Brigadier General William G. Webster, Jr.

NAVY

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C. section 624:

To be rear admiral

Rear Adm. (lh) Anthony W. Lengerich.

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral

Rear Adm. (lh) Richard B. Porterfield.

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral (lower half)

Capt. Stephen A. Turcotte.

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral

Rear Adm. (lh) David Architzel.

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice Admiral

Vice Adm. Charles W. Moore, Jr.

NOMINATIONS PLACED ON THE SECRETARY'S DESK

ARMY

PN1242 Army nominations (655) beginning VERN J ABDOO, and ending DOUGLAS K ZIMMERMAN, II, which nominations were received by the Senate and appeared in the Congressional Record of November 27, 2001

PN1243 Navy nominations of John B. Stockel, which was received by the Senate and appeared in the Congressional Record of November 27, 2001

PN1244 Navy nominations of Philip F. Stanley, which was received by the Senate and appeared in the Congressional Record of November 27, 2001

NOMINATIONS DISCHARGED

DEPARMENT OF LABOR

Tammy Dee McCutchen, of Illinois, to be Administrator of the Wage and Hour Division, Department of Labor.

PUBLIC HEALTH SERVICE

Public Health Service nominations beginning Ketty M. Gonzalez and ending Amanda D. Stoddard, which nominations were received by the Senate and appeared in the Congressional Record on September 21, 2001.

To be medical director

Ketty M. Gonzalez.
Gunta I. Obrams.

To be senior surgeon

Vito M. Caserta.
Olga Grajales.
Mary L. Kamb.
Dawn L. Wyllie.

To be surgeon

Andrew Biauvelt.
Michael J. Boquard.
J Russell Bowman.
Monica E. Parise.
Lisa G. Rider.
Abigail M. Shefer.
Darrell P. Stone.

To be senior assistant surgeon

Dahna L. Batts-Osborne.
Stephen M. Hewitt.
James F. Lando.
John T. Ning.
Alexander K. Rowe.
Stephen M. Rudd.
Seymour G. Williams.

To be senior dental surgeon

Michael L. Campsmith.
A. Isabel Garcia.

To be dental surgeon

Ronald E. Bajuscak.
Tania M. Macias.
Wilnetta A. Sweeting.
Michael P. Winkler.

To be senior assistant dental surgeon

Dawn A. Breeden.
Katherine T. Cotton.
Bryan S. Dawson.
Stanley K. Gordon.
Maria-Paz U. Smith.
Valerie D. Wilson.

To be senior nurse officer

Robert E. Eaton.
Mary I. Lambert.
Susanne R. Rohrer.
Marjorie Lynn Witman.

To be nurse officer

Eileen D. Bonneau.
Ruth M. Coleman.
Terri L. Dodds.
Susan D. Hillis.
Barbara W. Kilbourne.
Gwethlyn J. Sabatinos.
Amanda S. Waugaman.

To be senior assistant nurse officer

Thomas C. Arminio.
Deborah M. Carter.
Charles D. Duke Jr.
Keyla E. Gammarano.
Mary C. Karlson.
Julie D. King.
Kimberly M. Mock.
Lisa S. Penix.
Laverne Puckett.
Keysha L. Ross.
Michael R. Sanchez.
Jeanne D. Shaffer.
Steven M. Wacha.

To be assistant nurse officer

Benjamin F. Brown Jr.
Serina A. Hunter.
Patricia K. Mitchell.
Todd A. Ridge.
William Ruiz-Colon.
Tonia L. Sawyer.
Thomas R. Stanley.
Robbie K. Taylor.

To be engineer officer

Kevin B. Milne.

To be senior assistant engineer officer

Donald C. Antrobus.
Mark A. Calkins.
Edward A. Cayous.
Tracy D. Gilchrist.
Steven M. McGovern.
Dale M. Mossefin.
Jeffrey S. Reynolds.
Hilda F. Scharen-Guivel.
Jerry A. Smith.
Michael A. Stover.
Darrall F. Tillock.
Mary M. Weber.

To be scientist director

Victor Krauthamer.

To be senior scientist

Young H. Lee.
H. Edward Murray.

To be scientist

Kate M. Brett.
Angela M. Gonzalez.
O'Neal A. Walker.

To be senior assistant scientist

Nelson Adekoya.
Mehran S. Massoudi.
Darin J. Weber.

To be sanitarian

Matthew E. Taylor.
Daniel C. Weaver.

To be assistant therapist

Corey S. Dahl.

To be senior health services officer

Ilze L. Ruditis.

To be health services officer

Steven M. Glover.
Darlene A. Harris.
Carmencita T. Palma.
Julia A. Stokes.

