II

115TH CONGRESS
2D SESSION

S. 3256

To support businesses in Puerto Rico, extend child tax credits for families in Puerto Rico, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 24, 2018

Mr. HATCH (for himself and Mr. RUBIO) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To support businesses in Puerto Rico, extend child tax credits for families in Puerto Rico, and for other purposes.

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 "Puerto Rico Economic Empowerment Act of 2018".

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

Sec. 1. Short title; table of contents.

TITLE I—TAX RELIEF

Sec. 101. Temporary employee payroll tax cut for residents of Puerto Rico.
Sec. 102. Equal treatment of Puerto Rican families with 1 or more children that is currently provided to families with 3 or more children.

TITLE II—FLEXIBILITY FOR PUERTO RICO IN SMALL BUSINESS ADMINISTRATION PROGRAMS

Sec. 201. Short title.
Sec. 202. Definitions.

Subtitle A—Lending

Sec. 211. Microloan program for Puerto Rico small business concerns.

Subtitle B—Procurement

Sec. 221. Priority for surplus property transfers.
Sec. 222. Subcontracting incentives for protege firms that are Puerto Rico businesses.
Sec. 223. Additional mentor-protege relationships for protege firms that are Puerto Rico businesses.

Subtitle C—Entrepreneurial Development

Sec. 231. FAST grant program for Puerto Rico.

Subtitle D—Small Business Administration Oversight

Sec. 241. Requirement for the District Director of Puerto Rico.

Subtitle E—Disaster Loan Program Expansion

Sec. 251. Amendment to definition of disaster for 7(b) loans.

Subtitle F—Amendment to the Investment Company Act of 1940

Sec. 261. Termination of exemption for companies in territories of the United States.

TITLE III—ECONOMIC STATISTICS

Sec. 301. Definition.
Sec. 302. Inclusion of Puerto Rico in Census surveys.
Sec. 303. Federal Statistical Research Data Center.

TITLE IV—OFFSETS

Sec. 401. Prevention and Public Health Fund.

TITLE I—TAX RELIEF

SEC. 101. TEMPORARY EMPLOYEE PAYROLL TAX CUT FOR RESIDENTS OF PUERTO RICO.

(a) IN GENERAL.—Notwithstanding any other provision of law, in the case of a qualified resident of Puerto Rico—

(1) there shall be allowed a credit against the tax imposed by section 1401(a) of the Internal Revenue Code of 1986 for any taxable year which begins in the payroll tax holiday period an amount equal to 3.1 percent of the lesser of—

(A) self-employment income (as defined in section 1402(b) of such Code) for the taxable year; or

(B) net earnings from self-employment (as defined in section 1402(a) of such Code) for the taxable year; and

(2) with respect to remuneration received during the payroll tax holiday period for services performed as an employee (except amounts received for services performed as an employee of the United States, as defined in section 7701(a)(9) of such Code, or any agency thereof), the rate of tax under 3101(a) of such Code shall be 3.1 percent (including for purposes of determining the applicable percentage under sections 3201(a) and 3211(a) of such Code).

(b) SPECIAL RULES.—

(1) APPLICATION OF RULE FOR SPECIAL REFUNDS.—In the case of a qualified resident of Puerto Rico to whom subsection (a)(2) applies, the first

sentence of section 6413(c)(1) of the Internal Revenue Code of 1986 shall be applied by substituting for "exceeds the tax with respect to the amount of such wages received in such year which is equal to such contribution and benefit base" the following: "exceeds the sum of—

"(1) 3.1 percent of the lesser of—

"(A) the wages received in such year to which section 2(a)(2) of the Puerto Rico Economic Empowerment Act of 2018 applies, or

"(B) the contribution and benefit base, plus

"(2) 6.2 percent of the lesser of—

"(A) the wages received in such year to which such section does not apply, or

"(B) the contribution and benefits base reduced (but not below zero) by the amount of wages taken into account under paragraph (1).".

(2) EMPLOYER LIABILITY.—In the case of an employer who receives an attestation from an employee, in such form and manner as directed by the Secretary of the Treasury (or the Secretary's delegate), that such employee is a qualified resident of Puerto Rico—

(A) the employer shall not be liable under section 3102 or 3202 of such Code for any failure to collect taxes in excess of the rate which applies under this section unless a reasonable person would determine that such attestation is not true and correct; and

(B) if such employee is not a qualified resident of Puerto Rico, to the extent that the amount of any tax imposed by section 3101(a), 3201(a), or 3211(a) of such Code is not collected by the employer in excess of the rate which would otherwise apply under this section, such tax shall be paid by the employee.

