

HONORING FIRST LIEUTENANT  
WAYNE T. HOGANCAMP

(Ms. LORETTA SANCHEZ of California asked and was given permission to recognize the House for 1 minute and to revise and extend her remarks.)

Ms. LORETTA SANCHEZ of California. Madam Speaker, I rise today to recognize a very special individual by the name of First Lieutenant Wayne T. Hogancamp. First Lieutenant Hogancamp, who lives in Orange County, California, was awarded the third highest honor in the military for gallantry in action, the Silver Star, on January 1, 1945.

While in command of an M-8 cannon platoon and advancing over an enemy-controlled road in the Philippines, First Lieutenant Hogancamp maneuvered his M-8 through a barrage of enemy artillery fire and successfully destroyed two 77 millimeter guns, thus allowing his column to advance. While continuously exposed to enemy fire and using a burning M-5 tank for cover, he eliminated the enemy threat, allowing the safe passage of his men.

First Lieutenant Hogancamp's bravery is a testament to the dedication and valor of himself, his unit, and the United States Army.

It was an honor for me and my office to have helped Lieutenant Hogancamp obtain his much-deserved Silver Star medal and to have presented it to him this past weekend, 65 years after his heroic act.

Madam Speaker, please join me in honoring First Lieutenant Wayne T. Hogancamp of the United States Army.

□ 1030

WHAT'S IT GOING TO TAKE?

(Ms. SPEIER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SPEIER. Madam Speaker, I have one question: What's it going to take? How many more oil spills do we have to endure before we're going to do something decisive about ending our reliance on oil?

The amount of oil that has been spilled in the gulf since its inception is about 60,000 barrels per day we're now finding out, up from 1,000 barrels per day. Do you realize that if we had retrofitted 75,000 homes in this country, it would equal the amount of oil that has been spilled into the gulf during this time.

I say to all of us, it is time to take decisive action. It is time to rid ourselves of our dependence on oil. We can do so by embracing the Home Star program that the House has already passed. And maybe what we should do is ask BP to put into an escrow account \$6 billion. And with \$6 billion, do you know what we can do? We can retrofit over 3 million homes in America. And by the way, we can put to work 160,000 Americans.

INCREASING LENDING OPPORTUNITIES FOR WOMEN- AND MINORITY-OWNED BUSINESSES

(Mr. CARSON of Indiana asked and was given permission to address the House for 1 minute.)

Mr. CARSON of Indiana. Madam Speaker, I rise today as a champion of the small business community to ask Members to support the floor manager's amendment. The floor manager's amendment includes my provision which amends H.R. 5297 to ensure that women and minority-owned businesses are provided with lending opportunities to allow them access to capital.

Specifically, my amendment requires States applying to receive Federal contributions for their capital access programs to submit a report. This report will explain how they plan to provide lending opportunities for small businesses in underserved and low- and moderate-income communities.

According to SBA estimates, about 60 percent of the jobs lost in 2008 through the second quarter of 2009 were lost in small firms. As our Nation continues its recovery from the worst economic downturn since the Great Depression, we must recognize that our comeback will only go as far as our small businesses allow. This includes tapping into the potential of women and minority-owned small businesses. Several studies have found that these small business owners are more likely to experience loan denials, pay higher interest rates, and are less likely to apply for loans because of fear of rejection.

I understand that because of the economic challenges that we face, banks cannot loan to all existing or aspiring business owners, but I believe we must continue to work with States and banks to increase lending opportunities for women and minority-owned businesses. That is why I introduced this amendment.

I ask that Members join me in taking a step to make sure that all small business owners have access to capital and an opportunity to contribute to this Nation's free market.

PERMISSION RELATING TO CONSIDERATION OF AMENDMENT TO ORIGINAL-TEXT SUBSTITUTE TO H.R. 5297

Ms. BEAN. Madam Speaker, I ask unanimous consent that the instruction in the amendment printed in part B of House Report 111-506 relating to page 11, line 8, be considered to refer to section 4(d)(2)(a) of the original-text substitute.

The SPEAKER pro tempore (Ms. TITUS). Is there objection to the request of the gentlewoman from Illinois?

Mr. NEUGEBAUER. Madam Speaker, reserving the right to object, while I do not plan to object, I just wanted to point out that by accepting the chairman's request, we are agreeing to help you fix a drafting issue with your

amendment. However, Republicans also note that only one of our amendments was made in order today. So at the same time we are agreeing to help you fix your amendment—an amendment, by the way, that is considered adopted without a vote—your side has blocked all but one of our amendments from coming up.

I just wanted to make sure that we are all clear on how things are handled these days in the House before we move on to this bill.

With that, I withdraw my reservation.

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

There was no objection.

GENERAL LEAVE

Ms. BEAN. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 5297 and to insert extraneous material thereon.

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

There was no objection.

SMALL BUSINESS JOBS AND CREDIT ACT OF 2010

The SPEAKER pro tempore. Pursuant to House Resolution 1436 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the state of the Union for the consideration of the bill, H.R. 5297.

□ 1035

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. 5297) to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, and for other purposes, with Mr. PASTOR of Arizona in the chair.

The Clerk read the title of the bill.

The CHAIR. Pursuant to the rule, the bill is considered read the first time.

General debate shall not exceed 1 hour, with 30 minutes equally divided and controlled by the chair and ranking minority member of the Committee on Financial Services and 30 minutes equally divided and controlled by the chair and ranking minority member of the Committee on Small Business.

The gentlewoman from Illinois (Ms. BEAN) and the gentleman from Texas (Mr. NEUGEBAUER) and the gentlewoman from New York (Ms. VELÁZQUEZ) and the gentleman from Missouri (Mr. GRAVES) each will control 15 minutes.

The Chair recognizes the gentlewoman from Illinois.

Ms. BEAN. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, our Nation's economic rebirth relies upon the ability of our community businesses to innovate, develop, and market solutions that deliver measurable value to their customers. Their success drives the majority of new jobs in our Nation. They are the engine of innovation, and their resiliency to reinvent their business models and adapt to emerging growth markets is critical. It's their creativity that drives 13 times more patents per employee than larger firms. They are the cornerstones of our economy and our communities. Beyond the goods and services and the jobs they provide, they invest in the bricks and mortar/real estate in our communities. They have supply chains that depend on their business. They do charitable giving, and they mentor young people in their communities.

Congress has done much to address the challenges small businesses face. Among the \$288 billion in tax breaks in the Recovery Act were crucial small business tax provisions, such as accelerated bonus depreciation and an expansion of the net operating loss carryback that has already rebated \$2.8 billion to businesses across our Nation.

U.S. manufacturing is growing, we're adding new jobs every month in 2010, and GDP is now trending positively, moving from a negative 6 to positive 6 in the year following the Recovery Act and it's now holding at 3 percent. But as I talk with small businesses in my district and across the Nation, the issue that has continued to be an obstacle to business expansion and diversification is access to credit.

The financial crisis of 2008 severely tightened small business access to credit and affordable terms. When businesses can't access financing, they're prevented from entering into new contracts, buying new equipment, hiring new employees, and other expansions. In the worst cases, business owners must cut payrolls, go into bankruptcy, or close their doors for good. Congress has taken steps to alleviate that problem. The Recovery Act included valuable changes to the SBA loan programs, reducing fees for lenders and borrowers on the 7(a) and 504 loan programs and increasing government guarantees to attract more capital. As a result, weekly SBA loan approval volumes have increased by over 90 percent.

The improvements to SBA loan programs and other measures we've taken have helped, but much more needs to be done. Earlier this year, commercial and industrial loans declined for the seventh straight quarter, down more than 17 percent from 2009, and banks are receiving mixed messages. On the one hand, Congress and the administration are urging them to lend more; on the other, bank regulators are telling them to hold back on lending. In fact, our colleague, Mr. PRICE, has an amendment expressing a sense of Congress on that point.

In addition, banks have greater risk aversion due to their exposure on their

balance sheets—stemming especially from the instability of the commercial real estate sector. That brings us to this important bill on the floor today. The Financial Services Committee has held several hearings on the restriction of credit for small business. The bill before us today builds on those hearings and was considered in the open process the committee is known for.

During markup of the bill, the committee adopted 15 amendments, including seven Republican amendments, and today we will consider 17 additional amendments, the vast majority of which are to the Financial Services portion of the bill.

The Small Business Lending Fund Act is a significant step to boost small business lending through our community banks. This legislation builds on the effective financial stabilization measures Congress has previously taken by establishing a new \$30 billion small business loan fund to provide additional capital to community banks that increase lending to small businesses. This \$30 billion investment on which the government will be collecting dividends and earning a profit per the CBO estimates can be leveraged by banks into over \$300 billion in new small business loans. This is an important investment by the Federal Government in our small business that brings tremendous returns.

The terms of the capital provided to banks are performance based; the more a bank increases its small business lending, the lower the dividend rate is for the SBLF capital. If a bank decreases its small business lending, it will be penalized with higher dividend rates.

This legislation includes strong safeguards to ensure that banks adequately utilize available funds to increase lending to small businesses, not for other lending or to improve their balance sheet. There will be oversight consistently throughout the program, plus it requires that the capital be invested only in strong financial institutions at little risk of default and the best positioned to increase small business lending.

It's important for Americans to understand that although this fund has a maximum value of \$30 billion, it is estimated to make a profit for taxpayers in the long run. And the money will ultimately go not to banks, but to the small businesses and their communities that they lend to. As our financial system stabilizes and our community banks recapitalize, these funds will be repaid to Treasury with full repayment required over the next 10 years.

Also included in the Financial Services portion of this bill is the State Small Business Credit Initiative championed by our colleague, Mr. PETERS. The underlying bill provides \$2 billion in funding for new or existing State lending programs.

The CHAIR. The time of the gentleman has expired.

Ms. BEAN. I yield myself 1 additional minute.

This program provides funding for States to expand or create lending programs that use small amounts of public resources to generate private bank financing and are designed to address critical reasons why banks are having trouble making increased investments now—lack of adequate capital reserves on the part of lenders and collateral shortfalls on the part of borrowers.

The State Small Business Credit Initiative is required to leverage \$10 of private funding for every \$1 of government funding. Many of the existing capital access programs leverage 30 private dollars for every 1 government dollar. By supporting existing programs and using an easy-to-replicate model, this program will be quickly ramped up to increase small business lending which will retain and create jobs.

Small businesses are the job creators of our Nation. Supporting their ability to grow and innovate is key to a robust and stable economic recovery. I commend the leadership of Chairman FRANK and Chairwoman VELÁZQUEZ in bringing this package to the floor, which will provide critical support to the half of all American workers who either own or work for a small business.

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

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

I rise today in opposition to H.R. 5297. My opposition is not a question of whether or not I support small businesses, it's a question of whether or not this bill will actually help small businesses. Unfortunately, my conclusion is that this bill will not help them, but will cost the taxpayers another \$33 billion—by the way, \$33 billion that we don't have.

□ 1045

As a former small business owner, as well as a former lender, I understand firsthand the need for small business to have access to credit. Access to credit has tightened, but demand for credit from worthy borrowers has also declined.

What small businesses really need more than anything in the current economic environment is more certainty so they can invest and can plan for the future. What they have gotten from Congress is more and more uncertainty.

Small businesses will face a costly tax penalty if they can't comply with the added cost of the new health care law. One business owner in my district told me he had plans to expand and to create jobs, but he has put those on hold now because his business would not grow over 51 employees and then be subject to the new law.

Small businesses are worried about how much their energy costs will go up under the proposals of cap-and-tax

bills. Finally, they have no idea how much their taxes will be next year. Not only are they worried about new taxes to pay for more government spending, but they know that taxes will also go up automatically if Congress does not do anything to address the expiring tax provisions.

No wonder small businesses are in a holding pattern and are not creating new jobs, and this bill does nothing to provide any certainty for small businesses. Rather than doing something that creates more certainty for small businesses to grow and to add jobs in this economy, the majority is repeating the same failed initiatives that have helped our national debt grow to \$13 trillion in the past 2 years. This bill follows the model of the TARP program, minus the stronger oversight, and it puts another \$30 billion into banks in the hopes that lending to small businesses will increase.

In the words of Neil Barofsky, the Special Inspector General who oversees the TARP, "In terms of its basic design," he says, "its participants, its application process, from an oversight perspective, the Small Business Lending Fund would essentially be an extension of the TARP's Capital Purchase Program."

From the Congressional Oversight Panel for TARP, chaired by Elizabeth Warren, she says, "The SBLF's prospects are far from certain. The SBLF also raises questions about whether, in light of the Capital Purchase Program's poor performance in improving credit access, any capital infusion program can successfully jump-start small business lending."

This bill allows for another \$33 billion in spending that will be added to the government's credit card. The CBO tells us that the bank lending portion will ultimately cost taxpayers \$3.4 billion when market risk is taken into account.

We have had record bank failures, including the failures of four banks that were TARP recipients. When those TARP recipient banks failed, the taxpayers' investments of \$2.6 billion were essentially wiped out. More than 100 banks that have received TARP funds so far have missed their dividend payments. These missed dividend payments have cost the taxpayers almost \$200 million. It turns out that many of these banks that received TARP funds were far from healthy.

Do we really think there will be no more bank failures or missed dividend payments among banks that receive funds out of this new TARP program? We know there will be, and the CBO says there will be, which will lead to more losses for the taxpayers.

This fund is just like the TARP's Capital Purchase Program, except for the stronger oversight. I am extremely disappointed that the Rules Committee blocked a sensible amendment that would have improved the oversight of this new lending fund by bringing it under the oversight of the Special In-

spector General for TARP. SIGTARP has developed significant experience in looking out for the taxpayers when it comes to the TARP program. SIGTARP's expertise should be used for this fund to protect the taxpayers.

H.R. 5297 will lead to more losses for taxpayers and to no more improvement in credit for small businesses. A lack of credit is not even the largest problem facing these small businesses. According to the National Federation of Independent Business, the top problem facing small businesses is the lack of sales and demand. If businesses are not confident they will have customers, they are not going to borrow; they are not going to expand, and they are not going to add jobs.

This \$33 billion bill is not going to help increase demand from small business customers. Instead, we need the government to step back and to stop prolonging the uncertainty that is crowding out economic growth in our country. The sad thing is that there are things that Congress could actually be doing to help small businesses. Instead, the majority has chosen to bring up bills that will cost the taxpayers billions and that will do nothing to help the small businesses. They have denied our side the ability to offer substantial amendments.

I think it was appalling, quite honestly, Mr. Chairman, that the majority awarded themselves 66 amendments to this bill and that they awarded the Republicans one. Now, if that is the bipartisanship that this leadership is talking about, I don't think the American people are buying that that is bipartisan, because many of the amendments that we offered, Mr. Chairman, were to add additional protections for the taxpayers. Obviously, the majority is not interested in protecting the taxpayers' investments with this \$33 billion. By the way, this is \$33 billion that we don't have.

I am hoping that the majority is going to tell us this morning where the proposal of the \$33 billion is going to come from. Well, I can tell you where it is going to come from. We are going to charge it to our children and to our grandchildren. You know what? I think we've just about reached the limit on the amount of money we should charge to our children and to our grandchildren.

So, Mr. Chairman, I am going to urge my colleagues to insist that we do better for small businesses. We must do something for small businesses, but this is not the answer, and I am going to encourage my colleagues to vote "no."

I reserve the balance of my time.

Ms. BEAN. I yield 1 minute to the gentleman from Connecticut (Mr. LARSON).

Mr. LARSON of Connecticut. I rise in support of the bill for the purpose of engaging in a colloquy with Congresswoman BEAN.

I want to bring attention to the important role that banks at the \$25 bil-

lion asset cap play in this economy, particularly in lending to small businesses.

The State of Connecticut has three such banks within the \$10 to \$25 billion range in terms of asset caps. These banks are on the ground, lending to small businesses in my district. They are the biggest SBA lenders and are the biggest lenders to minority businesses. They also fulfill a niche opportunity for so many manufacturers in my State as well.

While I understand that the asset cap could not be raised to include these banks in this bill, I would ask that Congresswoman BEAN and Chairman FRANK work with me, with the Treasury, and with the other body to ensure that these banks can be included in this program as this legislation goes forward.

Ms. BEAN. I thank the congressman for his concerns, and I have similar concerns.

In my home State of Illinois, we also have institutions that would like to participate but would be unable to because of the asset cap. I know Chairman FRANK agrees on this point.

I reserve the balance of my time.

Mr. NEUGEBAUER. Mr. Chairman, one of the things that is interesting is that this program is designed to put more capital into the banking system.

According to the Federal Reserve's April survey of senior loan officers, three factors that exerted the greatest influence on banks' business lending practices over the past 3 months were competitive pressures, the economic outlook, and the tolerance for risk in the business loan market. Lack of capital was not mentioned as one of the driving forces for lending decisions that are being made.

So, basically, Mr. Chairman, what this bill tries to do is to solve a problem that, according to the Federal Reserve, doesn't exist. There is plenty of capital, but there is this competitive pressure, this economic outlook, and this tolerance for risk.

Going back to my earlier point, when I traveled around the 19th Congressional District, I talked to a number of lenders. At the same time, I visited businesses in their communities. What I learned during that process is that many of the small businesses just said, Congressman, things are just too uncertain right now. We don't know what Congress is going to do with taxes. We don't know what they're going to do with this energy bill. We don't know exactly. We are trying to figure out how this new health care bill is going to impact our businesses, how it is going to impact our bottom lines.

Then I went over and talked to the lenders. Many of the lenders are sitting on record amounts of cash and capital in their banks. They are looking as hard as they can for good lending opportunities. What they said is, Unfortunately, some of our customers are not creditworthy. The economy has hurt their sales, and so it wouldn't be

prudent to loan those businesses more money. Others said, Our good customers, customers who are credit-worthy, are not coming to us and borrowing any money because, again, of this uncertainty.

So, again, our opposition to this bill is that it is not really addressing the real issue in our economy, which is needing to bring some certainty and to leave the capital in the companies, to leave the capital in the economy, instead of the Federal Government's continuing to create uncertainty and taking money out of the economy.

I reserve the balance of my time.

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

Small businesses, which represent 99.7 percent of firms, are key to the recovery of the U.S. economy. Through innovation and hard work, they are able to not only create jobs but to also build the foundation for future growth. We saw this after the recession of the early 1990s. As we emerge from the latest downturn, small firms will again lead the way.

This downturn has affected every facet of the global economy. Most of the focus has been on repairing the residential housing market and homeowners in particular. It is important to note that this has greatly impacted small businesses as well. Through the Recovery Act, we were able to help them, providing more than \$28 billion in assistance through the SBA. H.R. 5297 builds on this by establishing additional lending initiatives that will give small businesses even greater financing options.

This legislation, Mr. Chairman, also recognizes that capital markets are changing dramatically. Credit standards are stricter, and small businesses are now looking not only to loans and to credit cards to finance their operations, but they are also looking to equity investment to turn their ideas into reality. This has become even more pronounced as asset values have declined, leaving entrepreneurs with less collateral to borrow against.

Unfortunately, small firms' access to venture capital and to equity investment has declined. Last year, such investments plummeted from \$28 billion in 2008 to only \$17 billion last year. This is due, in part, to the previous administration's decision to terminate the SBA's largest pure equity financing program—the Small Business Investment Company Participating Securities program. This has left many entrepreneurs who need equity investment to fulfill their business plans without a source of such financing.

As a result, it has become more difficult to start a new business and to create the jobs that come with such activity. This is seen in data from the Bureau of Labor Statistics, which show that self-employment declined by 7.5 percent between 2007 and 2009. Less entrepreneurship is never a good thing, but during a recession, it is particu-

larly problematic as small firms generate two-thirds of net new jobs.

In order to address this, title III creates a \$2 billion investment fund at the SBA. Under this program, the agency will provide matching funds to qualified privately managed investment companies, which will, in turn, invest in small companies. To ensure that the public and private sectors' interests are aligned, the SBA's funding would be provided at a 1-to-1 ratio of private investment capital.

Funds from the program will only be given to investment companies that have a proven record of returning a profit to its investors. These managers must have experience in investing in small, early-stage companies. They must have the ability to provide leadership as these entrepreneurial endeavors grow. In selecting investment firms to participate in the program, the SBA will give a special preference to Small Business Investment Companies, which already have substantial experience in financing small firms. In exchange for receiving funds, participating investment funds must convey an equity interest to the SBA, similar to that of which individual investors will receive.

□ 1100

The equity interest shall entitle the SBA to a repayment of its investment and a proportion of any profits made by the investment company. As a result, the government is on a level playing field with private-sector investors, and the taxpayer stands to benefit from the growth and success of these small companies.

By giving entrepreneurs access to \$2 billion in equity investment, we will provide them the resources to grow and create the types of long-term employment gains we need. It goes without saying that the groundbreaking, innovative firms that rely on such investment tend to be some of our most prolific job creators. Between 2006 and 2008, these companies created eight times more jobs than other businesses. That is exactly the kind of job growth Americans need right now.

Mr. Chairman, I support this legislation.

I reserve the balance of my time.

Mr. GRAVES of Missouri. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, today, I rise in opposition to H.R. 5297, the Small Business Lending Fund Act. Although my colleagues on the other side of the aisle claim that this bill would improve small business access to much-needed capital, I am not convinced. In fact, there is virtually no guarantee that small businesses will benefit whatsoever from the funding in this bill.

Nothing in Title 1 of the bill assures that banks will lend the capital, much less to small businesses. Title 2 authorizes lending by State programs to businesses that the Small Business Administration would consider large. And only Title 3 of this bill is targeted to

assist small businesses. Nevertheless, the overall bill is badly flawed, and I can't support it, nor can I support the excessive small business assistance spending in Title 3.

Now more than ever, our Nation is relying on small businesses to create jobs and to lead us in our economic recovery. But without sufficient access to credit or capital, small businesses can't expand operations or hire new employees. There's little doubt that efforts to bail out banks and other major financial institutions has not led to improved access to capital by small businesses.

Last session, I strongly supported H.R. 3854. It was a comprehensive, bipartisan revision to the capital access programs overseen by the Small Business Administration. That bill, unlike the one before us today, would have improved access to needed capital by small businesses.

Incorporated into that bill was H.R. 3738, which provided a streamlined process to enable qualified venture capitalists to bootstrap their investment with additional Federal moneys to provide needed early-stage equity capital to small businesses. Successful operators would pay back the Federal Government before they took their own profits. Although the legislation came with a relatively modest price tag of \$200 million, its benefits were sure to far outweigh the cost. Moreover, if the program did not succeed, the cost of failure was going to be very modest.

That certainly isn't the case today with the bill we have before us. The cost has increased by 500 percent without any previous testing of its potential to succeed. This will pile unnecessary risk or costs onto taxpayers at a time when we're dealing with record debt and unsustainable deficit spending. Even if Title 3 of this bill—the small business portion—even if Title 3 stood alone, given the dramatic increase in costs, I couldn't support it. But yet here it is. It remains attached to a bill that has even greater costs—and costs that are fully not paid for in the short term.

So let's lay this out. We still do not have a budget for fiscal year 2011. Our national debt has reached a new record high of \$13 trillion. And the administration and the majority in the House continue to rely on unsustainable borrowing and spending to keep things running. When you consider the complete chaos our fiscal house is in, the idea of more spending seems foolish. Completely foolish. But that's what's being proposed by this legislation today, and I refuse to support it.

If my colleagues want to get serious about supporting small businesses and encouraging their growth, there are lots of ways to do so, and I'm very happy to help. But H.R. 5297 is yet another ill-conceived effort that, at the end of the day, will only further punish American entrepreneurs.

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

Ms. BEAN. Mr. Chairman, I yield 2 minutes to the gentleman from Texas (Mr. HINOJOSA).

Mr. HINOJOSA. Mr. Chairman, I rise in strong support of H.R. 5297, the Small Business Lending Fund Act of 2010. This legislation will help small businesses survive and thrive in the current economic climate by providing the Secretary of the Treasury temporary authority to make capital investments up to \$30 billion to banks and savings associations with assets of less than \$10 billion and to their parent holding companies, provided they also have assets of less than \$10 billion.

Mr. Chairman, H.R. 5297 increases the availability of credit for small businesses. It provides funding to eligible institutions that serve small businesses that are minority- and women-owned and that also serve low- and moderate-income, minority, and other underserved or rural communities. This legislation ensures that all eligible institutions may apply to participate in the program established under this title, without discrimination based on geography, which is very important to the great State of Texas.

H.R. 5297 requires eligible institutions receiving capital investments under the program to provide outreach in languages other than English describing the availability and application process to receiving loans from eligible institutions through the use of print, radio, television, or electronic media outlets which target organizations, trade associations, and individuals that represent or work within or are members of minority communities. The Small Business Lending Fund Act of 2010 contains provisions promoting financial education and literacy and would-be borrowers.

The CHAIR. The time of the gentleman has expired.

Ms. BEAN. Mr. Chairman, I yield 30 additional seconds to the gentleman from Texas.

Mr. HINOJOSA. Most importantly, this legislation protects and increases American jobs.

Mr. Chairman, H.R. 5297 will help small businesses, community banks, the low- and moderate-income, minorities, and other underserved or rural communities, and all of our constituents. It will help our great country move further down the road towards economic recovery and expansion. I strongly urge my colleagues to support this important and timely piece of legislation.