To be senior assistant health services officer

Sherlene Bailey.
Kathy L. Balasko.
Marinna A. Banks.
Jose H. Belardo.
Julie Wofford Black.
Dawn M. Clary.
Sandra L. Ferguson.
Kathleen D. Heiden.
Mary C. Hollister.
David W. Keene.
Scott A. Middlekauff.
Godwin O. Odia.
Elizabeth A. Pierce.
Brian E. Richmond.
Renee S. Roberson.
Lisa D. Starnes.
Scott W. Tobias.
Gilbert E. Varney Jr.
Kimberly A. Walker.

To be assistant health services officer

Parmjeet S. Saini.
Amanda D. Stoddard.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

SMALL BUSINESS INVESTMENT COMPANY AMENDMENTS ACT OF 2001

Mr. REID. Mr. President, I ask that the Chair lay before the Senate a message from the House on S. 1196.

The Presiding Officer laid before the Senate a message from the House as follows:

Resolved, That the bill from the Senate (S. 1196) entitled ''An Act to amend the Small Business Investment Act of 1958, and for other purposes,'' do pass with the following amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Small Business Investment Company Amendments Act of 2001''.

SEC. 2. SUBSIDY FEES.

(a) IN GENERAL.—Section 303 of the Small Business Investment Act of 1958 (15 U.S.C. 683) is amended—

(1) in subsection (b)—

(A) by striking ''of not more than 1 percent per year'';

(B) by inserting ''which amount may not exceed 1.38 percent per year, and'' before ''which shall be paid''; and

(C) by striking ''September 30, 2000'' and inserting ''September 30, 2001''; and

(2) in subsection (g)(2)—

(A) by striking ''of not more than 1 percent per year'';

(B) by inserting ''which amount may not exceed 1.38 percent per year, and'' before ''which shall be paid''; and

(C) by striking ''September 30, 2000'' and inserting ''September 30, 2001''.

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 2001.

SEC. 3. CONFLICTS OF INTEREST.

Section 312 of the Small Business Investment Act of 1958 (15 U.S.C. 687d) is amended by striking ''(including disclosure in the locality most directly affected by the transaction)''.

SEC. 4. PENALTIES FOR FALSE STATEMENTS.

(a) CRIMINAL PENALTIES.—Section 1014 of title 18, United States Code, is amended by inserting '', as defined in section 103 of the Small Business Investment Act of 1958 (15 U.S.C. 662), or the Small Business Administration in connection with any provision of that Act'' after ''small business investment company''.

(b) CIVIL PENALTIES.—Section 951 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833a) is amended—

(1) by redesignating subsections (d) through (g) as subsections (e) through (h), respectively; and

(2) in subsection (c)—

(A) in paragraph (1), by striking ''or'' at the end;

(B) in paragraph (2)—

(i) by striking ''1341;'' and inserting ''1341''; and

(ii) by striking ''institution.'' and inserting ''institution; or'';

(C) by inserting immediately after paragraph (2) the following:

''(3) section 16(a) of the Small Business Act (15 U.S.C. 645(a)).''; and

(D) by striking ''This section shall'' and inserting the following:

''(d) EFFECTIVE DATE.—This section shall''.

SEC. 5. REMOVAL OR SUSPENSION OF MANAGEMENT OFFICIALS.

Section 313 of the Small Business Investment Act of 1958 (15 U.S.C. 687e) is amended to read as follows:

''SEC. 313. REMOVAL OR SUSPENSION OF MANAGEMENT OFFICIALS.

''(a) DEFINITION OF 'MANAGEMENT OFFICIAL'.—In this section, the term 'management official' means an officer, director, general partner, manager, employee, agent, or other participant in the management or conduct of the affairs of a licensee.

''(b) REMOVAL OF MANAGEMENT OFFICIALS.—

''(1) NOTICE OF REMOVAL.—The Administrator may serve upon any management official a written notice of its intention to remove that management official whenever, in the opinion of the Administrator—

''(A) such management official—

''(i) has willfully and knowingly committed any substantial violation of—

''(I) this Act;

''(II) any regulation issued under this Act; or

''(III) a cease-and-desist order which has become final; or

''(ii) has willfully and knowingly committed or engaged in any act, omission, or practice which constitutes a substantial breach of a fiduciary duty of that person as a management official; and

''(B) the violation or breach of fiduciary duty is one involving personal dishonesty on the part of such management official.

''(2) CONTENTS OF NOTICE.—A notice of intention to remove a management official, as provided in paragraph (1), shall contain a statement of the facts constituting grounds therefor, and shall fix a time and place at which a hearing will be held thereon.

