

111TH CONGRESS
2D SESSION

H. R. 5302

To establish the State Small Business Credit Initiative, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 13, 2010

Mr. PETERS (for himself, Mr. LEVIN, Mr. DINGELL, Mr. MAFFEI, Mr. SARBANES, Mr. REYES, Ms. NORTON, Mr. SCHAUER, Mr. PASCRELL, Mr. STUPAK, Ms. TSONGAS, Mr. WATT, Mr. TONKO, Mr. ETHERIDGE, Ms. LINDA T. SÁNCHEZ of California, Mr. ADLER of New Jersey, Mr. KANJORSKI, Mr. MOORE of Kansas, Mr. MICHAUD, Ms. SUTTON, Ms. BEAN, Mr. LIPINSKI, Ms. MOORE of Wisconsin, Mr. LOEBSACK, Mr. KILDEE, and Mr. MILLER of North Carolina) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To establish the State Small Business Credit Initiative, and for other purposes.

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 “State Small Business
5 Credit Initiative Act of 2010”.

1 **SEC. 2. DEFINITIONS.**

2 For purposes of this Act, the following definitions
3 shall apply:

4 (1) APPROPRIATE FEDERAL BANKING AGEN-
5 CY.—The term “appropriate Federal banking agen-
6 cy”—

7 (A) has the same meaning as in section 3
8 of the Federal Deposit Insurance Act; and

9 (B) includes the National Credit Union
10 Administration Board in the case of any credit
11 union the deposits of which are insured in ac-
12 cordance with the Federal Credit Union Act.

13 (2) ENROLLED LOAN.—The term “enrolled
14 loan” means a loan made by a financial institution
15 lender that is enrolled by a participating State in an
16 approved State capital access program in accordance
17 with this Act.

18 (3) FEDERAL CONTRIBUTION.—The term “Fed-
19 eral contribution” means the portion of the contribu-
20 tion made by a participating State to, or for the ac-
21 count of, an approved State program that is made
22 with Federal funds allocated to the State by the Sec-
23 retary under section 3.

24 (4) FINANCIAL INSTITUTION.—The term “fi-
25 nancial institution” means any insured depository
26 institution, insured credit union, or community de-

1 velopment financial institution, as those terms are
2 each defined in section 103 of the Riegle Community
3 Development and Regulatory Improvement Act of
4 1994.

5 (5) PARTICIPATING STATE.—The term “partici-
6 pating State” means any State that has been ap-
7 proved for participation in the Program under sec-
8 tion 4.

9 (6) PROGRAM.—The term “Program” means
10 the State Small Business Credit Initiative estab-
11 lished under this Act.

12 (7) QUALIFYING LOAN OR SWAP FUNDING FA-
13 CILITY.—The term “qualifying loan or swap funding
14 facility” means a contractual arrangement between a
15 participating State and a private financial entity
16 under which—

17 (A) the participating State delivers funds
18 to the entity as collateral;

19 (B) the entity provides funding from the
20 arrangement back to the participating State;
21 and

22 (C) the full amount of resulting funding
23 from the arrangement, less any fees and other
24 costs of the arrangement, is contributed to, or
25 for the account of, an approved State program.

1 (8) RESERVE FUND.—The term “reserve fund”
2 means a fund, established by a participating State,
3 dedicated to a particular financial institution lender,
4 for the purposes of—

5 (A) depositing all required premium
6 charges paid by the financial institution lender
7 and by each borrower receiving a loan under an
8 approved State program from that financial in-
9 stitution lender;

10 (B) depositing contributions made by the
11 participating State, including State contribu-
12 tions made with Federal contributions; and

13 (C) covering losses on enrolled loans by
14 disbursing accumulated funds.

15 (9) STATE.—The term “State” means—

16 (A) a State of the United States;

17 (B) the District of Columbia;

18 (C) when designated by a State of the
19 United States, a political subdivision of that
20 State that the Secretary determines has the ca-
21 pacity to participate in the Program; and

22 (D) under the circumstances described in
23 section 4(d), a municipality of a State of the
24 United States to which the Secretary has given
25 a special permission under section 4(d).

1 (10) STATE CAPITAL ACCESS PROGRAM.—The
2 term “State capital access program” means a pro-
3 gram of a State that—

4 (A) uses public resources to promote pri-
5 vate access to credit; and

6 (B) meets the eligibility criteria in section
7 5(c).