NATIONAL ASSOCIATION  
OF REALTORS®  
Washington, DC, June 15, 2010.

U.S. HOUSE OF REPRESENTATIVES,  
Washington, DC.

DEAR REPRESENTATIVE: On behalf of the 1.1 million members of National Association of REALTORS®, and their affiliates, I ask for your support of H.R. 5297, the "Small Business Lending Fund Act of 2010," introduced by Representative Frank (D-MA). This bill will create the Small Business Lending Fund Program (SBLFP) that would increase the availability of credit to our nation's commercial real estate and small business sectors.

Nearly \$1.4 trillion of commercial real estate loans will mature over the next several

years, with a very limited capacity to refinance. If not addressed, the swelling wave of maturities could place further stress on already fragile financial markets and slow our nation's economic recovery. In addition to addressing the issues facing the commercial real estate industry, improving access to capital for small businesses—widely acknowledged as a critical part of growing the American economy—is also greatly needed. In fact, the percentage of small business owners holding a business loan or credit line fell almost 20 percent last year. Unappreciated is the fact that a significant portion of commercial real estate is owned, leased, and operated by small businesses.

Unlike the Troubled Asset Relief Program (TARP), the SBLFP contains lending provisions that help ensure community banks have both the incentive and greater capacity to increase total loans to small businesses by decreasing the dividend cost on the capital investment as lending grows.

Additionally, we support Amendment #4 (Minnick, D-ID), which would allow commercial real estate loans for properties for lease to be eligible in the SBLFP. As H.R. 5297 is currently written, only owner-occupied commercial real estate loans qualify for this program, which excludes commercial real estate loans on properties for lease—a significant portion of small businesses that need refinancing assistance.

In order to help spur small business hiring and growth, NAR urges you to pass this important legislation.

Sincerely,

VICKI COX GOLDER, CRB,  
2010 President, National Association  
of REALTORS®

INDEPENDENT COMMUNITY BANKERS  
OF AMERICA,  
Washington, DC, June 15, 2010.

To: Members of the U.S. House of Representatives

MEMORANDUM

Subject: House vote on the Small Business Lending Fund Act (H.R. 5297)

On behalf of the nearly 5,000 members of the Independent Community Bankers of America (ICBA), we express strong support for the Small Business Lending Fund Act of 2010 (H.R. 5297) and urge House passage.

The Act will boost the flow of credit to small businesses by leveraging the role of our nation's community banks. Community banks are prolific lenders to small business with the experience, expertise and grassroots relationships necessary to quickly deploy the funds to creditworthy borrowers. Notably, the Small Business Lending Fund's (the Fund's) \$30 billion in capital can be leveraged by community banks to support \$300 billion in additional small business lending, creating new jobs and sustaining the economic recovery.

As the Act goes to the House floor, we take this opportunity to share our views on amendments that would improve it and those that would undermine its goal of increased small business lending by discouraging community bank and small business participation.

*Amendments Supporting Greater Small Business Lending*

ICBA supports amendments that will further the goal of greater small business lending including:

Amendment No. 4 (offered by Reps. Minnick, Simpson, Kosmas, Quigley and Marchant): ICBA supports this amendment because it would broaden eligibility for the program by including non-owner occupied commercial real estate and provide greater credit options to small business.

Amendment No. 5 (offered by Reps. Perlmutter, Gutierrez, Klein and Kagen): ICBA supports this amendment because it

would further incentivize community banks to participate in the Fund and create greater lending capacity and flexibility to better serve struggling borrowers by allowing them to amortize their loan losses over 10 years.

Amendment No. 6 (offered by Rep. Tom Price): ICBA supports this amendment because it highlights the mixed messages that community banks get from their regulators: Community banks are encouraged to increase lending but at the same time punished with aggressive write-downs of performing loans.

Amendment No. 10 (offered by Reps. Miller and Baca): ICBA supports this amendment because it broadens the definition of small business loans to include construction, land development, and other land loans in domestic offices. These loans will help expand economic activity and employment.

Amendment No. 12 (offered by Reps. Jackson Lee and Cao): ICBA supports this amendment because it would support hard hit community banks and the small businesses they serve in the Gulf Coast states impacted by the oil spill disaster.

Amendment No. 15 (offered by Rep. Braley): ICBA supports this amendment because the documents used to obtain a benefit or service under the program should be clear and user-friendly so interested parties can make best use of the program.

Amendment No. 16 (offered by Rep. Loebsack): ICBA supports this amendment because it further highlights the importance of agricultural operations, farms, and rural communities in our national economy.

*Amendment Raising Serious Concern*

The SBLF is a voluntary program for interested community banks. ICBA wants to ensure that it is workable for community banks and small business borrowers alike. ICBA opposes amendments that would make the program too costly or create a difficult compliance burden. Amendments in this category include:

Amendment No. 3 (offered by Rep. Nye): ICBA opposes this amendment because it would increase the compliance burden on lenders through the addition of unnecessary complexity and unworkable provisions thereby discouraging participation and small business credit.

Amendments No. 7 (offered by Rep. Green) and No. 8 (offered by Reps. Driehaus, Connolly, and Moore): ICBA opposes these amendments because they would increase reporting requirements and other compliance costs and burdens. These added layers of regulation will discourage participation and reduce available small business loans.

Amendment No. 11 (offered by Rep. Michaud): ICBA believes that the program should remain focused on community banks and traditional debt financing as the most established and effective source of small business lending.

The outcome of these amendments is critical to the success of the Fund. As you cast your votes, please consider which amendments will further the fundamental goal of the program—increased access to credit for small businesses, which can only be achieved through broad, voluntary participation of community banks—and which will undermine this goal.

Thank you for your consideration.

JAMES D. MACPHEE,  
Chairman.

SALVATORE MARRANCA,  
Chairman-Elect.

JEFFREY L. GERHART,  
Vice Chairman.

JACK A. HARTINGS,  
Treasurer.

WAYNE A. COTTLE,  
Secretary.

R. MICHAEL MENZIES, SR.,  
Immediate Past Chairman.

CAMDEN R. FINE,  
President and CEO.

Washington, DC, May 14, 2010.

CONFERENCE OF STATE BANK SUPERVISORS  
STATE REGULATORS SUPPORT ADMINISTRATION'S  
SMALL BUSINESS LENDING PROPOSALS  
(By Neil Milner)

The Conference of State Bank Supervisors (CSBS) supports the Obama Administration's small business lending proposals to stimulate small business stability and growth.

The proposals—the Small Business Lending Fund and the State Small Business Credit Initiative—will provide much-needed access to capital to support small business lending, the lifeblood of our national economy.

The Administration's proposals will provide capital injections to fund new small business loans to financial institutions with assets less than \$10 billion. In the past few years, the government has gone to extraordinary lengths to prop up our capital markets by providing assistance to the nation's largest institutions. CSBS is pleased the Administration is taking the next steps to promote a full economic recovery by assisting those institutions which largely did not contribute to the economic crisis and have played such a pivotal role in our recovery to date.

Further, CSBS is pleased the proposals are independent initiatives separate from the TARP program. By separating the small business proposals from TARP, we believe the programs will enjoy wider participation and greater success.

We encourage Congress to coordinate with the Department of the Treasury to rapidly implement these much needed initiatives to assist community banks as they continue to support small businesses around the country.

Mr. NEUGEBAUER. Mr. Chairman, I continue to reserve the balance of my time.

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

I want to use this time to respond to those who are making the assessment that this money, that there are not safeguards into this legislation to make sure that the money goes to small businesses. First, banks must apply to the Treasury to receive funds, with a detailed plan on how to increase small business lending at their institution. This language was included at my insistence that we need to make sure that small businesses will get the benefit of this legislation.

Second, this capital, repayment of the government loans will be at a dividend rate starting at 5 percent per year. This rate will be lowered by 1 percent for every 2.5 percent increase in small business lending over 2009 levels. It can go as low as a total dividend rate of just 1 percent if the bank increases its business lending by 10 percent or more, incentivizing banks to do the right thing. To ensure that banks actually use the funding they receive, the rate will increase—and there are penalties—to 7 percent if the bank fails to increase its small business lending at their institution within 2 years. To ensure that all federal funds are paid back within 5 years, the dividend rate will increase to 9 percent for all banks, irrespective of their small business lending, after 4½ years.

Let me just make it clear: What the CBO estimates through what they pro-

vided to the Congress and telling us, CBO estimates that this provision will save taxpayers \$1 billion over 10 years, as banks are expected to pay back this loan over 10 years, with interest.

I reserve the balance of my time.

Mr. GRAVES of Missouri. Mr. Chairman, I don't have any other speakers on this.

I just might comment on this bill. One of the frustrating things about our economic recovery right now, and we continue to hear over and over and over again, that small businesses are uncertain about what the future is. They don't know what's going to happen with cap-and-trade and what's going to happen with the energy tax, particularly those businesses that are using a lot of energy to produce whatever it is. They're uncertain about what's going to happen with this health care bill and all the mandates that are coming out. They're uncertain about what's going to happen with their taxes. They're uncertain about what's going to happen with the amassing debt that's taking place, because somebody is going to have to pay for it. And this administration continues to look at small businesses to be able to provide that.

So here we come along with a bill that supposedly is supposed to help small businesses, which the way it is right now, there's no guarantee whatsoever that that money is going to be loaned to small businesses. As the bill stands right now, a commercial loan could qualify, any commercial loan could qualify if it's a loan less than a million dollars.

The fact of the matter is, Mr. Chairman, there's no guarantee. There's no guarantee.

Small businesses are the ones that need help. And the fact of the matter is, too, that if the government would just get out of the way, then small businesses would lead us back into this economic recovery. They provide 7 out of every 10 jobs in this country, and they are the ones that are going to lead us. But nobody is going to expand and nobody is going to add any new productivity, any new hires, until they know what's going to go on and what's going to be around the corner. With this administration, they don't know what's going to happen to them.

I reserve the balance of my time.

Ms. BEAN. Mr. Chairman, I yield 2½ minutes to the gentleman from Michigan (Mr. PETERS).

Mr. PETERS. I rise today in support of H.R. 5297. Small businesses create two in every three new jobs in this country. Creating an environment that allows small businesses to innovate and grow is the single most important objective necessary to reduce unemployment and lead our Nation to full economic recovery.

I have held a field hearing and roundtables with small business owners and have traveled door-to-door in downtowns in my district, and the one thing that I hear over and over again is

many entrepreneurs are ready to invest and create jobs again, but they cannot secure the capital necessary to start or grow their business. Some, like Karen Teegarden, owner of a small advertising firm in Oakland County, told me that because she could not get a simple line of credit to meet some short-term payroll needs, she was forced to lay off workers.

It is no secret why small businesses are struggling. Wall Street banks have admitted that they have reduced their investments in Michigan as well as other States. And small local lenders don't have enough capital to lend. I have been fighting for the past year for action to help solve this problem, and the bill before us today will create a \$30 billion fund to promote small business lending. Small local lenders can leverage this funding into \$300 billion in loans for small businesses. But because local lenders will pay the investment back with interest, the non-partisan CBO says the taxpayers will earn a projected \$1 billion.

It's not often that a single action can create a multitude of jobs across this country and reduce the deficit at the same time. Enacting this bill will do just that. In Michigan, our manufacturers are struggling particularly hard to get access to credit. As their assets decline in value, they have less collateral to post, and this makes banks less likely to lend to them, even if they can show that they are thriving.

The Michigan Collateral Support Program helps lenders, small manufacturers and the State pool default risk to help these companies secure the capital they need to create new jobs. Thirty States have similar programs, and a provision of this bill that I wrote would allow States to strengthen their existing programs and allow other States to create them.

Washington's top priority must be to help create an environment that allows our small businesses to succeed and to create jobs. This legislation helps one of the primary obstacles facing our small businesses, and passing this bill is critical.

Mr. NEUGEBAUER. I reserve the balance of my time.

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Ms. BEAN. I yield 1 minute to the majority leader.

Mr. HOYER. I appreciate the gentleman from Illinois (Ms. BEAN) for yielding.

I want to first thank the chair of the Small Business Committee, Congresswoman VELÁZQUEZ, for the work that she has done on this bill and for others who have worked on this bill.

As I'm sure has been said many times on this floor but bears repeating, small businesses are the job-creating engine of our economy. They employ more than half of all employees in the private sector, and they've created 64 percent of net new jobs over the past 15 years. So ensuring that small businesses have the resources they need to

keep innovating, growing and creating jobs is essential if we're going to sustain the economic recovery. And small businesses have been at the heart of Democrats' recovery strategy ever since this Congress convened in the midst of the greatest economic crisis since the Great Depression, indeed, the deepest recession we've seen in three-quarters of a century.

The Recovery Act, which cut taxes for 98 percent of Americans and is responsible for some 2 million jobs, gave small businesses tax credits for hiring many unemployed workers and helped them make the capital investments that are essential to their growth. Since the Recovery Act, we've expanded Small Business Administration lending, created further tax credits for hiring unemployed workers, and offered immediate and long-term tax credits to help small businesses afford employee health care. And yesterday, the House passed the Small Business Jobs Tax Relief Act, which will exempt 100 percent of small business capital gains from taxation and increase the amount of startup expenses small business owners can deduct from their taxes, all designed to allow small businesses to grow and expand. That means more investment in small businesses, and more entrepreneurs willing and able to start businesses of their own and hire workers to staff it.

Today, ladies and gentlemen of the House, we can take another step to help small businesses and workers, establishing a \$30 billion fund to expand lending to small businesses looking to make new investments in growth at no cost to the taxpayer. Ladies and gentlemen, I know that those of you who have been not only in your own districts but in your States and throughout the country know that every small businessman and -woman in America who wants to expand has a singular complaint, and that is that they cannot access capital. That's what this bill is about. This bill, the Small Business Lending Fund Act, invests capital in community and small banks that were not the problem that caused this financial meltdown, investing in those community and small banks under terms that become more favorable to those banks as they make more loans to small businesses. In other words, carrots for giving money to small business.

The CBO tells us that all of the money in the Small Business Lending Fund will be repaid with interest and that taxpayers will actually make \$1 billion profit over the next decade. Now, that's not too hard to believe, I think, when you understand that in terms of the dollars that the Bush administration asked us to put on the table to stabilize the economy back in 2008, that to the extent that the money has now been paid back—not all of it yet—but to the extent that we have gotten repayment, we have made some 12 percent on that money. Unfortunately, 45 percent of small businesses

seeking loans to expand or even just stay afloat were turned down last year, and you can imagine how those denials led directly to unemployment.

This bill, ladies and gentlemen of the House, can go a long way towards opening up the flow of credit that helps create jobs. That's what this is about, allowing small businesses to expand, grow their businesses, hire more people, pay good salaries and benefits, and get our economy moving. I urge my colleagues to support this bill and to help our small businesses create jobs. I want to congratulate once again the chair of the Small Business Committee, NYDIA VELÁZQUEZ, for her leadership. I thank Ms. BEAN from Illinois for her leadership on these issues, and I thank our Republican friends, who I hope will join us in supporting this effort to make sure that small businesses have the capital they need to grow our economy.

Mr. GRAVES of Missouri. Mr. Chairman, I yield back the balance of my time.

Ms. VELÁZQUEZ. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, the face of American small business is changing—and rapidly. Twenty years ago, entrepreneurs were likely to rely on loans and credit cards to start up or expand their businesses. This met the needs of most entrepreneurs, but today's startup costs have grown dramatically. This has caused many small companies to turn to equity investment, particularly those in high-growth, technology-based sectors which show the greatest promise to create new jobs. For these firms, their assets are not buildings or machinery; they are people, ideas and skills. For this new generation, the old method of securing capital, through debt, is no longer sufficient by itself.

In a world where revolutionary new products are conceived in dorm rooms, and companies are launched in garages, new ways of meeting businesses' capital needs are needed. Through the Small Business Early Stage Investment program, this bill recognizes this fundamental shift and takes steps to meet the capital needs of our new businesses. Our Nation's entrepreneurs have led us out of every previous recession, and they can do so again, but only if we give them the right tools. This legislation will make loans more affordable for existing businesses so they can grow and add to their payrolls. And for the enterprises just getting off the ground, it will reinvigorate investment in cutting-edge startups.

A vote for this bill is a vote in favor of the American traditions of innovation and entrepreneurship. I urge my colleagues to vote with the small businesses in their district; vote "yes."

I yield back the balance of my time.

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

I appreciate the majority leader coming and telling us that this won't cost the taxpayers any money. We have

asked the majority for an updated CBO score on this bill with the revisions, and we have not seen that yet. So we don't actually know that for certain. But what we do know is that from the TARP program, there were losses incurred in the TARP program. And this program has been identified by people who are very familiar with the TARP program as another TARP program, except some people want to call this TARP II, TARP Jr. But by and large, this is another TARP program.

You know, there is no question today that all of us realize that small businesses are the number one job creator in our country. Mr. Chairman, in fact, I am a small businessman. I came to Congress not from being a lifelong politician, but from creating jobs in this country, of making payrolls. I have made a payroll. I have borrowed money. I have actually been a lender. And if you really want to get the economy going back in America, as the majority has tried throwing money at the problem—and I would have thought that they would have learned by now that all this money, the trillions of dollars that they have thrown at the economy hasn't created any jobs. We still have almost 10 percent of the American people who are unemployed in this country today. The numbers show that 17 percent of the American people are either unemployed or underemployed, so throwing money at the problem isn't the answer.

If you want to create jobs in America, I will tell you how you create jobs in America. Number one, you bring some certainty in America. Right now the American people are questioning what the future of their country is. They are seeing record deficits by this administration. This year alone, if we had a budget—we don't know what the deficit is going to be this year because, one, we haven't passed any appropriation bills in this Congress.

And, secondly, the leadership of the majority hasn't brought a budget to the floor, and maybe they are not going to because they don't want their Members to have to take a vote on a budget that's going to say: for every dollar we're going to spend, we are going to have to borrow 42 cents. I am sure they would be embarrassed. And it would be more embarrassing if you voted for a budget like that.

But the way you bring certainty to the country is, one, we are going to have to start cutting back our spending and reducing these deficits. Leaving money in the economy. As a small businessman, when I had the capital in my business, and the government wasn't taxing away my capital, I was able to take that capital and leverage it, and go to my lender, be a responsible borrower, and it would be prudent to lend to me, and we could expand our business that way.

The other thing is, yesterday this body had an opportunity to do something for small business, and that was to repeal the mandate for health care

that was in the Democrats' health care bill. Unfortunately, there was not enough votes, but some of our Democratic colleagues understand the same thing we do: if you want to bring certainty, create jobs in America, you take that off the backs of small businesses.

So, really, I wish that this bill would do something for small businesses in this country because small businesses are the lifeblood and the engine for our country. Unfortunately, this bill will not do anything for small businesses; but it will put the taxpayers, again, at risk to underwrite and to invest in banks.

You know, I figured this: it's simple back there in Lubbock, Texas, that, you know, if somebody wants to invest their dollars in a bank, let them invest their dollars in a bank. Don't take the money away from the taxpayers and invest it because the government thinks that they know what is a better program. So, again, I urge my colleagues to vote for small business, but not this bill. This bill doesn't help small business.

And with that, I yield back the balance of my time.

Ms. BEAN. I yield myself the balance of time.

Well, first I would like to address some of the points our colleague from Missouri suggested, that all we need to do for business is less Federal action and less regulation. And on that point, I would have to agree, the minority has delivered—less action and less regulation, a culture of deregulation that led to the financial crisis and the recent oil spill in the gulf. But this bill isn't about regulation. It's about credit.

And I would then like to move to the point of my colleague from Texas who suggested that this bill adds \$33 billion to the national debt. That's disingenuous, as the gentleman knows. This is not a \$30 billion cost, according to the nonpartisan CBO. The legislation, in fact, will reduce the deficit. Now, these funds are an investment, and there are clear safeguards that ensure that taxpayers are repaid with interest. Also, his concern for small businesses fearing higher taxes is unwarranted, as taxes are, in fact, at historic lows; and in the Recovery Act, of the \$288 billion in tax cuts, many of those went to our community businesses.

He also cited the NFIB to claim that access to credit is not a serious problem, yet the NFIB's own data shows that only 40 percent of small business owners attempting to borrow last year had all of their credit needs met, and nearly one-quarter of would-be borrowers, 25 percent, had none of their credit needs met. Now, he did suggest that some businesses—or he suggested all businesses—are just in a holding pattern, when the reality is, some of them are, and that's not who this legislation is directed to. There are many others who have started to see their

pipeline build and their forecasts develop and are seeking to expand their operations and hire people, and they need that access to capital.

This Small Business Lending Fund Act is for those who are going to grow us out of this recession. I urge my colleagues to support this important investment in those community businesses that are the cornerstone of our economy.

I yield back the balance of my time.

The CHAIR. All time for general debate has expired.

In lieu of the amendment in the nature of a substitute recommended by the Committee on Financial Services printed in the bill, it shall be in order to consider as an original bill for the purpose of amendment under the 5-minute rule the amendment in the nature of a substitute printed in part A of House Report 111-506, modified by the amendment printed in part B of that report and the order of the House of today. The amendment in the nature of a substitute shall be considered as read.

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

Strike all after the enacting clause and insert the following:

#### **TITLE I—SMALL BUSINESS LENDING FUND**

##### **SECTION 1. SHORT TITLE.**

This title may be cited as the "Small Business Jobs and Credit Act of 2010".

##### **SEC. 2. PURPOSE.**

The purpose of this title is to address the ongoing effects of the financial crisis on small businesses by providing temporary authority to the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses.

##### **SEC. 3. DEFINITIONS.**

For purposes of this title:

(1) **APPROPRIATE COMMITTEES OF CONGRESS.**—The term "appropriate committees of Congress" means—

(A) the Committee on Small Business and Entrepreneurship, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Banking, Housing, and Urban Affairs, the Committee on Finance, the Committee on the Budget, and the Committee on Appropriations of the Senate; and

(B) the Committee on Small Business, the Committee on Agriculture, the Committee on Financial Services, the Committee on Ways and Means, the Committee on the Budget, and the Committee on Appropriations of the House of Representatives.

(2) **APPROPRIATE FEDERAL BANKING AGENCY.**—The term "appropriate Federal banking agency" has the meaning given such term under section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)).

(3) **BANK HOLDING COMPANY.**—The term "bank holding company" has the meaning given such term under section 2(a)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(2)(a)(1)).

(4) **CALL REPORT.**—The term "call report" means—

(A) reports of Condition and Income submitted to the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation;

(B) the Office of Thrift Supervision Thrift Financial Report;

(C) any report that is designated by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, or the Office of Thrift Supervision, as applicable, as a successor to any report referred to in subparagraph (A) or (B); and

(D) standard reports of Condition and Income submitted by Community Development Financial Institution loan funds to the Community Development Financial Institutions Fund.

(5) **CDCI.**—The term "CDCI" means the Community Development Capital Initiative created by the Secretary under the Troubled Asset Relief Program established by the Emergency Economic Stabilization Act of 2008.

(6) **CDCI INVESTMENT.**—The term "CDCI investment" means, with respect to any eligible institution, the principal amount of any investment made by the Secretary in such eligible institution under the CDCI that has not been repaid.

(7) **CPP.**—The term "CPP" means the Capital Purchase Program created by the Secretary under the Troubled Asset Relief Program established by the Emergency Economic Stabilization Act of 2008.

(8) **CPP INVESTMENT.**—The term "CPP investment" means, with respect to any eligible institution, the principal amount of any investment made by the Secretary in such eligible institution under the CPP that has not been repaid.

(9) **ELIGIBLE INSTITUTION.**—The term "eligible institution" means—

(A) any insured depository institution, which—

(i) is not controlled by a bank holding company or savings and loan holding company that is also an eligible institution;

(ii) has total assets of equal to or less than \$10,000,000,000, as reported in the call report as of the end of the fourth quarter of calendar year 2009; and

(iii) is not directly or indirectly controlled by any company or other entity that has total consolidated assets of more than \$10,000,000,000, as so reported;

(B) any bank holding company which has total consolidated assets of equal to or less than \$10,000,000,000;

(C) any savings and loan holding company which has total consolidated assets of equal to or less than \$10,000,000,000; and

(D) any community development financial institution loan fund which has total assets of equal to or less than \$10,000,000,000.

(10) **FUND.**—The term "Fund" means the Small Business Lending Fund established by section 4(a)(1) of this title.

(11) **INSURED DEPOSITORY INSTITUTION.**—The term "insured depository institution" has the meaning given such term under section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)(2)).

(12) **PROGRAM.**—The term "Program" means the Small Business Lending Fund Program authorized by section 4(a)(2) of this title.

(13) **SAVINGS AND LOAN HOLDING COMPANY.**—The term "savings and loan holding company" has the meaning given such term under section 10(a)(1)(D) of the Home Owners' Loan Act (12 U.S.C. 1467a(a)(1)(D)).

(14) **SECRETARY.**—The term "Secretary" means the Secretary of the Treasury.

(15) **SMALL BUSINESS LENDING.**—

(A) **IN GENERAL.**—The term "small business lending" means small business lending, as



defined by and reported in an eligible institution's quarterly call report, of the following types:

- (i) Commercial and industrial loans.
- (ii) Owner-occupied nonfarm, nonresidential real estate loans.
- (iii) Loans to finance agricultural production and other loans to farmers.
- (iv) Loans secured by farmland.