''(3) HEARINGS.—

''(A) TIMING.—A hearing described in paragraph (2) shall be fixed for a date not earlier than 30 days nor later than 60 days after the date of service of notice of the hearing, unless an earlier or a later date is set by the Administrator at the request of—

''(i) the management official, and for good cause shown; or

''(ii) the Attorney General of the United States.

''(B) CONSENT.—Unless the management official shall appear at a hearing described in this paragraph in person or by a duly authorized representative, that management official shall be deemed to have consented to the issuance of an order of removal under paragraph (1).

''(4) ISSUANCE OF ORDER OF REMOVAL.—

''(A) IN GENERAL.—In the event of consent under paragraph (3)(B), or if upon the record made at a hearing described in this subsection, the Administrator finds that any of the grounds specified in the notice of removal has been established, the Administrator may issue such orders of removal from office as the Administrator deems appropriate.

''(B) EFFECTIVENESS.—An order under subparagraph (A) shall—

''(i) become effective at the expiration of 30 days after the date of service upon the subject licensee and the management official concerned (except in the case of an order issued upon consent as described in paragraph (3)(B), which shall become effective at the time specified in such order); and

''(ii) remain effective and enforceable, except to such extent as it is stayed, modified, terminated, or set aside by action of the Administrator or a reviewing court in accordance with this section.

''(c) AUTHORITY TO SUSPEND OR PROHIBIT PARTICIPATION.—

''(1) IN GENERAL.—The Administrator may, if the Administrator deems it necessary for the protection of the licensee or the interests of the Administration, suspend from office or prohibit from further participation in any manner in the management or conduct of the affairs of the licensee, or both, any management official referred to in subsection (b)(1), by written notice to such effect served upon the management official.

''(2) EFFECTIVENESS.—A suspension or prohibition under paragraph (1)—

''(A) shall become effective upon service of notice under paragraph (1); and

''(B) unless stayed by a court in proceedings authorized by paragraph (3), shall remain in effect—

''(i) pending the completion of the administrative proceedings pursuant to a notice of intention to remove served under subsection (b); and

''(ii) until such time as the Administrator shall dismiss the charges specified in the notice, or, if an order of removal or prohibition is issued against the management official, until the effective date of any such order.

''(3) JUDICIAL REVIEW.—Not later than 10 days after any management official has been suspended from office or prohibited from participation in the management or conduct of the affairs of a licensee, or both, under paragraph (1), that management official may apply to the United States district court for the judicial district in which the home office of the licensee is located, or the United States District Court for the District of Columbia, for a stay of the suspension or prohibition pending the completion of the administrative proceedings pursuant to a notice of intent to remove served upon the management official under subsection (b), and such court shall have jurisdiction to stay such action.

''(d) AUTHORITY TO SUSPEND ON CRIMINAL CHARGES.—

''(1) IN GENERAL.—Whenever a management official is charged in any information, indictment, or complaint authorized by a United States attorney, with the commission of or participation in a felony involving dishonesty or breach of trust, the Administrator may, by written notice served upon that management official, suspend that management official from office or prohibit that management official from further participation in any manner in the management or conduct of the affairs of the licensee, or both.

''(2) EFFECTIVENESS.—A suspension or prohibition under paragraph (1) shall remain in effect until the subject information, indictment, or complaint is finally disposed of, or until terminated by the Administrator.

''(3) AUTHORITY UPON CONVICTION.—If a judgment of conviction with respect to an offense described in paragraph (1) is entered against a management official, then at such time as the judgment is not subject to further appellate review, the Administrator may issue and serve upon the management official an order removing that management official, which removal shall become effective upon service of a copy of the order upon the licensee.

''(4) AUTHORITY UPON DISMISSAL OR OTHER DISPOSITION.—A finding of not guilty or other disposition of charges described in paragraph (1) shall not preclude the Administrator from thereafter instituting proceedings to suspend or remove the management official from office, or to prohibit the management official from participation in the management or conduct of the affairs of the licensee, or both, pursuant to subsection (b) or (c).

''(e) NOTIFICATION TO LICENSEES.—Copies of each notice required to be served on a management official under this section shall also be served upon the interested licensee.

''(f) PROCEDURAL PROVISIONS; JUDICIAL REVIEW.—

''(1) HEARING VENUE.—Any hearing provided for in this section shall be—

''(A) held in the Federal judicial district or in the territory in which the principal office of the licensee is located, unless the party afforded the hearing consents to another place; and

''(B) conducted in accordance with the provisions of chapter 5 of title 5, United States Code.

''(2) ISSUANCE OF ORDERS.—After a hearing provided for in this section, and not later than 90 days after the Administrator has notified the parties that the case has been submitted for final decision, the Administrator shall render a decision in the matter (which shall include findings of fact upon which its decision is predicated), and shall issue and cause to be served upon each party to the proceeding an order or orders consistent with the provisions of this section.