8 (11) STATE OTHER CREDIT SUPPORT PRO-
9 GRAM.—The term “State other credit support pro-
10 gram”—

11 (A) means a program of a State that—

12 (i) uses public resources to promote
13 private access to credit;

14 (ii) is not a State capital access pro-
15 gram; and

16 (iii) meets the eligibility criteria in
17 section 6(c); and

18 (B) includes, collateral support programs,
19 loan participation programs, and credit guar-
20 antee programs.

21 (12) STATE PROGRAM.—The term “State pro-
22 gram” means a State capital access program or a
23 State other credit support program.

24 (13) SECRETARY.—The term “Secretary”
25 means the Secretary of the Treasury.

1 **SEC. 3. FEDERAL FUNDS ALLOCATED TO STATES.**

2 (a) PROGRAM ESTABLISHED; PURPOSE.—There is
3 established the State Small Business Credit Initiative
4 (Program), to be administered by the Secretary. Under
5 the Program, the Secretary shall allocate Federal funds
6 to participating States and make the allocated funds avail-
7 able to the participating States as provided in this section
8 for the uses described in this section.

9 (b) ALLOCATION FORMULA.—

10 (1) IN GENERAL.—Not later than 30 days after
11 the date of enactment of this Act, the Secretary
12 shall allocate Federal funds to participating States
13 so that each State is eligible to receive an amount
14 equal to the average of the respective amounts that
15 the State—

16 (A) would receive under the 2009 Alloca-
17 tion; and

18 (B) would receive under the 2010 Alloca-
19 tion.

20 (2) 2009 ALLOCATION FORMULA.—

21 (A) IN GENERAL.—The Secretary shall de-
22 termine the 2009 Allocation by allocating Fed-
23 eral funds among the States in the proportion
24 that each such State's 2008 State employment
25 decline bears to the aggregate of the 2008
26 State employment declines for all States.

(B) MINIMUM ALLOCATION.—The Secretary shall adjust the allocations under subparagraph (A) for each State to the extent necessary to ensure that no State receives less than 0.9 percent of the Federal funds.

(C) 2008 STATE EMPLOYMENT DECLINE DEFINED.—For purposes of this paragraph and with respect to a State, the term “2008 State employment decline” means the excess (if any) of—

(i) the number of individuals employed in such State determined for December 2007; over

(ii) the number of individuals employed in such State determined for December 2008.

(3) 2010 ALLOCATION FORMULA.—

(A) IN GENERAL.—The Secretary shall determine the 2010 Allocation by allocating Federal funds among the States in the proportion that each such State’s 2009 unemployment number bears to the aggregate of the 2009 unemployment numbers for all of the States.

(B) MINIMUM ALLOCATION.—The Secretary shall adjust the allocations under sub-

1 paragraph (A) for each State to the extent nec-
2 essary to ensure that no State receives less than
3 0.9 percent of the Federal funds.

4 (C) 2009 UNEMPLOYMENT NUMBER DE-
5 FINED.—For purposes of this paragraph and
6 with respect to a State, the term “2009 unem-
7 ployment number” means the number of indi-
8 viduals within such State who were determined
9 to be unemployed by the Bureau of Labor Sta-
10 tistics for December 2009.

11 (c) AVAILABILITY OF ALLOCATED AMOUNT.—The
12 amount allocated by the Secretary to each participating
13 State under subsection (b) shall be made available to the
14 State as follows:

15 (1) ALLOCATED AMOUNT GENERALLY TO BE
16 AVAILABLE TO STATE IN ONE-THIRDS.—Except as
17 provided in paragraph (2)—

18 (A) the Secretary shall apportion the par-
19 ticipating State’s allocated amount into one-
20 thirds;

21 (B) the Secretary shall transfer to the par-
22 ticipating State the first one-third when the
23 Secretary approves the State for participation
24 under section 4; and

1 (C) the Secretary shall transfer to the par-
2 ticipating State each successive one-third when
3 the State has certified to the Secretary that it
4 has expended, transferred, or obligated 80 per-
5 cent of the last transferred one-third for Fed-
6 eral contributions to, or for the account of,
7 State programs.