(B) TREATMENT OF HOLDING COMPANIES.—In the case of eligible institutions that are bank holding companies or savings and loan holding companies having one or more insured depository institution subsidiaries, small business lending shall be measured based on the combined small business lending reported in the call report of the insured depository institution subsidiaries.

(16) MINORITY-OWNED AND WOMEN-OWNED BUSINESS.—The terms "minority-owned business" and "women-owned business" shall have the meaning given the terms "minority-owned business" and "women's business", respectively, under section 21A(r)(4) of the Federal Home Loan Bank Act (12 U.S.C. 1441A(r)(4)).

(17) CDFI; COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION.—The terms "CDFI" and "community development financial institution" have the meaning given the term "community development financial institution" under the Riegle Community Development and Regulatory Improvement Act of 1994.

(18) CDLF; COMMUNITY DEVELOPMENT LOAN FUND.—The terms "CDLF" and "community development loan fund" mean any entity that—

(A) is certified by the Department of the Treasury as a community development financial institution loan fund;

(B) is exempt from taxation under the Internal Revenue Code of 1986; and

(C) has assets under \$10,000,000,000 as of the fourth quarter of calendar year 2009.

#### SEC. 4. SMALL BUSINESS LENDING FUND.

(a) FUND AND PROGRAM.—

(1) FUND ESTABLISHED.—There is established in the Treasury of the United States a fund to be known as the "Small Business Lending Fund", which shall be administered by the Secretary.

(2) PROGRAMS AUTHORIZED.—The Secretary is authorized to establish the Small Business Lending Fund Program for using the Fund consistent with this title.

(b) USE OF FUND.—

(1) IN GENERAL.—Subject to paragraph (2), the Fund shall be available to the Secretary, without further appropriation or fiscal year limitation, for the costs of purchases (including commitments to purchase), and modifications of such purchases, of preferred stock and other financial instruments from eligible institutions on such terms and conditions as are determined by the Secretary in accordance with this title.

"For purposes of this paragraph and with respect to an eligible institution, the term 'other financial instruments' shall include only debt instruments for which such eligible institution is fully liable or equity equivalent capital of the eligible institution. Such debt instruments may be subordinated to the claims of other creditors of the eligible institution".

(2) MAXIMUM PURCHASE LIMIT.—The aggregate amount of purchases (and commitments to purchase) made pursuant to paragraph (1) may not exceed \$30,000,000,000.

(3) PROCEEDS USED TO PAY DOWN PUBLIC DEBT.—All funds received by the Secretary in connection with purchases made pursuant to paragraph (1), including interest payments, dividend payments, and proceeds from the sale of any financial instrument, shall be paid into the general fund of the Treasury for reduction of the public debt.

(4) LIMITATION ON PURCHASES FROM CDLFS.—

(A) IN GENERAL.—Not more than 1 percent of the value of purchases made by the Secretary in carrying out the Program may be used to make purchases from community development loan funds.

(B) ELIGIBILITY STANDARD.—The Secretary, in consultation with the Community Development Financial Institutions Fund, shall develop eligibility criteria to determine the financial ability of a CDLF to participate in the Program and repay the investment. Such criteria may include net asset ratio to total assets, ratio of loan loss reserves to loans and leases 90 days or more delinquent (including loans sold with full recourse), positive net income measured on a 3-year rolling average, operating liquidity ratio, ratio of loans and leases 90 days or more delinquent (including loans sold with full recourse) to total equity plus loan loss reserves or any other measures deemed appropriate. In addition, CDLFs participating in the Program shall submit audited financial statements to the Secretary, have a clean audit opinion, and have at least three years of operating experience.

(c) CREDITS TO THE FUND.—There shall be credited to the Fund amounts made available pursuant to section 9, to the extent provided by appropriations Acts.

(d) TERMS.—

(A) APPLICATION.—

(1) INSTITUTIONS WITH ASSETS OF \$1,000,000,000 OR LESS.—Eligible institutions having total assets equal to or less than \$1,000,000,000, as reported in a call report as of the end of the fourth quarter of calendar year 2009, may apply to receive a capital investment from the Fund in an amount not exceeding 5 percent of risk-weighted assets, as reported in the call report immediately preceding the date of application, less the amount of any CDCI investment and any CPP investment.

(B) INSTITUTIONS WITH ASSETS OF MORE THAN \$1,000,000,000 AND LESS THAN \$10,000,000,000.—Eligible institutions having total assets of more than \$1,000,000,000 but less than \$10,000,000,000, as of the end of the fourth quarter of calendar year 2009, may apply to receive a capital investment from the Fund in an amount not exceeding 3 percent of risk-weighted assets, as reported in the call report immediately preceding the date of application, less the amount of any CDCI investment and any CPP investment.

(C) TREATMENT OF HOLDING COMPANIES.—In the case of an eligible institution that is a bank holding company or a savings and loan holding company having one or more insured depository institution subsidiaries, total assets shall be measured based on the combined total assets reported in the call report of the insured depository institution subsidiaries as of the end of the fourth quarter of calendar year 2009 and risk-weighted assets shall be measured based on the combined risk-weighted assets of the insured depository institution subsidiaries as reported in the call report immediately preceding the date of application.

(D) TREATMENT OF APPLICANTS THAT ARE INSTITUTIONS CONTROLLED BY HOLDING COMPANIES.—If an eligible institution that applies to receive a capital investment under the Program is under the control of a bank holding company or a savings and loan holding company, then the Secretary may use the Fund to purchase preferred stock or other financial instruments from the top-tier bank holding company or savings and loan holding company of such eligible institution, as applicable. For purposes of this paragraph, the term "control" with respect to a bank holding company shall have the same meaning as in section 2(a)(2) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(2)(a)(2)). For purposes of this paragraph, the term "con-

trol" with respect to a savings and loan holding company shall have the same meaning as in 10(a)(2) of the Home Owners' Loan Act (12 U.S.C. 1467a(a)(2)).

(E) REQUIREMENT TO PROVIDE A SMALL BUSINESS LENDING PLAN.—At the time that an applicant submits an application to the Secretary for a capital investment under the Program, the applicant shall deliver to the appropriate Federal banking agency and, for applicant's that are State-chartered banks, to the appropriate State banking regulator, a small business lending plan describing how the applicant's business strategy and operating goals will allow it to address the needs of small businesses in the areas it serves. This plan shall be confidential supervisory information.

(F) TREATMENT OF APPLICANTS THAT ARE COMMUNITY DEVELOPMENT LOAN FUNDS.—Eligible institutions that are community development loan funds may apply to receive a capital investment from the Fund in an amount not exceeding 10 percent of total assets, as reported in the call report immediately preceding the date of application.

(2) CONSULTATION WITH REGULATORS.—For each eligible institution that applies to receive a capital investment under the Program, the Secretary shall—

(A) consult with the appropriate Federal banking agency or, in the case of an eligible institution that is a non-depository community development financial institution, the Community Development Financial Institution Fund, for the eligible institution to determine whether the eligible institution may receive such capital investment;

(B) in the case of an eligible institution that is a State-chartered bank, consider any views received from the State banking regulator of the State of the eligible institution regarding the financial condition of the eligible institution; and

(C) in the case of a community development financial institution loan fund, consult with the Community Development Financial Institution Fund.

(3) INELIGIBILITY OF INSTITUTIONS ON FDIC PROBLEM BANK LIST.—

(A) IN GENERAL.—An eligible institution may not receive any capital investment under the Program if—

(i) such institution is on the FDIC problem bank list; or

(ii) such institution has been removed from the FDIC problem bank list for less than 90 days.

(B) CONSTRUCTION.—Nothing in subparagraph (A) shall be construed as limiting the discretion of the Secretary to deny the application of an eligible institution that is not on the FDIC problem bank list.

(C) FDIC PROBLEM BANK LIST DEFINED.—For purposes of this subparagraph, the term "FDIC problem bank list" means the list of institutions with a current rating of 4 or 5 under the Uniform Financial Institutions Rating System, or such other list designated by the Federal Deposit Insurance Corporation.

(4) INCENTIVES TO LEND.—

(A) REQUIREMENTS ON PREFERRED STOCK AND OTHER FINANCIAL INSTRUMENTS.—Any preferred stock or other financial instrument issued to Treasury by an eligible institution receiving a capital investment under the Program shall provide that—

(i) the rate at which dividends or interest are payable shall be 5 percent per annum initially;

(ii) within the first 2 years after the date of the capital investment under the Program, the rate may be adjusted based on the amount of an eligible institution's small business lending. Changes in the amount of small business lending shall be measured against the amount of small business lending

reported by the eligible institution in its call report for the last quarter in calendar year 2009 or the average amount of small business lending reported by the eligible institution in all call reports for calendar year 2009, whichever is lower, minus adjustments from each quarterly balance in respect of—

(I) net loan charge offs with respect to small business lending; and

(II) gains realized by the eligible institution resulting from mergers, acquisitions or purchases of loans after origination and syndication; which adjustments shall be determined in accordance with guidance promulgated by the Secretary; and

(iii) during any calendar quarter during the initial 2-year period referred to in clause (ii), an institution's rate shall be adjusted to reflect the following schedule, based on that institution's change in the amount of small business lending relative to the baseline—

(I) if the amount of small business lending has increased by less than 2.5 percent, the dividend or interest rate shall be 5 percent;

(II) if the amount of small business lending has increased by 2.5 percent or greater, but by less than 5.0 percent, the dividend or interest rate shall be 4 percent;

(III) if the amount of small business lending has increased by 5.0 percent or greater, but by less than 7.5 percent, the dividend or interest rate shall be 3 percent;

(IV) if the amount of small business lending has increased by 7.5 percent or greater, and but by less than 10.0 percent, the dividend or interest rate shall be 2 percent; or

(V) if the amount of small business lending has increased by 10 percent or greater, the dividend or interest rate shall be 1 percent.

(B) BASIS OF INITIAL RATE.—The initial dividend or interest rate shall be based on call report data published in the quarter immediately preceding the date of the capital investment under the Program.

(C) TIMING OF RATE ADJUSTMENTS.—Any rate adjustment shall occur in the calendar quarter following the publication of call report data, such that the rate based on call report data from any one calendar quarter, which is published in the first following calendar quarter, shall be adjusted in that first following calendar quarter and payable in the second following quarter.

(D) RATE FOLLOWING INITIAL 2-YEAR PERIOD.—Generally, the rate based on call report data from the eighth calendar quarter after the date of the capital investment under the Program shall be payable until the expiration of the 4½-year period that begins on the date of the investment. In the case where the amount of small business lending has remained the same or decreased relative to the institution's baseline in the eighth quarter after the date of the capital investment under the Program, the rate shall be 7 percent until the expiration of the 4½-year period that begins on the date of the investment.

(E) RATE FOLLOWING INITIAL 4½-YEAR PERIOD.—The dividend or interest rate paid on any preferred stock or other financial instrument issued by an eligible institution that receives a capital investment under the Program shall increase to 9 percent at the end of the 4½-year period that begins on the date of the capital investment under the Program.

(F) LIMITATION ON RATE REDUCTIONS WITH RESPECT TO CERTAIN AMOUNT.—The reduction in the dividend or interest rate payable to Treasury by any eligible institution shall be limited such that the rate reduction shall not apply to a dollar amount of the investment made by Treasury that is greater than the dollar amount increase in the amount of small business lending realized under this program. The Secretary may issue guidelines that will apply to new capital investments limiting the amount of capital available to

eligible institutions consistent with this limitation.

(G) RATE ADJUSTMENTS FOR S CORPORATION.—Before making a capital investment in an eligible institution that is an S corporation or a corporation organized on a mutual basis, the Secretary may adjust the dividend or interest rate on the financial instrument to be issued to the Secretary, from the dividend or interest rate that would apply under subparagraphs (A) through (F), to take into account any differential tax treatment of securities issued by such eligible institution. For purpose of this subparagraph, the term "S corporation" has the same meaning as in section 1361(a) of the Internal Revenue Code of 1986.

(H) REPAYMENT DEADLINE.—The capital investment received by an eligible institution under the Program shall be evidenced by preferred stock or other financial instrument that—

(i) includes, as a term and condition, that the capital investment will—

(I) be repaid not later than the end of the 10-year period beginning on the date of the capital investment under the Program; or

(II) at the end of such 10-year period, be subject to such additional terms as the Secretary shall prescribe, which shall include a requirement that the stock or instrument shall carry the highest dividend or interest rate payable; and

(ii) provides that the term and condition described under clause (i) shall not apply if the application of that term and condition would adversely affect the capital treatment of the stock or financial instrument under current or successor applicable capital provisions compared to a capital instrument with identical terms other than the term and condition described under clause (i).

(I) REQUIREMENTS ON FINANCIAL INSTRUMENTS ISSUED BY A COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION LOAN FUND.—Any equity equivalent capital issued to the Treasury by a Community Development Financial Institution loan fund receiving a capital investment under the Program shall provide that the rate at which interest is payable shall be 2 percent per annum for 8 years. After 8 years, the rate at which interest is payable shall be 9 percent.

(5) ADDITIONAL INCENTIVES TO REPAY.—The Secretary may, by regulation or guidance issued under section 5(9), establish repayment incentives in addition to the incentive in paragraph (4)(E) that will apply to new capital investments in a manner that the Secretary determines to be consistent with the purposes of this title.

(6) CAPITAL PURCHASE PROGRAM REFINANCE.—

(A) IN GENERAL.—The Secretary shall, in a manner that the Secretary determines to be consistent with the purposes of this title, issue regulations and other guidance to permit eligible institutions to refinance securities issued to Treasury under the CDCI and the CPP for securities to be issued under the Program.

(B) PROHIBITION ON PARTICIPATION BY NON-PAYING CPP PARTICIPANTS.—Subparagraph (A) shall not apply to any eligible institution that has missed more than one dividend payment due under the CPP. For purposes of this subparagraph, a CPP dividend payment that is submitted within 60 days of the due date of such payment shall not be considered a missed dividend payment.

(7) MINORITY OUTREACH.—The Secretary shall require eligible institutions receiving capital investments under the Program to provide outreach and advertising in the appropriate language of the applicant pool describing the availability and application process of receiving loans from the eligible institution that are made possible by the

Program through the use of print, radio, television or electronic media outlets which target organizations, trade associations, and individuals that represent or work within or are members of minority communities.

(8) ADDITIONAL TERMS.—The Secretary may, by regulation or guidance issued under section 5(9), make modifications that will apply to new capital investments in order to manage risks associated with the administration of the Fund in a manner consistent with the purposes of this title.

(9) MINIMUM UNDERWRITING STANDARDS.—The appropriate Federal banking agency for an eligible institution that receives funds under the Program shall within 60 days issue guidance regarding prudent underwriting standards that must be used for loans made by the eligible institution using such funds.

"In the case of a community development financial institution loan fund, the Community Development Financial Institutions Fund shall within 60 days issue regulations defining minimum underwriting standards that must be used for loans made by the eligible institution using such funds".

(10) REPORTING.—Each eligible institution receiving a capital investment under the Program shall issue a quarterly report to the Secretary detailing the percentage of new loans to small businesses the institution makes that are—

(A) guaranteed by the Small Business Administration;

(B) made to Small Business Investment Companies;

(C) other loans made to small business concerns (as defined under the Small Business Act), if the internal reporting of the concern distinguishes the size of businesses to which loans are made; and

(D) other loans made to entities that the internal reporting of the concern classifies as a small business.

#### SEC. 5. ADDITIONAL AUTHORITIES OF THE SECRETARY.

The Secretary may take such actions as the Secretary deems necessary to carry out the authorities in this title, including, without limitation, the following:

(1) The Secretary may use the services of any agency or instrumentality of the United States or component thereof on a reimbursable basis, and any such agency or instrumentality or component thereof is authorized to provide services as requested by the Secretary using all authorities vested in or delegated to that agency, instrumentality, or component.

(2) The Secretary may designate any bank, savings association, trust company, security broker or dealer, asset manager, or investment adviser as a financial agent of the Federal Government and such institution shall perform all such reasonable duties related to this title as financial agent of the Federal Government as may be required. The Secretary shall have authority to amend existing agreements with financial agents, entered into during the 2-year period before the date of enactment of this title, to perform reasonable duties related to this title.

(3) The Secretary may exercise any rights received in connection with any preferred stock or other financial instruments or assets purchased or acquired pursuant to the authorities granted under this title.

(4) Subject to section 4(b)(3), the Secretary may manage any assets purchased under this title, including revenues and portfolio risks therefrom.

(5) The Secretary may sell, dispose of, transfer, exchange or enter into securities loans, repurchase transactions, or other financial transactions in regard to, any preferred stock or other financial instrument or asset purchased or acquired under this title,

upon terms and conditions and at a price determined by the Secretary.

(6) The Secretary may manage or prohibit conflicts of interest that may arise in connection with the administration and execution of the authorities provided under this title.

(7) The Secretary may establish and use vehicles, subject to supervision by the Secretary, to purchase, hold, and sell preferred stock or other financial instruments and issue obligations.

(8) The Secretary may, in consultation with the Administrator of the Small Business Administration, issue such regulations and other guidance as may be necessary or appropriate to define terms or carry out the authorities or purposes of this title.

#### SEC. 6. CONSIDERATIONS.

In exercising the authorities granted in this title, the Secretary shall take into consideration—

(1) increasing the availability of credit for small businesses;

(2) providing funding to eligible institutions that serve small businesses that are minority- and women-owned and that also serve low- and moderate-income, minority, and other underserved or rural communities;

(3) protecting and increasing American jobs;

(4) ensuring that all eligible institutions may apply to participate in the program established under this title, without discrimination based on geography;

(5) providing transparency with respect to use of funds provided under this title;

(6) minimizing the cost to taxpayers of exercising the authorities; and

(7) promoting and engaging in financial education to would-be borrowers.

#### SEC. 7. REPORTS.

The Secretary shall provide to the appropriate committees of Congress—

(1) within 7 days of the end of each month commencing with the first month in which transactions are made under the Program, a written report describing all of the transactions made during the reporting period pursuant to the authorities granted under this title;

(2) after the end of March and the end of September, commencing September 30, 2010, a written report on all projected costs and liabilities, all operating expenses, including compensation for financial agents, and all transactions made by the Fund, which shall include participating institutions and amounts each institution has received under the Program; and

(3) within 7 days of the end of each month commencing with the first month in which transactions are made under the Program, a written report detailing how eligible institutions participating in the Program have used the funds such institutions received under the Program.

#### SEC. 8. OVERSIGHT AND AUDITS.

(a) INSPECTOR GENERAL OVERSIGHT.—The Inspector General of the Department of the Treasury shall conduct, supervise, and coordinate audits and investigations of the purchase (and commitments to purchase) of preferred stock and other financial instruments under the Program.

(b) GAO AUDIT.—The Comptroller General of the United States shall perform an annual audit of the Program and issue a report to the appropriate committees of Congress containing the results of such audit.

(c) REQUIRED CERTIFICATIONS.—

(1) ELIGIBLE INSTITUTION CERTIFICATION.—Each eligible institution that participate in the Program must certify that such institution is in compliance with the requirements of section 103.121 of title 31, Code of Federal Regulations, a regulation that, at a

minimum, requires financial institutions, as that term is defined in 31 U.S.C. 5312(a)(2) and (c)(1)(A), to implement reasonable procedures to verify the identity of any person seeking to open an account, to the extent reasonable and practicable, maintain records of the information used to verify the person's identity, and determine whether the person appears on any lists of known or suspected terrorists or terrorist organizations provided to the financial institution by any government agency.

(2) LOAN RECIPIENTS.—With respect to funds received by an eligible institution under the Program, any business receiving a loan from the eligible institution using such funds after the date of the enactment of this title shall certify to such eligible institution that the principals of such business have not been convicted of a sex offense against a minor (as such terms are defined in section 111 of the Sex Offender Registration and Notification Act (42 U.S.C. 16911)).

(d) PROHIBITION ON PORNOGRAPHY.—None of the funds made available under this title may be used to pay the salary of any individual engaged in activities related to the Program who has been officially disciplined for violations of subpart G of the Standards of Ethical Conduct for Employees of the Executive Branch for viewing, downloading, or exchanging pornography, including child pornography, on a Federal Government computer or while performing official Federal Government duties.

#### SEC. 9. CREDIT REFORM; FUNDING.

(a) CREDIT REFORM.—The cost of purchases of preferred stock and other financial instruments made as capital investments under this title shall be determined as provided under the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

(b) FUNDS MADE AVAILABLE.—There are hereby appropriated, out of funds in the Treasury not otherwise appropriated, such sums as may be necessary to pay the costs of \$30,000,000,000 of capital investments in eligible institutions, including the costs of modifying such investments, and reasonable costs of administering the program of making, holding, managing, and selling the capital investments.

#### SEC. 10. TERMINATION AND CONTINUATION OF AUTHORITIES.

(a) TERMINATION OF INVESTMENT AUTHORITY.—The authority to make capital investments in eligible institutions, including commitments to purchase preferred stock or other instruments, provided under this title shall terminate 1 year after the date of enactment of this title.

(b) CONTINUATION OF OTHER AUTHORITIES.—The authorities of the Secretary in section 5 shall not be limited by the termination date in subsection (a).

#### SEC. 11. PRESERVATION OF AUTHORITY.

Nothing in this title may be construed to limit the authority of the Secretary under any other provision of law.

#### SEC. 12. ASSURANCES.

(a) SMALL BUSINESS LENDING FUND SEPARATE FROM TARP.—The Small Business Lending Fund Program is established as separate and distinct from the Troubled Asset Relief Program established by the Emergency Economic Stabilization Act of 2008. An institution shall not, by virtue of a capital investment under the Small Business Lending Fund Program, be considered a recipient of the Troubled Asset Relief Program.

(b) CHANGE IN LAW.—If, after a capital investment has been made in an eligible institution under the Program, there is a change in law that modifies the terms of the investment or program in a materially adverse respect for the eligible institution, the eligible institution may, after consultation with the

appropriate Federal banking agency for the eligible institution, repay the investment without impediment.

#### SEC. 13. STUDY AND REPORT WITH RESPECT TO WOMEN-OWNED AND MINORITY-OWNED BUSINESSES.

(a) STUDY.—The Secretary shall conduct a study to determine the number of women-owned businesses and minority-owned businesses that receive assistance as a result of the Program, including—

(1) efforts, including technical assistance and outreach that institutions have employed under the Program to provide loans to minority- and women-owned small businesses;

(2) loan applications received;

(3) loan applications approved; and

(4) and any other relevant data related to such transactions to promote the purposes of the Program as the Secretary may require.

(b) REPORT.—Not later than one year after the date of enactment of this Act, the Secretary shall submit to Congress a report on the results of the study conducted pursuant to subsection (a).

(c) INFORMATION PROVIDED TO THE SECRETARY.—Eligible institutions that participate in the Program shall provide the Secretary with such information as the Secretary may require to carry out the study required by this section.

#### TITLE II—STATE SMALL BUSINESS CREDIT INITIATIVE

##### SEC. 201. SHORT TITLE.

This title may be cited as the “State Small Business Credit Initiative Act of 2010”.

##### SEC. 202. DEFINITIONS.

For purposes of this title, the following definitions shall apply:

(1) APPROPRIATE FEDERAL BANKING AGENCY.—The term “appropriate Federal banking agency”—

(A) has the same meaning as in section 3 of the Federal Deposit Insurance Act; and

(B) includes the National Credit Union Administration Board in the case of any credit union the deposits of which are insured in accordance with the Federal Credit Union Act.

(2) ENROLLED LOAN.—The term “enrolled loan” means a loan made by a financial institution lender that is enrolled by a participating State in an approved State capital access program in accordance with this title.

(3) FEDERAL CONTRIBUTION.—The term “Federal contribution” means the portion of the contribution made by a participating State to, or for the account of, an approved State program that is made with Federal funds allocated to the State by the Secretary under section 203.

(4) FINANCIAL INSTITUTION.—The term “financial institution” means any insured depository institution, insured credit union, or community development financial institution, as those terms are each defined in section 103 of the Riegle Community Development and Regulatory Improvement Act of 1994.

(5) PARTICIPATING STATE.—The term “participating State” means any State that has been approved for participation in the Program under section 204.

(6) PROGRAM.—The term “Program” means the State Small Business Credit Initiative established under this title.

(7) QUALIFYING LOAN OR SWAP FUNDING FACILITY.—The term “qualifying loan or swap funding facility” means a contractual arrangement between a participating State and a private financial entity under which—

(A) the participating State delivers funds to the entity as collateral;

(B) the entity provides funding from the arrangement back to the participating State; and

(C) the full amount of resulting funding from the arrangement, less any fees and other costs of the arrangement, is contributed to, or for the account of, an approved State program.

(8) **RESERVE FUND.**—The term “reserve fund” means a fund, established by a participating State, dedicated to a particular financial institution lender, for the purposes of—

(A) depositing all required premium charges paid by the financial institution lender and by each borrower receiving a loan under an approved State program from that financial institution lender;

(B) depositing contributions made by the participating State, including State contributions made with Federal contributions; and

(C) covering losses on enrolled loans by disbursing accumulated funds.

