

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: In the nature of a substitute.

**IN THE SENATE OF THE UNITED STATES—111th Cong., 2d Sess.**

**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.

Referred to the Committee on \_\_\_\_\_ and  
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended  
to be proposed by Mr. REID (for himself, Mr. BAUCUS,  
and Ms. LANDRIEU)

Viz:

- 1 Strike all after the enacting clause and insert the fol-
- 2 lowing:
- 3 **SECTION 1. SHORT TITLE.**
- 4 This Act may be cited as the “Small Business Jobs
- 5 Act of 2010”.

## 1 **SEC. 2. TABLE OF CONTENTS.**

### 2 The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.

#### TITLE I—SMALL BUSINESSES

- Sec. 1001. Definitions.

##### Subtitle A—Small Business Access to Credit

- Sec. 1101. Short title.

#### PART I—NEXT STEPS FOR MAIN STREET CREDIT AVAILABILITY

- Sec. 1111. Section 7(a) business loans.
- Sec. 1112. Maximum loan amounts under 504 program.
- Sec. 1113. Maximum loan limits under microloan program.
- Sec. 1114. Temporary fee reductions.
- Sec. 1115. New Markets Venture Capital company investment limitations.
- Sec. 1116. Alternative size standards.
- Sec. 1117. Sale of 7(a) loans in secondary market.
- Sec. 1118. Online lending platform.
- Sec. 1119. SBA Secondary Market Guarantee Authority.

#### PART II—SMALL BUSINESS ACCESS TO CAPITAL

- Sec. 1122. Low-interest refinancing under the local development business loan program.

#### PART III—OTHER MATTERS

- Sec. 1131. Small business intermediary lending pilot program.
- Sec. 1132. Public policy goals.
- Sec. 1133. Draft floor plan pilot program extension.
- Sec. 1134. Guarantees for bonds and notes issued for community or economic development purposes.
- Sec. 1135. Temporary express loan enhancement.
- Sec. 1136. Prohibition on using TARP funds or tax in creases.

##### Subtitle B—Small Business Trade and Exporting

- Sec. 1201. Short title.
- Sec. 1202. Definitions.
- Sec. 1203. Office of International Trade.
- Sec. 1204. Duties of the Office of International Trade.
- Sec. 1205. Export assistance centers.
- Sec. 1206. International trade finance programs.
- Sec. 1207. State Trade and Export Promotion Grant Program.
- Sec. 1208. Rural export promotion.
- Sec. 1209. International trade cooperation by small business development centers.

##### Subtitle C—Small Business Contracting

#### PART I—CONTRACT BUNDLING

## 3

- Sec. 1311. Small Business Act.
- Sec. 1312. Leadership and oversight.
- Sec. 1313. Consolidation of contract requirements.
- Sec. 1314. Small business teams pilot program.

## PART II—SUBCONTRACTING INTEGRITY

- Sec. 1321. Subcontracting misrepresentations.
- Sec. 1322. Small business subcontracting improvements.

## PART III—ACQUISITION PROCESS

- Sec. 1331. Reservation of prime contract awards for small businesses.
- Sec. 1332. Micro-purchase guidelines.
- Sec. 1333. Agency accountability.
- Sec. 1334. Payment of subcontractors.
- Sec. 1335. Repeal of Small Business Competitiveness Demonstration Program.

## PART IV—SMALL BUSINESS SIZE AND STATUS INTEGRITY

- Sec. 1341. Policy and presumptions.
- Sec. 1342. Annual certification.
- Sec. 1343. Training for contracting and enforcement personnel.
- Sec. 1344. Updated size standards.
- Sec. 1345. Study and report on the mentor-protege program.
- Sec. 1346. Contracting goals reports.
- Sec. 1347. Small business contracting parity.

## Subtitle D—Small Business Management and Counseling Assistance

- Sec. 1401. Matching requirements under small business programs.
- Sec. 1402. Grants for SBDCs.

## Subtitle E—Disaster Loan Improvement

- Sec. 1501. Aquaculture business disaster assistance.

## Subtitle F—Small Business Regulatory Relief

- Sec. 1601. Requirements providing for more detailed analyses.
- Sec. 1602. Office of advocacy.

## Subtitle G—Appropriations Provisions

- Sec. 1701. Salaries and expenses.
- Sec. 1702. Business loans program account.
- Sec. 1703. Community Development Financial Institutions Fund program account.

## TITLE II—TAX PROVISIONS

- Sec. 2001. Short title.

## 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.

## 4

- Sec. 2012. General business credits of eligible small businesses for 2010 carried back 5 years.
- Sec. 2013. General business credits of eligible small businesses in 2010 not subject to alternative minimum tax.
- Sec. 2014. Temporary reduction in recognition period for built-in gains tax.

## PART II—ENCOURAGING INVESTMENT

- Sec. 2021. Increased expensing limitations for 2010 and 2011; certain real property treated as section 179 property.
- Sec. 2022. Additional first-year depreciation for 50 percent of the basis of certain qualified property.

## PART III—PROMOTING ENTREPRENEURSHIP

- Sec. 2031. Increase in amount allowed as deduction for start-up expenditures in 2010.
- 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.

## PART IV—PROMOTING SMALL BUSINESS FAIRNESS

- Sec. 2041. Limitation on penalty for failure to disclose reportable transactions based on resulting tax benefits.
- Sec. 2042. Deduction for health insurance costs in computing self-employment taxes in 2010.

## Subtitle B—Revenue Provisions

## PART I—REDUCING THE TAX GAP

- Sec. 2101. Information reporting for rental property expense payments.
- Sec. 2102. Increase in information return penalties.
- Sec. 2103. Report on tax shelter penalties and certain other enforcement actions.
- Sec. 2104. Application of levy to payments to Federal vendors relating to property.
- Sec. 2105. Application of continuous levy to tax liabilities of certain Federal contractors.
- Sec. 2106. Application of bad checks penalty to electronic payments.

## PART II—PROMOTING RETIREMENT PREPARATION

- Sec. 2111. Participants in government section 457 plans allowed to treat elective deferrals as Roth contributions.
- Sec. 2112. Rollovers from elective deferral plans to designated Roth accounts.

## PART III—CLOSING UNINTENDED LOOPHOLES

- Sec. 2121. Crude tall oil ineligible for cellulosic biofuel producer credit.

## PART IV—TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES

- Sec. 2131. Time for payment of corporate estimated taxes.

## TITLE III—SMALL BUSINESS LENDING

Subtitle A—Small Business Lending Fund

- Sec. 3101. Purpose.
- Sec. 3102. Definitions.
- Sec. 3103. Small business lending fund.
- Sec. 3104. Additional authorities of the Secretary.
- Sec. 3105. Considerations.
- Sec. 3106. Reports.
- Sec. 3107. Oversight and audits.
- Sec. 3108. Credit reform; funding.
- Sec. 3109. Termination and continuation of authorities.
- Sec. 3110. Preservation of authority.
- Sec. 3111. Assurances.
- Sec. 3112. Study and report with respect to women-owned, veteran-owned, and minority-owned businesses.
- Sec. 3113. Sense of congress.