8 The Secretary may withhold the transfer of any suc-
9 cessive one-third pending results of a financial audit.

10 (2) EXCEPTION.—The Secretary may, in the
11 Secretary's discretion, transfer the full amount of
12 the participating State's allocated amount to the
13 State in a single transfer if the participating State
14 applies to the Secretary for approval to use the full
15 amount of the allocation as collateral for a quali-
16 fying loan or swap funding facility.

17 (3) TRANSFERRED AMOUNTS.—Each amount
18 transferred to a participating State under this sec-
19 tion shall remain available to the State until used by
20 the State as permitted under paragraph (4).

21 (4) USE OF TRANSFERRED FUNDS.—Each par-
22 ticipating State may use funds transferred to it
23 under this section only—

24 (A) for making Federal contributions to, or
25 for the account of, an approved State program;

1 (B) as collateral for a qualifying loan or
2 swap funding facility;

3 (C) in the case of the first one-third trans-
4 ferred, for paying administrative costs incurred
5 by the State in implementing an approved State
6 program in an amount not to exceed 5 percent
7 of that first one-third; or

8 (D) in the case of each successive one-third
9 transferred, for paying administrative costs in-
10 curred by the State in implementing an ap-
11 proved State program in an amount not to ex-
12 ceed 3 percent of that successive one-third.

13 (5) TERMINATION OF AVAILABILITY OF
14 AMOUNTS NOT TRANSFERRED WITHIN 2 YEARS OF
15 PARTICIPATION.—Any portion of a participating
16 State’s allocated amount that has not been trans-
17 ferred to the State under this section by the end of
18 the 2-year period beginning on the date that the
19 Secretary approves the State for participation may
20 be deemed by the Secretary to be no longer allocated
21 to the State and no longer available to the State and
22 shall be returned to the General Fund.

23 (6) DEFINITIONS.—For purposes of this sec-
24 tion—

1 (A) the term “allocated amount” means
2 the total amount of Federal funds allocated by
3 the Secretary under subsection (b) to the par-
4 ticipating State; and

5 (B) the term “one-third” means—

6 (i) in the case of the first and second
7 one-thirds, an amount equal to 33 percent
8 of a participating State’s allocated amount;
9 and

10 (ii) in the case of the last one-third,
11 an amount equal to 34 percent of a partici-
12 pating State’s allocated amount.

13 **SEC. 4. APPROVING STATES FOR PARTICIPATION.**

14 (a) APPLICATION.—Any State may apply to the Sec-
15 retary for approval to be a participating State under the
16 Program and to be eligible for an allocation of Federal
17 funds under the Program.

18 (b) GENERAL APPROVAL CRITERIA.—The Secretary
19 shall approve a State to be a participating State, if—

20 (1) a specific department, agency, or political
21 subdivision of the State has been designated to im-
22 plement a State program and participate in the Pro-
23 gram;

24 (2) all legal actions necessary to enable such
25 designated department, agency, or political subdivi-

1 sion to implement a State program and participate
2 in the Program have been accomplished;

3 (3) the State has filed an application with the
4 Secretary for approval of a State capital access pro-
5 gram under section 5 or approval as a State other
6 credit support program under section 6, in each case
7 within the time period provided in the respective sec-
8 tion; and

9 (4) the State and the Secretary have executed
10 an allocation agreement that—

11 (A) conforms to the requirements of this
12 Act;

13 (B) ensures that the State program com-
14 plies with such national standards as are estab-
15 lished by the Secretary under section 9(a)(2);

16 (C) sets forth internal control, compliance,
17 and reporting requirements as established by
18 the Secretary, and such other terms and condi-
19 tions necessary to carry out the purposes of this
20 Act, including an agreement by the State to
21 allow the Secretary to audit State programs;

22 (D) requires that the State program be
23 fully positioned, within 90 days of the State's
24 execution of the allocation agreement with the
25 Secretary, to act on providing the kind of credit

1 support that the State program was established
2 to provide; and

3 (E) includes an agreement by the State to
4 deliver to the Secretary, and update annually, a
5 schedule describing how the State intends to
6 apportion among its State programs the Fed-
7 eral funds allocated to the State.

