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SMALL BUSINESS JOBS ACT OF 2010

Ms. BEAN. Madam Speaker, pursuant to House Resolution 1640 and as the designee of the chairman of the Committee on Financial Services, I call up 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, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes, with the Senate amendment thereto, and I have a motion at the desk.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The Clerk will designate the Senate amendment.

The text of the Senate amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Small Business Jobs Act of 2010”.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

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TITLE I—SMALL BUSINESSES

SEC. 1001. DEFINITIONS.

In this title—

- (1) the terms “Administration” and “Administrator” mean the Small Business Administration and the Administrator thereof, respectively; and
- (2) the term “small business concern” has the meaning given that term under section 3 of the Small Business Act (15 U.S.C. 632).

Subtitle A—Small Business Access to Credit

SEC. 1101. SHORT TITLE.

This subtitle may be cited as the “Small Business Job Creation and Access to Capital Act of 2010”.

PART I—NEXT STEPS FOR MAIN STREET CREDIT AVAILABILITY

SEC. 1111. SECTION 7(a) BUSINESS LOANS.

(a) AMENDMENT.—Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended—

- (1) in paragraph (2)(A)—
- (A) in clause (i), by striking “75 percent” and inserting “90 percent”; and
- (B) in clause (ii), by striking “85 percent” and inserting “90 percent”; and
- (2) in paragraph (3)(A), by striking “\$1,500,000 (or if the gross loan amount would exceed \$2,000,000) and inserting “\$4,500,000 (or if the gross loan amount would exceed \$5,000,000”.
- (b) PROSPECTIVE REPEAL.—Effective January 1, 2011, section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended—
- (1) in paragraph (2)(A)—
- (A) in clause (i), by striking “90 percent” and inserting “75 percent”; and
- (B) in clause (ii), by striking “90 percent” and inserting “85 percent”; and
- (2) in paragraph (3)(A), by striking “\$4,500,000” and inserting “\$3,750,000”.

SEC. 1112. MAXIMUM LOAN AMOUNTS UNDER 504 PROGRAM.

Section 502(2)(A) of the Small Business Investment Act of 1958 (15 U.S.C. 696(2)(A)) is amended—

- (1) in clause (i), by striking “\$1,500,000” and inserting “\$5,000,000”; and
- (2) in clause (ii), by striking “\$2,000,000” and inserting “\$5,000,000”; and
- (3) in clause (iii), by striking “\$4,000,000” and inserting “\$5,500,000”; and
- (4) in clause (iv), by striking “\$4,000,000” and inserting “\$5,500,000”; and
- (5) in clause (v), by striking “\$4,000,000” and inserting “\$5,500,000”.

SEC. 1113. MAXIMUM LOAN LIMITS UNDER MICROLOAN PROGRAM.

Section 7(m) of the Small Business Act (15 U.S.C. 636(m)) is amended—

- (1) in paragraph (1)(B)(iii), by striking “\$35,000” and inserting “\$50,000”; and
- (2) in paragraph (3)—
- (A) in subparagraph (C), by striking “\$3,500,000” and inserting “\$5,000,000”; and
- (B) in subparagraph (E), by striking “\$35,000” each place that term appears and inserting “\$50,000”; and
- (3) in paragraph (11)(B), by striking “\$35,000” and inserting “\$50,000”.

SEC. 1114. LOAN GUARANTEE ENHANCEMENT EXTENSIONS.

(a) FEES.—Section 501 of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 151) is amended by striking “September 30, 2010” each place that term appears and inserting “December 31, 2010”.

(b) LOAN GUARANTEES.—Section 502(f) of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 153) is amended by striking “May 31, 2010” and inserting “December 31, 2010”.

SEC. 1115. NEW MARKETS VENTURE CAPITAL COMPANY INVESTMENT LIMITATIONS.

Section 355 of the Small Business Investment Act of 1958 (15 U.S.C. 689d) is amended by adding at the end the following:

“(e) INVESTMENT LIMITATIONS.—

“(1) DEFINITION.—In this subsection, the term ‘covered New Markets Venture Capital company’ means a New Markets Venture Capital company—

“(A) granted final approval by the Administrator under section 354(e) on or after March 1, 2002; and

“(B) that has obtained a financing from the Administrator.

“(2) LIMITATION.—Except to the extent approved by the Administrator, a covered New Markets Venture Capital company may not acquire or issue commitments for securities under this title for any single enterprise in an aggregate amount equal to more than 10 percent of the sum of—

“(A) the regulatory capital of the covered New Markets Venture Capital company; and

“(B) the total amount of leverage projected in the participation agreement of the covered New Markets Venture Capital.”.

SEC. 1116. ALTERNATIVE SIZE STANDARDS.

Section 3(a) of the Small Business Act (15 U.S.C. 632(a)) is amended by adding at the end the following:

“(5) ALTERNATIVE SIZE STANDARD.—

“(A) IN GENERAL.—The Administrator shall establish an alternative size standard for applicants for business loans under section 7(a) and applicants for development company loans under title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.), that uses maximum tangible net worth and average net income as an alternative to the use of industry standards.

“(B) INTERIM RULE.—Until the date on which the alternative size standard established under subparagraph (A) is in effect, an applicant for a business loan under section 7(a) or an applicant for a development company loan under title V of the Small Business Investment Act of 1958 may be eligible for such a loan if—

“(i) the maximum tangible net worth of the applicant is not more than \$15,000,000; and

“(ii) the average net income after Federal income taxes (excluding any carry-over losses) of the applicant for the 2 full fiscal years before the date of the application is not more than \$5,000,000.”.

SEC. 1117. SALE OF 7(a) LOANS IN SECONDARY MARKET.

Section 5(g) of the Small Business Act (15 U.S.C. 634(g)) is amended by adding at the end the following:

“(6) If the amount of the guaranteed portion of any loan under section 7(a) is more than \$500,000, the Administrator shall, upon request of a pool assembler, divide the loan guarantee into increments of \$500,000 and 1 increment of any remaining amount less than \$500,000, in order to permit the maximum amount of any loan in a pool to be not more than \$500,000. Only 1 increment of any loan guarantee divided under this paragraph may be included in the same pool. Increments of loan guarantees to different borrowers that are divided under this paragraph may be included in the same pool.”.

SEC. 1118. ONLINE LENDING PLATFORM.

It is the sense of Congress that the Administrator of the Small Business Administration should establish a website that—

(1) lists each lender that makes loans guaranteed by the Small Business Administration and provides information about the loan rates of each such lender; and

(2) allows prospective borrowers to compare rates on loans guaranteed by the Small Business Administration.

SEC. 1119. SBA SECONDARY MARKET GUARANTEE AUTHORITY.

Section 503(f) of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 155) is amended by striking “on the date 2 years after the date of enactment of this section” and inserting “2 years after the date of the first sale of a pool of first lien position 504 loans guaranteed under this section to a third-party investor”.

PART II—SMALL BUSINESS ACCESS TO CAPITAL

SEC. 1122. LOW-INTEREST REFINANCING UNDER THE LOCAL DEVELOPMENT BUSINESS LOAN PROGRAM.

(a) REFINANCING.—Section 502(7) of the Small Business Investment Act of 1958 (15 U.S.C. 696(7)) is amended by adding at the end the following:

“(C) REFINANCING NOT INVOLVING EXPANSIONS.—

“(i) DEFINITIONS.—In this subparagraph—

“(I) the term ‘borrower’ means a small business concern that submits an application to a development company for financing under this subparagraph; and

“(II) the term ‘eligible fixed asset’ means tangible property relating to which the Administrator may provide financing under this section; and

“(III) the term ‘qualified debt’ means indebtedness—

“(aa) that—

“(AA) was incurred not less than 2 years before the date of the application for assistance under this subparagraph; and

“(BB) is a commercial loan; and

“(CC) is not subject to a guarantee by a Federal agency; and

“(DD) the proceeds of which were used to acquire an eligible fixed asset; and

“(EE) was incurred for the benefit of the small business concern; and

“(FF) is collateralized by eligible fixed assets; and

“(bb) for which the borrower has been current on all payments for not less than 1 year before the date of the application.

“(ii) AUTHORITY.—A project that does not involve the expansion of a small business concern may include the refinancing of qualified debt if—

“(I) the amount of the financing is not more than 90 percent of the value of the collateral for the financing, except that, if the appraised value of the eligible fixed assets serving as collateral for the financing is less than the amount equal to 125 percent of the amount of the financing, the borrower may provide additional cash or other collateral to eliminate any deficiency; and

“(II) the borrower has been in operation for all of the 2-year period ending on the date of the loan; and

“(III) for a financing for which the Administrator determines there will be an additional cost attributable to the refinancing of the qualified debt, the borrower agrees to pay a fee in an amount equal to the anticipated additional cost.”

“(iii) FINANCING FOR BUSINESS EXPENSES.—

“(I) FINANCING FOR BUSINESS EXPENSES.—The Administrator may provide financing to a borrower that receives financing that includes a refinancing of qualified debt under clause (ii), in addition to the refinancing under clause (ii), to be used solely for the payment of business expenses.

“(II) APPLICATION FOR FINANCING.—An application for financing under subclause (I) shall include—

“(aa) a specific description of the expenses for which the additional financing is requested; and

“(bb) an itemization of the amount of each expense.

“(III) CONDITION ON ADDITIONAL FINANCING.—A borrower may not use any part of the financing under this clause for non-business purposes.

“(iv) LOANS BASED ON JOBS.—

“(I) JOB CREATION AND RETENTION GOALS.—

“(aa) IN GENERAL.—The Administrator may provide financing under this subparagraph for a borrower that meets the job creation goals under subsection (d) or (e) of section 501.

“(bb) ALTERNATE JOB RETENTION GOAL.—The Administrator may provide financing under this subparagraph to a borrower that does not meet the goals described in item (aa) in an amount that is not more than the product obtained by multiplying the number of employees of the borrower by \$65,000.

“(II) NUMBER OF EMPLOYEES.—For purposes of subclause (I), the number of employees of a borrower is equal to the sum of—

“(aa) the number of full-time employees of the borrower on the date on which the borrower applies for a loan under this subparagraph; and

“(bb) the product obtained by multiplying—

“(AA) the number of part-time employees of the borrower on the date on which the borrower applies for a loan under this subparagraph; by

“(BB) the quotient obtained by dividing the average number of hours each part time employee of the borrower works each week by 40.

“(v) NONDELEGATION.—Notwithstanding section 508(e), the Administrator may not permit a premier certified lender to approve or disapprove an application for assistance under this subparagraph.

“(vi) TOTAL AMOUNT OF LOANS.—The Administrator may provide not more than a total of \$7,500,000,000 of financing under this subparagraph for each fiscal year.”

(b) PROSPECTIVE REPEAL.—Effective 2 years after the date of enactment of this Act, section 502(7) of the Small Business Investment Act of 1958 (15 U.S.C. 696(7)) is amended by striking subparagraph (C).

(c) TECHNICAL CORRECTION.—Section 502(2)(A)(i) of the Small Business Investment Act of 1958 (15 U.S.C. 696(2)(A)(i)) is amended by striking “subparagraph (B) or (C)” and inserting “clause (ii), (iii), (iv), or (v)”.

PART III—OTHER MATTERS

SEC. 1131. SMALL BUSINESS INTERMEDIARY LENDING PILOT PROGRAM.

(a) IN GENERAL.—Section 7 of the Small Business Act (15 U.S.C. 636) is amended by striking subsection (I) and inserting the following:

“(I) SMALL BUSINESS INTERMEDIARY LENDING PILOT PROGRAM.—

“(1) DEFINITIONS.—In this subsection—

“(A) the term ‘eligible intermediary’—

“(i) means a private, nonprofit entity that—

“(I) seeks or has been awarded a loan from the Administrator to make loans to small business concerns under this subsection; and

“(II) has not less than 1 year of experience making loans to startup, newly established, or growing small business concerns; and

“(ii) includes—

“(I) a private, nonprofit community development corporation;

“(II) a consortium of private, nonprofit organizations or nonprofit community development corporations; and

“(III) an agency of or nonprofit entity established by a Native American Tribal Government; and

“(B) the term ‘Program’ means the small business intermediary lending pilot program established under paragraph (2).

“(2) ESTABLISHMENT.—There is established a 3-year small business intermediary lending pilot program, under which the Administrator may make direct loans to eligible intermediaries, for the purpose of making loans to startup, newly established, and growing small business concerns.

“(3) PURPOSES.—The purposes of the Program are—

“(A) to assist small business concerns in areas suffering from a lack of credit due to poor economic conditions or changes in the financial market; and

“(B) to establish a loan program under which the Administrator may provide loans to eligible intermediaries to enable the eligible intermediaries to provide loans to startup, newly established, and growing small business concerns for working capital, real estate, or the acquisition of materials, supplies, or equipment.

“(4) LOANS TO ELIGIBLE INTERMEDIARIES.—

“(A) APPLICATION.—Each eligible intermediary desiring a loan under this subsection shall submit an application to the Administrator that describes—

“(i) the type of small business concerns to be assisted;

“(ii) the size and range of loans to be made;

“(iii) the interest rate and terms of loans to be made;

“(iv) the geographic area to be served and the economic, poverty, and unemployment characteristics of the area;

“(v) the status of small business concerns in the area to be served and an analysis of the availability of credit; and

“(vi) the qualifications of the applicant to carry out this subsection.

“(B) LOAN LIMITS.—No loan may be made to an eligible intermediary under this subsection if the total amount outstanding and committed to the eligible intermediary by the Administrator would, as a result of such loan, exceed \$1,000,000 during the participation of the eligible intermediary in the Program.

“(C) LOAN DURATION.—Loans made by the Administrator under this subsection shall be for a term of 20 years.

“(D) APPLICABLE INTEREST RATES.—Loans made by the Administrator to an eligible intermediary under the Program shall bear an annual interest rate equal to 1.00 percent.

“(E) FEES; COLLATERAL.—The Administrator may not charge any fees or require collateral with respect to any loan made to an eligible intermediary under this subsection.

“(F) DELAYED PAYMENTS.—The Administrator shall not require the repayment of principal or interest on a loan made to an eligible intermediary under the Program during the 2-year period beginning on the date of the initial disbursement of funds under that loan.

“(G) MAXIMUM PARTICIPANTS AND AMOUNTS.—During each of fiscal years 2011, 2012, and 2013, the Administrator may make loans under the Program—

“(i) to not more than 20 eligible intermediaries; and

“(ii) in a total amount of not more than \$20,000,000.

“(5) LOANS TO SMALL BUSINESS CONCERNS.—

“(A) IN GENERAL.—The Administrator, through an eligible intermediary, shall make loans to startup, newly established, and growing small business concerns for working capital, real estate, and the acquisition of materials, supplies, furniture, fixtures, and equipment.

“(B) MAXIMUM LOAN.—An eligible intermediary may not make a loan under this sub-

section of more than \$200,000 to any 1 small business concern.

“(C) APPLICABLE INTEREST RATES.—A loan made by an eligible intermediary to a small business concern under this subsection, may have a fixed or a variable interest rate, and shall bear an interest rate specified by the eligible intermediary in the application of the eligible intermediary for a loan under this subsection.

“(D) REVIEW RESTRICTIONS.—The Administrator may not review individual loans made by an eligible intermediary to a small business concern before approval of the loan by the eligible intermediary.

“(6) TERMINATION.—The authority of the Administrator to make loans under the Program shall terminate 3 years after the date of enactment of the Small Business Job Creation and Access to Capital Act of 2010.”

(b) RULEMAKING AUTHORITY.—Not later than 180 days after the date of enactment of this Act, the Administrator shall issue regulations to carry out section 7(l) of the Small Business Act, as amended by subsection (a).

(c) AVAILABILITY OF FUNDS.—Any amounts provided to the Administrator for the purposes of carrying out section 7(l) of the Small Business Act, as amended by subsection (a), shall remain available until expended.

SEC. 1132. PUBLIC POLICY GOALS.

Section 501(d)(3) of the Small Business Investment Act of 1958 (15 U.S.C. 695(d)(3)) is amended—

(1) in subparagraph (J), by striking “or” at the end;

(2) in subparagraph (K), by striking the period at the end and inserting “, or”; and

(3) by adding at the end the following:

“(L) reduction of rates of unemployment in labor surplus areas, as such areas are determined by the Secretary of Labor.”

SEC. 1133. FLOOR PLAN PILOT PROGRAM EXTENSION.

(a) IN GENERAL.—Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended—

(1) by redesignating paragraph (32), relating to increased veteran participation, as added by section 208 of the Military Reservist and Veteran Small Business Reauthorization and Opportunity Act of 2008 (Public Law 110-186; 122 Stat. 631), as paragraph (33); and

(2) by adding at the end the following:

“(34) FLOOR PLAN FINANCING PROGRAM.—

“(A) DEFINITION.—In this paragraph, the term ‘eligible retail good’—

“(i) means a good for which a title may be obtained under State law; and

“(ii) includes an automobile, recreational vehicle, boat, and manufactured home.

“(B) PROGRAM.—The Administrator may guarantee the timely payment of an open-end extension of credit to a small business concern, the proceeds of which may be used for the purchase of eligible retail goods for resale.

“(C) AMOUNT.—An open-end extension of credit guaranteed under this paragraph shall be in an amount not less than \$500,000 and not more than \$5,000,000.

“(D) TERM.—An open-end extension of credit guaranteed under this paragraph shall have a term of not more than 5 years.

“(E) GUARANTEE PERCENTAGE.—The Administrator may guarantee—

“(i) not less than 60 percent of an open-end extension of credit under this paragraph; and

“(ii) not more than 75 percent of an open-end extension of credit under this paragraph.

“(F) ADVANCE RATE.—The lender for an open-end extension of credit guaranteed under this paragraph may allow the borrower to draw funds on the line of credit in an amount equal to not more than 100 percent of the value of the eligible retail goods to be purchased.”

(b) SUNSET.—Effective September 30, 2013, section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended—

(1) by striking paragraph (34); and

(2) by redesignating paragraph (35), as added by section 1206 of this Act, as paragraph (34).

SEC. 1134. GUARANTEES FOR BONDS AND NOTES ISSUED FOR COMMUNITY OR ECONOMIC DEVELOPMENT PURPOSES.

The Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4701 et seq.) is amended by inserting after section 114 (12 U.S.C. 4713) the following:

“SEC. 114A. GUARANTEES FOR BONDS AND NOTES ISSUED FOR COMMUNITY OR ECONOMIC DEVELOPMENT PURPOSES.

“(a) **DEFINITIONS.**—In this section, the following definitions shall apply:

“(1) **ELIGIBLE COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION.**—The term ‘eligible community development financial institution’ means a community development financial institution (as described in section 1805.201 of title 12, Code of Federal Regulations, or any successor thereto) certified by the Secretary that has applied to a qualified issuer for, or been granted by a qualified issuer, a loan under the Program.

“(2) **ELIGIBLE COMMUNITY OR ECONOMIC DEVELOPMENT PURPOSE.**—The term ‘eligible community or economic development purpose’—

“(A) means any purpose described in section 108(b); and

“(B) includes the provision of community or economic development in low-income or underserved rural areas.

“(3) **GUARANTEE.**—The term ‘guarantee’ means a written agreement between the Secretary and a qualified issuer (or trustee), pursuant to which the Secretary ensures repayment of the verifiable losses of principal, interest, and call premium, if any, on notes or bonds issued by a qualified issuer to finance or refinance loans to eligible community development financial institutions.

“(4) **LOAN.**—The term ‘loan’ means any credit instrument that is extended under the Program for any eligible community or economic development purpose.

“(5) **MASTER SERVICER.**—

“(A) **IN GENERAL.**—The term ‘master servicer’ means any entity approved by the Secretary in accordance with subparagraph (B) to oversee the activities of servicers, as provided in subsection (f)(4).

“(B) **APPROVAL CRITERIA FOR MASTER SERVICERS.**—The Secretary shall approve or deny any application to become a master servicer under the Program not later than 90 days after the date on which all required information is submitted to the Secretary, based on the capacity and experience of the applicant in—

“(i) loan administration, servicing, and loan monitoring;

“(ii) managing regional or national loan intake, processing, or servicing operational systems and infrastructure;

“(iii) managing regional or national originator communication systems and infrastructure;

“(iv) developing and implementing training and other risk management strategies on a regional or national basis; and

“(v) compliance monitoring, investor relations, and reporting.

“(6) **PROGRAM.**—The term ‘Program’ means the guarantee Program for bonds and notes issued for eligible community or economic development purposes established under this section.

“(7) **PROGRAM ADMINISTRATOR.**—The term ‘Program administrator’ means an entity designated by the issuer to perform administrative duties, as provided in subsection (f)(2).

“(8) **QUALIFIED ISSUER.**—

“(A) **IN GENERAL.**—The term ‘qualified issuer’ means a community development financial institution (or any entity designated to issue notes or bonds on behalf of such community development financial institution) that meets the qualification requirements of this paragraph.

“(B) **APPROVAL CRITERIA FOR QUALIFIED ISSUERS.**—

“(i) **IN GENERAL.**—The Secretary shall approve a qualified issuer for a guarantee under the Program in accordance with the requirements of this paragraph, and such additional requirements as the Secretary may establish, by regulation.

“(ii) **TERMS AND QUALIFICATIONS.**—A qualified issuer shall—

“(I) have appropriate expertise, capacity, and experience, or otherwise be qualified to make loans for eligible community or economic development purposes;

“(II) provide to the Secretary—

“(aa) an acceptable statement of the proposed sources and uses of the funds; and

“(bb) a capital distribution plan that meets the requirements of subsection (c)(1); and

“(III) certify to the Secretary that the bonds or notes to be guaranteed are to be used for eligible community or economic development purposes.

“(C) **DEPARTMENT OPINION; TIMING.**—

“(i) **DEPARTMENT OPINION.**—Not later than 30 days after the date of a request by a qualified issuer for approval of a guarantee under the Program, the Secretary shall provide an opinion regarding compliance by the issuer with the requirements of the Program under this section.

“(ii) **TIMING.**—The Secretary shall approve or deny a guarantee under this section after consideration of the opinion provided to the Secretary under clause (i), and in no case later than 90 days after receipt of all required information by the Secretary with respect to a request for such guarantee.

“(9) **SECRETARY.**—The term ‘Secretary’ means the Secretary of the Treasury.

“(10) **SERVICER.**—The term ‘servicer’ means an entity designated by the issuer to perform various servicing duties, as provided in subsection (f)(3).

“(b) **GUARANTEES AUTHORIZED.**—The Secretary shall guarantee payments on bonds or notes issued by any qualified issuer, if the proceeds of the bonds or notes are used in accordance with this section to make loans to eligible community development financial institutions—

“(1) for eligible community or economic development purposes; or

“(2) to refinance loans or notes issued for such purposes.

“(c) **GENERAL PROGRAM REQUIREMENTS.**—

“(1) **IN GENERAL.**—A capital distribution plan meets the requirements of this subsection, if not less than 90 percent of the principal amount of guaranteed bonds or notes (other than costs of issuance fees) are used to make loans for any eligible community or economic development purpose, measured annually, beginning at the end of the 1-year period beginning on the issuance date of such guaranteed bonds or notes.

“(2) **RELENDING ACCOUNT.**—Not more than 10 percent of the principal amount of guaranteed bonds or notes, multiplied by an amount equal to the outstanding principal balance of issued notes or bonds, minus the risk-share pool amount under subsection (d), may be held in a relending account and may be made available for new eligible community or economic development purposes.

“(3) **LIMITATIONS ON UNPAID PRINCIPAL BALANCES.**—The proceeds of guaranteed bonds or notes under the Program may not be used to pay fees (other than costs of issuance fees), and shall be held in—

“(A) community or economic development loans;

“(B) a relending account, to the extent authorized under paragraph (2); or

“(C) a risk-share pool established under subsection (d).

“(4) **REPAYMENT.**—If a qualified issuer fails to meet the requirements of paragraph (1) by the end of the 90-day period beginning at the end of the annual measurement period, repayment shall be made on that portion of bonds or notes necessary to bring the bonds or notes that remain outstanding after such repayment into

compliance with the 90 percent requirement of paragraph (1).

“(5) **PROHIBITED USES.**—The Secretary shall, by regulation—

“(A) prohibit, as appropriate, certain uses of amounts from the guarantee of a bond or note under the Program, including the use of such funds for political activities, lobbying, outreach, counseling services, or travel expenses; and

“(B) provide that the guarantee of a bond or note under the Program may not be used for salaries or other administrative costs of—

“(i) the qualified issuer; or

“(ii) any recipient of amounts from the guarantee of a bond or note.

“(d) **RISK-SHARE POOL.**—Each qualified issuer shall, during the term of a guarantee provided under the Program, establish a risk-share pool, capitalized by contributions from eligible community development financial institution participants an amount equal to 3 percent of the guaranteed amount outstanding on the subject notes and bonds.

“(e) **GUARANTEES.**—

“(1) **IN GENERAL.**—A guarantee issued under the Program shall—

“(A) be for the full amount of a bond or note, including the amount of principal, interest, and call premiums;

“(B) be fully assignable and transferable to the capital market, on terms and conditions that are consistent with comparable Government-guaranteed bonds, and satisfactory to the Secretary;

“(C) represent the full faith and credit of the United States; and

“(D) not exceed 30 years.

“(2) **LIMITATIONS.**—

“(A) **ANNUAL NUMBER OF GUARANTEES.**—The Secretary shall issue not more than 10 guarantees in any calendar year under the Program.

“(B) **GUARANTEE AMOUNT.**—The Secretary may not guarantee any amount under the Program equal to less than \$100,000,000, but the total of all such guarantees in any fiscal year may not exceed \$1,000,000,000.

“(f) **SERVICING OF TRANSACTIONS.**—

“(1) **IN GENERAL.**—To maximize efficiencies and minimize cost and interest rates, loans made under this section may be serviced by qualified Program administrators, bond servicers, and a master servicer.

“(2) **DUTIES OF PROGRAM ADMINISTRATOR.**—The duties of a Program administrator shall include—

“(A) approving and qualifying eligible community development financial institution applications for participation in the Program;

“(B) compliance monitoring;

“(C) bond packaging in connection with the Program; and

“(D) all other duties and related services that are customarily expected of a Program administrator.

“(3) **DUTIES OF SERVICER.**—The duties of a servicer shall include—

“(A) billing and collecting loan payments;

“(B) initiating collection activities on past-due loans;

“(C) transferring loan payments to the master servicing accounts;

“(D) loan administration and servicing;

“(E) systematic and timely reporting of loan performance through remittance and servicing reports;

“(F) proper measurement of annual outstanding loan requirements; and

“(G) all other duties and related services that are customarily expected of servicers.

“(4) **DUTIES OF MASTER SERVICER.**—The duties of a master servicer shall include—

“(A) tracking the movement of funds between the accounts of the master servicer and any other servicer;

“(B) ensuring orderly receipt of the monthly remittance and servicing reports of the servicer;

“(C) monitoring the collection comments and foreclosure actions;

“(D) aggregating the reporting and distribution of funds to trustees and investors;

“(E) removing and replacing a servicer, as necessary;

“(F) loan administration and servicing;

“(G) systematic and timely reporting of loan performance compiled from all bond servicers’ reports;

“(H) proper distribution of funds to investors; and

“(I) all other duties and related services that are customarily expected of a master servicer.

“(g) FEES.—

“(1) IN GENERAL.—A qualified issuer that receives a guarantee issued under this section on a bond or note shall pay a fee to the Secretary, in an amount equal to 10 basis points of the amount of the unpaid principal of the bond or note guaranteed.

“(2) PAYMENT.—A qualified issuer shall pay the fee required under this subsection on an annual basis.

“(3) USE OF FEES.—Fees collected by the Secretary under this subsection shall be used to reimburse the Department of the Treasury for any administrative costs incurred by the Department in implementing the Program established under this section.

“(h) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There are authorized to be appropriated to the Secretary, such sums as are necessary to carry out this section.

“(2) USE OF FEES.—To the extent that the amount of funds appropriated for a fiscal year under paragraph (1) are not sufficient to carry out this section, the Secretary may use the fees collected under subsection (g) for the cost of providing guarantees of bonds and notes under this section.

“(i) INVESTMENT IN GUARANTEED BONDS INELIGIBLE FOR COMMUNITY REINVESTMENT ACT PURPOSES.—Notwithstanding any other provision of law, any investment by a financial institution in bonds or notes guaranteed under the Program shall not be taken into account in assessing the record of such institution for purposes of the Community Reinvestment Act of 1977 (12 U.S.C. 2901).

“(j) ADMINISTRATION.—

“(1) REGULATIONS.—Not later than 1 year after the date of enactment of this section, the Secretary shall promulgate regulations to carry out this section.

“(2) IMPLEMENTATION.—Not later than 2 years after the date of enactment of this section, the Secretary shall implement this section.

“(k) TERMINATION.—This section is repealed, and the authority provided under this section shall terminate, on September 30, 2014.”.

SEC. 1135. TEMPORARY EXPRESS LOAN ENHANCEMENT.

