

117TH CONGRESS  
1ST SESSION

# S. 258

To help small businesses access capital and create jobs by reauthorizing the successful State Small Business Credit Initiative.

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IN THE SENATE OF THE UNITED STATES

FEBRUARY 4, 2021

Mr. PETERS introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

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## A BILL

To help small businesses access capital and create jobs by reauthorizing the successful State Small Business Credit Initiative.

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 “Small Business Access  
5 to Capital Act of 2021”.

6 **SEC. 2. NEW TRANCHES OF CAPITAL FOR SUCCESSFUL**  
7 **STATE PROGRAMS.**

8 Section 3003 of the Small Business Jobs Act of 2010  
9 (12 U.S.C. 5702) is amended by adding at the end the  
10 following:

1       “(d) ADDITIONAL ALLOCATION AND COMPETITIVE  
2 AWARDS.—

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

4               “(A) the term ‘eligible participating State’  
5 means a participating State that has certified  
6 to the Secretary that the State has expended,  
7 transferred, or obligated not less than 80 per-  
8 cent of the second  $\frac{1}{3}$  of the 2010 allocation  
9 transferred to the State under subsection  
10 (c)(1)(A)(iii); and

11               “(B) the term ‘unused funds’ means—

12                   “(i) amounts made available to the  
13 Secretary under clause (i)(II) or (ii)(II) of  
14 paragraph (2)(E); and

15                   “(ii) amounts made available to the  
16 Secretary under paragraph (4)(B)(ii).

17           “(2) ALLOCATION FOR 2010 PARTICIPATING  
18 STATES.—

19               “(A) ALLOCATION.—Of the amount made  
20 available under paragraph (6)(D), the Secretary  
21 shall allocate a total of \$5,000,000,000 among  
22 eligible participating States in the same ratio as  
23 funds were allocated under the 2010 allocation  
24 under subsection (b)(1) among participating  
25 States.

1           “(B) APPLICATION.—An eligible partici-  
2           pating State desiring to receive funds allocated  
3           under this paragraph shall submit an applica-  
4           tion—

5                   “(i) not later than the date that is 6  
6                   months after the date of enactment of the  
7                   Small Business Access to Capital Act of  
8                   2021; and

9                   “(ii) in such manner and containing  
10                  such information as the Secretary may re-  
11                  quire.

12           “(C) AVAILABILITY OF ALLOCATED  
13           AMOUNT.—

14                   “(i) IN GENERAL.—Notwithstanding  
15                   subsection (c)(1), after an eligible partici-  
16                   pating State approved by the Secretary to  
17                   receive an allocation under this paragraph  
18                   has certified to the Secretary that the eligi-  
19                   ble participating State has expended,  
20                   transferred, or obligated not less than 80  
21                   percent of the last  $\frac{1}{3}$  of the 2010 alloca-  
22                   tion to the eligible participating State, the  
23                   Secretary shall transfer to the eligible par-  
24                   ticipating State the funds allocated to the

1 eligible participating State under this para-  
2 graph.

3 “(ii) EFFECT ON AGREEMENTS.—The  
4 allocation or transfer of funds under this  
5 paragraph to an eligible participating State  
6 shall not be construed to—

7 “(I) amend or modify the terms  
8 of the allocation agreement entered  
9 into by the eligible participating State  
10 relating to the 2010 allocation; or

11 “(II) modify or extend the alloca-  
12 tion time period, as defined under  
13 such allocation agreement.

14 “(D) USE OF TRANSFERRED FUNDS.—An  
15 eligible participating State may use funds  
16 transferred under this paragraph for any pur-  
17 pose authorized under subparagraph (A) or (B)  
18 of subsection (c)(3).

19 “(E) TERMINATION OF AVAILABILITY OF  
20 AMOUNTS.—

21 “(i) IN GENERAL.—If an eligible par-  
22 ticipating State has not certified to the  
23 Secretary that the State has expended,  
24 transferred, or obligated not less than 80  
25 percent of the last  $\frac{1}{3}$  of the 2010 alloca-

1           tion as of the date that is 2 years after the  
2           date on which the Secretary approves the  
3           eligible participating State to receive an al-  
4           location under this paragraph, any  
5           amounts allocated to the eligible partici-  
6           pating State under this paragraph—

7                       “(I) may not be transferred to  
8                       the eligible participating State under  
9                       this paragraph; and

10                      “(II) shall be available to the  
11                      Secretary to make awards under para-  
12                      graph (4).

