United States Code (commonly referred to as the ''Single Audit Act'').

July 29, 1996:

S. 966, An act for the relief of Nathan C. Vance, and for other purposes; and

S. 1899, An act entitled the ''Mollie Beattie Wilderness Area Act''.

SMALL BUSINESS PROGRAMS IMPROVEMENT ACT OF 1996

The SPEAKER pro tempore. Pursuant to House Resolution 516 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for consideration of the bill, H.R. 3719.

☐ 1408

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the union for the consideration of the bill (H.R. 3719) to amend the Small Business Act and Small Business Investment Act of 1958, with Mr. COLLINS of Georgia in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentlewoman from Kansas [Mrs. MEYERS] and the gentleman from New York [Mr. LAFALCE] each will control 30 minutes.

The Chair recognizes the gentlewoman from Kansas [Mrs. MEYERS].

Mrs. MEYERS of Kansas. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of H.R. 3719, the Small Business Programs Improvement Act of 1996, and I urge my colleagues to support this bill which is pro-small business and pro-government efficiency.

The Committee on Small Business reported out H.R. 3719 on July 18, 1996, by a unanimous vote of the Committee after intensive bipartisan work. Mr. LAFALCE, and I spent many hours together working out the details of the provisions. I am pleased to say that we are able to move H.R. 3719 through the Committee in an atmosphere of bipartisan cooperation.

The overall theme of this legislation, is better management of the loan programs. SBA guaranteed loans provide approximately $10 billion in life-giving capital to small businesses every year. The 7(a) Guaranteed Loan Program, the largest loan program at the SBA, will provide over $7 billion in financing to small businesses this year. As volume in the loan programs has increased, SBA staffing has decreased. I believe these events can be compatible, but only if the SBA relies on its private sector partners to carry out the day-to-day operations of making, servicing, and liquidating loans.

SBA does not have the manpower or resources to be a retail operation. They cannot efficiently process every loan, or handle the liquidation of each loan that goes into default. This is clear from the new subsidy rates—rates that have dramatically increased due to low recovery rates on liquidated loans. The time period for liquidating loans is substantially longer than the average in the private sector. It is time for the SBA to move the liquidation function to the private sector, where our bank and nonbank lending partners conduct these types of actions everyday, and harness those efficiencies. SBA must assume the role of monitoring our lending partners, not trying to recreate operations that are done faster and better in the private sector.

The Committee on Small Business realized the SBA's limitations and took decisive action in this bill, H.R. 3719, to turn more functions of SBA lending programs over to the private sector. In the 7(a), 504, and disaster loan programs, pilot projects have been created, giving lenders the freedom to liquidate defaulted loans and to service disaster loans. This should increase our returns, and improve service delivery in our loan programs. SBA simply cannot handle the load currently on its plate, as reflected in the increased subsidy rates.

Other critical provisions in H.R. 3719 are those dealing with the 504 or Certified Development Company Program. As you may know, when the President released his budget for fiscal year 1997, we were hit with dramatically higher estimates of the subsidy rates for the 504 and 7(a) guaranteed loan programs. Last year, the Committee on Small Business moved legislation which reduced the subsidy rate in the 504 program to zero, making it a self-financed program which requires no appropriated funds. While the committee was disappointed and frustrated by the SBA's and OMB's inability to notify us in a timely way about these new estimates, we are, nonetheless, committed to returning the 504 program to a zero subsidy.

A combination of new fees, to be shared by the lenders, the certified development companies, and the borrowers, and several program management improvements in H.R. 3719, including the liquidation pilot project, result in the maintenance of a zero subsidy rate for the 504 program. It is vital that this lending program, which provides long-term financing for expanding small businesses to purchase new physical space or equipment, continue to help small businesses and our economy grow. As my colleagues probably know, the 504 program is the only SBA lending program with a job creation requirement. While no one likes to place additional fees on small business borrowers, that is the only way to keep this important program going, as no funds were requested by the administration, or appropriated for the 504 program for fiscal year 1997.

H.R. 3719 also addresses some management issues in the 7(a) program, and requires an extensive, private sector study of the subsidy rate calculations done by SBA and the OMB. I hope this study will unlock the mysteries of the OMB subsidy rate assumptions and prevent future year surprises in this calculation. As with the 504 program, the committee has moved more of the day-to-day responsibilities for the loan programs to our most trusted private sector partners, our preferred lenders or PLP's. Under H.R. 3719, the preferred lenders will be provided with the full authority and responsibility to liquidate their own loans. The SBA has delegated many responsibilities to the PLP's, but has retained most of the liquidation functions with the agency. In addition, certified lenders [CLP's] will be able to conduct their own liquidations, with the assistance and oversight of the SBA. The committee believes the private sector may be able to perform this function faster and more efficiently, maximizing returns to the Government.

In addition, the committee has required that the Low Documentation or Low Doc Program, which is an abbreviated form for the borrower seeking a guaranteed loan of $100,000 or less, be conducted only by PLP's, CLP's, or lenders with significant small business lending experience. This program, which was a pilot initiated by the SBA, has proven to be very popular among borrowers and banks, alike. However, the committee has received a good deal of anecdotal evidence suggesting that many lenders who have little or no small business lending experience, and no experience with SBA loans, are doing large volumes of low doc loans. As the Low Doc Program now comprises about 25 percent of the 7(a) program volume, the committee felt it important to act to preserve the integrity of SBA's own regulations, which stipulate that low doc is for use by our most experienced lenders. The committee also places a limitation on any new pilot programs. The administration may experiment and try out new ideas and concepts to meet small business' needs. However, no pilot may comprise more than 10 percent of the 7(a) program volume. As the committee has seen, the program's subsidy rate is very sensitive to changes in the portfolio composition. Any pilot deemed successful can be statutorily created through the legislative process.

Other provisions in the bill continue to echo the theme of more reliance on the private sector to carry out the functions of SBA programs. We increase slightly the interest rate on disaster loans, from a formula based upon one-half of the Treasury rate for 30 year loans to three-fourths of Treasury. This increase will lower the subsidy rate from 16.5 percent to approximately 12.3 percent, according to CBO. This slight adjustment will continue to provide disaster victims a real low-cost, long-term loan for disaster recovery, while stretching the taxpayer dollars needed to fund this program a lot further. H.R. 3719 also requires the SBA to contract out to private entities the servicing of 10 percent of the loans in our disaster portfolio. This pilot should

show that the private sector can perform this function at less cost than the SBA and, hopefully, lead to a complete contracting out of this function.

Finally, H.R. 3719 reauthorizes the Small Business Competitiveness Demonstration Program. This program eliminates small business set-asides in four categories of industry, as long as small business participation in these industries are at least 40 percent. This innovative demonstration program has worked well, allowing all businesses to compete for Government contracts on an equal footing, without locking small business out of the process, or into a certain number or type of projects. Our bill does require extensive reporting on the progress of this program, to ensure that it is not operating to small businesses detriment.

Mr. Chairman, there are a lot of important program improvements in H.R. 3719, improvements that will result in better service from the Federal Government for small business. But more importantly, H.R. 3719 will preserve essential long-term lending programs for small business. The Committee on Small Business is pleased to be able to bring this legislation before the House this week, legislation which has been endorsed by such groups as the U.S. Chamber of Commerce, the National Association of Certified Development Companies, the National Association of Government Guaranteed Lenders, and the Independent Bankers Association of America. We will be doing a great service to the small businesses of our Nation, and to the taxpayer, by enacting H.R. 3719, and I urge my colleagues to strongly support this measure.

□ 1415

Mr. Chairman, I reserve the balance of my time.

Mr. LAFALCE. Mr. Chairman, I yield myself such time as I may consume.

(Mr. LAFALCE asked and was given permission to revise and extend his remarks.)

Mr. LAFALCE Mr. Chairman, I generally support the provisions of this bill, the Small Business Programs Improvement Act of 1996.

As originally introduced, there were a number of problems with the bill. However, our gracious Chair, Mrs. MEYERS, delayed official committee action on the bill, thereby facilitating a number of private discussions. The result was the offering of joint amendments in committee which were agreed to on a bipartisan basis.

Since then, we have continued our negotiations which have now been finalized with a manager's amendment. As further amended with this amendment, this legislation has been greatly improved and deserves the support of the membership.

I appreciate the consideration of the committee, and its Chair, Mrs. MEYERS, in examining the matters raised by me and other members of the minority.

I also want to note at this point that I have enjoyed working with Chair MEYERS during the past 2 years. I do want to note, parenthetically, that I enjoyed working with her more during the 103rd Congress when she was the ranking minority member, but she has been a true gentle lady during this Congress and has made my transition to that role as painless as possible.

On behalf of the minority Members of the Committee, I want to wish her and her husband the best of wishes in the future years. JAN, enjoy your well-earned retirement.

Mr. Chairman, this is a bill which is necessary. Without the fee increases in the Certified Development Company Program, there would be no program next year. Thus I reluctantly support the fee proposals because the alternative would be much worse.

The bill also extends several expiring programs this year, and more importantly authorizes the continuation of all SBA programs next year. Members are certainly aware how difficult it is to enact an authorization bill in the first few months of a Congress, and this bill eliminates that problem.

I also support a number of the pilot programs in the bill. I am not one who believes that the private sector can do everything better and at less cost, as some argue.

I am willing to have a realistic and meaningful comparison of the results when loan functions are handled by private sector contractors as compared to Government employees. I believe that Federal employees are very dedicated and will prevail in this type of comparison. But it is appropriate to perform the pilot tests.

I also want to point out that previously I expressed concern about the amount of 7(a) loan guarantees which will be made available next year.

It is my understanding that the proposed Federal funding, when added to funds expected to be unused this year, will result in a 7(a) program level next year of $6.5 billion to $7 billion.

Originally, most projections were that demand would exceed this amount probably by $2 billion. It now appears, however, that usage of the program is below prior projections this year.

Also, the other body has proposed additional Federal funding which will augment the size of the program.

Thus I am now concluding that there may be no necessity to increase fees for this program. This is not certainty, however, and I caution my colleagues that there may be a shortage of loan money next year.

I know of no opposition to the bill, and I compliment Mrs. MEYERS for her work and that of her staff.

Mr. Chairman, I reserve the balance of my time.

Mrs. MEYERS of Kansas. Mr. Chairman, I yield 1 minute to the gentleman from Massachusetts [Mr. TORKILDSEN].

Mr. TORKILDSEN. Mr. Chairman, I thank my colleague and friend for yielding this time to me very briefly to speak in favor of the Small Business Improvement Act, and I want to applaud her diligence and the ranking minority member's diligence in working out this bill. I will not repeat what has already been said because it has been fully articulated.

I did want to rise today though to pay special appreciation to my colleague and friend, the gentlewoman from Kansas [Mrs. MEYERS], for all the work she has done. She has been a tireless advocate of small business throughout the United States, and she understands that that is where the future of our economy is. We are going to miss her sincerely, but I think I wanted to speak for all the Members and wish her well in her future endeavors and say ''Thank you for all the work you have done for small business in America. We will always be indebted to you.''