Subtitle B—State Small Business Credit Initiative

- Sec. 3201. Short title.
- Sec. 3202. Definitions.
- Sec. 3203. Federal funds allocated to States.
- Sec. 3204. Approving States for participation.
- Sec. 3205. Approving State capital access programs.
- Sec. 3206. Approving collateral support and other innovative credit access and guarantee initiatives for small businesses and manufacturers.
- Sec. 3207. Reports.
- Sec. 3208. Remedies for State program termination or failures.
- Sec. 3209. Implementation and administration.
- Sec. 3210. Regulations.
- Sec. 3211. Oversight and audits.

TITLE IV—BUDGETARY PROVISIONS

- Sec. 4001. Determination of budgetary effects.

1     **TITLE I—SMALL BUSINESSES**

2     **SEC. 1001. DEFINITIONS.**

3         In this title—

4             (1) the terms “Administration” and “Adminis-  
5             trator” mean the Small Business Administration  
6             and the Administrator thereof, respectively; and

7             (2) the term “small business concern” has the  
8             meaning given that term under section 3 of the  
9             Small Business Act (15 U.S.C. 632).

1     **Subtitle A—Small Business Access**  
2                                   **to Credit**

3     **SEC. 1101. SHORT TITLE.**

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

6     **PART I—NEXT STEPS FOR MAIN STREET CREDIT**  
7                                   **AVAILABILITY**

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

9             (a) AMENDMENT.—Section 7(a) of the Small Busi-  
10     ness Act (15 U.S.C. 636(a)) is amended—

11                 (1) in paragraph (2)(A)—

12                         (A) in clause (i), by striking “75 percent”  
13                         and inserting “90 percent”; and

14                         (B) in clause (ii), by striking “85 percent”  
15                         and inserting “90 percent”; and

16                 (2) in paragraph (3)(A), by striking  
17             “\$1,500,000 (or if the gross loan amount would ex-  
18             ceed \$2,000,000” and inserting “\$4,500,000 (or if  
19             the gross loan amount would exceed \$5,000,000”.

20             (b) PROSPECTIVE REPEAL.—Effective January 1,  
21     2011, section 7(a) of the Small Business Act (15 U.S.C.  
22     636(a)) is amended—

23                 (1) in paragraph (2)(A)—

24                         (A) in clause (i), by striking “90 percent”  
25                         and inserting “75 percent”; and

1 (B) in clause (ii), by striking “90 percent”  
2 and inserting “85 percent”; and  
3 (2) in paragraph (3)(A), by striking  
4 “\$4,500,000” and inserting “\$3,750,000”.

5 **SEC. 1112. MAXIMUM LOAN AMOUNTS UNDER 504 PRO-**  
6 **GRAM.**

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

9 (1) in clause (i), by striking “\$1,500,000” and  
10 inserting “\$5,000,000”;

11 (2) in clause (ii), by striking “\$2,000,000” and  
12 inserting “\$5,000,000”;

13 (3) in clause (iii), by striking “\$4,000,000” and  
14 inserting “\$5,500,000”;

15 (4) in clause (iv), by striking “\$4,000,000” and  
16 inserting “\$5,500,000”; and

17 (5) in clause (v), by striking “\$4,000,000” and  
18 inserting “\$5,500,000”.

19 **SEC. 1113. MAXIMUM LOAN LIMITS UNDER MICROLOAN**  
20 **PROGRAM.**

21 Section 7(m) of the Small Business Act (15 U.S.C.  
22 636(m)) is amended—

23 (1) in paragraph (1)(B)(iii), by striking  
24 “\$35,000” and inserting “\$50,000”;

25 (2) in paragraph (3)—

1 (A) in subparagraph (C), by striking  
2 “\$3,500,000” and inserting “\$5,000,000”; and

3 (B) in subparagraph (E), by striking  
4 “\$35,000” each place that term appears and  
5 inserting “\$50,000”; and

6 (3) in paragraph (11)(B), by striking  
7 “\$35,000” and inserting “\$50,000”.

8 **SEC. 1114. TEMPORARY FEE REDUCTIONS.**

9 Section 501 of the American Recovery and Reinvest-  
10 ment Act of 2009 (Public Law 111–5; 123 Stat. 151) is  
11 amended by striking “September 30, 2010” each place  
12 that term appears and inserting “December 31, 2010”.

13 **SEC. 1115. NEW MARKETS VENTURE CAPITAL COMPANY IN-**  
14 **VESTMENT LIMITATIONS.**

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

18 “(e) INVESTMENT LIMITATIONS.—

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

22 “(A) granted final approval by the Admin-  
23 istrator under section 354(e) on or after March  
24 1, 2002; and



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

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

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

11                  “(B) the total amount of leverage pro-  
12                  jected in the participation agreement of the cov-  
13                  ered New Markets Venture Capital.”.

14 **SEC. 1116. ALTERNATIVE SIZE STANDARDS.**

15                  Section 3(a) of the Small Business Act (15 U.S.C.  
16 632(a)) is amended by adding at the end the following:

17                  “(5) ALTERNATIVE SIZE STANDARD.—

18                  “(A) IN GENERAL.—The Administrator shall  
19                  establish an alternative size standard for applicants  
20                  for business loans under section 7(a) and applicants  
21                  for development company loans under title V of the  
22                  Small Business Investment Act of 1958 (15 U.S.C.  
23                  695 et seq.), that uses maximum tangible net worth  
24                  and average net income as an alternative to the use  
25                  of industry standards.

1           “(B) INTERIM RULE.—Until the date on which  
2           the alternative size standard established under sub-  
3           paragraph (A) is in effect, an applicant for a busi-  
4           ness loan under section 7(a) or an applicant for a  
5           development company loan under title V of the  
6           Small Business Investment Act of 1958 may be eli-  
7           gible for such a loan if—

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

11                   “(ii) the average net income after Federal  
12                   income taxes (excluding any carry-over losses)  
13                   of the applicant for the 2 full fiscal years before  
14                   the date of the application is not more than  
15                   \$5,000,000.”.

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

17           Section 5(g) of the Small Business Act (15 U.S.C.  
18           634(g)) is amended by adding at the end the following:

19           “(6) If the amount of the guaranteed portion of any  
20           loan under section 7(a) is more than \$500,000, the Ad-  
21           ministrators shall, upon request of a pool assembler, divide  
22           the loan guarantee into increments of \$500,000 and 1 in-  
23           crement of any remaining amount less than \$500,000, in  
24           order to permit the maximum amount of any loan in a  
25           pool to be not more than \$500,000. Only 1 increment of

1 any loan guarantee divided under this paragraph may be  
2 included in the same pool. Increments of loan guarantees  
3 to different borrowers that are divided under this para-  
4 graph may be included in the same pool.”.

5 **SEC. 1118. ONLINE LENDING PLATFORM.**

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

9 (1) lists each lender that makes loans guaran-  
10 teed by the Small Business Administration and pro-  
11 vides information about the loan rates of each such  
12 lender; and

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

16 **SEC. 1119. SBA SECONDARY MARKET GUARANTEE AUTHOR-**  
17 **ITY.**

18 Section 503(f) of division A of the American Recovery  
19 and Reinvestment Act of 2009 (Public Law 111–5; 123  
20 Stat. 155) is amended by striking “on the date 2 years  
21 after the date of enactment of this section” and inserting  
22 “2 years after the date of the first sale of a pool of first  
23 lien position 504 loans guaranteed under this section to  
24 a third-party investor”.