''(3) AUTHORITY TO MODIFY ORDERS.—The Administrator may modify, terminate, or set aside any order issued under this section—

''(A) at any time, upon such notice, and in such manner as the Administrator deems proper, unless a petition for review is timely filed in a court of appeals of the United States, as provided in paragraph (4)(B), and thereafter until the record in the proceeding has been filed in accordance with paragraph (4)(C); and

''(B) upon such filing of the record, with permission of the court.

''(4) JUDICIAL REVIEW.—

''(A) IN GENERAL.—Judicial review of an order issued under this section shall be exclusively as provided in this subsection.

''(B) PETITION FOR REVIEW.—Any party to a hearing provided for in this section may obtain a review of any order issued pursuant to paragraph (2) (other than an order issued with the consent of the management official concerned, or an order issued under subsection (d)), by filing in the court of appeals of the United States for the circuit in which the principal office of the licensee is located, or in the United States Court of Appeals for the District of Columbia Circuit, not later than 30 days after the date of service of such order, a written petition praying that the order of the Administrator be modified, terminated, or set aside.

''(C) NOTIFICATION TO ADMINISTRATION.—A copy of a petition filed under subparagraph (B) shall be forthwith transmitted by the clerk of the court to the Administrator, and thereupon the Administrator shall file in the court the record in the proceeding, as provided in section 2112 of title 28, United States Code.

''(D) COURT JURISDICTION.—Upon the filing of a petition under subparagraph (A)—

''(i) the court shall have jurisdiction, which, upon the filing of the record under subparagraph (C), shall be exclusive, to affirm, modify, terminate, or set aside, in whole or in part, the

order of the Administrator, except as provided in the last sentence of paragraph (3)(B);

''(ii) review of such proceedings shall be had as provided in chapter 7 of title 5, United States Code; and

''(iii) the judgment and decree of the court shall be final, except that the judgment and decree shall be subject to review by the Supreme Court of the United States upon certiorari, as provided in section 1254 of title 28, United States Code.

''(E) JUDICIAL REVIEW NOT A STAY.—The commencement of proceedings for judicial review under this paragraph shall not, unless specifically ordered by the court, operate as a stay of any order issued by the Administrator under this section.''.

SEC. 6. REDUCTION OF FEES.

(a) TWO-YEAR REDUCTION OF SECTION 7(a) FEES.—

(1) GUARANTEE FEES.—Section 7(a)(18) of the Small Business Act (15 U.S.C. 636(a)(18)) is amended by adding at the end the following:

''(C) TWO-YEAR REDUCTION IN FEES.—With respect to loans approved during the 2-year period beginning on October 1, 2002, the guarantee fee under subparagraph (A) shall be as follows:

''(i) A guarantee fee equal to 2 percent of the deferred participation share of a total loan amount that is not more than $250,000.

''(ii) A guarantee fee equal to 3 percent of the deferred participation share of a total loan amount that is more than $250,000.''.

(2) ANNUAL FEES.—Section 7(a)(23)(A) of the Small Business Act (15 U.S.C. 636(a)(23)(A)) is amended by adding at the end the following: ''With respect to loans approved during the 2-year period beginning on October 1, 2002, the annual fee assessed and collected under the preceding sentence shall be in an amount equal to 0.25 percent of the outstanding balance of the deferred participation share of the loan.''.

(b) REDUCTION OF SECTION 504 FEES.—Section 503 of the Small Business Investment Act of 1958 (15 U.S.C. 697) is amended—

(1) in subsection (b)(7)(A)—

(A) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively, and moving the margins 2 ems to the right;

(B) by striking ''not exceed the lesser'' and inserting ''not exceed—

''(i) the lesser''; and

(C) by adding at the end the following:

''(ii) 50 percent of the amount established under clause (i) in the case of a loan made during the 2-year period beginning on October 1, 2002, for the life of the loan; and''; and

(2) by adding at the end the following:

''(i) TWO-YEAR WAIVER OF FEES.—The Administration may not assess or collect any up front guarantee fee with respect to loans made under this title during the 2-year period beginning on October 1, 2002.''.

(c) BUDGETARY TREATMENT OF LOANS AND FINANCINGS.—Assistance made available under any loan made or approved by the Small Business Administration under section 7(a) of the Small Business Act (15 U.S.C. 636(a)) or financings made under title III or V of the Small Business Investment Act of 1958 (15 U.S.C. 697a), during the 2-year period beginning on October 1, 2002, shall be treated as separate programs of the Small Business Administration for purposes of the Federal Credit Reform Act of 1990 only.

