

118TH CONGRESS  
1ST SESSION

# H. R. 580

To establish a small business and domestic production recovery investment facility, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

JANUARY 26, 2023

Ms. TENNEY introduced the following bill; which was referred to the Committee on Small Business

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## A BILL

To establish a small business and domestic production recovery investment facility, 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 “American Innovation  
5 and Manufacturing Act”.

6 **SEC. 2. SMALL BUSINESS INVESTMENT COMPANY PRO-**  
7 **GRAM.**

8 (a) IN GENERAL.—Part A of title III of the Small  
9 Business Investment Act of 1958 (15 U.S.C. 681 et seq.)  
10 is amended—

1 (1) in section 302(a)(1) (15 U.S.C.  
2 682(a)(1))—

3 (A) in subparagraph (A), by striking “or”  
4 at the end;

5 (B) in subparagraph (B), by striking the  
6 period at the end and inserting “; or”; and

7 (C) by adding at the end the following:

8 “(C) \$20,000,000, adjusted every 5 years  
9 for inflation, with respect to each licensee au-  
10 thorized or seeking authority to sell bonds to  
11 Administration as a participating investment  
12 company under section 321.”; and

13 (2) by adding at the end the following:

14 **“SEC. 321. SMALL BUSINESS AND DOMESTIC PRODUCTION**  
15 **RECOVERY INVESTMENT FACILITY.**

16 “(a) DEFINITIONS.—In this section:

17 “(1) ELIGIBLE SMALL BUSINESS CONCERN.—

18 The term ‘eligible small business concern’—

19 “(A) means a small business concern that  
20 is a manufacturing business that is assigned a  
21 North American Industry Classification System  
22 code beginning with 31, 32, or 33 at the time  
23 at which the small business concern receives an  
24 investment from a participating investment  
25 company under the facility; and

1           “(B) does not include an entity described  
2           in section 7(a)(37)(A)(iv)(III) of the Small  
3           Business Act (15 U.S.C.  
4           636(a)(37)(A)(iv)(III)).

5           “(2) FACILITY.—The term ‘facility’ means the  
6           facility established under subsection (b).

7           “(3) FUND.—The term ‘Fund’ means the fund  
8           established under subsection (h).

9           “(4) PARTICIPATING INVESTMENT COMPANY.—  
10          The term ‘participating investment company’ means  
11          a small business investment company approved  
12          under subsection (d) to participate in the facility.

13          “(5) PROTÉGÉ INVESTMENT COMPANY.—The  
14          term ‘protégé investment company’ means a small  
15          business investment company that—

16                 “(A) is majority managed by new, inexperi-  
17                 enced, or otherwise underrepresented fund man-  
18                 agers; and

19                 “(B) elects and is selected by the Adminis-  
20                 tration to participate in the pathway-protégé  
21                 program under subsection (g).

22          “(6) SMALL BUSINESS CONCERN.—The term  
23          ‘small business concern’ has the meaning given the  
24          term in section 3(a) of the Small Business Act (15  
25          U.S.C. 632(a)).

1 “(b) ESTABLISHMENT.—

2 “(1) FACILITY.—The Administrator shall estab-  
3 lish and carry out a facility to increase resiliency in  
4 the manufacturing supply chain of eligible small  
5 business concerns by providing financial assistance  
6 to participating investment companies that facilitate  
7 equity financings to eligible small business concerns  
8 in accordance with this section.

9 “(2) ADMINISTRATION OF FACILITY.—The fa-  
10 cility shall be administered by the Administrator act-  
11 ing through the Associate Administrator described in  
12 section 201.

13 “(c) APPLICATIONS.—

14 “(1) IN GENERAL.—Any small business invest-  
15 ment company may submit to the Administrator an  
16 application to participate in the facility.

17 “(2) REQUIREMENTS FOR APPLICATION.—An  
18 application to participate in the facility shall include  
19 the following:

20 “(A) A business plan describing how the  
21 applicant intends to make successful equity in-  
22 vestments in eligible small business concerns.

23 “(B) Information regarding the relevant  
24 investment qualifications and backgrounds of

1 the individuals responsible for the management  
2 of the applicant.

3 “(C) A description of the extent to which  
4 the applicant meets the selection criteria under  
5 subsection (d)(2).

6 “(3) EXCEPTIONS TO APPLICATION FOR NEW  
7 LICENSEES.—Not later than 90 days after the date  
8 of enactment of this section, the Administrator shall  
9 reduce requirements for applicants applying to oper-  
10 ate as a participating investment company under  
11 this section in order to encourage the participation  
12 of new small business investment companies in the  
13 facility under this section, which may include the re-  
14 quirements established under part 107 of title 13,  
15 Code of Federal Regulations, or any successor regu-  
16 lation, relating to—

17 “(A) the approval of initial management  
18 expenses;

19 “(B) the management ownership diversity  
20 requirement;

21 “(C) the disclosure of general compen-  
22 satory practices and fee structures; or

23 “(D) any other requirement that the Ad-  
24 ministrator determines to be an obstacle to

1           achieving the purposes described in this para-  
2           graph.