Mr. LAFALCE. Mr. Chairman, I yield 4 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, I want to thank the distinguished ranking member, and I too want to lend my voice to a classmate of mine that will be leaving us, the gentlewoman from Kansas [Mrs. MEYERS]. We came in here together, and she has been an absolute gentlewoman all the way through, and we are proud to serve with the gentlewoman, and, no, we are not going out together after this or anything, but I mean that. I do not think words can say enough.

I am rising today about an issue that deals with the 504 program and some perceptions and guesstimates by the OMB that I think are troublesome and could be problematic, and I will be offering an amendment in this regard, and I am glad to have the support of the ranking member, and I want to explain it briefly.

For example, the 504 program has been very cost effective. It spurred the economies of Ohio and the Nation, and over the past 10 years over $5 billion in 504 program loans have helped create over half a million jobs, more than 47,000 in Ohio alone, Mr. Chairman. But the recent OMB evaluation will severely undermine the viability of this particular program. In my opinion, the evaluation underestimates the program's strength and overestimates its weaknesses.

Now Members of the Ohio delegation, both Democrat and Republican, have written in fact to Mr. Jacob Lew, Acting Director of OMB, and we cited these particular cases.

The Traficant amendment would basically say that it is the sense of Congress that the subsidy models prepared by OMB relative to loan programs sponsored by the Small Business Administration have a tendency to overestimate potential risks of loss and overemphasize historical losses that may be unique or not truly reflective of the success of the program as a whole.

So consequently what the amendment does, it mandates the independent study in section 103(h) of this bill

with hopes of placing it in the bill, of improving the ability of OMB to more accurately reflect the budgetary implications of some of these programs that have had a great effect on revitalization of our Nation.

So with that, I just wanted to let the Committee know that we have been working on this for some time and this is a vehicle which, in fact, can accommodate our concerns.

The Members from Ohio that signed on with me were: DAVE HOBSON, SHERROD BROWN, STEVEN LATOURETTE, THOMAS SAWYER, MARTIN HOKE, MARCY KAPTUR, and ROBERT NEY. So this has already been sent, it is a bipartisan move, we in Ohio are concerned. We think it is valid for the Nation and it does not in fact change anything in the bill. It supports that language which is in the bill and will clarify that concern we have.

So with that I want to thank the gentleman from New York [Mr. LAFALCE] for the time, and I hope for consideration.

□ 1430

Mr. LAFALCE. Mr. Chairman, I yield myself such time as I may consume, and would like to associate myself with the remarks of the gentleman who represents the second best Air Reserve base in the United States.

Mrs. MEYERS of Kansas. Mr. Chairman, I yield such time as he may consume to the gentleman from Missouri [Mr. TALENT].

Mr. TALENT. Mr. Chairman, I thank the distinguished chair of the Committee on Small Business for yielding to me.

Before I engage the gentleman from New York [Mr. LAFALCE] and the gentleman from Texas [Mr. BENTSEN] in a colloquy, I would just like to add my remarks to those of my colleagues, complimenting the distinguished chair for her excellent leadership. There is no stronger advocate for small business in the Congress, but what has really been extraordinary is the gentle firmness with which she has led the committee in the last year and a half. It has made it just a pleasure to serve on the committee with her. I want to wish her all the best in her future endeavors. I would thank her again for yielding for this colloquy.

Mr. Chairman, I would like to clarify our intent with respect to the language in this bill dealing with securitization. This provision was dealt with extensively during the committee markup of H.R. 3719. Between the gentleman from Texas [Mr. BENTSEN] and the gentleman from New York [Mr. LAFALCE] the distinguished ranking member of the committee, and myself.

It is my understanding this provision grants SBA the authority, if they deem necessary to exercise it, to protect the agency's interests by requiring lenders to retain exposure of up to 10 percent of the loans being securitized. This in no way mandates the holdback or exposure requirement in all cases.

I would like to ask the gentleman from New York if that indeed is his understanding.

Mr. LAFALCE. Mr. Chairman, will the gentleman yield?

Mr. TALENT. I yield to the gentleman from New York.

Mr. LAFALCE. Yes, Mr. Chairman, the permissive nature of the amendment is reflected in the manager's amendment that will be offered shortly.

Mr. BENTSEN. Mr. Chairman, will the gentleman yield?

Mr. TALENT. I yield to the gentleman from Texas.

Mr. BENTSEN. The provision also states, Mr. Chairman, that any holdback or exposure requirement should be applied uniformly to both banks and nonbanks alike, thereby ending the prohibition on banks for selling the nonguaranteed portion of certain SBA loans, but also provides the SBA the discretion to accept alternative risk retention provisions.

It is my understanding that acceptable alternative risk retention provisions such as, but not limited to, the reserves required to achieve an investment grade rating would be applied on a lender-by-lender basis based on the structure of the securitization and the historical loan performance of the lender. Is that correct?

Mr. LAFALCE. That is very correct, Mr. Chairman. The manager's amendment explicitly permits alternative risk retention measures and the lender-by-lender application of this requirement is also reflected in the committee report that accompanies this bill.

I might want to add that it was precisely because of the arguments advanced by the gentleman from Missouri [Mr. TALENT] and the gentleman from Texas [Mr. BENTSEN] that the committee report language embodied basically the arguments that they advanced during the markup, and the manager's amendment makes those technical changes to ensure that their wishes and desires were fully accommodated, and the language of the report was fully accommodated.

We are especially grateful, I think, too, for the real-life experience that the gentleman from Texas [Mr. BENTSEN] brought to the committee deliberations on this issue, because of his experience with securitization on Wall Street. His experience was invaluable.

Mr. TALENT. Mr. Chairman, I reclaim my time to continue the colloquy, and also add my compliments to the gentleman from Texas [Mr. BENTSEN]. He does have real-life experience in this area.

It is my understanding these provisions are not intended to impair the future use of securitization structures already in the market, and approved by SBA as providing adequate protection to the agency, that have proven effective in expanding capital availability.

I would ask the gentleman from New York [Mr. LAFALCE] if that is indeed correct.

Mr. LAFALCE. If the gentleman will continue to yield, Mr. Chairman, yes, and this too was discussed in the markup and was also reflected in the committee report.

Mr. BENTSEN. Mr. Chairman, if the gentleman will continue to yield, I thank the gentleman for his assistance in this issue. We worked closely to correct it so it would not become burdensome and it would create and expand capital available to small businesses.

I thank the gentleman from Missouri [Mr. TALENT] for his work on this, as well, and for bringing it to the forefront. I look forward to working in a bipartisan fashion in the future towards establishing a level playing field between depository institutions and nonbank financial institutions in their efforts to supply needed capital to the small business community.

Mr. TALENT. Mr. Chairman, I thank the gentleman from New York [Mr. LAFALCE] for helping to clarify the securitization issue, an issue that is critically important to increasing the pool of capital available to small businesses. I also look forward to continuing efforts to foster an efficient securitization market for small business loans.

Mr. LAFALCE. Mr. Chairman, I yield 2 minutes to the gentlewoman from North Carolina [Mrs. CLAYTON].

Mrs. CLAYTON. Mr. Chairman, I thank the ranking member for yielding time to me.

Mr. Chairman, I also want to add my comments to the retiring gentlewoman who chairs the Committee on Small Business, and want to note that she has brought a degree of civility that the rest of us will emulate. Although we may be in disagreement, she certainly has a spirit of discourse and deliberation that all of us appreciate, and we will miss her caring and gentle hand.

Mr. Chairman, I rise today in full support of H.R. 3719, the Small Business Program Improvement Act. Although the bill is not perfect, I believe that, on the whole, it is a great first step toward bringing down the cost of the Small Business Administration's most popular programs while maintaining their availability and accessibility.

First, H.R. 3719 marginally increases the fees charged to participants in the 504 Certified Development Corporation Program. This program has been successful. Unfortunately, in the absence of additional appropriations, this is the only way by which to reduce the subsidy rate to zero and assure the continuation of this program in the next fiscal year.

Second, this legislation removes burdensome restrictions which prevents banks from selling the nonguaranteed portion of the SBA loans on secondary markets, making the 7(a) loan program more attractive to commercial bankers.

Finally, the bill continues the prohibition against locating Small Business Development Centers at institutions

other than places of higher education, thereby confirming the role of SBDC's as, first and foremost, places to gather impartial information and to receive guidance and counseling.

These provisions, combined with others, Mr. Chairman, make H.R. 3719 a good first step toward ensuring the continued viability of many of SBA's most popular programs and allows the SBA to reduce administrative costs associated with those operations. Therefore, Mr. Chairman, I encourage my colleagues to join with me in support of H.R. 3719.

Mrs. MEYERS of Kansas. Mr. Chairman, I yield such time as he may consume to the gentleman from Nebraska [Mr. BARRETT].

Mr. BARRETT of Nebraska. Mr. Chairman, I thank the gentlewoman for yielding time to me.

Mr. Chairman, before entering into a colloquy with the gentlewoman from Kansas, I, too, want to add my praise, as a former small businessman of 30-plus years, for the work and the stewardship of the gentlewoman from Kansas [Mrs. MEYERS] as chair of this committee and as ranking member prior to that. She has been a tremendous asset to small business across America. I congratulate her, and I, too, wish her well.

Mr. Chairman, H.R. 3719 would eliminate the eligibility of lending institutions to make low documentary loans to preferred, certified, and lenders with ''significant experience'' I guess in quotes, in making small business loans. I understand that these provisions would have the Small Business Administration clarify, through regulations, the definition of ''significant experience'' in making low documentary small business loans.

I would ask the gentlewoman, could she clarify the intent of these provisions?

Mrs. MEYERS of Kansas. Mr. Chairman, will the gentleman yield?

Mr. BARRETT of Nebraska. I yield to the gentlewoman from Kansas.

Mrs. MEYERS of Kansas. Mr. Chairman, the committee is concerned that some inexperienced lenders making low doc loans do not have the expertise necessary to administer these loans. However, the committee strongly believes that lenders that have had a long history of making small business loans and processing loan guarantees should not be ruled out of making these loans. It is the committee's intent that the SBA issue regulations that would preserve the ability of such institutions to continue making these low doc loans.

Mr. BARRETT of Nebraska. Mr. Chairman, would the gentlewoman then believe that a bank with 28 years of making small business loans, processing SBA loan guarantees, including low doc guaranteed loans, would qualify as an institution with significant experience?

Mrs. MEYERS of Kansas. Certainly, the SBA should take into account the fact that many small lending institutions have been making small business loans for years. The intent of this provision is to provide the SBA with better policing authority to restrict access to lenders without the experience or guidance from the SBA necessary to efficiently and effectively administer low doc loans.

Mr. BARRETT of Nebraska. Mr. Chairman, I again thank the chairwoman for yielding to me, and I thank her for her clarification.