(d) USE OF FUNDS.—The amendments made by this section shall be effective only to the extent that funds are made available under appropriations Acts, which funds shall be utilized by the Administrator to offset the cost (as such term is defined in section 502 of the Federal Credit Reform Act of 1990) of such amendments.

(e) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 2002.

Mr. REID. Mr. President, I ask unanimous consent that the Senate concur in the House amendment with a further amendment which is at the desk; that the amendment be agreed to and the motion to reconsider be laid on the table, with no intervening action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2460) was agreed to, as follows:

Strike section 6 and all that follows through the end of the matter proposed to be inserted by the House of Representatives, and insert the following:

SEC. 6. REDUCTION OF FEES.

(a) TWO-YEAR REDUCTION OF SECTION 7(a) FEES.—

(1) GUARANTEE FEES.—Section 7(a)(18) of the Small Business Act (15 U.S.C. 636(a)(18)) is amended by adding at the end the following:

''(C) TWO-YEAR REDUCTION IN FEES.—With respect to loans approved during the 2-year period beginning on October 1, 2002, the guarantee fee under subparagraph (A) shall be as follows:

''(i) A guarantee fee equal to 1 percent of the deferred participation share of a total loan amount that is not more than $150,000.

''(ii) A guarantee fee equal to 2.5 percent of the deferred participation share of a total loan amount that is more than $150,000, but not more than $700,000.

''(iii) A guarantee fee equal to 3.5 percent of the deferred participation share of a total loan amount that is more than $700,000.''.

(2) ANNUAL FEES.—Section 7(a)(23)(A) of the Small Business Act (15 U.S.C. 636(a)(23)(A)) is amended by adding at the end the following: ''With respect to loans approved during the 2-year period beginning on October 1, 2002, the annual fee assessed and collected under the preceding sentence shall be in an amount equal to 0.25 percent of the outstanding balance of the deferred participation share of the loan.''.

(b) REDUCTION OF SECTION 504 FEES.—Section 503 of the Small Business Investment Act of 1958 (15 U.S.C. 697) is amended—

(1) in subsection (b)(7)(A)—

(A) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively, and moving the margins 2 ems to the right;

(B) by striking ''not exceed the lesser'' and inserting ''not exceed—

''(i) the lesser''; and

(C) by adding at the end the following:

''(ii) 50 percent of the amount established under clause (i) in the case of a loan made during the 2-year period beginning on October 1, 2002, for the life of the loan; and''; and

(2) by adding at the end the following:

''(i) TWO-YEAR WAIVER OF FEES.—The Administration may not assess or collect any up front guarantee fee with respect to loans made under this title during the 2-year period beginning on October 1, 2002.''.

(c) BUDGETARY TREATMENT OF LOANS AND FINANCINGS.—Assistance made available under any loan made or approved by the Small Business Administration under section 7(a) of the Small Business Act (15 U.S.C. 636(a)) or financings made under title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.), during the 2-year period beginning on October 1, 2002, shall be treated as separate programs of the Small Business Administration for purposes of the Federal Credit Reform Act of 1990 only.

(d) USE OF FUNDS.—The amendments made by this section to section 503 of the Small Business Investment Act of 1958, shall be effective only to the extent that funds are made available under appropriations Acts, which funds shall be utilized by the Administrator to offset the cost (as such term is defined in section 502 of the Federal Credit Reform Act of 1990) of such amendments.

(e) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 2002.

Mr. KERRY. Mr. President, I want to say a few words about S. 1196, the Small Business Investment Company, SBIC, Amendments Act of 2001.

For those who don't know, the SBIC program is a very successful partnership between the SBA and private venture capital firms. It has accounted for about half of all venture capital deals done in the country over the past few years, and it has helped finance some of America's companies that are now house-hold names—Federal Express, Intel, Outback Steakhouse, America Online, Callaway Golf, and Massachusetts' own Staples.

The main purpose of this act is to adjust the fees charged to Participating Security SBICs from 1 percent to 1.38 percent. The change is necessary because, at the President's request, all funding for this program was eliminated. I disagree with that. I preferred to show fiscal responsibility by level funding the program and then increasing the fees only as much as necessary to raise the program level from $2 billion to $3.5 billion. Consistent with that opinion, as my colleagues may remember, Senator BOND and I offered an amendment to the Budget Resolution, Amendment No. 183, that did just that. It was agreed to in the Senate by voice vote in April and retained in the final budget resolution. Unfortunately, the appropriators had very tough decisions to make and the funding agreed to in our budget amendment was not included in the appropriations process. Despite my disagreement, I am supporting S. 1196 because if we want to continue this program, it must be funded entirely through fees, which forces us to authorize the fee change.