8 (c) CONTRACTUAL ARRANGEMENTS FOR IMPLEMEN-
9 TATION OF STATE PROGRAMS.—A State may be approved
10 to be a participating State, and be eligible for an allocation
11 of Federal funds under the Program, if the State has con-
12 tractual arrangements for the implementation and admin-
13 istration of its State program with—

14 (1) an existing, approved State program admin-
15 istered by another State; or

16 (2) an authorized agent of, or entity supervised
17 by, the State, including for-profit and not-for-profit
18 entities.

19 (d) SPECIAL PERMISSION.—

20 (1) CIRCUMSTANCES WHEN A MUNICIPALITY
21 MAY APPLY DIRECTLY.—If a State does not, within
22 60 days after the date of enactment of this Act, file
23 with the Secretary a notice of its intent to apply for
24 approval by the Secretary of a State program or
25 within 9 months after the date of enactment of this

1 Act, file with the Secretary a complete application
2 for approval of a State program, the Secretary may
3 grant to municipalities of that State a special per-
4 mission that will allow them to apply directly to the
5 Secretary without the State for approval to be par-
6 ticipating municipalities.

7 (2) TIMING REQUIREMENTS APPLICABLE TO
8 MUNICIPALITIES APPLYING DIRECTLY.—To qualify
9 for the special permission, a municipality of a State
10 must, within 12 months after the date of enactment
11 of this Act, file with the Secretary a complete appli-
12 cation for approval by the Secretary of a State pro-
13 gram.

14 (3) NOTICES OF INTENT AND APPLICATIONS
15 FROM MORE THAN 1 MUNICIPALITY.—A municipality
16 of a State may combine with 1 or more other mu-
17 nicipalities of that State to file a joint notice of in-
18 tent to file and a joint application.

19 (4) APPROVAL CRITERIA.—The general ap-
20 proval criteria in paragraphs (2) and (4) of section
21 4(b) will apply.

22 (5) ALLOCATION TO MUNICIPALITIES.—

23 (A) IF MORE THAN 3.—If more than 3 mu-
24 nicipalities, or combination of municipalities as
25 provided in paragraph (3), of a State apply for

1 approval by the Secretary to be participating
2 municipalities under this subsection, and the
3 applications meet the approval criteria in para-
4 graph (4), the Secretary shall allocate Federal
5 funds to the 3 municipalities with the largest
6 populations.

7 (B) IF 3 OR FEWER.—If 3 or fewer mu-
8 nicipalities, or combination of municipalities as
9 provided in paragraph (3), of a State apply for
10 approval by the Secretary to be participating
11 municipalities under this subsection, and the
12 applications meet the approval criteria in para-
13 graph (4), the Secretary shall allocate Federal
14 funds to each applicant municipality or com-
15 bination of municipalities.

16 (6) APPORTIONMENT OF ALLOCATED AMOUNT
17 AMONG PARTICIPATING MUNICIPALITIES.—If the
18 Secretary approves municipalities to be participating
19 municipalities under this subsection, the Secretary
20 shall apportion the full amount of the Federal funds
21 that are allocated to that State to municipalities
22 that are approved under this subsection in amounts
23 proportionate to the population of those municipali-
24 ties, based on the most recent available decennial
25 Census.

1 (7) APPROVING STATE PROGRAMS FOR MUNICI-
2 PALITIES.—If the Secretary approves municipalities
3 to be participating municipalities under this sub-
4 section, the Secretary shall take into account the ad-
5 ditional considerations in section 6(d) in making the
6 determination under section 5 or 6 that the State
7 program or programs to be implemented by the par-
8 ticipating municipalities, including a State capital
9 access program, is eligible for Federal contributions
10 to, or for the account of, the State program.

11 **SEC. 5. APPROVING STATE CAPITAL ACCESS PROGRAMS.**

12 (a) APPLICATION.—A participating State that estab-
13 lishes a new, or has an existing, State capital access pro-
14 gram that meets the eligibility criteria in subsection (c)
15 may apply to Secretary to have the State capital access
16 program approved as eligible for Federal contributions to
17 the reserve fund.