(c) DEFINITIONS.—

(1) QUALIFIED RESIDENT.—The term ''qualified resident'' means any individual who meets the requirements of section 937(a) of the Internal Revenue Code of 1986 solely based on presence in Puerto Rico.

(2) PAYROLL TAX HOLIDAY PERIOD.—The term ''payroll tax holiday period'' means the period beginning after June 30, 2018, and ending before July 1, 2020.

(d) EMPLOYER NOTIFICATION.—The Secretary of the Treasury shall notify employers of the payroll tax holiday period in any manner the Secretary deems appropriate.

(e) TRANSFERS OF FUNDS.—

(1) TRANSFERS TO FEDERAL OLD-AGE AND SURVIVORS INSURANCE TRUST FUND.—There are hereby appropriated to the Federal Old-Age and Survivors Trust Fund and the Federal Disability Insurance Trust Fund established under section 201 of the Social Security Act (42 U.S.C. 401) amounts equal to the reduction in revenues to the Treasury by reason of the application of subsection (a). Amounts appropriated by the preceding sentence shall be transferred from the general fund at such times and in such manner as to replicate to the extent possible the transfers which would have occurred to such Trust Fund had such amendments not been enacted.

(2) TRANSFERS TO SOCIAL SECURITY EQUIVALENT BENEFIT ACCOUNT.—There are hereby appropriated to the Social Security Equivalent Benefit Account established under section 15A(a) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n–1(a)) amounts equal to the reduction in revenues to the Treasury by reason of the application of subsection (a)(2). Amounts appropriated by the preceding sen-

tence shall be transferred from the general fund at such times and in such manner as to replicate to the extent possible the transfers which would have occurred to such Account had such amendments not been enacted.

(3) COORDINATION WITH OTHER LAWS.—For purposes of applying any provision of law other than the provisions of the Internal Revenue Code of 1986, the rate of tax in effect under section 3101(a) of such Code shall be determined without regard to the reduction in such rate under this section.

SEC. 102. EQUAL TREATMENT OF PUERTO RICAN FAMILIES WITH 1 OR MORE CHILDREN THAT IS CURRENTLY PROVIDED TO FAMILIES WITH 3 OR MORE CHILDREN.

(a) IN GENERAL.—Section 24 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

''(i) RESIDENTS OF PUERTO RICO.—In the case of an individual who is a bona fide resident of Puerto Rico during the entire taxable year—

''(1) subsection (d)(1)(B)(ii) shall be applied (after application of subsection (h)), by substituting '1 or more qualifying children' for '3 or more qualifying children', and

"(2) for purposes of subclause (I) of such subsection, such individual's social security taxes for such taxable year shall be determined as if section 101 of the Puerto Rico Economic Empowerment Act of 2018 did not apply.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2017.

TITLE II—FLEXIBILITY FOR PUERTO RICO IN SMALL BUSINESS ADMINISTRATION PROGRAMS

SEC. 201. SHORT TITLE.

This title may be cited as the "Puerto Rico Opportunity, Small Business Prosperity, and Economic Revitalization Act of 2018".

SEC. 202. DEFINITIONS.

(a) IN GENERAL.—In this title:

(1) ADMINISTRATION; ADMINISTRATOR.—The terms "Administration" and "Administrator" mean the Small Business Administration and the Administrator thereof.

(2) MICROLOAN PROGRAM.—The term "microloan program" means the program estab-

lished under section 7(m) of the Small Business Act (15 U.S.C. 636(m)).

(3) OVERSIGHT BOARD TERMINATION DATE.—The term "Oversight Board termination date" means the date on which the Oversight Board established under section 101 of the Puerto Rico Oversight, Management, and Economic Stability Act (48 U.S.C. 2121) terminates.

(4) PUERTO RICO.—The term "Puerto Rico" means the Commonwealth of Puerto Rico.

(5) PUERTO RICO BUSINESS.—The term "Puerto Rico business" means a small business concern that has its principal office located in the Commonwealth of Puerto Rico.

(6) SMALL BUSINESS CONCERN.—The term "small business concern" has the meaning given the term in section 3 of the Small Business Act (15 U.S.C. 632).