(9) **STATE.**—The term “State” means—

(A) a State of the United States;

(B) the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of Northern Mariana Islands, Guam, American Samoa, and the United States Virgin Islands;

(C) when designated by a State of the United States, a political subdivision of that State that the Secretary determines has the capacity to participate in the Program; and

(D) under the circumstances described in section 204(d), a municipality of a State of the United States to which the Secretary has given a special permission under section 204(d).

(10) **STATE CAPITAL ACCESS PROGRAM.**—The term “State capital access program” means a program of a State that—

(A) uses public resources to promote private access to credit; and

(B) meets the eligibility criteria in section 205(c).

(11) **STATE OTHER CREDIT SUPPORT PROGRAM.**—The term “State other credit support program” means—

(A) means a program of a State that—

(i) uses public resources to promote private access to credit;

(ii) is not a State capital access program; and

(iii) meets the eligibility criteria in section 206(c); and

(B) includes, collateral support programs, loan participation programs, and credit guarantee programs.

(12) **STATE PROGRAM.**—The term “State program” means a State capital access program or a State other credit support program.

(13) **SECRETARY.**—The term “Secretary” means the Secretary of the Treasury.

**SEC. 203. FEDERAL FUNDS ALLOCATED TO STATES.**

(a) **PROGRAM ESTABLISHED; PURPOSE.**—There is established the State Small Business Credit Initiative (hereinafter in this title referred to as the “Program”), to be administered by the Secretary. Under the Program, the Secretary shall allocate Federal funds to participating States and make the allocated funds available to the participating States as provided in this section for the uses described in this section.

(b) **ALLOCATION FORMULA.**—

(1) **IN GENERAL.**—Not later than 30 days after the date of enactment of this title, the Secretary shall allocate Federal funds to participating States so that each State is eligible to receive an amount equal to the average of the respective amounts that the State—

(A) would receive under the 2009 allocation, as determined under paragraph (2); and

(B) would receive under the 2010 allocation, as determined under paragraph (3).

(2) **2009 ALLOCATION FORMULA.**—

(A) **IN GENERAL.**—The Secretary shall determine the 2009 allocation by allocating

Federal funds among the States in the proportion that each such State’s 2008 State employment decline bears to the aggregate of the 2008 State employment declines for all States.

(B) **MINIMUM ALLOCATION.**—The Secretary shall adjust the allocations under subparagraph (A) for each State to the extent necessary to ensure that no State receives less than 0.9 percent of the Federal funds.

(C) **2008 STATE EMPLOYMENT DECLINE DEFINED.**—For purposes of this paragraph and with respect to a State, the term “2008 State employment decline” means the excess (if any) of—

(i) the number of individuals employed in such State determined for December 2007; over

(ii) the number of individuals employed in such State determined for December 2008.

(3) **2010 ALLOCATION FORMULA.**—

(A) **IN GENERAL.**—The Secretary shall determine the 2010 allocation by allocating Federal funds among the States in the proportion that each such State’s 2009 unemployment number bears to the aggregate of the 2009 unemployment numbers for all of the States.

(B) **MINIMUM ALLOCATION.**—The Secretary shall adjust the allocations under subparagraph (A) for each State to the extent necessary to ensure that no State receives less than 0.9 percent of the Federal funds.

(C) **2009 UNEMPLOYMENT NUMBER DEFINED.**—For purposes of this paragraph and with respect to a State, the term “2009 unemployment number” means the number of individuals within such State who were determined to be unemployed by the Bureau of Labor Statistics for December 2009.

(c) **AVAILABILITY OF ALLOCATED AMOUNT.**—The amount allocated by the Secretary to each participating State under subsection (b) shall be made available to the State as follows:

(1) **ALLOCATED AMOUNT GENERALLY TO BE AVAILABLE TO STATE IN ONE-THIRDS.**—

(A) **IN GENERAL.**—The Secretary shall—

(i) apportion the participating State’s allocated amount into one-thirds;

(ii) transfer to the participating State the first one-third when the Secretary approves the State for participation under section 204; and

(iii) transfer to the participating State each successive one-third when the State has certified to the Secretary that it has expended, transferred, or obligated 80 percent of the last transferred one-third for Federal contributions to, or for the account of, State programs.

(B) **AUTHORITY TO WITHHOLD PENDING AUDIT.**—The Secretary may withhold the transfer of any successive one-third pending results of a financial audit.

(C) **TRANSFERS CONTINGENT ON INSPECTOR GENERAL AUDITS.**—

(i) **IN GENERAL.**—Before a transfer to a participating State of the second one-third or the last one-third, the Inspector General of the Department of the Treasury shall carry out an audit of the participating State’s use of amounts already received.

(ii) **PENALTY FOR MISSTATEMENT.**—Any participating State that is found to have intentionally misstated any report issued to the Secretary under the Program shall be ineligible to receive any additional funds under the Program. Funds that had been allocated or that would otherwise have been allocated to such participating State shall be paid into the general fund of the Treasury for reduction of the public debt.

(iii) **MUNICIPALITIES.**—For purposes of this subparagraph, the term “participating State” shall include a municipality given special permission to participate in the Program, pursuant to section 204(d).

(D) **EXCEPTION.**—

(i) **IN GENERAL.**—The Secretary may, in the Secretary’s discretion, transfer the full amount of the participating State’s allocated amount to the State in a single transfer if the participating State applies to the Secretary for approval to use the full amount of the allocation as collateral for a qualifying loan or swap funding facility.

(ii) **RECOUPMENT TRIGGERED BY INTENTIONAL MISSTATEMENT.**—If, in any audit of a report issued by a participating State that receives a single transfer pursuant to clause (i), the Secretary or the Inspector General of the Department of the Treasury determines that such State intentionally misstated information in such report, the participating State shall be required to fully repay all amounts received by the State under the Program, and such amounts shall be paid into the general fund of the Treasury for reduction of the public debt.

(2) **TRANSFERRED AMOUNTS.**—Each amount transferred to a participating State under this section shall remain available to the State until used by the State as permitted under paragraph (3).

(3) **USE OF TRANSFERRED FUNDS.**—Each participating State may use funds transferred to it under this section only—

(A) for making Federal contributions to, or for the account of, an approved State program;

(B) as collateral for a qualifying loan or swap funding facility;

(C) in the case of the first one-third transferred, for paying administrative costs incurred by the State in implementing an approved State program in an amount not to exceed 5 percent of that first one-third; or

(D) in the case of each successive one-third transferred, for paying administrative costs incurred by the State in implementing an approved State program in an amount not to exceed 3 percent of that successive one-third.

(4) **TERMINATION OF AVAILABILITY OF AMOUNTS NOT TRANSFERRED WITHIN 2 YEARS OF PARTICIPATION.**—Any portion of a participating State’s allocated amount that has not been transferred to the State under this section by the end of the 2-year period beginning on the date that the Secretary approves the State for participation may be deemed by the Secretary to be no longer allocated to the State and no longer available to the State and shall be returned to the General Fund of the Treasury.

(5) **TRANSFERRED AMOUNTS NOT ASSISTANCE.**—The amounts transferred to a participating State under this section shall not be considered “assistance” for purposes of subtitle V of title 31, United States Code.

(6) **DEFINITIONS.**—For purposes of this section—

(A) the term “allocated amount” means the total amount of Federal funds allocated by the Secretary under subsection (b) to the participating State; and

(B) the term “one-third” means—

(i) in the case of the first and second one-thirds, an amount equal to 33 percent of a participating State’s allocated amount; and

(ii) in the case of the last one-third, an amount equal to 34 percent of a participating State’s allocated amount.

**SEC. 204. APPROVING STATES FOR PARTICIPATION.**

(a) **APPLICATION.**—Any State may apply to the Secretary for approval to be a participating State under the Program and to be eligible for an allocation of Federal funds under the Program.

(b) **GENERAL APPROVAL CRITERIA.**—The Secretary shall approve a State to be a participating State, if—

(1) a specific department, agency, or political subdivision of the State has been designated to implement a State program and participate in the Program;

(2) all legal actions necessary to enable such designated department, agency, or political subdivision to implement a State program and participate in the Program have been accomplished;

(3) the State has filed an application with the Secretary for approval of a State capital access program under section 205 or approval as a State other credit support program under section 206, in each case within the time period provided in the respective section; and

(4) the State and the Secretary have executed an allocation agreement that—

(A) conforms to the requirements of this title;

(B) ensures that the State program complies with such national standards as are established by the Secretary under section 209(a)(2);

(C) sets forth internal control, compliance, and reporting requirements as established by the Secretary, and such other terms and conditions necessary to carry out the purposes of this title, including an agreement by the State to allow the Secretary to audit State programs;

(D) requires that the State program be fully positioned, within 90 days of the State's execution of the allocation agreement with the Secretary, to act on providing the kind of credit support that the State program was established to provide; and

(E) includes an agreement by the State to deliver to the Secretary, and update annually, a schedule describing how the State intends to apportion among its State programs the Federal funds allocated to the State.

(c) CONTRACTUAL ARRANGEMENTS FOR IMPLEMENTATION OF STATE PROGRAMS.—A State may be approved to be a participating State, and be eligible for an allocation of Federal funds under the Program, if the State has contractual arrangements for the implementation and administration of its State program with—

(1) an existing, approved State program administered by another State; or

(2) an authorized agent of, or entity supervised by, the State, including for-profit and not-for-profit entities.

(d) SPECIAL PERMISSION.—

(1) CIRCUMSTANCES WHEN A MUNICIPALITY MAY APPLY DIRECTLY.—If a State does not, within 60 days after the date of enactment of this title, file with the Secretary a notice of its intent to apply for approval by the Secretary of a State program or within 9 months after the date of enactment of this title, file with the Secretary a complete application for approval of a State program, the Secretary may grant to municipalities of that State a special permission that will allow them to apply directly to the Secretary without the State for approval to be participating municipalities.

(2) TIMING REQUIREMENTS APPLICABLE TO MUNICIPALITIES APPLYING DIRECTLY.—To qualify for the special permission, a municipality of a State must, within 12 months after the date of enactment of this title, file with the Secretary a complete application for approval by the Secretary of a State program.

(3) NOTICES OF INTENT AND APPLICATIONS FROM MORE THAN 1 MUNICIPALITY.—A municipality of a State may combine with 1 or more other municipalities of that State to file a joint notice of intent to file and a joint application.

(4) APPROVAL CRITERIA.—The general approval criteria in paragraphs (2) and (4) shall apply.

(5) ALLOCATION TO MUNICIPALITIES.—

(A) IF MORE THAN 3.—If more than 3 municipalities, or combination of municipalities as provided in paragraph (3), of a State apply for approval by the Secretary to be participating municipalities under this subsection, and the applications meet the approval criteria in paragraph (4), the Secretary shall allocate Federal funds to the 3 municipalities with the largest populations.

(B) IF 3 OR FEWER.—If 3 or fewer municipalities, or combination of municipalities as provided in paragraph (3), of a State apply for approval by the Secretary to be participating municipalities under this subsection, and the applications meet the approval criteria in paragraph (4), the Secretary shall allocate Federal funds to each applicant municipality or combination of municipalities.

(6) APPORTIONMENT OF ALLOCATED AMOUNT AMONG PARTICIPATING MUNICIPALITIES.—If the Secretary approves municipalities to be participating municipalities under this subsection, the Secretary shall apportion the full amount of the Federal funds that are allocated to that State to municipalities that are approved under this subsection in amounts proportionate to the population of those municipalities, based on the most recent available decennial census.

(7) APPROVING STATE PROGRAMS FOR MUNICIPALITIES.—If the Secretary approves municipalities to be participating municipalities under this subsection, the Secretary shall take into account the additional considerations in section 206(d) in making the determination under section 205 or 206 that the State program or programs to be implemented by the participating municipalities, including a State capital access program, is eligible for Federal contributions to, or for the account of, the State program.

#### SEC. 205. APPROVING STATE CAPITAL ACCESS PROGRAMS.

(a) APPLICATION.—A participating State that establishes a new, or has an existing, State capital access program that meets the eligibility criteria in subsection (c) may apply to Secretary to have the State capital access program approved as eligible for Federal contributions to the reserve fund.

(b) APPROVAL.—The Secretary shall approve such State capital access program as eligible for Federal contributions to the reserve fund if—

(1) within 60 days after the date of enactment of this title, the State has filed with the Secretary a notice of intent to apply for approval by the Secretary of a State capital access program;

(2) within 9 months after the date of enactment of this title, the State has filed with the Secretary a complete application for approval by the Secretary of a capital access program;

(3) the State satisfies the requirements of subsections (a) and (b) of section 204; and

(4) the State capital access program meets the eligibility criteria in subsection (c).

(c) ELIGIBILITY CRITERIA FOR STATE CAPITAL ACCESS PROGRAMS.—For a State capital access program to be approved under this section, it must be a program of the State that—

(1) provides portfolio insurance for business loans based on a separate loan-loss reserve fund for each financial institution;

(2) requires insurance premiums to be paid by the financial institution lenders and by the business borrowers to the reserve fund to have their loans enrolled in the reserve fund;

(3) provides for contributions to be made by the State to the reserve fund in amounts at least equal to the sum of the amount of the insurance premium charges paid by the borrower and the financial institution to the reserve fund for any newly enrolled loan; and

(4) provides its portfolio insurance solely for loans that meet both the following requirements:

(A) The borrower has 500 employees or less at the time that the loan is enrolled in the Program.

(B) The loan amount does not exceed \$5,000,000.

(d) FEDERAL CONTRIBUTIONS TO APPROVED STATE CAPITAL ACCESS PROGRAMS.—A State capital access program approved under this section will be eligible for receiving Federal contributions to the reserve fund in an amount equal to the sum of the amount of the insurance premium charges paid by the borrowers and by the financial institution to the reserve fund for loans that meet the requirements in subsection (c)(4). A participating State may use the Federal contribution to make its contribution to the reserve fund of an approved State capital access program.

(e) MINIMUM PROGRAM REQUIREMENTS FOR STATE CAPITAL ACCESS PROGRAMS.—The Secretary shall, by regulation or other guidance, prescribe Program requirements that meet the following minimum requirements:

(1) EXPERIENCE AND CAPACITY.—The participating State shall determine for each financial institution that participates in the State capital access program, after consultation with the appropriate Federal banking agency or, in the case of a financial institution that is a non depository community development financial institution, the Community Development Financial Institution Fund, that the financial institution has sufficient commercial lending experience and financial and managerial capacity to participate in the approved State capital access program. The determination by the State shall not be reviewable by the Secretary.

(2) INVESTMENT AUTHORITY.—Subject to applicable State law, the participating State may invest, or cause to be invested, funds held in a reserve fund by establishing a deposit account at the financial institution lender in the name of the participating State. In the event that funds in the reserve fund are not deposited in such an account, such funds shall be invested in a form that the participating State determines is safe and liquid.

(3) LOAN TERMS AND CONDITIONS TO BE DETERMINED BY AGREEMENT.—A loan to be filed for enrollment in an approved State capital access program may be made with such interest rate, fees, and other terms and conditions, and the loan may be enrolled in the approved State capital access program and claims may be filed and paid, as agreed upon by the financial institution lender and the borrower, consistent with applicable law.

(4) LENDER CAPITAL AT-RISK.—A loan to be filed for enrollment in the State capital access program must require the financial institution lender to have a meaningful amount of its own capital resources at risk in the loan.

(5) PREMIUM CHARGES MINIMUM AND MAXIMUM AMOUNTS.—The insurance premium charges payable to the reserve fund by the borrower and the financial institution lender shall be prescribed by the financial institution lender, within minimum and maximum limits that require that the sum of the insurance premium charges paid in connection with a loan by the borrower and the financial institution lender may not be less than 2 percent nor more than 7 percent of the amount of the loan enrolled in the approved State capital access program.

(6) STATE CONTRIBUTIONS.—In enrolling a loan in an approved State capital access program, the participating State may make a contribution to the reserve fund to supplement Federal contributions made under this Program.

## (7) LOAN PURPOSE.—

(A) PARTICULAR LOAN PURPOSE REQUIREMENTS AND PROHIBITIONS.—In connection with the filing of a loan for enrollment in an approved State capital access program, the financial institution lender—

(i) shall obtain an assurance from each borrower that—

(I) the proceeds of the loan will be used for a business purpose;

(II) the loan will not be used to finance such business activities as the Secretary, by regulation, may proscribe as prohibited loan purposes for enrollment in an approved State capital access program; and

(III) the borrower is not—

(aa) an executive officer, director, or principal shareholder of the financial institution lender;

(bb) a member of the immediate family of an executive officer, director, or principal shareholder of the financial institution lender; or

(cc) a related interest of any such executive officer, director, principal shareholder, or member of the immediate family;

(ii) shall provide assurances to the participating State that the loan has not been made in order to place under the protection of the approved State capital access program prior debt that is not covered under the approved State capital access program and that is or was owed by the borrower to the financial institution lender or to an affiliate of the financial institution lender;

(iii) shall not allow the enrollment of a loan to a borrower that is a refinancing of a loan previously made to that borrower by the financial institution lender or an affiliate of the financial institution lender; and

(iv) may include additional restrictions on the eligibility of loans or borrowers that are not inconsistent with the provisions and purposes of this title, including compliance with all applicable Federal and State laws, regulations, ordinances, and Executive orders.

(B) DEFINITIONS.—For purposes of this subsection, the terms “executive officer”, “director”, “principal shareholder”, “immediate family”, and “related interest” refer to the same relationship to a financial institution lender as the relationship described in part 215 of title 12 of the Code of Federal Regulations, or any successor to such part.

(8) CAPITAL ACCESS FOR SMALL BUSINESSES IN UNDERSERVED COMMUNITIES.—At the time that a State applies to the Secretary to have the State capital access program approved as eligible for Federal contributions, the State shall deliver to the Secretary a report stating how the State plans to use the Federal contributions to the reserve fund to provide access to capital for small businesses in low- and moderate-income, minority, and other underserved communities, including women- and minority-owned small businesses.

**SEC. 206. APPROVING COLLATERAL SUPPORT AND OTHER INNOVATIVE CREDIT ACCESS AND GUARANTEE INITIATIVES FOR SMALL BUSINESSES AND MANUFACTURERS.**

(a) APPLICATION.—A participating State that establishes a new, or has an existing, credit support program that meets the eligibility criteria in subsection (c) may apply to the Secretary to have the State other credit support program approved as eligible for Federal contributions to, or for the account of, the State program.

(b) APPROVAL.—The Secretary shall approve such State other credit support program as eligible for Federal contributions to, or for the account of, the program if—

(1) the Secretary determines that the State satisfies the requirements of paragraphs (1) through (3) of section 205(b);

(2) the Secretary determines that the State other credit support program meets the eligibility criteria in subsection (c);

(3) the Secretary determines the State other credit support program to be eligible based on the additional considerations in subsection (d); and

(4) within 9 months after the date of enactment of this title, the State has filed with Treasury a complete application for Treasury approval.

(c) ELIGIBILITY CRITERIA FOR STATE OTHER CREDIT SUPPORT PROGRAMS.—For a State other credit support program to be approved under this section, it must be a program of the State that—

(1) can demonstrate that, at a minimum, 1 dollar of public investment by the State program will cause and result in 1 dollar of new private credit;

(2) can demonstrate a reasonable expectation that, when considered with all other State programs of the State, such State programs together have the ability to use amounts of new Federal contributions to, or for the account of, all such programs in the State to cause and result in amounts of new small business lending at least 10 times the new Federal contribution amount;

(3) for those State other credit support programs that provide their credit support through 1 or more financial institution lenders, requires the financial institution lenders to have a meaningful amount of their own capital resources at risk in their small business lending; and

(4) extends credit support that—

(A) targets an average borrower size of 500 employees or less;

(B) does not extend credit support to borrowers that have more than 750 employees;

(C) targets support towards loans with an average principal amount of \$5,000,000 or less; and

(D) does not extend credit support to loans that exceed a principal amount of \$20,000,000.

(d) ADDITIONAL CONSIDERATIONS.—In making a determination that a State other credit support program is eligible for Federal contributions to, or for the account of, the State program, the Secretary shall take into account the following additional considerations:

(1) The anticipated benefits to the State, its businesses, and its residents to be derived from the Federal contributions to, or for the account of, the approved State other credit support program, including the extent to which resulting small business lending will expand economic opportunities.

(2) The operational capacity, skills, and experience of the management team of the State other credit support program.

(3) The capacity of the State other credit support program to manage increases in the volume of its small business lending.

(4) The internal accounting and administrative controls systems of the State other credit support program, and the extent to which they can provide reasonable assurance that funds of the State program are safeguarded against waste, loss, unauthorized use, or misappropriation.

(5) The soundness of the program design and implementation plan of the State other credit support program.

(e) FEDERAL CONTRIBUTIONS TO APPROVED STATE OTHER CREDIT SUPPORT PROGRAMS.—A State other credit support program approved under this section will be eligible for receiving Federal contributions to, or for the account of, the State program in an amount consistent with the schedule describing the apportionment of allocated Federal funds among State programs delivered by the State to the Secretary under the allocation agreement.

(f) MINIMUM PROGRAM REQUIREMENTS FOR STATE OTHER CREDIT SUPPORT PROGRAMS.—

(1) FUND TO PRESCRIBE.—The Secretary shall, by regulation or other guidance, prescribe Program requirements for approved State other credit support programs.

(2) CONSIDERATIONS FOR FUND.—In prescribing minimum Program requirements for approved State other credit support programs, the Secretary shall take into consideration, to the extent the Secretary determines applicable and appropriate, the minimum Program requirements for approved State capital access programs in section 205(e).

**SEC. 207. REPORTS.**

(a) QUARTERLY USE-OF-FUNDS REPORT.—

(1) IN GENERAL.—Not later than 30 days after the beginning of each calendar quarter, beginning after the first full calendar quarter to occur after the date the Secretary approves a State for participation, the participating State shall submit to the Secretary a report on the use of Federal funding by the participating State during the previous calendar quarter.

(2) REPORT CONTENTS.—The report shall—

(A) indicate the total amount of Federal funding used by the participating State;

(B) include a certification by the participating State that—

(i) the information provided in accordance with subparagraph (A) is accurate;

(ii) funds continue to be available and legally committed to contributions by the State to, or for the account of, approved State programs, less any amount that has been contributed by the State to, or for the account of, approved State programs subsequent to the State being approved for participation in the Program; and

(iii) the participating State is implementing its approved State program or programs in accordance with this title and regulations issued pursuant to section 210.

(b) ANNUAL REPORT.—Not later than March 31 of each year, beginning March 31, 2011, each participating State shall submit to the Secretary an annual report that shall include the following information:

(1) The number of borrowers that received new loans originated under the approved State program or programs after the State program was approved as eligible for Federal contributions.

(2) The total amount of such new loans.

(3) Breakdowns by industry type, loan size, annual sales, and number of employees of the borrowers that received such new loans.

(4) The zip code of each borrower that received such a new loan.

(5) Such other data as the Secretary, in the Secretary's sole discretion, may require to carry out the purposes of the Program.

(c) FORM.—The reports and data filed pursuant to subsections (a) and (b) shall be in such form as the Secretary, in the Secretary's sole discretion, may require.

(d) TERMINATION OF REPORTING REQUIREMENTS.—The requirement to submit reports under subsections (a) and (b) shall terminate for a participating State with the submission of the completed reports due on the first March 31 to occur after 5 complete 12-month periods after the State is approved by the Secretary to be a participating State.

**SEC. 208. REMEDIES FOR STATE PROGRAM TERMINATION OR FAILURES.**

(a) REMEDIES.—

(1) IN GENERAL.—If any of the events listed in paragraph (2) occur, the Secretary, in the Secretary's discretion, may—

(A) reduce the amount of Federal funds allocated to the State under the Program; or

(B) terminate any further transfers of allocated amounts that have not yet been transferred to the State.

(2) CAUSAL EVENTS.—The events referred to in paragraph (1) are—

(A) termination by a participating State of its participation in the Program;

(B) failure on the part of a participating State to submit complete reports under section 207 on a timely basis; or

(C) noncompliance by the State with the terms of the allocation agreement between the Secretary and the State.

(b) DEALLOCATED AMOUNTS TO BE REALLOCATED.—If, after 13 months, any portion of the amount of Federal funds allocated to a participating State is deemed by the Secretary to be no longer allocated to the State after actions taken by the Secretary under subsection (a)(1), the Secretary shall reallocate that portion among the participating States, excluding the State whose allocated funds were deemed to be no longer allocated, as provided in section 203(b).

**SEC. 209. IMPLEMENTATION AND ADMINISTRATION.**

(a) GENERAL AUTHORITIES AND DUTIES.—The Secretary shall—

(1) consult with the Administrator of the Small Business Administration and the appropriate Federal banking agencies on the administration of the Program;

(2) establish minimum national standards for approved State programs;

(3) provide technical assistance to States for starting State programs and generally disseminate best practices;

(4) manage, administer, and perform necessary program integrity functions for the Program; and

(5) ensure adequate oversight of the approved State programs, including oversight of the cash flows, performance, and compliance of each approved State program.

(b) APPROPRIATIONS.—There is hereby appropriated to the Secretary, out of funds in the Treasury not otherwise appropriated, \$2,000,000,000 to carry out the Program, including to pay reasonable costs of administering the Program.