(a) IN GENERAL.—Section 7(a)(31)(D) of the Small Business Act (15 U.S.C. 636(a)(31)(D)) is amended by striking “\$350,000” and inserting “\$1,000,000”.

(b) PROSPECTIVE REPEAL.—Effective 1 year after the date of enactment of this Act, section 7(a)(31)(D) of the Small Business Act (15 U.S.C. 636(a)(31)(D)) is amended by striking “\$1,000,000” and inserting “\$350,000”.

SEC. 1136. PROHIBITION ON USING TARP FUNDS OR TAX INCREASES.

(a) IN GENERAL.—Except as provided in subsection (b), nothing in section 1111, 1112, 1113, 1114, 1115, 1116, 1117, 1118, 1122, or 1131, or an amendment made by such sections, shall be construed to limit the ability of Congress to appropriate funds.

(b) TARP FUNDS AND TAX INCREASES.—

(1) IN GENERAL.—Any covered amounts may not be used to carry out section 1111, 1112, 1113, 1114, 1115, 1116, 1117, 1118, 1122, or 1131, or an amendment made by such sections.

(2) DEFINITION.—In this subsection, the term “covered amounts” means—

(A) the amounts made available to the Secretary of the Treasury under title I of the Emer-

gency Economic Stabilization Act of 2008 S.C. 5201 et seq.) to purchase (under section 101) or guarantee (under section 102) assets under that Act; and

(B) any revenue increase attributable to any amendment to the Internal Revenue Code of 1986 made during the period beginning on the date of enactment of this Act and ending on December 31, 2010.

Subtitle B—Small Business Trade and Exporting

SEC. 1201. SHORT TITLE.

This subtitle may be cited as the “Small Business Export Enhancement and International Trade Act of 2010”.

SEC. 1202. DEFINITIONS.

(a) DEFINITIONS.—In this subtitle—

(1) the term “Associate Administrator” means the Associate Administrator for International Trade appointed under section 22(a)(2) of the Small Business Act, as amended by this subtitle;

(2) the term “Export Assistance Center” means a one-stop shop referred to in section 2301(b)(8) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4721(b)(8)); and

(3) the term “rural small business concern” means a small business concern located in a rural area, as that term is defined in section 1393(a)(2) of the Internal Revenue Code of 1986.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) DEFINITIONS.—Section 3 of the Small Business Act (15 U.S.C. 632) is amended by adding at the end the following:

“(t) SMALL BUSINESS DEVELOPMENT CENTER.—In this Act, the term ‘small business development center’ means a small business development center described in section 21.

“(u) REGION OF THE ADMINISTRATION.—In this Act, the term ‘region of the Administration’ means the geographic area served by a regional office of the Administration established under section 4(a).”.

(2) CONFORMING AMENDMENT.—Section 4(b)(3)(B)(x) of the Small Business Act (15 U.S.C. 633(b)(3)(B)(x)) is amended by striking “Administration district and region” and inserting “district and region of the Administration”.

SEC. 1203. OFFICE OF INTERNATIONAL TRADE.

(a) ESTABLISHMENT.—Section 22 of the Small Business Act (15 U.S.C. 649) is amended—

(1) by striking “SEC. 22. (a) There” and inserting the following:

“SEC. 22. OFFICE OF INTERNATIONAL TRADE.

“(a) ESTABLISHMENT.—

“(1) OFFICE.—There”; and

(2) in subsection (a)—

(A) in paragraph (1), as so designated, by striking the period and inserting “for the primary purposes of increasing—

“(A) the number of small business concerns that export; and

“(B) the volume of exports by small business concerns.”; and

(B) by adding at the end the following:

“(2) ASSOCIATE ADMINISTRATOR.—The head of the Office shall be the Associate Administrator for International Trade, who shall be responsible to the Administrator.”.

(b) AUTHORITY FOR ADDITIONAL ASSOCIATE ADMINISTRATOR.—Section 4(b)(1) of the Small Business Act (15 U.S.C. 633(b)(1)) is amended—

(1) in the fifth sentence, by striking “five Associate Administrators” and inserting “Associate Administrators”; and

(2) by adding at the end the following: “One such Associate Administrator shall be the Associate Administrator for International Trade, who shall be the head of the Office of International Trade established under section 22.”.

(c) DISCHARGE OF INTERNATIONAL TRADE RESPONSIBILITIES OF ADMINISTRATION.—Section 22 of the Small Business Act (15 U.S.C. 649) is amended by adding at the end the following:

“(h) DISCHARGE OF INTERNATIONAL TRADE RESPONSIBILITIES OF ADMINISTRATION.—The Administrator shall ensure that—

“(1) the responsibilities of the Administration regarding international trade are carried out by the Associate Administrator;

“(2) the Associate Administrator has sufficient resources to carry out such responsibilities; and

“(3) the Associate Administrator has direct supervision and control over—

“(A) the staff of the Office; and

“(B) any employee of the Administration whose principal duty station is an Export Assistance Center, or any successor entity.”.

(d) ROLE OF ASSOCIATE ADMINISTRATOR IN CARRYING OUT INTERNATIONAL TRADE POLICY.—Section 2(b)(1) of the Small Business Act (15 U.S.C. 631(b)(1)) is amended in the matter preceding subparagraph (A)—

(1) by inserting “the Administrator of” before “the Small Business Administration”; and

(2) by inserting “through the Associate Administrator for International Trade, and” before “in cooperation with”.

(e) IMPLEMENTATION DATE.—Not later than 90 days after the date of enactment of this Act, the Administrator of the Small Business Administration shall appoint an Associate Administrator for International Trade under section 22(a) of the Small Business Act (15 U.S.C. 649(a)), as added by this section.

SEC. 1204. DUTIES OF THE OFFICE OF INTERNATIONAL TRADE.

(a) AMENDMENTS TO SECTION 22.—Section 22 of the Small Business Act (15 U.S.C. 649) is amended—

(1) by striking subsection (b) and inserting the following:

“(b) TRADE DISTRIBUTION NETWORK.—The Associate Administrator, working in close cooperation with the Secretary of Commerce, the United States Trade Representative, the Secretary of Agriculture, the Secretary of State, the President of the Export-Import Bank of the United States, the President of the Overseas Private Investment Corporation, Director of the United States Trade and Development Agency, and other relevant Federal agencies, small business development centers engaged in export promotion efforts, Export Assistance Centers, regional and district offices of the Administration, the small business community, and relevant State and local export promotion programs, shall—

“(1) maintain a distribution network, using regional and district offices of the Administration, the small business development center network, networks of women’s business centers, the Service Corps of Retired Executives authorized by section 8(b)(1), and Export Assistance Centers, for programs relating to—

“(A) trade promotion;

“(B) trade finance;

“(C) trade adjustment assistance;

“(D) trade remedy assistance; and

“(E) trade data collection;

“(2) aggressively market the programs described in paragraph (1) and disseminate information, including computerized marketing data, to small business concerns on exporting trends, market-specific growth, industry trends, and international prospects for exports;

“(3) promote export assistance programs through the district and regional offices of the Administration, the small business development center network, Export Assistance Centers, the network of women’s business centers, chapters of the Service Corps of Retired Executives, State and local export promotion programs, and partners in the private sector; and

“(4) give preference in hiring or approving the transfer of any employee into the Office or to a position described in subsection (c)(9) to otherwise qualified applicants who are fluent in a language in addition to English, to—

“(A) accompany small business concerns on foreign trade missions; and

“(B) translate documents, interpret conversations, and facilitate multilingual transactions, including by providing referral lists for translation services, if required.”;

(2) in subsection (c)—
 (A) by striking “(c) The Office” and inserting the following:

“(c) PROMOTION OF SALES OPPORTUNITIES.—The Associate Administrator”;

(B) by redesignating paragraphs (1) through (8) as paragraphs (2) through (9), respectively;

(C) by inserting before paragraph (2), as so redesignated, the following:

“(1) establish annual goals for the Office relating to—

“(A) enhancing the exporting capability of small business concerns and small manufacturers;

“(B) facilitating technology transfers;

“(C) enhancing programs and services to assist small business concerns and small manufacturers to compete effectively and efficiently in foreign markets;

“(D) increasing the ability of small business concerns to access capital; and

“(E) disseminating information concerning Federal, State, and private programs and initiatives.”;

(D) in paragraph (2), as so redesignated, by striking “mechanism for” and all that follows through “(D) assisting” and inserting the following: “mechanism for—

“(A) identifying subsectors of the small business community with strong export potential;

“(B) identifying areas of demand in foreign markets;

“(C) prescreening foreign buyers for commercial and credit purposes; and

“(D) assisting”;

(E) in paragraph (3), as so redesignated, by striking “assist small businesses in the formation and utilization of” and inserting “assist small business concerns in forming and using”;

(F) in paragraph (4), as so redesignated—

(i) by striking “local” and inserting “district”;

(ii) by striking “existing”;

(iii) by striking “Small Business Development Center network” and inserting “small business development center network”;

(iv) by striking “Small Business Development Center Program” and inserting “small business development center program”;

(G) in paragraph (5), as so redesignated—

(i) in subparagraph (A), by striking “Gross State Produce” and inserting “Gross State Product”;

(ii) in subparagraph (B), by striking “SIC” each place it appears and inserting “North American Industry Classification System”;

(iii) in subparagraph (C), by striking “small businesses” and inserting “small business concerns”;

(H) in paragraph (6), as so redesignated, by striking the period at the end and inserting a semicolon;

(I) in paragraph (7), as so redesignated—

(i) in the matter preceding subparagraph (A)—

(I) by inserting “concerns” after “small business”;

(II) by striking “current” and inserting “up to date”;

(ii) in subparagraph (A), by striking “Administration’s regional offices” and inserting “regional and district offices of the Administration”;

(iii) in subparagraph (B) by striking “current”;

(iv) in subparagraph (C), by striking “current”;

(v) by striking “small businesses” each place that term appears and inserting “small business concerns”;

(J) in paragraph (8), as so redesignated, by striking and at the end;

(K) in paragraph (9), as so redesignated—

(i) in the matter preceding subparagraph (A)—

(I) by striking “full-time export development specialists to each Administration regional office and assigning”;

(II) by striking “person in each district office. Such specialists” and inserting “individual in each district office and providing each Administration regional office with a full-time export development specialist, who”;

(ii) in subparagraph (B)—

(I) by striking “current”;

(II) by striking “with” and inserting “in”;

(iii) in subparagraph (D)—

(I) by striking “Administration personnel involved in granting” and inserting “personnel of the Administration involved in making”;

(II) by striking “and” at the end;

(iv) in subparagraph (E)—

(I) by striking “small businesses’ needs” and inserting “the needs of small business concerns”;

(II) by striking the period at the end and inserting a semicolon;

(v) by adding at the end the following:

“(F) participate, jointly with employees of the Office, in an annual training program that focuses on current small business needs for exporting; and

“(G) develop and conduct training programs for exporters and lenders, in cooperation with the Export Assistance Centers, the Department of Commerce, the Department of Agriculture, small business development centers, women’s business centers, the Export-Import Bank of the United States, the Overseas Private Investment Corporation, and other relevant Federal agencies.”;

(vi) by striking “small businesses” each place that term appears and inserting “small business concerns”;

(L) by adding at the end the following:

“(10) make available on the website of the Administration the name and contact information of each individual described in paragraph (9);

“(11) carry out a nationwide marketing effort using technology, online resources, training, and other strategies to promote exporting as a business development opportunity for small business concerns;

“(12) disseminate information to the small business community through regional and district offices of the Administration, the small business development center network, Export Assistance Centers, the network of women’s business centers, chapters of the Service Corps of Retired Executives authorized by section 8(b)(1), State and local export promotion programs, and partners in the private sector regarding exporting trends, market-specific growth, industry trends, and prospects for exporting; and

“(13) establish and carry out training programs for the staff of the regional and district offices of the Administration and resource partners of the Administration on export promotion and providing assistance relating to exports.”;

(3) in subsection (d)—

(A) by redesignating paragraphs (1) through (5) as clauses (i) through (v), respectively, and adjusting the margins accordingly;

(B) by striking “(d) The Office” and inserting the following:

“(d) EXPORT FINANCING PROGRAMS.—

“(1) IN GENERAL.—The Associate Administrator”;

(C) by striking “To accomplish this goal, the Office shall work” and inserting the following:

“(2) TRADE FINANCE SPECIALIST.—To accomplish the goal established under paragraph (1), the Associate Administrator shall—

“(A) designate at least 1 individual within the Administration as a trade finance specialist to oversee international loan programs and assist Administration employees with trade finance issues; and

“(B) work”;

(4) in subsection (e), by striking “(e) The Office” and inserting the following:

“(e) TRADE REMEDIES.—The Associate Administrator”;

(5) by amending subsection (f) to read as follows:

“(f) REPORTING REQUIREMENT.—The Associate Administrator shall submit an annual report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives that contains—

“(1) a description of the progress of the Office in implementing the requirements of this section;

“(2) a detailed account of the results of export growth activities of the Administration, including the activities of each district and regional office of the Administration, based on the performance measures described in subsection (i);

“(3) an estimate of the total number of jobs created or retained as a result of export assistance provided by the Administration and resource partners of the Administration;

“(4) for any travel by the staff of the Office, the destination of such travel and the benefits to the Administration and to small business concerns resulting from such travel; and

“(5) a description of the participation by the Office in trade negotiations.”;

(6) in subsection (g), by striking “(g) The Office” and inserting the following:

“(g) STUDIES.—The Associate Administrator”;

and

(7) by adding after subsection (h), as added by section 1203 of this subtitle, the following:

“(i) EXPORT AND TRADE COUNSELING.—

“(1) DEFINITION.—In this subsection—

“(A) the term ‘lead small business development center’ means a small business development center that has received a grant from the Administration; and

“(B) the term ‘lead women’s business center’ means a women’s business center that has received a grant from the Administration.

“(2) CERTIFICATION PROGRAM.—The Administrator shall establish an export and trade counseling certification program to certify employees of lead small business development centers and lead women’s business centers in providing export assistance to small business concerns.

“(3) NUMBER OF CERTIFIED EMPLOYEES.—The Administrator shall ensure that the number of employees of each lead small business development center who are certified in providing export assistance is not less than the lesser of—

“(A) 5; or

“(B) 10 percent of the total number of employees of the lead small business development center.

“(4) REIMBURSEMENT FOR CERTIFICATION.—

“(A) IN GENERAL.—Subject to the availability of appropriations, the Administrator shall reimburse a lead small business development center or a lead women’s business center for costs relating to the certification of an employee of the lead small business center or lead women’s business center in providing export assistance under the program established under paragraph (2).

“(B) LIMITATION.—The total amount reimbursed by the Administrator under subparagraph (A) may not exceed \$350,000 in any fiscal year.

“(j) PERFORMANCE MEASURES.—

“(1) IN GENERAL.—The Associate Administrator shall develop performance measures for the Administration to support export growth goals for the activities of the Office under this section that include—

“(A) the number of small business concerns that—

“(i) receive assistance from the Administration;

“(ii) had not exported goods or services before receiving the assistance described in clause (i); and

“(iii) export goods or services;

“(B) the number of small business concerns receiving assistance from the Administration that export goods or services to a market outside the United States into which the small business concern did not export before receiving the assistance;

“(C) export revenues by small business concerns assisted by programs of the Administration;

“(D) the number of small business concerns referred to an Export Assistance Center or a small business development center by the staff of the Office;

“(E) the number of small business concerns referred to the Administration by an Export Assistance Center or a small business development center; and

“(F) the number of small business concerns referred to the Department of Commerce, the Department of Agriculture, the Department of State, the Export-Import Bank of the United States, the Overseas Private Investment Corporation, or the United States Trade and Development Agency by the staff of the Office, an Export Assistance Center, or a small business development center.

“(2) JOINT PERFORMANCE MEASURES.—The Associate Administrator shall develop joint performance measures for the district offices of the Administration and the Export Assistance Centers that include the number of export loans made under—

“(A) section 7(a)(16);

“(B) the Export Working Capital Program established under section 7(a)(14);

“(C) the Preferred Lenders Program, as defined in section 7(a)(2)(C)(ii); and

“(D) the export express program established under section 7(a)(34).

“(3) CONSISTENCY OF TRACKING.—The Associate Administrator, in coordination with the departments and agencies that are represented on the Trade Promotion Coordinating Committee established under section 2312 of the Export Enhancement Act of 1988 (15 U.S.C. 4727) and the small business development center network, shall develop a system to track exports by small business concerns, including information relating to the performance measures developed under paragraph (1), that is consistent with systems used by the departments and agencies and the network.”

(b) REPORT.—Not later than 60 days after the date of enactment of this Act, the Administrator shall submit a report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives on any travel by the staff of the Office of International Trade of the Administration, during the period beginning on October 1, 2004, and ending on the date of enactment of the Act, including the destination of such travel and the benefits to the Administration and to small business concerns resulting from such travel.

SEC. 1205. EXPORT ASSISTANCE CENTERS.

(a) EXPORT ASSISTANCE CENTERS.—Section 22 of the Small Business Act (15 U.S.C. 649), as amended by this subtitle, is amended by adding at the end the following:

“(k) EXPORT ASSISTANCE CENTERS.—

“(1) EXPORT FINANCE SPECIALISTS.—

“(A) MINIMUM NUMBER OF EXPORT FINANCE SPECIALISTS.—On and after the date that is 90 days after the date of enactment of this subsection, the Administrator, in coordination with the Secretary of Commerce, shall ensure that the number of export finance specialists is not less than the number of such employees so assigned on January 1, 2003.

“(B) EXPORT FINANCE SPECIALISTS ASSIGNED TO EACH REGION OF THE ADMINISTRATION.—On and after the date that is 2 years after the date of enactment of this subsection, the Administrator, in coordination with the Secretary of Commerce, shall ensure that there are not fewer than 3 export finance specialists in each region of the Administration.

“(2) PLACEMENT OF EXPORT FINANCE SPECIALISTS.—

“(A) PRIORITY.—The Administrator shall give priority, to the maximum extent practicable, to placing employees of the Administration at any Export Assistance Center that—

“(i) had an Administration employee assigned to the Export Assistance Center before January 2003; and

“(ii) has not had an Administration employee assigned to the Export Assistance Center during the period beginning January 2003, and ending on the date of enactment of this subsection, either through retirement or reassignment.

“(B) NEEDS OF EXPORTERS.—The Administrator shall, to the maximum extent practicable, strategically assign Administration employees to Export Assistance Centers, based on the needs of exporters.

“(C) RULE OF CONSTRUCTION.—Nothing in this subsection may be construed to require the Administrator to reassign or remove an export finance specialist who is assigned to an Export Assistance Center on the date of enactment of this subsection.

“(3) GOALS.—The Associate Administrator shall work with the Department of Commerce, the Export-Import Bank of the United States, and the Overseas Private Investment Corporation to establish shared annual goals for the Export Assistance Centers.

“(4) OVERSIGHT.—The Associate Administrator shall designate an individual within the Administration to oversee all activities conducted by Administration employees assigned to Export Assistance Centers.

“(1) DEFINITIONS.—In this section—

“(1) the term ‘Associate Administrator’ means the Associate Administrator for International Trade described in subsection (a)(2);

“(2) the term ‘Export Assistance Center’ means a one-stop shop for United States exporters established by the United States and Foreign Commercial Service of the Department of Commerce pursuant to section 2301(b)(8) of the Omnibus Trade and Competitiveness Act of 1988 (15 U.S.C. 4721(b)(8));

“(3) the term ‘export finance specialist’ means a full-time equivalent employee of the Office assigned to an Export Assistance Center to carry out the duties described in subsection (e); and

“(4) the term ‘Office’ means the Office of International Trade established under subsection (a)(1).”

(b) STUDY AND REPORT ON FILLING GAPS IN HIGH-AND-LOW-EXPORT VOLUME AREAS.—

(1) STUDY AND REPORT.—Not later than 6 months after the date of enactment of this Act, and every 2 years thereafter, the Administrator shall—

(A) conduct a study of—

(i) the volume of exports for each State;

(ii) the availability of export finance specialists in each State;

(iii) the number of exporters in each State that are small business concerns;

(iv) the percentage of exporters in each State that are small business concerns;

(v) the change, if any, in the number of exporters that are small business concerns in each State—

(I) for the first study conducted under this subparagraph, during the 10-year period ending on the date of enactment of this Act; and

(II) for each subsequent study, during the 10-year period ending on the date the study is commenced;

(vi) the total value of the exports in each State by small business concerns;

(vii) the percentage of the total volume of exports in each State that is attributable to small business concerns; and

(viii) the change, if any, in the percentage of the total volume of exports in each State that is attributable to small business concerns—

(I) for the first study conducted under this subparagraph, during the 10-year period ending on the date of enactment of this Act; and

(II) for each subsequent study, during the 10-year period ending on the date the study is commenced; and

(B) submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report containing—

(i) the results of the study under subparagraph (A);

(ii) to the extent practicable, a recommendation regarding how to eliminate gaps between the supply of and demand for export finance specialists in the 15 States that have the greatest volume of exports, based upon the most recent data available from the Department of Commerce;

(iii) to the extent practicable, a recommendation regarding how to eliminate gaps between the supply of and demand for export finance specialists in the 15 States that have the lowest volume of exports, based upon the most recent data available from the Department of Commerce; and

(iv) such additional information as the Administrator determines is appropriate.

(2) DEFINITION.—In this subsection, the term “export finance specialist” has the meaning given that term in section 22(l) of the Small Business Act, as added by this title.

SEC. 1206. INTERNATIONAL TRADE FINANCE PROGRAMS.

(a) LOAN LIMITS.—

(1) TOTAL AMOUNT OUTSTANDING.—Section 7(a)(3)(B) of the Small Business Act (15 U.S.C. 636(a)(3)(B)) is amended by striking “\$1,750,000, of which not more than \$1,250,000” and inserting “\$4,500,000 (or if the gross loan amount would exceed \$5,000,000), of which not more than \$4,000,000”.

(2) PARTICIPATION.—Section 7(a)(2) of the Small Business Act (15 U.S.C. 636(a)(2)) is amended—

(A) in subparagraph (A), in the matter preceding clause (i), by striking “subparagraph (B)” and inserting “subparagraphs (B), (D), and (E)”; and

(B) in subparagraph (D), by striking “Notwithstanding subparagraph (A), in” and inserting “In”; and

(C) by adding at the end the following:

“(E) PARTICIPATION IN INTERNATIONAL TRADE LOAN.—In an agreement to participate in a loan on a deferred basis under paragraph (16), the participation by the Administration may not exceed 90 percent.”

(b) WORKING CAPITAL.—Section 7(a)(16)(A) of the Small Business Act (15 U.S.C. 636(a)(16)(A)) is amended—

(1) in the matter preceding clause (i), by striking “in—” and inserting “—”; and

(2) in clause (i)—

(A) by inserting “in” after “(i)”; and

(B) by striking “or” at the end;

(3) in clause (ii)—

(A) by inserting “in” after “(ii)”; and

(B) by striking the period at the end and inserting “, including any debt that qualifies for refinancing under any other provision of this subsection; or”; and

(4) by adding at the end the following:

“(iii) by providing working capital.”

(c) COLLATERAL.—Section 7(a)(16)(B) of the Small Business Act (15 U.S.C. 636(a)(16)(B)) is amended—

(1) by striking “Each loan” and inserting the following:

“(i) IN GENERAL.—Except as provided in clause (ii), each loan”; and

(2) by adding at the end the following:

“(ii) EXCEPTION.—A loan under this paragraph may be secured by a second lien position on the property or equipment financed by the loan or on other assets of the small business concern, if the Administrator determines the lien provides adequate assurance of the payment of the loan.”

(d) EXPORT WORKING CAPITAL PROGRAM.—Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended—

(1) in paragraph (2)(D), by striking “not exceed” and inserting “be”; and

(2) in paragraph (14)—

(A) by striking “(A) The Administration” and inserting the following: “EXPORT WORKING CAPITAL PROGRAM.—

“(A) IN GENERAL.—The Administrator”; and

(B) by striking “(B) When considering” and inserting the following:

“(C) CONSIDERATIONS.—When considering”;
(C) by striking “(C) The Administration” and inserting the following:

“(D) MARKETING.—The Administrator”; and
(D) by inserting after subparagraph (A) the following:

“(B) TERMS.—

“(i) LOAN AMOUNT.—The Administrator may not guarantee a loan under this paragraph of more than \$5,000,000.

“(ii) FEES.—

“(I) IN GENERAL.—For a loan under this paragraph, the Administrator shall collect the fee assessed under paragraph (23) not more frequently than once each year.

“(II) UNTAPPED CREDIT.—The Administrator may not assess a fee on capital that is not accessed by the small business concern.”.

(e) PARTICIPATION IN PREFERRED LENDERS PROGRAM.—Section 7(a)(2)(C) of the Small Business Act (15 U.S.C. 636(a)(2)(C)) is amended—

(1) by redesignating clause (ii) as clause (iii); and

(2) by inserting after clause (i) the following:

“(ii) EXPORT-IMPORT BANK LENDERS.—Any lender that is participating in the Delegated Authority Lender Program of the Export-Import Bank of the United States (or any successor to the Program) shall be eligible to participate in the Preferred Lenders Program.”.

(f) EXPORT EXPRESS PROGRAM.—Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended by adding at the end the following:

“(35) EXPORT EXPRESS PROGRAM.—

“(A) DEFINITIONS.—In this paragraph—

“(i) the term ‘export development activity’ includes—

“(I) obtaining a standby letter of credit when required as a bid bond, performance bond, or advance payment guarantee;

“(II) participation in a trade show that takes place outside the United States;

“(III) translation of product brochures or catalogues for use in markets outside the United States;

“(IV) obtaining a general line of credit for export purposes;

“(V) performing a service contract from buyers located outside the United States;

“(VI) obtaining transaction-specific financing associated with completing export orders;

“(VII) purchasing real estate or equipment to be used in the production of goods or services for export;

“(VIII) providing term loans or other financing to enable a small business concern, including an export trading company and an export management company, to develop a market outside the United States; and

“(IX) acquiring, constructing, renovating, modernizing, improving, or expanding a production facility or equipment to be used in the United States in the production of goods or services for export; and

“(ii) the term ‘express loan’ means a loan in which a lender uses to the maximum extent practicable the loan analyses, procedures, and documentation of the lender to provide expedited processing of the loan application.

“(B) AUTHORITY.—The Administrator may guarantee the timely payment of an express loan to a small business concern made for an export development activity.

“(C) LEVEL OF PARTICIPATION.—

“(i) MAXIMUM AMOUNT.—The maximum amount of an express loan guaranteed under this paragraph shall be \$500,000.

“(ii) PERCENTAGE.—For an express loan guaranteed under this paragraph, the Administrator shall guarantee—

“(I) 90 percent of a loan that is not more than \$350,000; and

“(II) 75 percent of a loan that is more than \$350,000 and not more than \$500,000.”.

(g) ANNUAL LISTING OF EXPORT FINANCE LENDERS.—Section 7(a)(16) of the Small Business Act (15 U.S.C. 636(a)(16)) is amended by adding at the end the following:

“(F) LIST OF EXPORT FINANCE LENDERS.—

“(i) PUBLICATION OF LIST REQUIRED.—The Administrator shall publish an annual list of the banks and participating lending institutions that, during the 1-year period ending on the date of publication of the list, have made loans guaranteed by the Administration under—

“(I) this paragraph;

“(II) paragraph (14); or

“(III) paragraph (34).

“(ii) AVAILABILITY OF LIST.—The Administrator shall—

“(I) post the list published under clause (i) on the website of the Administration; and

“(II) make the list published under clause (i) available, upon request, at each district office of the Administration.”.

(h) APPLICABILITY.—The amendments made by subsections (a) through (f) shall apply with respect to any loan made after the date of enactment of this Act.

SEC. 1207. STATE TRADE AND EXPORT PROMOTION GRANT PROGRAM.

(a) DEFINITIONS.—In this section—

(1) the term “eligible small business concern” means a small business concern that—

(A) has been in business for not less than the 1-year period ending on the date on which assistance is provided using a grant under this section;

(B) is operating profitably, based on operations in the United States;

(C) has demonstrated understanding of the costs associated with exporting and doing business with foreign purchasers, including the costs of freight forwarding, customs brokers, packing and shipping, as determined by the Associate Administrator; and

(D) has in effect a strategic plan for exporting;

(2) the term “program” means the State Trade and Export Promotion Grant Program established under subsection (b);

(3) the term “small business concern owned and controlled by women” has the meaning given that term in section 3 of the Small Business Act (15 U.S.C. 632);

(4) the term “socially and economically disadvantaged small business concern” has the meaning given that term in section 8(a)(4)(A) of the Small Business Act (15 U.S.C. 6537(a)(4)(A)); and

(5) the term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(b) ESTABLISHMENT OF PROGRAM.—The Associate Administrator shall establish a 3-year trade and export promotion pilot program to be known as the State Trade and Export Promotion Grant Program, to make grants to States to carry out export programs that assist eligible small business concerns in—

(1) participation in a foreign trade mission;

(2) a foreign market sales trip;

(3) a subscription to services provided by the Department of Commerce;

(4) the payment of website translation fees;

(5) the design of international marketing media;

(6) a trade show exhibition;

(7) participation in training workshops; or

(8) any other export initiative determined appropriate by the Associate Administrator.