(b) SMALL BUSINESS ACT.—Section 3 of the Small Business Act (15 U.S.C. 632) is amended by adding at the end the following:

"(ee) PUERTO RICO BUSINESS.—In this Act, the term 'Puerto Rico business' means a small business concern that has its principal office located in the Commonwealth of Puerto Rico.".

Subtitle A—Lending

SEC. 211. MICROLOAN PROGRAM FOR PUERTO RICO SMALL BUSINESS CONCERNS.

(a) INCREASE IN ACCESS TO CAPITAL FOR CERTAIN INTERMEDIARIES.—Section 7(m)(3)(C) of the Small Business Act (15 U.S.C. 636(m)(3)(C)) is amended—

(1) by inserting ‘‘and except as provided in clause (ii)’’ after ‘‘subsection (a)(3)’’;

(2) by striking ‘‘Notwithstanding’’ and inserting the following:

‘‘(i) IN GENERAL.—Notwithstanding’’; and

(3) by adding at the end the following:

‘‘(ii) EXCEPTION FOR CERTAIN PUERTO RICO BUSINESSES.—

‘‘(I) IN GENERAL.—No loan shall be made under this subsection if the total amount outstanding and committed to 1 covered intermediary (excluding outstanding grants) from the business loan and investment fund established by this Act would, as a result of such loan, exceed $6,000,000 in the remaining years of the covered intermediary's participation in the program.

"(II) DEFINITION.—In this clause, the term 'covered intermediary' means an intermediary that—

"(aa) is participating in the program; and

"(bb) submits to the Administrator a certification that not less than 20 percent of the microloans made by the intermediary under this subsection, during such period as the Administrator may specify, will be made to Puerto Rico businesses.".

(b) WAIVER OF 25/75 RULE FOR MICROLOANS TO PUERTO RICO SMALL BUSINESS CONCERNS.—Section 7(m)(4)(E) of the Small Business Act (15 U.S.C. 636(m)(4)(E)) is amended—

(1) in clause (i), by striking "Each" and inserting "Except as provided in clause (iii), each"; and

(2) by adding at the end the following:

"(iii) EXCEPTION FOR CERTAIN INTERMEDIARIES.—The Administrator shall waive the requirements of clause (i) for an intermediary for which not less than 25 percent of the loans made by the intermediary are made to Puerto Rico businesses.''.

(c) SBA STUDY.—Not later than 1 year after the date of enactment of this Act, the Administrator shall conduct a study and submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report on the following:

(1) The operations (including services provided, structure, size, and area of operation) of a representative sample of—

(A) intermediaries that are eligible for participation in the microloan program and that participate in the microloan program; and

(B) intermediaries (including those operated for profit, operated as nonprofit organizations, and affiliated with a United States institution of higher learning (as defined in section 3452 of title 38, United States Code)) that are so eligible and that do not participate in the microloan program.

(2) The reasons why intermediaries described in paragraph (1)(B) choose not to participate in the microloan program.

(3) Recommendations on how to encourage increased participation in the microloan program by intermediaries described in paragraph (1)(B).

(4) Recommendations for increasing the number of intermediaries located in the territories of the United States or in economically distressed areas (as defined in section 7(m)(11)(D) of the Small Business Act (15 U.S.C. 636(m)(11)(D))) that are eligible for participation in the microloan program.

(5) Recommendations on how to decrease the costs associated with participation in the microloan program for eligible intermediaries.

(d) GAO STUDY ON MICROLOAN INTERMEDIARY PRACTICES.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report evaluating—

(1) oversight of the microloan program by the Administration, including oversight of intermediaries participating in the microloan program; and

(2) the specific processes used by the Administration to ensure—

(A) compliance by intermediaries participating in the microloan program; and

(B) the overall performance of the microloan program.

Subtitle B—Procurement

SEC. 221. PRIORITY FOR SURPLUS PROPERTY TRANSFERS.

Section 7(j)(13)(F) of the Small Business Act (15 U.S.C. 636(j)(13)(F)) is amended by adding at the end the following:

"(iii)(I) In this clause, the term 'covered period' means the period beginning on the date of enactment of this clause and ending on the date on which the Oversight Board established under section 101 of the Puerto Rico Oversight, Management, and Economic Stability Act (48 U.S.C. 2121) terminates.

"(II) The Administrator may transfer technology or surplus property under clause (i) on a priority basis to a Puerto Rico business if the Puerto Rico business meets the requirements for such a transfer, without regard to whether the Puerto Rico business is a Program Participant.".