(c) TERMINATION OF SECRETARY'S PROGRAM ADMINISTRATION FUNCTIONS.—The authorities and duties of the Secretary to implement and administer the Program shall terminate at the end of the 7-year period beginning on the date of enactment of this title.

**SEC. 210. REGULATIONS.**

The Secretary, in consultation with the Administrator of the Small Business Administration, shall issue such regulations and other guidance as the Secretary determines necessary or appropriate to implement this title including, but not limited to, to define terms, to establish compliance and reporting requirements, and such other terms and conditions necessary to carry out the purposes of this title.

**SEC. 211. OVERSIGHT AND AUDITS.**

(a) INSPECTOR GENERAL OVERSIGHT.—The Inspector General of the Department of the Treasury shall conduct, supervise, and coordinate audits and investigations of the use of funds made available under the Program.

(b) GAO AUDIT.—The Comptroller General of the United States shall perform an annual audit of the Program and issue a report to the appropriate committees of Congress, as such term is defined under section 3(1), containing the results of such audit.

(c) REQUIRED CERTIFICATION.—

(1) FINANCIAL INSTITUTIONS CERTIFICATION.—With respect to funds received by a participating State under the Program, any financial institution that receives a loan, a loan guarantee, or other financial assistance using such funds after the date of the enactment of this title must certify that such institution is in compliance with the requirements of section 103.121 of title 31, Code of Federal Regulations, a regulation that, at a

minimum, requires financial institutions, as that term is defined in 31 U.S.C. 5312(a)(2) and (c)(1)(A), to implement reasonable procedures to verify the identity of any person seeking to open an account, to the extent reasonable and practicable, maintain records of the information used to verify the person's identity, and determine whether the person appears on any lists of known or suspected terrorists or terrorist organizations provided to the financial institution by any government agency.

(2) SEX OFFENSE CERTIFICATION.—With respect to funds received by a participating State under the Program, any private entity that receives a loan, a loan guarantee, or other financial assistance using such funds after the date of the enactment of this title shall certify to the participating State that the principals of such entity have not been convicted of a sex offense against a minor (as such terms are defined in section 111 of the Sex Offender Registration and Notification Act (42 U.S.C. 16911)).

(d) PROHIBITION ON PORNOGRAPHY.—None of the funds made available under this title may be used to pay the salary of any individual engaged in activities related to the Program who has been officially disciplined for violations of subpart G of the Standards of Ethical Conduct for Employees of the Executive Branch for viewing, downloading, or exchanging pornography, including child pornography, on a Federal Government computer or while performing official Federal Government duties.

**TITLE III—SMALL BUSINESS EARLY-STAGE INVESTMENT PROGRAM**

**SEC. 301. SHORT TITLE.**

This title may be cited as the "Small Business Early-Stage Investment Program Act of 2010".

**SEC. 302. SMALL BUSINESS EARLY-STAGE INVESTMENT PROGRAM.**

Title III of the Small Business Investment Act of 1958 (15 U.S.C. 681 et seq.) is amended by adding at the end the following:

**"PART D—SMALL BUSINESS EARLY-STAGE INVESTMENT PROGRAM**

**"SEC. 399A. ESTABLISHMENT OF PROGRAM.**

"The Administrator shall establish and carry out an early-stage investment program (hereinafter referred to in this part as the "program") to provide equity investment financing to support early-stage small businesses in accordance with this part.

**"SEC. 399B. ADMINISTRATION OF PROGRAM.**

"The program shall be administered by the Administrator acting through the Associate Administrator described under section 201.

**"SEC. 399C. APPLICATIONS.**

"(a) IN GENERAL.—Any existing or newly formed incorporated body, limited liability company, or limited partnership organized and chartered or otherwise existing under Federal or State law for the purpose of performing the functions and conducting the activities contemplated under the program and any manager of any small business investment company may submit to the Administrator an application to participate in the program.

"(b) REQUIREMENTS FOR APPLICATION.—An application to participate in the program shall include the following:

"(1) A business plan describing how the applicant intends to make successful venture capital investments in early-stage small businesses and direct capital to small business concerns in targeted industries or other business sectors.

"(2) Information regarding the relevant venture capital investment qualifications and backgrounds of the individuals responsible for the management of the applicant.

"(3) A description of the extent to which the applicant meets the selection criteria under section 399D.

"(c) APPLICATIONS FROM MANAGERS OF SMALL BUSINESS INVESTMENT COMPANIES.—The Administrator shall establish an abbreviated application process for applicants that are managers of small business investment companies that are licensed under section 301 and that are applying to participate in the program. Such abbreviated process shall incorporate a presumption that such managers satisfactorily meet the selection criteria under paragraphs (3) and (5) of section 399D(b).

**"SEC. 399D. SELECTION OF PARTICIPATING INVESTMENT COMPANIES.**

"(a) IN GENERAL.—Not later than 90 days after the date on which the Administrator receives an application from an applicant under section 399C, the Administrator shall make a determination to conditionally approve or disapprove such applicant to participate in the program and shall transmit such determination to the applicant in writing. A determination to conditionally approve an applicant shall identify all conditions necessary for a final approval and shall provide a period of not less than one year for satisfying such conditions.

"(b) SELECTION CRITERIA.—In making a determination under subsection (a), the Administrator shall consider each of the following:

"(1) The likelihood that the applicant will meet the goals specified in the business plan of the applicant.

"(2) The likelihood that the investments of the applicant will create or preserve jobs, both directly and indirectly.

"(3) The character and fitness of the management of the applicant.

"(4) The experience and background of the management of the applicant.

"(5) The extent to which the applicant will concentrate investment activities on early-stage small businesses.

"(6) The likelihood that the applicant will achieve profitability.

"(7) The experience of the management of the applicant with respect to establishing a profitable investment track record.

"(c) FINAL APPROVAL.—For each applicant provided a conditional approval under subsection (a), the Administrator shall provide final approval to participate in the program not later than 90 days after the date the applicant satisfies the conditions specified by the Administrator under such subsection or, in the case of applicants whose partnership or management agreements conform to models approved by the Administrator, the Administrator shall provide final approval to participate in the program not later than 30 days after the date the applicant satisfies the conditions specified under such subsection. If an applicant provided conditional approval under subsection (a) fails to satisfy the conditions specified by the Administrator in the time period designated under such subsection, the Administrator shall revoke the conditional approval.

**"SEC. 399E. EQUITY FINANCINGS.**

"(a) IN GENERAL.—The Administrator may make one or more equity financings to a participating investment company.

"(b) EQUITY FINANCING AMOUNTS.—

"(1) NON-FEDERAL CAPITAL.—An equity financing made to a participating investment company under the program may not be in an amount that exceeds the amount of the capital of such company that is not from a Federal source and that is available for investment on or before the date on which an equity financing is drawn upon. Such capital may include legally binding commitments with respect to capital for investment.

"(2) LIMITATION ON AGGREGATE AMOUNT.—The aggregate amount of all equity financings made to a participating investment company under the program may not exceed \$100,000,000.

“(c) EQUITY FINANCING PROCESS.—In making an equity financing under the program, the Administrator shall commit an equity financing amount to a participating investment company and the amount of each such commitment shall remain available to be drawn upon by such company—

“(1) for new-named investments during the 5-year period beginning on the date on which each such commitment is first drawn upon; and

“(2) for follow-on investments and management fees during the 10-year period beginning on the date on which each such commitment is first drawn upon, with not more than 2 additional 1-year periods available at the discretion of the Administrator.

“(d) COMMITMENT OF FUNDS.—The Administrator shall make commitments for equity financings not later than 2 years after the date funds are appropriated for the program.

**“SEC. 399F. INVESTMENTS IN EARLY-STAGE SMALL BUSINESSES.**

“(a) IN GENERAL.—As a condition of receiving an equity financing under the program, a participating investment company shall make all of the investments of such company in small business concerns, of which at least 50 percent shall be early-stage small businesses.

“(b) EVALUATION OF COMPLIANCE.—With respect to an equity financing amount committed to a participating investment company under section 399E, the Administrator shall evaluate the compliance of such company with the requirements under this section if such company has drawn upon 50 percent of such commitment.

**“SEC. 399G. PRO RATA INVESTMENT SHARES.**

“Each investment made by a participating investment company under the program shall be treated as comprised of capital from equity financings under the program according to the ratio that capital from equity financings under the program bears to all capital available to such company for investment.

**“SEC. 399H. EQUITY FINANCING INTEREST.**

“(a) EQUITY FINANCING INTEREST.—

“(1) IN GENERAL.—As a condition of receiving an equity financing under the program, a participating investment company shall convey an equity financing interest to the Administrator in accordance with paragraph (2).

“(2) EFFECT OF CONVEYANCE.—The equity financing interest conveyed under paragraph (1) shall have all the rights and attributes of other investors attributable to their interests in the participating investment company, but shall not denote control or voting rights to the Administrator. The equity financing interest shall entitle the Administrator to a pro rata portion of any distributions made by the participating investment company equal to the percentage of capital in the participating investment company that the equity financing comprises. The Administrator shall receive distributions from the participating investment company at the same times and in the same amounts as any other investor in the company with a similar interest. The investment company shall make allocations of income, gain, loss, deduction, and credit to the Administrator with respect to the equity financing interest as if the Administrator were an investor.

“(b) MANAGER PROFITS.—As a condition of receiving an equity financing under the program, the manager profits interest payable to the managers of a participating investment company under the program shall not exceed 20 percent of profits, exclusive of any profits that may accrue as a result of the capital contributions of any such managers with respect to such company. Any excess of this amount, less taxes payable thereon,

shall be returned by the managers and paid to the investors and the Administrator in proportion to the capital contributions and equity financings paid in. No manager profits interest (other than a tax distribution) shall be paid prior to the repayment to the investors and the Administrator of all contributed capital and equity financings made.

“(c) DISTRIBUTION REQUIREMENTS.—As a condition of receiving an equity financing under the program, a participating investment company shall make all distributions to all investors in cash and shall make distributions within a reasonable time after exiting investments, including following a public offering or market sale of underlying investments.

**“SEC. 399I. FUND.**

“There is hereby created within the Treasury a separate fund for equity financings which shall be available to the Administrator subject to annual appropriations as a revolving fund to be used for the purposes of the program. All amounts received by the Administrator, including any moneys, property, or assets derived by the Administrator from operations in connection with the program, shall be deposited in the fund. All expenses and payments, excluding administrative expenses, pursuant to the operations of the Administrator under the program shall be paid from the fund.

**“SEC. 399J. APPLICATION OF OTHER SECTIONS.**

“To the extent not inconsistent with requirements under this part, the Administrator may apply sections 309, 311, 312, 313, and 314 to activities under this part and an officer, director, employee, agent, or other participant in a participating investment company shall be subject to the requirements under such sections.

**“SEC. 399K. ANNUAL REPORTING.**

“The Administrator shall report on the performance of the program in the annual performance report of the Administration.

**“SEC. 399L. DEFINITIONS.**

“In this part, the following definitions apply:

“(1) EARLY-STAGE SMALL BUSINESS.—The term ‘early-stage small business’ means a small business concern that—

“(A) is domiciled in a State; and

“(B) has not generated gross annual sales revenues exceeding \$15,000,000 in any of the previous 3 years.

“(2) PARTICIPATING INVESTMENT COMPANY.—The term ‘participating investment company’ means an applicant approved under section 399D to participate in the program.

“(3) TARGETED INDUSTRIES.—The term ‘targeted industries’ means any of the following business sectors:

“(A) Agricultural technology.

“(B) Energy technology.

“(C) Environmental technology.

“(D) Life science.

“(E) Information technology.

“(F) Digital media.

“(G) Clean technology.

“(H) Defense technology.

“(I) Photonics technology.

**“SEC. 399M. APPROPRIATION.**

“From funds not otherwise appropriated, there is hereby appropriated \$1,000,000,000 to carry out the program.

**“SEC. 399N. CERTIFICATION.**

“(a) IMMIGRATION CERTIFICATION.—

“(1) PARTICIPATING INVESTMENT COMPANIES.—Each participating investment company that receives an equity financing under this part after the date of the enactment of this part must, if applicable, certify that such company is in compliance with the requirements of section 103.121 of title 31, Code of Federal Regulations, a regulation that, at a minimum, requires financial institutions,

as that term is defined in 31 U.S.C. 5312(a)(2) and (c)(1)(A), to implement reasonable procedures to verify the identity of any person seeking to open an account, to the extent reasonable and practicable, maintain records of the information used to verify the person's identity, and determine whether the person appears on any lists of known or suspected terrorists or terrorist organizations provided to the financial institution by any government agency.

“(2) EARLY-STAGE SMALL BUSINESSES.—Each early-stage small business that receives funds from a participating investment company that receives an equity financing under this part after the date of the enactment of this part must, if applicable, certify that such company is in compliance with the requirements of section 103.121 of title 31, Code of Federal Regulations, a regulation that, at a minimum, requires financial institutions, as that term is defined in 31 U.S.C. 5312(a)(2) and (c)(1)(A), to implement reasonable procedures to verify the identity of any person seeking to open an account, to the extent reasonable and practicable, maintain records of the information used to verify the person's identity, and determine whether the person appears on any lists of known or suspected terrorists or terrorist organizations provided to the financial institution by any government agency.

“(b) SEX OFFENDER CERTIFICATION.—

“(1) PARTICIPATING INVESTMENT COMPANIES.—Each participating investment company that receives an equity financing under this part after the date of the enactment of this part shall certify to the Administrator that the principals of such company have not been convicted of a sex offense against a minor (as such terms are defined in section 111 of the Sex Offender Registration and Notification Act (42 U.S.C. 16911)).

“(2) EARLY-STAGE SMALL BUSINESSES.—Each early-stage small business that receives funds from a participating investment company that receives an equity financing under this part after the date of the enactment of this part shall certify to the Administrator that the principals of such business have not been convicted of a sex offense against a minor (as such terms are defined in section 111 of the Sex Offender Registration and Notification Act (42 U.S.C. 16911)).

“(c) PORNOGRAPHY CERTIFICATION.—None of the funds made available under this part may be used to pay the salary of any individual engaged in activities related to the provisions of this part who has been officially disciplined for violations of subpart G of the Standards of Ethical Conduct for Employees of the Executive Branch for viewing, downloading, or exchanging pornography, including child pornography, on a Federal Government computer or while performing official Federal Government duties.”

**SEC. 303. REGULATIONS.**

Not later than 180 days after the date of enactment of this Act, the Administrator shall issue regulations to carry out this title and the amendments made by this title.

**SEC. 304. PROHIBITIONS ON EARMARKS.**

None of the funds appropriated for the program established under part D of title III of the Small Business Investment Act of 1958, as added by this Act, may be used for a Congressional earmark as defined in clause 9(e) of rule XXI of the Rules of the House of Representatives.

**TITLE —MISCELLANEOUS**

**SEC. . BUDGETARY EFFECTS.**

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, submitted for printing in



the Congressional Record by the Chairman of the House Budget Committee, provided that such statement has been submitted prior to the vote on passage.

The CHAIR. No amendment to that amendment in the nature of a substitute is in order except those printed in part C of the report. Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

□ 1130

AMENDMENT NO. 1 OFFERED BY MR. ISRAEL

The CHAIR. It is now in order to consider amendment No. 1 printed in part C of House Report 111-506.

Mr. ISRAEL. Mr. Chairman, I have an amendment at the desk made in order under the rule.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. ISRAEL:  
Page 6, insert after line 25 the following:  
(17) VETERAN-OWNED BUSINESS.—  
(A) The term “veteran-owned business” means a business—

(i) more than 50 percent of the ownership or control of which is held by 1 or more veterans;

(ii) more than 50 percent of the net profit or loss of which accrues to 1 or more veterans; and

(iii) a significant percentage of senior management positions of which are held by veterans.

(B) For purposes of this paragraph, the term “veteran” has the meaning given such term in section 101(2) of title 38, United States Code.

Page 18, line 6, strike “MINORITY OUTREACH” and insert the following: “OUTREACH TO MINORITIES, WOMEN, AND VETERANS”.

Page 18, strike lines 15-16 and insert the following:

tions, and individuals that—

(A) represent or work within or are members of minority communities;

(B) represent or work with or are women; and

(C) represent or work with or are veterans.

Page 21, line 14, insert after “minority-” the following: “, veteran-,”.

Page 25, line 10, insert after “WOMEN-OWNED” the following: “, VETERAN-OWNED,”.

Page 25, line 12, insert after “women-owned businesses” the following: “, veteran-owned businesses,”.

Page 25, line 14, insert after “Program” the following: “(including determining the percentage of the total number of all businesses that receive assistance that such number represents)”.

Page 25, line 17, insert after “minority-” the following: “, veteran-,”.

The CHAIR. Pursuant to House Resolution 1436, the gentleman from New York (Mr. ISRAEL) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New York.

Mr. ISRAEL. Mr. Chairman, I yield myself 2 minutes.

I rise in support of the Israel-Barrow amendment. In particular, I would like to thank the gentleman from Georgia (Mr. BARROW) for his leadership and his partnership on behalf of veterans.

This amendment is rather direct. The underlying bill creates a new community bank lending fund for small businesses. It is essential that as we continue our recovery, we expand the amount of credit to America’s small businesses so they can buy products and hire people.

Our amendment does three things. One, it ensures that community banks participating in the lending fund prioritize veteran-owned businesses. Two, it requires aggressive outreach in advertising to veteran-owned small businesses. And, third, it requires the Secretary of Treasury, when designating lending institutions in the fund, to focus on veteran-owned businesses.

Mr. Chairman, last year there were 3.6 million veteran-owned businesses in the United States of America; 250,000 were owned by service-disabled veterans. They fought our battles, we should fight for their businesses, and that is precisely what our amendment does.

I again want to thank the gentleman from Georgia (Mr. BARROW) for working with me on this amendment. It is the Israel-Barrow amendment, but it might as well be called the Barrow-Israel amendment as a result of the partnership that we brought to this task on behalf of small businesses and veterans.

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

Mr. NEUGEBAUER. Mr. Chairman, I rise to claim the time in opposition, although I am not opposed to the amendment.

The CHAIR. Without objection, the gentleman from Texas is recognized for 5 minutes.

There was no objection.

Mr. NEUGEBAUER. The bill currently includes language regarding women and minority-owned business, and adding the veteran-owned businesses makes sense. And so with that, we support this amendment and we thank the gentleman for bringing it forward.

I yield back the balance of my time.

Mr. ISRAEL. Mr. Chairman, I yield such time as he may consume to the gentleman from Georgia (Mr. BARROW).

Mr. BARROW. Mr. Chairman, I thank the gentleman for yielding. I have spent a lot of time meeting with small business owners across my district because small businesses are the backbone of our economy and they hold the key to our recovery. In the last decade, 70 percent of all new jobs are created by small businesses. But many are now facing a credit squeeze which makes it hard to cover everyday expenses, including hiring and remaining workers. It is in the best interest of our country that our small businesses thrive. That is why the Small Business Lending Fund Act deserves our support.

I am pleased to offer an amendment with Congressman ISRAEL that I think makes this good bill just a little bit better. Our amendment simply asks banks receiving funds under this act to reach out to women, minority and veteran-owned businesses to make them aware of the availability of these funds. These businesses are a valuable but often disadvantaged part of our economy, and I think they deserve our special attention.

I want to thank Congressman ISRAEL for his collaboration on this amendment and his leadership. I want to thank the chairman for his support.

Mr. ISRAEL. Mr. Chairman, we have proven today to the American people that both sides of this aisle can agree on at least one thing, and that is supporting veterans and supporting small businesses. I am grateful for the bipartisan cooperation that we have received on this.

I have no further requests for time, and I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from New York (Mr. ISRAEL).

The question was taken; and the Chair announced that the ayes appeared to have it.

Mr. ISRAEL. Mr. Chair, I demand a recorded vote.

The CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from New York will be postponed.

AMENDMENT NO. 3 OFFERED BY MR. NYE

The CHAIR. The Chair understands that amendment No. 2 will not be offered.

It is now in order to consider amendment No. 3 printed in part C of House Report 111-506.

Mr. NYE. Mr. Chairman, I have an amendment at the desk.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 offered by Mr. NYE:  
Page 3, line 5, strike “and”.

Page 3, line 12, strike the period and insert “; and”.

Page 3, after line 12, insert the following new subparagraph:

(D) with respect to an eligible institution for which no report exists that is described under subparagraph (A), (B), or (C), such other report or set of information as the Secretary, in consultation with the Administrator of the Small Business Administration, may prescribe.

Page 4, line 25, strike “and”.

Page 5, line 3, strike the period and insert “; and”.

Page 5, after line 3, insert the following new subparagraph:

(D) any small business lending company that has total assets of equal to or less than \$10,000,000,000.

Page 6, line 1, after “report,” insert the following: “where each loan comprising such lending is made to a small business and is one”.

Page 6, after line 25 insert the following new paragraphs:

(1) SMALL BUSINESS.—The term “small business” has the meaning given the term

“small business concern” under section 3 of the Small Business Act (15 U.S.C. 632).

(2) SMALL BUSINESS LENDING COMPANY.—The term “small business lending company” has the meaning given such term under section 3(r)(1) of the Small Business Act (15 U.S.C. 632(r)(1)).

Page 12, beginning on line 19, strike “the amount of small business lending reported by the eligible institution in its call report for the last quarter in calendar year 2009 or the average amount of small business lending reported by the eligible institution in all call reports for calendar year 2009, whichever is lower” and insert “the average amount of small business lending reported by the eligible institution in its call reports for the 4 full quarters immediately preceding the enactment of this title”.

Page 17, after line 9, insert the following new subparagraph:

(I) INCENTIVES CONTINGENT ON AN INCREASE IN THE NUMBER OF LOANS MADE.—For any quarter during the first 4½-year period following the date on which an eligible institution receives a capital investment under the Program, other than the first such quarter, in which the institution’s change in the amount of small business lending relative to the baseline is positive, if the number of loans made by the institution does not increase by 2.5 percent for each 2.5 percent increase of small business lending, then the rate at which dividends and interest shall be payable during the following quarter on preferred stock or other financial instruments issued to the Treasury by the eligible institution shall be—

(i) 5 percent, if such quarter is within the 2-year period following the date on which the eligible institution receives the capital investment under the Program; or

(ii) 7 percent, if such quarter is after such 2-year period.

(J) ALTERNATIVE COMPUTATION.—An eligible institution may choose to compute their small business lending amount by computing the amount of small business lending, as if the definition of such term did not require that the loans comprising such lending be made to small business. Any eligible institution choosing to compute their small business lending in this manner shall certify that all lending included by the institution for purposes of computing the increase in lending under this paragraph was made to small businesses.

The CHAIR. Pursuant to House Resolution 1436, the gentleman from Virginia (Mr. NYE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Virginia.

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

Mr. Chairman, recent reports on U.S. economic growth are promising and suggest that recovery is taking hold. However, I continue to hear from small business owners in my district who are still having a tough time obtaining the business loans that they need today. They have weathered the worst of the storm and are ready to lead our economy to a strong recovery. However, in order to do this, they need capital; capital from loans that banks are unwilling to lend.

As chairman of the Small Business Subcommittee on Contracting and Technology, my subcommittee examines every day how the Federal Government can incentivize business innovation.

For example, last year, with my fellow Virginian MARK WARNER, I proposed the Small Business Administration take action on the ARC loan program, a vital loan program that had been delayed months until Congress authorized it. Because of our efforts, soon after the ARC loan program was implemented, and it is expected to create or retain 24,000 jobs and assist 4,900 businesses this year alone.

We must continue to implement these types of small business programs that will unfreeze the small business credit markets. However, as we create this program to increase lending capacity to small banks, we must ensure that it is not another bank bailout.

The amendment I offer today puts controls in place to guarantee the funds in this bill are in fact going to small businesses. First and foremost, we must define what a small business is. If the Small Business Lending Fund is created with the intention to spur small business lending, we must ensure that the funds are in fact lent to businesses that are properly defined as small business. In order to do this, we should use the definition already being used by Federal agencies to determine a business’s size.

Second, we want to increase lending volume and open up the credit markets to every qualified small business. To do this effectively, we need to link lending incentives to volume, or in other words, to the number of loans that a bank makes and not just the amount of money lent. If we measure the lending of a bank merely by the amount of money lent, then a bank could make a few large loans and call it a day. Working capital for most small businesses requires small loans, and many times it takes more than one. Thus, to effectively measure if this program is truly supporting working capital efforts, we must certify that the volume of these small loans increases.

Third, in the same vein, a hardened baseline with real meaning must be set when measuring a bank’s lending record. Currently, the bill only requires a bank to increase its lending according to its 2009 fourth quarter record. The fourth quarter of 2009 saw a historically low lending rate. Small financial institutions decreased their small business lending by an average of 12.8 percent, and small business lending by large banks dropped by more than 20 percent. To gather a more accurate measure of small business lending, this amendment requires a full year’s worth of data to measure a bank’s lending report.

Finally, small business lending companies exist only to lend to small businesses. It would be nearsighted not to make these institutions that already have a strong infrastructure and proven ability to lend to small businesses eligible in this bill. My amendment includes small business lending companies with less than \$10 billion in assets as qualified financial institutions, alongside community banks and small credit unions.

If our economic recovery is going to translate into economic expansion, we must open up the credit markets to our small businesses who are proven job creators and we must ensure that programs created to provide capital to small businesses take the necessary measures to promote small business lending and not big business bailouts.

