MICROLOAN PROGRAM IMPROVEMENTS.**

7       (a) INTERMEDIARY ELIGIBILITY REQUIREMENTS.—  
8       Section 7(m)(2) of the Small Business Act (15 U.S.C.  
9       636(m)(2)) is amended—

1 (1) in subparagraph (A), by striking “in para-  
 2 graph (10); and” and inserting “of the term ‘inter-  
 3 mediary’ under paragraph (11);”; and

4 (2) in subparagraph (B)—

5 (A) by striking “(B) has at least” and in-  
 6 serting the following:

7 “(B) has—

8 “(i) at least”; and

9 (B) by striking the period at the end and  
 10 inserting the following: “; or

11 “(ii) a full-time employee who has not  
 12 less than 3 years experience making  
 13 microloans to startup, newly established, or  
 14 growing small business concerns; and

15 “(C) has at least 1 year experience pro-  
 16 viding, as an integral part of its microloan pro-  
 17 gram, intensive marketing, management, and  
 18 technical assistance to its borrowers.”.

19 (b) CONFORMING CHANGE IN AVERAGE SMALLER  
 20 LOAN SIZE.—Section 7(m)(3)(F)(iii) of the Small Busi-  
 21 ness Act (15 U.S.C. 636(m)(3)(F)(iii)) is amended by  
 22 striking “\$7,500” and inserting “\$10,000”.

23 (c) LIMITATION ON THIRD PARTY TECHNICAL AS-  
 24 SISTANCE.—Section 7(m)(4)(E)(ii) of the Small Business  
 25 Act (15 U.S.C. 636(m)(4)(E)(ii)) is amended—

1           (1) by striking “TECHNICAL ASSISTANCE” and  
 2           inserting “THIRD PARTY TECHNICAL ASSISTANCE”;  
 3           and

4           (2) by striking “25 percent” and inserting “30  
 5           percent”.

6           (d) LOAN TERMS.—Section 7(m)(1)(B)(i) of the  
 7           Small Business Act (15 U.S.C. 636(m)(1)(B)(i)) is  
 8           amended by striking “short-term”.

9           (e) REPORT ON TRANSFERRED AMOUNTS.—Section  
 10          7(m)(9)(B) of the Small Business Act (15 U.S.C.  
 11          636(m)(9)(B)) is amended—

12           (1) by striking “The Administration” and in-  
 13           serting the following:

14                       “(i) IN GENERAL.—The Administra-  
 15                       tion”;

16           (2) by striking the period after “financing”;  
 17           and

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

19                       “(ii) REPORT.—The Administration  
 20                       shall report, in its annual budget request  
 21                       and performance plan to Congress, on the  
 22                       performance by the Administration of the  
 23                       requirements of clause (i).”.

1 (f) ACCURATE SUBSIDY MODEL.—Section 7(m) of  
 2 the Small Business Act (15 U.S.C. 636(m)) is amended  
 3 by adding at the end the following:

4 “(14) IMPROVED SUBSIDY MODEL.—The Ad-  
 5 ministrator shall develop a subsidy model for the  
 6 microloan program under this subsection, to be used  
 7 in the fiscal year 2006 budget, that is more accurate  
 8 than the subsidy model in effect on the day before  
 9 the date of enactment of this paragraph.”.

10 (g) INCREASED FLEXIBILITY FOR PROVIDING TECH-  
 11 NICAL ASSISTANCE TO POTENTIAL BORROWERS.—Section  
 12 7(m)(4)(E)(i) of the Small Business Act (15 U.S.C.  
 13 636(m)(4)(E)(i)) is amended by striking “25 percent” and  
 14 inserting “30 percent”.

15 **SEC. 3. PRIME REAUTHORIZATION AND TRANSFER TO THE**  
 16 **SMALL BUSINESS ACT.**

17 (a) PROGRAM REAUTHORIZATION.—Subtitle C of  
 18 title I of the Riegle Community Development and Regu-  
 19 latory Improvement Act of 1994 (15 U.S.C. 6901 note)  
 20 is amended to read as follows:

21 **“SEC. 37. PROGRAM FOR INVESTMENT IN MICROENTRE-**  
 22 **PRENEURS.**

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

1           “(1) ADMINISTRATION.—The term ‘Administra-  
2           tion’ means the Small Business Administration.