SEC. 222. SUBCONTRACTING INCENTIVES FOR PROTEGE FIRMS THAT ARE PUERTO RICO BUSINESSES.

Section 45(a) of the Small Business Act (15 U.S.C. 657r(a)) is amended by adding at the end the following:

"(3) PUERTO RICO SMALL BUSINESS CONCERNS.—

"(A) IN GENERAL.—During the period beginning on the date of enactment of this paragraph and ending on the date on which the Oversight Board established under section 101 of the Puerto Rico Oversight, Management, and Economic Stability Act (48 U.S.C. 2121) terminates, the Administrator shall provide additional incentives to covered mentors, including providing additional credit for subcontracts awarded to covered proteges and costs incurred for providing training to covered proteges.

"(B) DEFINITIONS.—In this paragraph—

"(i) the term 'covered mentor' means a mentor that enters into an agreement under this Act, or under any mentor-protege program approved under subsection (b)(1), with a covered protege; and

"(ii) the term 'covered protege' means a protege—

"(I) of a covered mentor; and

"(II) that has its principal office located in the Commonwealth of Puerto Rico.".

SEC. 223. ADDITIONAL MENTOR-PROTEGE RELATIONSHIPS FOR PROTEGE FIRMS THAT ARE PUERTO RICO BUSINESSES.

Section 45(b)(3)(A) of the Small Business Act (15 U.S.C. 657r(b)(3)(A)) is amended by inserting ", except that such restrictions shall not apply to a relationship that was entered into before the date on which the Oversight Board established under section 101 of the Puerto Rico Oversight, Management, and Economic Stability Act (48 U.S.C. 2121) terminates and in which the principal office of the protege is located in the Commonwealth of Puerto Rico" after "each participant".

Subtitle C—Entrepreneurial Development

SEC. 231. FAST GRANT PROGRAM FOR PUERTO RICO.

(a) IN GENERAL.—Section 34 of the Small Business Act (15 U.S.C. 657d) is amended by adding at the end the following:

"(j) FAST GRANT PROGRAM FOR PUERTO RICO.—

"(1) ESTABLISHMENT.—The Administrator shall establish a program that shall be part of the

FAST program to make awards to, or enter into cooperative agreements with, a Puerto Rico business.

"(2) TECHNICAL ASSISTANCE.—If no applicant is selected to receive assistance under this subsection, the Administrator shall use amounts appropriated to carry out this subsection to provide business advice and counseling to a Puerto Rico business.

"(3) WAIVER OF MATCHING REQUIREMENTS.—The Administrator may, upon application, waive the matching requirements under subsection (e)(2) for an applicant that receives an award or has in effect a cooperative agreement under this subsection.

"(4) FUNDING.—There is authorized to be appropriated $100,000 for fiscal year 2019, and each fiscal year thereafter, to carry out this subsection.".

(b) PROSPECTIVE REPEAL.—Effective on the Oversight Board termination date, section 34 of the Small Business Act (15 U.S.C. 657d), as amended by subsection (a), is amended by striking subsection (j).

Subtitle D—Small Business Administration Oversight

SEC. 241. REQUIREMENT FOR THE DISTRICT DIRECTOR OF PUERTO RICO.

(a) IN GENERAL.—During the period beginning on the date of enactment of this Act and ending on the Oversight Board termination date, the director of the district office of the Administration located in Puerto Rico shall submit directly to Congress and the Administrator an annual report on the activities of the Administration in Puerto Rico.

(b) COORDINATION.—In preparing each report described in subsection (a), the director described in such subsection shall consult with other Federal agencies to collect data on grants, programs, and outreach activities carried out by such agencies that affect any Puerto Rico business.

Subtitle E—Disaster Loan Program Expansion

SEC. 251. AMENDMENT TO DEFINITION OF DISASTER FOR 7(b) LOANS.

(a) IN GENERAL.—Section 3(k)(2) of the Small Business Act (15 U.S.C. 632(k)(2)) is amended—

(1) in subparagraph (B), by striking ‘‘and’’ at the end;

(2) in subparagraph (C), striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(D) communicable diseases for which the Federal Government issues a travel alert or travel warning.''.

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply to a communicable disease—

(1) for which the Federal Government issues a travel alert or travel warning before, on, or after the date of enactment of this Act; and

(2) the effects of which are experienced on or after the date of enactment of this Act.