13                      “(ii) OTHER AMOUNTS.—Effective on  
14                      the date that is 2 years after the date of  
15                      enactment of the Small Business Access to  
16                      Capital Act of 2021, any amounts allo-  
17                      cated under this paragraph to a partici-  
18                      pating State that, as of such date, is not  
19                      an eligible participating State or to an eli-  
20                      gible participating State that did not sub-  
21                      mit an application under subparagraph (B)  
22                      or was not approved by the Secretary to  
23                      receive an allocation under this para-  
24                      graph—

1                   “(I) may not be transferred to an  
2                   eligible participating State under this  
3                   paragraph; and

4                   “(II) shall be available to the  
5                   Secretary to make awards under para-  
6                   graph (4).

7                   “(3) COMPETITIVE FUNDING.—

8                   “(A) IN GENERAL.—Of the amount made  
9                   available under paragraph (6)(D), the Secretary  
10                  may award, on a competitive basis, not more  
11                  than a total of \$5,000,000,000 to participating  
12                  States and consortiums of participating States  
13                  for use for any purpose authorized under sub-  
14                  paragraph (A) or (B) of subsection (c)(3).

15                  “(B) APPLICATION.—

16                  “(i) IN GENERAL.—A participating  
17                  State or consortium of participating States  
18                  desiring to receive an award under this  
19                  paragraph shall submit an application—

20                         “(I) not later than the date es-  
21                         tablished by the Secretary, which shall  
22                         be not later than the date that is 1  
23                         year after the date of enactment of  
24                         the Small Business Access to Capital  
25                         Act of 2021; and

1                   “(II) in such manner and con-  
2                   taining such information as the Sec-  
3                   retary may require.

4                   “(ii) NUMBER OF APPLICATIONS.—A  
5                   participating State may submit not more  
6                   than 1 application on behalf of the partici-  
7                   pating State and not more than 1 applica-  
8                   tion as part of a consortium of partici-  
9                   pating States.

10                  “(iii) STATES THAT DID NOT PARTICI-  
11                  PATE.—A State that is not a participating  
12                  State may apply to the Secretary for ap-  
13                  proval to be a participating State for pur-  
14                  poses of this paragraph and paragraph (4),  
15                  in accordance with section 3004.

16                  “(C) FACTORS.—In determining whether  
17                  to make an award to a participating State or  
18                  consortium of participating States under this  
19                  paragraph, the Secretary shall consider—

20                         “(i) how the participating State or  
21                         consortium of participating States plan to  
22                         use amounts provided under the award  
23                         under the approved State program to—

24                                 “(I) leverage private sector cap-  
25                                 ital;

1                   “(II) create and retain jobs dur-  
2                   ing the 2-year period beginning on the  
3                   date of the award;

4                   “(III) serve businesses that have  
5                   been incorporated or in operation for  
6                   not more than 5 years; and

7                   “(IV) serve low- or moderate-in-  
8                   come communities;

9                   “(ii) the extent to which the partici-  
10                  pating State or consortium of participating  
11                  States will establish or continue a robust  
12                  self-evaluation of the activities of the par-  
13                  ticipating State or consortium of partici-  
14                  pating States using amounts made avail-  
15                  able under this title;

16                  “(iii) the extent to which the partici-  
17                  pating State or consortium of participating  
18                  States will provide non-Federal funds in  
19                  excess of the amount required under sub-  
20                  paragraph (E); and

21                  “(iv) the extent to which the partici-  
22                  pating State expended, obligated, or trans-  
23                  ferred the 2010 allocation to the State.

24                  “(D) AWARD OF FUNDS.—



1           “(i) FIRST TRANCHE.—Notwith-  
2 standing subsection (c)(1), and not later  
3 than 30 days after making an award under  
4 this paragraph to a participating State or  
5 consortium of participating States, the  
6 Secretary shall transfer 50 percent of the  
7 amount of the award to the participating  
8 State or consortium of participating  
9 States.

10           “(ii) SECOND TRANCHE.—After a par-  
11 ticipating State or consortium of partici-  
12 pating States has certified to the Secretary  
13 that the participating State or consortium  
14 of participating States has expended,  
15 transferred, or obligated not less than 80  
16 percent of the amount transferred under  
17 clause (i), the Secretary shall transfer to  
18 the participating State or consortium of  
19 participating States the remaining amount  
20 of the award.