3           “(2) ADMINISTRATOR.—The term ‘Adminis-  
4           trator’ means the Administrator of the Small Busi-  
5           ness Administration.

6           “(3) CAPACITY BUILDING SERVICES.—The term  
7           ‘capacity building services’ means services provided  
8           to an organization that is, or that is in the process  
9           of becoming, a microenterprise development organi-  
10          zation or program, for the purpose of enhancing its  
11          ability to provide training and services to disadvan-  
12          taged entrepreneurs.

13          “(4) COLLABORATIVE.—The term ‘collabo-  
14          rative’ means 2 or more nonprofit entities that agree  
15          to act jointly as a qualified organization under this  
16          section.

17          “(5) DISADVANTAGED ENTREPRENEUR.—The  
18          term ‘disadvantaged entrepreneur’ means a micro-  
19          entrepreneur that—

20                 “(A) is a low-income person;

21                 “(B) is a very low-income person; or

22                 “(C) lacks adequate access to capital or  
23                 other resources essential for business success,  
24                 or is economically disadvantaged, as determined  
25                 by the Administrator.

1           “(6) DISADVANTAGED NATIVE AMERICAN EN-  
 2           TREPRENEUR.—The term ‘disadvantaged Native  
 3           American entrepreneur’ means a disadvantaged en-  
 4           trepreneur who is also a member of an Indian Tribe.

5           “(7) INDIAN TRIBE.—The term ‘Indian tribe’  
 6           has the same meaning as in section 4(a) of the In-  
 7           dian Self-Determination and Education Assistance  
 8           Act.

9           “(8) INTERMEDIARY.—The term ‘intermediary’  
 10          means a private, nonprofit entity that seeks to serve  
 11          microenterprise development organizations and pro-  
 12          grams, as authorized under subsection (d).

13          “(9) LOW-INCOME PERSON.—The term ‘low-in-  
 14          come person’ means having an income, adjusted for  
 15          family size, of not more than—

16                 “(A) for metropolitan areas, 80 percent of  
 17                 the area median income; and

18                 “(B) for nonmetropolitan areas, the great-  
 19                 er of—

20                         “(i) 80 percent of the area median in-  
 21                         come; or

22                         “(ii) 80 percent of the statewide non-  
 23                         metropolitan area median income.

1           “(10)    MICROENTREPRENEUR.—The     term  
2           ‘microentrepreneur’ means the owner or developer of  
3           a microenterprise.

4           “(11)   MICROENTERPRISE.—The   term ‘micro-  
5           enterprise’ means a sole proprietorship, partnership,  
6           or corporation that—

7                   “(A) has fewer than 5 employees; and

8                   “(B) generally lacks access to conventional  
9           loans, equity, or other banking services.

10          “(12)   MICROENTERPRISE DEVELOPMENT ORGA-  
11          NIZATION OR PROGRAM.—The term ‘microenterprise  
12          development organization or program’ means a non-  
13          profit entity, or a program administered by such an  
14          entity, including community development corpora-  
15          tions or other nonprofit development organizations  
16          and social service organizations, that provides serv-  
17          ices to disadvantaged entrepreneurs.

18          “(13)   TRAINING   AND   TECHNICAL   ASSIST-  
19          ANCE.—The term ‘training and technical assistance’  
20          means services and support provided to disadvan-  
21          taged entrepreneurs, such as assistance for the pur-  
22          pose of enhancing business planning, marketing,  
23          management, financial management skills, and as-  
24          sistance for the purpose of accessing financial serv-  
25          ices.

1           “(14) VERY LOW-INCOME PERSON.—The term  
 2           ‘very low-income person’ means having an income,  
 3           adjusted for family size, of not more than 150 per-  
 4           cent of the poverty line (as defined in section 673(2)  
 5           of the Community Services Block Grant Act (42  
 6           U.S.C. 9902(2)), including any revision required by  
 7           that section).

8           “(b) ESTABLISHMENT OF PROGRAM.—The Adminis-  
 9           trator shall establish a microenterprise technical assist-  
 10          ance and capacity building grant program to provide as-  
 11          sistance from the Administration in the form of grants  
 12          to qualified organizations in accordance with this section.