1 **PART II—SMALL BUSINESS ACCESS TO CAPITAL**

2 **SEC. 1122. LOW-INTEREST REFINANCING UNDER THE**  
3 **LOCAL DEVELOPMENT BUSINESS LOAN PRO-**  
4 **GRAM.**

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

8 “(C) REFINANCING NOT INVOLVING EX-  
9 PANSIONS.—

10 “(i) DEFINITIONS.—In this subpara-  
11 graph—

12 “(I) the term ‘borrower’ means a  
13 small business concern that submits  
14 an application to a development com-  
15 pany for financing under this sub-  
16 paragraph;

17 “(II) the term ‘eligible fixed  
18 asset’ means tangible property relat-  
19 ing to which the Administrator may  
20 provide financing under this section;  
21 and

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

24 “(aa) that—

25 “(AA) was incurred not  
26 less than 2 years before the

1 date of the application for  
2 assistance under this sub-  
3 paragraph;

4 “(BB) is a commercial  
5 loan;

6 “(CC) is not subject to  
7 a guarantee by a Federal  
8 agency;

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

12 “(EE) was incurred for  
13 the benefit of the small busi-  
14 ness concern; and

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

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

21 “(ii) AUTHORITY.—A project that  
22 does not involve the expansion of a small  
23 business concern may include the refi-  
24 nancing of qualified debt if—

1                   “(I) the amount of the financing  
2                   is not more than 90 percent of the  
3                   value of the collateral for the financ-  
4                   ing, except that, if the appraised value  
5                   of the eligible fixed assets serving as  
6                   collateral for the financing is less than  
7                   the amount equal to 125 percent of  
8                   the amount of the financing, the bor-  
9                   rower may provide additional cash or  
10                  other collateral to eliminate any defi-  
11                  ciency;

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

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

22                  “(iii) FINANCING FOR BUSINESS EX-  
23                  PENSES.—

24                  “(I) FINANCING FOR BUSINESS  
25                  EXPENSES.—The Administrator may

1 provide financing to a borrower that  
2 receives financing that includes a refi-  
3 nancing of qualified debt under clause  
4 (ii), in addition to the refinancing  
5 under clause (ii), to be used solely for  
6 the payment of business expenses.

7 “(II) APPLICATION FOR FINANC-  
8 ING.—An application for financing  
9 under subclause (I) shall include—

10 “(aa) a specific description  
11 of the expenses for which the ad-  
12 ditional financing is requested;  
13 and

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

16 “(III) CONDITION ON ADDI-  
17 TIONAL FINANCING.—A borrower may  
18 not use any part of the financing  
19 under this clause for non-business  
20 purposes.

21 “(iv) LOANS BASED ON JOBS.—

22 “(I) JOB CREATION AND RETEN-  
23 TION GOALS.—

24 “(aa) IN GENERAL.—The  
25 Administrator may provide fi-

1 financing under this subparagraph  
2 for a borrower that meets the job  
3 creation goals under subsection  
4 (d) or (e) of section 501.

5 “(bb) ALTERNATE JOB RE-  
6 TENTION GOAL.—The Adminis-  
7 trator may provide financing  
8 under this subparagraph to a  
9 borrower that does not meet the  
10 goals described in item (aa) in an  
11 amount that is not more than the  
12 product obtained by multiplying  
13 the number of employees of the  
14 borrower by \$65,000.

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

19 “(aa) the number of full-  
20 time employees of the borrower  
21 on the date on which the bor-  
22 rower applies for a loan under  
23 this subparagraph; and

24 “(bb) the product obtained  
25 by multiplying—



1 “(AA) the number of  
2 part-time employees of the  
3 borrower on the date on  
4 which the borrower applies  
5 for a loan under this sub-  
6 paragraph; by

7 “(BB) the quotient ob-  
8 tained by dividing the aver-  
9 age number of hours each  
10 part time employee of the  
11 borrower works each week  
12 by 40.

13 “(v) NONDELEGATION.—Notwith-  
14 standing section 508(e), the Administrator  
15 may not permit a premier certified lender  
16 to approve or disapprove an application for  
17 assistance under this subparagraph.

18 “(vi) TOTAL AMOUNT OF LOANS.—  
19 The Administrator may provide not more  
20 than a total of \$7,500,000,000 of financ-  
21 ing under this subparagraph for each fiscal  
22 year.”.

23 (b) PROSPECTIVE REPEAL.—Effective 2 years after  
24 the date of enactment of this Act, section 502(7) of the

1 Small Business Investment Act of 1958 (15 U.S.C.  
2 696(7)) is amended by striking subparagraph (C).

3 (c) TECHNICAL CORRECTION.—Section 502(2)(A)(i)  
4 of the Small Business Investment Act of 1958 (15 U.S.C.  
5 696(2)(A)(i)) is amended by striking “subparagraph (B)  
6 or (C)” and inserting “clause (ii), (iii), (iv), or (v)”.

7 **PART III—OTHER MATTERS**

8 **SEC. 1131. SMALL BUSINESS INTERMEDIARY LENDING**  
9 **PILOT PROGRAM.**

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

13 “(l) SMALL BUSINESS INTERMEDIARY LENDING  
14 PILOT PROGRAM.—

15 “(1) DEFINITIONS.—In this subsection—

16 “(A) the term ‘eligible intermediary’—

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

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

23 “(II) has not less than 1 year of  
24 experience making loans to startup,

1 newly established, or growing small  
2 business concerns; and

3 “(ii) includes—

4 “(I) a private, nonprofit commu-  
5 nity development corporation;

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

10 “(III) an agency of or nonprofit  
11 entity established by a Native Amer-  
12 ican Tribal Government; and

13 “(B) the term ‘Program’ means the small  
14 business intermediary lending pilot program es-  
15 tablished under paragraph (2).

16 “(2) ESTABLISHMENT.—There is established a  
17 3-year small business intermediary lending pilot pro-  
18 gram, under which the Administrator may make di-  
19 rect loans to eligible intermediaries, for the purpose  
20 of making loans to startup, newly established, and  
21 growing small business concerns.

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

24 “(A) to assist small business concerns in  
25 areas suffering from a lack of credit due to

1 poor economic conditions or changes in the fi-  
2 nancial market; and

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

10 “(4) LOANS TO ELIGIBLE INTERMEDIARIES.—

11 “(A) APPLICATION.—Each eligible inter-  
12 mediary desiring a loan under this subsection  
13 shall submit an application to the Adminis-  
14 trator that describes—

15 “(i) the type of small business con-  
16 cerns to be assisted;

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

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

21 “(iv) the geographic area to be served  
22 and the economic, poverty, and unemploy-  
23 ment characteristics of the area;

1                   “(v) the status of small business con-  
2                   cerns in the area to be served and an anal-  
3                   ysis of the availability of credit; and

4                   “(vi) the qualifications of the appli-  
5                   cant to carry out this subsection.

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

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

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

20                  “(E) FEES; COLLATERAL.—The Adminis-  
21                  trator may not charge any fees or require col-  
22                  lateral with respect to any loan made to an eli-  
23                  gible intermediary under this subsection.

24                  “(F) DELAYED PAYMENTS.—The Adminis-  
25                  trator shall not require the repayment of prin-

1           cipal or interest on a loan made to an eligible  
2           intermediary under the Program during the 2-  
3           year period beginning on the date of the initial  
4           disbursement of funds under that loan.