(c) GRANTS.—

(1) JOINT REVIEW.—In carrying out the program, the Associate Administrator may make a grant to a State to increase the number of eligible small business concerns in the State that export or to increase the value of the exports by eligible small business concerns in the State.

(2) CONSIDERATIONS.—In making grants under this section, the Associate Administrator may give priority to an application by a State that proposes a program that—

(A) focuses on eligible small business concerns as part of an export promotion program;

(B) demonstrates success in promoting exports by—

(i) socially and economically disadvantaged small business concerns;

(ii) small business concerns owned or controlled by women; and

(iii) rural small business concerns;

(C) promotes exports from a State that is not 1 of the 10 States with the highest percentage of exporters that are small business concerns, based upon the latest data available from the Department of Commerce; and

(D) promotes new-to-market export opportunities to the People's Republic of China for eligible small business concerns in the United States.

(3) LIMITATIONS.—

(A) SINGLE APPLICATION.—A State may not submit more than 1 application for a grant under the program in any 1 fiscal year.

(B) PROPORTION OF AMOUNTS.—The total value of grants under the program made during a fiscal year to the 10 States with the highest number of exporters that are small business concerns, based upon the latest data available from the Department of Commerce, shall be not more than 40 percent of the amounts appropriated for the program for that fiscal year.

(4) APPLICATION.—A State desiring a grant under the program shall submit an application at such time, in such manner, and accompanied by such information as the Associate Administrator may establish.

(d) COMPETITIVE BASIS.—The Associate Administrator shall award grants under the program on a competitive basis.

(e) FEDERAL SHARE.—The Federal share of the cost of an export program carried out using a grant under the program shall be—

(1) for a State that has a high export volume, as determined by the Associate Administrator, not more than 65 percent; and

(2) for a State that does not have a high export volume, as determined by the Associate Administrator, not more than 75 percent.

(f) NON-FEDERAL SHARE.—The non-Federal share of the cost of an export program carried using a grant under the program shall be comprised of not less than 50 percent cash and not more than 50 percent of indirect costs and in-kind contributions, except that no such costs or contributions may be derived from funds from any other Federal program.

(g) REPORTS.—

(1) INITIAL REPORT.—Not later than 120 days after the date of enactment of this Act, the Associate Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report, which shall include—

(A) a description of the structure of and procedures for the program;

(B) a management plan for the program; and

(C) a description of the merit-based review process to be used in the program.

(2) ANNUAL REPORTS.—The Associate Administrator shall submit an annual report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives regarding the program, which shall include—

(A) the number and amount of grants made under the program during the preceding year;

(B) a list of the States receiving a grant under the program during the preceding year, including the activities being performed with grant; and

(C) the effect of each grant on exports by eligible small business concerns in the State receiving the grant.

(h) REVIEWS BY INSPECTOR GENERAL.—

(1) IN GENERAL.—The Inspector General of the Administration shall conduct a review of—

(A) the extent to which recipients of grants under the program are measuring the performance of the activities being conducted and the results of the measurements; and

(B) the overall management and effectiveness of the program.

(2) REPORT.—Not later than September 30, 2012, the Inspector General of the Administration shall submit to the Committee on Small

Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report regarding the review conducted under paragraph (1).

(i) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out the program \$30,000,000 for each of fiscal years 2011, 2012, and 2013.

(j) **TERMINATION.**—The authority to carry out the program shall terminate 3 years after the date on which the Associate Administrator establishes the program.

SEC. 1208. RURAL EXPORT PROMOTION.

Not later than 6 months after the date of enactment of this Act, the Administrator, in consultation with the Secretary of Agriculture and the Secretary of Commerce, shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report that contains—

(1) a description of each program of the Administration that promotes exports by rural small business concerns, including—

(A) the number of rural small business concerns served by the program;

(B) the change, if any, in the number of rural small business concerns as a result of participation in the program during the 10-year period ending on the date of enactment of this Act;

(C) the volume of exports by rural small business concerns that participate in the program; and

(D) the change, if any, in the volume of exports by rural small businesses that participate in the program during the 10-year period ending on the date of enactment of this Act;

(2) a description of the coordination between programs of the Administration and other Federal programs that promote exports by rural small business concerns;

(3) recommendations, if any, for improving the coordination described in paragraph (2);

(4) a description of any plan by the Administration to market the international trade financing programs of the Administration through lenders that—

(A) serve rural small business concerns; and

(B) are associated with financing programs of the Department of Agriculture;

(5) recommendations, if any, for improving coordination between the counseling programs and export financing programs of the Administration, in order to increase the volume of exports by rural small business concerns; and

(6) any additional information the Administrator determines is necessary.

SEC. 1209. INTERNATIONAL TRADE COOPERATION BY SMALL BUSINESS DEVELOPMENT CENTERS.

Section 21(a) of the Small Business Act (15 U.S.C. 648(a)) is amended—

(1) by striking “(2) The Small Business Development Centers” and inserting the following:

“(2) **COOPERATION TO PROVIDE INTERNATIONAL TRADE SERVICES.**—

“(A) **INFORMATION AND SERVICES.**—The small business development centers”; and

(2) in paragraph (2)—

(A) in subparagraph (A), as so designated, by inserting “(including State trade agencies),” after “local agencies”; and

(B) by adding at the end the following:

“(B) **COOPERATION WITH STATE TRADE AGENCIES AND EXPORT ASSISTANCE CENTERS.**—A small business development center that counsels a small business concern on issues relating to international trade shall—

“(i) consult with State trade agencies and Export Assistance Centers to provide appropriate services to the small business concern; and

“(ii) as necessary, refer the small business concern to a State trade agency or an Export Assistance Center for further counseling or assistance.

“(C) **DEFINITION.**—In this paragraph, the term ‘Export Assistance Center’ has the same meaning as in section 22.”.

Subtitle C—Small Business Contracting

PART I—CONTRACT BUNDLING

SEC. 1311. SMALL BUSINESS ACT.

Section 3 of the Small Business Act (15 U.S.C. 632), as amended by section 1202, is amended by adding at the end the following:

“(v) **MULTIPLE AWARD CONTRACT.**—In this Act, the term ‘multiple award contract’ means—

“(1) a multiple award task order contract or delivery order contract that is entered into under the authority of sections 303H through 303K of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253h through 253k); and

“(2) any other indefinite delivery, indefinite quantity contract that is entered into by the head of a Federal agency with 2 or more sources pursuant to the same solicitation.”.

SEC. 1312. LEADERSHIP AND OVERSIGHT.

(a) **IN GENERAL.**—Section 15 of the Small Business Act (15 U.S.C. 644) is amended by adding at the end the following:

“(q) **BUNDLING ACCOUNTABILITY MEASURES.**—

“(1) **TEAMING REQUIREMENTS.**—Each Federal agency shall include in each solicitation for any multiple award contract above the substantial bundling threshold of the Federal agency a provision soliciting bids from any responsible source, including responsible small business concerns and teams or joint ventures of small business concerns.

“(2) **POLICIES ON REDUCTION OF CONTRACT BUNDLING.**—

“(A) **IN GENERAL.**—Not later than 1 year after the date of enactment of this subsection, the Federal Acquisition Regulatory Council established under section 25(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 4219(a)) shall amend the Federal Acquisition Regulation issued under section 25 of such Act to—

“(i) establish a Government-wide policy regarding contract bundling, including regarding the solicitation of teaming and joint ventures under paragraph (1); and

“(ii) require that the policy established under clause (i) be published on the website of each Federal agency.

“(B) **RATIONALE FOR CONTRACT BUNDLING.**—Not later than 30 days after the date on which the head of a Federal agency submits data certifications to the Administrator for Federal Procurement Policy, the head of the Federal agency shall publish on the website of the Federal agency a list and rationale for any bundled contract for which the Federal agency solicited bids or that was awarded by the Federal agency.

“(3) **REPORTING.**—Not later than 90 days after the date of enactment of this subsection, and every 3 years thereafter, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report regarding procurement center representatives and commercial market representatives, which shall—

“(A) identify each area for which the Administration has assigned a procurement center representative or a commercial market representative;

“(B) explain why the Administration selected the areas identified under subparagraph (A); and

“(C) describe the activities performed by procurement center representatives and commercial market representatives.”.

(b) **TECHNICAL CORRECTION.**—Section 15(g) of the Small Business Act (15 U.S.C. 644(g)) is amended by striking “Administrator of the Office of Federal Procurement Policy” each place it appears and inserting “Administrator for Federal Procurement Policy”.

(c) **REPORT.**—

(1) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the Comptroller General of the United States shall submit to Congress a report regarding the procurement center representative program of the Administration.

(2) **CONTENTS.**—The report submitted under paragraph (1) shall—

(A) address ways to improve the effectiveness of the procurement center representative program in helping small business concerns obtain Federal contracts;

(B) evaluate the effectiveness of procurement center representatives and commercial marketing representatives; and

(C) include recommendations, if any, on how to improve the procurement center representative program.

(d) **ELECTRONIC PROCUREMENT CENTER REPRESENTATIVE.**—

(1) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, the Administrator shall implement a 3-year pilot electronic procurement center representative program.

(2) **REPORT.**—Not later than 30 days after the pilot program under paragraph (1) ends, the Comptroller General of the United States shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report regarding the pilot program.

SEC. 1313. CONSOLIDATION OF CONTRACT REQUIREMENTS.

(a) **IN GENERAL.**—The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by redesignating section 44 as section 45; and

(2) by inserting after section 43 the following:

“SEC. 44. CONSOLIDATION OF CONTRACT REQUIREMENTS.

“(a) **DEFINITIONS.**—In this section—

“(1) the term ‘Chief Acquisition Officer’ means the employee of a Federal agency designated as the Chief Acquisition Officer for the Federal agency under section 16(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(a));

“(2) the term ‘consolidation of contract requirements’, with respect to contract requirements of a Federal agency, means a use of a solicitation to obtain offers for a single contract or a multiple award contract to satisfy 2 or more requirements of the Federal agency for goods or services that have been provided to or performed for the Federal agency under 2 or more separate contracts lower in cost than the total cost of the contract for which the offers are solicited; and

“(3) the term ‘senior procurement executive’ means an official designated under section 16(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(c)) as the senior procurement executive for a Federal agency.

“(b) **POLICY.**—The head of each Federal agency shall ensure that the decisions made by the Federal agency regarding consolidation of contract requirements of the Federal agency are made with a view to providing small business concerns with appropriate opportunities to participate as prime contractors and subcontractors in the procurements of the Federal agency.

“(c) **LIMITATION ON USE OF ACQUISITION STRATEGIES INVOLVING CONSOLIDATION.**—

“(1) **IN GENERAL.**—Subject to paragraph (4), the head of a Federal agency may not carry out an acquisition strategy that includes a consolidation of contract requirements of the Federal agency with a total value of more than \$2,000,000, unless the senior procurement executive or Chief Acquisition Officer for the Federal agency, before carrying out the acquisition strategy—

“(A) conducts market research;

“(B) identifies any alternative contracting approaches that would involve a lesser degree of consolidation of contract requirements;

“(C) makes a written determination that the consolidation of contract requirements is necessary and justified;

“(D) identifies any negative impact by the acquisition strategy on contracting with small business concerns; and

“(E) certifies to the head of the Federal agency that steps will be taken to include small business concerns in the acquisition strategy.

“(2) DETERMINATION THAT CONSOLIDATION IS NECESSARY AND JUSTIFIED.—

“(A) IN GENERAL.—A senior procurement executive or Chief Acquisition Officer may determine that an acquisition strategy involving a consolidation of contract requirements is necessary and justified for the purposes of paragraph (1)(C) if the benefits of the acquisition strategy substantially exceed the benefits of each of the possible alternative contracting approaches identified under paragraph (1)(B).

“(B) SAVINGS IN ADMINISTRATIVE OR PERSONNEL COSTS.—For purposes of subparagraph (A), savings in administrative or personnel costs alone do not constitute a sufficient justification for a consolidation of contract requirements in a procurement unless the expected total amount of the cost savings, as determined by the senior procurement executive or Chief Acquisition Officer, is expected to be substantial in relation to the total cost of the procurement.

“(3) BENEFITS TO BE CONSIDERED.—The benefits considered for the purposes of paragraphs (1) and (2) may include cost and, regardless of whether quantifiable in dollar amounts—

“(A) quality;

“(B) acquisition cycle;

“(C) terms and conditions; and

“(D) any other benefit.

“(4) DEPARTMENT OF DEFENSE.—

“(A) IN GENERAL.—The Department of Defense and each military department shall comply with this section until after the date described in subparagraph (C).

“(B) RULE.—After the date described in subparagraph (C), contracting by the Department of Defense or a military department shall be conducted in accordance with section 2382 of title 10, United States Code.

“(C) DATE.—The date described in this subparagraph is the date on which the Administrator determines the Department of Defense or a military department is in compliance with the Government-wide contracting goals under section 15.”.

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 2382(b)(1) of title 10, United States Code, is amended by striking “An official” and inserting “Subject to section 44(c)(4), an official”.

SEC. 1314. SMALL BUSINESS TEAMS PILOT PROGRAM.

(a) DEFINITIONS.—In this section—

(1) the term “Pilot Program” means the Small Business Teaming Pilot Program established under subsection (b); and

(2) the term “eligible organization” means a well-established national organization for small business concerns with the capacity to provide assistance to small business concerns (which may be provided with the assistance of the Administrator) relating to—

(A) customer relations and outreach;

(B) team relations and outreach; and

(C) performance measurement and quality assurance.

(b) ESTABLISHMENT.—The Administrator shall establish a Small Business Teaming Pilot Program for teaming and joint ventures involving small business concerns.

(c) GRANTS.—Under the Pilot Program, the Administrator may make grants to eligible organizations to provide assistance and guidance to teams of small business concerns seeking to compete for larger procurement contracts.

(d) CONTRACTING OPPORTUNITIES.—The Administrator shall work with eligible organizations receiving a grant under the Pilot Program to recommend appropriate contracting opportunities for teams or joint ventures of small business concerns.

(e) REPORT.—Not later than 1 year before the date on which the authority to carry out the Pilot Program terminates under subsection (f), the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report on the effectiveness of the Pilot Program.

(f) TERMINATION.—The authority to carry out the Pilot Program shall terminate 5 years after the date of enactment of this Act.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under subsection (c) \$5,000,000 for each of fiscal years 2010 through 2015.

PART II—SUBCONTRACTING INTEGRITY

SEC. 1321. SUBCONTRACTING MISREPRESENTATIONS.

Not later than 1 year after the date of enactment of this Act, the Administrator, in consultation with the Administrator for Federal Procurement Policy, shall promulgate regulations relating to, and the Federal Acquisition Regulatory Council established under section 25(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(a)) shall amend the Federal Acquisition Regulation issued under section 25 of such Act to establish a policy on, subcontracting compliance relating to small business concerns, including assignment of compliance responsibilities between contracting offices, small business offices, and program offices and periodic oversight and review activities.

SEC. 1322. SMALL BUSINESS SUBCONTRACTING IMPROVEMENTS.

Section 8(d)(6) of the Small Business Act (15 U.S.C. 637(d)(6)) is amended—

(1) in subparagraph (E), by striking “and” at the end;

(2) in subparagraph (F), by striking the period at the end and inserting “; and”; and

(3) by adding at the end, the following:

“(G) a representation that the offeror or bidder will—

“(i) make a good faith effort to acquire articles, equipment, supplies, services, or materials, or obtain the performance of construction work from the small business concerns used in preparing and submitting to the contracting agency the bid or proposal, in the same amount and quality used in preparing and submitting the bid or proposal; and

“(ii) provide to the contracting officer a written explanation if the offeror or bidder fails to acquire articles, equipment, supplies, services, or materials or obtain the performance of construction work as described in clause (i).”.

PART III—ACQUISITION PROCESS

SEC. 1331. RESERVATION OF PRIME CONTRACT AWARDS FOR SMALL BUSINESSES.

Section 15 of the Small Business Act (15 U.S.C. 644), as amended by this Act, is amended by adding at the end the following:

“(r) MULTIPLE AWARD CONTRACTS.—Not later than 1 year after the date of enactment of this subsection, the Administrator for Federal Procurement Policy and the Administrator, in consultation with the Administrator of General Services, shall, by regulation, establish guidance under which Federal agencies may, at their discretion—

“(1) set aside part or parts of a multiple award contract for small business concerns, including the subcategories of small business concerns identified in subsection (g)(2);

“(2) notwithstanding the fair opportunity requirements under section 2304c(b) of title 10, United States Code, and section 303J(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253j(b)), set aside orders placed against multiple award contracts for small business concerns, including the subcategories of small business concerns identified in subsection (g)(2); and

“(3) reserve 1 or more contract awards for small business concerns under full and open multiple award procurements, including the subcategories of small business concerns identified in subsection (g)(2).”.

SEC. 1332. MICRO-PURCHASE GUIDELINES.

Not later than 1 year after the date of enactment of this Act, the Director of the Office of Management and Budget, in coordination with the Administrator of General Services, shall

issue guidelines regarding the analysis of purchase card expenditures to identify opportunities for achieving and accurately measuring fair participation of small business concerns in purchases in an amount not in excess of the micro-purchase threshold, as defined in section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428) (in this section referred to as “micro-purchases”), consistent with the national policy on small business participation in Federal procurements set forth in sections 2(a) and 15(g) of the Small Business Act (15 U.S.C. 631(a) and 644(g)), and dissemination of best practices for participation of small business concerns in micro-purchases.

SEC. 1333. AGENCY ACCOUNTABILITY.

Section 15(g)(2) of the Small Business Act (15 U.S.C. 644(g)(2)) is amended—

(1) by inserting “(A)” after “(2)”; and

(2) by striking “Goals established” and inserting the following:

“(B) Goals established”; and

(3) by striking “Whenever” and inserting the following:

“(C) Whenever”; and

(4) by striking “For the purpose of” and inserting the following:

“(D) For the purpose of”; and

(5) by striking “The head of each Federal agency, in attempting to attain such participation” and inserting the following:

“(E) The head of each Federal agency, in attempting to attain the participation described in subparagraph (D)”—

(6) in subparagraph (E), as so designated—

(A) by striking “(A) contracts” and inserting “(i) contracts”; and

(B) by striking “(B) contracts” and inserting “(ii) contracts”; and

(7) by adding at the end the following:

“(F)(i) Each procurement employee or program manager described in clause (ii) shall communicate to the subordinates of the procurement employee or program manager the importance of achieving small business goals.

“(ii) A procurement employee or program manager described in this clause is a senior procurement executive, senior program manager, or Director of Small and Disadvantaged Business Utilization of a Federal agency having contracting authority.”.

SEC. 1334. PAYMENT OF SUBCONTRACTORS.

Section 8(d) of the Small Business Act (15 U.S.C. 637(d)) is amended by adding at the end the following:

“(12) PAYMENT OF SUBCONTRACTORS.—

“(A) DEFINITION.—In this paragraph, the term ‘covered contract’ means a contract relating to which a prime contractor is required to develop a subcontracting plan under paragraph (4) or (5).

“(B) NOTICE.—

“(i) IN GENERAL.—A prime contractor for a covered contract shall notify in writing the contracting officer for the covered contract if the prime contractor pays a reduced price to a subcontractor for goods and services upon completion of the responsibilities of the subcontractor or the payment to a subcontractor is more than 90 days past due for goods or services provided for the covered contract for which the Federal agency has paid the prime contractor.

“(ii) CONTENTS.—A prime contractor shall include the reason for the reduction in a payment to or failure to pay a subcontractor in any notice made under clause (i).

“(C) PERFORMANCE.—A contracting officer for a covered contract shall consider the unjustified failure by a prime contractor to make a full or timely payment to a subcontractor in evaluating the performance of the prime contractor.

“(D) CONTROL OF FUNDS.—If the contracting officer for a covered contract determines that a prime contractor has a history of unjustified, untimely payments to contractors, the contracting officer shall record the identity of the contractor in accordance with the regulations promulgated under subparagraph (E).

“(E) REGULATIONS.—Not later than 1 year after the date of enactment of this paragraph, the Federal Acquisition Regulatory Council established under section 25(a) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(a)) shall amend the Federal Acquisition Regulation issued under section 25 of such Act to—

“(i) describe the circumstances under which a contractor may be determined to have a history of unjustified, untimely payments to subcontractors;

“(ii) establish a process for contracting officers to record the identity of a contractor described in clause (i); and

“(iii) require the identity of a contractor described in clause (i) to be incorporated in, and made publicly available through, the Federal Awardee Performance and Integrity Information System, or any successor thereto.”.

SEC. 1335. REPEAL OF SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM.

(a) IN GENERAL.—The Business Opportunity Development Reform Act of 1988 (Public Law 100-656) is amended by striking title VII (15 U.S.C. 644 note).

(b) EFFECTIVE DATE AND APPLICABILITY.—The amendment made by this section—

(1) shall take effect on the date of enactment of this Act; and

(2) apply to the first full fiscal year after the date of enactment of this Act.

PART IV—SMALL BUSINESS SIZE AND STATUS INTEGRITY

SEC. 1341. POLICY AND PRESUMPTIONS.

Section 3 of the Small Business Act (15 U.S.C. 632), as amended by section 1311, is amended by adding at the end the following:

“(w) PRESUMPTION.—

“(1) IN GENERAL.—In every contract, subcontract, cooperative agreement, cooperative research and development agreement, or grant which is set aside, reserved, or otherwise classified as intended for award to small business concerns, there shall be a presumption of loss to the United States based on the total amount expended on the contract, subcontract, cooperative agreement, cooperative research and development agreement, or grant whenever it is established that a business concern other than a small business concern willfully sought and received the award by misrepresentation.

“(2) DEEMED CERTIFICATIONS.—The following actions shall be deemed affirmative, willful, and intentional certifications of small business size and status:

“(A) Submission of a bid or proposal for a Federal grant, contract, subcontract, cooperative agreement, or cooperative research and development agreement reserved, set aside, or otherwise classified as intended for award to small business concerns.

“(B) Submission of a bid or proposal for a Federal grant, contract, subcontract, cooperative agreement, or cooperative research and development agreement which in any way encourages a Federal agency to classify the bid or proposal, if awarded, as an award to a small business concern.

“(C) Registration on any Federal electronic database for the purpose of being considered for award of a Federal grant, contract, subcontract, cooperative agreement, or cooperative research agreement, as a small business concern.

“(3) CERTIFICATION BY SIGNATURE OF RESPONSIBLE OFFICIAL.—

“(A) IN GENERAL.—Each solicitation, bid, or application for a Federal contract, subcontract, or grant shall contain a certification concerning the small business size and status of a business concern seeking the Federal contract, subcontract, or grant.

“(B) CONTENT OF CERTIFICATIONS.—A certification that a business concern qualifies as a small business concern of the exact size and status claimed by the business concern for purposes

of bidding on a Federal contract or subcontract, or applying for a Federal grant, shall contain the signature of an authorized official on the same page on which the certification is contained.

“(4) REGULATIONS.—The Administrator shall promulgate regulations to provide adequate protections to individuals and business concerns from liability under this subsection in cases of unintentional errors, technical malfunctions, and other similar situations.”.

SEC. 1342. ANNUAL CERTIFICATION.

Section 3 of the Small Business Act (15 U.S.C. 632), as amended by section 1341, is amended by adding at the end the following:

“(x) ANNUAL CERTIFICATION.—

“(1) IN GENERAL.—Each business certified as a small business concern under this Act shall annually certify its small business size and, if appropriate, its small business status, by means of a confirming entry on the Online Representations and Certifications Application database of the Administration, or any successor thereto.

“(2) REGULATIONS.—Not later than 1 year after the date of enactment of this subsection, the Administrator, in consultation with the Inspector General and the Chief Counsel for Advocacy of the Administration, shall promulgate regulations to ensure that—

“(A) no business concern continues to be certified as a small business concern on the Online Representations and Certifications Application database of the Administration, or any successor thereto, without fulfilling the requirements for annual certification under this subsection; and

“(B) the requirements of this subsection are implemented in a manner presenting the least possible regulatory burden on small business concerns.”.

SEC. 1343. TRAINING FOR CONTRACTING AND ENFORCEMENT PERSONNEL.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Federal Acquisition Institute, in consultation with the Administrator for Federal Procurement Policy, the Defense Acquisition University, and the Administrator, shall develop courses for acquisition personnel concerning proper classification of business concerns and small business size and status for purposes of Federal contracts, subcontracts, grants, cooperative agreements, and cooperative research and development agreements.

(b) POLICY ON PROSECUTIONS OF SMALL BUSINESS SIZE AND STATUS FRAUD.—Section 3 of the Small Business Act (15 U.S.C. 632), as amended by section 1342, is amended by adding at the end the following:

“(y) POLICY ON PROSECUTIONS OF SMALL BUSINESS SIZE AND STATUS FRAUD.—Not later than 1 year after the date of enactment of this subsection, the Administrator, in consultation with the Attorney General, shall issue a Government-wide policy on prosecution of small business size and status fraud, which shall direct Federal agencies to appropriately publicize the policy.”.

SEC. 1344. UPDATED SIZE STANDARDS.

(a) ROLLING REVIEW.—

(1) IN GENERAL.—The Administrator shall—

(A) during the 18-month period beginning on the date of enactment of this Act, and during every 18-month period thereafter, conduct a detailed review of not less than 1/3 of the size standards for small business concerns established under section 3(a)(2) of the Small Business Act (15 U.S.C. 632(a)(2)), which shall include holding not less than 2 public forums located in different geographic regions of the United States;

(B) after completing each review under subparagraph (A) make appropriate adjustments to the size standards established under section 3(a)(2) of the Small Business Act to reflect market conditions;

(C) make publicly available—

(i) information regarding the factors evaluated as part of each review conducted under subparagraph (A); and

(ii) information regarding the criteria used for any revised size standards promulgated under subparagraph (B); and

(D) not later than 30 days after the date on which the Administrator completes each review under subparagraph (A), submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives and make publicly available a report regarding the review, including why the Administrator—

(i) used the factors and criteria described in subparagraph (C); and

(ii) adjusted or did not adjust each size standard that was reviewed under the review.

(2) COMPLETE REVIEW OF SIZE STANDARDS.—The Administrator shall ensure that each size standard for small business concerns established under section 3(a)(2) of the Small Business Act (15 U.S.C. 632(a)(2)) is reviewed under paragraph (1) not less frequently than once every 5 years.

(b) RULES.—Not later than 1 year after the date of enactment of this Act, the Administrator shall promulgate rules for conducting the reviews required under subsection (a).

SEC. 1345. STUDY AND REPORT ON THE MENTOR-PROTEGE PROGRAM.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the mentor-protégé program of the Administration for small business concerns participating in programs under section 8(a) of the Small Business Act (15 U.S.C. 637(a)), and other relationships and strategic alliances pairing a larger business and a small business concern partner to gain access to Federal Government contracts, to determine whether the programs and relationships are effectively supporting the goal of increasing the participation of small business concerns in Government contracting.

(b) MATTERS TO BE STUDIED.—The study conducted under this section shall include—

(1) a review of a broad cross-section of industries; and

(2) an evaluation of—

(A) how each Federal agency carrying out a program described in subsection (a) administers and monitors the program;

(B) whether there are systems in place to ensure that the mentor-protégé relationship, or similar affiliation, promotes real gain to the protégé, and is not just a mechanism to enable participants that would not otherwise qualify under section 8(a) of the Small Business Act (15 U.S.C. 637(a)) to receive contracts under that section; and

(C) the degree to which protégé businesses become able to compete for Federal contracts without the assistance of a mentor.

(c) REPORT TO CONGRESS.—Not later than 180 days after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report on the results of the study conducted under this section.

SEC. 1346. CONTRACTING GOALS REPORTS.

Section 15(h)(2) of the Small Business Act (15 U.S.C. 644(h)(2)) is amended by striking “submit them” and all that follows through “the following:” and inserting “submit to the President and the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives the compilation and analysis, which shall include the following:”.

SEC. 1347. SMALL BUSINESS CONTRACTING PARTNERSHIP.

(a) DEFINITIONS.—In this section—

(1) the terms “Administration” and “Administrator” mean the Small Business Administration and the Administrator thereof, respectively; and

(2) the terms “HUBZone small business concern”, “small business concern”, “small business concern owned and controlled by service-disabled veterans”, and “small business concern owned and controlled by women” have the same meanings as in section 3 of the Small Business Act (15 U.S.C. 632).

(b) CONTRACTING IMPROVEMENTS.—

(1) **CONTRACTING OPPORTUNITIES.**—Section 31(b)(2)(B) of the Small Business Act (15 U.S.C. 657a(b)(2)(B)) is amended by striking “shall” and inserting “may”.