13          “(c) USES OF ASSISTANCE.—A qualified organization  
 14          shall use grants made under this section—

15                 “(1) to provide training and technical assist-  
 16                 ance to disadvantaged entrepreneurs;

17                 “(2) to provide training and capacity building  
 18                 services to microenterprise development organiza-  
 19                 tions and programs and groups of such organiza-  
 20                 tions to assist such organizations and programs in  
 21                 developing microenterprise training and services;

22                 “(3) to aid in researching and developing the  
 23                 best practices in the field of microenterprise and  
 24                 technical assistance programs for disadvantaged en-  
 25                 trepreneurs;



1           “(4) to provide training and technical assist-  
 2           ance to disadvantaged Native American entre-  
 3           preneurs and prospective entrepreneurs; and

4           “(5) for such other activities as the Adminis-  
 5           trator determines are consistent with the purposes of  
 6           this section.

7           “(d) QUALIFIED ORGANIZATIONS.—For purposes of  
 8           eligibility for assistance under this section, a qualified or-  
 9           ganization shall be—

10           “(1) a nonprofit microenterprise development  
 11           organization or program (or a group or collaborative  
 12           thereof) that has a demonstrated record of delivering  
 13           microenterprise services to disadvantaged entre-  
 14           preneurs;

15           “(2) an intermediary;

16           “(3) a microenterprise development organiza-  
 17           tion or program that is accountable to a local com-  
 18           munity, working in conjunction with a State or local  
 19           government or Indian tribe; or

20           “(4) an Indian tribe acting on its own, if the  
 21           Indian tribe can certify that no private organization  
 22           or program referred to in this subsection exists with-  
 23           in its jurisdiction.

24           “(e) ALLOCATION OF ASSISTANCE; SUBGRANTS.—

25           “(1) ALLOCATION OF ASSISTANCE.—

1           “(A) IN GENERAL.—The Administrator  
2 shall allocate assistance from the Administra-  
3 tion under this section to ensure that—

4           “(i) activities described in subsection  
5 (c)(1) are funded using not less than 75  
6 percent of amounts made available for  
7 such assistance; and

8           “(ii) activities described in subsection  
9 (c)(2) are funded using not less than 15  
10 percent of amounts made available for  
11 such assistance.

12           “(B) LIMIT ON INDIVIDUAL ASSISTANCE.—  
13 No single person may receive more than 10 per-  
14 cent of the total funds appropriated under this  
15 section in a single fiscal year.

16           “(2) TARGETED ASSISTANCE.—The Adminis-  
17 trator shall ensure that not less than 50 percent of  
18 the grants made under this section are used to ben-  
19 efit very low-income persons, including those resid-  
20 ing on Indian reservations.

21           “(3) SUBGRANTS AUTHORIZED.—

22           “(A) IN GENERAL.—A qualified organiza-  
23 tion receiving assistance under this section may  
24 provide grants using that assistance to qualified  
25 small and emerging microenterprise organiza-

1           tions and programs, subject to such rules and  
2           regulations as the Administrator determines to  
3           be appropriate.

4           “(B) LIMIT ON ADMINISTRATIVE EX-  
5           PENSES.—Not more than 7.5 percent of assist-  
6           ance received by a qualified organization under  
7           this section may be used for administrative ex-  
8           penses in connection with the making of sub-  
9           grants under subparagraph (A).

10          “(4) DIVERSITY.—In making grants under this  
11          section, the Administrator shall ensure that grant  
12          recipients include both large and small microenter-  
13          prise organizations, serving urban, rural, and Indian  
14          tribal communities serving diverse populations.

15          “(5) PROHIBITION ON PREFERENTIAL CONSID-  
16          ERATION OF CERTAIN SBA PROGRAM PARTICI-  
17          PANTS.—In making grants under this section, the  
18          Administrator shall ensure that any application  
19          made by a qualified organization that is a partici-  
20          pant in the program established under section 7(m)  
21          of the Small Business Act does not receive pref-  
22          erential consideration over applications from other  
23          qualified organizations that are not participants in  
24          such program.

25          “(f) MATCHING REQUIREMENTS.—

1           “(1) IN GENERAL.—Financial assistance under  
 2           this section shall be matched with funds from  
 3           sources other than the Federal Government on the  
 4           basis of not less than 50 percent of each dollar pro-  
 5           vided by the Administration.