Mr. LAFALCE. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. BENTSEN].

Mr. BENTSEN. Mr. Chairman, I rise in strong support of H.R. 3719, the Small Business Programs Improvement Act, and commend both the chairwoman, the gentlewoman from Kansas [Mrs. MEYERS], and the ranking member, the gentleman from New York [Mr. LAFALCE] for their work in drafting a truly bipartisan bill that all the Members can support.

Although this bill may receive less notice than others, it is extremely important in providing capital formation for America's small businesses, and it is a tribute to our retiring chair that it is being brought up and hopefully will be signed into law.

Drafting this bill is not an easy task. Committee on Small Business members faced many difficult decisions and there were closed votes on many important issues during the markup. However, the bill before us today is a true collaboration between Republicans and Democrats on the committee, and marks the most significant bipartisan effort I have seen since serving on this committee.

This bill makes several changes to SBA programs do reduce the taxpayers' contribution. It privatizes certain SBA functions, removes restrictions on banks for selling the nonguaranteed portions of certain SBA loans on the secondary market, and reduces certain fees that SBA pays the lenders in cases of default.

Finally, the bill reauthorizes certain SBA programs for fiscal years 1997 and 1998, including the 7(a) loan, the 504 Development Company loan, disaster loan, and microloan programs. Included in the reauthorization of the 504 program is a new fee on borrowers and participants in the program to lower the taxpayer subsidy rate of the program and begin the road to self-sufficiency.

Finally, I want to thank the gentleman from Missouri [Mr. TALENT], the gentlewoman from Kansas [Mrs. MEYERS], and the gentleman from New York [Mr. LAFALCE], for their work in addressing the loan securitization issue.

During the committee markup, the gentleman from New York [Mr. LAFALCE], the gentleman from Missouri [Mr. TALENT], and I discussed the language of Mr. LAFALCE's securitization amendment and the possible negative effects it might have on existing participants. Mr. LAFALCE agreed to change the amendment to reflect the ability of the administration to require a loss reserve of up to 10 percent when circumstances require it, rather than a flat 10 percent, as originally proposed.

We made further clarification by stating that the SBA would have the authority, if necessary, to require lenders to securitize the nonguaranteed portion of the SBA 7(a) loans to retain some level of exposure in the security, not to exceed 10 percent of the amount of the loan.

Last, the amendment was modified to state the reserve requirements be determined solely by an institution's status as a depository institution or a nonbank lender. Although this is reflected in the committee report, the legislative language contradicted the committee intent. I am pleased that all parties could agree to include the new language in addressing an inadvertent wording problem and that this issue could be worked out and corrected in the manager's amendment.

I urge my colleagues to support this bill and the Meyers manager's substitute amendment.

Mr. CONYERS. Mr. Chairman, I rise today in support of H.R. 3719, the Small Business Programs Improvement Act of 1996. H.R. 3719 will better the ability of the Small Business Administration [SBA] to restructure and cut costs in critical areas of the 7(a) Loan Guarantee Program and the 504 Certified Development Company Program. These programs are both at risk of understanding in the coming fiscal years and will benefit greatly from the reforms provided in this act. However, there are components of H.R. 3719 which must be addressed in order to protect minority and women small business owners who apply for SBA loans.

H.R. 3719 greatly limits the ability of lenders to use the Low Documentation [LowDoc] loan program of the 7(a) Program. The LowDoc Program began as a pilot project in 1994 and has since spread successfully across the country. The program provides a significantly shortened one-page application for a SBA guarantee for loans of $100,000 or less. Minority and women-owned small businesses disproportionately apply for these smaller loans. Therefore, the LowDoc Program has had great success in recruiting more women and minority small business owners to the 7(a) Program. In addition, because of the reduced paperwork required of the lending institution in LowDoc loans, the program has increased the participation of smaller lenders who have been found to be more likely to lend to smaller businesses. The SBA has been criticized in recent years for overlending to larger small businesses at the determent of smaller small businesses. The LowDoc Program is one of the devices the SBA has created to successfully address this complaint.

H.R. 3719 severely limits the LowDoc Program by restricting which lenders can make LowDoc loans. Under the act, only those lenders who are preferred, certified or have significant experience in making small business loans can make LowDoc loans. These categorizations will greatly limit the number of lenders who can make LowDoc loans. In particular, the number of small lending institutions able to provide LowDoc loans will be greatly

reduced. Thus, H.R. 3719 acts to limit accessibility to LowDoc loans.

According to Representative MEYERS, H.R. 3719 limits access to LowDoc loans on the basis of anecdotal evidence that LowDoc loans are high risk. However, the SBA has shown that there is no reason to believe that LowDoc loans are more risky than other loans, and, in fact, they may be even less risky. The SBA has found that both the currency rate, the rate of payments made on time, and the default rate on LowDoc loans are as good or better than those for other SBA loans.

There appears to be little reason to alter the LowDoc Loan Program given that the program has made the 7(a) loan program more accessible to minority and women-owned small businesses, to all smaller businesses, and to small lending-institutions. In addition, the program has proven to be a relatively safe loan program. The changes to the LowDoc program are simply an example of the micromanaging which exists throughout H.R. 3719 and which is not necessary to successfully reform the SBA. However, I am confident that these problems can be worked out through amendments and in conference committee. Therefore, I restate my support of H.R. 3719 and commend the bipartisan effort which led to its creation.

Mr. POSHARD. Mr. Chairman, I rise before you today in support of the Small Business Improvement Act, H.R. 3719.

Before speaking on the merits of the legislation, let me take this opportunity to thank the Chair of this committee, my colleague from Kansas, Congresswoman MEYERS, who has been not only a good chair of the committee but a good Member of the House and a good friend. On behalf of the people of the 19th district, I wish her well in her future endeavors.

This bill makes individuals who have suffered from all types of disasters eligible for loans from the Disaster Loan Program. While I certainly believe we should respond to people in need after a natural disaster, I believe we must make sure that the primary focus of these efforts are on sudden, natural disasters, such as tornadoes, and floods, and as we are all watching today, hurricanes and tropical storms. In my district we deal with sudden disasters on a yearly basis and we must be capable of responding to these situations at any given moment, and it is imperative that the resources are in place.

Having expressed those reservations, I do rise in support of the bill and urge my colleagues to support H.R. 3719 and thank the Chair and my ranking member, Congressman LAFALCE, for their efforts in bringing this bill before us today.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I have always been a supporter of small business, both in my district and throughout the Nation. Small business is the motor of our economic engine, it supplies most of the jobs and at least half of the economic activity. It is my firm belief that the Government should do everything it can within reason to assist small businesses in succeeding. The Small Business Administration has been instrumental in the development, growth, and success of thousands of businesses and should be commended for its work and efforts. The SBA General Store in my district in Houston is a prime example of how this agency has played an important part in the expansion and growth of our economy.

While all of this is true, in these difficult times of tight budgets we must trim costs, where we can, but we must do so while still striving to achieve our basic goals. We must not be too short-sighted and slash and burn budgets and programs, doing more harm than good in the long run. Instead we must carefully prune away what we can, leaving the fruits intact. H.R. 3719 takes a reasonable approach at reforming some of the SBA's loan programs.

I support small business, the President supports small business, and I encourage all of my colleagues to do the same.

Mr. TORKILDSEN. Mr. Chairman, the Small Business Programs Improvement Act of 1996 reforms business loan programs administered by the Small Business Administration [SBA]. Specifically, the bill reduces subsidy rates for commercial development and disaster loans, directs the SBA to privatize certain aspects of the loan application and approval process to expedite service to potential borrowers, and ensures adequate Federal funding to carry out SBA programs.

H.R. 3719 includes an amendment I offered, which was adopted during the full committee markup of this legislation, regarding disaster assistance loans. My amendment accomplished two things: No. 1, it made an addition to the definition of a disaster under section (3)(k) of the Small Business Act by inserting language regarding ocean conditions; and No. 2, it set an effective date, for the amendment, with respect to any disaster occurring on or after March 1, 1994. I offered this amendment in an attempt to help remedy problems affecting the fishing industry in Gloucester and other areas in Massachusetts.

The Commonwealth requested disaster assistance from the U.S. Small Business Administration. The request was made on behalf of the fishermen of Essex, Bristol, and Barnstable Counties, all who have suffered severe economic losses because of the collapse of cod, yellow tail flounder, and haddock fisheries in their region, and the closing of certain areas to fishing by the Federal Government. Incredibly, this request was denied by the SBA.

Knowing that the vast majority of these fishermen and processors are small business owners, this small addition to the definition of disaster assistance is a logical way to help. It is clear that the Federal Government's actions precipitated this sudden closure after years of pronouncements that the situation was under control, and therefore, the request was justified.

Mr. Chairman, this is a good bill for small business and I urge my colleagues to support it.

Ms. MILLENDER-MCDONALD. Mr. Chairman, I rise in strong support of the manager's amendment. H.R. 3719 attacks the small businesses in my Congressional district and for that matter across the Nation. I am especially incensed by the manner in which this bill treats innocent victims of natural disasters and am therefore pleased with the changes to the Disaster Loan Program included in the manager's amendment.

The Small Business Administration's Disaster Loan Program helps victims of natural disasters rebuild and get back on their feet. The Northridge earthquake had a devastating impact on southern California. From the point at which the earthquake struck, on January 17, 1994 until June 30, 1996 the Small Business Administration provided 124,180 loans, totaling $4.5 billion to businesses and individuals that may not otherwise have been able to rebuild.

And I will remind my colleagues that it is not just California that benefits from the disaster loans. Even as we speak, millions of people along the East Coast are preparing for the potential devastation that may be caused by hurricane Fran.

While my thoughts and my prayers are with the potential victims of hurricane Fran, I am committed to do all I can to ensure that if they do suffer damage, that they are given all available assistance to rebuild their lives and their economy.

Low interest disaster loans are key to the economic recovery of an area after a disaster has hit. The manager's amendment I am pleased to report, would cap the interest rate at 7 percent. In the last 6 years California alone, which has certainly seen its share of disasters, has received 165,373 loans totaling over $5.5 billion. Given the importance of small businesses to any economy, I believe that these loans have been instrumental to the economic recovery that the State has achieved.

The changes to the Disaster Assistance Program are but one reason I support this amendment. Overall I believe that it makes the bill more responsive to the needs of our Nation's small and emerging businesses and I therefore urge my colleagues to support the manager's amendment.

Mr. BALDACCI, Mr. Chairman, I am pleased we are prepared to approve this important bill authorizing certain programs in the Small business Administration. The Small Business Committee, on which I serve, has worked diligently to reach accord on certain differences with regard to policy. As a result, we have been able to produce a responsible authorization bill that protects popular SBA programs while reducing the Federal Government's share of expenses. Given the growing popularity and need for such programs, these changes were necessary to instill a sense of commitment in all participants.