(2) **CONTRACTING GOALS.**—Section 15(g)(1) of the Small Business Act (15 U.S.C. 644(g)(1)) is amended in the fourth sentence by inserting “and subcontract” after “not less than 3 percent of the total value of all prime contract”.

(3) **MENTOR-PROTEGE PROGRAMS.**—The Administrator may establish mentor-protege programs for small business concerns owned and controlled by service-disabled veterans, small business concerns owned and controlled by women, and HUBZone small business concerns modeled on the mentor-protege program of the Administration for small business concerns participating in programs under section 8(a) of the Small Business Act (15 U.S.C. 637(a)).

(c) **SMALL BUSINESS CONTRACTING PROGRAMS PARITY.**—Section 31(b)(2) of the Small Business Act (15 U.S.C. 657a(b)(2)) is amended—

(1) in the matter preceding subparagraph (A), by striking “Notwithstanding any other provision of law—”;

(2) in subparagraph (A)—

(A) in the matter preceding clause (i), by striking “a contracting” and inserting “SOLE SOURCE CONTRACTS.—A contracting”; and

(B) in clause (iii), by striking the semicolon at the end and inserting a period;

(3) in subparagraph (B)—

(A) by striking “a contract opportunity shall” and inserting “RESTRICTED COMPETITION.—A contract opportunity may”; and

(B) by striking “; and” and inserting a period; and

(4) in subparagraph (C), by striking “not later” and inserting “APPEALS.—Not later”.

Subtitle D—Small Business Management and Counseling Assistance

SEC. 1401. MATCHING REQUIREMENTS UNDER SMALL BUSINESS PROGRAMS.

(a) **MICROLOAN PROGRAM.**—Section 7(m) of the Small Business Act (15 U.S.C. 636(m)) is amended—

(1) in paragraph (3)(B)—

(A) by striking “As a condition” and inserting the following:

“(i) **IN GENERAL.**—Subject to clause (ii), as a condition”;

(B) by striking “the Administration” and inserting “the Administrator”; and

(C) by adding at the end the following:

“(ii) **WAIVER OF NON-FEDERAL SHARE.**—

“(I) **IN GENERAL.**—Upon request by an intermediary, and in accordance with this clause, the Administrator may waive, in whole or in part, the requirement to obtain non-Federal funds under clause (i) for a fiscal year. The Administrator may waive the requirement to obtain non-Federal funds under this clause for successive fiscal years.

“(II) **CONSIDERATIONS.**—In determining whether to waive the requirement to obtain non-Federal funds under this clause, the Administrator shall consider—

“(aa) the economic conditions affecting the intermediary;

“(bb) the impact a waiver under this clause would have on the credibility of the microloan program under this subsection;

“(cc) the demonstrated ability of the intermediary to raise non-Federal funds; and

“(dd) the performance of the intermediary.

“(III) **LIMITATIONS.**—

“(aa) **IN GENERAL.**—The Administrator may not waive the requirement to obtain non-Federal funds under this clause if granting the waiver

would undermine the credibility of the microloan program under this subsection.

“(bb) **SUNSET.**—The Administrator may not waive the requirement to obtain non-Federal funds under this clause for fiscal year 2013 or any fiscal year thereafter.”; and

(2) in paragraph (4)(B)—

(A) by striking “As a condition” and all that follows through “the Administration shall require” and inserting the following:

“(i) **IN GENERAL.**—Subject to clause (ii), as a condition of a grant made under subparagraph (A), the Administrator shall require”; and

(B) by adding at the end the following:

“(ii) **WAIVER OF NON-FEDERAL SHARE.**—

“(I) **IN GENERAL.**—Upon request by an intermediary, and in accordance with this clause, the Administrator may waive, in whole or in part, the requirement to obtain non-Federal funds under clause (i) for a fiscal year. The Administrator may waive the requirement to obtain non-Federal funds under this clause for successive fiscal years.

“(II) **CONSIDERATIONS.**—In determining whether to waive the requirement to obtain non-Federal funds under this clause, the Administrator shall consider—

“(aa) the economic conditions affecting the intermediary;

“(bb) the impact a waiver under this clause would have on the credibility of the microloan program under this subsection;

“(cc) the demonstrated ability of the intermediary to raise non-Federal funds; and

“(dd) the performance of the intermediary.

“(III) **LIMITATIONS.**—

“(aa) **IN GENERAL.**—The Administrator may not waive the requirement to obtain non-Federal funds under this clause if granting the waiver would undermine the credibility of the microloan program under this subsection.

“(bb) **SUNSET.**—The Administrator may not waive the requirement to obtain non-Federal funds under this clause for fiscal year 2013 or any fiscal year thereafter.”.

(b) **WOMEN'S BUSINESS CENTER PROGRAM.**—Section 29(c) of the Small Business Act (15 U.S.C. 656(c)) is amended—

(1) in paragraph (1), by striking “As a condition” and inserting “Subject to paragraph (5), as a condition”; and

(2) by adding at the end the following:

“(5) **WAIVER OF NON-FEDERAL SHARE RELATING TO TECHNICAL ASSISTANCE AND COUNSELING.**—

“(A) **IN GENERAL.**—Upon request by a recipient organization, and in accordance with this paragraph, the Administrator may waive, in whole or in part, the requirement to obtain non-Federal funds under this subsection for the technical assistance and counseling activities of the recipient organization carried out using financial assistance under this section for a fiscal year. The Administrator may waive the requirement to obtain non-Federal funds under this paragraph for successive fiscal years.

“(B) **CONSIDERATIONS.**—In determining whether to waive the requirement to obtain non-Federal funds under this paragraph, the Administrator shall consider—

“(i) the economic conditions affecting the recipient organization;

“(ii) the impact a waiver under this clause would have on the credibility of the women's business center program under this section;

“(iii) the demonstrated ability of the recipient organization to raise non-Federal funds; and

“(iv) the performance of the recipient organization.

“(C) **LIMITATIONS.**—

“(i) **IN GENERAL.**—The Administrator may not waive the requirement to obtain non-Federal funds under this paragraph if granting the waiver would undermine the credibility of the women's business center program under this section.

“(ii) **SUNSET.**—The Administrator may not waive the requirement to obtain non-Federal funds under this paragraph for fiscal year 2013 or any fiscal year thereafter.”.

(c) **PROSPECTIVE REPEALS.**—Effective October 1, 2012, the Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) in section 7(m) (15 U.S.C. 636(m))—

(A) in paragraph (3)(B)—

(i) by striking “INTERMEDIARY CONTRIBUTION.—” and all that follows through “Subject to clause (ii), as” and inserting “INTERMEDIARY CONTRIBUTION.—As”; and

(ii) by striking clause (ii); and

(B) in paragraph (4)(B)—

(i) by striking “CONTRIBUTION.—” and all that follows through “Subject to clause (ii), as” and inserting “CONTRIBUTION.—As”; and

(ii) by striking clause (ii); and

(2) in section 29(c) (15 U.S.C. 656(c))—

(A) in paragraph (1), by striking “Subject to paragraph (5), as” and inserting “As”; and

(B) by striking paragraph (5).

SEC. 1402. GRANTS FOR SBDOS.

(a) **IN GENERAL.**—The Administrator may make grants to small business development centers under section 21 of the Small Business Act (15 U.S.C. 648) to provide targeted technical assistance to small business concerns seeking access to capital or credit, Federal procurement opportunities, energy efficiency audits to reduce energy bills, opportunities to export products or provide services to foreign customers, adopting, making innovations in, and using broadband technologies, or other assistance.

(b) **ALLOCATION.**—

(1) **IN GENERAL.**—Subject to paragraph (2), and notwithstanding the requirements of section 21(a)(4)(C)(iii) of the Small Business Act (15 U.S.C. 648(a)(4)(C)(iii)), the amount appropriated to carry out this section shall be allocated under the formula under section 21(a)(4)(C)(i) of that Act.

(2) **MINIMUM FUNDING.**—The amount made available under this section to each State shall be not less than \$325,000.

(3) **TYPES OF USES.**—Of the total amount of the grants awarded by the Administrator under this section—

(A) not less than 80 percent shall be used for counseling of small business concerns; and

(B) not more than 20 percent may be used for classes or seminars.

(c) **NO NON-FEDERAL SHARE REQUIRED.**—Notwithstanding section 21(a)(4)(A) of the Small Business Act (15 U.S.C. 648(a)(4)(A)), the recipient of a grant made under this section shall not be required to provide non-Federal matching funds.

(d) **DISTRIBUTION.**—Not later than 30 days after the date on which amounts are appropriated to carry out this section, the Administrator shall disburse the total amount appropriated.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Administrator \$50,000,000 to carry out this section.

Subtitle E—Disaster Loan Improvement

SEC. 1501. AQUACULTURE BUSINESS DISASTER ASSISTANCE.

Section 3 of the Small Business Act (15 U.S.C. 632), as amended by section 1343, is amended by adding at the end the following:

“(z) **AQUACULTURE BUSINESS DISASTER ASSISTANCE.**—Subject to section 18(a) and notwithstanding section 18(b)(1), the Administrator may provide disaster assistance under section 7(b)(2) to aquaculture enterprises that are small businesses.”.

Subtitle F—Small Business Regulatory Relief
SEC. 1601. REQUIREMENTS PROVIDING FOR MORE DETAILED ANALYSES.

Section 604(a) of title 5, United States Code, is amended—

(1) in paragraph (1), by striking “succinct”;

(2) in paragraph (2), by striking “summary” each place it appears and inserting “statement”;

(3) by redesignating paragraphs (3), (4), and (5) as paragraphs (4), (5), and (6), respectively; and

(4) by inserting after paragraph (2) the following:

“(3) the response of the agency to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration in response to the proposed rule, and a detailed statement of any change made to the proposed rule in the final rule as a result of the comments.”.

SEC. 1602. OFFICE OF ADVOCACY.

(a) IN GENERAL.—Section 203 of Public Law 94–305 (15 U.S.C. 634c) is amended—

(1) in paragraph (4), by striking “and” at the end;

(2) in paragraph (5), by striking the period and inserting “; and”; and

(3) by adding at the end the following:

“(6) carry out the responsibilities of the Office of Advocacy under chapter 6 of title 5, United States Code.”.

(b) BUDGETARY LINE ITEM AND AUTHORIZATION OF APPROPRIATIONS.—Title II of Public Law 94–305 (15 U.S.C. 634a et seq.) is amended by striking section 207 and inserting the following:

“SEC. 207. BUDGETARY LINE ITEM AND AUTHORIZATION OF APPROPRIATIONS.

“(a) APPROPRIATION REQUESTS.—Each budget of the United States Government submitted by the President under section 1105 of title 31, United States Code, shall include a separate statement of the amount of appropriations requested for the Office of Advocacy of the Small Business Administration, which shall be designated in a separate account in the General Fund of the Treasury.

“(b) ADMINISTRATIVE OPERATIONS.—The Administrator of the Small Business Administration shall provide the Office of Advocacy with appropriate and adequate office space at central and field office locations, together with such equipment, operating budget, and communications facilities and services as may be necessary, and shall provide necessary maintenance services for such offices and the equipment and facilities located in such offices.

“(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this title. Any amount appropriated under this subsection shall remain available, without fiscal year limitation, until expended.”.

Subtitle G—Appropriations Provisions

SEC. 1701. SALARIES AND EXPENSES.

(a) APPROPRIATION.—There is appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2010, \$150,000,000, to remain available until September 30, 2012, for an additional amount for the appropriations account appropriated under the heading “SALARIES AND EXPENSES” under the heading “SMALL BUSINESS ADMINISTRATION”, of which—

(1) \$50,000,000 is for grants to small business development centers authorized under section 1402;

(2) \$1,000,000 is for the costs of administering grants authorized under section 1402;

(3) \$30,000,000 is for grants to States for fiscal year 2011 to carry out export programs that assist small business concerns authorized under section 1207;

(4) \$30,000,000 is for grants to States for fiscal year 2012 to carry out export programs that assist small business concerns authorized under section 1207;

(5) \$2,500,000 is for the costs of administering grants authorized under section 1207;

(6) \$5,000,000 is for grants for fiscal year 2011 under the Small Business Teaming Pilot Program under section 1314; and

(7) \$5,000,000 is for grants for fiscal year 2012 under the Small Business Teaming Pilot Program under section 1314.

(b) REPORT.—Not later than 60 days after the date of enactment of this Act, the Administrator shall submit to the Committee on Appropriations

of the Senate and the Committee on Appropriations of the House of Representatives a detailed expenditure plan for using the funds provided under subsection (a).

SEC. 1702. BUSINESS LOANS PROGRAM ACCOUNT.

(a) IN GENERAL.—There is appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2010, for an additional amount for the appropriations account appropriated under the heading “BUSINESS LOANS PROGRAM ACCOUNT” under the heading “SMALL BUSINESS ADMINISTRATION”—

(1) \$8,000,000, to remain available until September 30, 2012, for fiscal year 2011 for the cost of direct loans authorized under section 7(l) of the Small Business Act, as added by section 1131 of this title, including the cost of modifying the loans;

(2) \$8,000,000, to remain available until September 30, 2012, for fiscal year 2012 for the cost of direct loans authorized under section 7(l) of the Small Business Act, as added by section 1131 of this title, including the cost of modifying the loans;

(3) \$6,500,000, to remain available until September 30, 2012, for administrative expenses to carry out the direct loan program authorized under section 7(l) of the Small Business Act, as added by section 1131 of this title, which may be transferred to and merged with the appropriations account appropriated under the heading “SALARIES AND EXPENSES” under the heading “SMALL BUSINESS ADMINISTRATION”; and

(4) \$15,000,000, to remain available until September 30, 2011, for the cost of guaranteed loans as authorized under section 7(a) of the Small Business Act, including the cost of modifying the loans.

(b) DEFINITION.—In this section, the term “cost” has the meaning given that term in section 502 of the Congressional Budget Act of 1974.

SEC. 1703. COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS FUND PROGRAM ACCOUNT.

There is appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2010, for an additional amount for the appropriations account appropriated under the heading “COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS FUND PROGRAM ACCOUNT” under the heading “DEPARTMENT OF THE TREASURY”, \$13,500,000, to remain available until September 30, 2012, for the costs of administering guarantees for bonds and notes as authorized under section 114A of the Riegle Community Development and Regulatory Improvement Act of 1994, as added by section 1134 of this Act.

SEC. 1704. SMALL BUSINESS LOAN GUARANTEE ENHANCEMENT EXTENSIONS.

(a) EXTENSION OF PROGRAMS.—

(1) IN GENERAL.—There is appropriated, out of any funds in the Treasury not otherwise appropriated, for an additional amount for “Small Business Administration—Business Loans Program Account”, \$505,000,000, to remain available through December 31, 2010, for the cost of—

(A) fee reductions and eliminations under section 501 of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 151), as amended by this Act; and

(B) loan guarantees under section 502 of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5; 123 Stat. 152), as amended by this Act.

(2) COST.—For purposes of this subsection, the term “cost” has the same meaning as in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661a).

(b) ADMINISTRATIVE EXPENSES.—There is appropriated for an additional amount, out of any funds in the Treasury not otherwise appropriated, for administrative expenses to carry out sections 501 and 502 of division A of the American Recovery and Reinvestment Act of 2009 (Public Law 111–5), \$5,000,000, to remain avail-

able until expended, which may be transferred and merged with the appropriation for “Small Business Administration—Salaries and Expenses”.

TITLE II—TAX PROVISIONS

SEC. 2001. SHORT TITLE.

This title may be cited as the “Creating Small Business Jobs Act of 2010”.

Subtitle A—Small Business Relief

PART I—PROVIDING ACCESS TO CAPITAL

SEC. 2011. TEMPORARY EXCLUSION OF 100 PERCENT OF GAIN ON CERTAIN SMALL BUSINESS STOCK.

(a) IN GENERAL.—Subsection (a) of section 1202 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(4) 100 PERCENT EXCLUSION FOR STOCK ACQUIRED DURING CERTAIN PERIODS IN 2010.—In the case of qualified small business stock acquired after the date of the enactment of the Creating Small Business Jobs Act of 2010 and before January 1, 2011—

“(A) paragraph (1) shall be applied by substituting ‘100 percent’ for ‘50 percent’;

“(B) paragraph (2) shall not apply, and

“(C) paragraph (7) of section 57(a) shall not apply.”.

(b) CONFORMING AMENDMENT.—Paragraph (3) of section 1202(a) of the Internal Revenue Code of 1986 is amended—

(1) by inserting “CERTAIN PERIODS IN” before “2010” in the heading, and

(2) by striking “before January 1, 2011” and inserting “on or before the date of the enactment of the Creating Small Business Jobs Act of 2010”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to stock acquired after the date of the enactment of this Act.

SEC. 2012. GENERAL BUSINESS CREDITS OF ELIGIBLE SMALL BUSINESSES FOR 2010 CARRIED BACK 5 YEARS.

(a) IN GENERAL.—Section 39(a) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(4) 5-YEAR CARRYBACK FOR ELIGIBLE SMALL BUSINESS CREDITS.—

“(A) IN GENERAL.—Notwithstanding subsection (d), in the case of eligible small business credits determined in the first taxable year of the taxpayer beginning in 2010—

“(i) paragraph (1) shall be applied by substituting ‘each of the 5 taxable years’ for ‘the taxable year’ in subparagraph (A) thereof, and

“(ii) paragraph (2) shall be applied—

“(I) by substituting ‘25 taxable years’ for ‘21 taxable years’ in subparagraph (A) thereof, and

“(II) by substituting ‘24 taxable years’ for ‘20 taxable years’ in subparagraph (B) thereof.

“(B) ELIGIBLE SMALL BUSINESS CREDITS.—For purposes of this subsection, the term ‘eligible small business credits’ has the meaning given such term by section 38(c)(5)(B).”.

(b) CONFORMING AMENDMENT.—Section 39(a)(3)(A) of the Internal Revenue Code of 1986 is amended by inserting “or the eligible small business credits” after “credit”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to credits determined in taxable years beginning after December 31, 2009.

SEC. 2013. GENERAL BUSINESS CREDITS OF ELIGIBLE SMALL BUSINESSES IN 2010 NOT SUBJECT TO ALTERNATIVE MINIMUM TAX.

(a) IN GENERAL.—Section 38(c) of the Internal Revenue Code of 1986 is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

“(5) SPECIAL RULES FOR ELIGIBLE SMALL BUSINESS CREDITS IN 2010.—

“(A) IN GENERAL.—In the case of eligible small business credits determined in taxable years beginning in 2010—

“(i) this section and section 39 shall be applied separately with respect to such credits, and

“(ii) in applying paragraph (1) to such credits—

“(I) the tentative minimum tax shall be treated as being zero, and

“(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than the eligible small business credits).

“(B) ELIGIBLE SMALL BUSINESS CREDITS.—For purposes of this subsection, the term ‘eligible small business credits’ means the sum of the credits listed in subsection (b) which are determined for the taxable year with respect to an eligible small business. Such credits shall not be taken into account under paragraph (2), (3), or (4).

“(C) ELIGIBLE SMALL BUSINESS.—For purposes of this subsection, the term ‘eligible small business’ means, with respect to any taxable year—

“(i) a corporation the stock of which is not publicly traded,

“(ii) a partnership, or

“(iii) a sole proprietorship,

if the average annual gross receipts of such corporation, partnership, or sole proprietorship for the 3-taxable-year period preceding such taxable year does not exceed \$50,000,000. For purposes of applying the test under the preceding sentence, rules similar to the rules of paragraphs (2) and (3) of section 448(c) shall apply.

“(D) TREATMENT OF PARTNERS AND S CORPORATION SHAREHOLDERS.—Credits determined with respect to a partnership or S corporation shall not be treated as eligible small business credits by any partner or shareholder unless such partner or shareholder meets the gross receipts test under subparagraph (C) for the taxable year in which such credits are treated as current year business credits.”.

(b) TECHNICAL AMENDMENT.—Section 55(e)(5) of the Internal Revenue Code of 1986 is amended by striking “38(c)(3)(B)” and inserting “38(c)(6)(B)”.

(c) CONFORMING AMENDMENTS.—

(1) Subclause (II) of section 38(c)(2)(A)(ii) of the Internal Revenue Code of 1986 is amended by inserting “the eligible small business credits,” after “the New York Liberty Zone business employee credit.”.

(2) Subclause (II) of section 38(c)(3)(A)(ii) of such Code is amended by inserting “, the eligible small business credits,” after “the New York Liberty Zone business employee credit”.

(3) Subclause (II) of section 38(c)(4)(A)(ii) of such Code is amended by inserting “the eligible small business credits and” before “the specified credits”.

(d) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to credits determined in taxable years beginning after December 31, 2009, and to carrybacks of such credits.

SEC. 2014. TEMPORARY REDUCTION IN RECOGNITION PERIOD FOR BUILT-IN GAINS TAX.

(a) IN GENERAL.—Subparagraph (B) of section 1374(d)(7) of the Internal Revenue Code of 1986 is amended to read as follows:

“(B) SPECIAL RULES FOR 2009, 2010, AND 2011.—No tax shall be imposed on the net recognized built-in gain of an S corporation—

“(i) in the case of any taxable year beginning in 2009 or 2010, if the 7th taxable year in the recognition period preceded such taxable year, or

“(ii) in the case of any taxable year beginning in 2011, if the 5th year in the recognition period preceded such taxable year.

The preceding sentence shall be applied separately with respect to any asset to which paragraph (8) applies.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2010.

PART II—ENCOURAGING INVESTMENT

SEC. 2021. INCREASED EXPENSING LIMITATIONS FOR 2010 AND 2011; CERTAIN REAL PROPERTY TREATED AS SECTION 179 PROPERTY.

(a) INCREASED LIMITATIONS.—Subsection (b) of section 179 of the Internal Revenue Code of 1986 is amended—

(1) by striking “shall not exceed” and all that follows in paragraph (1) and inserting “shall not exceed—

“(A) \$250,000 in the case of taxable years beginning after 2007 and before 2010,

“(B) \$500,000 in the case of taxable years beginning in 2010 or 2011, and

“(C) \$25,000 in the case of taxable years beginning after 2011.”, and

(2) by striking “exceeds” and all that follows in paragraph (2) and inserting “exceeds—

“(A) \$800,000 in the case of taxable years beginning after 2007 and before 2010,

“(B) \$2,000,000 in the case of taxable years beginning in 2010 or 2011, and

“(C) \$200,000 in the case of taxable years beginning after 2011.”.

(b) INCLUSION OF CERTAIN REAL PROPERTY.—Section 179 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(f) SPECIAL RULES FOR QUALIFIED REAL PROPERTY.—

“(1) IN GENERAL.—If a taxpayer elects the application of this subsection for any taxable year beginning in 2010 or 2011, the term ‘section 179 property’ shall include any qualified real property which is—

“(A) of a character subject to an allowance for depreciation,

“(B) acquired by purchase for use in the active conduct of a trade or business, and

“(C) not described in the last sentence of subsection (d)(1).

“(2) QUALIFIED REAL PROPERTY.—For purposes of this subsection, the term ‘qualified real property’ means—

“(A) qualified leasehold improvement property described in section 168(e)(6),

“(B) qualified restaurant property described in section 168(e)(7) (without regard to the dates specified in subparagraph (A)(i) thereof), and

“(C) qualified retail improvement property described in section 168(e)(8) (without regard to subparagraph (E) thereof).

“(3) LIMITATION.—For purposes of applying the limitation under subsection (b)(1)(B), not more than \$250,000 of the aggregate cost which is taken into account under subsection (a) for any taxable year may be attributable to qualified real property.

“(4) CARRYOVER LIMITATION.—

“(A) IN GENERAL.—Notwithstanding subsection (b)(3)(B), no amount attributable to qualified real property may be carried over to a taxable year beginning after 2011.

“(B) TREATMENT OF DISALLOWED AMOUNTS.—Except as provided in subparagraph (C), to the extent that any amount is not allowed to be carried over to a taxable year beginning after 2011 by reason of subparagraph (A), this title shall be applied as if no election under this section had been made with respect to such amount.

“(C) AMOUNTS CARRIED OVER FROM 2010.—If subparagraph (B) applies to any amount (or portion of an amount) which is carried over from a taxable year other than the taxpayer’s last taxable year beginning in 2011, such amount (or portion of an amount) shall be treated for purposes of this title as attributable to property placed in service on the first day of the taxpayer’s last taxable year beginning in 2011.

“(D) ALLOCATION OF AMOUNTS.—For purposes of applying this paragraph and subsection (b)(3)(B) to any taxable year, the amount which is disallowed under subsection (b)(3)(A) for such taxable year which is attributed to qualified real property shall be the amount which bears the same ratio to the total amount so disallowed as—

“(i) the aggregate amount attributable to qualified real property placed in service during such taxable year, increased by the portion of any amount carried over to such taxable year from a prior taxable year which is attributable to such property, bears to

“(ii) the total amount of section 179 property placed in service during such taxable year, increased by the aggregate amount carried over to such taxable year from any prior taxable year. For purposes of the preceding sentence, only section 179 property with respect to which an election was made under subsection (c)(1) (determined without regard to subparagraph (B) of this paragraph) shall be taken into account.”.

(c) REVOCABILITY OF ELECTION.—Paragraph (2) of section 179(c) of the Internal Revenue Code of 1986 is amended by striking “2011” and inserting “2012”.

(d) COMPUTER SOFTWARE TREATED AS 179 PROPERTY.—Clause (ii) of section 179(d)(1)(A) is amended by striking “2011” and inserting “2012”.

(e) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service after December 31, 2009, in taxable years beginning after such date.

(2) EXTENSIONS.—The amendments made by subsections (c) and (d) shall apply to taxable years beginning after December 31, 2010.

SEC. 2022. ADDITIONAL FIRST-YEAR DEPRECIATION FOR 50 PERCENT OF THE BASIS OF CERTAIN QUALIFIED PROPERTY.

(a) IN GENERAL.—Paragraph (2) of section 168(k) of the Internal Revenue Code of 1986 is amended—

(1) by striking “January 1, 2011” in subparagraph (A)(iv) and inserting “January 1, 2012”, and

(2) by striking “January 1, 2010” each place it appears and inserting “January 1, 2011”.

(b) CONFORMING AMENDMENTS.—

(1) The heading for subsection (k) of section 168 of the Internal Revenue Code of 1986 is amended by striking “JANUARY 1, 2010” and inserting “JANUARY 1, 2011”.

(2) The heading for clause (ii) of section 168(k)(2)(B) of such Code is amended by striking “PRE-JANUARY 1, 2010” and inserting “PRE-JANUARY 1, 2011”.

(3) Subparagraph (D) of section 168(k)(4) of such Code is amended by striking “and” at the end of clause (ii), by striking the period at the end of clause (iii) and inserting a comma, and by adding at the end the following new clauses:

“(iv) ‘January 1, 2011’ shall be substituted for ‘January 1, 2012’ in subparagraph (A)(iv) thereof, and

“(v) ‘January 1, 2010’ shall be substituted for ‘January 1, 2011’ each place it appears in subparagraph (A) thereof.”.

(4) Subparagraph (B) of section 168(l)(5) of such Code is amended by striking “January 1, 2010” and inserting “January 1, 2011”.

(5) Subparagraph (C) of section 168(n)(2) of such Code is amended by striking “January 1, 2010” and inserting “January 1, 2011”.

(6) Subparagraph (D) of section 1400L(b)(2) of such Code is amended by striking “January 1, 2010” and inserting “January 1, 2011”.

(7) Subparagraph (B) of section 1400N(d)(3) of such Code is amended by striking “January 1, 2010” and inserting “January 1, 2011”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 2009, in taxable years ending after such date.

SEC. 2023. SPECIAL RULE FOR LONG-TERM CONTRACT ACCOUNTING.

(a) IN GENERAL.—Section 460(c) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(6) SPECIAL RULE FOR ALLOCATION OF BONUS DEPRECIATION WITH RESPECT TO CERTAIN PROPERTY.—

“(A) IN GENERAL.—Solely for purposes of determining the percentage of completion under subsection (b)(1)(A), the cost of qualified property shall be taken into account as a cost allocated to the contract as if subsection (k) of section 168 had not been enacted.

“(B) QUALIFIED PROPERTY.—For purposes of this paragraph, the term ‘qualified property’ means property described in section 168(k)(2) which—

“(i) has a recovery period of 7 years or less, and

“(ii) is placed in service after December 31, 2009, and before January 1, 2011 (January 1, 2012, in the case of property described in section 168(k)(2)(B)).”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property placed in service after December 31, 2009.

PART III—PROMOTING ENTREPRENEURSHIP

SEC. 2031. INCREASE IN AMOUNT ALLOWED AS DEDUCTION FOR START-UP EXPENDITURES IN 2010.

(a) START-UP EXPENDITURES.—Subsection (b) of section 195 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(3) SPECIAL RULE FOR TAXABLE YEARS BEGINNING IN 2010.—In the case of a taxable year beginning in 2010, paragraph (1)(A)(ii) shall be applied—

“(A) by substituting ‘\$10,000’ for ‘\$5,000’, and

“(B) by substituting ‘\$60,000’ for ‘\$50,000’.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to amounts paid or incurred in taxable years beginning after December 31, 2009.