5           “(G) MAXIMUM PARTICIPANTS AND  
6           AMOUNTS.—During each of fiscal years 2011,  
7           2012, and 2013, the Administrator may make  
8           loans under the Program—

9                   “(i) to not more than 20 eligible inter-  
10                   mediaries; and

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

13           “(5) LOANS TO SMALL BUSINESS CONCERNS.—

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

20                   “(B) MAXIMUM LOAN.—An eligible inter-  
21                   mediary may not make a loan under this sub-  
22                   section of more than \$200,000 to any 1 small  
23                   business concern.

24                   “(C) APPLICABLE INTEREST RATES.—A  
25                   loan made by an eligible intermediary to a small

1 business concern under this subsection, may  
2 have a fixed or a variable interest rate, and  
3 shall bear an interest rate specified by the eligi-  
4 ble intermediary in the application of the eligi-  
5 ble intermediary for a loan under this sub-  
6 section.

7 “(D) REVIEW RESTRICTIONS.—The Ad-  
8 ministrator may not review individual loans  
9 made by an eligible intermediary to a small  
10 business concern before approval of the loan by  
11 the eligible intermediary.

12 “(6) TERMINATION.—The authority of the Ad-  
13 ministrator to make loans under the Program shall  
14 terminate 3 years after the date of enactment of the  
15 Small Business Job Creation and Access to Capital  
16 Act of 2010.”.

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

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

1 **SEC. 1132. PUBLIC POLICY GOALS.**

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

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

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

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

9 “(L) reduction of rates of unemployment  
10 in labor surplus areas, as such areas are deter-  
11 mined by the Secretary of Labor.”.

12 **SEC. 1133. DRAFT FLOOR PLAN PILOT PROGRAM EXTEN-**  
13 **SION.**

14 (a) **IN GENERAL.**—Section 7(a) of the Small Busi-  
15 ness Act (15 U.S.C. 636(a)) is amended—

16 (1) by redesignating paragraph (32), relating to  
17 increased veteran participation, as added by section  
18 208 of the Military Reservist and Veteran Small  
19 Business Reauthorization and Opportunity Act of  
20 2008 (Public Law 110–186; 122 Stat. 631), as  
21 paragraph (33); and

22 (2) by adding at the end the following:

23 “(34) **DEALER FLOOR PLAN FINANCING PRO-**  
24 **GRAM.**—

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



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

3                   “(ii) includes an automobile, rec-  
4                   reational vehicle, boat, and manufactured  
5                   home.

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

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

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

18                  “(E) GUARANTEE PERCENTAGE.—The Ad-  
19                  ministrator may guarantee—

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

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

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

7           (b) SUNSET.—Effective September 30, 2013, section  
8           7(a) of the Small Business Act (15 U.S.C. 636(a)) is  
9           amended—

10           (1) by striking paragraph (34); and

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

13           **SEC. 1134. GUARANTEES FOR BONDS AND NOTES ISSUED**  
14                           **FOR COMMUNITY OR ECONOMIC DEVELOP-**  
15                           **MENT PURPOSES.**

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

20           **“SEC. 114A. GUARANTEES FOR BONDS AND NOTES ISSUED**  
21                           **FOR COMMUNITY OR ECONOMIC DEVELOP-**  
22                           **MENT PURPOSES.**

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

1           “(1) ELIGIBLE COMMUNITY DEVELOPMENT FI-  
2           NANCIAL INSTITUTION.—The term ‘eligible commu-  
3           nity development financial institution’ means a com-  
4           munity development financial institution (as de-  
5           scribed in section 1805.201 of title 12, Code of Fed-  
6           eral Regulations, or any successor thereto) certified  
7           by the Secretary that has applied to a qualified  
8           issuer for, or been granted by a qualified issuer, a  
9           loan under the Program.

10           “(2) ELIGIBLE COMMUNITY OR ECONOMIC DE-  
11           VELOPMENT PURPOSE.—The term ‘eligible commu-  
12           nity or economic development purpose’—

13                   “(A) means any purpose described in sec-  
14                   tion 108(b); and

15                   “(B) includes the provision of community  
16                   or economic development in low-income or un-  
17                   derserved rural areas.

18           “(3) GUARANTEE.—The term ‘guarantee’  
19           means a written agreement between the Secretary  
20           and a qualified issuer (or trustee), pursuant to  
21           which the Secretary ensures repayment of the  
22           verifiable losses of principal, interest, and call pre-  
23           mium, if any, on notes or bonds issued by a qualified  
24           issuer to finance or refinance loans to eligible com-  
25           munity development financial institutions.

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

5           “(5) MASTER SERVICER.—

6           “(A) IN GENERAL.—The term ‘master  
7 servicer’ means any entity approved by the Sec-  
8 retary in accordance with subparagraph (B) to  
9 oversee the activities of servicers, as provided in  
10 subsection (f)(4).

11           “(B) APPROVAL CRITERIA FOR MASTER  
12 SERVICERS.—The Secretary shall approve or  
13 deny any application to become a master  
14 servicer under the Program not later than 90  
15 days after the date on which all required infor-  
16 mation is submitted to the Secretary, based on  
17 the capacity and experience of the applicant  
18 in—

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

21           “(ii) managing regional or national  
22 loan intake, processing, or servicing oper-  
23 ational systems and infrastructure;

1                   “(iii) managing regional or national  
2                   originator communication systems and in-  
3                   frastructure;

4                   “(iv) developing and implementing  
5                   training and other risk management strat-  
6                   egies on a regional or national basis; and

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

9                   “(6) PROGRAM.—The term ‘Program’ means  
10                  the guarantee Program for bonds and notes issued  
11                  for eligible community or economic development pur-  
12                  poses established under this section.

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

17                  “(8) QUALIFIED ISSUER.—

18                         “(A) IN GENERAL.—The term ‘qualified  
19                         issuer’ means a community development finan-  
20                         cial institution (or any entity designated to  
21                         issue notes or bonds on behalf of such commu-  
22                         nity development financial institution) that  
23                         meets the qualification requirements of this  
24                         paragraph.

1                   “(B) APPROVAL CRITERIA FOR QUALIFIED  
2 ISSUERS.—

3                   “(i) IN GENERAL.—The Secretary  
4 shall approve a qualified issuer for a guar-  
5 antee under the Program in accordance  
6 with the requirements of this paragraph,  
7 and such additional requirements as the  
8 Secretary may establish, by regulation.

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

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

16                   “(II) provide to the Secretary—  
17                   “(aa) an acceptable state-  
18 ment of the proposed sources and  
19 uses of the funds; and

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

23                   “(III) certify to the Secretary  
24 that the bonds or notes to be guaran-  
25 teed are to be used for eligible com-

1 community or economic development pur-  
2 poses.

3 “(C) DEPARTMENT OPINION; TIMING.—

4 “(i) DEPARTMENT OPINION.—Not  
5 later than 30 days after the date of a re-  
6 quest by a qualified issuer for approval of  
7 a guarantee under the Program, the Sec-  
8 retary shall provide an opinion regarding  
9 compliance by the issuer with the require-  
10 ments of the Program under this section.

11 “(ii) TIMING.—The Secretary shall  
12 approve or deny a guarantee under this  
13 section after consideration of the opinion  
14 provided to the Secretary under clause (i),  
15 and in no case later than 90 days after re-  
16 ceipt of all required information by the  
17 Secretary with respect to a request for  
18 such guarantee.