3           “(d) SELECTION OF PARTICIPATING INVESTMENT  
4 COMPANIES.—

5           “(1) DETERMINATION.—

6           “(A) IN GENERAL.—Except as provided in  
7 paragraph (3), not later than 60 days after the  
8 date on which the Administrator receives an ap-  
9 plication under subsection (c), the Adminis-  
10 trator shall—

11                   “(i) make a final determination to ap-  
12 prove or disapprove such applicant to par-  
13 ticipate in the facility; and

14                   “(ii) transmit the determination to the  
15 applicant in writing.

16           “(B) COMMITMENT AMOUNT.—Except as  
17 provided in paragraph (3), at the time of ap-  
18 proval of an applicant, the Administrator shall  
19 make a determination of the amount of the  
20 commitment that may be awarded to the appli-  
21 cant under this section.

22           “(2) SELECTION CRITERIA.—In making a de-  
23 termination under paragraph (1), the Administrator  
24 shall consider—

1           “(A) the probability that the investment  
2 strategy of the applicant will successfully repay  
3 any financial assistance provided by the Admin-  
4 istration, including the probability of a return  
5 significantly in excess thereof;

6           “(B) the probability that the investments  
7 made by the applicant will—

8                 “(i) provide capital to eligible small  
9 business concerns; or

10                “(ii) create or preserve jobs in the  
11 United States;

12           “(C) the probability that the applicant will  
13 meet the objectives in the business plan of the  
14 applicant, including the financial goals, and, if  
15 applicable, the pathway-protégé program in ac-  
16 cordance with subsection (g); and

17           “(D) the probability that the applicant will  
18 assist eligible small business concerns in achiev-  
19 ing profitability.

20           “(3) APPROVAL OF PARTICIPATING INVEST-  
21 MENT COMPANIES.—

22                 “(A) PROVISIONAL APPROVAL.—

23                 “(i) IN GENERAL.—Notwithstanding  
24 paragraph (1), with respect to an applica-  
25 tion submitted by an applicant to operate

1 as a participating investment company  
2 under this section, the Administrator may  
3 provide provisional approval for the appli-  
4 cant in lieu of a final determination of ap-  
5 proval and determination of the amount of  
6 the commitment under that paragraph.

7 “(ii) PURPOSE.—The purpose of a  
8 provisional approval under clause (i) is  
9 to—

10 “(I) encourage applications from  
11 investment companies with an invest-  
12 ment mandate from the committed  
13 private market capital of the invest-  
14 ment company that does not conform  
15 to the requirements described in this  
16 section at the time of application;

17 “(II) allow the applicant to more  
18 effectively raise capital commitments  
19 in the private markets by referencing  
20 the intent of the Administrator to  
21 award the applicant a commitment;  
22 and

23 “(III) allow the applicant to more  
24 precisely request the desired amount  
25 of commitment pending the securing



1 of capital from private market inves-  
2 tors.

3 “(iii) LIMIT ON PERIOD OF THE  
4 TIME.—The period between a provisional  
5 approval under clause (i) and the final de-  
6 termination of approval under paragraph  
7 (1) shall not exceed 12 months.

8 “(e) COMMITMENTS AND SBIC BONDS.—

9 “(1) IN GENERAL.—The Administrator may,  
10 out of amounts available in the Fund, purchase or  
11 commit to purchase from a participating investment  
12 company 1 or more accruing bonds that include eq-  
13 uity features as described in this subsection.

14 “(2) BOND TERMS.—A bond purchased by the  
15 Administrator from a participating investment com-  
16 pany under this subsection shall have the following  
17 terms and conditions:

18 “(A) TERM AND INTEREST.—

19 “(i) IN GENERAL.—The bond shall be  
20 issued for a term of not less than 15 years  
21 and shall bear interest at a rate deter-  
22 mined by the Administrator of not more  
23 than 2 percent.

24 “(ii) ACCRUAL OF INTEREST.—Inter-  
25 est on the bond shall accrue and shall be

1 payable in accordance with subparagraph  
2 (D).

3 “(iii) PREPAYMENT.—The bond shall  
4 be prepayable without penalty after the  
5 end of the 1-year period beginning on the  
6 date on which the bond was purchased.