For the record, let me state that the National Association of Small Business Investment Companies testified before both the Senate and House Committees on Small Business in favor of increasing the program level from $2 billion to $3.5 billion and raising the fees to make that level possible. As I just explained, this legislation makes that possible.

This bill also includes modifications to the program in order to strengthen the oversight and authority of the SBA to take action against bad actors, to protect the integrity of the SBIC program, and to streamline operations.

With this bill, I am offering an amendment, cosponsored by Senator BOND, to reinforce our efforts to keep the economy strong. The amendment strikes section six, which my colleagues in the House included when they deliberated and voted on this bill, and replaces it with similar language which accommodates changes requested by the Administration. Specifically, starting in FY2003, it reduces for two years the fees for the Small Business Administration's 7(a) and 504 loan guarantee programs in order to make these loans more affordable for borrowers to access capital and lenders to

make. In reducing the fees, it gives the largest reduction to the smallest small business borrowers, those who take out loans of less than $150,000. It also provides fee relief for small business borrowers who need working capital for medium-sized loans, those in amounts of between $150,000 and $700,000.

The 7(a) program is one of the SBA's most popular and successful small business credit programs. In FY2000, 43,748 small businesses were approved for 7(a) loans, which added up to $9.3 billion. Of those billions, 31 percent went to minority business owners, 11 percent went to veteran business owners, and 16 percent went to women business owners. These loans would not have been made but for the SBA; in order to get an SBA loan, borrowers must demonstrate that they are unable to get comparable credit, at comparable rates, from an area lender. Year after year, as this program has generated billions of dollars in small business development, fueled job creation and generated tax revenue, its default rates by cohort have dropped sharply since 1990 from more than 6 percent to less than 2 percent. Not only have these loans contributed to the economy, but the program has largely paid for itself. From fiscal years 1992 through 1998, Congress appropriated close to $1.4 billion to run the program, and the lenders and borrowers paid $1.3 billion more than necessary in fees to participate in the program.

The track record of the 504 program is equally impressive, and they too have overpaid because the SBA and OMB have over-estimated the cost of providing these loans. Reducing fees will help encourage lending at a time when surveys from the Federal Reserve have found that anywhere from 35 to 45 percent of banks have tightened credit to small businesses, making it harder and more expensive to get loans.

Originally, my amendment also included a provision to require the SBA to give new markets venture capital companies two years to raise their matching capital. Even though we had legislated in the 106th Congress to give them two years, and Senator HOLLINGS and Senator GREGG reinforced this by making the relevant matching capital available until expended as part of supplemental funding to the FY2001 Commerce, Justice, State appropriations bill, the Small Business Administration required the approved new markets venture capital companies to raise their money first in six months, and later proposed extending the period to one year. The declining economy, particularly in the aftermath of September 11, has made raising capital even more difficult. Consequently, these companies need more time than one year. Here is what Dr. Julia Sass Rubin, a community development venture capital expert from the Harvard Business School, has explained about the nature of raising funds these days: ''This task of raising capital for a new fund is particularly challenging during an economic slowdown, when the sources of funds for any kind of venture capital become more difficult to access. Additionally, with the dramatic recent slowdown in initial public offerings, even traditional venture capitalists are having a very difficult time raising money. It is simply not practical to expect a new CDVC fund to capitalize within one year.''

I am very happy to report that we were able to work out a compromise with the Small Business Administration to give these companies to year and half to raise their capital. It's not the full two years, but I am hopeful that the new markets venture capital companies can raise their capital in the that time. The Administration has also recommitted to offering a second round of funding starting in the August/September time frame of 2002.

Let me quickly explain a bit about this innovative venture capital initiative. The new markets venture capital initiative is modeled after the SBA's very successful SBIC program, which I talked about earlier. However, unlike the SBIC program which makes larger deals, new markets venture capital companies target smaller investments to the development of high-growth small businesses in our country's poorest urban and rural areas. They tie those investments to the creation of local jobs with livable wages and benefits for individuals who historically have no opportunities for employment or who are the working poor. One excellent example of such a company is City Fresh Foods in Dorchester, Massachusetts. They run a smart business, providing a needed service to the elderly in their community by producing and distributing meals for the Meals-on-Wheels program. They hire from the community, and they provide good jobs with sustainable wages. The SBA's new markets venture capital investments, if given a real chance to work, could help develop more companies like City Fresh Foods.

I ask my colleagues to support this bill, and ask my colleagues in the House to pass this bill as soon as possible.

I thank Senator BOND for his work on this legislation.