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

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

24 “(b) GUARANTEES AUTHORIZED.—The Secretary  
25 shall guarantee payments on bonds or notes issued by any

1 qualified issuer, if the proceeds of the bonds or notes are  
2 used in accordance with this section to make loans to eligi-  
3 ble community development financial institutions—

4 “(1) for eligible community or economic devel-  
5 opment purposes; or

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

8 “(c) GENERAL PROGRAM REQUIREMENTS.—

9 “(1) IN GENERAL.—A capital distribution plan  
10 meets the requirements of this subsection, if not less  
11 than 90 percent of the principal amount of guaran-  
12 teed bonds or notes (other than costs of issuance  
13 fees) are used to make loans for any eligible commu-  
14 nity or economic development purpose, measured an-  
15 nually, beginning at the end of the 1-year period be-  
16 ginning on the issuance date of such guaranteed  
17 bonds or notes.

18 “(2) RELENDING ACCOUNT.—Not more than 10  
19 percent of the principal amount of guaranteed bonds  
20 or notes, multiplied by an amount equal to the out-  
21 standing principal balance of issued notes or bonds,  
22 minus the risk-share pool amount under subsection  
23 (d), may be held in a relending account and may be  
24 made available for new eligible community or eco-  
25 nomic development purposes.



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

6           “(A) community or economic development  
7 loans;

8           “(B) a relending account, to the extent au-  
9 thorized under paragraph (2); or

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

12           “(4) REPAYMENT.—If a qualified issuer fails to  
13 meet the requirements of paragraph (1) by the end  
14 of the 90-day period beginning at the end of the an-  
15 nual measurement period, repayment shall be made  
16 on that portion of bonds or notes necessary to bring  
17 the bonds or notes that remain outstanding after  
18 such repayment into compliance with the 90 percent  
19 requirement of paragraph (1).

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

22           “(A) prohibit, as appropriate, certain uses  
23 of amounts from the guarantee of a bond or  
24 note under the Program, including the use of  
25 such funds for political activities, lobbying, out-

1 reach, counseling services, or travel expenses;  
2 and

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

6 “(i) the qualified issuer; or

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

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

16 “(e) GUARANTEES.—

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

19 “(A) be for the full amount of a bond or  
20 note, including the amount of principal, inter-  
21 est, and call premiums;

22 “(B) be fully assignable and transferable  
23 to the capital market, on terms and conditions  
24 that are consistent with comparable Govern-

1           ment-guaranteed bonds, and satisfactory to the  
2           Secretary;

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

5           “(D) not exceed 30 years.

6           “(2) LIMITATIONS.—

7           “(A) ANNUAL NUMBER OF GUARAN-  
8           TEES.—The Secretary shall issue not more than  
9           10 guarantees in any calendar year under the  
10          Program.

11          “(B) GUARANTEE AMOUNT.—The Sec-  
12          retary may not guarantee any amount under  
13          the Program equal to less than \$100,000,000,  
14          but the total of all such guarantees in any fiscal  
15          year may not exceed \$1,000,000,000.

16          “(f) SERVICING OF TRANSACTIONS.—

17          “(1) IN GENERAL.—To maximize efficiencies  
18          and minimize cost and interest rates, loans made  
19          under this section may be serviced by qualified Pro-  
20          gram administrators, bond servicers, and a master  
21          servicer.

22          “(2) DUTIES OF PROGRAM ADMINISTRATOR.—  
23          The duties of a Program administrator shall in-  
24          clude—

1           “(A) approving and qualifying eligible com-  
2           munity development financial institution appli-  
3           cations for participation in the Program;

4           “(B) compliance monitoring;

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

7           “(D) all other duties and related services  
8           that are customarily expected of a Program ad-  
9           ministrator.

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

12                 “(A) billing and collecting loan payments;

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

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

17                 “(D) loan administration and servicing;

18                 “(E) systematic and timely reporting of  
19                 loan performance through remittance and serv-  
20                 icing reports;

21                 “(F) proper measurement of annual out-  
22                 standing loan requirements; and

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

1           “(4) DUTIES OF MASTER SERVICER.—The du-  
2           ties of a master servicer shall include—

3                   “(A) tracking the movement of funds be-  
4                   tween the accounts of the master servicer and  
5                   any other servicer;

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

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

11                  “(D) aggregating the reporting and dis-  
12                  tribution of funds to trustees and investors;

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

15                  “(F) loan administration and servicing;

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

19                  “(H) proper distribution of funds to inves-  
20                  tors; and

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

24           “(g) FEES.—

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

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

9           “(3) USE OF FEES.—Fees collected by the Sec-  
10          retary under this subsection shall be used to reim-  
11          burse the Department of the Treasury for any ad-  
12          ministrative costs incurred by the Department in im-  
13          plementing the Program established under this sec-  
14          tion.

15          “(h) AUTHORIZATION OF APPROPRIATIONS.—

16                 “(1) IN GENERAL.—There are authorized to be  
17                 appropriated to the Secretary, such sums as are nec-  
18                 essary to carry out this section.

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

1       “(i) INVESTMENT IN GUARANTEED BONDS INELI-  
2 GIBLE FOR COMMUNITY REINVESTMENT ACT PUR-  
3 POSES.—Notwithstanding any other provision of law, any  
4 investment by a financial institution in bonds or notes  
5 guaranteed under the Program shall not be taken into ac-  
6 count in assessing the record of such institution for pur-  
7 poses of the Community Reinvestment Act of 1977 (12  
8 U.S.C. 2901).

9       “(j) ADMINISTRATION.—

10           “(1) REGULATIONS.—Not later than 1 year  
11 after the date of enactment of this section, the Sec-  
12 retary shall promulgate regulations to carry out this  
13 section.

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

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

20 **SEC. 1135. TEMPORARY EXPRESS LOAN ENHANCEMENT.**

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

24       (b) PROSPECTIVE REPEAL.—Effective 1 year after  
25 the date of enactment of this Act, section 7(a)(31)(D) of

1 the Small Business Act (15 U.S.C. 636(a)(31)(D)) is  
2 amended by striking “\$1,000,000” and inserting  
3 “\$350,000”.

4 **SEC. 1136. PROHIBITION ON USING TARP FUNDS OR TAX IN**  
5 **CREASES.**

6 (a) IN GENERAL.—Except as provided in subsection  
7 (b), nothing in section 1111, 1112, 1113, 1114, 1115,  
8 1116, 1117, 1118, 1122, or 1131, or an amendment made  
9 by such sections, shall be construed to limit the ability  
10 of Congress to appropriate funds.

11 (b) TARP FUNDS AND TAX INCREASES.—

12 (1) IN GENERAL.—Any covered amounts may  
13 not be used to carry out section 1111, 1112, 1113,  
14 1114, 1115, 1116, 1117, 1118, 1122, or 1131, or  
15 an amendment made by such sections.

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

18 (A) the amounts made available to the Sec-  
19 retary of the Treasury under title I of the  
20 Emergency Economic Stabilization Act of 2008  
21 S.C. 5201 et seq.) to purchase (under section  
22 101) or guarantee (under section 102) assets  
23 under that Act; and

24 (B) any revenue increase attributable to  
25 any amendment to the Internal Revenue Code



1 of 1986 made during the period beginning on  
2 the date of enactment of this Act and ending on  
3 December 31, 2010.