21           “(E) STATE SHARE.—The State share of  
22 the cost of the activities, excluding administra-  
23 tive expenses, carried out using an award under  
24 this paragraph shall be not less than 10 per-  
25 cent. The Secretary may determine what con-

1 tributions by a State qualify as part of the  
2 State share of the cost for purposes of this sub-  
3 paragraph.

4 “(4) AWARD OF UNUSED FUNDS.—

5 “(A) IN GENERAL.—The Secretary may  
6 award, on a competitive basis, unused funds to  
7 participating States for use for any purpose au-  
8 thorized under subparagraph (A) or (B) of sub-  
9 section (c)(3).

10 “(B) UNUSED 2010 FUNDS.—

11 “(i) IN GENERAL.—The Secretary  
12 shall determine whether any amounts allo-  
13 cated to a participating State under sub-  
14 section (b) shall be deemed no longer allo-  
15 cated and no longer available if a partici-  
16 pating State has not certified to the Sec-  
17 retary that the State has expended, trans-  
18 ferred, or obligated 80 percent of the sec-  
19 ond  $\frac{1}{3}$  of the 2010 allocation by December  
20 31, 2022.

21 “(ii) AVAILABILITY.—Effective on the  
22 date of the determination under clause (i),  
23 any amounts identified in the determina-  
24 tion that were deemed no longer allocated  
25 and no longer available to the participating

1 State shall be available to the Secretary to  
2 make awards under this paragraph.

3 “(C) APPLICATION.—A participating State  
4 desiring to receive an award under this para-  
5 graph shall submit an application—

6 “(i) not later than 3 months after the  
7 date on which funds are deemed no longer  
8 allocated and no longer available to any  
9 participating State; and

10 “(ii) in such manner and containing  
11 such information as the Secretary may re-  
12 quire.

13 “(D) FACTORS.—In determining whether  
14 to make an award to a participating State  
15 under this paragraph, the Secretary shall con-  
16 sider the factors described in paragraph (3)(C).

17 “(E) MINIMUM AMOUNT.—The Secretary  
18 may not make an award of less than  
19 \$5,000,000 under this paragraph.

20 “(5) COMPLIANCE AND REPORTING REQUIRE-  
21 MENTS.—During the period beginning on the date  
22 on which a participating State first receives funds  
23 under paragraph (2), (3), or (4) and ending on the  
24 date that is 8 years after the date of enactment of  
25 the Small Business Access to Capital Act of 2021,

1 the participating State shall submit quarterly and  
2 annual reports containing the information described  
3 in, and in accordance with the deadlines established  
4 under, section 3007.

5 “(6) ADMINISTRATION AND IMPLEMENTA-  
6 TION.—

7 “(A) ADMINISTRATIVE EXPENSES FOR  
8 PARTICIPATING STATES.—A participating State  
9 may use not more than 3 percent of the amount  
10 made available to the participating State under  
11 paragraph (2), (3), or (4) for administrative ex-  
12 penses incurred by the participating State in  
13 implementing an approved State program.

14 “(B) CONTRACTING.—During the 1-year  
15 period beginning on the date of enactment of  
16 the Small Business Access to Capital Act of  
17 2021, and notwithstanding any other provision  
18 of law relating to public contracting, the Sec-  
19 retary may enter into contracts to carry out  
20 this subsection.

21 “(C) AMOUNTS NOT ASSISTANCE.—Any  
22 amounts transferred to a participating State  
23 under paragraph (2), (3), or (4) shall not be  
24 considered assistance for purposes of subtitle V  
25 of title 31, United States Code.

1           “(D) APPROPRIATION.—There are appro-  
2           priated to the Secretary, out of any funds in  
3           the Treasury not otherwise appropriated,  
4           \$10,000,000,000 to carry out this subsection,  
5           including to pay reasonable costs of admin-  
6           istering the programs under this subsection, to  
7           remain available until expended.

8           “(E) TERMINATION OF SECRETARY’S PRO-  
9           GRAM ADMINISTRATION FUNCTIONS.—Notwith-  
10          standing section 3009(c), the authorities and  
11          duties of the Secretary to implement and ad-  
12          minister the program under this subsection  
13          shall terminate at the end of the 8-year period  
14          beginning on the date of enactment of the  
15          Small Business Access to Capital Act of  
16          2021.”.

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