Mr. BOND. Mr. President, I rise today to urge my colleagues in the Senate to support passage of the Small Business Investment Company Amendments Act of 2001, S. 1196 and an amendment being offered by Senator JOHN KERRY, which I strongly support. Time is of the essence since a critical component of the Small Business Investment Company, SBIC, Program was shut down on November 28, 2001, when the Commerce Justice State appropriations bill became law, while the bill modifying the annual fees paid by the Participating Securities SBICs had not been enacted. Once S. 1196 becomes law, it paves the way for more investment capital to be available for more small businesses that are seeking to grow and hire new employees.

When the Committee on Small Business and Entrepreneurship unanimously approved S. 1196 on July 19, 2001, the Committee adopted a fee increase from 1.0 percent to 1.28 percent. At that time, some members of the committee believed they could obtain an appropriation for the SBIC Participating Securities Program that would offset part of the fee increase. The final version of the Fiscal Year 2002 Commerce Justice State appropriations bill did not include any funds for the SBIC program. Consequently, it is critical that legislation be enacted increasing the program fee to 1.38 percent. So long as the fee is not increased, the SBIC Participating Securities will remain shut down as required by the Federal Credit Reform Act of 1990.

Last month, on November 15, the Senate unanimously passed S. 1196, after approving a managers' amendment increasing the annual fee to 1.38 percent. When the House of Representatives considered the bill, it included an amendment that changed the fee structure for two other credit programs at the Small Business Administration, SBA: the 7(a) Guaranteed Business Loan Program and the 504 Development Company Program. Today, Senator KERRY and I are offering an amendment to S. 1196 that makes minor modifications to the House-passed amendment on the 7(a) and 504 loan programs.

There has been a significant growth in the small business sector of the U.S. economy over the past two decades. Today, small businesses make up over one-half of the entire U.S. economy. Over 99 percent of all employers in the United States are small businesses. They employ over 50 percent of workers and provide 75 percent of the net new jobs each year. Small businesses generate 51 percent of the Nation's private sector output. In light of the ongoing dip in the U.S. economy with the accompanying retrenchment by many businesses, both large and small, S. 1196 will serve as part of the solution to move us toward a recovery.

In 1958, Congress created the SBIC program to assist small business owners in obtaining investment capital. Forty years later, small businesses continue to experience difficulty in obtaining investment capital from banks and traditional investment sources. Although investment capital is readily available to large businesses from traditional Wall Street investment firms, small businesses seeking investments in the range of $500,000—$3 million have to look elsewhere. SBICs are frequently the only sources of investment capital for growing small businesses.

Often we are reminded that the SBIC program has helped some of our Nations best known companies. It has provided a financial boost at critical points in the early growth period for many companies that are familiar to all of us. For example, Federal Express received a needed infusion of capital from two SBA-licensed SBICs at a critical juncture in its development stage.

The SBIC program also helped other well-known companies, when they were not so well-known, such as Intel, Outback Steakhouse, America Online, and Callaway Golf.

What is not well known is the extraordinary help the SBIC program provides to Main Street America small businesses. These are companies we know from home towns all over the United States. Main Street companies provide both stability and growth in our local business communities. A good example of a Main Street company is Steelweld Equipment Company, founded in 1932, which designs and manufacturers utility truck bodies in St. Clair, Missouri. The truck bodies are mounted on chassis made by Chrysler, Ford, and General Motors. Steelweld provides truck bodies for Southwestern Bell Telephone Co., Texas Utilities, Paragon Cable, GTE, and GE Capital Fleet.

Steelweld is a privately held, woman-owned corporation. The owner, Elaine Hunter, went to work for Steelweld in 1966 as a billing clerk right out of high school. She rose through the ranks of the company and was selected to serve on the board of directors. In December 1995, following the death of Steelweld's founder and owner, Ms. Hunter received financing from a Missouri-based SBIC, Capital for Business CFB, Venture Fund II, to help her complete the acquisition of Steelweld. CFB provided $500,000 in subordinated debt. Senior bank debt and seller debt were also used in the acquisition.

Since Ms. Hunter acquired Steelweld, its manufacturing process was redesigned to make the company run more efficiently. By 1997, Steelweld's profitability had doubled, with annual sales of $10 million and 115 employees. SBIC program success stories like Ms. Hunter's experience at Steelweld occur regularly throughout the United States.

In 1991, the SBIC program was experiencing major losses, and the future of the program was in doubt. Consequently, in 1992 and 1996, the Committee on Small Business worked closely with the Small Business Administration to correct deficiencies in the law in order to ensure the future of the program.

Today, the SBIC Program is expanding rapidly in an effort to meet the growing demands of small business owners for debt and equity investment capital. And it is important to focus on the significant role that is played by the SBIC program in support of growing small businesses. When Fortune Small Business compiled its list of 100 fastest growing small companies in 2000, 6 of the top 12 businesses on the list received SBIC financing during their critical growth years.