I urge my colleagues to support this amendment for our small businesses and for our economic future.

I reserve the balance of my time.

Mr. NEUGEBAUER. Mr. Chairman, I rise to claim the time in opposition.

The CHAIR. The gentleman from Texas is recognized for 5 minutes.

Mr. NEUGEBAUER. Mr. Chairman, I am opposed to this amendment because it removes some of the safeguards to ensure the banks use the money in the way that they are supposed to and not simply just building up their capital buffers. Allowing recipients to self-certify that they have increased small business lending guts all of the other protections in this bill.

If we are going to allow recipients to pay dividends as low as 1 percent, we need to make sure that the money is used the way the legislation is intended. We already have less oversight of this money than we did in the TARP program, and even though it is the same program, cutting back even further is the wrong approach.

Already under this bill, banks are getting a good deal on the cost of capital, thanks to the taxpayers. Community banks that issue preferred equity paid dividends of 9 percent or more in the private market, here we have the government giving them the capital for 5 percent, or as low as 1 percent.

This amendment changes the incentives in the wrong way, and we need more safeguards for the taxpayers, not fewer.

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

Mr. NYE. Mr. Chairman, I yield the balance of my time to Congresswoman VELÁZQUEZ, the chairwoman of the Small Business Committee.

Ms. VELÁZQUEZ. I thank the gentleman for yielding.

Mr. Chairman, since the financial crisis struck in 2007, much has already been done to help banks and financial institutions stay solvent. Those steps were necessary. I firmly believe that without them, the financial crisis would have deepened, unemployment would have been higher, more Americans would have suffered, and our economic recovery may have been delayed for many years.

Despite these efforts, our entrepreneurs are still struggling to tap into the credit they need. As we revisit this problem once more, it is vital that we ensure that the benefits of this bill reach small businesses. That is the intent of this legislation. But without the right safeguards, this will be another attempt that fails to address the underlying problem of small business access to capital.

If this measure is not crafted properly, loans which go to large businesses could qualify under the program. Mr. Chairman, I support this amendment.

Mr. NEUGEBAUER. Mr. Chairman, I just want to repeat that when we are going to give a dividend, a lesser dividend rate for the more performance that these banks have, letting themselves certify is not a good check and balance. Certainly we want them to increase their lending, but we need third-party validation to make sure that if they are going to get as low as a 1 percent capital dividend rate, that some third-party validation validates that because obviously that has impact on this program.

I reserve the balance of my time.

Mr. NYE. I ask unanimous consent that each side be allocated an additional 2 minutes.

The CHAIR. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. NYE. Mr. Chairman, I yield 2 minutes to the distinguished ranking member of the committee, Congressman GRAVES.

Mr. GRAVES of Missouri. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Virginia.

Under the program, the way it was reported out of the Financial Services Committee, the bill bases its lending on the size of loans, and assumes that loans of under \$250,000 and \$1 million will be made to small businesses. However, there is no such assurance in the bill, and loans of those sizes could be made to large businesses, but count as small business lending. If this is a small business lending program, then it should use the definition of small business used throughout the government, and that is the one in the Small Business Act. The approach offered by the gentleman from Virginia (Mr. NYE) does just that. It makes that sensible change.

The other change that the gentleman's amendment does is to include small business lending companies. These institutions are not overseen by the Federal financial regulators, but are authorized by the Small Business Administration to make guaranteed loans. If the idea of the program is to increase lending to small businesses, small business lending companies should not be excluded from this program.

For these reasons, I definitely support the gentleman's amendment, and I appreciate his offering it.

Mr. NEUGEBAUER. Mr. Chairman, I yield back the balance of my time.

Mr. NYE. Mr. Chairman, I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from Virginia (Mr. NYE).

The amendment was agreed to.

AMENDMENT NO. 4 OFFERED BY MR. MINNICK, AS MODIFIED

The CHAIR. It is now in order to consider amendment No. 4 printed in part C of House Report 111-506.

Mr. MINNICK. Mr. Chair, I have an amendment at the desk designated under the rule.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 offered by Mr. MINNICK: Page 11, after line 3, insert the following new subparagraph:

(F) ELECTION TO INCLUDE OTHER NONFARM, NONRESIDENTIAL REAL ESTATE LOANS IN AMOUNT OF SMALL BUSINESS LENDING.—At the time that an applicant submits an application to the Secretary for a capital investment under the Program, the applicant may notify the Secretary that it elects to have included in the determination of the amount of its small business lending, for purposes of the computations made under paragraph (4), the amount of lending reported as other nonfarm, nonresidential real estate loans in its quarterly call report, but for purposes of this subparagraph, other nonfarm, nonresidential real estate loans shall not include a loan having an original amount greater than \$10,000,000. If an applicant makes the election under this subparagraph, the amount of lending reported as other nonfarm, nonresidential real estate loans shall be included in the determination of the amount of its small business lending for purposes of the computations made under paragraph (4).

The CHAIR. Pursuant to House Resolution 1436, the gentleman from Idaho (Mr. MINNICK) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Idaho.

□ 1145

Mr. MINNICK. Mr. Chairman, I ask unanimous consent to modify my amendment.

The CHAIR. The Clerk will report the modification.

The Clerk read as follows:

Amendment No. 4 offered by Mr. MINNICK, as modified:

Page 6, after line 9, insert the following:

(v) Nonowner-occupied commercial real estate loans.

The CHAIR. Is there objection to the request of the gentleman from Idaho?

Without objection, the amendment is modified.

There was no objection.

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

Mr. Chairman, this amendment, while short in length, is extremely important to the commercial banking industry and to small business in my State and all of the United States. What it does is adds commercial real estate to the category of assets that can be covered by small business loan guarantees and increases the amount of those assets up to \$10 million.

This allows a category of assets that is now being held by small business men throughout the country, a category that is very large that needs to be refinanced because commercial real estate loans are short term and banks simply do not have the capacity in the current market to finance and process all of the commercial loans that need to be reprocessed over the next 3 to 5 years. By making these smaller loans that our community banks have made

to strip shopping centers, to restaurants, to small business, making them more liquid by applying a Federal guarantee, they will be able to sell these loans in the market. The bank will get cash and be able to make another commercial loan.

So this is a very important piece of legislation, an important component of the Small Business Lending Act that will do more, I think, than any other single thing in terms of getting our banking system functioning again and providing credit to the entrepreneurs and small businesses across this country who will fuel the economic recovery and create the jobs that will bring us out of this recession.

I urge my colleagues to accept this amendment, and I reserve the balance of my time.

Mr. NEUGEBAUER. Mr. Chairman, I seek time in opposition, although I am not opposed to the amendment.

The CHAIR. Without objection, the gentleman from Texas is recognized for 5 minutes.

There was no objection.

Mr. NEUGEBAUER. I appreciate the gentleman's point here of trying to create a new source of capital in commercial real estate at a time when there is a significant amount of stress on our community banks. Financing for commercial real estate, particularly the smaller loan market that serves small businesses, has been limited. The commercial mortgage-backed securities market, the CMBS market, which accounted for nearly 50 percent of the commercial real estate lending in 2007, remains dormant.

So while I continue to believe the \$30 billion lending fund will not improve lending for small businesses, I do not oppose the gentleman's amendment.

I yield back the balance of my time.

Mr. MINNICK. I thank the gentleman.

I would urge my colleagues to endorse this amendment and ask that it be added to the bill.

I yield back the balance of my time.

The CHAIR. The question is on the amendment offered by the gentleman from Idaho (Mr. MINNICK), as modified.

The amendment was agreed to.

AMENDMENT NO. 5 OFFERED BY MR.

PERLMUTTER

The CHAIR. It is now in order to consider amendment No. 5 printed in part C of House Report 111-506.

Mr. PERLMUTTER. Mr. Chairman, I have an amendment at the desk made in order under the rule.

The CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 offered by Mr. PERLMUTTER:

Add at the end of title I the following new section:

**SEC. 14. TEMPORARY AMORTIZATION AUTHORITY.**

(a) PURPOSE.—The purpose this section is to address the ongoing effects of the financial crisis on small businesses by providing temporary authority to amortize losses or

write-downs in order to increase the availability of credit for small businesses.

(b) IN GENERAL.—For purposes of capital calculation under the Financial Institutions Examination Council's Consolidated Reports of Condition, an eligible institution may choose to amortize any loss or write-down, on a quarterly straight line basis over a period determined under subsection (c), beginning with the month in which such loss or write-down occurs, resulting from the application of FASB Statement 114 or 144 to—

(1) other real estate owned (as defined under section 34.81 of title 12, Code of Federal Regulation), or

(2) an impaired loan secured by real estate, provided that the institution discloses the difference in the amount of the institution's capital, when calculated taking into account the temporary amortization, from the amount of the institution's capital when calculated without taking into account the temporary amortization on the Financial Institutions Examination Council's Consolidated Reports of Condition.

(c) AMORTIZATION REQUIREMENTS.—During the initial 2-year period referred to in section 4(d)(4), an eligible institution's amortization period shall be adjusted to reflect the following schedule based on the institution's change in the amount of small business lending relative to the baseline:

(1) If the amount of small business lending has increased by less than 2.5 percent, the amortization period shall be 6 years.

(2) If the amount of small business lending has increased by 2.5 percent or greater, but by less than 5.0 percent, the amortization period shall be 7 years.

(3) If the amount of small business lending has increased by 5.0 percent or greater, but by less than 7.5 percent, the amortization period shall be 8 years.

(4) If the amount of small business lending has increased by 7.5 percent or greater, but by less than 10.0 percent, the amortization period shall be 9 years.

(5) If the amount of small business lending has increased by 10 percent or greater, the amortization period shall be 10 years.

(d) MINIMUM UNDERWRITING STANDARDS.—The appropriate Federal banking agency for an eligible institution that chooses to amortize any loss or write-down as permitted under subsection (b) shall, within 60 days of the date of the enactment of this title, issue regulations defining minimum underwriting standards that must be used for loans made by the eligible institution.

(e) EFFECTIVE DATE.—The provisions of this section shall apply to loan origination that occurred on or after January 1, 2003, and before January 1, 2008.

The CHAIR. Pursuant to House Resolution 1436, the gentleman from Colorado (Mr. PERLMUTTER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Colorado.

Mr. PERLMUTTER. Mr. Chairman, I yield myself such time as I might consume.

Mr. Chairman, the amendment I offer with my colleagues today would increase the availability of capital for small businesses. It temporarily allows banks to amortize real estate losses over 6 years. In addition, smaller community banks would be incentivized to increase small business lending through an extended amortization period of up to 10 years.

The impact of this amendment deals with regional and small banks. It will be immediate and is a necessary step in

providing greater availability of credit, which will lead to job creation and economic growth.

We had an earthquake on Wall Street about a year-and-a-half ago. Those aftershocks are still being felt by small businesses and small banks all across the country. It is for that reason these banks, in an effort to help small businesses regain their footing, deserve this kind of amortization and flexibility with respect to their loan portfolios. They did not cause the trouble that they now find themselves in, and we believe that amortization is appropriate.

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

Mr. NEUGEBAUER. Mr. Chair, I am opposed to the amendment.

The CHAIR. The gentleman from Texas is recognized for 5 minutes.

Mr. NEUGEBAUER. Certainly I am sympathetic to the many community banks coping with real estate assets on their books that have lost their value; however, I am not sure this amendment is the best solution.

This amendment would essentially allow certain banks to hide losses for up to 10 years. The practice of legislative forbearance is a dangerous one and could result in problems that only get worse because they are not properly addressed. Accounting rules function to provide a clear record of the health of the institution. This amendment does just the opposite by hiding the losses.

The amortization provided by this amendment does not take effect for 2 years, when the increase in small business lending is measured; thus, it doesn't really address the current credit problems that this bill attempts to solve. This amendment creates the wrong incentive of allowing banks to hide losses for longer periods of time based on making even more loans. Instead of continuing to distort the market, the government should instead create an expansionary environment where we are lowering taxes and providing regulatory certainty and not hiding accounting losses.

I urge opposition to this amendment.

I yield back the balance of my time.

Mr. PERLMUTTER. Mr. Chairman, I would say the amendment provides that if there is a \$250,000 loss, it is booked and it is open, but then is spread out for 6 up to 10 years. It's easily transparent and open.

I yield 1 minute to my friend from Florida (Mr. KLEIN).

Mr. KLEIN of Florida. I thank the gentleman from Colorado. All of us share a common goal: We are committed to an economic recovery. We also agree that small business lending is critical to achieving that recovery.

Small businesses in my district in south Florida and around the country are struggling to get access to credit so they can grow their businesses and create jobs. Even though bank regulators at the top are telling banks to lend, I have heard over and over again directly

from dozens of businesses in my community and the banks locally that examiners on the ground are giving the exact opposite message.

It is essential that we do everything we can to increase small business lending. This amendment provides incentives for small business and real estate lending, exactly what south Florida and other communities need to continue on the road to recovery. The amendment provides a solution to a critical problem, and I am proud to have worked with community banks, our Realtors and real estate community on this issue.

I urge my colleagues to support this amendment.

Mr. PERLMUTTER. At this point, I would also say to my friend from Texas, the amendment takes place immediately, not after 2 years.

I yield 1 minute to my colleague from Colorado (Mr. COFFMAN).

Mr. COFFMAN of Colorado. I thank the gentleman from Colorado for yielding.

Mr. Chair, I rise today in strong support of this amendment to House Resolution 5297, the Small Business Lending Fund Act of 2010. The amendment offered by my friend from Colorado, Representative PERLMUTTER, would do a great deal to increase the availability of loans to our Nation's small businesses. Small businesses are the engine that drives our economy.

This amendment will allow Colorado banks to amortize, or write down, commercial real estate loan losses over a period of time to ensure an adequate amount of capital for continued lending. The amendment encourages continued lending to small businesses by establishing a graduated scale with a maximum 10-year period of amortization for increased small business lending of 10 percent or more.

Enacting commonsense measures such as this will do a great deal to help small businesses, while also protecting many community banks from the volatility that currently surrounds their commercial real estate portfolio.

I have run a small business, and access to capital was always a pressing concern. I am glad that Congress is addressing this important issue.

I urge my colleagues to vote in favor of this amendment.

Mr. PERLMUTTER. I yield 1 minute to my friend from Wisconsin (Mr. KAGEN).

Mr. KAGEN. I rise in strong support of the Perlmutter, Gutierrez, Klein, and Kagen amendment. Why? It's exactly the medicine we need in our economy right now. Small businesses in Wisconsin, small businesses in Colorado and across the country are looking for access to credit at a price they can afford to pay. And right now our community banks are unable to lend, not because of their own activity, but because of the bad judgment of big banks on Wall Street.

Main Street community banks and Main Street small businesses should

not have to continue to pay for the mistakes of Wall Street. The Perlmutter amendment would allow community banks under \$10 billion of assets to amortize potential losses over 6 years and up to 10 years if they increase their lending to small businesses.

We get it. We understand that small businesses are the economic engines of this country. It's time to give small businesses the opportunity to grow our economy and the jobs we need to work our way back into prosperity.

I would urge a strong "yes" vote on this amendment.

Mr. PERLMUTTER. Mr. Chairman, how much time do I have left?

The CHAIR. The gentleman has 1 minute remaining.

Mr. PERLMUTTER. Thank you.

The point here is smaller banks, regional banks, unlike banks on Wall Street, did not create the credit and lending mess that exists today. Small businesses didn't create the mess that we see. And it is small business that employs so many people, and we have got to get folks back to work.

So the amendment allows for a bank to take a loss and then spread it over a period of time so that they can weather this storm until we get back to a good financial footing in this country. It is something that is necessary. It will assist with the availability of credit today and doesn't cost the taxpayer any money.

Something like this was used in the 1980s to assist the agricultural banks, and it worked at that time. It will work today.

I urge an "aye" vote on amendment No. 5, and I yield back the balance of my time.

The Acting CHAIR (Ms. NORTON). The question is on the amendment offered by the gentleman from Colorado (Mr. PERLMUTTER).

The amendment was agreed to.

AMENDMENT NO. 6 OFFERED BY MR. PRICE OF GEORGIA

The Acting CHAIR. It is now in order to consider amendment No. 6 printed in part C of House Report 111-506.

Mr. PRICE of Georgia. Madam Chair, I have an amendment at the desk made in order under the rule.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 offered by Mr. PRICE of Georgia:

Page 26, after line 7, insert the following new section:

**SEC. 14. SENSE OF CONGRESS.**

It is the sense of Congress that the Federal Deposit Insurance Corporation and other bank regulators are sending mixed messages to banks regarding regulatory capital requirements and lending standards, which is a contributing cause of decreased small business lending and increased regulatory uncertainty at community banks.

The Acting CHAIR. Pursuant to House Resolution 1436, the gentleman from Georgia (Mr. PRICE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Georgia.

Mr. PRICE of Georgia. Madam Chair, I want to thank the chairman of the committee and the ranking member for working with me on this amendment. And although, as they know, I am opposed to the underlying bill, this amendment is extremely important to highlight the serious problem of mixed messages that financial regulators are sending to our community banks. And I appreciate the support of the chairman on this amendment.

Banks in Georgia employ almost 50,000 people and hold \$276 billion in assets. Most of these banks are community institutions, which were mere bystanders to the financial and liquidity crisis of the last 2 years.

□ 1200

Late last week, the Treasury Department reported that TARP will cost less than they originally estimated. In fact, Treasury expects to spend less than the \$550 billion of the \$700 billion authorized. Regrettably, this figure does not factor in the bailouts for Fannie Mae, Freddie Mac, and AIG.

But even so, this is a revolving taxpayer bailout fund, meaning that there is \$550 billion that the administration and leadership could put towards small business lending. However, the administration chose not to do this and, instead, wants Congress to appropriate another \$33 billion of taxpayer money. That's right, another \$33 billion.

Certainly, small business lending is a priority for banks and businesses. However, this bill doesn't address the underlying causes of contraction in lending but invests much more in a failed regulatory agency.

Unfortunately, the mixed messages being sent by failed bank regulators will not be fixed. Instead of making the FDIC and the other regulators send a clear, consistent message to our Nation's banks, this Congress feels that throwing more money at the problem will fix it.

In February, bank regulators, both State and Federal, issued a joint statement providing guidance to banks and to credit unions, encouraging them to make loans to credit-worthy small business borrowers. The regulators described the guidance as intended to "emphasize that financial institutions engaging in prudent small business lending after performing a comprehensive review of a borrower's financial condition will not be subject to supervisory criticism for small business loans made on that basis."

However, reports from the field show a much different picture. I hear from bankers in my district and across our State that there is capital to lend. However, I also hear from those same banks that they're nervous and anxious about the unpredictable regulators' response and scrutiny of their regulatory capital ratios and loan requirements. For many banks, it's easier and better just to ride out the storm by hoarding

their cash than to justify every penny that they lend to the regulators, possibly risking their capitalized standing.

Banks cannot hold capital for regulatory compliance and comply with regulators' instructions to lend at the same time. They're mutually exclusive. My amendment states that these mixed messages sent by the regulators are a very serious problem and a cause of the contraction in small business lending and are destructive to communities.

In order to highlight this, I urge adoption of the amendment.

I reserve the balance of my time.

Ms. BEAN. I claim time in opposition, even though I'm not opposed.

The Acting CHAIR. Without objection, the gentlewoman from Illinois is recognized for 5 minutes.

There was no objection.

Ms. BEAN. I yield myself such time as I may consume.

I want to acknowledge Congressman PRICE's amendment and its recognition of the challenges facing not only community businesses seeking loans but the community bankers that are trying to provide them. His amendment recognizes mixed messages between legislators urging more lending while regulators and examiners are often urging less, particularly in the area of commercial real estate. That's why I have a bill that addresses both priorities by expanding the SBA 504 program to allow banks to lend to small businesses for owner-occupied properties, while easing the exposure on their bank's balance sheet with investments from the CDCs.

I also want to acknowledge that this amendment recognizes the credit crisis that's challenging our country and our small businesses particularly, which is the point of this underlying bill. And I hope my colleague will support the underlying bill as it addresses those credit challenges.

I yield back the balance of my time.

Mr. PRICE of Georgia. I thank the gentlelady for her support of the amendment and would just point out, once again, the mixed messages that are being received by our community banks.

I would also like to point out that the amount of money left available in TARP right now could easily cover the intent of this bill. However, this bill has in it an extra \$33 billion, \$33 billion, Madam Chair, that, frankly, we do not have as a Nation. We put it on backs of our kids and grandkids and borrow it from some other nation when we could be utilizing money that has already been appropriated for the same positive purpose.

I urge adoption of the amendment.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Georgia (Mr. PRICE).

The amendment was agreed to.

AMENDMENT NO. 7 OFFERED BY MR. AL GREEN OF TEXAS

The Acting CHAIR. It is now in order to consider amendment No. 7 printed in part C of House Report 111-506.

Mr. AL GREEN of Texas. Madam Chair, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 offered by Mr. AL GREEN of Texas:

Page 19, after line 4, insert the following new subsection:

(e) NOTIFICATION TO CUSTOMERS.—Any eligible institution receiving funds under the Program shall—

(1) disclose on every applicable loan transaction that the loan is being made possible by the Program; and

(2) if such institution has an established internet website, such institution shall make available on its internet website—

(A) the written reports made by the Secretary pursuant to paragraphs (1) and (2) of section 7; and

(B) a statement that the institution, as a participant in the Program, is seeking to make small business loans to qualified borrowers and may not discriminate on the basis of any factor prohibited under the Equal Credit Opportunity Act, including the race, color, religion, national origin, sex, marital status, or age.

The Acting CHAIR. Pursuant to House Resolution 1436, the gentleman from Texas (Mr. AL GREEN) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Texas.

Mr. AL GREEN of Texas. I yield myself 3 minutes at this time.

Madam Chair, this is an important amendment. This amendment will not be a perfect amendment with references to what it seeks to do, but it is a perfecting amendment. This amendment seeks to provide disclosure and enhance accountability, and I'd like to make it known that this amendment received a lot of help and input from the Office of Congressman HENSARLING, and I thank him for what he has done.

This amendment would provide that an institution engaged in the lending process with the funds from the program, that this institution will on applicable loan documents indicate that the funds being loaned are funds that are coming from the fund. This is important because the public desires to know where the money is going, how it is being utilized.

This amendment would also require, if the institution has a Web site, it will require that that Web site contain the written reports of the Treasury Secretary. These reports would indicate, to the extent that loans have been made, how the money has been utilized, and this, again, would provide additional transparency which will lead to accountability.

Finally, the amendment will require lending institutions to make known to the capable, competent, and qualified borrowers that they will have the opportunity to participate in the program by way of receiving loans and that these loans must be based upon the law as it is written and not allow any type of discrimination, invidious

discrimination to infiltrate the program.

I think this is an amendment that goes a long way toward helping us improve our transparency and accountability. It is not a perfect amendment, but it is a perfecting amendment.

I reserve the balance of my time.

Mr. NEUGEBAUER. Madam Chair, I claim time in opposition, although I don't think I'm going to oppose the amendment.

The Acting CHAIR. Without objection, the gentleman from Texas is recognized for 5 minutes.

There was no objection.

Mr. NEUGEBAUER. I just wanted to clarify something that the gentleman said.

I understand that the bank will disclose to the borrower that they are loaning them funds because they are participating under this program, and then the gentleman went on to say that the Treasury would then post a report on their Web site. Now, would that list the names of the borrowers? Will the Treasury report list on their Web site the names of each borrower that borrowed money under this program?

Mr. AL GREEN of Texas. If the gentleman would yield to me?

Mr. NEUGEBAUER. I yield.

Mr. AL GREEN of Texas. It will indicate what transactions took place, and it will indicate who the banks, the lending institutions, that engaged in the transaction. The borrower's name would not be a part of the information.

Mr. NEUGEBAUER. I thank the gentleman because I was concerned about the privacy of those business owners, you know, letting the world know how much money they're borrowing. So I'm not opposed to the gentleman's amendment. I think disclosure is a good thing.

I just want to make a point that there have been several discussions up here today that this is not going to cost the taxpayers any money, and only in Washington, D.C., can you go spend \$33 billion and say it's not going to cost anything. The problem is, if this program is participated up to \$33 billion, we don't have \$33 billion, and so we're going to go have to borrow \$33 billion from the Chinese to loan banks to loan to small businesses in this country.

And a lot of folks I think understand that kind of how we got here was that the whole world, small businesses, individuals, and governments, have been on this borrowing and spending binge, borrow and spend, borrow and spend, and quite honestly, that's how we wove this web where we've got our financial markets in somewhat of a wrinkle right now.

So, while I applaud the gentleman's amendment, I still go back to the fundamental point here that, one, this bill will not help small businesses have any additional capital, but more importantly, we are going to go spend \$33 billion that we don't have, and I don't think that's the right prescription for our country.

With that, I reserve the balance of my time.

Mr. AL GREEN of Texas. Let me simply say in response that the bill anticipates that loans will be repaid. It's not a circumstance where persons are going to receive or businesses will receive loans that are not going to be paid. And the bill causes banks or lending institutions to make the loans because they will receive a better interest rate upon making loans such that they are incentivized to make these loans.

So, while the bill will not cure all of the ails of society, all of the ills that we have, it certainly will go a long way towards stimulating small business lending, which is important to the economic recovery.