SEC. 2032. AUTHORIZATION OF APPROPRIATIONS FOR THE UNITED STATES TRADE REPRESENTATIVE TO DEVELOP MARKET ACCESS OPPORTUNITIES FOR UNITED STATES SMALL- AND MEDIUM-SIZED BUSINESSES AND TO ENFORCE TRADE AGREEMENTS.

(a) IN GENERAL.—There are authorized to be appropriated to the Office of the United States Trade Representative \$5,230,000, to remain available until expended, for—

(1) analyzing and developing opportunities for businesses in the United States to access the markets of foreign countries; and

(2) enforcing trade agreements to which the United States is a party.

(b) REQUIREMENTS.—In obligating and expending the funds authorized to be appropriated under subsection (a), the United States Trade Representative shall—

(1) give preference to those initiatives that the United States Trade Representative determines will create or sustain the greatest number of jobs in the United States or result in the greatest benefit to the economy of the United States; and

(2) consider the needs of small- and medium-sized businesses in the United States with respect to—

(A) accessing the markets of foreign countries; and

(B) the enforcement of trade agreements to which the United States is a party.

PART IV—PROMOTING SMALL BUSINESS FAIRNESS

SEC. 2041. LIMITATION ON PENALTY FOR FAILURE TO DISCLOSE REPORTABLE TRANSACTIONS BASED ON RESULTING TAX BENEFITS.

(a) IN GENERAL.—Subsection (b) of section 6707A of the Internal Revenue Code of 1986 is amended to read as follows:

“(b) AMOUNT OF PENALTY.—

“(1) IN GENERAL.—Except as otherwise provided in this subsection, the amount of the penalty under subsection (a) with respect to any reportable transaction shall be 75 percent of the decrease in tax shown on the return as a result of such transaction (or which would have resulted from such transaction if such transaction were respected for Federal tax purposes).

“(2) MAXIMUM PENALTY.—The amount of the penalty under subsection (a) with respect to any reportable transaction shall not exceed—

“(A) in the case of a listed transaction, \$200,000 (\$100,000 in the case of a natural person), or

“(B) in the case of any other reportable transaction, \$50,000 (\$10,000 in the case of a natural person).

“(3) MINIMUM PENALTY.—The amount of the penalty under subsection (a) with respect to any transaction shall not be less than \$10,000 (\$5,000 in the case of a natural person).”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to penalties assessed after December 31, 2006.

SEC. 2042. DEDUCTION FOR HEALTH INSURANCE COSTS IN COMPUTING SELF-EMPLOYMENT TAXES IN 2010.

(a) IN GENERAL.—Paragraph (4) of section 162(l) of the Internal Revenue Code of 1986 is amended by inserting “for taxable years beginning before January 1, 2010, or after December 31, 2010” before the period.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2009.

SEC. 2043. REMOVAL OF CELLULAR TELEPHONES AND SIMILAR TELECOMMUNICATIONS EQUIPMENT FROM LISTED PROPERTY.

(a) IN GENERAL.—Subparagraph (A) of section 280F(d)(4) of the Internal Revenue Code of 1986 (defining listed property) is amended by adding “and” at the end of clause (iv), by striking clause (v), and by redesignating clause (vi) as clause (v).

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2009.

Subtitle B—Revenue Provisions

PART I—REDUCING THE TAX GAP

SEC. 2101. INFORMATION REPORTING FOR RENTAL PROPERTY EXPENSE PAYMENTS.

(a) IN GENERAL.—Section 6041 of the Internal Revenue Code of 1986, as amended by section 9006 of the Patient Protection and Affordable Care Act, is amended by redesignating subsections (h) and (i) as subsections (i) and (j), respectively, and by inserting after subsection (g) the following new subsection:

“(h) TREATMENT OF RENTAL PROPERTY EXPENSE PAYMENTS.—

“(1) IN GENERAL.—Solely for purposes of subsection (a) and except as provided in paragraph (2), a person receiving rental income from real estate shall be considered to be engaged in a trade or business of renting property.

“(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

“(A) any individual, including any individual who is an active member of the uniformed services or an employee of the intelligence community (as defined in section 121(d)(9)(C)(iv)), if substantially all rental income is derived from renting the principal residence (within the meaning of section 121) of such individual on a temporary basis,

“(B) any individual who receives rental income of not more than the minimal amount, as determined under regulations prescribed by the Secretary, and

“(C) any other individual for whom the requirements of this section would cause hardship, as determined under regulations prescribed by the Secretary.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to payments made after December 31, 2010.

SEC. 2102. INCREASE IN INFORMATION RETURN PENALTIES.

(a) FAILURE TO FILE CORRECT INFORMATION RETURNS.—

(1) IN GENERAL.—Subsections (a)(1), (b)(1)(A), and (b)(2)(A) of section 6721 of the Internal Revenue Code of 1986 are each amended by striking “\$50” and inserting “\$100”.

(2) AGGREGATE ANNUAL LIMITATION.—Subsections (a)(1), (d)(1)(A), and (e)(3)(A) of section 6721 of such Code are each amended by striking “\$250,000” and inserting “\$1,500,000”.

(b) REDUCTION WHERE CORRECTION WITHIN 30 DAYS.—

(1) IN GENERAL.—Subparagraph (A) of section 6721(b)(1) of the Internal Revenue Code of 1986 is amended by striking “\$15” and inserting “\$30”.

(2) AGGREGATE ANNUAL LIMITATION.—Subsections (b)(1)(B) and (d)(1)(B) of section 6721 of such Code are each amended by striking “\$75,000” and inserting “\$250,000”.

(c) REDUCTION WHERE CORRECTION ON OR BEFORE AUGUST 1.—

(1) IN GENERAL.—Subparagraph (A) of section 6721(b)(2) of the Internal Revenue Code of 1986 is amended by striking “\$30” and inserting “\$60”.

(2) AGGREGATE ANNUAL LIMITATION.—Subsections (b)(2)(B) and (d)(1)(C) of section 6721 of such Code are each amended by striking “\$150,000” and inserting “\$500,000”.

(d) AGGREGATE ANNUAL LIMITATIONS FOR PERSONS WITH GROSS RECEIPTS OF NOT MORE THAN \$5,000,000.—

(1) IN GENERAL.—Paragraph (1) of section 6721(d) of the Internal Revenue Code of 1986 is amended—

(A) by striking “\$100,000” in subparagraph (A) and inserting “\$500,000”,

(B) by striking “\$25,000” in subparagraph (B) and inserting “\$75,000”, and

(C) by striking “\$50,000” in subparagraph (C) and inserting “\$200,000”.

(2) TECHNICAL AMENDMENT.—Paragraph (1) of section 6721(d) of such Code is amended by striking “such taxable year” and inserting “such calendar year”.

(e) PENALTY IN CASE OF INTENTIONAL DISREGARD.—Paragraph (2) of section 6721(e) of the Internal Revenue Code of 1986 is amended by striking “\$100” and inserting “\$250”.

(f) ADJUSTMENT FOR INFLATION.—Section 6721 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(f) ADJUSTMENT FOR INFLATION.—

“(1) IN GENERAL.—For each fifth calendar year beginning after 2012, each of the dollar amounts under subsections (a), (b), (d) (other than paragraph (2)(A) thereof), and (e) shall be increased by such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) determined by substituting ‘calendar year 2011’ for ‘calendar year 1992’ in subparagraph (B) thereof.

“(2) ROUNDING.—If any amount adjusted under paragraph (1)—

“(A) is not less than \$75,000 and is not a multiple of \$500, such amount shall be rounded to the next lowest multiple of \$500, and

“(B) is not described in subparagraph (A) and is not a multiple of \$10, such amount shall be rounded to the next lowest multiple of \$10.”.

(g) FAILURE TO FURNISH CORRECT PAYEE STATEMENTS.—Section 6722 of the Internal Revenue Code of 1986 is amended to read as follows:

“SEC. 6722. FAILURE TO FURNISH CORRECT PAYEE STATEMENTS.

“(a) IMPOSITION OF PENALTY.—

“(1) GENERAL RULE.—In the case of each failure described in paragraph (2) by any person with respect to a payee statement, such person shall pay a penalty of \$100 for each statement with respect to which such a failure occurs, but the total amount imposed on such person for all such failures during any calendar year shall not exceed \$1,500,000.

“(2) FAILURES SUBJECT TO PENALTY.—For purposes of paragraph (1), the failures described in this paragraph are—

“(A) any failure to furnish a payee statement on or before the date prescribed therefor to the person to whom such statement is required to be furnished, and

“(B) any failure to include all of the information required to be shown on a payee statement or the inclusion of incorrect information.

“(b) REDUCTION WHERE CORRECTION IN SPECIFIED PERIOD.—

“(1) CORRECTION WITHIN 30 DAYS.—If any failure described in subsection (a)(2) is corrected on or before the day 30 days after the required filing date—

“(A) the penalty imposed by subsection (a) shall be \$30 in lieu of \$100, and

“(B) the total amount imposed on the person for all such failures during any calendar year which are so corrected shall not exceed \$250,000.

“(2) FAILURES CORRECTED ON OR BEFORE AUGUST 1.—If any failure described in subsection (a)(2) is corrected after the 30th day referred to in paragraph (1) but on or before August 1 of the calendar year in which the required filing date occurs—

“(A) the penalty imposed by subsection (a) shall be \$60 in lieu of \$100, and

“(B) the total amount imposed on the person for all such failures during the calendar year which are so corrected shall not exceed \$500,000.

“(c) EXCEPTION FOR DE MINIMIS FAILURES.—

“(1) IN GENERAL.—If—

“(A) a payee statement is furnished to the person to whom such statement is required to be furnished,

“(B) there is a failure described in subsection (a)(2)(B) (determined after the application of section 6724(a)) with respect to such statement, and

“(C) such failure is corrected on or before August 1 of the calendar year in which the required filing date occurs, for purposes of this section, such statement shall be treated as having been furnished with all of the correct required information.

“(2) LIMITATION.—The number of payee statements to which paragraph (1) applies for any calendar year shall not exceed the greater of—

“(A) 10, or

“(B) one-half of 1 percent of the total number of payee statements required to be filed by the person during the calendar year.

“(d) LOWER LIMITATIONS FOR PERSONS WITH GROSS RECEIPTS OF NOT MORE THAN \$5,000,000.—

“(1) IN GENERAL.—If any person meets the gross receipts test of paragraph (2) with respect to any calendar year, with respect to failures during such calendar year—

“(A) subsection (a)(1) shall be applied by substituting ‘\$500,000’ for ‘\$1,500,000’;

“(B) subsection (b)(1)(B) shall be applied by substituting ‘\$75,000’ for ‘\$250,000’; and

“(C) subsection (b)(2)(B) shall be applied by substituting ‘\$200,000’ for ‘\$500,000’.

“(2) GROSS RECEIPTS TEST.—A person meets the gross receipts test of this paragraph if such person meets the gross receipts test of section 6721(d)(2).

“(e) PENALTY IN CASE OF INTENTIONAL DISREGARD.—If 1 or more failures to which subsection (a) applies are due to intentional disregard of the requirement to furnish a payee statement (or the correct information reporting requirement), then, with respect to each such failure—

“(1) subsections (b), (c), and (d) shall not apply,

“(2) the penalty imposed under subsection (a)(1) shall be \$250, or, if greater—

“(A) in the case of a payee statement other than a statement required under section 6045(b), 6041A(e) (in respect of a return required under section 6041A(b)), 6050H(d), 6050J(e), 6050K(b), or 6050L(c), 10 percent of the aggregate amount of the items required to be reported correctly, or

“(B) in the case of a payee statement required under section 6045(b), 6050K(b), or 6050L(c), 5 percent of the aggregate amount of the items required to be reported correctly, and

“(3) in the case of any penalty determined under paragraph (2)—

“(A) the \$1,500,000 limitation under subsection (a) shall not apply, and

“(B) such penalty shall not be taken into account in applying such limitation to penalties not determined under paragraph (2).

“(f) ADJUSTMENT FOR INFLATION.—

“(1) IN GENERAL.—For each fifth calendar year beginning after 2012, each of the dollar amounts under subsections (a), (b), (d)(1), and (e) shall be increased by such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) determined by substituting ‘calendar year 2011’ for ‘calendar year 1992’ in subparagraph (B) thereof.

“(2) ROUNDING.—If any amount adjusted under paragraph (1)—

“(A) is not less than \$75,000 and is not a multiple of \$500, such amount shall be rounded to the next lowest multiple of \$500, and

“(B) is not described in subparagraph (A) and is not a multiple of \$10, such amount shall be rounded to the next lowest multiple of \$10.”.

(h) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to information returns required to be filed on or after January 1, 2011.

SEC. 2103. REPORT ON TAX SHELTER PENALTIES AND CERTAIN OTHER ENFORCEMENT ACTIONS.

(a) IN GENERAL.—The Commissioner of Internal Revenue, in consultation with the Secretary of the Treasury, shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate an annual report on the penalties assessed by the Internal Revenue Service during the preceding year under each of the following provisions of the Internal Revenue Code of 1986:

(1) Section 6662A (relating to accuracy-related penalty on understatements with respect to reportable transactions).

(2) Section 6700(a) (relating to promoting abusive tax shelters).

(3) Section 6707 (relating to failure to furnish information regarding reportable transactions).

(4) Section 6707A (relating to failure to include reportable transaction information with return).

(5) Section 6708 (relating to failure to maintain lists of advisees with respect to reportable transactions).

(b) ADDITIONAL INFORMATION.—The report required under subsection (a) shall also include information on the following with respect to each year:

(1) Any action taken under section 330(b) of title 31, United States Code, with respect to any reportable transaction (as defined in section 6707A(c) of the Internal Revenue Code of 1986).

(2) Any extension of the time for assessment of tax enforced, or assessment of any amount under such an extension, under paragraph (10) of section 6501(c) of the Internal Revenue Code of 1986.

(c) DATE OF REPORT.—The first report required under subsection (a) shall be submitted not later than December 31, 2010.

SEC. 2104. APPLICATION OF CONTINUOUS LEVY TO TAX LIABILITIES OF CERTAIN FEDERAL CONTRACTORS.

(a) IN GENERAL.—Subsection (f) of section 6330 of the Internal Revenue Code of 1986 is amended by striking “or” at the end of paragraph (2), by inserting “or” at the end of paragraph (3), and by inserting after paragraph (3) the following new paragraph:

“(4) The Secretary has served a Federal contractor levy.”.

(b) FEDERAL CONTRACTOR LEVY.—Subsection (h) of section 6330 of the Internal Revenue Code of 1986 is amended—

(1) by striking all that precedes “any levy in connection with the collection” and inserting the following:

“(h) DEFINITIONS RELATED TO EXCEPTIONS.—For purposes of subsection (f)—

“(1) DISQUALIFIED EMPLOYMENT TAX LEVY.—A disqualified employment tax levy is;” and

(2) by adding at the end the following new paragraph:

“(2) FEDERAL CONTRACTOR LEVY.—A Federal contractor levy is any levy if the person whose property is subject to the levy (or any predecessor thereof) is a Federal contractor.”.

(c) CONFORMING AMENDMENT.—The heading of subsection (f) of section 6330 of the Internal Revenue Code of 1986 is amended by striking “JEOPARDY AND STATE REFUND COLLECTION” and inserting “EXCEPTIONS”.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to levies issued after the date of the enactment of this Act.

PART II—PROMOTING RETIREMENT PREPARATION

SEC. 2111. PARTICIPANTS IN GOVERNMENT SECTION 457 PLANS ALLOWED TO TREAT ELECTIVE DEFERRALS AS ROTH CONTRIBUTIONS.

(a) IN GENERAL.—Section 402A(e)(1) of the Internal Revenue Code of 1986 is amended by striking “and” at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting “, and”, and by adding at the end the following:

“(C) an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A).”.

(b) ELECTIVE DEFERRALS.—Section 402A(e)(2) of the Internal Revenue Code of 1986 is amended to read as follows:

“(2) ELECTIVE DEFERRAL.—The term ‘elective deferral’ means—

“(A) any elective deferral described in subparagraph (A) or (C) of section 402(g)(3), and

“(B) any elective deferral of compensation by an individual under an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(e)(1)(A).”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2010.

SEC. 2112. ROLLOVERS FROM ELECTIVE DEFERRAL PLANS TO DESIGNATED ROTH ACCOUNTS.

(a) IN GENERAL.—Section 402A(c) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(4) TAXABLE ROLLOVERS TO DESIGNATED ROTH ACCOUNTS.—

“(A) IN GENERAL.—Notwithstanding sections 402(c), 403(b)(8), and 457(e)(16), in the case of any distribution to which this paragraph applies—

“(i) there shall be included in gross income any amount which would be includible were it not part of a qualified rollover contribution,

“(ii) section 72(t) shall not apply, and

“(iii) unless the taxpayer elects not to have this clause apply, any amount required to be included in gross income for any taxable year beginning in 2010 by reason of this paragraph shall be so included ratably over the 2-taxable-year period beginning with the first taxable year beginning in 2011.

Any election under clause (iii) for any distributions during a taxable year may not be changed after the due date for such taxable year.

“(B) DISTRIBUTIONS TO WHICH PARAGRAPH APPLIES.—In the case of an applicable retirement plan which includes a qualified Roth contribution program, this paragraph shall apply to a distribution from such plan other than from a designated Roth account which is contributed in a qualified rollover contribution (within the meaning of section 408A(e)) to the designated Roth account maintained under such plan for the benefit of the individual to whom the distribution is made.

“(C) COORDINATION WITH LIMIT.—Any distribution to which this paragraph applies shall not be taken into account for purposes of paragraph (1).

“(D) OTHER RULES.—The rules of subparagraphs (D), (E), and (F) of section 408A(d)(3) (as in effect for taxable years beginning after 2009) shall apply for purposes of this paragraph.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after the date of the enactment of this Act.

SEC. 2113. SPECIAL RULES FOR ANNUITIES RECEIVED FROM ONLY A PORTION OF A CONTRACT.

(a) *IN GENERAL.*—Subsection (a) of section 72 of the Internal Revenue Code of 1986 is amended to read as follows:

“(a) *GENERAL RULES FOR ANNUITIES.*—

“(1) *INCOME INCLUSION.*—Except as otherwise provided in this chapter, gross income includes any amount received as an annuity (whether for a period certain or during one or more lives) under an annuity, endowment, or life insurance contract.

“(2) *PARTIAL ANNUITIZATION.*—If any amount is received as an annuity for a period of 10 years or more or during one or more lives under any portion of an annuity, endowment, or life insurance contract—

“(A) such portion shall be treated as a separate contract for purposes of this section,

“(B) for purposes of applying subsections (b), (c), and (e), the investment in the contract shall be allocated pro rata between each portion of the contract from which amounts are received as an annuity and the portion of the contract from which amounts are not received as an annuity, and

“(C) a separate annuity starting date under subsection (c)(4) shall be determined with respect to each portion of the contract from which amounts are received as an annuity.”.

(b) *EFFECTIVE DATE.*—The amendment made by this section shall apply to amounts received in taxable years beginning after December 31, 2010.

PART III—CLOSING UNINTENDED LOOPHOLES**SEC. 2121. CRUDE TALL OIL INELIGIBLE FOR CELLULOSE BIOFUEL PRODUCER CREDIT.**

(a) *IN GENERAL.*—Clause (iii) of section 40(b)(6)(E) of the Internal Revenue Code of 1986, as added by the Health Care and Education Reconciliation Act of 2010, is amended—

(1) by striking “or” at the end of subclause (I),

(2) by striking the period at the end of subclause (II) and inserting “, or”,

(3) by adding at the end the following new subclause:

“(III) such fuel has an acid number greater than 25.”, and

(4) by striking “UNPROCESSED” in the heading and inserting “CERTAIN”.

(b) *EFFECTIVE DATE.*—The amendments made by this section shall apply to fuels sold or used on or after January 1, 2010.

SEC. 2122. SOURCE RULES FOR INCOME ON GUARANTEES.

(a) *AMOUNTS SOURCED WITHIN THE UNITED STATES.*—Subsection (a) of section 861 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(9) *GUARANTEES.*—Amounts received, directly or indirectly, from—

“(A) a noncorporate resident or domestic corporation for the provision of a guarantee of any indebtedness of such resident or corporation, or

“(B) any foreign person for the provision of a guarantee of any indebtedness of such person, if such amount is connected with income which is effectively connected (or treated as effectively connected) with the conduct of a trade or business in the United States.”.

(b) *AMOUNTS SOURCED WITHOUT THE UNITED STATES.*—Subsection (a) of section 862 of the Internal Revenue Code of 1986 is amended by striking “and” at the end of paragraph (7), by striking the period at the end of paragraph (8) and inserting “; and”, and by adding at the end the following new paragraph:

“(9) amounts received, directly or indirectly, from a foreign person for the provision of a guarantee of indebtedness of such person other than amounts which are derived from sources within the United States as provided in section 861(a)(9).”.

(c) *CONFORMING AMENDMENT.*—Clause (ii) of section 864(c)(4)(B) of the Internal Revenue Code of 1986 is amended by striking “dividends or interest” and inserting “dividends, interest, or amounts received for the provision of guarantees of indebtedness”.

(d) *EFFECTIVE DATE.*—The amendments made by this section shall apply to guarantees issued after the date of the enactment of this Act.

PART IV—TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES**SEC. 2131. TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES.**

The percentage under paragraph (2) of section 561 of the Hiring Incentives to Restore Employment Act in effect on the date of the enactment of this Act is increased by 36 percentage points.

TITLE III—STATE SMALL BUSINESS CREDIT INITIATIVE**SEC. 3001. SHORT TITLE.**

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

SEC. 3002. DEFINITIONS.

In this title, the following definitions shall apply:

(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”

(A) has the same meaning as in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)); 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.

(3) *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.

(4) *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 3003.

(5) *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 (12 U.S.C. 4702).

(6) *PARTICIPATING STATE.*—The term “participating State” means any State that has been approved for participation in the Program under section 3004.

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

(8) *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.

(9) *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.

(10) *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 3004(d), a municipality of a State of the United States to which the Secretary has given a special permission under section 3004(d).

(11) *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 3005(c).

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

(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 3006(c); and

(B) includes, collateral support programs, loan participation programs, State-run venture capital fund programs, and credit guarantee programs.

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

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

SEC. 3003. FEDERAL FUNDS ALLOCATED TO STATES.

(a) *PROGRAM ESTABLISHED; PURPOSE.*—There is established the State Small Business Credit Initiative, 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 Act, 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.—In 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.—In 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 thirds;

(ii) transfer to the participating State the first $\frac{1}{3}$ when the Secretary approves the State for participation under section 3004; and

(iii) transfer to the participating State each successive $\frac{1}{3}$ when the State has certified to the Secretary that it has expended, transferred, or obligated 80 percent of the last transferred $\frac{1}{3}$ 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 $\frac{1}{3}$ pending results of a financial audit.

(C) INSPECTOR GENERAL AUDITS.—

(i) IN GENERAL.—The Inspector General of the Department of the Treasury shall carry out an audit of the participating State’s use of allocated Federal funds transferred to the State.

(ii) RECOVERY OF MISUSED TRANSFERRED FUNDS REQUIRED.—The allocation agreement between the Secretary and the participating State shall provide that the Secretary shall recoup any allocated Federal funds transferred to the participating State if the results of the audit include a finding that there was an intentional or reckless misuse of transferred funds by the State.

(iii) 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.

(iv) MUNICIPALITIES.—In this subparagraph, the term “participating State” shall include a municipality given special permission to participate in the Program, under section 3004(d).

(D) EXCEPTION.—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.

(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 $\frac{1}{3}$ 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 $\frac{1}{3}$; or

(D) in the case of each successive $\frac{1}{3}$ 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 $\frac{1}{3}$.

(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.—In 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 “ $\frac{1}{3}$ ” means—

(i) in the case of the first $\frac{1}{3}$ and second $\frac{1}{3}$, an amount equal to 33 percent of a participating State’s allocated amount; and

(ii) in the case of the last $\frac{1}{3}$, an amount equal to 34 percent of a participating State’s allocated amount.

SEC. 3004. 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 3005 or approval as a State other credit support program under section 3006, 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 3009(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 Act, 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 Act, 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 shall be required, within 12 months after the date of enactment of this Act, to 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 3006(d) in making the determination under section 3005 or 3006 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. 3005. 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 Act, 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 Act, 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 3004; 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, that program shall be required to 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 shall 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.**—In this paragraph, 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. 3006. 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 3005(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 Act, 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, that program shall be required to be a program of the State that—

(1) can demonstrate that, at a minimum, \$1 of public investment by the State program will cause and result in \$1 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) uses Federal funds allocated under this title to extend 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 3005(e).

SEC. 3007. 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.**—Each report under this subsection shall—

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

(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 under section 3010.

(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 under 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. 3008. 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 3007 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 3003(b).

SEC. 3009. 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, \$1,500,000,000 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 Act.

(d) **EXPEDITED CONTRACTING.**—During the 1-year period beginning on the date of enactment of this Act, the Secretary may enter into contracts without regard to any other provision of law regarding public contracts, for purposes of carrying out this title.

SEC. 3010. 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 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. 3011. 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 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 Act shall 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 section 5312 (a)(2) and (c)(1)(A) of title 31, United States Code, 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 Act 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 IV—ADDITIONAL SMALL BUSINESS PROVISIONS

Subtitle A—Small Business Lending Fund

SEC. 4101. PURPOSE.

The purpose of this subtitle 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. 4102. DEFINITIONS.

For purposes of this subtitle:

(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);

(D) reports of Condition and Income as designated through guidance developed by the Secretary, in consultation with the Director of the Community Development Financial Institutions Fund; and

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

(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) **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.

(8) **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) had assets less than or equal to \$10,000,000,000 as of the end of the fourth quarter of calendar year 2009.

(9) **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.

(10) **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.

(11) **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 of the insured depository institution 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 con-

solidated 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, as reported in the call report of the bank holding company as of the end of the fourth quarter of calendar year 2009;

(C) any savings and loan holding company which has total consolidated assets of equal to or less than \$10,000,000,000, as reported in the call report of the savings and loan holding company as of the end of the fourth quarter of calendar year 2009; and

(D) any community development financial institution loan fund which has total assets of equal to or less than \$10,000,000,000, as reported in audited financial statements for the fiscal year of the community development financial institution loan fund that ends in calendar year 2009.

(12) **FUND.**—The term “Fund” means the Small Business Lending Fund established under section 4103(a)(1).

(13) **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)).

(14) **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)).

(15) **PROGRAM.**—The term “Program” means the Small Business Lending Fund Program authorized under section 4103(a)(2).

(16) **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)).

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

(18) **SMALL BUSINESS LENDING.**—

(A) **IN GENERAL.**—The term “small business lending” means lending, as defined by and reported in an eligible institutions’ quarterly call report, where each loan comprising such lending is one 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) **EXCLUSION.**—No loan that has an original amount greater than \$10,000,000 or that goes to a business with more than \$50,000,000 in revenues shall be included in the measure.

(C) **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.

(19) **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.

SEC. 4103. 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 subtitle.

(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 subtitle. 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 maximum purchase limit of the Program, pursuant to paragraph (2), may be used to make purchases from community development loan funds.

(B) **ELIGIBILITY STANDARDS.**—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 shall include the following:

(i) Ratio of net assets to total assets is at least 20 percent.

(ii) Ratio of loan loss reserves to loans and leases 90 days or more delinquent (including loans sold with full recourse) is at least 30 percent.

(iii) Positive net income measured on a 3-year rolling average.

(iv) Operating liquidity ratio of at least 1.0 for the 4 most recent quarters and for one or both of the two preceding years.

(v) Ratio of loans and leases 90 days or more delinquent (including loans sold with full recourse) to total equity plus loan loss reserves is less than 40 percent.

(C) **REQUIREMENT TO SUBMIT AUDITED FINANCIAL STATEMENTS.**—CDLFs participating in the Program shall submit audited financial statements to the Secretary, have a clean audit opinion, and have at least 3 years of operating experience.

(c) **CREDITS TO THE FUND.**—There shall be credited to the Fund amounts made available pursuant to section 4108, to the extent provided by appropriations Acts.

(d) **TERMS.**—

(1) **APPLICATION.**—

(A) **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 OR EQUAL TO \$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 subparagraph, 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 subparagraph, the term “control” 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 applicants 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, as well as a plan to provide linguistically and culturally appropriate outreach, where appropriate. In the case of eligible institutions that are community development loan funds, this plan shall be submitted to the Secretary. 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 5 percent of total assets, as reported in the audited financial statements for the fiscal year of the eligible institution that ends in calendar year 2009.

(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 nondepository 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) CONSIDERATION OF MATCHED PRIVATE INVESTMENTS.—

(A) IN GENERAL.—For an eligible institution that applies to receive a capital investment under the Program, if the entity to be consulted under paragraph (2) would not otherwise recommend the eligible institution to receive the capital investment, the Secretary, in consultation with the entity to be so consulted, may consider whether the entity to be consulted would recommend the eligible institution to receive a capital investment based on the financial condition of the institution if the conditions in subparagraph (B) are satisfied.

