

EC-1994. A communication from the Chairman of the Federal Maritime Commission, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1995; to the Committee on the Judiciary.

EC-1995. A communication from the Chairman of the Federal Deposit Insurance Corporation, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1995; to the Committee on the Judiciary.

EC-1996. A communication from the Copyright Office of the Library of Congress, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1995; to the Committee on the Judiciary.

EC-1997. A communication from the Director of the U.S. Information Agency, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1995; to the Committee on the Judiciary.

EC-1998. A communication from the General Counsel and Corporation Secretary of the Legal Services Corporation, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1995; to the Committee on the Judiciary.

EC-1999. A communication from the Director (Operations and Finance), American Battle Monuments Commission, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1995; to the Committee on the Judiciary.

EC-2000. A communication from the Chair of the Federal Energy Regulatory Commission, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1995; to the Committee on the Judiciary.

EC-2001. A communication from the Secretary of the Federal Trade Commission, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1995; to the Committee on the Judiciary.

EC-2002. A communication from the Assistant Attorney General, transmitting, a draft of proposed legislation entitled "Act to Improve the Treatment of and Security For Certain Persons Found Not Guilty By Reason of Insanity In the District of Columbia"; to the Committee on the Judiciary.

EC-2003. A communication from the Attorney General, transmitting, pursuant to law, a report relative to the Telecommunications Act of 1996; to the Committee on the Judiciary.

EC-2004. A communication from the U.S. Trade Representative, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1995; to the Committee on the Judiciary.

EC-2005. A communication from the Director (Government Relations) of the Girl Scouts, transmitting, pursuant to law, the report of work and activities for fiscal year 1995; to the Committee on the Judiciary.

EC-2006. A communication from the Chief Justice of the Supreme Court, transmitting, pursuant to law, the report of the proceedings of the Judicial Conference; to the Committee on the Judiciary.

EC-2007. A communication from the Register of Copyrights, transmitting, pursuant to law, the report entitled "Waiver of Moral Rights In Visual Artworks"; to the Committee on the Judiciary.

EC-2008. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report entitled "International Narcotics Control Strategy: 1996"; to the Committee on the Judiciary.

EC-2009. A communication from the Director of the Office of Personnel Management,

transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1995; to the Committee on the Judiciary.

EC-2010. A communication from the Chairman of the Securities and Exchange Commission, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1995; to the Committee on the Judiciary.

EC-2011. A communication from the Marshall of the Supreme Court, transmitting, pursuant to law, the annual report for the period February 15, 1995 to February 15, 1996; to the Committee on the Judiciary.

## REPORTS OF COMMITTEE

The following reports of committee were submitted:

By Mr. HATFIELD, from the Committee on Appropriations:

Special Report entitled "Revised Allocation to Subcommittees of Budget Totals from the Concurrent Resolution for Fiscal Year 1996" (Rept. No. 104-238).

By Mr. HATCH, from the Committee on the Judiciary:

Report to accompany the bill (S. 605) to establish a uniform and more efficient Federal process for protecting property owners' rights guaranteed by the fifth amendment (Rept. 104-239).

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Ms. SNOWE (for herself and Mr. COHEN):

S. 1602. A bill to amend the Plant Variety Protection Act to provide plant variety protection to a tuber propagated plant variety if the variety has not been sold or otherwise disposed of in any area outside the United States for more than a period determined by the Secretary of Agriculture and the variety receives plant variety protection in any area outside the United States, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. KERRY (for himself and Mr. LAUTENBERG):

S. 1603. A bill to amend the Small Business Act concerning the level of participation by the Small Business Administration in loans guaranteed under the Export Working Capital Program; to the Committee on Small Business.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KERRY (for himself and Mr. LAUTENBERG):

S. 1603. A bill to amend the Small Business Act concerning the level of participation by the Small Business Administration in loans guaranteed under the Export Working Capital Program; to the Committee on Small Business.

## SMALL BUSINESS ADMINISTRATION CORRECTIONS LEGISLATION

• Mr. KERRY. Mr. President, today I am introducing legislation intended to

correct a problem created last October when Congress passed S. 895, to strengthen and reduce the cost of the Small Business Administration's (SBA) 7(a) Guaranteed Loan Program and the 504 Certified Development Company Program. My bill will restore a level playing field in Federal export financing between small and large exporters and help assure small businesses do not lose export opportunities just because they cannot get the financing they need from banks.