7 “(B) PROFITS.—

8 “(i) IN GENERAL.—The Administra-  
9 tion shall be entitled to receive a share of  
10 the profits net of any profit sharing per-  
11 formance compensation of the participating  
12 investment company equal to the quotient  
13 obtained by dividing—

14 “(I) one-third of the commitment  
15 that the participating investment com-  
16 pany is approved for under subsection  
17 (d); by

18 “(II) the commitment approved  
19 under subsection (d) plus the regu-  
20 latory capital of the participating in-  
21 vestment company at the time of ap-  
22 proval under that subsection.

23 “(ii) DETERMINATION OF PERCENT-  
24 AGE.—The share to which the Administra-  
25 tion is entitled under clause (i)—

1                   “(I) shall be determined at the  
2                   time of approval under subsection (d);  
3                   and

4                   “(II) without the approval of the  
5                   Administration, shall not be revised,  
6                   including to reflect subsequent dis-  
7                   tributions of profits, returns of cap-  
8                   ital, or repayments of bonds, or other-  
9                   wise.

10                   “(C) PROFIT SHARING PERFORMANCE  
11                   COMPENSATION.—

12                   “(i) RECEIPT BY ADMINISTRATION.—  
13                   The Administration shall receive a share of  
14                   profits of not more than 2 percent, which  
15                   shall be deposited into the Fund and be  
16                   available to make commitments under this  
17                   subsection.

18                   “(ii) RECEIPT BY MANAGERS.—The  
19                   managers of the participating investment  
20                   company may receive a maximum profit  
21                   sharing performance compensation of 25  
22                   percent minus the share of profits paid to  
23                   the Administration under clause (i).

24                   “(D) PROHIBITION ON DISTRIBUTIONS.—  
25                   No distributions on capital, including profit dis-

1 tributions, shall be made by the participating  
2 investment company to the investors or man-  
3 agers of the participating investment company  
4 until the Administration has received payment  
5 of all accrued interest on the bond committed  
6 under this section.

7 “(E) REPAYMENT OF PRINCIPAL.—Except  
8 as described in subparagraph (F), repayments  
9 of principal of the bond of a participating in-  
10 vestment company shall be—

11 “(i) made at the same time as returns  
12 of private capital; and

13 “(ii) in amounts equal to the pro rata  
14 share of the Administration of the total  
15 amount being repaid or returned at such  
16 time.

17 “(F) LIQUIDATION OR DEFAULT.—Upon  
18 any liquidation event or default, as defined by  
19 the Administration, any unpaid principal or ac-  
20 crued interest on the bond shall—

21 “(i) have a priority over all equity of  
22 the participating investment company; and

23 “(ii) be paid before any return of eq-  
24 uity or any other distributions to the inves-

1                   tors or managers of the participating in-  
2                   vestment company.

3                   “(3) AMOUNT OF COMMITMENTS AND PUR-  
4 CHASES.—

5                   “(A) MAXIMUM AMOUNT.—The maximum  
6                   amount of outstanding bonds and commitments  
7                   to purchase bonds for any participating invest-  
8                   ment company under the facility shall be the  
9                   lesser of—

10                   “(i) twice the amount of the regu-  
11                   latory capital of the participating invest-  
12                   ment company; or

13                   “(ii) \$200,000,000.

14                   “(4) COMMITMENT PROCESS.—Commitments by  
15                   the Administration to purchase bonds under the fa-  
16                   cility shall remain available to be sold by a partici-  
17                   pating investment company until the end of the  
18                   fourth fiscal year following the year in which the  
19                   commitment is made, subject to review and approval  
20                   by the Administration based on regulatory compli-  
21                   ance, financial status, change in management, devi-  
22                   ation from business plan, and such other limitations  
23                   as may be determined by the Administration by reg-  
24                   ulation or otherwise.

25                   “(5) COMMITMENT CONDITIONS.—

1           “(A) IN GENERAL.—As a condition of re-  
2           ceiving a commitment under the facility, not  
3           less than 50 percent of amounts invested by the  
4           participating investment company shall be in-  
5           vested in eligible small business concerns.

6           “(B) EXAMINATIONS.—In addition to the  
7           matters set forth in section 310(c), the Admin-  
8           istration shall examine each participating in-  
9           vestment company in such detail so as to deter-  
10          mine whether the participating investment com-  
11          pany has complied with the requirements under  
12          this subsection.

13          “(f) DISTRIBUTIONS AND FEES.—

14           “(1) DISTRIBUTION REQUIREMENTS.—

15           “(A) DISTRIBUTIONS.—As a condition of  
16           receiving a commitment under the facility, a  
17           participating investment company shall make  
18           all distributions to the Administrator in the  
19           same form and in a manner as are made to in-  
20           vestors, or otherwise at a time and in a manner  
21           consistent with regulations or policies of the  
22           Administration.