6           “(2) SOURCES OF MATCHING FUNDS.—Fees,  
 7           grants, gifts, funds from loan sources, and in-kind  
 8           resources of a grant recipient from public or private  
 9           sources may be used to comply with the matching  
 10          requirement in paragraph (1).

11          “(3) EXCEPTION.—

12                 “(A) IN GENERAL.—In the case of an ap-  
 13                 plicant for assistance under this section with se-  
 14                 vere constraints on available sources of match-  
 15                 ing funds, the Administrator may reduce or  
 16                 eliminate the matching requirements of para-  
 17                 graph (1).

18                 “(B) LIMITATION.—Not more than 10 per-  
 19                 cent of the total funds made available from the  
 20                 Administration in any fiscal year to carry out  
 21                 this section may be excepted from the matching  
 22                 requirements of paragraph (1), as authorized by  
 23                 subparagraph (A) of this paragraph.

24          “(g) APPLICATIONS FOR ASSISTANCE.—An applica-  
 25          tion for assistance under this section shall be submitted

1 in such form and in accordance with such procedures as  
2 the Administrator shall establish.

3 “(h) RECORDKEEPING AND REPORTING.—

4 “(1) IN GENERAL.—Each organization that re-  
5 ceives assistance from the Administration in accord-  
6 ance with this section shall—

7 “(A) submit to the Administration not less  
8 than once in every 18-month period, financial  
9 statements audited by an independent certified  
10 public accountant;

11 “(B) submit an annual report to the Ad-  
12 ministration on its activities; and

13 “(C) keep such records as may be nec-  
14 essary to disclose the manner in which any as-  
15 sistance under this section is used.

16 “(2) ACCESS.—The Administration shall have  
17 access upon request, for the purposes of determining  
18 compliance with this section, to any records of any  
19 organization that receives assistance from the Ad-  
20 ministration in accordance with this section.

21 “(3) DATA COLLECTION.—Each organization  
22 that receives assistance from the Administration in  
23 accordance with this section shall collect information  
24 relating to, as applicable—

1           “(A) the number of individuals counseled  
2           or trained;

3           “(B) the number of hours of counseling  
4           provided;

5           “(C) the number of startup small business  
6           concerns formed;

7           “(D) the number of small business con-  
8           cerns expanded;

9           “(E) the number of low-income individuals  
10          counseled or trained; and

11          “(F) the number of very low-income indi-  
12          viduals counseled or trained.

13          “(i) AUTHORIZATION OF APPROPRIATIONS.—

14               “(1) IN GENERAL.—There are authorized to be  
15               appropriated to the Administrator \$15,000,000 for  
16               each of the fiscal years 2005 through 2007 to carry  
17               out the provisions of this section, which shall remain  
18               available until expended.

19               “(2) TRAINING FOR NATIVE AMERICAN ENTRE-  
20               PRENEURS.—In addition to the amount authorized  
21               under subsection (i)(1), there are authorized to be  
22               appropriated to the Administrator \$2,000,000 for  
23               each of the fiscal years 2005 through 2007 to carry  
24               out the provisions of subsection (c)(4), which shall  
25               remain available until expended.”.

1 (b) TRANSFER PROVISIONS.—

2 (1) SMALL BUSINESS ACT AMENDMENTS.—The  
3 Small Business Act (15 U.S.C. 631 et seq.) is  
4 amended by redesignating section 37 as section 38.

5 (2) TRANSFER.—Section 37 of the Riegle Com-  
6 munity Development and Regulatory Improvement  
7 Act of 1994 (15 U.S.C. 6901 note), as so designated  
8 by subsection (a) of this section, is transferred to,  
9 and inserted after, section 36 of the Small Business  
10 Act.

11 (c) REFERENCES.—All references in Federal law to  
12 the “Program for Investment in Microentrepreneurs Act  
13 of 1999” or the “PRIME Act” shall be deemed to be ref-  
14 erences to section 37 of the Small Business Act, as added  
15 by this section.

16 (d) RULE OF CONSTRUCTION.—Nothing in this sec-  
17 tion or the amendments made by this section shall affect  
18 any grant or assistance provided under the Program for  
19 Investment in Microentrepreneurs Act of 1999, before the  
20 date of enactment of this Act, and any such grant or as-  
21 sistance shall be subject to the Program for Investment  
22 in Microentrepreneurs Act of 1999, as in effect on the day  
23 before the date of enactment of this Act.

○