S. 895, developed in response to a growing demand for SBA's 7(a) loan guarantees, expanded the amount of loan guarantee funding available to small businesses by decreasing the share of the guarantee for which the Federal Government is responsible from the then-current 90 percent to a maximum of 80 percent for loans of \$100,000 or less, and to a maximum of 75 percent for loans from \$100,000 to \$750,000. As a subset of the 7(a) program, SBA's Export Working Capital Guarantee Program [EWCP] also had its Government loan guarantee portion adjusted downward. While equalizing the difference between the terms for regular 7(a) loan guarantees and export guarantees, this change penalized small business exporters vis-a-vis their larger counterparts: smaller exporters now receive less favorable financing terms through SBA than big exporters receive through the Export-Import Bank [Ex-Im Bank].

This change comes just 1 year after the SBA and Ex-Im Bank, in response to a directive from the Trade Policy Coordinating Committee [TPCC], had harmonized their export terms to provide a consistent 90 percent loan guarantee rate regardless of the size of the loan. The TPCC endorsed the harmonization to streamline the comparative strengths of Ex-Im Bank and SBA into a single U.S. Government program for the small and medium sized exporter. Through its many local offices, SBA is well positioned to provide assistance to small businesses at the local level. Ex-Im Bank, on the other hand, has only five regional offices and few personnel versed in the needs of small business.

Lenders obviously choose how to allocate their resources based upon the likely return of one transaction versus another. So, while small business working capital requirements tend to be relatively small in dollar amount terms—for example, \$25,000 to \$500,000—the amount of expenses/overhead devoted to a small transaction is the same as it would be for larger transactions—for example, more than \$2 million. In addition, banks will avoid taking foreign lending risk if coverage is reduced. Banking practices are different for domestic lending and foreign lending. Banks will include almost any current domestic receivable in the borrowing base of the customer eligible for financing, but they will not include foreign receivables because they are perceived to be higher risks. SBA's EWCP converts foreign receivables into

domestic receivables that can be financed. Finally, a number of exporters with small transactions are not considered bankable because they are new-to-export, having relied on family, friends, second mortgages and credit cards to start their businesses. SBA helps move them closer to becoming bankable.

The legislation I am introducing will restore parity among small and large exporters in Federal export financing terms, and help assure that no small business loses an export sale just because the financing is not there. Mr. Bennett Schwartz of BayBank and who is also vice president of the Coalition of New England Companies for Trade, a group of more than 100 companies, makes a compelling case for this bill:

The single greatest obstacle to small business exports is the inability to obtain adequate financing;

The EWCP program was initiated only on October 1, 1994 and it is clear that the 90 percent guarantee provides a critically needed incentive for lenders to make these loans. At a 75/80 percent guarantee this already difficult to obtain financing will become even less attractive to banks and the loans will likely not be made;

Under the harmonization of export finance programs with the Ex-Im Bank, whose Working Capital Guarantee program is not changed, small businesses will be discriminated against. In addition, the SBA underwriting criteria are different than Ex-Im's in that SBA emphasizes transactional based finance over balance sheet lending, precisely the type of financing most difficult to come by for small businesses.

The average exporting deal for small businesses ranges from \$30,000-\$400,000. The average size of approved SBA EWCP loans has been \$300,000.

Many smaller banks without International Departments will participate in an SBA program because they are comfortable with the Agency. The SBA focus on providing advice on structuring a deal so that it meets a bank's criteria is particularly effective in making this type of program work.

The General Accounting Office also supports the principle behind this legislation, arguing there is a clear rationale for treating export guarantees differently than other 7(a) guarantees: banks that make export guarantees have a greater risk and lower profit than banks making other 7(a) loans. ECWP loans are short-term and cannot be sold on the secondary market, making them relatively less profitable than conventional 7(a) loans. SBA testified before the House Small Business Committee last September 7, that a 90 percent loan guarantee rate for ECWP loans "will not really affect the Section 7(a) program subsidy rate \* \* \* even if the ECWP doubles in the fiscal year 1996, it will still represent less than 1 percent of the total 7(a) loan portfolio." At the same hearing, a representative for the Bankers' Association for Foreign Trade argued the difference in the two guarantee rates would raise "serious concerns about the future involvement by banks in this area of trade finance."