4 **Subtitle B—Small Business Trade**  
5 **and Exporting**

6 **SEC. 1201. SHORT TITLE.**

7 This subtitle may be cited as the “Small Business  
8 Export Enhancement and International Trade Act of  
9 2010”.

10 **SEC. 1202. DEFINITIONS.**

11 (a) DEFINITIONS.—In this subtitle—

12 (1) the term “Associate Administrator” means  
13 the Associate Administrator for International Trade  
14 appointed under section 22(a)(2) of the Small Busi-  
15 ness Act, as amended by this subtitle;

16 (2) the term “Export Assistance Center” means  
17 a one-stop shop referred to in section 2301(b)(8) of  
18 the Omnibus Trade and Competitiveness Act of  
19 1988 (15 U.S.C. 4721(b)(8)); and

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

24 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

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

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

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

12          (2) CONFORMING AMENDMENT.—Section  
13          4(b)(3)(B)(x) of the Small Business Act (15 U.S.C.  
14          633(b)(3)(B)(x)) is amended by striking “Adminis-  
15          tration district and region” and inserting “district  
16          and region of the Administration”.

17 **SEC. 1203. OFFICE OF INTERNATIONAL TRADE.**

18          (a) ESTABLISHMENT.—Section 22 of the Small Busi-  
19          ness Act (15 U.S.C. 649) is amended—

20                 (1) by striking “SEC. 22. (a) There” and in-  
21                 serting the following:

22 **“SEC. 22. OFFICE OF INTERNATIONAL TRADE.**

23                 “(a) ESTABLISHMENT.—

24                         “(1) OFFICE.—There”; and

25                         (2) in subsection (a)—

1 (A) in paragraph (1), as so designated, by  
2 striking the period and inserting “for the pri-  
3 mary purposes of increasing—

4 “(A) the number of small business con-  
5 cerns that export; and

6 “(B) the volume of exports by small busi-  
7 ness concerns.”; and

8 (B) by adding at the end the following:

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

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

16 (1) in the fifth sentence, by striking “five Asso-  
17 ciate Administrators” and inserting “Associate Ad-  
18 ministrators”; and

19 (2) by adding at the end the following: “One  
20 such Associate Administrator shall be the Associate  
21 Administrator for International Trade, who shall be  
22 the head of the Office of International Trade estab-  
23 lished under section 22.”.

24 (c) DISCHARGE OF INTERNATIONAL TRADE RESPON-  
25 SIBILITIES OF ADMINISTRATION.—Section 22 of the Small

1 Business Act (15 U.S.C. 649) is amended by adding at  
2 the end the following:

3 “(h) DISCHARGE OF INTERNATIONAL TRADE RE-  
4 SPONSIBILITIES OF ADMINISTRATION.—The Adminis-  
5 trator shall ensure that—

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

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

11 “(3) the Associate Administrator has direct su-  
12 pervision and control over—

13 “(A) the staff of the Office; and

14 “(B) any employee of the Administration  
15 whose principal duty station is an Export As-  
16 sistance Center, or any successor entity.”.

17 (d) ROLE OF ASSOCIATE ADMINISTRATOR IN CAR-  
18 RYING OUT INTERNATIONAL TRADE POLICY.—Section  
19 2(b)(1) of the Small Business Act (15 U.S.C. 631(b)(1))  
20 is amended in the matter preceding subparagraph (A)—

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

23 (2) by inserting “through the Associate Admin-  
24 istrator for International Trade, and” before “in co-  
25 operation with”.

1 (e) IMPLEMENTATION DATE.—Not later than 90  
2 days after the date of enactment of this Act, the Adminis-  
3 trator of the Small Business Administration shall appoint  
4 an Associate Administrator for International Trade under  
5 section 22(a) of the Small Business Act (15 U.S.C.  
6 649(a)), as added by this section.

7 **SEC. 1204. DUTIES OF THE OFFICE OF INTERNATIONAL**  
8 **TRADE.**

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

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

13 “(b) TRADE DISTRIBUTION NETWORK.—The Asso-  
14 ciate Administrator, working in close cooperation with the  
15 Secretary of Commerce, the United States Trade Rep-  
16 resentative, the Secretary of Agriculture, the Secretary of  
17 State, the President of the Export-Import Bank of the  
18 United States, the President of the Overseas Private In-  
19 vestment Corporation, Director of the United States  
20 Trade and Development Agency, and other relevant Fed-  
21 eral agencies, small business development centers engaged  
22 in export promotion efforts, Export Assistance Centers,  
23 regional and district offices of the Administration, the  
24 small business community, and relevant State and local  
25 export promotion programs, shall—

1           “(1) maintain a distribution network, using re-  
2           gional and district offices of the Administration, the  
3           small business development center network, net-  
4           works of women’s business centers, the Service  
5           Corps of Retired Executives authorized by section  
6           8(b)(1), and Export Assistance Centers, for pro-  
7           grams relating to—

8                   “(A) trade promotion;

9                   “(B) trade finance;

10                  “(C) trade adjustment assistance;

11                  “(D) trade remedy assistance; and

12                  “(E) trade data collection;

13           “(2) aggressively market the programs de-  
14           scribed in paragraph (1) and disseminate informa-  
15           tion, including computerized marketing data, to  
16           small business concerns on exporting trends, market-  
17           specific growth, industry trends, and international  
18           prospects for exports;

19           “(3) promote export assistance programs  
20           through the district and regional offices of the Ad-  
21           ministration, the small business development center  
22           network, Export Assistance Centers, the network of  
23           women’s business centers, chapters of the Service  
24           Corps of Retired Executives, State and local export

1 promotion programs, and partners in the private  
2 sector; and

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

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

10 “(B) translate documents, interpret con-  
11 versations, and facilitate multilingual trans-  
12 actions, including by providing referral lists for  
13 translation services, if required.”;

14 (2) in subsection (c)—

15 (A) by striking “(c) The Office” and in-  
16 serting the following:

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

19 (B) by redesignating paragraphs (1)  
20 through (8) as paragraphs (2) through (9), re-  
21 spectively;

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

24 “(1) establish annual goals for the Office relat-  
25 ing to—

1           “(A) enhancing the exporting capability of  
2 small business concerns and small manufactur-  
3 ers;

4           “(B) facilitating technology transfers;

5           “(C) enhancing programs and services to  
6 assist small business concerns and small manu-  
7 facturers to compete effectively and efficiently  
8 against foreign entities;

9           “(D) increasing the ability of small busi-  
10 ness concerns to access capital; and

11           “(E) disseminating information concerning  
12 Federal, State, and private programs and initia-  
13 tives;”;

14           (D) in paragraph (2), as so redesignated,  
15 by striking “mechanism for” and all that fol-  
16 lows through “(D) assisting” and inserting the  
17 following: “mechanism for—

18           “(A) identifying subsectors of the small  
19 business community with strong export poten-  
20 tial;

21           “(B) identifying areas of demand in for-  
22 eign markets;

23           “(C) prescreening foreign buyers for com-  
24 mercial and credit purposes; and

25           “(D) assisting”;