As a freshman Member of Congress, I am particularly pleased to have legislation I introduced earlier this year included in this authorization bill. This is my first legislative initiative to be approved by the full House, and I hope it will be enacted into law. My legislation will encourage banks to make capital available to small firms that want to export their goods. It does so by increasing the guarantee rate on export loans backed by the SBA. The change was necessary because the SBA guarantee rate for export working capital loans was reduced in legislation approved last year, creating a disparity between the rate offered to small businesses by the SBA, and the rate offered to larger businesses by the Export-Import Bank. Prior to the 1995 legislation, SBA and the Export-Import Bank harmonized their export loan programs to ensure that all borrowers—big businesses and small businesses—would have the same loan terms. Both provided a 90 percent guarantee rate on loans. My legislation returns the SBA guarantee rate to 90 percent, the same level as that offered by the Export-Import Bank.

It is widely believed that the reduction in SBA's guarantee rate for export loans had a chilling effect on small business lenders, who were required to incur greater risk. A recent

letter from the Trade Promotion Coordinating Committee indicated that over half of the lenders polled, small lenders in particular, would retreat from making trade finance loans to small businesses due to increased risk. The letter, signed by the Secretary of Commerce, the SBA administrator, the Ex-Im Bank chairman, and the director of the U.S. Trade and Development Agency, urged reharmonization of the rates.

In addition, a recent GAO study noted that the guarantee rate is critical for funding original loans, and that a higher rate is particularly important when the lender or borrower is new to export. This is precisely the audience SBA serves in an effort to increase small business exports.

I'm pleased that my legislation was added to the bill. It's important to me because it recognizes the critical role of trade and exports to the economy of Maine and the Nation. Figures from the Department of Commerce underline the incredible potential of foreign markets. According to them, every $1 billion in increased trade creates approximately 20,000 manufacturing jobs and 40–60,000 service and support jobs. Moreover, wages associated with exported goods are some 20 percent higher than those related to nonexports.

Reharmonizing the guarantee rate could have very positive effects for our economy, as well as small business exporters, one of the fastest growing segments of the exporting community. As a member of the Small Business Committee, I am constantly seeking ways to help smaller companies expand and succeed. It is my strong belief that small businesses will benefit from increased trade. Promoting exports is one of the best means to this end. Encouraging new small business exports is an important, nonpartisan public policy objective.

I urge my colleagues to support this important legislation.

The CHAIRMAN. All time for general debate has expired.

The committee amendment in the nature of a substitute printed in the bill shall be considered by title as an original bill for the purpose of amendment and pursuant to the rule, the first three sections and each title are considered as read.

During consideration of the bill for amendment, the Chair may accord priority in recognition to a Member offering an amendment that he has printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered read.

The Chairman of the Committee of the Whole may: (1) postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on an amendment; and (2) reduce to 5 minutes the minimum time for electronic voting on any postponed question that follows another electronic vote without intervening business, provided that the minimum time for electronic voting on the first in any series of questions shall be 15 minutes.

The Clerk will designate section 1.

The text of section 1 is as follows:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Small Business Programs Improvement Act of 1996''.

Mrs. MEYERS of Kansas. Mr. Chairman, I ask unanimous consent that the entire committee amendment in the nature of a substitute be considered as read printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Kansas?

There was no objection.

The text of the remainder of the committee amendment in the nature of a substitute is as follows:

(b) TABLE OF CONTENTS.—

SEC. 2. ADMINISTRATOR DEFINED.

In this Act, the term ''Administrator'' means the Administrator of the Small Business Administration.

SEC. 3. EFFECTIVE DATE.

Except as otherwise expressly provided, this Act and the amendments made by this Act shall take effect on October 1, 1996.

TITLE I—AMENDMENTS TO SMALL BUSINESS ACT

SEC. 101. REFERENCES.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Small Business Act (15 U.S.C. 631 et seq.).

SEC. 102. RISK MANAGEMENT DATABASE.

Section 4(b) (15 U.S.C. 633) is amended by inserting after paragraph (2) the following:

''(3) RISK MANAGEMENT DATABASE.—

''(A) ESTABLISHMENT.—The Administration shall establish, within the management system for the loan programs authorized by subsections (a) and (b) of section 7 of this Act and title V of the Small Business Investment Act of 1958, a management information system that will generate a database capable of providing timely and accurate information in order to identify loan underwriting, collections, recovery, and liquidation problems.

''(B) INFORMATION TO BE MAINTAINED.—In addition to such other information as the Administration considers appropriate, the database established under subparagraph (A) shall, with respect to each loan program described in subparagraph (A), include information relating to—

''(i) the identity of the institution making the guaranteed loan or issuing the debenture;

''(ii) the identity of the borrower;

''(iii) the total dollar amount of the loan or debenture;

''(iv) the total dollar amount of government exposure in each loan;

''(v) the district of the Administration in which the borrower has its principal office;

''(vi) the borrower's principal line of business, as identified by Standard Industrial Classification Code (or any successor to that system);

''(vii) the delinquency rate for each program (including number of instances and days overdue);

''(viii) the number of defaults in each program (including losses and recoveries);

''(ix) the number of deferrals or forbearances in each program (including days and number of instances); and

''(x) comparisons on the basis of loan program, lender, Administration district and region, for all the data elements maintained.

''(C) DEADLINE FOR OPERATIONAL CAPABILITY.—The database established under subparagraph (A) shall be operational not later than March 31, 1997, and shall capture data beginning on the first day of the first quarter of fiscal year 1997 beginning after such date and thereafter.''.

SEC. 103. SECTION 7(a) LOAN PROGRAM.

(a) SERVICING AND LIQUIDATION OF LOANS BY PREFERRED LENDERS.—Section 7(a)(2)(C)(ii)(II) (15 U.S.C. 636(a)(2)(C)(ii)(II)) is amended to read as follows:

''(II) complete authority to service and liquidate such loans without obtaining the prior specific approval of the Administration for routine servicing and liquidation activities, but shall not take any actions creating an actual or apparent conflict of interest.''.

(b) CERTIFIED LENDERS PROGRAM.—Section 7(a)(19) (15 U.S.C. 636(a)(19)) is amended to read as follows:

''(19)(A) CERTIFIED LENDERS PROGRAM.—

''(i) ESTABLISHMENT.—In addition to the Preferred Lenders Program authorized by the proviso in section 5(b)(7), the Administration is authorized to establish a Certified Lenders Program for lenders who establish their knowledge of Administration laws and regulations concerning the guaranteed loan program and their proficiency in program requirements.

''(ii) SUSPENSION AND REVOCATION.—The designation of a lender as a certified lender shall be suspended or revoked at any time that the Administration determines that the lender is not adhering to its rules and regulations or that the loss experience of the lender is excessive as compared to other lenders, but such suspension or revocation shall not affect any outstanding guarantee.

''(B) UNIFORM AND SIMPLIFIED LOAN FORMS.—In order to encourage all lending institutions and other entities making loans authorized under this subsection to provide loans of $50,000 or less in guarantees to eligible small business loan applicants, the Administration shall develop and allow participating lenders to solely utilize a uniform and simplified loan form for such loans.

''(C) LOW DOCUMENTATION LOAN PROGRAM.—The Administrator may carry out the low documentation loan program for loans of $100,000 or less only through Preferred Lenders and Certified Lenders, or lenders with significant experience making small business loans. The Administration shall give special consideration to lenders who have made loans under the authority of this section. The Administrator shall promulgate regulations defining the experience necessary for lenders other than Preferred or Certified Lenders for participation as a lender in the low documentation loan program no later than 90 days after the date of enactment of this subsection.

''(D) AUTHORITY LIQUIDATE LOANS.—

''(i) IN GENERAL.—Lenders participating in the Certified Lenders Program shall have authority to liquidate loans made with a guarantee from the Administration.

''(ii) APPROVAL.—The Administrator has the authority to require a certified lender to request approval of a routine liquidation activity, and if the Administrator does not approve or deny a request made by a certified lender within a period of 3 business days, such request shall be deemed to be approved.

''(E) LOW DOCUMENTATION LOAN PROGRAM SUBSIDY RATE.—The Administrator shall with the assistance of the Director of the Office of Management and Budget establish and monitor, on an annual basis, the subsidy rate for the low documentation loan program, independently of other loans authorized by this section.''.

(c) LIMITATION ON CONDUCTING PILOT PROJECTS.—Section 7(a) (15 U.S.C. 636(a)) is amended by adding at the end the following new paragraph:

''(25) LIMITATION ON CONDUCTING PILOT PROJECTS.—

''(A) IN GENERAL.—Not more than 10 percent of the total number of loans guaranteed in any fiscal year under this subsection may be awarded as part of a pilot program which is commenced by the Administrator on or after October 1, 1996.

''(B) PILOT PROGRAM DEFINED.—In this paragraph, the term 'pilot program' means any lending program initiative, project, innovation, or other activity not specifically authorized by law.''.

(d) SECURITIZATION OF UNGUARANTEED PORTIONS OF SBA LOANS.—Section 5(f)(3) (15 U.S.C. 634(f)(3)) is amended by adding at the end the following: ''The Administration may not prohibit a lender from securitizing the nonguaranteed portion of any loan made under section 7(a). In order to reduce the risk of loss to the government in the event of default, the Administration shall require all lenders securitizing, or requesting Administration approval for the securitization of the nonguaranteed portion of any loan after August 1, 1996, to retain exposure of up to 10 percent of the amount of the loan, which percentage shall be applicable uniformly to both depository institutions and other lenders.''.

(e) CONDITIONS ON PURCHASE OF LOANS.—

(1) SERVICING FEE.—Section 5(g)(5) (15 U.S.C. 634(g)(5)) is amended by adding at the end the following:

''(C) In the event the Administration pays a claim under a guarantee issued under this Act, the servicing fees paid to the lender from the earliest date of default to the date of payment of the claim shall be no more than the agreed upon rate, minus one percent.''.

(2) PAYMENT OF ACCRUED INTEREST.—Section 7(a)(17) is amended—

(A) by striking ''(17) The Administration'' and inserting ''(17)(A) The Administration''; and

(B) by adding at the end the following:

''(B) Any bank or other lending institution making a claim for payment on the guaranteed portion of a loan made under this subsection shall be paid the accrued interest due on the loan from the earliest date of default to the date of payment of the claim at a rate not to exceed the rate of interest on the loan on the date of default, minus one percent.''.

(f) PLAN FOR TRANSFER OF LOAN SERVICING FUNCTIONS TO CENTRALIZED CENTERS.—

(1) IMPLEMENTATION PLAN REQUIRED.—The Administrator of the Small Business Administration shall submit a detailed plan for consolidating, in one or more centralized centers, the performance of the various functions relating to the servicing of loans directly made or guaranteed by the Administration pursuant to the Small Business Act, addressing the matters described in paragraph (2) by the deadline specified in paragraph (3).