Since October 1, 1994, the harmonized program has been solely responsible for

ensuring 285.3 million dollar's worth of additional United States exports. In fiscal year 1995, SBA approved more than 132 transactions worth \$44.3 million as compared to 77 transactions worth \$27.4 million in fiscal year 1994. While these numbers clearly demonstrate to me the importance of the loan guarantees to small business exporters, in enacting S. 895 last year, Congress requested SBA to evaluate the impact of the disparity in export loan guarantee rates. SBA surveyed lenders and borrowers throughout the United States, using its field offices, small business associations and the President's Export Council. Not surprisingly, the results of SBA's Impact Study,

... overwhelmingly illustrate that the reduction in SBA's maximum guarantee percentage has had, and will continue to have, a detrimental effect on SBA's ability to expand access to working capital for small business exporters. Ultimately, this will likely have a negative effect on the ability of small businesses to enter the global marketplace as they continue to be unable to obtain the financing they critically need.

Specifically, the Impact Study found: Access to working capital trade finance by small businesses will be severely reduced. Three-quarters of the small businesses interviewed stated that the lower guarantee will have an adverse effect on their ability to obtain export financing.

Many lenders will retreat from making trade finance loans due to decreased risk mitigation. Over half of the banks interviewed stated that they would not have made a loan under the EWCP at the 75/80 percent guarantee rate.

Small banks, in particular, will be less likely to offer export finance to their customers.

The ability of small business to compete in the global marketplace will be negatively affected.

Mr. President, small business exporters in Massachusetts tell me they need this legislation to help them continue to obtain critical financing. I am sure this is also the case for small business exporters across this Nation. At a time when exports are a key component of continued economic growth and the creation of family-wage jobs, it is incumbent upon Congress to do all it can to help rather than hurt America's small business exporters. I am pleased to have Senator LAUTENBERG join me in introducing this bill and urge my colleagues to support this important legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1603

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Small Business Export Enhancement Act of 1996".

#### SEC. 2. LEVEL OF PARTICIPATION IN GUARANTEED LOANS UNDER EXPORT WORKING CAPITAL PROGRAM.

Section 7(a)(2) of the Small Business Act (15 U.S.C. 636(a)(2)) is amended by adding at the end the following new subparagraph:

"(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."•

#### ADDITIONAL COSPONSORS

S. 771

At the request of Mr. PRYOR, the name of the Senator from Wyoming [Mr. THOMAS] was added as a cosponsor of S. 771, a bill to provide that certain Federal property shall be made available to States for State use before being made available to other entities, and for other purposes.

S. 942

At the request of Mr. BOND, the names of the Senator from Indiana [Mr. COATS], and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of S. 942, a bill to promote increased understanding of Federal regulations and increased voluntary compliance with such regulations by small entities, to provide for the designation of regional ombudsmen and oversight boards to monitor the enforcement practices of certain Federal agencies with respect to small business concerns, to provide relief from excessive and arbitrary regulatory enforcement actions against small entities, and for other purposes.

S. 969

At the request of Mr. BRADLEY, the names of the Senator from Vermont [Mr. LEAHY], the Senator from Ohio [Mr. GLENN], the Senator from Alaska [Mr. STEVENS], and the Senator from Virginia [Mr. ROBB] were added as cosponsors of S. 969, a bill to require that health plans provide coverage for a minimum hospital stay for a mother and child following the birth of the child, and for other purposes.

S. 1025

At the request of Mr. BUMPERS, the name of the Senator from Oklahoma [Mr. INHOFE] was added as a cosponsor of S. 1025, a bill to provide for the exchange of certain federally owned lands and mineral interests therein, and for other purposes.

S. 1028

At the request of Mrs. KASSEBAUM, the name of the Senator from Nevada [Mr. REID] was added as a cosponsor of S. 1028, a bill to provide increased access to health care benefits, to provide increased portability of health care benefits, to provide increased security of health care benefits, to increase the purchasing power of individuals and small employers, and for other purposes.

S. 1249

At the request of Mr. FRIST, the name of the Senator from North Carolina [Mr. FAIRCLOTH] was added as a cosponsor of S. 1249, a bill to amend the