1           (E) in paragraph (3), as so redesignated,  
2           by striking “assist small businesses in the for-  
3           mation and utilization of” and inserting “assist  
4           small business concerns in forming and using”;  
5           (F) in paragraph (4), as so redesignated—  
6           (i) by striking “local” and inserting  
7           “district”;  
8           (ii) by striking “existing”;  
9           (iii) by striking “Small Business De-  
10          velopment Center network” and inserting  
11          “small business development center net-  
12          work”; and  
13          (iv) by striking “Small Business De-  
14          velopment Center Program” and inserting  
15          “small business development center pro-  
16          gram”;  
17          (G) in paragraph (5), as so redesignated—  
18          (i) in subparagraph (A), by striking  
19          “Gross State Produce” and inserting  
20          “Gross State Product”;  
21          (ii) in subparagraph (B), by striking  
22          “SIC” each place it appears and inserting  
23          “North American Industry Classification  
24          System”; and

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

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

7 (I) in paragraph (7), as so redesignated—  
8 (i) in the matter preceding subpara-  
9 graph (A)—

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

12 (II) by striking “current” and in-  
13 serting “up to date”;

14 (ii) in subparagraph (A), by striking  
15 “Administration’s regional offices” and in-  
16 serting “regional and district offices of the  
17 Administration”;

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

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

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

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

3 (K) in paragraph (9), as so redesignated—  
4 (i) in the matter preceding subpara-  
5 graph (A)—

6 (I) by striking “full-time export  
7 development specialists to each Ad-  
8 ministration regional office and as-  
9 signing”; and

10 (II) by striking “person in each  
11 district office. Such specialists” and  
12 inserting “individual in each district  
13 office and providing each Administra-  
14 tion regional office with a full-time ex-  
15 port development specialist, who”;

16 (ii) in subparagraph (B)—

17 (I) by striking “current”; and

18 (II) by striking “with” and in-  
19 serting “in”;

20 (iii) in subparagraph (D)—

21 (I) by striking “Administration  
22 personnel involved in granting” and  
23 inserting “personnel of the Adminis-  
24 tration involved in making”; and

25 (II) by striking “and” at the end;

1 (iv) in subparagraph (E)—

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

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

7 (v) by adding at the end the following:

8 “(F) participate, jointly with employees of  
9 the Office, in an annual training program that  
10 focuses on current small business needs for ex-  
11 porting; and

12 “(G) develop and conduct training pro-  
13 grams for exporters and lenders, in cooperation  
14 with the Export Assistance Centers, the De-  
15 partment of Commerce, the Department of Ag-  
16 riculture, small business development centers,  
17 women’s business centers, the Export-Import  
18 Bank of the United States, the Overseas Pri-  
19 vate Investment Corporation, and other relevant  
20 Federal agencies;” and

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

24 (L) by adding at the end the following:

1           “(10) make available on the website of the Ad-  
2           ministration the name and contact information of  
3           each individual described in paragraph (9);

4           “(11) carry out a nationwide marketing effort  
5           using technology, online resources, training, and  
6           other strategies to promote exporting as a business  
7           development opportunity for small business con-  
8           cerns;

9           “(12) disseminate information to the small  
10          business community through regional and district of-  
11          fices of the Administration, the small business devel-  
12          opment center network, Export Assistance Centers,  
13          the network of women’s business centers, chapters of  
14          the Service Corps of Retired Executives authorized  
15          by section 8(b)(1), State and local export promotion  
16          programs, and partners in the private sector regard-  
17          ing exporting trends, market-specific growth, indus-  
18          try trends, and prospects for exporting; and

19          “(13) establish and carry out training programs  
20          for the staff of the regional and district offices of  
21          the Administration and resource partners of the Ad-  
22          ministration on export promotion and providing as-  
23          sistance relating to exports.”;

24                 (3) in subsection (d)—

1           (A) by redesignating paragraphs (1)  
2 through (5) as clauses (i) through (v), respec-  
3 tively, and adjusting the margins accordingly;

4           (B) by striking “(d) The Office” and in-  
5 serting the following:

6       “(d) EXPORT FINANCING PROGRAMS.—

7           “(1) IN GENERAL.—The Associate Adminis-  
8 trator”; and

9           (C) by striking “To accomplish this goal,  
10 the Office shall work” and inserting the fol-  
11 lowing:

12       “(2) TRADE FINANCE SPECIALIST.—To accom-  
13 plish the goal established under paragraph (1), the  
14 Associate Administrator shall—

15           “(A) designate at least 1 individual within  
16 the Administration as a trade finance specialist  
17 to oversee international loan programs and as-  
18 sist Administration employees with trade fi-  
19 nance issues; and

20           “(B) work”;

21       (4) in subsection (e), by striking “(e) The Of-  
22 fice” and inserting the following:

23       “(e) TRADE REMEDIES.—The Associate Adminis-  
24 trator”;

1           (5) by amending subsection (f) to read as fol-  
2       lows:

3       “(f) REPORTING REQUIREMENT.—The Associate Ad-  
4       ministrators shall submit an annual report to the Com-  
5       mittee on Small Business and Entrepreneurship of the  
6       Senate and the Committee on Small Business of the  
7       House of Representatives that contains—

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

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

15          “(3) an estimate of the total number of jobs  
16       created or retained as a result of export assistance  
17       provided by the Administration and resource part-  
18       ners of the Administration;

19          “(4) for any travel by the staff of the Office,  
20       the destination of such travel and the benefits to the  
21       Administration and to small business concerns re-  
22       sulting from such travel; and

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

1           (6) in subsection (g), by striking “(g) The Of-  
2           fice” and inserting the following:

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

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

6           “(i) EXPORT AND TRADE COUNSELING.—

7           “(1) DEFINITION.—In this subsection—

8           “(A) the term ‘lead small business develop-  
9           ment center’ means a small business develop-  
10          ment center that has received a grant from the  
11          Administration; and

12          “(B) the term ‘lead women’s business cen-  
13          ter’ means a women’s business center that has  
14          received a grant from the Administration.

15          “(2) CERTIFICATION PROGRAM.—The Adminis-  
16          trator shall establish an export and trade counseling  
17          certification program to certify employees of lead  
18          small business development centers and lead wom-  
19          en’s business centers in providing export assistance  
20          to small business concerns.

21          “(3) NUMBER OF CERTIFIED EMPLOYEES.—

22          The Administrator shall ensure that the number of  
23          employees of each lead small business development  
24          center who are certified in providing export assist-  
25          ance is not less than the lesser of—



1                   “(A) 5; or

2                   “(B) 10 percent of the total number of em-  
3                   ployees of the lead small business development  
4                   center.

5                   “(4) REIMBURSEMENT FOR CERTIFICATION.—

6                   “(A) IN GENERAL.—Subject to the avail-  
7                   ability of appropriations, the Administrator  
8                   shall reimburse a lead small business develop-  
9                   ment center or a lead women’s business center  
10                  for costs relating to the certification of an em-  
11                  ployee of the lead small business center or lead  
12                  women’s business center in providing export as-  
13                  sistance under the program established under  
14                  paragraph (2).

15                  “(B) LIMITATION.—The total amount re-  
16                  imbursed by the Administrator under subpara-  
17                  graph (A) may not exceed \$350,000 in any fis-  
18                  cal year.