18 (b) APPROVAL.—The Secretary shall approve such
19 State capital access program as eligible for Federal con-
20 tributions to the reserve fund if—

21 (1) within 60 days after the date of enactment
22 of this Act, the State has filed with the Secretary a
23 notice of intent to apply for approval by the Sec-
24 retary of a State capital access program;

1 (2) within 9 months after the date of enactment
2 of this Act, the State has filed with the Secretary a
3 complete application for approval by the Secretary of
4 a capital access program;

5 (3) the State satisfies the requirements of sub-
6 sections (a) and (b) of section 4; and

7 (4) the State capital access program meets the
8 eligibility criteria in subsection (c).

9 (c) ELIGIBILITY CRITERIA FOR STATE CAPITAL AC-
10 CESS PROGRAMS.—For a State capital access program to
11 be approved under this section, it must be a program of
12 the State that—

13 (1) provides portfolio insurance for business
14 loans based on a separate loan-loss reserve fund for
15 each financial institution;

16 (2) requires insurance premiums to be paid by
17 the financial institution lenders and by the business
18 borrowers to the reserve fund to have their loans en-
19 rolled in the reserve fund;

20 (3) provides for contributions to be made by the
21 State to the reserve fund in amounts at least equal
22 to the sum of the amount of the insurance premium
23 charges paid by the borrower and the financial insti-
24 tution to the reserve fund for any newly enrolled
25 loan; and

1 (4) provides its portfolio insurance solely for
2 loans that meet the following requirements:

3 (A) the borrower has 500 employees or less
4 at the time that the loan is enrolled in the Pro-
5 gram; and

6 (B) the loan amount does not exceed
7 \$5,000,000.

8 (d) FEDERAL CONTRIBUTIONS TO APPROVED STATE
9 CAPITAL ACCESS PROGRAMS.—A State capital access pro-
10 gram approved under this section will be eligible for receiv-
11 ing Federal contributions to the reserve fund in an
12 amount equal to the sum of the amount of the insurance
13 premium charges paid by the borrowers and by the finan-
14 cial institution to the reserve fund for loans that meet the
15 requirements in subsection (c)(4). A participating State
16 may use the Federal contribution to make its contribution
17 to the reserve fund of an approved State capital access
18 program.

19 (e) MINIMUM PROGRAM REQUIREMENTS FOR STATE
20 CAPITAL ACCESS PROGRAMS.—The Secretary shall, by
21 regulation or other guidance, prescribe Program require-
22 ments that meet the following minimum requirements.

23 (1) EXPERIENCE AND CAPACITY.—The partici-
24 pating State shall determine for each financial insti-
25 tution that participates in the State capital access

1 program, after consultation with the appropriate
2 Federal banking agency or, in the case of a financial
3 institution that is a non-depository community devel-
4 opment financial institution, the Community Devel-
5 opment Financial Institution Fund, that the finan-
6 cial institution has sufficient commercial lending ex-
7 perience and financial and managerial capacity to
8 participate in the approved State capital access pro-
9 gram. The determination by the State shall not be
10 reviewable by the Secretary.

11 (2) INVESTMENT AUTHORITY.—Subject to ap-
12 plicable State law, the participating State may in-
13 vest, or cause to be invested, funds held in a reserve
14 fund by establishing a deposit account at the finan-
15 cial institution lender in the name of the partici-
16 pating State. In the event that funds in the reserve
17 fund are not deposited in such an account, such
18 funds shall be invested in a form that the partici-
19 pating State determines is safe and liquid.

20 (3) LOAN TERMS AND CONDITIONS TO BE DE-
21 TERMINED BY AGREEMENT.—A loan to be filed for
22 enrollment in an approved State capital access pro-
23 gram may be made with such interest rate, fees, and
24 other terms and conditions, and the loan may be en-
25 rolled in the approved State capital access program

1 and claims may be filed and paid, as agreed upon
2 by the financial institution lender and the borrower,
3 consistent with applicable law.

4 (4) LENDER CAPITAL AT-RISK.—A loan to be
5 filed for enrollment in the State capital access pro-
6 gram must require the financial institution lender to
7 have a meaningful amount of its own capital re-
8 sources at risk in the loan.

9 (5) PREMIUM CHARGES MINIMUM AND MAX-
10 IMUM AMOUNTS.—The insurance premium charges
11 payable to the reserve fund by the borrower and the
12 financial institution lender shall be prescribed by the
13 financial institution lender, within minimum and
14 maximum limits that require that the sum of the in-
15 surance premium charges paid in connection with a
16 loan by the borrower and the financial institution
17 lender may not be less than 2 percent nor more than
18 7 percent of the amount of the loan enrolled in the
19 approved State capital access program.