(B) CONDITIONS.—The conditions referred to in subparagraph (A) are as follows:

(i) CAPITAL SOURCES.—The eligible institution shall receive capital both under the Program and from private, nongovernment investors.

(ii) AMOUNT OF CAPITAL.—The amount of capital to be received under the Program shall not exceed 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.

(iii) TERMS.—The amount of capital to be received from private, nongovernment investors shall be—

(I) equal to or greater than 100 percent of the capital to be received under the Program; and

(II) subordinate to the capital investment made by the Secretary under the Program.

(4) 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 paragraph, the term “FDIC problem bank list” means the list of depository institutions having 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.

(5) 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 average amount of small business lending reported by the eligible institution in its call reports for the 4 full quarters immediately preceding the date of enactment of this Act, 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 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.

(6) **ADDITIONAL INCENTIVES TO REPAY.**—The Secretary may, by regulation or guidance issued under section 4104(9), establish repayment incentives in addition to the incentive in paragraph (5)(E) that will apply to new capital investments in a manner that the Secretary determines to be consistent with the purposes of this subtitle.

(7) **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 subtitle, 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.

(8) **OUTREACH TO MINORITIES, WOMEN, AND VETERANS.**—The Secretary shall require eligible institutions receiving capital investments under the Program to provide linguistically and culturally appropriate outreach and advertising in 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—

(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.

(9) **ADDITIONAL TERMS.**—The Secretary may, by regulation or guidance issued under section 4104(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 subtitle.

(10) **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.

SEC. 4104. ADDITIONAL AUTHORITIES OF THE SECRETARY.

The Secretary may take such actions as the Secretary deems necessary to carry out the authorities in this subtitle, 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 enter into contracts, including contracts for services authorized by section 3109 of title 5, United States Code.

(3) 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 subtitle 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 Act, to perform reasonable duties related to this subtitle.

(4) 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 subtitle.

(5) Subject to section 4103(b)(3), the Secretary may manage any assets purchased under this subtitle, including revenues and portfolio risks therefrom.

(6) 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 subtitle, upon terms and conditions and at a price determined by the Secretary.

(7) 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 subtitle.

(8) 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.

(9) 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 subtitle.

SEC. 4105. CONSIDERATIONS.

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

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

(2) providing funding to minority-owned eligible institutions and other eligible institutions that serve small businesses that are minority-, veteran-, 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) increasing the opportunity for small business development in areas with high unemployment rates that exceed the national average;

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

(6) providing transparency with respect to use of funds provided under this subtitle;

(7) minimizing the cost to taxpayers of exercising the authorities;

(8) promoting and engaging in financial education to would-be borrowers; and

(9) 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.

SEC. 4106. 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 subtitle;

(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 calendar quarter commencing with the first calendar quarter 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. 4107. 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 Program through the Office of Small Business Lending Fund Program Oversight established under subsection (b).

(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.

(c) 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.

(d) REQUIRED CERTIFICATIONS.—

(1) ELIGIBLE INSTITUTION CERTIFICATION.—Each eligible institution that participates 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 Act 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)).

(e) PROHIBITION ON PORNOGRAPHY.—None of the funds made available under this subtitle 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. 4108. CREDIT REFORM; FUNDING.

(a) CREDIT REFORM.—The cost of purchases of preferred stock and other financial instruments made as capital investments under this subtitle 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. 4109. 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 subtitle shall terminate 1 year after the date of enactment of this Act.

(b) CONTINUATION OF OTHER AUTHORITIES.—The authorities of the Secretary under section 4104 shall not be limited by the termination date in subsection (a).

SEC. 4110. PRESERVATION OF AUTHORITY.

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

SEC. 4111. 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. 4112. STUDY AND REPORT WITH RESPECT TO WOMEN-OWNED, VETERAN-OWNED, AND MINORITY-OWNED BUSINESSES.

(a) STUDY.—The Secretary shall conduct a study of the impact of the Program on women-owned businesses, veteran-owned businesses, and minority-owned businesses.

(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). To the extent possible, the Secretary shall disaggregate the results of such study by ethnic group and gender.

(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.

SEC. 4113. 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.

Subtitle B—Other Provisions

PART I—SMALL BUSINESS EXPORT PROMOTION INITIATIVES

SEC. 4221. SHORT TITLE.

This part may be cited as the “Export Promotion Act of 2010”.

SEC. 4222. GLOBAL BUSINESS DEVELOPMENT AND PROMOTION ACTIVITIES OF THE DEPARTMENT OF COMMERCE.

(a) INCREASE IN EMPLOYEES WITH RESPONSIBILITY FOR GLOBAL BUSINESS DEVELOPMENT AND PROMOTION ACTIVITIES.—

(1) IN GENERAL.—During the 24-month period beginning on the date of the enactment of this Act, the Secretary of Commerce shall increase the number of full-time departmental employees whose primary responsibilities involve promoting or facilitating participation by United States businesses in the global marketplace and facilitating the entry into, or expansion of, such participation by United States businesses. In carrying out this subsection, the Secretary shall ensure that—

(A) the cohort of such employees is increased by not less than 80 persons; and

(B) a substantial portion of the increased cohort is stationed outside the United States.

(2) ENHANCED FOCUS ON UNITED STATES SMALL- AND MEDIUM-SIZED BUSINESSES.—In carrying out this subsection, the Secretary shall take such action as may be necessary to ensure that the activities of the Department of Commerce relating to promoting and facilitating participation by United States businesses in the global marketplace include promoting and facilitating such participation by small and medium-sized businesses in the United States.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary for each of the fiscal years 2011 and 2012 such sums as may be necessary to carry out this section.

(b) ADDITIONAL FUNDING FOR GLOBAL BUSINESS DEVELOPMENT AND PROMOTION ACTIVITIES OF THE DEPARTMENT OF COMMERCE.—

(1) IN GENERAL.—There are authorized to be appropriated to the Secretary of Commerce for the period beginning on the date of the enactment of this Act and ending 18 months thereafter, \$30,000,000 to promote or facilitate partici-

pation by United States businesses in the global marketplace and facilitating the entry into, or expansion of, such participation by United States businesses.

(2) REQUIREMENTS.—In obligating and expending the funds authorized to be appropriated by paragraph (1), the Secretary of Commerce shall give preference to activities that—

(A) assist small- and medium-sized businesses in the United States; and

(B) the Secretary determines will create or sustain the greatest number of jobs in the United States and obtain the maximum return on investment.

SEC. 4223. ADDITIONAL FUNDING TO IMPROVE ACCESS TO GLOBAL MARKETS FOR RURAL BUSINESSES.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Commerce \$5,000,000 for each of the fiscal years 2011 and 2012 for improving access to the global marketplace for goods and services provided by rural businesses in the United States.

(b) REQUIREMENTS.—In obligating and expending the funds authorized to be appropriated by subsection (a), the Secretary of Commerce shall give preference to activities that—

(1) assist small- and medium-sized businesses in the United States; and

(2) the Secretary determines will create or sustain the greatest number of jobs in the United States and obtain the maximum return on investment.

SEC. 4224. ADDITIONAL FUNDING FOR THE EXPORTECH PROGRAM.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Commerce \$11,000,000 for the period beginning on the date of the enactment of this Act and ending 18 months thereafter, to expand ExporTech, a joint program of the Hollings Manufacturing Partnership Program and the Export Assistance Centers of the Department of Commerce.

(b) REQUIREMENTS.—In obligating and expending the funds authorized to be appropriated by subsection (a), the Secretary of Commerce shall give preference to activities that—

(1) assist small- and medium-sized businesses in the United States; and

(2) the Secretary determines will create or sustain the greatest number of jobs in the United States and obtain the maximum return on investment.

SEC. 4225. ADDITIONAL FUNDING FOR THE MARKET DEVELOPMENT COOPERATOR PROGRAM OF THE DEPARTMENT OF COMMERCE.

(a) IN GENERAL.—There are authorized to be appropriated to the Secretary of Commerce for the period beginning on the date of the enactment of this Act and ending 18 months thereafter, \$15,000,000 for the Manufacturing and Services unit of the International Trade Administration—

(1) to establish public-private partnerships under the Market Development Cooperator Program of the International Trade Administration; and

(2) to underwrite a portion of the start-up costs for new projects carried out under that Program to strengthen the competitiveness and market share of United States industry, not to exceed, for each such project, the lesser of—

(A) 1/3 of the total start-up costs for the project; or

(B) \$500,000.

(b) REQUIREMENTS.—In obligating and expending the funds authorized to be appropriated by subsection (a), the Secretary of Commerce shall give preference to activities that—

(1) assist small- and medium-sized businesses in the United States; and

(2) the Secretary determines will create or sustain the greatest number of jobs in the United States and obtain the maximum return on investment.

SEC. 4226. HOLLINGS MANUFACTURING PARTNERSHIP PROGRAM; TECHNOLOGY INNOVATION PROGRAM.

(a) HOLLINGS MANUFACTURING PARTNERSHIP PROGRAM.—Section 25(f) of the National Institute of Standards and Technology Act (15 U.S.C. 278k(f)) is amended by adding at the end the following:

“(7) GLOBAL MARKETPLACE PROJECTS.—In making awards under this subsection, the Director, in consultation with the Manufacturing Extension Partnership Advisory Board and the Secretary of Commerce, may—

“(A) take into consideration whether an application has significant potential for enhancing the competitiveness of small and medium-sized United States manufacturers in the global marketplace; and

“(B) give a preference to applications for such projects to the extent the Director deems appropriate, taking into account the broader purposes of this subsection.”.

(b) TECHNOLOGY INNOVATION PROGRAM.—In awarding grants, cooperative agreements, or contracts under section 28 of the National Institute of Standards and Technology Act (15 U.S.C. 278n), in addition to the award criteria set forth in subsection (c) of that section, the Director of the National Institute of Standards and Technology may take into consideration whether an application has significant potential for enhancing the competitiveness of small- and medium-sized businesses in the United States in the global marketplace. The Director shall consult with the Technology Innovation Program Advisory Board and the Secretary of Commerce in implementing this subsection.

SEC. 4227. SENSE OF THE SENATE CONCERNING FEDERAL COLLABORATION WITH STATES ON EXPORT PROMOTION ISSUES.

It is the sense of the Senate that the Secretary of Commerce should enhance Federal collaboration with the States on export promotion issues by—

(1) providing the necessary training to the staff at State international trade agencies to enable them to assist the United States and Foreign Commercial Service (established by section 2301 of the Export Enhancement Act of 1988 (15 U.S.C. 4721)) in providing counseling and other export services to businesses in their communities; and

(2) entering into agreements with State international trade agencies for those agencies to deliver export promotion services in their local communities in order to extend the outreach of United States and Foreign Commercial Service programs.

SEC. 4228. REPORT ON TARIFF AND NONTARIFF BARRIERS.

Not later than 90 days after the date of the enactment of this Act, the Secretary of Commerce, in consultation with the United States Trade Representative and other appropriate entities, shall report to Congress on the tariff and nontariff barriers imposed by Colombia, the Republic of Korea, and Panama with respect to exports of articles from the United States, including articles exported or produced by small- and medium-sized businesses in the United States.

PART II—MEDICARE FRAUD**SEC. 4241. USE OF PREDICTIVE MODELING AND OTHER ANALYTICS TECHNOLOGIES TO IDENTIFY AND PREVENT WASTE, FRAUD, AND ABUSE IN THE MEDICARE FEE-FOR-SERVICE PROGRAM.**

(a) USE IN THE MEDICARE FEE-FOR-SERVICE PROGRAM.—The Secretary shall use predictive modeling and other analytics technologies (in this section referred to as “predictive analytics technologies”) to identify improper claims for reimbursement and to prevent the payment of such claims under the Medicare fee-for-service program.

(b) PREDICTIVE ANALYTICS TECHNOLOGIES REQUIREMENTS.—The predictive analytics technologies used by the Secretary shall—

(1) capture Medicare provider and Medicare beneficiary activities across the Medicare fee-for-service program to provide a comprehensive view across all providers, beneficiaries, and geographies within such program in order to—

(A) identify and analyze Medicare provider networks, provider billing patterns, and beneficiary utilization patterns; and

(B) identify and detect any such patterns and networks that represent a high risk of fraudulent activity;

(2) be integrated into the existing Medicare fee-for-service program claims flow with minimal effort and maximum efficiency;

(3) be able to—

(A) analyze large data sets for unusual or suspicious patterns or anomalies or contain other factors that are linked to the occurrence of waste, fraud, or abuse;

(B) undertake such analysis before payment is made; and

(C) prioritize such identified transactions for additional review before payment is made in terms of the likelihood of potential waste, fraud, and abuse to more efficiently utilize investigative resources;

(4) capture outcome information on adjudicated claims for reimbursement to allow for refinement and enhancement of the predictive analytics technologies on the basis of such outcome information, including post-payment information about the eventual status of a claim; and

(5) prevent the payment of claims for reimbursement that have been identified as potentially wasteful, fraudulent, or abusive until such time as the claims have been verified as valid.

(c) IMPLEMENTATION REQUIREMENTS.—

(1) REQUEST FOR PROPOSALS.—Not later than January 1, 2011, the Secretary shall issue a request for proposals to carry out this section during the first year of implementation. To the extent the Secretary determines appropriate—

(A) the initial request for proposals may include subsequent implementation years; and

(B) the Secretary may issue additional requests for proposals with respect to subsequent implementation years.

(2) FIRST IMPLEMENTATION YEAR.—The initial request for proposals issued under paragraph (1) shall require the contractors selected to commence using predictive analytics technologies on July 1, 2011, in the 10 States identified by the Secretary as having the highest risk of waste, fraud, or abuse in the Medicare fee-for-service program.

(3) SECOND IMPLEMENTATION YEAR.—Based on the results of the report and recommendation required under subsection (e)(1)(B), the Secretary shall expand the use of predictive analytics technologies on October 1, 2012, to apply to an additional 10 States identified by the Secretary as having the highest risk of waste, fraud, or abuse in the Medicare fee-for-service program, after the States identified under paragraph (2).

(4) THIRD IMPLEMENTATION YEAR.—Based on the results of the report and recommendation required under subsection (e)(2), the Secretary shall expand the use of predictive analytics technologies on January 1, 2014, to apply to the Medicare fee-for-service program in any State not identified under paragraph (2) or (3) and the commonwealths and territories.

(5) FOURTH IMPLEMENTATION YEAR.—Based on the results of the report and recommendation required under subsection (e)(3), the Secretary shall expand the use of predictive analytics technologies, beginning April 1, 2015, to apply to Medicaid and CHIP. To the extent the Secretary determines appropriate, such expansion may be made on a phased-in basis.

(6) OPTION FOR REFINEMENT AND EVALUATION.—If, with respect to the first, second, or third implementation year, the Inspector General of the Department of Health and Human Services certifies as part of the report required under subsection (e) for that year no or only

nominal actual savings to the Medicare fee-for-service program, the Secretary may impose a moratorium, not to exceed 12 months, on the expansion of the use of predictive analytics technologies under this section for the succeeding year in order to refine the use of predictive analytics technologies to achieve more than nominal savings before further expansion. If a moratorium is imposed in accordance with this paragraph, the implementation dates applicable for the succeeding year or years shall be adjusted to reflect the length of the moratorium period.

(d) CONTRACTOR SELECTION, QUALIFICATIONS, AND DATA ACCESS REQUIREMENTS.—

(1) SELECTION.—

(A) IN GENERAL.—The Secretary shall select contractors to carry out this section using competitive procedures as provided for in the Federal Acquisition Regulation.

(B) NUMBER OF CONTRACTORS.—The Secretary shall select at least 2 contractors to carry out this section with respect to any year.

(2) QUALIFICATIONS.—

(A) IN GENERAL.—The Secretary shall enter into a contract under this section with an entity only if the entity—

(i) has leadership and staff who—

(I) have the appropriate clinical knowledge of, and experience with, the payment rules and regulations under the Medicare fee-for-service program; and

(II) have direct management experience and proficiency utilizing predictive analytics technologies necessary to carry out the requirements under subsection (b); or

(ii) has a contract, or will enter into a contract, with another entity that has leadership and staff meeting the criteria described in clause (i).

(B) CONFLICT OF INTEREST.—The Secretary may only enter into a contract under this section with an entity to the extent that the entity complies with such conflict of interest standards as are generally applicable to Federal acquisition and procurement.

(3) DATA ACCESS.—The Secretary shall provide entities with a contract under this section with appropriate access to data necessary for the entity to use predictive analytics technologies in accordance with the contract.

(e) REPORTING REQUIREMENTS.—

(1) FIRST IMPLEMENTATION YEAR REPORT.—Not later than 3 months after the completion of the first implementation year under this section, the Secretary shall submit to the appropriate committees of Congress and make available to the public a report that includes the following:

(A) A description of the implementation of the use of predictive analytics technologies during the year.

(B) A certification of the Inspector General of the Department of Health and Human Services that—

(i) specifies the actual and projected savings to the Medicare fee-for-service program as a result of the use of predictive analytics technologies, including estimates of the amounts of such savings with respect to both improper payments recovered and improper payments avoided;

(ii) the actual and projected savings to the Medicare fee-for-service program as a result of such use of predictive analytics technologies relative to the return on investment for the use of such technologies and in comparison to other strategies or technologies used to prevent and detect fraud, waste, and abuse in the Medicare fee-for-service program; and

(iii) includes recommendations regarding—

(I) whether the Secretary should continue to use predictive analytics technologies;

(II) whether the use of such technologies should be expanded in accordance with the requirements of subsection (c); and

(III) any modifications or refinements that should be made to increase the amount of actual or projected savings or mitigate any adverse impact on Medicare beneficiaries or providers.

(C) An analysis of the extent to which the use of predictive analytics technologies successfully prevented and detected waste, fraud, or abuse in the Medicare fee-for-service program.

(D) A review of whether the predictive analytics technologies affected access to, or the quality of, items and services furnished to Medicare beneficiaries.

(E) A review of what effect, if any, the use of predictive analytics technologies had on Medicare providers.

(F) Any other items determined appropriate by the Secretary.

(2) **SECOND YEAR IMPLEMENTATION REPORT.**—Not later than 3 months after the completion of the second implementation year under this section, the Secretary shall submit to the appropriate committees of Congress and make available to the public a report that includes, with respect to such year, the items required under paragraph (1) as well as any other additional items determined appropriate by the Secretary with respect to the report for such year.

(3) **THIRD YEAR IMPLEMENTATION REPORT.**—Not later than 3 months after the completion of the third implementation year under this section, the Secretary shall submit to the appropriate committees of Congress, and make available to the public, a report that includes with respect to such year, the items required under paragraph (1), as well as any other additional items determined appropriate by the Secretary with respect to the report for such year, and the following:

(A) An analysis of the cost-effectiveness and feasibility of expanding the use of predictive analytics technologies to Medicaid and CHIP.

(B) An analysis of the effect, if any, the application of predictive analytics technologies to claims under Medicaid and CHIP would have on States and the commonwealths and territories.

(C) Recommendations regarding the extent to which technical assistance may be necessary to expand the application of predictive analytics technologies to claims under Medicaid and CHIP, and the type of any such assistance.

(f) **INDEPENDENT EVALUATION AND REPORT.**—

(1) **EVALUATION.**—Upon completion of the first year in which predictive analytics technologies are used with respect to claims under Medicaid and CHIP, the Secretary shall, by grant, contract, or interagency agreement, conduct an independent evaluation of the use of predictive analytics technologies under the Medicare fee-for-service program and Medicaid and CHIP. The evaluation shall include an analysis with respect to each such program of the items required for the third year implementation report under subsection (e)(3).

(2) **REPORT.**—Not later than 18 months after the evaluation required under paragraph (1) is initiated, the Secretary shall submit a report to Congress on the evaluation that shall include the results of the evaluation, the Secretary's response to such results and, to the extent the Secretary determines appropriate, recommendations for legislation or administrative actions.

(g) **WAIVER AUTHORITY.**—The Secretary may waive such provisions of titles XI, XVIII, XIX, and XXI of the Social Security Act, including applicable prompt payment requirements under titles XVIII and XIX of such Act, as the Secretary determines to be appropriate to carry out this section.

(h) **FUNDING.**—

(1) **APPROPRIATION.**—Out of any funds in the Treasury not otherwise appropriated, there is appropriated to the Secretary to carry out this section, \$100,000,000 for the period beginning January 1, 2011, to remain available until expended.

(2) **RESERVATIONS.**—

(A) **INDEPENDENT EVALUATION.**—The Secretary shall reserve not more than 5 percent of the funds appropriated under paragraph (1) for purposes of conducting the independent evaluation required under subsection (f).

(B) **APPLICATION TO MEDICAID AND CHIP.**—The Secretary shall reserve such portion of the funds

appropriated under paragraph (1) as the Secretary determines appropriate for purposes of providing assistance to States for administrative expenses in the event of the expansion of predictive analytics technologies to claims under Medicaid and CHIP.

(i) **DEFINITIONS.**—In this section:

(1) **COMMONWEALTHS AND TERRITORIES.**—The term “commonwealth and territories” includes the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States in which the Medicare fee-for-service program, Medicaid, or CHIP operates.

(2) **CHIP.**—The term “CHIP” means the Children's Health Insurance Program established under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.).

(3) **MEDICAID.**—The term “Medicaid” means the program to provide grants to States for medical assistance programs established under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

(4) **MEDICARE BENEFICIARY.**—The term “Medicare beneficiary” means an individual enrolled in the Medicare fee-for-service program.

(5) **MEDICARE FEE-FOR-SERVICE PROGRAM.**—The term “Medicare fee-for-service program” means the original Medicare fee-for-service program under parts A and B of title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

(6) **MEDICARE PROVIDER.**—The term “Medicare provider” means a provider of services (as defined in subsection (u) of section 1861 of the Social Security Act (42 U.S.C. 1395x)) and a supplier (as defined in subsection (d) of such section).

(7) **SECRETARY.**—The term “Secretary” means the Secretary of Health and Human Services, acting through the Administrator of the Centers for Medicare & Medicaid Services.

(8) **STATE.**—The term “State” means each of the 50 States and the District of Columbia.

TITLE V—BUDGETARY PROVISIONS

SEC. 5001. DETERMINATION OF 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 Senate Budget Committee, provided that such statement has been submitted prior to the vote on passage.

MOTION TO CONCUR

The SPEAKER pro tempore. The Clerk will designate the motion.

The text of the motion is as follows:

Ms. Bean moves that the House concur in the Senate amendment.

The SPEAKER pro tempore. Pursuant to House Resolution 1640, the motion shall be debatable for 1 hour equally divided and controlled by the chair and ranking minority member of the Committee on Financial Services, the chair and ranking minority member of the Committee on Small Business, and the chair and ranking minority member of the Committee on Ways and Means.

The gentlewoman from Illinois (Ms. BEAN), the gentleman from Texas (Mr. NEUGEBAUER), the gentlewoman from New York (Ms. VELÁZQUEZ), the gentleman from Missouri (Mr. GRAVES), the gentleman from Michigan (Mr. LEVIN), and the gentleman from Louisiana (Mr. BOUSTANY) each will control 10 minutes.

The Chair recognizes the gentlewoman from Illinois (Ms. BEAN).

Mr. FRANK of Massachusetts. Madam Speaker, I ask unanimous consent that I substitute for the gentlewoman from Illinois on managing our 10 minutes.

The SPEAKER pro tempore. Without objection, the gentleman from Massachusetts will control the time.

There was no objection.

GENERAL LEAVE

Mr. FRANK of Massachusetts. Madam Speaker, I further ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks and include extraneous material on this piece of legislation.

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

There was no objection.

Mr. FRANK of Massachusetts. Madam Speaker, I yield myself 1 minute to say that this is a bill that passed the House in May; it was over in the Senate; it was subject to a filibuster; that filibuster was broken; and the Senate has sent us back the bill. It is not everything we wanted, but it is a significant improvement and will, I think, be helpful.

No one has alleged any possible negative consequences. Some have said it might not be as helpful as we believe, but we think it will enhance the lending capacity of small banks for small businesses.

I reserve the balance of my time.

Mr. NEUGEBAUER. I yield 2 minutes to the gentlewoman from Illinois (Mrs. BIGGERT).

Mrs. BIGGERT. I thank the gentleman for yielding.

Madam Speaker, small businesses create the majority of new jobs and their growth is America's best ticket to economic recovery. But today our small businesses are finding it difficult to keep their doors open.

Since the end of July, I have held 14 town hall meetings, two job fairs, two small business grant supermarkets and several tours of area businesses.

In just a few short months, I have had conversations with thousands of business leaders and have asked them what they need to become stable again. Not once did business leaders come to me asking for a \$30 billion bank bailout. What they do want is crystal clear. They want government to get out of the way. They want Washington to quit burdening them with higher taxes, new bureaucracies and excessive regulations. They want Washington to stop throwing taxpayer money at the problem with failed spending. They want incentives so that they can have certainty in the business climate so that they can anticipate their cost, to invest wisely and start hiring again.

The most important thing for small businesses to give them certainty is extending all the tax cuts. Instead, this bill sets up a mini-TARP bailout, sending \$30 billion to banks that promise to improve lending. Rather than telling businesses what they want, let's listen to what they really need.

I urge my colleagues to reject this plan and work with us to give our small business community the tax relief they need to create jobs and lead us toward an economic recovery.

Mr. FRANK of Massachusetts. I yield 3 minutes to one of the leading advocates and architects of this bill, the gentlewoman from Illinois (Ms. BEAN).

Ms. BEAN. Madam Speaker, I rise today in support of H.R. 5297 and urge my colleagues to support America's small businesses, our job creators, by voting "yes" on this bill.

Some Members of Congress frequently talk about the importance of small businesses to our communities and our economy, yet fail to actually vote for pro-business legislation that comes before them on this House floor. Today they have the chance to act, to do something that truly provides real and immediate assistance to small business owners.

The Small Business Jobs Act is one of the most important bills this year to support our economic recovery. During the small business Federal resource seminars that I hold in my district, community business owners have told me again and again that lack of access to affordable credit remains their greatest obstacle to business recovery, expansion and diversification.

This critical and timely bill will help bridge that gap. Today's legislation builds on the successful provisions in the Recovery Act that helped revive small business lending and secondary credit markets. This bill provides increased SBA loan guarantees and reduced fees; and \$12 billion in small business tax cuts like the net operating loss carryback, enhanced section 179 expense provisions and bonus depreciation, and eliminates capital gains taxes for small business investments.

Also included is a provision I authored to allow commercial real estate refinancing in the SBA 504 program. This will help business owners with performing loans stay in their business properties that would otherwise be ineligible for refinancing due to falling values.

I would now like to ask the gentleman from Massachusetts to engage in a short colloquy to clarify the capital treatment of small business lending fund investments.

Over the last few months, hearings in the Financial Services Committee and many meetings that Members have had with constituents have clearly demonstrated that this kind of legislation is being called for by a broad spectrum of American small businesses and small lenders. One of the main components of the bill is the small business loan fund.

Up to \$30 billion in capital to small banks can be leveraged to \$300 billion in loans to small businesses, our job creators, by making money for the government over 10 years. Community banks that participate in the small business lending fund will be able to support many multiples of that amount in new lending. To allow that

to occur, it has always been our intent and understanding that the bank regulators should treat small business lending fund investments in all eligible institutions—community banks, thrifts and holding companies—as tier 1 capital, in a manner consistent with that accorded to other capital securities issued to Treasury by eligible institutions and in consideration of the strong public interest in promoting lending to small businesses.

It is my understanding that these investments are meant to be counted as tier 1 capital. Mr. Chairman, is that correct?

I yield to the chairman.

Mr. FRANK of Massachusetts. I thank the gentlewoman for yielding.

The SPEAKER pro tempore. The time of the gentlewoman has expired.

Mr. FRANK of Massachusetts. I yield the gentlewoman 1 additional minute.

Yes, the gentlewoman is exactly correct. It is intended that this be treated as tier 1 capital in a way that is consistent with other capital securities issued to Treasury.

Ms. BEAN. Mr. Chairman, it is also my understanding that you and committee staff have been in discussion with Treasury and regulators since this bill was in our committee about the intent that these investments can be counted as tier 1 capital in a manner consistent with that accorded to other capital securities issued to Treasury and that Treasury and the regulators understand Congress' intent and have noted that they have the appropriate authority to do so under the bill.

Mr. FRANK of Massachusetts. The gentlewoman is correct.

Ms. BEAN. Thank you, Chairman FRANK, for all your hard work on this important bill. With access to tier 1 capital, community banks that participate in this program will be able to provide small businesses with the credit they need to grow and hire.

□ 1340

Mr. NEUGEBAUER. It is my honor and privilege to yield 3 minutes to the gentleman from Texas, the ranking member of the Financial Institutions Subcommittee, Mr. HENSARLING.

Mr. HENSARLING. I thank the gentleman for yielding.