(2) CONTENTS OF PLAN.—In addition to such other matters as the Administrator may deem appropriate, the plan required by paragraph (1) shall include—

(A) the proposed number and location of such centralized loan processing centers;

(B) the proposed workload (identified by type and numbers of loans and their geographic origin by the Small Business Administration district office) and staffing of each such center;

(C) a detailed, time-phased plan for the transfer of the identified loan servicing functions to each proposed center; and

(D) any identified impediments to the timely execution of the proposed plan (including adequacy of available financial resources, availability of needed personnel, facilities, and related equipment) and the Administrator's recommendations for addressing such impediments.

(3) DEADLINE FOR SUBMISSION.—The plan required by paragraph (1) shall be submitted to the Committees on the Small Business of the House of Representatives and Senate not later than February 28, 1997.

(g) PREFERRED LENDER STANDARD REVIEW PROGRAM.—Not later than 60 days after the date of enactment of this Act, the Administrator shall issue a request for proposals regarding the standard review program for the Preferred Lender Program established by section 5(b)(7) of the Small Business Act (15 U.S.C. 634(b)(7)). The Administrator shall require such standard review for each new entrant to the Preferred Lender Program.

(h) INDEPENDENT STUDY OF LOAN PROGRAMS.—

(1) STUDY REQUIRED.—The Administrator shall conduct a comprehensive assessment of the performance of the loan programs authorized by section 7(a) of the Small Business Act (15 U.S.C. 636(a)) and title V of the Small Business Investment Act of 1958 (15 U.S.C. 661) addressing the matters described in paragraph (2) and resulting in a report to Congress pursuant to paragraph (5).

(2) MATTERS TO BE ASSESSED.—In addition to such other matters as the Administrator considers appropriate, the assessment required by paragraph (1) shall address, with respect to each loan program described in paragraph (1) for each of the fiscal years described in paragraph (3)—

(A) the number and frequency of deferrals and defaults;

(B) default rates;

(C) comparative loss rates, by—

(i) type of lender (separately addressing preferred lenders, certified lenders, and general participation lenders);

(ii) term of the loan; and

(iii) dollar value of the loan at disbursement; and

(D) the economic models used by the Office of Management and Budget to calculate the credit subsidy rate applicable to the loan programs.

(3) PERIOD OF ASSESSMENT.—The assessments undertaken pursuant to paragraph (2) shall address data for the period beginning with the first full fiscal year of the implementation of each loan program described in paragraph (1) through fiscal year 1995.

(4) PERFORMANCE BY THE PRIVATE SECTOR.—

(A) CONTRACTOR PERFORMANCE.—A private sector contractor shall be used by the Administrator to conduct the assessment required by paragraph (1) and to prepare the report to Congress required by paragraph (3).

(B) SOLICITATION AND AWARD.—The contract shall be awarded pursuant to a solicitation issued not later than 60 days after the date of the enactment of this Act, which shall provide for full and open competition. The Administrator shall make every reasonable effort to award the contract not later that 60 days after the date specified in the solicitation for receipt of proposals.

(C) ACCESS TO INFORMATION.—The Administrator shall provide to the contractor access to any information collected by or available to the Administration with regard to the loan programs being assessed. The contractor shall preserve the confidentiality of any information for which confidentiality is protected by law or properly asserted by the person submitting such information.

(D) CONTRACT FUNDING.—The Administrator shall fund the cost of the contract from the amounts appropriated for the salaries and expenses of the Administration for fiscal year 1997.

(5) REPORT TO CONGRESS.—

(A) CONTENTS.—The contractor shall submit a report of—

(i) its analyses of the matters to be assessed pursuant to paragraph (2); and

(ii) its independent recommendations, with respect to each loan program, regarding—

(I) improving the Administration's timely collection and subsequent management of data to measure the performance of each loan program described in paragraph (1); and

(II) reducing loss rates for each such loan program.

(B) SUBMISSION BY CONTRACTOR.—The contractor shall submit the report required by subparagraph (A) not later than 6 months after the date of the contract award.

(C) SUBMISSION TO CONGRESS.—The Administrator shall submit the report received from the contractor pursuant to subparagraph (B) to the Committees on Small Business of the House of Representatives and the Senate within 30 days of receipt of the report. The Administrator shall append his comments, and those of the Office of Management and Budget, if any, to the report.

(i) GENERAL ACCOUNTING OFFICE STUDY.—

(1) IN GENERAL.—The General Accounting Office shall conduct a comparison of the cost of liquidation for—

(A) loans guaranteed under the Preferred Lenders Program that are authorized by section 7(a) of the Small Business Act (15 U.S.C. 636(a)) and liquidated by the Preferred Lenders;

(B) loans made and liquidated by, Preferred Lenders, but not guaranteed under the authority in section 7(a); and

(C) loans guaranteed by the Small Business Administration under the authority in section 7(a) and liquidated by the Administration, taking into account all of the related costs incurred by the Federal Government.

(2) REPORT.—Not later than 9 months after the date of enactment of this Act the General Accounting Office shall deliver the results of the study to the Committees on Small Business of the House and Senate.

SEC. 104. DISASTER LOAN PROGRAM.

(a) INTEREST RATE.—Section 7(c) (15 U.S.C. 636(c)) is amended by redesignating paragraphs (6) and (7) as paragraphs (8) and (9), respectively, and by inserting after paragraph (5) the following:

''(6) DISASTERS COMMENCING AFTER OCTOBER 1, 1996.—Notwithstanding any other provision of law, the interest rate on the Federal share of any loan made under subsection (b)(1) and (b)(2) on account of a disaster commencing on or after October 1, 1996, shall be in the case of a homeowner, or business, or other concern, including agricultural cooperatives, unable to obtain credit elsewhere, at the rate prescribed by the Administration but not more than ¾ of the rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans plus an additional charge of not to exceed 1 percent per annum as determined by the Administrator, and adjusted to the nearest ⅛ of 1 percent.

''(7) LIABILITY.—Whoever wrongfully misapplies the proceeds of a loan under subsection (b) shall be liable to the Administrator in an amount equal to 1½ times the original principal amount of the loan.''.

(b) PRIVATE SECTOR LOAN SERVICING DEMONSTRATION PROGRAM.—

(1)(A) DEMONSTRATION PROGRAM REQUIRED.—The Administration shall conduct a demonstration program, within the parameters described in paragraph (2), to evaluate the comparative costs and benefits of having the Administration's portfolio of disaster loans serviced under contract rather than directly by employees of the Administration.

(B) INITIATION DATE.—Not later than 90 days after the date of enactment of this Act, the Administration shall issue a request for proposals for the program parameters described in paragraph (2).

(2) DEMONSTRATION PROGRAM PARAMETERS.—

(A) LOAN SAMPLE.—The sample of loans for the demonstration program shall be randomly drawn from the Administration's portfolio of loans made pursuant to section 7(b) of the Small Business Act and include 20,000 loans for residential properties and 5,000 loans for commercial properties.

(B) CONTRACT AND OPTIONS.—The Administration shall solicit and competitively award one or more contracts to service the loans included in the sample of loans described in subparagraph (A) for a term of 2 years with 5 2-year options, each to be awarded subject to subparagraph (C).

(C) ASSESSMENTS OF PERFORMANCE.—Prior to award of any contract option, the Administration shall assess the costs and performance of each contractor and compare such costs and such performance to the costs and performance of servicing disaster loans by employees of the Administration. The Administrator shall not exercise a contract option if the cost of performance of the loan servicing by the contractor exceeds the cost of performance of the loan servicing by employees of the Administration. The Administrator may terminate the contract during its initial term (or any subsequent option period), based upon performance and cost criteria specified in the solicitation and included in the contract.

(D) DISPOSITION OF GOVERNMENT FURNISHED PROPERTY.—The contract shall require the contractor to—

(i) maintain the confidentiality of the loan files furnished by the Administration; and

(ii) return such loan files and other Government-furnished property within a specified period after expiration (or termination) of the contract.

(3) TERM OF DEMONSTRATION PROGRAM.—

(A) IN GENERAL.—The demonstration program required by paragraph (1) shall commence on the first day of the first fiscal year quarter after the award of the contract and continue through the last day of the fiscal year quarter at the expiration of the 2-year contract period or any subsequent contract option.

(B) EARLY TERMINATION.—If the Administrator terminates each contract pursuant to paragraph (2)(C), the demonstration program shall end on the effective date of such termination.

(4) REPORTS.—

(A) INTERIM REPORTS.—The Administrator shall submit to the Committees on Small Business of the House of Representatives and Senate interim reports on the conduct of the demonstration program not later than 60 days prior to the expiration of the initial 2-year contract performance period, each subsequent option period, or termination of a contract. The contractor shall be afforded a reasonable opportunity to attach comments to each such report.

(B) FINAL REPORT.—The Administrator shall submit to the Committees on Small Business of the House of Representatives and Senate a final report within 120 days of the termination of the demonstration program.

(c) DEFINITION OF DISASTER.—(1) Section 3(k) (15 U.S.C. 632(k)) is amended by striking ''ocean conditions'' and inserting ''ocean conditions, or government action (regulatory or otherwise)''.

(2) For the purposes of this Act this amendment shall be considered effective with respect to any disaster occurring on or after March 1, 1994.

SEC. 105. MICROLOAN DEMONSTRATION PROGRAM.

(a) TECHNICAL ASSISTANCE GRANT REQUIREMENTS.—Section 7(m)(4) (15 U.S.C. 636(m)(4)) is amended—

(1) in subparagraph (A) by striking ''25 percent'' and inserting ''20 percent''; and

(2) in subparagraph (B) by striking ''25 percent'' and inserting ''35 percent''.

(b) IMPLEMENTATION OF GUARANTEED MICROLOAN PILOT PROGRAM.—

(1) ACTION REQUIRED.—The Administrator shall implement or submit a detailed report explaining the impediments to the implementation of a Guaranteed Microloan Pilot Program pursuant to section 7(m)(12) (15 U.S.C. 636(m)(12)) addressing the matters described in paragraph (2) by the deadline specified in paragraph (3).

(2) CONTENTS OF IMPLEMENTATION REPORT.—In addition to such other matters as the Administrator may deem appropriate, the plan required by paragraph (1) shall include any identified impediments to implementation of a Guaranteed Microloan Pilot Program that, in the opinion of the Administrator, require amendments to the program's authorizing legislation, and if such impediments are identified, includes recommendations for such statutory changes.

(3) DEADLINE FOR SUBMISSION.—The plan required by paragraph (2) shall be submitted to the Committees on Small Business of the House of Representatives and Senate not later than December 1, 1996.

(c) LIMITATION ON FUNDING.—In the event that the Administrator shall fail to submit the report required by subsection (b)(1) by the deadline specified in subsection (b)(3), none of the amounts appropriated to carry out the Microloan Program authorized by section 7(m)(12) of the Small Business Act (15 U.S.C. 636(m)(12)) during fiscal year 1997 may be expended until such time as the pilot program is implemented or the report is submitted.