20 (6) STATE CONTRIBUTIONS.—In enrolling a
21 loan in an approved State capital access program,
22 the participating State may make a contribution to
23 the reserve fund to supplement Federal contribu-
24 tions made under this Program.

25 (7) LOAN PURPOSE.—

1 (A) PARTICULAR LOAN PURPOSE REQUIRE-
2 MENTS AND PROHIBITIONS.—In connection
3 with the filing of a loan for enrollment in an
4 approved State capital access program, the fi-
5 nancial institution lender—

6 (i) shall obtain an assurance from
7 each borrower that—

8 (I) the proceeds of the loan will
9 be used for a business purpose;

10 (II) the loan will not be used to
11 finance such business activities as the
12 Secretary, by regulation, may pro-
13 scribe as prohibited loan purposes for
14 enrollment in an approved State cap-
15 ital access program; and

16 (III) the borrower is not—

17 (aa) an executive officer, di-
18 rector, or principal shareholder of
19 the financial institution lender;

20 (bb) a member of the imme-
21 diate family of an executive offi-
22 cer, director, or principal share-
23 holder of the financial institution
24 lender; or

1 (cc) a related interest of any
2 such executive officer, director,
3 principal shareholder, or member
4 of the immediate family;

5 (ii) shall provide assurances to the
6 participating State that the loan has not
7 been made in order to place under the pro-
8 tection of the approved State capital access
9 program prior debt that is not covered
10 under the approved State capital access
11 program and that is or was owed by the
12 borrower to the financial institution lender
13 or to an affiliate of the financial institution
14 lender;

15 (iii) shall not allow the enrollment of
16 a loan to a borrower that is a refinancing
17 of a loan previously made to that borrower
18 by the financial institution lender or an af-
19 filiate of the financial institution lender;
20 and

21 (iv) may include additional restric-
22 tions on the eligibility of loans or bor-
23 rowers that are not inconsistent with the
24 provisions and purposes of this Act, includ-
25 ing compliance with all applicable Federal

1 and State laws, regulations, ordinances,
2 and Executive orders.

3 (B) DEFINITIONS.—For purposes of this
4 subsection, the terms “executive officer”, “di-
5 rector”, “principal shareholder”, “immediate
6 family”, and related interest refer to the same
7 relationship to a financial institution lender as
8 the relationship described in part 215 of title
9 12 of the Code of Federal Regulations, or any
10 successor to such part.

11 **SEC. 6. APPROVING COLLATERAL SUPPORT AND OTHER IN-**
12 **NOVATIVE CREDIT ACCESS AND GUARANTEE**
13 **INITIATIVES FOR SMALL BUSINESSES AND**
14 **MANUFACTURERS.**

15 (a) APPLICATION.—A participating State that estab-
16 lishes a new, or has an existing, credit support program
17 that meets the eligibility criteria in subsection (c) may
18 apply to the Secretary to have the State other credit sup-
19 port program approved as eligible for Federal contribu-
20 tions to, or for the account of, the State program.

21 (b) APPROVAL.—The Secretary shall approve such
22 State other credit support program as eligible for Federal
23 contributions to, or for the account of, the program if—

1 (1) the Secretary determines that the State sat-
2 isfies the requirements of paragraphs (1) through
3 (3) of subsection 5(b);

4 (2) the Secretary determines that the State
5 other credit support program meets the eligibility
6 criteria in subsection (c);

7 (3) the Secretary determines the State other
8 credit support program to be eligible based on the
9 additional considerations in subsection (d); and

10 (4) within 9 months after the date of enactment
11 of this Act, the State has filed with Treasury a com-
12 plete application for Treasury approval.