Madam Speaker, another day, another opportunity to borrow \$30 billion, much of it from the Chinese, and send the bill to our children and our grandchildren. Again, Madam Speaker, the American people are asking, what part of "broke" doesn't Congress understand? They don't get it.

Now, I know my friends on the other side of the aisle say, "Well, no, wait a second. This will actually reduce the deficit." Well, what it does, Madam Speaker, is it pairs temporary tax credits with permanent tax increases; again, some of that Washington accounting nonsense that has somehow put this Nation on the road to bankruptcy, that has brought us the first back-to-back trillion dollar-plus defi-

cits in the history of our Nation, the kind of accounting that now provides us with the single largest debt in America's history.

In fact, if you read the legislation, Madam Speaker, it has what is known as directed scoring. Under H.R. 5297, CBO is to determine the cost of this bill under credit reform without any adjustment for the market risk. In fact, CBO goes on to say that cost estimates made under FCRA do not provide a comprehensive measure of the cost to the taxpayers.

Madam Speaker, again, when all is said and done, I predict the American taxpayer yet again will be called upon to borrow more money, much of it from the Chinese, and send the bill to our children and our grandchildren.

Now, I know that the authors of this bill have called it SBLF, but to many of us it reads like T-A-R-P. This is TARP pure and simple. It is the capital purchase program under a different name. I will admit they have added an incentive to lend; but again, to lend to whom? Whatever this bill does theoretically to help small business, they take it away. They take it away, Madam Speaker, with the cost and uncertainty of their health care bill. They take it away with the cost and uncertainty of their financial regulatory bill. They take it away with the cost and the uncertainty that is threatened through the national energy tax that is known as cap-and-trade, and certainly from the national debt that all small business people sooner or later are going to be called upon to pay.

So whatever pennies they are trying to drop into the small business coffer today, they are going to take away dollars and dollars and dollars, which is one of the reasons, Madam Speaker, under this President and this Congress, we continue to be mired in almost double-digit unemployment 16 months in a row—worst in a generation—with no hope in sight. And this, again, is more of the same—more spending, more TARP, more of the failed policies that have brought us the unemployment and misery that we see today.

If you want to help small business, the first thing you can do is to ensure that you do not increase their taxes by increasing the marginal income tax rate on the top two brackets, which is already being threatened by the Speaker today, which we know in the Joint Committee on Taxation says half of all small business income would be hit by that tax increase.

Reject this bill.

Mr. FRANK of Massachusetts. Madam Speaker, I yield 1 minute to the gentleman from Missouri (Mr. CLEAVER).

Mr. CLEAVER. Madam Speaker, back in May I filed an amendment in committee hoping that I could work with the administration between then and now, floor consideration, to develop a meaningful way for community development loan funds to participate

in this legislative proposal. I want to take this opportunity to boast about it being included in this final version and discuss the urgent need to assist community development loan funds, who have been left behind in too many programs, that help small business and institutions.

Since its inception, the Treasury's CDFI fund has certified over 1,200 CDFIs in banks, credit unions, loan funds, and venture capital funds. CDFI banks, credit unions, and loan funds have been historically well managed. It is without a doubt that CDFIs are critical to the development of minority and underserved populations, especially nonprofit loan funds that have traditionally served the more economically and racially diverse communities. Seventy percent of CDFI recipients are low income, and over 50 percent are minority and majority female. Furthermore, microlending and small business lending represent 45 percent of CDFI loans.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. FRANK of Massachusetts. I yield the gentleman 30 additional seconds.

Mr. CLEAVER. I commend the administration's and Mr. FRANK's leadership in recent proposals to increase CDFI fund investments and the launch of two new initiatives within the CDFI program to improve the health and economic viability of low-income communities. However, nonprofit loan funds that serve credit-starved communities were left out of many of these initiatives. This bill was my attempt to right that wrong.

I look forward to working together to ensure that nonprofit community development loan funds are provided an adequate opportunity to participate.

Mr. NEUGEBAUER. Madam Speaker, may I inquire as to how much time is remaining on both sides?

The SPEAKER pro tempore. The gentleman from Texas has 5½ minutes remaining. The gentleman from Massachusetts has 4 minutes remaining.

Mr. FRANK of Massachusetts. Madam Speaker, let me inform my colleague that I intend to close with my remaining 4 minutes, and I'm my last speaker. I will close; so I reserve the last 4 minutes to close.

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

Just last month, in the month of August, I traveled around the 19th Congressional District. I had nine town hall meetings. But more importantly, I had numerous meetings with small businesses and with larger businesses in my district and with banks, both large and small, about this issue of getting America back to work and getting small businesses back to creating jobs again, and one of the things I heard over and over again was the word "uncertainty."

They said, Congressman, there is too much uncertainty about what the future looks like in this country.

I heard small businesses say, We don't know what this new health care plan is going to mean or cost to our business. Congressman, we don't know what the tax environment is going to be in this country because Congress hasn't done anything to keep the largest tax increase in the history of our country from unfolding. Congressman, we don't know how to deal with all these new regulations that are coming out of all of these agencies where EPA is trying to circumvent Congress and regulate greenhouses. And, Congressman, we don't know what to think about a country that keeps spending and borrowing and spending and borrowing to the point where now every day every dollar we spend we borrow 42 cents.

So I heard that from the businesses. And what I heard them say is, We are holding on to the employees we've got. We've tried not to lay off anybody. And we could probably buy some new machinery, or we could probably put some more people on, but there's too much uncertainty. We are just going to sit on the sidelines.

Also I heard, when we had the debate on this bill previously, the other side talking about the lack of credit availability to a lot of small businesses, and so I went to see my friends in the banking business. And I went to say to them, Why aren't you lending money? And they said, Congressman, we've got lots of money to loan. Our bank has the strongest capital it's had in a long time. We have money to lend. They said, The good customers that we would like to lend money to don't want to borrow money because of the uncertainty that's going on in this country right now.

I said, Well, let me make sure I understand this. You're saying you have the money to loan, but people don't want to borrow it because they are concerned about the future of this country and what the environment, business environment is going to be? And they said, That is exactly right.

And so what is so interesting about this is this is another one of the majority's failed attempts to recycle a program that didn't create any jobs the first round. TARP I, TARP II, all of the stimulus, all of these massive amounts of future generations' economic opportunity thrown at this economy and no jobs have been created. In fact, we have almost got 15 million people in this country that are unemployed today. And since we've done all these programs, we've lost almost 2½ million jobs.

What the small businesses need in this country is certainty and not another bailout program. This bill raises taxes. It gives some temporary tax relief, as my friend from Texas said, but it also—and I don't know what part of the fact that the small businesses are concerned about this 1099 thing, now we've got the 1099 in the health care bill. Now we've got the 1099 on rental expenses in this bill making it more

onerous, creating more uncertainty, more lessening the opportunity and the motivation for small businesses to expand and to create jobs in this country.

In fact, yesterday Secretary Geithner appeared in one of our committees. He said banks have plenty of money to lend. That's Secretary Geithner. We had the Independent Community Bankers say that banks have plenty of liquidity, plenty of money to lend. It's a matter of getting quality demand back.

Another comment was from our folks at NFIB. They said that the primary problem facing small business owners right now in terms of job creation is not access to credit.

□ 1350

This is the group of people that represents small businesses in this country. It is a lack of sales, customers, and confidence. Small business owners are unlikely to invest in hiring or expanding their businesses when their sales and profits remain weak.

If the majority is serious, and we are wondering if they are serious, about getting America back working, getting America back to the vibrant economy that it had, let's do something serious about that and not put the American taxpayers—we are going to go borrow \$30 billion for this. And we are going to have to borrow the whole \$30 billion because somewhere in the middle of last month, everything the Treasury spends from that point going forward is borrowed money. We are headed to a \$1.3 trillion deficit this year.

So we are going to go borrow \$30 billion to put into a program that the banking industry and NFIB and all of these people say really isn't what the economy needs. What the economy needs is certainty: certainty in taxes, certainty in regulatory environment, and certainty that this Congress is going to quit borrowing and spending money that it doesn't have.

So I urge my colleagues to vote "no" on this bill. Let's vote for something that really matters and really gets America back to work.

I yield back the balance of my time.

Mr. FRANK of Massachusetts. Madam Speaker, I yield myself the balance of my time.

First, this bill deals with the particular needs of minority women and veteran-owned small businesses. I want to point out that we have had hearings documenting the barriers and the discrimination that face small businesses that are owned by minority women or service-disabled veterans. There were hearings on this. There is evidence that they have a harder time and get less value for their loans. I want to make clear that we have looked at that, and our inclusion of provisions for that is based on our evidence.

Secondly, I have to say that my colleague from Texas is to be congratulated on his selectivity. He manages to do more partial quoting of people's positions than I get on my cell phone in a bad reception area.

For example, he talked about the Independent Community Bankers. You might have had a hard time, listening to the gentleman from Texas, figuring out that they wrote us a letter dated September 22. Maybe they changed their mind overnight and talked to the gentleman from Texas, but I am skeptical. In the letter they say this bill: "... is a bold, fresh proposal that would provide another option for community banks to leverage capital and expand small business credit."

The Independent Community Bankers, whom he sought to quote denigrating this bill, are very much in favor of this bill.

The National Association of Home Builders likes the concept, although they were upset with one of the things that the Senate left out.

The Financial Services Roundtable—and here is the problem when taking a partisan stance: You have to overargue your case. If you listen to the gentleman from Texas, there are no small businesses anywhere that would like to get a loan but can't find it from their bank. Now no one, including the gentleman from Texas, believes that is true.

I have to say that my advice to my colleagues is, even in the heat of a political debate, try to refrain from saying something that no one will believe because it is not helpful to your argument.

Yes, there are cases where there are banks that have enough capital. There are cases where there are companies that are afraid to lend. But what the gentleman has said goes far beyond that: There are no significant number of small businesses in America that are encountering problems because there are banks that don't have enough capital. No one believes that.

Now here is the problem. We have people who do not want to see anything get better. The gentleman from Texas (Mr. HENSARLING), I will credit him because he didn't talk much about this bill. He complained about a lot of other bills. I understand that. He, I think, quite honestly realized there was not a lot of bad things to say about this bill. The worst they can say about this bill is it might not be used as much as we think. I disagree. In this vast economy, \$30 billion is not a huge amount of money from the standpoint of the small business borrowers.

Now, this bill is not what I would like it to be. The gentlewoman from New York (Ms. VELÁZQUEZ), the chair of the Small Business Committee, improved this bill significantly in the House. And this is not as good a bill as it came back from the Senate as it was before. I am going to be working with her. I intend to vote for this bill to give the Senate another chance. I don't like to give up on people or institutions. I believe in redemption, and we will give the Senate a chance to get it right.

But let's be clear. The Independent Community Bankers are for this. Other small businesses are for this. The argu-

ment that no small business anywhere in America has capital that they need and can put to use and can't find a bank, that simply isn't valid.

On uncertainty, I understand the problem of uncertainty in taxation. You know what the uncertainty is? What's going to happen to the Bush tax cuts. And whose fault is that uncertainty? President Bush and his Republican allies, who passed a manipulative, book-cooking tax cut that they said would last 10 years. I didn't say that it should last for 10 years and then expire. I didn't say that the estate tax should be a dippy-doodle that went up and down and up and around. That is what the Republicans did because they were trying to hide from the American people the full budgetary impact of their taxes.

Let's pass this bill, do what we can for small businesses, and go on to other work.

INDEPENDENT COMMUNITY
BANKERS OF AMERICA®,
Washington, DC, September 22, 2010.

Hon. NANCY PELOSI,
Speaker of the House, House of Representatives,
Washington, DC.

Hon. JOHN BOEHNER,
Minority Leader, House of Representatives,
Washington, DC.

DEAR SPEAKER PELOSI AND LEADER BOEHNER: On behalf of the nearly 5,000 members of the Independent Community Bankers of America, I write to express our strong support for the Small Business Jobs Act (H.R. 5297), and its core component, the Small Business Lending Fund (SBLF). The SBLF passed the House in June, and we now look forward to the final House passage of HR 5297.

ICBA believes that the SBLF will spur the flow of additional small business credit. Additionally, the legislation's Small Business Administration loan program incentives will allow community banks to further expand lending to deserving small business borrowers. In order for the SBLF to reach its full potential, Congress has specifically pressed for Tier 1 capital treatment of SBLF funds for all recipient institutions. Tier 1 treatment will allow the funds to be leveraged to provide as much as \$300 billion of new small business credit. Treasury and the bank regulators must quickly implement this program as intended by Congress.

The nation's nearly 8,000 community banks are prolific small business lenders with the community contacts and underwriting expertise to get credit flowing to the small business sector. The SBLF is a bold, fresh proposal that would provide another option for community banks to leverage capital and expand small business credit.

Thank you for your consideration.

Sincerely,

CAMDEN R. FINE,
President and CEO.

Ms. VELÁZQUEZ. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, small businesses have always been a critical component of the U.S. economy, and that is not different today. Generating nearly two-thirds of net new jobs over the past 15 years, they are not only the primary catalyst for employment growth but also for our Nation's underlying prosperity. Through the years, we have relied on our strong culture of entrepre-

neurship and innovation to renew us and make us stronger.

Today, small firms face different challenges than in the past. As a result, there will be different solutions. The policies that we adopt today must be carefully crafted to meet entrepreneurs's current needs. Unfortunately, the legislation we are considering today do not provide the protections that we need to make sure that small businesses have access to affordable capital.

We have seen the power of small businesses to pull us forward before. During the recession of the early 1990s, small businesses provided an economic lifeboat and created approximately 3.8 million jobs. This fueled the recovery then, while also planting the seeds for growth later in that decade. Back then it was the dot-coms and the Internet revolution at the forefront of the recovery. Today, we see entrepreneurs embracing green technologies and alternative energy. Small firms are fabricating solar panels, developing fuel cells, and researching innovations in building materials. These green firms add \$933 billion to the economy each year and employ more than 11 million workers. By 2030, the number is expected to reach 40 million employees, or 25 percent of the American workforce.

In the next decade, this will be the foundation for growth and job creation. Once again, it will be small firms leading the way.

While these cutting-edge firms are critical to the future, we also must recognize the importance of established firms. These local businesses, the mom and pops and the local storefronts, provide employment to millions of individuals and anchor our communities. For many, the economic recovery that has begun in recent months is long overdue.

Now, more than ever, we need to make sure that the environment is conducive to the success of both new and established businesses. For some, this means reducing the regulatory burden or providing tax relief. For others, it requires greater access to affordable capital or entrepreneurial assistance. Most important, we must get this mix right and avoid enacting policies that do not meet entrepreneurs' needs.

Whatever policies we choose, whether it be the legislation under consideration today or future proposals, it is crucial that we continue to embrace the power of our Nation's small businesses. Doing so will create badly needed jobs in the short term, while laying the framework for a long-term, sustainable period of growth.

I yield back the balance of my time.

□ 1400

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

Madam Speaker, I rise today in opposition to the amended version of H.R. 5297, the misleadingly named Small Business Jobs and Credit Act. We have

again missed an opportunity to help small businesses around the country that are in desperate need of less regulation and of more certainty about the future. This legislation has three basic parts:

It has a \$30 billion government bailout provision with no guarantee that the funds are actually going to go to entrepreneurs;

Another part is it has a slew of major changes to the Small Business Administration programs that actually discourage job creation;

Third—and this is the one that amazes me the most—it has a tax component that combines some very limited small business benefits with even bigger penalties on the dreaded 1099 reporting mandate in the health care law.

To better explain that last part, during the month of August, when I went around and listened to small businesses and to some of the problems that they are having, one of the biggest complaints I heard about was this 1099 reporting for small business with any purchase of over \$600 or more. In this bill, it increases the penalties on reporting for that. So it was just amazing to me that this was actually included in this.

As the ranking member of the Small Business Committee and as a small business owner myself, I have spent months talking to entrepreneurs and examining their ideas on what Washington can do to encourage a stable recovery. I can tell you right now that this legislation is not what they want. It is not what they need to create and grow their businesses.

Small business owners aren't looking for more government intervention and more wasteful spending. They are looking for some certainty. Small business owners are looking for a commitment from Washington leaders that their taxes are going to stay the same. They need a commitment that they won't be bombarded with more job-killing regulations. Most of all, they need to feel confident that they can hire new workers and can invest in their businesses without the fear that next week, next month or even next year, Washington is going to turn its back on them.

Instead of creating jobs like my colleagues on the other side of the aisle are promising, all this so-called "small business bill" will do is create disappointment. In fact, this bill actually removes a very critical job creation requirement from one of the SBA lending programs. The truth of the matter is that this is just another bailout bill that will generate billions of dollars for financiers and not one penny for workers.

If we are serious about creating jobs and about encouraging small business expansion, we must work together to develop fiscally responsible policies that work for small businesses and families. I urge my colleagues and other Members to vote against this legislation. Instead, join me in imple-

menting a better solution that will help small businesses without imposing more debt and regulations.

Madam Speaker, I yield back the balance of my time.

Mr. LEVIN. I yield myself such time as I may consume.

Madam Speaker, not much time needs to be consumed to make clear what is happening here. Many on the minority side rise in opposition. Why? Essentially, it is this:

Oppose any bill that helps the Nation, because it helps the President and this Congress achieve something for the Nation. Oppose it even if it helps small business, as this bill will. Oppose it even if it creates jobs, the key to this bill. Oppose it even if the pay-fors primarily were developed on a bipartisan basis. Find some flimsy excuse to oppose it.

I will read the last sentence from the Chamber of Commerce letter:

"Ninety-six percent of the Chamber's members are small businesses with fewer than 100 employees. On behalf of these small businesses, the Chamber urges you to support H.R. 5297 and strongly encourages Congress to address the issues of broad economic importance to the small business community."

So you're trying to find some fig leaf. So far, they've all been transparent. To come here and to try to march with your message, even when it doesn't apply, doesn't serve you well. It doesn't serve this Congress well. It surely doesn't serve small businesses well, and it doesn't serve well our Nation.

I reserve the balance of my time.

Mr. BOUSTANY. I yield myself such time as I may consume.

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

Mr. BOUSTANY. I rise in opposition to H.R. 5297.

Madam Speaker, we have heard a lot today about the centerpiece of this bill—the highly controversial \$30 billion small business lending fund, a provision sometimes referred to as TARP III. That provision is certainly of major concern to me, and it is reason enough to vote against this bill, though I want to focus my remarks on aspects of the bill that are within the Ways and Means Committee's jurisdiction.

This legislation includes approximately \$12 billion in small business tax provisions, including a number of items that Republicans have long supported. For example, there is widespread, bipartisan support for expanded business expensing and for the extension of bonus depreciation as ways to encourage additional capital investments.

In addition, this bill includes a provision originally authored by our colleague from Texas (Mr. SAM JOHNSON) that would eliminate the outdated requirement that employees keep extensive records documenting their personal use of their employer-provided cell phones so they can include the value of that benefit in their incomes.

It also includes a provision that I have been working on with Chairman LEWIS of the Oversight Subcommittee that would reduce penalties on small businesses that unintentionally violate certain disclosure rules under section 6707(a) of the Tax Code. Republicans don't object to these provisions. In fact, we think they should have been enacted months ago.

The tax portion of this bill also contains a highly troubling provision that would essentially double down on a particularly flawed element of the majority's new health care law. It is the requirement that small businesses file form 1099 with the IRS for every business and individual to which they make total payments of more than \$600 each a year. We already know that this highly confusing and burdensome information-reporting regime, which could cause the number of required tax forms to quintuple, will drive up the cost for small businesses across the country. It is clear that this added expense will mean that employers will have less money to hire new workers and to retain existing ones.

Instead of working with Republicans to repeal these onerous new 1099 reporting requirements, the majority is now actually seeking in today's bill to substantially increase the penalties for failure to comply with them. Although proposals to increase the penalties for failure to file correct information returns have not always been particularly controversial, these penalties now apply to a much larger universe of transactions because of the majority's new health law. Because those new requirements are so confusing and burdensome, especially for small businesses that are already struggling to meet payroll, increasing the penalties for what could be inadvertent mistakes seems especially unfair.

To add insult to injury, the legislation before us would also expand the types of transactions subject to 1099 reporting requirements even further. The bill would generally require that a recipient of rental real estate income file an information return on his rental property's expense payment as well. For example, an individual who rents out even a single condo unit would generally be required to file a 1099 for his purchase from Home Depot or other corporate establishments if he buys more than \$600 in supplies from them over the course of the year.

This new requirement, which would raise more than \$2.5 billion over 10 years, could prove to be every bit as burdensome for owners of small rental real estate holdings as the health law's 1099 requirements are for small businesses, especially considering the increases in penalties I mentioned a moment ago.

□ 1410

But let me close by making a broader point. The majority boasts about how much this bill's tax provisions like increased expensing and extending bonus

depreciation will help small businesses—and let me be clear. Those are proposals that Republicans continue to support. But any tax benefits provided by this bill at the margins will pale in comparison to the enormous tax increase the majority has in store for every taxpaying small business at the end of this year.

By failing to extend the critical tax relief that is scheduled to expire at the end of 2010, the majority will impose a \$3.8 trillion tax hike on American taxpayers—including every small business in America that pays income taxes—over the next 10 years. Especially with unemployment continuing to hover near 10 percent and economic growth very sluggish, that is a terrible idea for small businesses. It's a terrible idea for the economy, and it's a terrible idea for job creation.

Madam Speaker, I reserve the balance of my time.

Mr. LEVIN. Madam Speaker, I yield 1 minute to the gentleman from Georgia (Mr. LEWIS).

Mr. LEWIS of Georgia. I want to thank my chairman, Chairman LEVIN, for yielding.

Madam Speaker, this week on the news we heard economists declare that the recession ended sometime last year. But while Wall Street may celebrate, in Atlanta and many other cities there is a different story. Small businesses from Peachtree to Cascade and from Moreland Avenue to Clairmont Road continue to struggle. People are still suffering. With this bill, we give them the support they badly need.

Enough with politics and enough with the posturing. Small businesses need access to capital, and they need it now. They need it right now. They need tax relief, and they need it now.

I urge all of my colleagues to vote "yes" and pass this bill. It is the right thing to do, and we must do it and do it now.

Mr. BOUSTANY. Madam Speaker, I reserve the balance of my time.

Mr. LEVIN. Madam Speaker, it is now my privilege to yield 1 minute to the gentleman from Massachusetts, a member of our committee, Mr. NEAL.

Mr. NEAL. I thank the gentleman.

Madam Speaker, I stand in support of this small business jobs bill. There is no cute title for this bill. It's simply about small businesses and jobs. It injects funding into small businesses in two ways.

First it does through the creation of a \$30 billion lending fund for community banks. Many have complained that while community banks have money, they aren't positioned to lend. This fund makes favorable repayment rates contingent upon lending to small business.

Second, the bill provides \$12 billion in enhanced tax benefits for small businesses, which will encourage hiring and investment. It will allow small businesses to carry back the general business credits for 5 years, and they will provide cash in hand today rather than

sitting on the credits that they eventually cannot claim. All of this will allow small businesses which may be on the fence about committing new funds, new investments, upgrades in equipment, or retaining or rehiring workers to spend the funds necessary to get back to work.

This is a very decent, reasonable piece of legislation. We ought to embrace it. It will have ripple effects throughout our economy.

Mr. BOUSTANY. Madam Speaker, I mentioned earlier the small business provisions that we do agree upon, but we think that these are going to be outweighed by the onerous 1099 provision that is in the health law, and the impact on businesses is going to be terrible.

I want to just mention something here. The IRS's own National Taxpayer Advocate highlighted several problems with this particular 1099 reporting requirement. "The new reporting burden, particularly as it falls on small businesses, may turn out to be as disproportionate as compared with any resulting improvements in tax compliance. Small businesses may have to pay for additional accounting services, incurring additional costs. In our view, it's highly likely that the IRS will improperly assess penalties that it must abate later after great expenditure of the taxpayer and IRS time and effort. Small businesses that lack the capacity to track customer purchases may lose customers, leaving the economy with more large national vendors and less local competition." Those are the words of the National Taxpayer Advocate at the IRS.

This 1099 reporting burden on small businesses is particularly onerous and outweighs many of the advantages of some of these tax provisions that we all agree upon. It's a shame that we couldn't have gotten together to put together a better small business package that would actually promote small business growth, promote jobs, and promote our economy.

Madam Speaker, I reserve the balance of my time.

Mr. LEVIN. Madam Speaker, I yield myself such time as I may consume.

You know, the mindless objection really overlooks the urgency of this picture. We go back home; people say they can't receive credit. You talk about TARP III. You're the only ones who use that language to try to find a label even for something beneficial, as was other legislation.

So we go home and we hear this cry out for credit, and we put together a bill that provides \$30 billion for small and medium-size businesses, and you look for an excuse. We provide money for the States to provide collateral so small businesses can receive the credit—a provision that Governors support, Republicans and Democrats—and you search for some basis that somehow will carry what you think is a winning message even if the American people are the losers. It doesn't work.

Madam Speaker, I yield 1 minute to the distinguished majority leader, Mr. HOYER.

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

Mr. HOYER. I thank the chairman of the Ways and Means Committee, Mr. LEVIN, for yielding. Mr. LEVIN has been one of our hardest workers and leaders in the effort to make sure that American business can succeed and expand and create good-paying jobs for our economy.

I just heard the last of his remarks, but my presumption is he was saying, as we all know is the case, there is not a place that any of us travel in the United States of America, when we talk to small businesses all over this country, that they don't say: Congressman, one of the real problems I have is I can't get capital. I want to put an additional room on my restaurant so I can have some additional tables, and I'll have to hire some additional—maybe a cook and a waiter and waitresses and a receptionist, but I can't get capital. I know I can get the customers, but I can't expand.

That's what this bill is about. This bill is about empowering small businesses to do what they do so well.

In our work to recover from the worst economic crisis of our lifetimes as a result of the economic policies we put in place in the last administration, we're suffering under the worst economic crisis in 75 years. Only the Great Depression is analogous.

Businesses will play an extraordinarily important role in bringing us back; they are our economy's job-creating engine. Over the past year, 64 percent of new jobs came from small businesses. Keeping small businesses growing and creating jobs is essential to our economic recovery, and supporting small businesses is an essential part of rebuilding American industry, which is why this important small business lending bill is part of the Democrats' "Make It in America" agenda.

□ 1420

You're going to be hearing a lot about that agenda: "Make It in America."

There are an awful lot of people in our country right now who, understandably, are not sure they're going to make it in America. They're not sure their kids are going to be able to make it in America. They're not sure they're going to have a retirement on which they counted. "Make It in America."

Now, that has another meaning as well: make it in America; manufacture it in America; create good-paying jobs through manufacturing things in America that Americans will buy, and yes, the rest of the world will buy.

This is a plan to strengthen American manufacturing and its ability to create well-paying middle class jobs. Six Make It in America bills have already been signed into law. In addition,

Democrats have voted for investments in job-creating infrastructure projects, lower taxes for 98 percent of America, expanded Small Business Administration lending, a tax credit for small businesses that hire unemployed workers, and long-term tax credits to help small businesses afford employer health care. And we've done it in the face of a year and a half of near unanimous Republican opposition.

The challenges faced by small businesses are still, of course, significant ones. Last year, for instance, 45 percent of small businesses seeking loans to expand or even stay in business were turned down for a loan, which had an obvious impact on employment.

To expand the job-creating flow of credit, I urge each of my colleagues, not Republicans or Democrats but all of my colleagues, who all want to see small businesses grow, who all want to see jobs created, and, therefore, I urge all of my colleagues on either side of the aisle of whatever ideology, support this bill.

I talked to my small bankers last week. They say if they get this capital, they're going to lend to small businesses. I talked to my small businesses, and they say if this bill passes, they believe that they'll be able to get a loan to expand their business or to keep in business.

First, this bill creates a small business lending fund that makes it easier for small businesses to access the capital they need. It also establishes \$12 billion in tax cuts for small business.

I've heard a lot of talk throughout my 30 years here in the Congress of the United States from the other side of the aisle about cutting taxes on small businesses. Well, this cuts \$12 billion in taxes on small businesses. I would hope that you would feel that was consistent with what you said ought to be done. We agree. And we've done it. And we're trying to do it again.

These tax credits encourage small business investments by eliminating small business capital gains taxes in many cases; they encourage innovation by helping entrepreneurs deduct more startup expenses; they make it more affordable for business owners to invest in the equipment they need to expand; and, as I said, they make health care more affordable for the self-employed—all designed to grow and expand small businesses and to create jobs for the millions of Americans who have been hardworking Americans, lost their job, and they want to work and they're looking for work, and they can't find it. This is an opportunity for us to expand that job pool by an estimated 500,000.

In addition, this bill strengthens State and SBA programs that lend to small businesses. We have such a program in the State of Maryland. We think this will help. And it strengthens overseas competitiveness by funding export-promoting programs and by fighting for market access and a level playing field for American companies that compete abroad.

In all, this bill's provisions are projected, as I said, to save or create as many as a half million jobs.