SEC. 106. SMALL BUSINESS DEVELOPMENT CENTER PROGRAM.

(a) ASSOCIATE ADMINISTRATOR FOR SMALL BUSINESS DEVELOPMENT CENTERS.—

(1) DUTIES.—Section 21(h) (15 U.S.C. 648(h)) is amended to read as follows:

''(h) ASSOCIATE ADMINISTRATOR FOR SMALL BUSINESS DEVELOPMENT CENTERS.—

''(1) APPOINTMENT AND COMPENSATION.—The Administrator shall appoint an Associate Administrator for Small Business Development Centers who shall report to an official who is not more than one level below the Office of the Administrator and who shall serve without regard to the provisions of title 5 governing appointments in the competitive service, and without regard to chapter 51, and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at a rate not less than the rate of GS–17 of the General Schedule.

''(2) DUTIES.—

''(A) IN GENERAL.—The sole responsibility of the Associate Administrator for Small Business Development Centers shall be to administer the small business development center program. Duties of the position shall include, but are not limited to, recommending the annual program budget, reviewing the annual budgets submitted by each applicant, establishing appropriate funding levels therefore, selecting applicants to participate in this program, implementing the provisions of this section, maintaining a clearinghouse to provide for the dissemination and exchange of information between small business development centers and conducting audits of recipients of grants under this section.

''(B) CONSULTATION REQUIREMENTS.—In carrying out the duties described in this subsection, the Associate Administrator shall confer with and seek the advice of the Board established by subsection (i) and Administration officials in areas served by the small business development centers; however, the Associate Administrator shall be responsible for the management and administration of the program and shall not be subject to the approval or concurrence of such Administration officials.''.

(2) REFERENCES TO ASSOCIATE ADMINISTRATOR.—Section 21 (15 U.S.C. 648) is amended—

(A) in subsection (c)(7) by striking ''Deputy Associate Administrator of the Small Business Development Center program'' and inserting ''Associate Administrator for Small Business Development Centers''; and

(B) in subsection (i)(2) by striking ''Deputy Associate Administrator for Management Assistance'' and inserting ''Associate Administrator for Small Business Development Centers''.

(b) EXTENSION OR RENEWAL OF COOPERATIVE AGREEMENTS.—Section 21(k)(3) (15 U.S.C. 648(k)(3)) is amended to read as follows:

''(3) EXTENSION OR RENEWAL OF COOPERATIVE AGREEMENTS.—

''(A) IN GENERAL.—In extending or renewing a cooperative agreement of a small business development center, the Administration shall consider the results of the examination and certification program conducted pursuant to paragraphs (1) and (2).

''(B) CERTIFICATION REQUIREMENT.—After September 30, 2000, the Administration may not renew or extend any cooperative agreement with a small business development center unless the center has been approved under the certification program conducted pursuant to this subsection; except that the Associate Administrator for Small Business Development Centers may waive such certification requirement, in the discretion of the Associate Administrator, upon a showing that the center is making a good faith effort to obtain certification.''.

(c) TECHNICAL CORRECTION.—Section 21(l) (15 U.S.C. 648(l)) is amended to read as follows:

''(l) CONTRACT AUTHORITY.—The authority to enter into contracts shall be in effect for each fiscal year only to the extent and in the amounts as are provided in advance in appropriations Acts. After the administration has entered a contract, either as a grant or a cooperative agreement, with any applicant under this section, it shall not suspend, terminate, or fail to renew or extend any such contract unless the Administration provides the applicant with written notification setting forth the reasons therefore and affording the applicant an opportunity for a hearing, appeal, or other administrative proceeding under the provisions of chapter 5 of title 5, United States Code.''.

SEC. 107. MISCELLANEOUS AUTHORITIES TO PROVIDE LOANS AND OTHER FINANCIAL ASSISTANCE.

(a) FUNDING LIMITATION; SEMINARS.—Section 7(d) (15 U.S.C. 636(d)) is amended—

(1) by striking ''(d)(1)'' and inserting ''(d)''; and

(2) by striking paragraph (2).

(b) TRADE ADJUSTMENT LOANS.—Section 7(e) (15 U.S.C. 636(e)) is amended to read as follows:

''(e) [RESERVED].''.

(c) WAIVER OF CREDIT ELSEWHERE TEST FOR COLLEGES AND UNIVERSITIES.—Section 7(f) (15 U.S.C. 636(f)) is amended to read as follows:

''(f) [RESERVED].''.

(d) LOANS TO SMALL BUSINESS CONCERNS FOR SOLAR ENERGY AND ENERGY CONSERVATION MEASURES.—Section 7(l) (15 U.S.C. 636(l)) is amended to read as follows:

''(l) [RESERVED].''.

SEC. 108. SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM.

(a) EXTENSION OF DEMONSTRATION PROGRAM.—Section 711(c) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note; 102 Stat. 3890) is amended by striking ''September 30, 1996'' and inserting ''September 30, 2000''.

(b) REPORTING OF SUBCONTRACT PARTICIPATION IN CONTRACTS FOR ARCHITECTURAL AND ENGINEERING SERVICES.—Section 714(b)(5) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note; 102 Stat. 3892) is amended to read as follows:

''(5) DURATION.—The system described in subsection (a) shall be established not later than October 1, 1996 (or as soon as practicable thereafter on the first day of a subsequent quarter of fiscal year 1997), and shall terminate on September 30, 2000.''.

(c) REFERENCES TO ARCHITECTURAL AND ENGINEERING SERVICES.—

(1) IN GENERAL.—The Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note; 102 Stat. 3889 et seq.) is amended in subsections (a)(3) and (d) by striking ''surveying and mapping'' and inserting ''surveying, mapping, and landscape architecture''.

(2) DESIGNATED INDUSTRY GROUPS.—Section 717(d) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note; 102 Stat. 3894) is amended by inserting ''standard industrial classification codes 0781 (if identified as pertaining to architecture services),'' after ''(if identified as pertaining to mapping services),''.

(d) REPORTS TO CONGRESS.—

(1) IN GENERAL.—Section 716 of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note; 102 Stat. 3893) is amended—

(A) in subsection (a), by striking ''fiscal year 1991 and 1995'' and inserting ''each of fiscal years 1991 through 1999'';

(B) in subsection (a), by striking ''results'' and inserting ''cumulative results''; and

(C) in subsection (c), by striking ''1996'' and inserting ''1999''.

(2) CUMULATIVE REPORT THROUGH FISCAL YEAR 1995.—A cumulative report of the results of the Small Business Competitiveness Demonstration Program for fiscal years 1991 through 1995 shall be submitted not later than 60 days after the date of the enactment of this Act pursuant to section 716(a) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note; 102 Stat. 3893), as amended by paragraph (1) of this subsection.

SEC. 109. AMENDMENT TO SMALL BUSINESS GUARANTEED CREDIT ENHANCEMENT ACT OF 1993.

(a) Section 7 of the Small Business Guaranteed Credit Enhancement Act of 1993 (Public Law 103–81; 15 U.S.C. 634 note) is repealed effective September 29, 1996.

(b) CLERICAL AMENDMENT.—The table of contents for the Small Business Guaranteed Credit Enhancement Act of 1993 (Public Law 103–81; 15 U.S.C. 631 note) is amended by striking the item relating to section 7.

SEC. 110. 1998 AUTHORIZATIONS.

Section 20 (15 U.S.C. 631 note) is amended—

(1) in subsection (p), by striking ''authorized for fiscal year 1997'' and inserting ''authorized for each of fiscal years 1997 and 1998'';

(2) by striking subsection (p)(3)(B) and by inserting the following:

''(B) $268,000,000 in guarantees of debentures; and'';

(3) in subsection (q)(1) by striking ''fiscal year 1997'' and inserting ''each of fiscal years 1997 and 1998''; and

(4) in subsection (q)(2) by striking ''year 1997'' and inserting ''years 1997 and 1998''.

SEC. 111. LEVEL OF PARTICIPATION FOR EXPORT WORKING CAPITAL LOANS.

Section 7(a)(2) (15 U.S.C. 636(a)(2)) is amended by adding at the end the following:

''(D) PARTICIPATION UNDER EXPORT WORKING CAPITAL PROGRAM.—Notwithstanding subparagraph (A), in an agreement to participate in a loan on a deferred basis under the Export Working Capital Program established pursuant to paragraph (14)(A), such participation by the Administration shall be equal to the rate specified under this paragraph as in effect on the day before the date of the enactment of the Small Business Lending Enhancement Act of 1995.''.

TITLE II—AMENDMENTS TO SMALL BUSINESS INVESTMENT ACT

SEC. 201. REFERENCES.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Small Business Investment Act of 1958 (15 U.S.C. 661 et seq.).

SEC. 202. MODIFICATIONS TO DEVELOPMENT COMPANY DEBENTURE PROGRAM.

(a) DECREASED LOAN TO VALUE RATIOS.—Section 502(3) (15 U.S.C. 696(3)) is amended to read as follows:

''(3) CRITERIA FOR ASSISTANCE.—

''(A) IN GENERAL.—Any development company assisted under this section or section 503 of this title must meet the criteria established by the Administration, including the extent of participation to be required or amount of paid-in capital to be used in each instance as is determined to be reasonable by the Administration.

''(B) COMMUNITY INJECTION FUNDS.—

''(i) SOURCES OF FUNDS.—Community injection funds may be derived, in whole or in part, from—

''(I) State or local governments;

''(II) banks or other financial institutions;

''(III) foundations or other not-for-profit institutions; or

''(IV) the small business concern (or its owners, stockholders, or affiliates) receiving assistance through a body authorized by this title.

''(ii) FUNDING FROM INSTITUTIONS.—Not less than 50 percent of the total cost of any project financed pursuant to clauses (i), (ii), or (iii) of subparagraph (C) shall come from the institutions described in subclauses (I), (II), and (III) of clause (i).

''(C) FUNDING FROM A SMALL BUSINESS CONCERN.—The small business concern (or its owners, stockholders, or affiliates) receiving assistance through a body authorized by this title shall provide—

''(i) at least 15 percent of the total cost of the project financed, if the small business concern has been in operation for a period of 2 years or less;

''(ii) at least 15 percent of the total cost of the project financed if the project involves the construction of a limited or single purpose building or structure;

''(iii) at least 20 percent of the total cost of the project financed if the project involves both of the conditions set forth in clauses (i) and (ii); or

''(iv) at least 10 percent of the total cost of the project financed, in all other circumstances, at the discretion of the development company.''.

(b) GUARANTEE FEE FOR DEVELOPMENT COMPANY DEBENTURES.—Section 503(b)(7)(A) (15 U.S.C. 697(b)(7)(A)) is amended by striking ''0.125 percent'' and inserting ''0.8125 percent''.

(c) FEES TO OFFSET SUBSIDY COST.—Section 503(d) (15 U.S.C. 697(d)) is amended to read as follows:

''(d) CHARGES FOR ADMINISTRATION EXPENSES.—

''(1) LEVEL OF CHARGES.—The Administration may impose an additional charge for administrative expenses with respect to each debenture for which payment of principal and interest is guaranteed under subsection (a).