13 (c) ELIGIBILITY CRITERIA FOR STATE OTHER CRED-
14 IT SUPPORT PROGRAMS.—For a State other credit sup-
15 port program to be approved under this section, it must
16 be a program of the State that—

17 (1) can demonstrate that, at a minimum, 1 dol-
18 lar of public investment by the State program will
19 cause and result in 1 dollar of new private credit;

20 (2) can demonstrate a reasonable expectation
21 that, when considered with all other State programs
22 of the State, such State programs together have the
23 ability to use amounts of new Federal contributions
24 to, or for the account of, all such programs in the
25 State to cause and result in amounts of new small

1 business lending at least 10 times the new Federal
2 contribution amount;

3 (3) for those State other credit support pro-
4 grams that provide their credit support through 1 or
5 more financial institution lenders, requires the finan-
6 cial institution lenders to have a meaningful amount
7 of their own capital resources at risk in their small
8 business lending; and

9 (4) extends credit support that meets the fol-
10 lowing requirements:

11 (A) targets an average borrower size of
12 500 employees or less;

13 (B) does not extend credit support to bor-
14 rowers that have more than 750 employees;

15 (C) targets support towards loans with an
16 average principal amount of \$5,000,000 or less;
17 and

18 (D) does not extend credit support to loans
19 that exceed a principal amount of \$20,000,000.

20 (d) ADDITIONAL CONSIDERATIONS.—In making a de-
21 termination that a State other credit support program is
22 eligible for Federal contributions to, or for the account
23 of, the State program, the Secretary shall take into ac-
24 count the following additional considerations:

1 (1) the anticipated benefits to the State, its
2 businesses, and its residents to be derived from the
3 Federal contributions to, or for the account of, the
4 approved State other credit support program, includ-
5 ing the extent to which resulting small business
6 lending will expand economic opportunities;

7 (2) the operational capacity, skills, and experi-
8 ence of the management team of the State other
9 credit support program;

10 (3) the capacity of the State other credit sup-
11 port program to manage increases in the volume of
12 its small business lending;

13 (4) the internal accounting and administrative
14 controls systems of the State other credit support
15 program, and the extent to which they can provide
16 reasonable assurance that funds of the State pro-
17 gram are safeguarded against waste, loss, unauthor-
18 ized use, or misappropriation; and

19 (5) the soundness of the program design and
20 implementation plan of the State other credit sup-
21 port program.

22 (e) FEDERAL CONTRIBUTIONS TO APPROVED STATE
23 OTHER CREDIT SUPPORT PROGRAMS.—A State other
24 credit support program approved under this section will
25 be eligible for receiving Federal contributions to, or for

1 the account of, the State program in an amount consistent
2 with the schedule describing the apportionment of allo-
3 cated Federal funds among State programs delivered by
4 the State to the Secretary under the allocation agreement.

5 (f) MINIMUM PROGRAM REQUIREMENTS FOR STATE
6 OTHER CREDIT SUPPORT PROGRAMS.—

7 (1) FUND TO PRESCRIBE.—The Secretary shall,
8 by regulation or other guidance, prescribe Program
9 requirements for approved State other credit support
10 programs.

11 (2) CONSIDERATIONS FOR FUND.—In pre-
12 scribing minimum Program requirements for ap-
13 proved State other credit support programs, the Sec-
14 retary shall take into consideration, to the extent the
15 Secretary determines applicable and appropriate, the
16 minimum Program requirements for approved State
17 capital access programs in section 5(e).

18 **SEC. 7. REPORTS.**

19 (a) QUARTERLY USE-OF-FUNDS REPORT.—

20 (1) IN GENERAL.—Not later than 30 days after
21 the beginning of each calendar quarter, beginning
22 after the first full calendar quarter to occur after
23 the date the Secretary approves a State for partici-
24 pation, the participating State shall submit to the
25 Secretary a report on the use of Federal funding by

1 the participating State during the previous calendar
2 quarter.

3 (2) REPORT CONTENTS.—The report shall—

4 (A) indicate the total amount of Federal
5 funding used by the participating State;

6 (B) include a certification by the partici-
7 pating State that—

8 (i) the information provided in accord-
9 ance with subparagraph (A) is accurate;

10 (ii) funds continue to be available and
11 legally committed to contributions by the
12 State to, or for the account of, approved
13 State programs, less any amount that has
14 been contributed by the State to, or for the
15 account of, approved State programs sub-
16 sequent to the State being approved for
17 participation in the Program; and

18 (iii) the participating State is imple-
19 menting its approved State program or
20 programs in accordance with this Act and
21 regulations issued pursuant to section 10.