I believe in this bill. I believe that this amendment will help with transparency and accountability. And I also believe that it is time for us to do all that we can to help the small businesses in this country. I believe that this is something we can do, and I believe that it is the something that will make a difference.

I reserve the balance of my time.

Mr. NEUGEBAUER. I appreciate the gentleman.

I still go back to the point, and I think that's where we get kind of in a, we're living in Wally World here in Washington, D.C., where you still have to have \$33 billion. If you're going to go invest in the preferred shares of these banks, you've still got to find the \$33 billion. And the truth of the matter is for every dollar we're going to appropriate or allocate in this country this year, we're going to have to borrow 42 cents of it.

So I guess the question is, should we go out and hock another \$33 billion for a program that many people think that there's adequate capital and liquidity already in the banking industry? Some people have been quoted as saying, well, 42 percent of the small businesses have been turned down for loans in this country. Well, you know, I was in the loan business, and everybody that came in to my borrow money from me when I was a loan officer wasn't credit-worthy or it wasn't in their best interest to leverage their business further.

So I'm afraid that we're out here trying to encourage behavior that the marketplace may be already taking care of.

My good friend from Georgia did make a point that the regulatory folks are sending mixed messages. I think that's a bad policy. I think the regulators need to be more consistent with their policy, again bringing that certainty because what we've heard time and time again, whether it's from the business community or from the lending community, all of this uncertainty about what Congress is doing and the regulatory reforms that are going on, all of this is creating a huge amount of uncertainty. And so what happens when we have uncertainty in the marketplace, people just sit on the sidelines.

If you want to get businesses going again, if you want to get the economy going again, we've got to get the government out of the banking business. We've got to get the government out of all these huge regulations. We've got to bring economic certainty by not imposing more restrictions on companies on their health care; cap-and-trade affecting what they're potentially going to pay for energy in the future; uncertainty with our tax code, where we don't know what provisions are going to expire, what provisions aren't.

And you know, wouldn't it be nice for the American people to get to see a budget of how Congress is planning to spend their money, instead of going through a daily, monthly, weekly exercise of spending money without a budget? The American people don't do their business that way. They're a little bit concerned that the United States Congress just keeps on spending money but without a budget.

So, with that, I yield back the balance of my time.

Mr. AL GREEN of Texas. I yield myself such time as I may consume.

While I appreciate the gentleman from Texas' desire to make sure that budgets are balanced and to make sure that we have accountability and transparency, I do have to remind the gentleman that the desire and the need to balance the budget did not start this year, nor did it start last year. We should have had a balanced budget for the 8 years of the prior administration.

□ 1215

I think that you find this administration burdened with the problems that were created by the past administration. I believe that in an effort to correct these problems, we will have to take some necessary steps toward helping small business.

I hear my colleagues on the other side quite regularly contending that small businesses need help. This is help, and my trust and my hope and my belief is that the small business help will be supported by not only this side of the aisle, but by both sides of the aisle.

Madam Chair, I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Texas (Mr. AL GREEN).

The amendment was agreed to.

AMENDMENT NO. 8 OFFERED BY MR. DRIEHAUS

The Acting CHAIR. It is now in order to consider amendment No. 8 printed in part C of House Report 111-506.

Mr. DRIEHAUS. Madam Chair, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 offered by Mr. DRIEHAUS: Page 23, strike lines 7 through 9 and insert the following: "of the Program through the Office of Small Business Lending Fund Program Oversight established under subsection (b)".

Page 23, after line 9, insert the following new subsection:

(b) OFFICE OF SMALL BUSINESS LENDING FUND PROGRAM OVERSIGHT.—

(1) ESTABLISHMENT.—There is hereby established within the Office of the Inspector General of the Department of the Treasury a new office to be named the "Office of Small Business Lending Fund Program Oversight" to provide oversight of the Program.

(2) LEADERSHIP.—The Inspector General shall appoint a Special Deputy Inspector General for SBLF Program Oversight to lead the Office, with commensurate staff, who shall report directly to the Inspector General and who shall be responsible for the performance of all auditing and investigative activities relating to the Program.

(3) REPORTING.—

(A) IN GENERAL.—The Inspector General shall issue a report no less than two times a year to the Congress and the Secretary devoted to the oversight provided by the Office, including any recommendations for improvements to the Program.

(B) RECOMMENDATIONS.—With respect to any deficiencies identified in a report under subparagraph (A), the Secretary shall either—

(i) take actions to address such deficiencies; or

(ii) certify to the appropriate committees of Congress that no action is necessary or appropriate.

(4) COORDINATION.—The Inspector General, in maximizing the effectiveness of the Office, shall work with other Offices of Inspector General, as appropriate, to minimize duplication of effort and ensure comprehensive oversight of the Program.

(5) TERMINATION.—The Office shall terminate at the end of the 6-month period beginning on the date on which all capital investments are repaid under the Program or the date on which the Secretary determines that any remaining capital investments will not be repaid.

(6) DEFINITIONS.—For purposes of this subsection:

(A) OFFICE.—The term "Office" means the Office of Small Business Lending Fund Program Oversight established under paragraph (1).

(B) INSPECTOR GENERAL.—The term "Inspector General" means the Inspector General of the Department of the Treasury.

Page 23, line 10, strike "(b)" and insert "(c)".

The Acting CHAIR. Pursuant to House Resolution 1436, the gentleman from Ohio (Mr. DRIEHAUS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Ohio.

Mr. DRIEHAUS. Madam Chair, I yield myself such time as I may consume.

Madam Chair, we know that small businesses account for the majority of new jobs created in this country, and we know that making it easier for small businesses to borrow is essential to our continued economic recovery. This legislation will help small businesses access the credit they need to create the jobs that will move our economy forward, but we need to provide strong oversight to ensure that these loans are being put to use where they are most effective and put to use in a way that is responsible to the American taxpayer.

The amendment I have offered with my colleagues from Virginia and Kan-

sas will establish the Office of Small Business Lending Fund Oversight under the authority of the Treasury Inspector General. The Special Deputy Inspector General of the oversight office will be required to monitor the Small Business Loan Fund and to report to Congress at least twice a year with recommendations for improving the program.

This amendment is about good government. It places no additional burdens on banks or small businesses. Instead, it makes a good bill better by ensuring accountability and transparency to the American people.

We've seen what happens when government fails to provide adequate protections when special interests are put ahead of the public good. Now we're taking steps to make up for the years of lax oversight and neglected responsibility.

Make no mistake, this bill is about creating jobs. Small business owners tell me constantly that they could begin hiring again if only they had access to credit and capital. This legislation will encourage banks to lend to small businesses, and my amendment will help protect taxpayers in the process.

This bill will strengthen our economic recovery without adding a dime to the deficit. I encourage my colleagues to support this amendment as well as the underlying legislation.

Madam Chair, I reserve the balance of my time.

Mr. NEUGEBAUER. Madam Chair, I rise to claim time in opposition to the bill.

The Acting CHAIR. The gentleman from Texas is recognized for 5 minutes.

Mr. NEUGEBAUER. This new capital injection program is designed to operate exactly like the TARP program but without any of the taxpayer protection or oversight bodies. Now, this amendment is intended to substitute for putting the experience of the Inspector General for this type of program in charge of this new fund.

Republicans had an amendment that put the Special Inspector General for TARP, or SIGTARP, in charge of the oversight of this new fund, but the Rules Committee blocked it. Really, this creates a new regulator where we had an existing regulator in place for TARP-like programs, which this is, and we think that that was a better alternative. And now we want to put someone that doesn't have as much experience with this type of program in charge of oversight, and we just don't think that's in the best interest of the taxpayers.

Republicans, as I want to remind the chairman, offered a number of amendments that would have given the taxpayers much more protection even than this amendment would. Unfortunately, again—and I don't want to be redundant here, but the Rules Committee, which is controlled by the majority, only allowed one Republican amendment to be heard while we've

had 16 amendments from the majority. Again, we wondered why Republican amendments to provide better protection and better oversight were blocked by the majority when I think the American people think that any kind of amendment that would have provided them more opportunity, more protection, and more oversight would have been in their best interest.

We don't think that this amendment does the job that it needs to do, and therefore we're opposed to it.

Madam Chair, I reserve the balance of my time.

Mr. DRIEHAUS. Madam Chair, I would just comment on the gentleman's comments.

Yes, those amendments were offered, but as you know, not a dime of TARP money is being used in this bill, so it's not appropriate for SIGTARP to have the oversight. In fact, Mr. Thorson, who will have the oversight, has incredible experience overseeing small business programs. Before becoming the Inspector General of the Treasury Department, Mr. Thorson served as the Inspector General for the Small Business Administration from 2006 to 2008. In that short time, his office uncovered what is believed to be the largest government-backed loan fraud scheme in history, roughly \$75 million. As a result of that investigation, they arrested 15 people in one day. That's oversight.

And so while the gentleman is asking for SIGTARP to have oversight, despite the fact that not a dime of TARP is being spent on this bill, we have oversight that is adequate, that is strong, that is contained in Treasury, that should have the oversight within this bill.

Madam Chair, I yield 30 seconds to my colleague from Illinois (Ms. BEAN).

Ms. BEAN. I just want to applaud Congressmen DRIEHAUS, CONNOLLY, and MOORE's efforts to improve the oversight of the SBLF program. This amendment importantly expands oversight to ensure taxpayer dollars are protected. I urge my colleagues to adopt the amendment.

I would further rebut our colleague from Texas' inaccurate assertion that the program is not paid for. The gentleman knows full well that it is fully paid for and that, according to the CBO, the government will earn a profit.

Mr. NEUGEBAUER. I concede to the gentleman that none of this money is coming from the TARP program; it probably should have because it's a TARP program. I want to just remind the gentleman that Neil Barofsky, the Special Inspector General who oversees TARP, said, In terms of its basic design, its participants, its application process, from an oversight perspective the Small Business Lending Fund would essentially be an extension of TARP's capital purchase program.

From Elizabeth Warren, the SBLF's prospects are far from certain. The SBLF also raises the question whether, in light of the capital purchase pro-

gram's poor performance in improving credit access, any capital infusion for the program can essentially jump-start small business lending. So everybody but the Democrats understands that this is a TARP program.

Now, why did we want SIGTARP to have oversight? Because this is a TARP-like program. And just today it was released that SIGTARP helped bring a new lawsuit today for \$1.9 billion in fraud collection with the failure of Colonial Bank. Colonial Bank received \$553 million in TARP funds. To say that you're going to go out and put \$33 billion into the marketplace and not suffer any losses at a time when we have over 100 banks that have already missed one dividend payment—we've had one bank that has missed six dividend payments—and that several billion dollars have already been lost from some of these banks that were defaulted and were closed after the taxpayers had put money in there.

And I go back to you saying, well, it doesn't cost the taxpayers any money. I keep asking the majority, where is the \$33 billion for this program coming from?

I yield to the gentleman.

Mr. DRIEHAUS. Well, I appreciate your yielding because I would like to rebut your first point about the TARP.

Mr. NEUGEBAUER. No. I would like the gentleman to answer the question—

Mr. DRIEHAUS. There is not a dime of TARP money going into this bill. You are undermining the authority—or attempting to undermine the authority of the Inspector General of Treasury.

Mr. NEUGEBAUER. I will reclaim my time if the gentleman is not going to answer my question. The question to the gentleman was, Where is the \$33 billion coming from? If the gentleman wants to answer that question, I would love to yield him time. If he's not prepared to tell me where the \$33 billion is coming from, then I would not yield the gentleman time.

Mr. DRIEHAUS. As the gentleman knows, we disposed of that issue yesterday and we paid for it.

Mr. NEUGEBAUER. No. The pay-for was to cover any potential losses, supposedly. But where is the \$33 billion that you're going to invest in these banks coming from?

Mr. DRIEHAUS. With all due respect to the gentleman, I know that this doesn't fit into the political framework of the Republicans to suggest that this is not TARP, this is not another bailout, this is about helping small businesses.

Mr. NEUGEBAUER. I will reclaim my time because the gentleman obviously doesn't know where the \$33 billion is coming from, which is part of the problem up here. People just think this money appears when you start saying I'm going to put \$33 billion here or \$100 billion here, \$250 billion here; and nobody knows where the money is coming from. But the bottom line is we know where the money is coming from.

We're going out and borrowing that money because the Treasury doesn't have \$33 billion.

Mr. DRIEHAUS. Madam Chair, the political framework of the Republicans is that they want to call everything a bailout. And when it's not a bailout, they want to act like it is. They want to call this TARP even when it's not. So this doesn't fit into the definition that they want to use out there on Fox News and elsewhere, but the fact of the matter is it's coming out of Treasury. Treasury deserves the oversight.

Madam Chair, I yield 1½ minutes to the gentleman from Virginia (Mr. CONNOLLY).

Mr. CONNOLLY of Virginia. I thank my colleague from Ohio for his leadership and my friend from Illinois for her kind words.

The Small Business Lending Fund Act will expand opportunities for small businesses to access critically needed capital today. Our amendment ensures that the program works as intended, that America's small businesses receive access to that capital and that taxpayers' loans are repaid.

The lending facility encourages small business loans to credit-worthy companies, with the repaid funds and interest payments all going to reduce the deficit that our friends on the other side say they're concerned about.

Small businesses will lead private sector job growth if they can obtain the necessary capital. The Office of Small Business Lending Fund Program Oversight established by our amendment will provide accountability and enhance the effectiveness of the lending fund, helping to spur a more robust small business sector.

The current Treasury IG has a reputation for safeguarding taxpayer funds, as my friend from Ohio said. A review of the Office of Thrift Supervision uncovered six cases where it improperly allowed private thrifts to backdate capital deposits, allowing institutions like failed IndyMac to appear more solvent than they were. This amendment will correct that problem moving forward in the future. I urge its adoption.

The Acting CHAIR. The gentleman from Ohio has 15 seconds remaining.

Mr. DRIEHAUS. Madam Chair, I just want to remind the Members this amendment is about oversight; it's about doing our job to make government work properly. And while I realize it doesn't always fit into the political rhetoric of the other side, it is about good government. This isn't TARP; this isn't a bailout. This is about helping small businesses, moving the economy forward, and good government.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Ohio (Mr. DRIEHAUS).

The amendment was agreed to.

AMENDMENT NO. 11 OFFERED BY MR. MICHAUD

The Acting CHAIR. The Chair understands that amendment Nos. 9 and 10 will not be offered.



It is now in order to consider amendment No. 11 printed in part C of House Report 111-506.

Mr. MICHAUD. Madam Chair, I have an amendment at the desk made in order under the rule.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 11 offered by Mr. MICHAUD: Page 30, line 14, after "programs," insert the following: "State-run venture capital fund programs,".

Page 51, line 3, strike "extends credit support that" and insert "uses Federal funds allocated under this title to extend credit support that".

The Acting CHAIR. Pursuant to House Resolution 1436, the gentleman from Maine (Mr. MICHAUD) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Maine.

□ 1230

Mr. MICHAUD. I yield myself such time as I may consume.

Madam Chair, I rise today in support of my amendment to the Small Business Lending Fund Act.

The amendment I offer today does two things to improve the underlying bill's State Small Business Credit Initiative program.

First, it ensures that State-run venture capital programs are eligible to participate in the program. Second, it clarifies that State financing programs will be eligible for the program as long as their use of the new funds meets the business-sized requirements in the bill.

The programs created in the Small Business Lending Fund Act build on the proven potential of existing State lending programs. In Maine, these programs have been enormously effective at getting small businesses the access to capital and to the technical support they need.

My amendment ensures that States are able to maintain their existing initiatives while taking advantage of the new programs created in this bill.

I urge my colleagues to support this amendment and the underlying bill.

I reserve the balance of my time.

Mr. NEUGEBAUER. Madam Chair, we do not object to this amendment.

Mr. MICHAUD. Madam Chair, I would encourage my colleagues to adopt this amendment.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Maine (Mr. MICHAUD).

The amendment was agreed to.

AMENDMENT NO. 12 OFFERED BY MR. CAO

The Acting CHAIR. It is now in order to consider amendment No. 12 printed in part C of House Report 111-506.

Mr. CAO. As the designee of the gentleman from Texas, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 12 offered by Mr. CAO:

In section 6(6) of the bill, strike "and" at the end.

In section 6(7) of the bill, strike the period at the end and insert "and".

In section 6 of the bill, add at the end the following:

(8) providing funding to eligible institutions that serve small businesses directly affected by the discharge of oil arising from the explosion on and sinking of the mobile offshore drilling unit *Deepwater Horizon* and small businesses in communities that have suffered negative economic effects as a result of that discharge with particular consideration to States along the coast of the Gulf of Mexico.

The Acting CHAIR. Pursuant to House Resolution 1436, the gentleman from Louisiana (Mr. CAO) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Louisiana.

Mr. CAO. I yield myself such time as I may consume.

Madam Chair, I rise today in support of amendment No. 12 to H.R. 5297, the Small Business Lending Fund Act of 2010, and I urge my colleagues to support this amendment.

This amendment requires the Secretary of the Treasury to provide consideration, in the allocation of funds, to gulf region States in the areas where businesses and the economy have been adversely affected by the *Deepwater Horizon* oil spill.

I thank the gentlewoman from Texas for her partnership in drafting this amendment and for her consideration for gulf coast communities during our time of crisis.

I would also like to thank the gentleman from Alabama, the ranking member of the Financial Services Committee, for his ongoing assistance and support.

The district that I represent includes Louisiana's Orleans and Jefferson Parishes. In my district and all across the gulf coast, we were still recovering from the devastating storms of 2005 when we were hit with the latest disaster.

The oil spill in the Gulf of Mexico in April presents us with economic, environmental, and health challenges of unprecedented proportions. The shutters have gone down on businesses throughout the gulf region because they simply do not have the short-term or long-term resources to operate. Industries such as fishing and seafood processing, recreational fishing, restaurants, and tourism are all suffering disproportionately.

I have spoken with hundreds of fishermen and oystermen from my district who are no longer able to fish the waters they and their families have fished for generations. Many have spoken of desperation in not knowing how they will provide for their families. Tens of thousands of claims have been filed through BP, and the SBA has made disaster loans available to businesses adversely affected by the oil spill, and they will defer loan payments for 1 year.

These provide only temporary relief, however, and a long-term solution for economic assistance to the gulf region is what is needed now because the last thing we need is more unemployment. Without immediate economic assistance, the very businesses that in 2005 returned to the Orleans and Jefferson Parishes, committed to our recovery, will be forced to leave.

This amendment is a strong step in the right direction to providing desperately needed economic assistance, because it will see that small businesses along the gulf coast receive the credit necessary to keep our businesses alive. At the same time, it will spur new business which will be able to absorb any unavoidable and unfortunate job losses caused by the oil spill.

Again, I urge my colleagues to pass this amendment, and I yield back the balance of my time.

Ms. JACKSON LEE of Texas. I rise to claim time in opposition, but I will not oppose the amendment.

The Acting CHAIR. Without objection, the gentlewoman from Texas is recognized for 5 minutes.

There was no objection.

Ms. JACKSON LEE of Texas. Madam Chair, I am delighted to have Mr. CAO join me in my amendment that I offered in the Rules Committee, and I am delighted that he was able to rise to claim the time for this amendment. This is an amendment that I have written, and I have asked Mr. CAO to join me, as he had a similar amendment. I appreciate very much the support that he has given, and I recognize the concerns that he has expressed.

I want to support the underlying bill as well and to make note of the fact that small businesses are now facing the most difficult time in the worst recession in our history.

According to a February 2010 report of the Federal Deposit Insurance Corporation, total bank loans and leases declined for the sixth straight quarter, with total loans to commercial and industrial borrowers declining by 4.3 percent and real estate construction development loans declining by 8.4 percent.

What that means is that small businesses are taking the strongest hit. This bill will focus, in particular, on the question of providing a lending scheme, a lending structure, which is paid for to provide the start-up credit for our small businesses.

Well, here we find ourselves addressing an enormous crisis that has occurred in the gulf. During the Memorial Day recess, I did a flyover of the gulf and of the *Deepwater Horizon*, and I saw the magnitude and the growth of this disaster. Somewhere between millions—or at least a million gallons—but somewhere between 20,000 and 40,000 barrels per day are gushing into the gulf. We don't know where this is going to stop.

Many small businesses are impacted in the Gulf States. That would include Florida. That would include Texas.

That would include Alabama, Mississippi, and Louisiana. This amendment, for which I am delighted to be joined by Mr. CAO, will, in fact, cause lending institutions to focus resources on the small business community.

Even Linda Smith, who owns the Alligator Cafe in Houston, Texas, is shut down because she cannot get product. When I visited New Orleans, there were restaurants that seemed to close early because they couldn't get product. What about the oystermen and shrimpers and fishermen who can't seem to get a lump sum payment from BP for which we've advocated?

In speaking just a few minutes ago to an oysterman in Pointe a la Hache, he indicated he had not gotten his money. So, therefore, I am asking my colleagues to support this amendment.

I reserve the balance of my time.

Mr. CAO. Madam Chair, again, I just want to express my gratitude and appreciation to the gentlewoman from Texas. She has been a very strong voice and has been very committed to the gulf coast region and has been committed to helping the many people who are in desperate need. Again, I would like to convey to her my thanks.

I yield back the balance of my time.

Ms. JACKSON LEE of Texas. I thank the gentleman from Louisiana and New Orleans, especially for his leadership. I look forward to working with him as we go forward on legislation that addresses some of the concerns I have heard him express so as we may establish a real national energy policy.

I would ask my colleagues to support this amendment. As I have indicated, I have obtained the time in opposition, but I will not oppose the amendment that we have both offered on the floor of the House. I will argue vigorously that this is an excellent opportunity to protect small businesses which are yet noted, which are yet listed, which are going to be impacted across that gulf from tourism in Florida, Alabama, Mississippi, on to the shrimpers, fishermen, oystermen, and to the restaurants that are now in conditions where they are shutting down and where they are letting go of their employees. They are pleading for assistance.

This is a good amendment, and it is a good amendment to this legislation. It focuses on our small businesses, so I would ask my colleagues to support this amendment.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Louisiana (Mr. CAO).

The question was taken; and the Acting Chair announced that the ayes appeared to have it.

Ms. JACKSON LEE of Texas. Madam Chair, I demand a recorded vote.

The Acting CHAIR. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Louisiana will be postponed.

AMENDMENT NO. 13 OFFERED BY MS. LORETTA SANCHEZ OF CALIFORNIA

The Acting CHAIR. It is now in order to consider amendment No. 13 printed in part C of House Report 111-506.

Ms. LORETTA SANCHEZ of California. Madam Chairwoman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 13 offered by Ms. LORETTA SANCHEZ of California:

Page 62, after line 15, insert the following:

“(8) The extent to which the applicant will concentrate investment activities on small business concerns in targeted industries.

The Acting CHAIR. Pursuant to House Resolution 1436, the gentlewoman from California (Ms. LORETTA SANCHEZ) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from California.

Ms. LORETTA SANCHEZ of California. I yield myself such time as I may consume.

Madam Chairwoman, I rise today in support of H.R. 5297, the Small Business Lending Fund Act.

It is crucial in today's world that we further expand the potential of small businesses and of key industries that have proven to create jobs and to increase our manufacturing base here in the United States.

As a former investor and financial analyst, I was particularly impressed with title III of this bill, the Small Business Early Stage Investment program. In recent years, we have seen a shift from the entrepreneur and small business start-up community, from the traditional loans and from leverage such as mortgaging our own homes, to using intellectual capital and innovation as our leverage.

As a Californian, I understand the importance of start-up businesses and the economy as California makes up a large percentage of start-ups and venture capital funders. Creating a public-private partnership designed to channel investment capital to them is increasingly important in order to get our economy on track, which is why I submitted an amendment that would include additional criteria during the selection process of these investment companies.

My amendment would ensure that, as part of the selection criteria, the small business administrator would examine the extent the investment company would concentrate its investment capital on our targeted industries. Such targeted industries have been historical in job and economic growth, such as the information technologies, life sciences, defense technologies, clean technology, and digital media.

The small business start-ups are the backbone of our economy, and they will contribute to all of the sectors so that we can get our economy going again.

I urge my colleagues to support this amendment and the underlying legislation.

I reserve the balance of my time.

□ 1245

Ms. VELÁZQUEZ. Madam Chair, while I am not opposed to the amendment, I rise to claim the time in opposition.

The Acting CHAIR. Without objection, the gentlewoman from New York is recognized for 5 minutes.

There was no objection.

Ms. VELÁZQUEZ. America's small businesses have always pioneered new economic fields and sectors. Today, small businesses continue to be some of our most creative innovators. As our Nation shifts away from the fossil fuels and seeks clean sources of energy, entrepreneurs are leading the way. Today, small businesses represent 90 percent of those companies operating in the renewable and energy efficiency industries.

Small firms are also making important contributions in the realm of life sciences and biomedicine, uncovering groundbreaking therapies and medicines. Technologies used in our national defense have also been advanced by small businesses. Components of the Predator drone, for instance, were developed by small firms. And small businesses are helping develop new information technology and digital media services that better connect our world.