The ''Small Business Investment Company Amendments Act of 2001,'' as amended, would permit the annual interest fee paid by Participating Securities SBICs to increase from 1.0 percent to no more than 1.38 percent. In addition, the bill would make three technical changes to the Small Business Investment Act of 1958 ('58 Act) that are intended to make improvements in the day-to-day operation of the SBIC program.

Projected demand for the Participating Securities SBIC program for FY 2002 is $3.5 billion, a significant increase over the FY 2001 program level of $2.5 billion. It is imperative that Congress approve this relatively small increase in the annual interest charge paid by the Participating Securities SBICs before the end of the fiscal year. The fee increase included in the bill, 1.38 percent, will allow the program to operate at its authorized level—$3.5 billion—an amount needed to help support small businesses as they help lead our country to an economic recovery.

The Small Business Investment Company Amendments Act of 2001 would also make some relatively technical changes the '58 Act that are drafted to improve the operations of the SBIC program. Section 3 would remove the requirement that the SBA take out local advertisements when it seeks to determine if a conflict of interest exists involving an SBIC. This section has been recommended by the SBA, that has informed me that it has never received a response to a local advertisement and believes the requirement is unnecessary.

The bill would amend title 12 and title 18 of the United States Code to insure that false statements made to the SBA under the SBIC program would have the same penalty as making false statements to an SBIC. This section would make it clear that a false statement to SBA or to an SBIC for the purpose of influencing their respective actions taken under the '58 Act would be a criminal violation. The courts could then assess civil and criminal penalties for such violations.

Section 5 of the bill would amend section 313 of the '58 Act to permit the SBA to remove or suspend key management officials of an SBIC when they have willfully and knowingly committed a substantial violation of the '58 Act, any regulation issued by the SBA under the act, a cease-and-desist order that has become final, or committed or engaged in any act, omission or practice that constitutes a substantial breach of a fiduciary duty of that person as a management official.

The amendment expands the definition of persons covered by section 313 to be ''management official,'' which includes officers, directors, general partners, managers, employees, agents or other participants in the management or conduct of the SBIC. At the time section 313 of the '58 Act was enacted in November 1966, an SBIC was organized as a corporation. Since that time, SBIC has been organized as partnerships and Limited Liability Companies, LLCs, and this amendment would take into account those organizations.

The Kerry-Bond amendment would reduce the fees paid by the participants in two SBA programs: the 7(a) guaranteed business loan program (7(a) program) and the 504 Development Company program (504 program). The need for this legislation to reduce fees has been growing in recent years. The issues surrounding the fees paid by small business borrowers and the banks came to a head earlier this year, when the General Accounting Office determined that the Federal government had collected over $950 million in excess fees paid by the borrowers and lenders and taxpayers' funds appropriated by the Congress. The driving force behind this amendment is to adjust the fees paid by small business borrowers and lenders to reflect more accurately their appropriate share of the cost of the program.

On May 4, 2001, Senator KERRY, Mr. MANZULLO, Ms. VELÁZQUEZ, and I asked the Comptroller General to undertake an in-depth analysis of the SBA's 7(a) credit subsidy rate calculations. Specifically, we asked the GAO to assess the level of difference between the projected cost of the 7(a) program's financing account, or loan loss reserve, and the actual cost. This calculation is required by the Federal Credit Reform Act of 1990. The purpose of the credit subsidy rate is to determine the amount of funds that should be appropriated each year to cover expected losses when the Federal government guarantees 7(a) loans.

What the GAO uncovered confirmed our worst concerns. The GAO pointed out that defaults and recoveries are key variables in the calculation of the 7(a) credit subsidy rate. Since FY 1992, the first year under the rules of the Federal Credit Reform Act, defaults and recoveries were significantly overestimated by the SBA and OMB. Defaults have been overestimated by nearly $2 billion and recoveries by $450 billion. What the overestimates mean in real costs is that the Federal government collected significantly more money than needed to fund its loss reserve accounts. Specifically, the Federal government collected over $950 million in excess fees paid by borrowers and lenders and by taxpayers' funds appropriated by Congress.

My shade tree analysis leads me to believe that small business borrowers, banks and taxpayers have been and continue to be overcharged for the 7(a) program. First, it is clear that they are paying too much because each year the SBA and OMB overestimated the default rate for the 7(a) program. Second, if a more accurate default rate were adopted, the credit subsidy rate could be reduced. Third, a lower credit subsidy rate could mean lower fees paid by small business borrowers. And fourth, the 7(a) loan program could expand to meet the demands of small businesses without requiring a larger appropriation.

Mr. President, time is of the essence. We need to act promptly and pass the Small Business Investment Company Act of 2001 today, so that the House of Representatives has time to act before the Congress adjourns in the coming weeks.