Passing this bill is a test of every Member's commitment to the businesses that are the backbone of our districts. It is a measure of our support for their ability to innovate, grow, and employ more workers.

But as important as this bill is, it is not the end of our work to create small business jobs.

For instance, the House will soon debate Congressman MILLER's bill to support lending for home construction—another example of Democratic efforts to support small businesses and create jobs.

I hope that every one of my colleagues sees fit to support this bill, not because it perfectly represents every view that you have—none of us vote for bills that reflect our views perfectly—but because the consensus of the business community is this will move us forward.

Vote for this bill. It's good for America. It's good for our people. It's good for jobs.

Mr. BOUSTANY. I yield myself the balance of my time.

Madam Speaker, I mentioned that we are for some of this tax relief in this bill. But if you talk to small business owners across this great country of ours, you talk to workers, you talk to families, what they're concerned about is the uncertainty, the uncertainty of what's happened over the last 2 years under this administration. This atmosphere of uncertainty is what's killing small business growth, and it's killing jobs.

Now, we highlighted the 1099 provision in the health care bill. That's just one provision in a massive bill that has led to this tremendous uncertainty, this atmosphere that is just like cold water on all business activity.

Yes, I admit the credit problems are real. Small businesses are struggling with it. But why is that? It's because there is uncertainty in the economic climate.

Now, it's nice. We have a bill that offers some good tax provisions in there. But where one hand giveth, the other hand taketh away with onerous provisions that are going to add costs to our businesses that are trying to hire and trying to make a living and trying to prosper, trying to create wealth and prosperity for American families.

The bottom line is we need good, solid policies that are going to basically eliminate this uncertainty. That's why I have to say I lament the fact that we couldn't get together and work on something that would really promote job growth, promote economic growth and prosperity for families. But, no, we have to play these political games, and we have to put provisions in there for certain reasons that actually are going to work counter to what we're trying to do.

The 1099 provision is just one of many, many elements that have led to

this intense uncertainty across the board. I challenge my friends. I say go across the country, visit your districts, talk to small business owners and ask them what is the problem. They'll tell you it's credit. But they'll tell you, We don't know what's coming with this health care and what it's going to cost us.

There are a number of provisions the way this is going to be implemented, the 1099 provision being one. New taxes, the tax uncertainty—my God, that is a huge issue. Why can't we get together and extend the tax relief from 2001 and 2003 and keep the capital gains and dividend taxes where they are today? That will create an atmosphere of certainty for our businesses that want to hire, they want to produce goods, they want to export.

Why can't we articulate a coherent trade policy that's really going to promote exports? We've got three trade agreements on the table ready to go that immediately promote exports that will create high, good-paying jobs. One-out-of-five jobs in this country are related to trade. But, no, we won't take up those trade agreements. Ask why. Special interest. It's not what's best for America; it's for special interest.

We have a moratorium on drilling down in my district, in my State. It's killing small business growth. Killing it. These are small businesses that provide services and equipment and manufacturing to support American energy. And guess what. We have an arbitrarily imposed moratorium that defies any basis in fact or science at this stage, and we can't even get answers from this administration to bipartisan letters inquiring why that's the case.

So let's talk about how you get rid of uncertainty in this economic climate. We've got a climate of fear right now. People are fearing what's coming out of Washington.

What we need is certainty, and we need good, solid politics that are going to help American workers and American families.

□ 1430

Mr. LEVIN. I yield 1½ minutes to the gentleman from New Jersey (Mr. ANDREWS).

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

Mr. ANDREWS. I thank my friend for yielding.

I think if we went into any shopping mall or restaurant in America today and asked people who aren't in politics, What would you like to see us do to help put people back to work?, they would say, Well, small businesses create three out of four jobs in the country. Why don't you help them? Why don't you make it so if they create jobs you cut their taxes? Why don't you make it so if they can't get loans, if they have good credit they can get loans and pay them back so it doesn't cost the Treasury anything? And why don't you do this in such a way that it

doesn't add to the deficit, that you offset the cost of doing this by finding other savings to pay for it? Why don't you do that?

That's exactly what this bill does.

Now, I suspect that if the minority's not going to support this bill, it has more to do with the calendar than the content of the bill. In 40 days the voters are going to the polls. And the other side has decided to run their campaign on the basis that nothing good is happening. That's their judgment. We're making a different judgment here: helping small businesses by cutting their taxes, helping small businesses by making credit available to creditworthy borrowers, and helping the American people by creating jobs in a way that doesn't increase the deficit.

Our friends on the other side, Madam Speaker, say there's a climate of fear in Washington. Maybe people are justifiably afraid out in the country that the other side wants to do nothing but say "no." We should vote "yes" on this bill.

Mr. LEVIN. My colleagues on the Republican side want to talk about everything except this bill. I understand that. I think quietly you might admit you are embarrassed to vote against it. You raise the 1099 issue in the health bill. We've brought up a bill to repeal it, and almost all of you voted "no." You want to talk about all kinds of other issues except this bill.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Ms. EDWARDS of Maryland). Members are reminded to address their remarks to the Chair, not to others in the second person.

Mr. LEVIN. I will be glad to do that. So my colleagues want to make sure, if they can, that this doesn't happen. It's going to. You say, why can't we get together? The last months, the last year, all of this has proven the last thing you want to do is to get together. They think that the best thing to do is to make sure we can't. That won't help the small businesses of this country.

This is an excellent, necessary bill for small businesses in this country who need the credit flowing. And those who vote "no" are standing in the way of that flow of credit for the small businesses of this country. Inexcusable.

Mrs. MALONEY. Madam Speaker, the Small Business Jobs and Credit Act of 2010 (H.R. 5297) will strengthen our current economic recovery, by strengthening our small businesses.

This legislation is sorely needed to bolster our small firms, which have lagged their larger counterparts in recovering from the Great Recession.

While the economy has made significant progress since the beginning of 2010, including eight straight months of private sector job growth, small businesses are not yet fully participating in this recovery.

The legislation before us will help change that—by providing small businesses with eight separate tax cuts totaling \$12 billion; promoting lending to small firms; and encouraging investment in these engines of growth.

A September report from the Joint Economic Committee, which I chair, provides fresh evidence of the challenges that continue to face small businesses.

While hiring at medium and large firms began to pick up in mid-2009, hiring at small firms remains flat and has continued to decline for the smallest firms—those with fewer than 50 employees.

Why aren't small businesses hiring?

A big part of the answer is that they simply cannot get the loans they need.

The number of loans to small businesses and the value of those loans are both dropping.

Loans made to small businesses, which peaked at 27.2 million in the second quarter of 2008, have fallen by over 4.8 million since then, a drop of 17.8 percent.

At the same time, the total value of those loans fell by \$60 billion to approximately \$650 billion.

I have heard time and time again from my constituents that even as the economy gains strength, creditworthy businesses still cannot get the normal business loans they need to make payroll, pay vendors, or expand their operations.

I have heard this from a wide variety of businesses—from the old fashioned 100 year old, family-owned Eneslow Shoes, to the high tech QED National—a leading provider of Staff Augmentation services to IT organizations.

Sound companies doing good business tell me they just can't get the credit they need.

There is a provision in this legislation that I believe will get capital flowing again to small businesses.

The \$30 billion Small Business Lending Fund will leverage \$300 billion in loans to small businesses.

Small and community banks receive capital from the Fund on terms that become more favorable as they make more loans to small businesses.

The new lending fund is a big piece of this legislation—but it's just one piece.

The bill also increases the loan limit for SBA 7(a) loans from \$2 million to \$5 million.

This is especially important for high-cost areas like New York City, where \$2 million just doesn't go very far for a small business.

The bill extends 50 percent bonus depreciation, enabling small businesses to immediately write off half the cost of investments in new equipment this year.

It promotes entrepreneurship by doubling the tax deduction for start-up expenses.

And finally, 2 million self-employed individuals will be able to deduct the cost of health insurance for themselves and their families this year.

Small businesses are the backbone of the American economy, generating innovation, growth, and jobs.

Three out of four Americans work for establishments with fewer than 250 employees.

It's critical that we get small businesses firing on all cylinders. And it's frustrating it hasn't happened sooner. But, I'm confident that this legislation will help our small firms turn the corner, add employees and accelerate our economic growth.

Mr. DINGELL. Madam Speaker, I am pleased to rise in support of the Senate amendment to H.R. 5297, the Small Business Lending Fund Act of 2010. I want to commend the Chairman of the Financial Services Com-

mittee, Congressman BARNEY FRANK of Massachusetts for his leadership on this legislation.

This legislation should have come before us much sooner but my Republican colleagues across the Capitol decided to do what was politically advantageous for them rather than do what was right for the American people. Fortunately, we have the opportunity to pass this bill today and support the needs of our small businesses, create jobs, and continue our economic recovery. The legislation will provide small business with access to capital, spur investment, and promote entrepreneurship through a number of tax cuts to small business, a new lending initiative with community banks, and enhancements to existing programs that arm states with the tools to assist small businesses with their distinct needs, among other things.

Throughout the two-year recession, we saw banks stop providing credit, and small businesses shedding jobs and closing their doors. Though our economy would undoubtedly be in far worse shape had we not passed the American Recovery and Reinvestment Act, banks are still being overly cautious about lending as our economy recovers. Thus, today we will pass a comprehensive small business job creation measure to allow small businesses to lead this recovery as they have aptly done in the past.

Indeed, the Small Business Lending Fund Act has many provisions to promote job creation for everyday Americans and grow the economy. For example, to provide access to capital, the bill includes a \$30 billion lending fund for small and medium size banks to leverage \$300 billion in lending, a \$1.5 billion state small business credit initiative to assist state capital access programs—a provision I helped write with my colleagues from Michigan, Congressman GARY PETERS and Congressman SANDER LEVIN, and a small business tax break that allows 100 percent of the capital gains from certain small business stock to be excluded from taxation. To encourage investment, the bill includes a tax break for small businesses to allow them to write off half of the cost of new equipment placed in service in 2010. And to promote entrepreneurship, the legislation doubles to \$10,000 the tax deduction for start-up expenditures for entrepreneurs looking to launch a new venture. I am also particularly pleased that the bill will increase the maximum amount—from \$2 million to \$5 million—the Small Business Administration will guarantee for floorplan financing loans to auto dealers, which will help these economic pillars of our communities recover and put Americans back to work.

Madam Speaker, Main Street Americans have had to wait for too long for this important bill. I am pleased to support it and urge my colleagues to do the same.

Mr. HOLT. Madam Speaker, I rise in support of the Small Business Jobs and Credit Act.

I regularly meet with Central New Jersey small business leaders and hear the difficulty they have finding the loans and credit needed to expand and hire more employees.

The Small Business Jobs and Credit Act will help small businesses on Main Street to create jobs through a new \$30 billion Small Business Lending Fund for small- and medium-sized community banks. In order to participate in this program, these banks will have to turn

around and provide the credit that small businesses need to grow. The \$30 billion fund, could leverage up to \$300 billion in lending.

These small- and medium-sized banks are staples in communities across the country and critical sources of capital to help small businesses get off the ground, but the financial crisis on Wall Street and subsequent recession diminished these banks' ability to lend.

The bill also will support a State Small Business Credit Initiative, which will provide \$2 billion in funding for new or existing state lending programs. These programs already exist in about 30 states, including my home state of New Jersey, and use small amounts of public dollars to generate substantial private financing. By supporting existing expertise in states around the country and using an easy-to-replicate model, this program will be able to quickly increase small business lending and create jobs.

In addition, this bill will improve access to credit by increasing Small Business Administration loan limits and lowering costs for small business to access SBA loans.

But this bill does not merely expand access to credit—it contains billions of dollars in tax relief for small businesses. It will spur investment by giving a 100 percent exclusion from capital gains taxes on small business investment and by allowing businesses to write off immediately 50 percent of the cost of new equipment. It also will increase the tax deduction for business start-up expenditures. By allowing entrepreneurs to recover more start-up expenses, small business owners can focus more growing their businesses.

It is unfortunate that this bill was held up by partisan obstructionists, because this is something that could help small businesses now. The small business owners I talk with in New Jersey are not concerned about political gamesmanship—they're concerned about lack of credit and tight lending standards. Passage of this legislation is long overdue and I urge my colleagues to support it and support our nation's small business leaders.

Mr. HARE. Madam Speaker, I rise today in strong support of the Small Business Jobs Act of 2010. I want to thank our leadership for continuing the fight for American jobs and our Nation's small businesses.

We all know that small businesses are the backbones of our local economies and bolster economic growth in our districts, States and Nation. Unfortunately, small businesses have not escaped the devastating impacts of this recession.

When the credit markets tightened and payrolls declined, small business owners were forced to make incredibly tough decisions—sometimes shutting their doors forever. This legislation will help existing small businesses grow and give entrepreneurs the assistance they need to open new ones.

The bill creates a \$30 billion small business lending fund in which financial institutions, such as the smaller community banks in my district, can leverage as much as \$300 billion of badly needed credit to small businesses.

I'm proud that this Congress continues to provide tax relief to our small businesses and I am happy that this bill includes another \$12 billion in tax incentives for them.

The bottom line is that this bill gives small businesses on Main Street the tools they need to continue to spearhead our recovery and fuel our economy.

As Members of Congress, we have a responsibility to restore the economic promise of this Nation, and I won't rest until small businesses across Illinois are secure, have the resources they need, and are able to put many more of our neighbors back to work.

Madam Speaker, I urge all of my colleagues to vote in favor of both the rule and the underlying bill so that Americans can get the help they need during these tough times of economic recovery.

Mrs. LOWEY. Madam Speaker, I rise today in support of the Small Business Jobs and Credit Act of 2010, which includes the Small Business Job Creation and Access to Capital Act I sponsored. This measure will increase the Small Business Administration loan limits to help small businesses with high inventory or property costs, as well as those in high cost-of-living areas, such as Westchester and Rockland Counties, NY.

These provisions, which are fully paid for, are expected to increase lending to small businesses by \$5 billion nationally in the first year.

SBA loans create jobs and have helped small businesses in my district. I recently visited a Tea Shop that used an SBA microloan to make necessary repairs to the building prior to opening. This small business has now hired five employees, as well as plumber, electrician, and contractor to make the repairs. A flooring company in Elmsford that outgrew its first facility secured an SBA 504 loan to build a new 11,000 square foot energy efficient facility, hire six new workers, and expand its business. In addition, the construction of the new facility helped bring business to manufacturers and contractors in my district.

Small businesses will lead our economic recovery and create jobs. I urge the House to support this bill to help our small businesses.

Mr. VAN HOLLEN. Madam Speaker, I rise in strong support of the Small Business Lending Fund Act of 2010 and urge its adoption without any further delay.

Small businesses are the engine of our economy. They employ half of all private sector workers and have been responsible for nearly two-thirds of net job creation over the past fifteen years. Recent economic data showing eight straight months of private sector job growth is an encouraging sign, but more needs to be done to support our small business job generators and keep the economy moving in the right direction.

The centerpiece of this pro-growth legislation is a \$30 billion lending fund for community banks serving small businesses. With 45 percent of small businesses unable to get their credit needs met in 2009, this kind of initiative—which can leverage up to \$300 billion in new private sector lending—is critical to getting small businesses the financing they need to expand their payrolls at a time when jobs are what our economy needs most. Small Business Administration loan limits are increased. SBA borrowing fees are reduced or eliminated. And the nonpartisan Congressional Budget Office projects that the lending fund itself will actually reduce the deficit by \$1 billion over ten years as participating banks repay their loans with interest.

H.R. 5297 also delivers a potent package of timely tax relief to the small business sector. As a result of today's legislation, up to \$500,000 worth of capital investment in equipment and machinery acquired in 2010 and 2011 can be immediately written off. General

business credits can be carried back five years instead of one and won't be subject to the AMT. The available deduction for entrepreneurs' start-up expenses is doubled from \$5,000 to \$10,000, and direct equity investment in small businesses will receive a zero percent capital gains rate for qualifying investments made this year.

Madam Speaker, although I might personally have prioritized a slightly different set of offsets, this legislation is nevertheless fully paid for and as a package deserves our support.

Mr. LEVIN. I yield back the balance of my time.

The SPEAKER pro tempore. Pursuant to House Resolution 1640, the previous question is ordered.

The question is on the motion offered by the gentlewoman from Illinois (Ms. BEAN).

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

Mr. LEVIN. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, this 15-minute vote on the motion to concur will be followed by 5-minute votes on motions to suspend the rules on the following measures: H.R. 5307, H.R. 5756, H.R. 3199, H.R. 1745, and H.R. 5710.

The vote was taken by electronic device, and there were—yeas 237, nays 187, not voting 9, as follows:

[Roll No. 539]

YEAS—237

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|----------------|---------------|------------------|
| Ackerman | Davis (CA) | Honda |
| Adler (NJ) | Davis (IL) | Hoyer |
| Altmire | Davis (TN) | Inslee |
| Andrews | DeGette | Israel |
| Arcuri | Delahunt | Jackson (IL) |
| Baca | DeLauro | Jackson Lee |
| Baird | Deutch | (TX) |
| Baldwin | Dicks | Johnson (GA) |
| Barrow | Dingell | Johnson, E. B. |
| Bean | Doggett | Jones |
| Becerra | Donnelly (IN) | Kagen |
| Berkley | Doyle | Kanjorski |
| Berman | Driehaus | Kaptur |
| Bishop (GA) | Edwards (MD) | Kildee |
| Bishop (NY) | Ellison | Kilpatrick (MI) |
| Blumenauer | Ellsworth | Kilroy |
| Bocchieri | Engel | Kind |
| Boswell | Eshoo | Kirkpatrick (AZ) |
| Boucher | Etheridge | Kissell |
| Brady (PA) | Farr | Klein (FL) |
| Braley (IA) | Fattah | Kosmas |
| Brown, Corrine | Filner | Kratovil |
| Butterfield | Foster | Kucinich |
| Capps | Frank (MA) | Langevin |
| Capuano | Fudge | Larsen (WA) |
| Cardoza | Garamendi | Larson (CT) |
| Carnahan | Giffords | Lee (CA) |
| Carney | Gonzalez | Levin |
| Carson (IN) | Gordon (TN) | Lewis (GA) |
| Chandler | Grayson | Lipinski |
| Chu | Green, Al | Loebuck |
| Clarke | Green, Gene | Loftgren, Zoe |
| Clay | Grijalva | Lowey |
| Cleaver | Gutierrez | Lujan |
| Clyburn | Halvorson | Lynch |
| Cohen | Hare | Maffei |
| Connolly (VA) | Harman | Maloney |
| Conyers | Hastings (FL) | Markey (CO) |
| Cooper | Heinrich | Markey (MA) |
| Costa | Higgins | Marshall |
| Costello | Hill | Matheson |
| Courtney | Himes | Matsui |
| Critz | Hinchey | McCarthy (NY) |
| Crowley | Hinojosa | McCormack |
| Cuellar | Hirono | McDermott |
| Cummings | Hodes | McGovern |
| Dahlkemper | Holden | McIntyre |
| Davis (AL) | Holt | McMahon |

McNerney Pomeroy
Meeks (NY) Price (NC)
Melancon Quigley
Michaud Rahall
Miller (NC) Rangel
Miller, George Reyes
Minnick Richardson
Mollohan Rodriguez
Moore (KS) Ross
Moore (WI) Rothman (NJ)
Moran (VA) Roybal-Allard
Murphy (CT) Ruppersberger
Murphy (NY) Rush
Murphy, Patrick Ryan (OH)
Nadler (NY) Salazar
Napolitano Sánchez, Linda
Neal (MA) T.
Nye Sanchez, Loretta
Oberstar Sarbanes
Obey Schakowsky
Olver Schauer
Ortiz Schiff
Owens Schrader
Pallone Schwartz
Pascarell Scott (GA)
Pastor (AZ) Scott (VA)
Payne Serrano
Pelosi Sestak
Perlmutter Shea-Porter
Perriello Sherman
Peters Sires
Pingree (ME) Skelton

NAYS—187

Aderholt Frelinghuysen Myrick
Akin Gallegly Neugebauer
Alexander Garrett (NJ) Nunes
Austria Gerlach Olson
Bachmann Gingrey (GA) Paul
Bachus Gohmert Paulsen
Barrett (SC) Goodlatte Pence
Bartlett Granger Peterson
Barton (TX) Graves (GA) Petri
Berry Graves (MO) Pitts
Biggart Griffith Platts
Bilbray Guthrie Poe (TX)
Bilirakis Hall (TX) Polis (CO)
Bishop (UT) Harper Posey
Blackburn Hastings (WA) Price (GA)
Boehner Heller Putnam
Bonner Hensarling Radanovich
Bono Mack Herger Rehberg
Boozman Herseth Sandlin Reichert
Boustany Hoekstra Roe (TN)
Boyd Hunter Rogers (AL)
Brady (TX) Inglis Rogers (KY)
Broun (GA) Issa Rogers (MI)
Brown (SC) Jenkins Rohrabacher
Brown-Waite, Johnson (IL) Rooney
Ginny Johnson, Sam Ros-Lehtinen
Buchanan Jordan (OH) Roskam
Burgess King (IA) Royce
Burton (IN) King (NY) Ryan (WI)
Buyer Kingston Kirk Scalise
Calvert Kingdon Schmidt
Camp Kline (MN) Schock
Campbell Lamborn Scholch
Cantor Lance Sensenbrenner
Cao Latham Sessions
Capito LaTourette Shadegg
Carter Latta Shimkus
Cassidy Lee (NY) Shuler
Castle Lewis (CA) Shuster
Chaffetz Linder Simpson
Childers LoBiondo Smith (NE)
Coble Lucas Smith (NJ)
Coffman (CO) Luetkemeyer Smith (TX)
Cole Lummis Stearns
Conaway Lungren, Daniel Sullivan
Crenshaw E. Taylor
Culberson Mack Terry
Davis (KY) Manzullo Thompson (PA)
DeFazio Marchant Thornberry
Dent McCarthy (CA) Tiahrt
Diaz-Balart, L. McCaul Tiberi
Diaz-Balart, M. McClintock Titus
Djou McCotter Turner
Dreier McHenry Upton
Duncan McKeon Velázquez
Edwards (TX) McMorris Walden
Ehlers Rodgers Wamp
Emerson Mica Westmoreland
Flake Miller (FL) Whitfield
Fleming Miller (MI) Wilson (SC)
Forbes Miller, Gary Wittman
Fortenberry Mitchell Moran (KS)
Foxy Moran (KS) Murphy, Tim
Franks (AZ) Murphy, Tim

Slaughter
Smith (WA)
Snider
Space
Speier
Spratt
Stark
Stupak
Sutton
Tanner
Teague
Thompson (CA)
Thompson (MS)
Tierney
Tonko
Townes
Tsongas
Van Hollen
Visclosky
Walz
Wasserman
Schultz
Waters
Watson
Watt
Waxman
Weiner
Welch
Wilson (OH)
Woolsey
Wu
Yarmuth

NOT VOTING—9

Blunt Castor (FL) Kennedy
Boren Fallon Meek (FL)
Bright Hall (NY) Young (FL)

□ 1503

Messrs. EDWARDS of Texas, BACH-US, and EHLERS changed their vote from “yea” to “nay.”

Mr. PALLONE changed his vote from “nay” to “yea.”

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. CAO. Madam Speaker, on rollcall No. 539 I misunderstood the vote and inadvertently voted “nay” when I wanted to vote “yea.”

Ms. CASTOR of Florida. Madam Speaker, I was not present for a vote today. If I were present, I would have voted:

“Yea” on rollcall No. 539, on passage of H.R. 5297, the Small Business Jobs and Credit Act of 2010.

ULTRALIGHT SMUGGLING PREVENTION ACT

The SPEAKER pro tempore. The unfinished business is the vote on the motion to suspend the rules and pass the bill (H.R. 5307) to amend the Tariff Act of 1930 to include ultralight aircraft under the definition of aircraft for purposes of the aviation smuggling provisions under that Act, as amended, on which the yeas and nays were ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Tennessee (Mr. TANNER) that the House suspend the rules and pass the bill, as amended.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 412, nays 3, not voting 17, as follows:

[Roll No. 540]

YEAS—412

Ackerman Bonner Carter
Aderholt Bono Mack Castle
Adler (NJ) Boozman Castor (FL)
Akin Boswell Chaffetz
Alexander Boucher Chandler
Altmire Boustany Childers
Andrews Boyd Chu
Arcuri Brady (PA) Clarke
Austria Brady (TX) Clay
Baca Braley (IA) Cleaver
Bachmann Broun (GA) Clyburn
Bachus Brown (SC) Coble
Baird Brown, Corrine Coffman (CO)
Baldwin Brown-Waite, Cohen
Barrett (SC) Ginny Cole
Barrow Buchanan Conaway
Bartlett Burgess Connolly (VA)
Barton (TX) Burton (IN) Conyers
Bean Butterfield Cooper
Becerra Buyer Costa
Berkley Calvert Costello
Berman Camp Courtney
Berry Campbell Crenshaw
Biggart Cantor Critz
Bilbray Cao Crowley
Bilirakis Capito Cuellar
Bishop (GA) Capps Culberson
Bishop (NY) Capuano Cummings
Bishop (UT) Cardoza Dahlkemper
Blackburn Carnahan Davis (AL)
Blumenauer Carney Davis (CA)
Bocchieri Carson (IN) Davis (IL)

Davis (KY)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Deutch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Djou
Doggett
Donnelly (IN)
Doyle
Dreier
Driehaus
Duncan
Edwards (MD)
Edwards (TX)
Ehlers
Ellison
Ellsworth
Emerson
Engel
Eshoo
Etheridge
Farr
Fattah
Filner
Flake
Fleming
Forbes
Fortenberry
Foster
Foxy
Franks (AZ)
Frelinghuysen
Fudge
Gallegly
Garrett (NJ)
Giffords
Gingrey (GA)
Gohmert
Gonzalez
Goodlatte
Gordon (TN)
Granger
Graves (GA)
Graves (MO)
Grayson
Green, Al
Green, Gene
Griffith
Grijalva
Guthrie
Gutierrez
Hall (TX)
Halvorson
Hare
Harman
Harper
Hastings (FL)
Hastings (WA)
Heinrich
Heller
Hensarling
Herger
Herseth Sandlin
Higgins
Hill
Himes
Hinchey
Hinojosa
Hirono
Hodes
Hoekstra
Holden
Holt
Honda
Hoyer
Hunter
Ingle
Inslee
Israel
Issa
Jackson (IL)
Jackson Lee
(TX)
Jenkins
Johnson (GA)
Johnson, E. B.
Johnson, Sam
Jones
Jordan (OH)
Kagen
Kanjorski
Kaptur
Kennedy
Kildee
Kilpatrick (MI)
Kilroy
Kind
King (NY)
Kingston
Kirk
Kirkpatrick (AZ)
Kissell
Klein (FL)
Kline (MN)
Kosmas
Kratovil
Kucinich
Lamborn
Lance
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Latta
Lee (CA)
Lee (NY)
Levin
Lewis (CA)
Lewis (GA)
Linder
Lipinski
LoBiondo
Loebach
Loftgren, Zoe
Lowey
Lucas
Luetkemeyer
Lujan
Lummis
Lungren, Daniel
E.
Lynch
Mack
Maffei
Maloney
Manzullo
Marchant
Markey (CO)
Markey (MA)
Marshall
Matheson
Matsui
McCarthy (CA)
McCarthy (NY)
McCaul
McClintock
McCollum
McCotter
McDermott
McGovern
McHenry
McIntyre
McKeon
McMahon
McMorris
Rodgers
McNerney
Meeks (NY)
Melancon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Minnick
Mitchell
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy (CT)
Murphy (NY)
Murphy, Patrick
Murphy, Tim
Myrick
Nadler (NY)
Napolitano
Neal (MA)
Neugebauer
Nye
Oberstar
Obey
Olson
Olver
Ortiz
Owens
Pallone
Pastor (AZ)
Paulsen
Payne
Pence
Perlmutter
Perriello
Peters
Peterson
Petri
Pingree (ME)
Pitts
Platts
Poe (TX)
Polis (CO)
Pomeroy
Posey
Price (GA)
Price (NC)
Putnam
Quigley
Radanovich
Rahall
Rangel
Rehberg
Reichert
Reyes
Richardson
Rodriguez
Roe (TN)
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Rooney
Ros-Lehtinen
Roskam
Ross
Rothman (NJ)
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Salazar
Sánchez, Linda
T.
Sanchez, Loretta
Sarbanes
Scalise
Schakowsky
Schauer
Schiff
Schmidt
Schock
Schrader
Schwartz
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sestak
Shadegg
Shea-Porter
Sherman
Shimkus
Shuler
Shuster
Simpson
Sires
Skelton
Slaughter
Smith (NE)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Space
Speier
Spratt
Stark
Stearns
Stupak
Sullivan
Sutton
Tanner
Taylor
Teague
Terry
Thompson (CA)
Thompson (MS)
Thompson (PA)
Thornberry
Tiahrt
Tiberi
Tierney
Titus
Tonko
Townes
Tsongas