The United States must continue to lead in all these areas if our economy is to remain strong in the long term. This type of innovation creates good-paying, highly skilled jobs. However, before these businesses can develop the next game-changing defense technology, unearth the next medical breakthrough, or discover a new source of clean energy, they need capital. The amendment before us simply ensures that the Small Business Early-Stage Investment program is targeted to fields like these, where there will be the biggest payoff for economic growth and job creation.

Madam Chair, this is a good amendment. It will ensure the industries of tomorrow and future companies can secure financing to get off the ground. I urge my colleagues to vote “yes.”

I yield the balance of my time to the gentleman from Missouri (Mr. GRAVES).

Mr. GRAVES of Missouri. Thank you, Madam Chair.

Madam Chair, I rise in support of the amendment from the gentlewoman from California. If we're going to enact a program that's designed to target investment in certain industries, then selection of the applicants should be based on the likelihood that a venture capital company will make those amendments. As a result, I believe it provides a very important technical clarification to the bill, and I support it.

Ms. LORETTA SANCHEZ of California. Madam Chair, first, I would like to thank our great chairwoman of the Small Business Committee. I know that she's a little under the weather

today, so we really appreciate that she would come down and speak on our amendment.

As a Californian, I continue to go back every week to my district, and our small businesses are ailing. They're asking for help. They're holding on. A lot of them have not been able to make it through. Those who are still holding on are waiting for us to help them to do something.

About a month ago, I had Chairman Bernanke before us in the Joint Economic Committee. And we talked about the fact that we need—really—we need to help small business. Small business is really where the hiring of America happens. So if they're ailing, then there will be unemployment. So I really believe in this bill. I thank those who have worked on it. I urge a "yes" vote on the underlying bill and on this amendment.

I have no further requests for time, and I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentlewoman from California (Ms. LORETTA SANCHEZ).

The amendment was agreed to.

AMENDMENT NO. 14 OFFERED BY MR. CUELLAR

The Acting CHAIR. It is now in order to consider amendment No. 14 printed in part C of House Report 111-506.

Mr. CUELLAR. Madam Chair, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 14 offered by Mr. CUELLAR: Page 21, after line 18, insert the following new paragraph (and redesignate succeeding paragraphs accordingly):

(4) increasing the opportunity for small business development in areas with high unemployment rates that exceed the national average;

The Acting CHAIR. Pursuant to House Resolution 1436, the gentleman from Texas (Mr. CUELLAR) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Texas.

Mr. CUELLAR. Madam Chair, I yield myself such time as I may consume.

I rise today in support of my amendment to H.R. 5297, the Small Business Lending Act of 2010. The concept of this bill is simple: Create a lending fund to help small businesses get important capital. This bill will help stabilize our economy and create jobs. And certainly I want to thank the chairwoman from New York and the gentlewoman from Illinois also for the work that they all have been working on.

My particular commonsense amendment is straightforward. My amendment requires that the Secretary take into consideration those areas with high unemployment rates that exceed the national average. This consideration will increase opportunities for small business development in places

where it's needed the most. The national unemployment rate is about 9.7, as of last month. There are certain communities suffering at rates severely above the State and national average for unemployment.

Like many counties across the Nation, counties in my congressional district are particularly higher than the national rate. One of my counties, Starr County in south Texas, has a high of 17.3 unemployment rate. Hidalgo County is another one, at an 11.1 unemployment rate. Again, this is not a partisan matter. Areas throughout the country have unemployment rates that exceed the national average.

This is a matter of importance to every worker and family and businessperson. And that's why this bill is good for the backbone of American small businesses, in many ways, the Nation's economic engine. I urge all of my colleagues to support this bill.

At this time I will yield 1½ minutes to the gentleman from North Carolina (Mr. ETHERIDGE).

Mr. ETHERIDGE. Madam Chair, I thank Mr. CUELLAR for offering this amendment to make sure that creating jobs where they are needed most is the focus of this piece of legislation.

As a former small businessman myself, I call on the House to pass this important piece of legislation. Small businesses form the backbone of our economy and create jobs that we need to continue our recovery. But far too many are having difficulty getting the credit they need to grow and expand.

Today we have the opportunity to do more than just praise small businesses and lament the credit crunch. We have a bill that frees up \$30 billion directly for small businesses across our communities that are responsible for job growth in our country. Business leaders in Smithfield, community bankers in Dunn, and folks across my district in North Carolina have said that what they need most is to expand credit, and have shared their support of this initiative with me.

Today, we have an opportunity to provide real help for our Main Street businesses. Let us avoid partisan bickering, end the delay, and pass this piece of legislation now.

Mr. NEUGEBAUER. Madam Chair, I rise to claim time in opposition, although I am not opposed to the bill.

The Acting CHAIR. Without objection, the gentleman from Texas is recognized for 5 minutes.

There was no objection.

Mr. NEUGEBAUER. I thank my friend from Texas.

I think this is a commonsense amendment. I think if you're going to do this program—certainly, I don't support the underlying program, but if we are going to do it, we are going to put this capital into some of these banks for lending, it certainly ought to be in areas where they have the highest unemployment. That makes sense.

I still think we can do better for small businesses by providing an envi-

ronment where there's less uncertainty; more certainty on what the tax situation is going to be, and less uncertainty about what the regulatory environment is going to be. But I think the gentleman's amendment makes the underlying bill better. So we would not object to it.

I yield back the balance of my time.

Mr. CUELLAR. Madam Chair, I thank my colleague from Texas, and thank him for the kind words. And I appreciate it. I thank him for the work that he's been doing.

At this time, Madam Chair, I'd certainly just want to ask my colleagues to support this. I'm also a former small businessperson, and I understand how hard capital can be to get to the small businesses. So I would ask Members to support my amendment.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Texas (Mr. CUELLAR).

The amendment was agreed to.

AMENDMENT NO. 15 OFFERED BY MR. BRALEY OF IOWA

The Acting CHAIR. It is now in order to consider amendment No. 15 printed in part C of House Report 111-506.

Mr. BRALEY of Iowa. Madam Chair, I have an amendment at the desk made in order under the rule.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 15 offered by Mr. BRALEY of Iowa:

Add at the end the following new title:

#### TITLE IV—PLAIN WRITING ACT

##### SECTION 401. SHORT TITLE.

This title may be cited as the "Plain Writing Act of 2010".

##### SEC. 402. PURPOSE.

The purpose of this title is to improve the effectiveness and accountability of Federal agencies to the public by promoting clear Government communication that the public can understand and use.

##### SEC. 403. DEFINITIONS.

In this title:

(1) AGENCY.—The term "agency" means the Department of the Treasury and the Small Business Administration.

(2) COVERED DOCUMENT.—The term "covered document"—

(A) means any document that—

(i) is relevant to obtaining any Federal Government benefit or service provided under title I, II, or III;

(ii) provides information about any Federal Government benefit or service provided under title I, II, or III; or

(iii) explains to the public how to comply with a requirement the Federal Government administers or enforces under title I, II, or III;

(B) includes (whether in paper or electronic form) a letter, publication, form, notice, or instruction; and

(C) does not include a regulation.

(3) PLAIN WRITING.—The term "plain writing" means writing that the intended audience can readily understand and use because that writing is clear, concise, well-organized, and follows other best practices of plain writing.

##### SEC. 404. RESPONSIBILITIES OF FEDERAL AGENCIES.

(a) PREPARATION FOR IMPLEMENTATION OF PLAIN WRITING REQUIREMENTS.—

(1) IN GENERAL.—Not later than 9 months after the date of enactment of this title, the head of each agency shall—

(A) designate 1 or more senior officials within the agency to oversee the agency implementation of this title;

(B) communicate the requirements of this title to the employees of the agency;

(C) train employees of the agency in plain writing;

(D) establish a process for overseeing the ongoing compliance of the agency with the requirements of this title;

(E) create and maintain a plain writing section of the agency's website that is accessible from the homepage of the agency's website; and

(F) designate 1 or more agency points-of-contact to receive and respond to public input on—

(i) agency implementation of this title; and

(ii) the agency reports required under section 405.

(2) WEBSITE.—The plain writing section described under paragraph (1)(E) shall—

(A) inform the public of agency compliance with the requirements of this title; and

(B) provide a mechanism for the agency to receive and respond to public input on—

(i) agency implementation of this title; and

(ii) the agency reports required under section 405.

(b) REQUIREMENT TO USE PLAIN WRITING IN NEW DOCUMENTS.—Beginning not later than 1 year after the date of enactment of this title, each agency shall use plain writing in every covered document of the agency that the agency issues or substantially revises.

(c) GUIDANCE.—In carrying out the provisions of this title, agencies may follow the guidance of—

(1) the writing guidelines developed by the Plain Language Action and Information Network; or

(2) guidance provided by the head of the agency.

#### SEC. 405. REPORTS TO CONGRESS.

(a) INITIAL REPORT.—Not later than 9 months after the date of enactment of this title, the head of each agency shall publish on the plain writing section of the agency's website a report that describes the agency plan for compliance with the requirements of this title.

(b) ANNUAL COMPLIANCE REPORT.—Not later than 18 months after the date of enactment of this title, and annually thereafter, the head of each agency shall publish on the plain writing section of the agency's website a report on agency compliance with the requirements of this title.

The Acting CHAIR. Pursuant to House Resolution 1436, the gentleman from Iowa (Mr. BRALEY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Iowa.

Mr. BRALEY of Iowa. Madam Chair, I yield myself such time as I may consume.

My amendment to H.R. 5297 is a commonsense bill that is consistent with what we've already passed in the 111th Congress by a vote of 386-33 on March 17. It was my Plain Language in Government Communications Act.

Madam Chairwoman, when I go back and I talk to small business owners in my district, one of their biggest complaints is a Federal bureaucracy with too much red tape, written in language they can't understand, which forces them to go hire lawyers and account-

ants so that they can understand the requirements that we impose upon them.

My amendment would require plain language to be used for documents that go to the public related to this lending fund. It will improve the effectiveness and accountability of the Department of the Treasury and the Small Business Administration by promoting clear government communication that the public can understand and use.

Plain language is writing that the intended audience can clearly understand because it is concise, well-organized, and follows other practices of plain writing. The Department of the Treasury and Small Business Administration will be required to implement plain writing requirements by designating a senior official to oversee the implementation of the provision; communicate the requirements to employees; train employees in plain writing; establish a process to oversee compliance; create a plain language requirement on their agency's Web site; and designate one or more agency points of contact to receive and respond to public feedback.

Writing government documents in plain language will increase government accountability and save taxpayers, community banks, and small business owners time and money. Plain, straightforward language makes it easier to understand these loan documents. And my amendment will make it easier for small businesses and community banks to work with and understand the government. That is why it is so important that we move forward to implement plain writing requirements across the board, but particularly in these two agencies, as it relates to the loan programs that are under consideration.

I reserve the balance of my time.

Mr. NEUGEBAUER. Madam Chair, I claim opposition to the amendment, but I am not opposed to it.

The Acting CHAIR. Without objection, the gentleman is recognized for 5 minutes.

There was no objection.

Mr. NEUGEBAUER. Well, I thank the gentleman for this commonsense amendment. It's unfortunate that we have to bring an amendment to the floor of the House of Representatives to tell government agencies to write out the instructions in plain English. But I appreciate the gentleman's amendment. I think it makes the bill better.

I yield back the balance of my time.

Mr. BRALEY of Iowa. Madam Chair, I would yield 1 minute to the gentleman from Illinois (Ms. BEAN).

Ms. BEAN. Madam Chairwoman, I just want to acknowledge Congressman BRALEY's efforts recognizing the challenges Americans have reading many government documents, particularly lending disclosures, which are very difficult to understand. This amendment is a commonsense approach to making the program more accessible. And I

commend his leadership to expand plain language to all government documents.

Mr. BRALEY of Iowa. Madam Chairwoman, I think that the comments that you've heard are indicative of what's wrong with the way the government agencies write their documents. I think it is deplorable that we have to take this action.

But the sad truth is, anybody who's looked at these loan documents knows how serious this problem is. I think this is a small step in the right direction. I call this "the little engine that could." I think if we implement this across the board in federal agencies, American taxpayers and consumers of Federal information will be much better off. And I urge my colleagues to vote in support of the amendment.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Iowa (Mr. BRALEY).

The amendment was agreed to.

AMENDMENT NO. 16 OFFERED BY MR. LOEBSACK

The Acting CHAIR. It is now in order to consider amendment No. 16 printed in part C of House Report 111-506.

Mr. LOEBSACK. Madam Chair, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 16 offered by Mr. LOEBSACK:

Add at the end the following new title:

#### TITLE IV—SENSE OF CONGRESS ON AGRICULTURE AND FARMING SMALL BUSINESS LOANS

##### SEC. 401. SENSE OF CONGRESS.

It is the sense of the Congress that—

(1) agriculture operations, farms, and rural communities should receive equal consideration through lending activities for small businesses in this Act, particularly small- and mid-size farms and agriculture operations; and

(2) attention should be given to ensuring there is adequate small business credit and financing availability under this Act in the agriculture and farming sectors.

The Acting CHAIR. Pursuant to House Resolution 1436, the gentleman from Iowa (Mr. LOEBSACK) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Iowa.

Mr. LOEBSACK. Madam Chair, I yield myself such time as I may consume.

My amendment is simple. It states that farmers and rural communities should receive equal consideration through lending activities for small businesses, particularly our Nation's small- and mid-sized farms and agriculture operations, which make up the majority of our agriculture community.

It also states that we should give attention to ensuring that there is adequate credit and financing available in the agriculture and farming sectors.

While the amendment itself is simple, the issue is not. Throughout this

economic downturn, our rural communities and farmers have been struggling, just as our major metro areas have been. Many areas in my district in Iowa have unemployment rates above the national average. I have also seen examples of agriculture operations having a difficult time finding financing, and I have worked to try to assist such operations.

□ 1300

Unfortunately, our farmers and rural communities are often not discussed in the broader debate on how to encourage economic recovery. The persistence of rural poverty and hunger and the lack of rural development often go underreported as well. On a positive note, I was pleased to recently hold a series of rural development roundtables in my district with the under Secretary for Rural Development, Dallas Tonsager. I hope we can continue to build momentum nationally and ensure our farmers in rural communities can contribute to continued economic recovery.

Agriculture and our Nation's farmers are consistently strong contributors to the economy and are certainly vital for the survival of our rural communities and vice versa. Many of our rural areas were struggling even before the downturn, and we continue to see a decline in the number of farmers and rural businesses. Often the loss of one rural business can have a domino effect throughout the community and surrounding areas. I think we need to be vigilant in bringing rural and farming issues to the forefront of the debates we have on economic development and, additionally, look at policies to promote access to and the development of new food market and supply chain improvements and related rural businesses.

I hope my colleagues will agree on the need to bring attention to expanding the opportunities for agriculture and farming to contribute to the national and local economic recovery.

I reserve the balance of my time.

Mr. NEUGEBAUER. I rise to claim the time in opposition, although I am not opposed to the amendment.

The Acting CHAIR. Without objection, the gentleman from Texas is recognized for 5 minutes.

There was no objection.

Mr. NEUGEBAUER. As the provisions in the bill say, loans to farmers in rural areas count as small business lending under the provisions of this bill. But just like the sponsor of the bill, I represent an agricultural district and understand how important access to credit is for farmers. I think this sense of Congress emphasizes that farming and ranching and agriculture is an integral part of our economy. It is an integral part of our small business community, and I think it highlights that. So I appreciate the gentleman from Iowa bringing that forward. I support the amendment.

I yield back the balance of my time.

Mr. LOEBSACK. Madam Speaker, I want to thank my colleagues for their consideration of this amendment, and I want to urge its passage, and I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Iowa (Mr. LOEBSACK).

The amendment was agreed to.

AMENDMENT NO. 17 OFFERED BY MR. AL GREEN OF TEXAS

The Acting CHAIR. It is now in order to consider amendment No. 17 printed in part C of House Report 111-506.

Mr. AL GREEN of Texas. Madam Chair, as the designee of the gentleman from California, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 17 offered by Mr. AL GREEN of Texas:

Page 11, line 2, before the period insert the following: “, as well as a plan to provide linguistically and culturally appropriate outreach, where appropriate”.

Page 18, line 8, after “provide” insert the following: “linguistically and culturally appropriate”.

Page 18, line 9, strike “appropriate language of the”.

Page 21, line 13, after “funding to” insert the following: “minority-owned eligible institutions and other”.

Page 26, line 2, insert after the period the following: “To the extent possible, the Secretary shall disaggregate the results of such study by ethnic group and gender.”.

The Acting CHAIR. Pursuant to House Resolution 1436, the gentleman from Texas and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Texas.

Mr. AL GREEN of Texas. Madam Chair, this amendment is one that will add additional language to the requirement that there be minority outreach in this program. It's important for me to state that I have a district that I represent that is currently about 36 percent African American, 31 percent Latino, 21 percent Anglo, and 12 percent Asian. It's important to note that in my district the ballot is printed in three languages. It's printed in English, Spanish and Vietnamese.

This amendment furthers the notion that persons who speak languages other than English will have an opportunity to have materials that are linguistically and culturally sensitive. This amendment would require that appropriate materials, when published, be in languages that are culturally and linguistically sensitive. It also requires that advertising receive the same sort of consideration, given that we are trying to reach markets wherein we do have persons who can better understand what is being conveyed if they have the opportunity to do so in a language that they are comfortable with.

By the way, I would add that many people who speak English have difficulty with financial documents, as was indicated by a previous amend-

ment. Imagine, if you will, speaking English, but it is not a language that you are as comfortable with as perhaps another language. This would assist persons with the understanding that they should have, so as to participate in the program.

The amendment also would have data disaggregated. We find that the information that we collect too often does not disaggregate as it relates to the Asian American community, and we would have this information disaggregated so that we might ascertain whether or not we have persons who are not only of wealth in the community but also find out about persons who may not be as wealthy as many others.

With this said, I will reserve the balance of my time.

Mr. NEUGEBAUER. I rise to claim the time in opposition, although I am not opposed to the bill.

The Acting CHAIR. Without objection, the gentleman from Texas is recognized for 5 minutes.

There was no objection.

Mr. NEUGEBAUER. I thank the gentleman for that. Basically, the amendment would require an applicant for the Small Business Lending Fund to plan for logistically and culturally appropriate outreach and require that such outreach is performed after receiving the funds. I think that could be appropriate there. And as I understand it, the requirements of this fall to the eligible institutions; and there's no additional money appropriated for that; but they would do that out of their own operating expenses. Is that correct?

Mr. AL GREEN of Texas. If the gentleman yields, I would add that your assumption is correct.

Mr. NEUGEBAUER. Thank you. I appreciate it.

I yield back the balance of my time.

Mr. AL GREEN of Texas. Madam Chair, at this time I yield as much time as she may consume to the gentleman from California (Ms. CHU).

Ms. CHU. Madam Chair, the Small Business Lending Fund Act is critical to helping small businesses across the country and is, therefore, critical to helping people because small businesses create more jobs than anyone else. Small businesses sustain their communities.

Our amendment ensures that we don't leave minority business owners behind. Minority businesses need every opportunity to grow, create jobs, and contribute to their community. But there are barriers. Our amendment makes sure that bank lending plans, outreach, and advertising are culturally and linguistically appropriate for diverse sets of businesses. This provision is essential for the Asian American and Pacific Islander communities because government programs can miss important details when they don't account for cultural and linguistic differences.

Take the Census Bureau, for instance, which provides so many funds

for our communities. Earlier this year, they mistranslated parts of the Vietnamese census forms. The forms used a phrase connected to the previous governmental regime which meant “government investigation” in place of the word “census.” Clearly this was no minor gaffe. The language in this amendment ensures that future outreach doesn’t repeat these mistakes, that is, excluding deserving businesses from great opportunities.

But it’s not just minority businesses that need access to this program. Minority-owned banks also deserve the right to compete. That’s why our amendment makes sure such institutions receive consideration during the program’s implementation. Minority-owned banks play a vital role in the Asian Pacific Islander and minority business development endeavor; and together they enhance the country’s economic recovery and long-term growth. Minority firms currently provide nearly 5 million steady jobs but could potentially create over 11 million more. Our amendment helps them do so.

I ask my colleagues to support this amendment because it eliminates obstacles in the way of our Nation’s minority businesses and facilitates their growth during these very tough economic times.

Mr. AL GREEN of Texas. I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from Texas (Mr. AL GREEN).

The amendment was agreed to.

Ms. BEAN. Madam Chair, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Ms. CHU) having assumed the chair, Ms. NORTON, Acting Chair 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. 5297) to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, and for other purposes, had come to no resolution thereon.

#### ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote incurs objection under clause 6 of rule XX.

Record votes on postponed questions will be taken later.

#### COLLINSVILLE RENEWABLE ENERGY PROMOTION ACT

Mr. MURPHY of Connecticut. Madam Speaker, I move to suspend the rules

and pass the bill (H.R. 4451) to reinstate and transfer certain hydroelectric licenses and extend the deadline for commencement of construction of certain hydroelectric projects, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 4451

*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 “Collinsville Renewable Energy Promotion Act”.*

#### SEC. 2. REINSTATEMENT OF EXPIRED LICENSES AND EXTENSION OF TIME TO COMMENCE CONSTRUCTION OF PROJECTS.

*Subject to section 4 of this Act and notwithstanding the time period under section 13 of the Federal Power Act (16 U.S.C. 806) that would otherwise apply to Federal Energy Regulatory Commission projects numbered 10822 and 10823, the Federal Energy Regulatory Commission (referred to in this Act as the “Commission”) may—*

*(1) reinstate the license for either or each of those projects; and*

*(2) extend for 2 years after the date on which either or each project is reinstated under paragraph (1) the time period during which the licensee is required to commence the construction of such projects.*

*Prior to reaching any final decision under this section, the Commission shall provide an opportunity for submission of comments by interested persons, municipalities, and States and shall consider any such comment that is timely submitted.*

#### SEC. 3. TRANSFER OF LICENSES TO THE TOWN OF CANTON, CONNECTICUT.

*Notwithstanding section 8 of the Federal Power Act (16 U.S.C. 801) or any other provision thereof, if the Commission reinstates the license for, and extends the time period during which the licensee is required to commence the construction of, a Federal Energy Regulatory Commission project under section 2, the Commission shall transfer such license to the town of Canton, Connecticut.*

#### SEC. 4. ENVIRONMENTAL ASSESSMENT.

*(a) DEFINITION.—For purposes of this section, the term “environmental assessment” shall have the same meaning as is given such term in regulations prescribed by the Council on Environmental Quality that implement the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).*

*(b) ENVIRONMENTAL ASSESSMENT.—Not later than 180 days after the date of enactment of this Act, the Commission shall complete an environmental assessment for Federal Energy Regulatory Commission projects numbered 10822 and 10823, updating, to the extent necessary, the environmental analysis performed during the process of licensing such projects.*

*(c) COMMENT PERIOD.—Upon issuance of the environmental assessment required under subsection (b), the Commission shall—*

*(1) initiate a 30-day public comment period; and*

*(2) before taking any action under section 2 or 3—*

*(A) consider any comments received during such 30-day period; and*

*(B) incorporate in the license for the projects involved, such terms and conditions as the Commission determines to be necessary, based on the environmental assessment performed and comments received under this section.*

#### SEC. 5. DEADLINE.

*Not later than 270 days after the date of enactment of this Act, the Commission shall—*

*(1) make a final decision pursuant to paragraph (1) of section 2; and*

*(2) if the Commission decides to reinstate 1 or both of the licenses under such paragraph and extend the corresponding deadline for commencement of construction under paragraph (2) of such section, complete the action required under section 3.*

#### SEC. 6. PROTECTION OF EXISTING RIGHTS.

*Nothing in this Act shall affect any valid license issued by the Commission under section 4 of the Federal Power Act (16 U.S.C. 797) on or before the date of enactment of this Act or diminish or extinguish any existing rights under any such license.*

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Connecticut (Mr. MURPHY) and the gentleman from Nebraska (Mr. TERRY) each will control 20 minutes.

The Chair recognizes the gentleman from Connecticut.

#### GENERAL LEAVE

Mr. MURPHY of Connecticut. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material in the RECORD.

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

There was no objection.

Mr. MURPHY of Connecticut. Madam Speaker, I yield myself such time as I may consume.

The legislation before the House today is pretty simple. It will permit several communities in my district, the Fifth Congressional District of Connecticut, to operate two now-defunct hydroelectric dams as municipal power sources. The dams, the Upper and Lower Collinsville dams, have lain dormant in Connecticut’s Farmington River since the 1960s. The licenses previously issued by FERC to operate both these dams are currently inactive, and this legislation would allow FERC to reinstate them and transfer them to the town of Canton, Connecticut, for operation. The State legislature has already passed legislation to operate these two State-owned dams, but Federal legislation is also needed to restore their operation.

These small dams are already a beloved and longstanding symbol of the Farmington Valley’s rich history. They used to power a very well-known and thriving axe factory on the site. This legislation would allow for additional comments and for environmental data to be considered by FERC prior to taking any action, ensuring that the river’s health and the region’s health is well protected.

This legislation has been drafted over the course of many months with the close cooperation of FERC, who’s unopposed to the legislation, and we put together a bipartisan coalition of stakeholders, including all of the affected communities, the Governor of the State of Connecticut, and regional and national river protection organizations. Simply put, there is broad and deep consensus and agreement that these dams represent a valuable source of renewable energy right in the heart of suburban Connecticut.