''(2) PARTICIPATION FEE.—The Administration shall also impose a one-time fee of 50 basis points on the total participation in any project of any institution described in subclause (I), (II), or (III) of section 502(3)(B)(i). Such fee shall be imposed only when the participation of the institution will occupy a senior credit position to that of the development company. Such fee shall be collected by the development company, forwarded to the Administration, and used to offset the cost (as such term is defined in section 502 of the Credit Reform Act of 1990) to the Administration of making guarantees under subsection (a).

''(3) DEVELOPMENT COMPANY FEE.—The Administration shall collect annually from each development company a fee of 0.125 percent of the outstanding principal balance of any guaranteed debenture authorized by the Administration after September 30, 1996. Such fee shall be derived from the servicing fees collected by the development company pursuant to regulation, and shall not be derived from any additional fees imposed on small business concerns. All proceeds of the fee shall be used to offset the cost (as such term is defined in section 502 of the Credit Reform Act of 1990) to the Administration of making guarantees under subsection (a).''.

(d) EFFECTIVE DATE.—Section 503 (15 U.S.C. 697) is amended by adding at the end the following:

''(f) EFFECTIVE DATE.—The fees authorized by subsections (b) and (c) shall apply to financings approved by the Administration on or after October 1, 1996, but shall not apply to financings approved by the Administration on or after October 1, 1997.''.

SEC. 203. REQUIRED ACTIONS UPON DEFAULT.

Section 503 (15 U.S.C. 697) is amended by adding at the end the following:

''(g) REQUIRED ACTIONS UPON DEFAULT.—

''(1) DEADLINES.—

''(A) INITIAL ACTIONS.—Not later than the 45th day after the date on which a payment on a loan funded through a debenture guaranteed under this section is due and not received, the Administration shall—

''(i) take all necessary steps to bring such a loan current; or

''(ii) implement a formal written deferral agreement.

''(B) PURCHASE OR ACCELERATION OF DEBENTURE.—Not later than the 65th day after the date on which a payment on a loan described in subparagraph (A) is due and not received, and absent a formal written deferral agreement, the Administration shall take all necessary steps to purchase or accelerate the debenture.

''(2) PREPAYMENT PENALTIES.—The Administration shall, with respect to the portion of any project derived from funds set forth in section 502(3)—

''(A) negotiate the elimination of any prepayment penalties or late fees on defaulted loans made prior to September 30, 1996;

''(B) decline to pay any prepayment penalty or late fee on the default based purchase of loans issued after September 30, 1996; and

''(C) for any project financed after September 30, 1996, decline to pay any default interest rate higher than the interest rate on the note prior to the date of default.''.

SEC. 204. LOAN LIQUIDATION PILOT PROGRAM.

(a) IN GENERAL.—The Administrator shall carry out a loan liquidation pilot program (in this section referred to as the ''pilot program'') in accordance with the requirements of this section.

(b) SELECTION OF DEVELOPMENT COMPANIES.—Not later than 90 days after the date of the enactment of this Act, the Administrator shall allow not less than 15 development companies authorized to make loans and issue debentures under title V of the Small Business Investment Act of 1958 to participate in the pilot program. The development companies admitted shall agree not to take any action that would create a potential conflict of interest involving the development company, the third party lender, or an associate of the third party lender. In order to qualify to participate in the pilot, each development company shall—

(1) have a minimum of 6 years experience in the program established by such title V;

(2) have made, during the last 6 fiscal years, an average of 10 loans per year through the program established by such title V; and

(3) have a minimum of 2 years experience, either independently or through an agent, in liquidating loans under the authority of a Federal, State, or other lending program.

(c) AUTHORITY OF DEVELOPMENT COMPANIES.—The development companies selected under subsection (b) shall, for all loans in their portfolio of loans made through debentures guaranteed under title V of the Small Business Investment Act of 1958 that are in default after the date of enactment of this Act, be authorized to—

(1) perform all liquidation and foreclosure functions, including the acceleration or purchase of community injection funds; and

(2) liquidate such loans in a reasonable and sound manner and according to commercially accepted practices.

(d) AUTHORITY OF THE ADMINISTRATOR.—In carrying out the pilot program, the Administrator shall—

(1) have full authority to deny participation in the pilot program or rescind the authority granted any development company under this section upon a 10-day written notice stating the reasons for the denial or rescission; and

(2) implement the pilot program no later than 90 days after the admission of the development companies specified in subsection (b).

(e) REPORT.—

(1) IN GENERAL.—The Administrator shall issue a report on the results of the pilot program to the Committees on Small Business of the House of Representatives and the Senate. The report shall include information relating to—

(A) the total dollar amount of each loan and project liquidated;

(B) the total dollar amount guaranteed by the Administration;

(C) total dollar losses;

(D) total recoveries both as percentage of the amount guaranteed and the total cost of the project; and

(E) a comparison of the pilot program information with the same information for liquidation conducted outside the pilot program over the period of time.

(2) REPORTING PERIOD.—The report shall be based on data from, and issued not later than 90 days after the close of, the first eight 8 fiscal quarters of the pilot program's operation after the date of implementation.

SEC. 205. REGISTRATION OF CERTIFICATES.

(a) CERTIFICATES SOLD PURSUANT TO SMALL BUSINESS ACT.—Section 5(h) of the Small Business Act (15 U.S.C. 634(h)) is amended—

(1) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D);

(2) by striking ''(h)'' and inserting ''(h)(1)'';

(3) by striking subparagraph (A), as redesignated by paragraph (1) of this subsection, and inserting the following:

''(A) provide for a central registration of all loans and trust certificates sold pursuant to subsections (f) and (g) of this section;''; and

(4) by adding at the end the following:

''(2) Nothing in this subsection shall prohibit the utilization of a book-entry or other electronic form of registration for trust certificates. The Administration may, with the consent of the Secretary of the Treasury, use the book-entry system of the Federal Reserve System.''.

(b) CERTIFICATES SOLD PURSUANT TO SMALL BUSINESS INVESTMENT COMPANY PROGRAM.—Section 321(f) (15 U.S.C. 6871(f)) is amended—

(1) in paragraph (1) by striking ''Such central registration shall include'' and all that follows through the period at the end of the paragraph; and

(2) by adding at the end the following:

''(5) Nothing in this subsection shall prohibit the use of a book-entry or other electronic form of registration for trust certificates.''.

(c) CERTIFICATES SOLD PURSUANT TO DEVELOPMENT COMPANY PROGRAM.—Section 505(f) (15 U.S.C. 697b(f)) is amended—

(1) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D);

(2) by striking ''(f)'' and inserting ''(f)(1)'';

(3) by striking subparagraph (A), as redesignated by paragraph (1) of this subsection, and inserting the following:

''(A) provide for a central registration of all trust certificates sold pursuant to this section;'' and

(4) by adding at the end the following:

''(2) Nothing in this subsection shall prohibit the utilization of a book-entry or other electronic form of registration for trust certificates.''.

SEC. 206. PREFERRED SURETY BOND GUARANTEE PROGRAM.

(a) ADMISSIONS OF ADDITIONAL PROGRAM PARTICIPANTS.—Section 411(a) (15 U.S.C. 694(a)) is amended by adding a new paragraph (5), as follows:

''(5)(A) The Administration shall promptly act upon an application from a surety to participate in the Preferred Surety Bond Guarantee Program, authorized by paragraph (3), in accordance with criteria and procedures established in regulations pursuant to subsection (d).

''(B) The Administration is authorized to reduce the allotment of bond guarantee authority or terminate the participation of a surety in the Preferred Surety Bond Guarantee Program based on the rate of participation of such surety during the 4 most recent fiscal year quarters compared to the median rate of participation by the other sureties in the program.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to applications received (or pending substantive evaluation) on or after October 1, 1995.

The CHAIRMAN. Are there any amendments?

AMENDMENTS OFFERED BY MRS. MEYERS OF KANSAS

Mrs. MEYERS of Kansas. Mr. Chairman, I offer an en bloc amendment.

The Clerk read as follows:

Amendments offered by Mrs. MEYERS of Kansas:

Page 7, line 24, strike ''3'' and insert ''5''.

Page 9, line 5, strike ''shall'' and insert ''may''.

Page 9, line 8, strike ''after August 1, 1996''.

Page 9, line 11, after ''lenders'' insert ''unless the Administrator determines that the lender, on a case by case basis, has undertaken other agreements which retain an acceptable exposure to loss by the lender in the event of default of a loan being securitized''.

Page 17, line 9, after ''percent'' insert ''but not to exceed 7 per centum per annum''.

Page 33, line 18, strike ''0.8125'' and insert ''0.9375''.

Page 38, line 5, after ''funds'' insert '', subject to such company obtaining prior written approval from the Administrator before committing the agency to purchase any other indebtedness secured by the property: *Provided*, That the Administrator shall approve or deny a request for such purchase within a period of 5 business days''.

Page 38, line 8, after ''practices'' insert ''pursuant to a liquidation plan approved by the Administrator in advance of its implementation. If the Administrator does not approve or deny a request made by a certified development company within a period of 5 business days, such request shall be deemed to be approved''.

Mrs. MEYERS of Kansas (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Kansas?

There was no objection.

Mrs. MEYERS of Kansas. Mr. Chairman, the manager's amendment at the desk is a compromise designed to remedy a few possible flaws in the underlying bill. I want to thank the gentleman from New York [Mr. LAFALCE], the SBA, and the gentleman from Missouri [Mr. TALENT], and the gentleman from Texas [Mr. BENTSEN], and others who have contributed their time and assistance with this amendment, and I ask my colleagues to support it.

Mr. Chairman, the amendment is very simple and I will briefly explain its provisions.

In title I, it amends section 103 to extend the amount of time the Small Business Administration has to respond to liquidation plans and requests from certified lenders participating in the 7(a) loan program from 3 days to 5. This change is added because the need was recognized to give the SBA a little more time to respond to such requests.

The amendment also changes the securitization provision in section 103 to clarify the intent of the committee. Currently, non-bank lenders in the 7(a) program may sell the nonguaranteed portion of their 7(a) loans on the secondary market, thereby freeing up funds for further much needed small business lending. Unfortunately, banks are not accorded the same privileges. H.R. 3719 changes that and also requires the SBA to determine whether a lender, bank or non-bank, needs to keep a reserve. Mr. TALENT and Mr. BENTSEN felt that the language needed further clarifications and we gladly accommodated that request in this amendment.

In section 104 of H.R. 3719 the committee proposes an amendment to place a limit of 7 percent on the interest rate charged for disaster loans to homeowners and businesses without credit available elsewhere. This cap is lower than the maximum interest rate of 8 percent charged to those with credit available to them, but still reflects the committee's desire to balance the need to control costs and our desire to aid those afflicted by disasters.