Subtitle F—Amendment to the Investment Company Act of 1940

SEC. 261. TERMINATION OF EXEMPTION FOR COMPANIES IN TERRITORIES OF THE UNITED STATES.

(a) IN GENERAL.—Section 6(a) of the Investment Company Act of 1940 (15 U.S.C. 80a–6(a)) is amended—

(1) by striking paragraph (1); and

(2) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively.

(b) EFFECTIVE DATE AND SAFE HARBOR.—

(1) EFFECTIVE DATE.—Except as provided in paragraph (2), the amendment made by subsection

(a) shall take effect on the date of enactment of this Act.

(2) SAFE HARBOR.—With respect to a company that is exempt under section 6(a)(1) of the Investment Company Act of 1940 (15 U.S.C. 80a–6(a)(1)), as in effect on the day before the date of enactment of this Act, the amendment made by subsection (a) shall take effect on the date that is 3 years after the date of enactment of this Act.

(3) EXTENSION OF SAFE HARBOR.—The Securities and Exchange Commission, by rule and regulation upon its own motion, or by order upon application, may conditionally or unconditionally, under section 6(c) of the Investment Company Act of 1940 (15 U.S.C. 80a–6(c)), further delay the effective date for a company described in paragraph (2) to be not later than the date that is 6 years after the date of enactment of this Act if, before the end of the initial 3-year period, the Commission determines that such a rule, regulation, motion, or order is necessary or appropriate in the public interest and for the protection of investors.

TITLE III—ECONOMIC STATISTICS

SEC. 301. DEFINITION.

In this title, the term ''Secretary'' means the Secretary of Commerce, acting through the Director of the Bureau of the Census.

SEC. 302. INCLUSION OF PUERTO RICO IN CENSUS SURVEYS.

(a) STUDY ON INCLUSION IN CURRENT POPULATION SURVEY.—The Secretary shall study the feasibility of including Puerto Rico in the Current Population Survey conducted by the Secretary.

(b) INTERAGENCY WORKING GROUP ON IMPROVING DATA.—

(1) ESTABLISHMENT.—The Chief Statistician of the United States shall establish a technical interagency working group to study the most effective approach to improving the quality and availability of data about or from Puerto Rico for the purpose of Federal statistical programs.

(2) REPORT.—Not later than October 31, 2018, and on a quarterly basis thereafter, the technical interagency working group established under paragraph (1) shall submit a report on the activities and findings of the working group to—

(A) the Committee on Finance of the Senate; and

(B) the Committee on Ways and Means of the House of Representatives.

(c) INCLUSION IN OTHER SURVEYS AND PROGRAMS OF THE BUREAU OF THE CENSUS.—The Secretary shall conduct a proof of concept for including, or expanding the inclusion of, Puerto Rico in each of the following surveys and programs conducted by the Secretary:

(1) The Census of Governments and Related Annual Programs.

(2) The Survey of Business Owners.

(3) The Building Permits Survey.

(4) The Quarterly Workforce Indicators, derived from the Longitudinal Employer-Household Dynamics Program.

(5) The Statistics of U.S. Businesses.

SEC. 303. FEDERAL STATISTICAL RESEARCH DATA CENTER.

(a) IN GENERAL.—The Secretary shall establish a facility, to be known as the ''Federal Statistical Research Data Center'', in San Juan, Puerto Rico.

(b) DUAL CAPACITY.—The facility established under subsection (a) shall serve as both—

(1) an office of the International Trade Management Division of the Bureau of the Census; and

(2) a research data center of the Bureau of the Census.

TITLE IV—OFFSETS

SEC. 401. PREVENTION AND PUBLIC HEALTH FUND.

Section 4002(b) of the Patient Protection and Affordable Care Act (42 U.S.C. 300u–11(b)), as amended by section 53119 of Public Law 115–123, is amended—

(1) in paragraph (3), by striking ‘‘$900,000,000’’ and inserting ‘‘$841,000,000’’;

(2) in paragraph (4), by striking ‘‘$900,000,000’’ and inserting ‘‘$848,000,000’’;

(3) by striking paragraphs (5) through (8);

(4) by redesignating paragraph (9) as paragraph (7); and

(5) by inserting after paragraph (4) the following new paragraphs:

‘‘(5) for each fiscal year during the period of fiscal years 2020 through 2023, $400,000,000;

‘‘(6) for each fiscal year during the period of fiscal years 2024 through 2027, $500,000,000; and;’’.

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