23           “(B) ALLOCATIONS.—A participating in-  
24           vestment company shall make allocations of in-  
25           come, gain, loss, deduction, and credit to the

1 Administrator with respect to any outstanding  
2 bonds as if the Administrator were an investor.

3 “(2) FEES.—The Administrator may not  
4 charge fees for participating investment companies  
5 other than examination fees that are consistent with  
6 the license of the participating investment company.

7 “(3) BIFURCATION.—Losses on bonds issued by  
8 participating investment companies shall not be off-  
9 set by fees or any other charges on debenture small  
10 business investment companies.

11 “(g) PROTÉGÉ PROGRAM.—The Administrator shall  
12 establish a pathway-protégé program in which a protégé  
13 investment company may receive technical assistance and  
14 program support from a participating investment company  
15 on a voluntary basis and without penalty for non-partici-  
16 pation.

17 “(h) LOSS LIMITING FUND.—

18 “(1) IN GENERAL.—There is established in the  
19 Treasury a fund for making commitments and pur-  
20 chasing bonds with equity features under the facility  
21 and receiving capital returned by participating in-  
22 vestment companies.

23 “(2) USE OF FUNDS.—Amounts appropriated  
24 to the Fund or deposited in the Fund under para-  
25 graph (3) shall be available to the Administrator,

1 without further appropriation, for making commit-  
2 ments and purchasing bonds under the facility and  
3 expenses and payments, excluding administrative ex-  
4 penses, relating to the operations of the Adminis-  
5 trator under the facility.

6 “(3) DEPOSITING OF AMOUNTS.—

7 “(A) IN GENERAL.—All amounts received  
8 by the Administrator from a participating in-  
9 vestment company relating to the facility, in-  
10 cluding any moneys, property, or assets derived  
11 by the Administrator from operations in con-  
12 nection with the facility, shall be deposited in  
13 the Fund.

14 “(B) PERIOD OF AVAILABILITY.—Amounts  
15 deposited under subparagraph (A) shall remain  
16 available until expended.

17 “(i) APPLICATION OF OTHER SECTIONS.—To the ex-  
18 tent not inconsistent with requirements under this section,  
19 the Administrator may apply sections 309, 311, 312, 313,  
20 and 314 to activities under this section and an officer, di-  
21 rector, employee, agent, or other participant in a partici-  
22 pating investment company shall be subject to the require-  
23 ments under such sections.

24 “(j) AUTHORIZATION OF APPROPRIATIONS.—There  
25 is authorized to be appropriated for the first fiscal year



1 beginning after the date of enactment of this part  
2 \$10,000,000,000 to carry out the facility. Amounts appro-  
3 priated pursuant to this subsection shall remain available  
4 until the end of the second fiscal year beginning after the  
5 date of enactment of this section.”.

6 (b) APPROVAL OF BANK-OWNED, NON-LEVERAGED  
7 APPLICANTS.—Section 301(c)(2) of the Small Business  
8 Investment Act of 1958 (15 U.S.C. 681(c)(2)) is amend-  
9 ed—

10 (1) in subparagraph (B), in the matter pre-  
11 ceding clause (i), by striking “Within” and inserting  
12 “Except as provided in subparagraph (C), within”;  
13 and

14 (2) by adding at the end the following:

15 “(C) EXCEPTION FOR BANK-OWNED, NON-  
16 LEVERAGED APPLICANTS.—Notwithstanding  
17 subparagraph (B), not later than 45 days after  
18 the date on which the Administrator receives a  
19 completed application submitted by a bank-  
20 owned, non-leveraged applicant in accordance  
21 with this subsection and in accordance with  
22 such requirements as the Administrator may  
23 prescribe by regulation, the Administrator  
24 shall—

1                   “(i) review the application in its en-  
2                   tirety; and

3                   “(ii)(I) approve the application and  
4                   issue a license for such operation to the  
5                   applicant if the requirements of this sec-  
6                   tion are satisfied; or

7                   “(II) disapprove the application and  
8                   notify the applicant in writing of the dis-  
9                   approval.”.

10           (c) ELECTRONIC SUBMISSIONS.—Part A of title III  
11 of the Small Business Investment Act of 1958 (15 U.S.C.  
12 681 et seq.), as amended by subsection (a) of this section,  
13 is further amended by adding at the end the following:

14 **“SEC. 322. ELECTRONIC SUBMISSIONS.**

15           “The Administration shall permit any document sub-  
16 mitted under this title, or pursuant to a regulation car-  
17 rying out this title, to be submitted electronically, includ-  
18 ing by permitting an electronic signature for any signature  
19 that is required on such a document.”.

○