The manager's amendment also amends section 203 to adjust the increase in the fee imposed on borrowers in the section 504 loan program. This adjustment is necessary to bring the subsidy rate for this program down the last bit to achieve a zero subsidy rate. The committee is not pleased with having to take these steps but our alternative is to abandon a vital job creating program.

Finally, the amendment makes some further adjustments in the pilot liquidation program for the certified development companies participating in the 504 program. The amendments will require the development companies to obtain SBA approval prior to obligating the agency to purchasing any indebtedness needed to speed the liquidation process. In addition, the amendment requires that development companies file liquidation plans with the SBA to help the agency track the progress and activities of the pilot program participants.

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Mr. LAFALCE. Mr. Chairman, I strongly support the manager's amendment. I think it adds significantly to the merit of the bill. Most importantly, I want to thank the gentlewoman from Kansas [Mrs. MEYERS] for being so gracious and so conciliatory in the discussions not only of the bill but, most recently yesterday and today, the manager's amendment. She was extremely conciliatory, and that made it so much easier to come to the floor. I want to thank the gentlewoman again.

The CHAIRMAN. The question is on the amendments offered by the gentlewoman from Kansas [Mrs. MEYERS].

The amendments were agreed to.

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRAFICANT: At the end of title II insert the following new section:

It is the sense of the Congress that the subsidy models prepared by the Office of Management and Budget relative to loan programs sponsored by the United States Small Business Administration have a tendency to:

1. Overestimate potential risks of loss and;

2. Overemphasize historical losses that may be anomalous and do not truly reflect the success of the programs as a whole.

Consequently, Congress mandates the independent study in Section 103(h) with hopes of improving the ability of the Office of Management and Budget to more accurately reflect the budgetary implications of such programs.

Mr. TRAFICANT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. TRAFICANT. Mr. Chairman, as I had stated in the general debate and with the sound advice and counsel of the gentleman from New York [Mr. LAFALCE], our ranking Democrat, and the gentlewoman from Kansas [Mrs. MEYERS], our great chairwoman, I am concerned about some of the pessimistic and at times incorrect assumptions that have been made by the OMB. Let there be no mistake. I think especially with the 504 program it has caused problems.

I am a strong supporter of this bill, but my amendment really reemphasizes the fact that in that independent study, section 103–H, there are several new areas to be presented that the Congress is looking at relative to OMB evaluations, and that is overestimation of potential risks of loss, and at times an overemphasis on historical losses that may not be necessarily accurate and truly reflect the success of the programs as a whole.

Mr. Chairman, the 504 program is very important, as I said earlier, a half-a-million jobs, 47,784 for Ohio. I think by some of their estimates it has caused that program, the subsidy concern, to be really, really problematic. So Members on both sides of the aisle in Ohio joined forces with me. I brought it to our committees. All it does is reemphasize what we have done, but it again emphasizes those specific points that I think speak to this issue. And if it does not resolve, we will basically handcuff communities from the 504 program.

So with that, I thank the gentlewoman for the time. I appreciate her being so considerate. We have been working on this for some time, and I am glad that this vehicle today is here and we can play a part in it like this. I ask for my colleagues' support on this amendment.

Mrs. MEYERS of Kansas. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would just like to state that I have no objection to the Traficant amendment. Indeed, it echoes the directive in H.R. 3719 to have an independent study of OMB's assumptions in subsidy rate calculations. It certainly expresses the frustration that I think was felt by me and the gentleman from New York [Mr. LAFALCE] and the entire committee over this year's subsidy rates. I do not think anybody was at fault. But being told in October that the subsidy rate is one thing and in March that it has changed dramatically made it difficult for all of us. Therefore, I would be happy to accept the gentleman's amendment.

Mr. LAFALCE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I support primarily the thrust of the amendment. I do want to point out that I might have worded it a bit differently had I drafted it, but I do not want to quibble on words. The thrust of it is something I concur with.

This is not a case of shooting the messenger because of the message. No, this is a case of really stating our puzzlement at this sudden about-face and our wondering whether or not the underlying assumptions of the reconsidered subsidy rate are truly valid. It is our way of underscoring our desire to have the OMB not only come out and tell us that something is dramatically different but showing us precisely what their economic assumptions were to validate their new conclusions.

Mr. Chairman, I think it would have been helpful if they could have done that. I think that this amendment will help ensure that they do that in the future.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to the bill?

If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BARRETT of Nebraska) having assumed the chair, Mr. COLLINS of Georgia, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3719), to amend the Small Business Act and Small Business Investment Act of 1958, pursuant to House Resolution 516, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LAFALCE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 408, nays 0, not voting 25, as follows:

[Roll No. 406]

YEAS—408

Abercrombie	Boucher	Costello
Ackerman	Brewster	Cox
Allard	Browder	Coyne
Andrews	Brown (CA)	Cramer
Archer	Brown (FL)	Crane
Armey	Brown (OH)	Crapo
Bachus	Brownback	Cremeans
Baesler	Bryant (TN)	Cubin
Baker (CA)	Bryant (TX)	Cummings
Baker (LA)	Bunn	Cunningham
Baldacci	Bunning	Danner
Ballenger	Burr	Davis
Barcia	Burton	Deal
Barr	Buyer	DeFazio
Barrett (NE)	Callahan	DeLauro
Barrett (WI)	Calvert	DeLay
Bartlett	Camp	Dellums
Barton	Campbell	Diaz-Balart
Bass	Cardin	Dickey
Bateman	Castle	Dicks
Becerra	Chabot	Dingell
Beilenson	Chambliss	Dixon
Bentsen	Chapman	Doggett
Bereuter	Chenoweth	Doolittle
Berman	Christensen	Dornan
Bevill	Clay	Doyle
Bilbray	Clayton	Dreier
Bilirakis	Clement	Duncan
Bishop	Clinger	Dunn
Bliley	Clyburn	Edwards
Blumenauer	Coble	Ehlers
Blute	Coburn	Ehrlich
Boehlert	Coleman	English
Boehner	Collins (GA)	Ensign
Bonilla	Collins (MI)	Eshoo
Bonior	Combest	Evans
Bono	Condit	Everett
Borski	Cooley	Ewing

Farr
Fattah
Fawell
Fazio
Fields (LA)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Gejdenson
Gekas
Gephardt
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green (TX)
Greene (UT)
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mica
Millender-McDonald
Miller (CA)
Miller (FL)
Minge
Mink
Moakley
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wynn
Yates
Young (FL)
Zimmer

NOT VOTING—25

Canady
Chrysler
Collins (IL)
Conyers
de la Garza
Deutsch
Dooley
Durbin
Engel
Fields (TX)
Ganske
Geren
Gibbons
Hansen
Harman
Hayes
Kingston
Lantos
Nadler
Quillen
Rose
Sanford
Williams
Young (AK)
Zeliff

☐ 1514

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mrs. MEYERS of Kansas. Mr. Speaker, I ask unanimous consent that all Members be given 5 legislative days to revise and extend their remarks and include extraneous material on H.R. 3719.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Kansas?

There was no objection.

PERSONAL EXPLANATION

Mr. KINGSTON. Mr. Speaker, I was unavoidably absent from rollcall votes Nos. 402, 403, 404, 405, and 406 because of a mandatory evacuation in my hometown of Savannah, GA, due to Hurricane Fran's approach to the Georgia coastline. If I had been present I would have voted ''yes'' on all five of these votes.

BILL EMERSON GOOD SAMARITAN FOOD DONATION ACT

Mr. GOODLING. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2428) to encourage the donation of food and grocery products to nonprofit organizations for distribution to needy individuals by giving the Model Good Samaritan Food Donation Act the full force and effect of law, with Senate amendments thereto, and concur in the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Senate amendments: Page 2, line 8, after ''striking'' insert: ''the title heading and''.

Page 2, strike out line 15 and insert: Samaritan'';

(C) in subsection (b)(7), to read as follows:

''(7) GROSS NEGLIGENCE.—The term 'gross negligence' means voluntary and conscious conduct (including a failure to act) by a person who, at the time of the conduct, knew that the conduct was likely to be harmful to the health or well-being of another person.'';

Page 2, strike out all after line 15, over to and including line 11 on page 3 and insert:

(D) by striking subsection (c) and inserting the following:

''(c) LIABILITY FOR DAMAGES FROM DONATED FOOD AND GROCERY PRODUCTS.—

''(1) LIABILITY OF PERSON OR GLEANER.—A person or gleaner shall not be subject to civil or criminal liability arising from the nature, age, packaging, or condition of apparently wholesome food or an apparently fit grocery product that the person or gleaner donates in good faith to a nonprofit organization for ultimate distribution to needy individuals.

''(2) LIABILITY OF NONPROFIT ORGANIZATION.—A nonprofit organization shall not be subject to civil or criminal liability arising from the nature, age, packaging, or condition of apparently wholesome food or an apparently fit grocery product that the nonprofit organization received as a donation in good faith from a person or gleaner for ultimate distribution to needy individuals.

''(3) EXCEPTION.—Paragraphs (1) and (2) shall not apply to an injury to or death of an ultimate user or recipient of the food or grocery product that results from an act or omission of the person, gleaner, or nonprofit organization, as applicable, constituting gross negligence or intentional misconduct.''; and

Page 3, after line 11 insert:

(E) in subsection (f), by adding at the end the following: ''Nothing in this section shall be construed to supersede State or local health regulations.''.

Page 4, after line 1 insert:

(c) CONFORMING AMENDMENT.—The table of contents for the National and Community Service Act of 1990 is amended by striking the items relating to title IV.

Mr. GOODLING (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. BARRETT of Nebraska). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. Is there objection to the original request of the gentleman from Pennsylvania?

Mr. CLAY. Mr. Speaker, reserving the right to object, although I do not intend to object, I ask the gentleman from Pennsylvania [Mr. GOODLING] to offer an explanation of his request.

Mr. GOODLING. Mr. Speaker, will the gentleman yield?

Mr. CLAY. I yield to the gentleman from Pennsylvania.

Mr. GOODLING. Mr. Speaker, on July 12 the House passed H.R. 2428, the Bill Emerson Good Samaritan Food Donation Act, which would have the effect of increasing the donation of food products to needy individuals and their families. This legislation also paid tribute to one of the finest Members of this body with whom I have had the privilege to serve, Bill Emerson.

The Senate has now acted on this legislation and returned it to this body for final action. The only major change to the bill is the inclusion of language that makes it explicit that nothing in the act supersedes State or local health regulations. It also makes minor clarifying changes with respect to the definition of gross negligence.

Mr. Speaker, the threat of liability often inhibits the donation of food to feed the needy. Individuals and corporations who are interested in donating food often do not because they are afraid of what will happen should such food cause harm to recipients. This legislation eliminates the threat of liability, except in instances of intentional harm and gross negligence, and it deserves our support.

Mr. Speaker, the legislation meant a great deal to Bill Emerson and its enactment into law will be a fitting tribute to a man who was committed to