22 (b) ANNUAL REPORT.—Not later than March 31 of
23 each year, beginning March 31, 2011, each participating
24 State shall submit to the Secretary an annual report that
25 shall include the following information:

1 (1) The number of borrowers that received new
2 loans originated under the approved State program
3 or programs after the State program was approved
4 as eligible for Federal contributions.

5 (2) The total amount of such new loans.

6 (3) Breakdowns by industry type, loan size, an-
7 nual sales, and number of employees of the bor-
8 rowers that received such new loans.

9 (4) The zip code of each borrower that received
10 such a new loan.

11 (5) Such other data that the Secretary, in the
12 Secretary's sole discretion, may require to carry out
13 the purposes of the Program.

14 (c) FORM.—The reports and data filed pursuant to
15 subsections (a) and (b) shall be in such form as the Sec-
16 retary, in the Secretary's sole discretion, may require.

17 (d) TERMINATION OF REPORTING REQUIRE-
18 MENTS.—The requirement to submit reports under sub-
19 sections (a) and (b) shall terminate for a participating
20 State with the submission of the completed reports due
21 on the first March 31 to occur after 5 complete 12-month
22 periods after the State is approved by the Secretary to
23 be a participating State.

1 **SEC. 8. REMEDIES FOR STATE PROGRAM TERMINATION OR**
2 **FAILURES.**

3 (a) REMEDIES.—

4 (1) IN GENERAL.—If any of the events listed in
5 paragraph (2) occur, the Secretary, in the Sec-
6 retary's discretion, may—

7 (A) reduce the amount of Federal funds al-
8 located to the State under the Program; or

9 (B) terminate any further transfers of allo-
10 cated amounts that have not yet been trans-
11 ferred to the State.

12 (2) CAUSAL EVENTS.—The events referred to in
13 paragraph (1) are—

14 (A) termination by a participating State of
15 its participation in the Program;

16 (B) failure on the part of a participating
17 State to submit complete reports under section
18 7 on a timely basis; or

19 (C) noncompliance by the State with the
20 terms of the allocation agreement between the
21 Secretary and the State.

22 (b) DE-ALLOCATED AMOUNTS TO BE RE-ALLO-
23 CATED.—If, after 13 months, any portion of the amount
24 of Federal funds allocated to a participating State is
25 deemed by the Secretary to be no longer allocated to the
26 State after actions taken by the Secretary under sub-

1 section (a)(1), the Secretary shall re-allocate that portion
2 among the participating States, excluding the State whose
3 allocated funds were deemed to be no longer allocated, as
4 provided in section 3(b).

5 **SEC. 9. IMPLEMENTATION AND ADMINISTRATION.**

6 (a) GENERAL AUTHORITIES AND DUTIES.—The Sec-
7 retary shall—

8 (1) consult with the Administrator of the Small
9 Business Administration and the appropriate Fed-
10 eral banking agencies on the administration of the
11 Program;

12 (2) establish minimum national standards for
13 approved State programs;

14 (3) provide technical assistance to States for
15 starting State programs and generally disseminate
16 best practices;

17 (4) manage, administer, and perform necessary
18 program integrity functions for the Program; and

19 (5) ensure adequate oversight of the approved
20 State programs, including oversight of the cash
21 flows, performance, and compliance of each approved
22 State program.

23 (b) FUNDING.—There are hereby appropriated to the
24 Secretary, out of funds in the Treasury not otherwise ap-
25 propriated, \$2,000,000,000 to carry out the Program, in-

cluding to pay reasonable costs of administering the Program. In administering the Program, the Secretary is authorized to use the staff and resources of the Department.

(c) EXPEDITED CONTRACTING.—During the 1-year period beginning on the date of enactment of this Act, the Secretary may enter into contracts without regard to any other provision of law regarding public contracts, for purposes of carrying out this Act.

(d) TERMINATION OF SECRETARY’S PROGRAM ADMINISTRATION FUNCTIONS.—The authorities and duties of the Secretary to implement and administer the Program shall terminate at the end of the 7-year period beginning on the date of enactment of this Act.

SEC. 10. REGULATIONS.

The Secretary, in consultation with the Administrator of the Small Business Administration, shall issue such regulations and other guidance as Secretary determines necessary or appropriate to implement this Act including, but not limited to, to define terms, to establish compliance and reporting requirements, and such other terms and conditions necessary to carry out the purposes of this Act.

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