19                  “(j) PERFORMANCE MEASURES.—

20                  “(1) IN GENERAL.—The Associate Adminis-  
21                  trator shall develop performance measures for the  
22                  Administration to support export growth goals for  
23                  the activities of the Office under this section that in-  
24                  clude—

1           “(A) the number of small business con-  
2           cerns that—

3                   “(i) receive assistance from the Ad-  
4                   ministration;

5                   “(ii) had not exported goods or serv-  
6                   ices before receiving the assistance de-  
7                   scribed in clause (i); and

8                   “(iii) export goods or services;

9           “(B) the number of small business con-  
10           cerns receiving assistance from the Administra-  
11           tion that export goods or services to a market  
12           outside the United States into which the small  
13           business concern did not export before receiving  
14           the assistance;

15           “(C) export revenues by small business  
16           concerns assisted by programs of the Adminis-  
17           tration;

18           “(D) the number of small business con-  
19           cerns referred to an Export Assistance Center  
20           or a small business development center by the  
21           staff of the Office;

22           “(E) the number of small business con-  
23           cerns referred to the Administration by an Ex-  
24           port Assistance Center or a small business de-  
25           velopment center; and

1           “(F) the number of small business con-  
2           cerns referred to the Department of Commerce,  
3           the Department of Agriculture, the Department  
4           of State, the Export-Import Bank of the United  
5           States, the Overseas Private Investment Cor-  
6           poration, or the United States Trade and De-  
7           velopment Agency by the staff of the Office, an  
8           Export Assistance Center, or a small business  
9           development center.

10           “(2) JOINT PERFORMANCE MEASURES.—The  
11           Associate Administrator shall develop joint perform-  
12           ance measures for the district offices of the Adminis-  
13           tration and the Export Assistance Centers that in-  
14           clude the number of export loans made under—

15                   “(A) section 7(a)(16);

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

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

20                   “(D) the export express program estab-  
21                   lished under section 7(a)(34).

22           “(3) CONSISTENCY OF TRACKING.—The Asso-  
23           ciate Administrator, in coordination with the depart-  
24           ments and agencies that are represented on the  
25           Trade Promotion Coordinating Committee estab-

1 lished under section 2312 of the Export Enhance-  
2 ment Act of 1988 (15 U.S.C. 4727) and the small  
3 business development center network, shall develop a  
4 system to track exports by small business concerns,  
5 including information relating to the performance  
6 measures developed under paragraph (1), that is  
7 consistent with systems used by the departments  
8 and agencies and the network.”.

9 (b) REPORT.—Not later than 60 days after the date  
10 of enactment of this Act, the Administrator shall submit  
11 a report to the Committee on Small Business and Entre-  
12 preneurship of the Senate and the Committee on Small  
13 Business of the House of Representatives on any travel  
14 by the staff of the Office of International Trade of the  
15 Administration, during the period beginning on October  
16 1, 2004, and ending on the date of enactment of the Act,  
17 including the destination of such travel and the benefits  
18 to the Administration and to small business concerns re-  
19 sulting from such travel.

20 **SEC. 1205. EXPORT ASSISTANCE CENTERS.**

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

25 “(k) EXPORT ASSISTANCE CENTERS.—

1 “(1) EXPORT FINANCE SPECIALISTS.—

2 “(A) MINIMUM NUMBER OF EXPORT FI-  
3 NANCE SPECIALISTS.—On and after the date  
4 that is 90 days after the date of enactment of  
5 this subsection, the Administrator, in coordina-  
6 tion with the Secretary of Commerce, shall en-  
7 sure that the number of export finance special-  
8 ists is not less than the number of such employ-  
9 ees so assigned on January 1, 2003.

10 “(B) EXPORT FINANCE SPECIALISTS AS-  
11 SIGNED TO EACH REGION OF THE ADMINISTRA-  
12 TION.—On and after the date that is 2 years  
13 after the date of enactment of this subsection,  
14 the Administrator, in coordination with the Sec-  
15 retary of Commerce, shall ensure that there are  
16 not fewer than 3 export finance specialists in  
17 each region of the Administration.

18 “(2) PLACEMENT OF EXPORT FINANCE SPE-  
19 CIALISTS.—

20 “(A) PRIORITY.—The Administrator shall  
21 give priority, to the maximum extent prac-  
22 ticable, to placing employees of the Administra-  
23 tion at any Export Assistance Center that—

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

4                   “(ii) has not had an Administration  
5                   employee assigned to the Export Assist-  
6                   ance Center during the period beginning  
7                   January 2003, and ending on the date of  
8                   enactment of this subsection, either  
9                   through retirement or reassignment.

10                  “(B) NEEDS OF EXPORTERS.—The Ad-  
11                  ministrators shall, to the maximum extent prac-  
12                  ticable, strategically assign Administration em-  
13                  ployees to Export Assistance Centers, based on  
14                  the needs of exporters.

15                  “(C) RULE OF CONSTRUCTION.—Nothing  
16                  in this subsection may be construed to require  
17                  the Administrator to reassign or remove an ex-  
18                  port finance specialist who is assigned to an  
19                  Export Assistance Center on the date of enact-  
20                  ment of this subsection.

21                  “(3) GOALS.—The Associate Administrator  
22                  shall work with the Department of Commerce, the  
23                  Export-Import Bank of the United States, and the  
24                  Overseas Private Investment Corporation to estab-

1       lish shared annual goals for the Export Assistance  
2       Centers.

3               “(4) OVERSIGHT.—The Associate Adminis-  
4       trator shall designate an individual within the Ad-  
5       ministration to oversee all activities conducted by  
6       Administration employees assigned to Export Assist-  
7       ance Centers.

8       “(1) DEFINITIONS.—In this section—

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

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

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

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

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

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

6 (A) conduct a study of—

7 (i) the volume of exports for each  
8 State;

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

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

13 (iv) the percentage of exporters in  
14 each State that are small business con-  
15 cerns;

16 (v) the change, if any, in the number  
17 of exporters that are small business con-  
18 cerns in each State—

19 (I) for the first study conducted  
20 under this subparagraph, during the  
21 10-year period ending on the date of  
22 enactment of this Act; and

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



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

3 (vii) the percentage of the total vol-  
4 ume of exports in each State that is attrib-  
5 utable to small business concerns; and

6 (viii) the change, if any, in the per-  
7 centage of the total volume of exports in  
8 each State that is attributable to small  
9 business concerns—

10 (I) for the first study conducted  
11 under this subparagraph, during the  
12 10-year period ending on the date of  
13 enactment of this Act; and

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

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

21 (i) the results of the study under sub-  
22 paragraph (A);

23 (ii) to the extent practicable, a rec-  
24 ommendation regarding how to eliminate  
25 gaps between the supply of and demand

1 for export finance specialists in the 15  
2 States that have the greatest volume of ex-  
3 ports, based upon the most recent data  
4 available from the Department of Com-  
5 merce;

6 (iii) to the extent practicable, a rec-  
7 ommendation regarding how to eliminate  
8 gaps between the supply of and demand  
9 for export finance specialists in the 15  
10 States that have the lowest volume of ex-  
11 ports, based upon the most recent data  
12 available from the Department of Com-  
13 merce; and

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

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

20 **SEC. 1206. INTERNATIONAL TRADE FINANCE PROGRAMS.**

21 (a) LOAN LIMITS.—

22 (1) TOTAL AMOUNT OUTSTANDING.—Section  
23 7(a)(3)(B) of the Small Business Act (15 U.S.C.  
24 636(a)(3)(B)) is amended by striking “\$1,750,000,  
25 of which not more than \$1,250,000” and inserting

1 “\$4,500,000 (or if the gross loan amount would ex-  
2 ceed \$5,000,000), of which not more than  
3 \$4,000,000”.

4 (2) PARTICIPATION.—Section 7(a)(2) of the  
5 Small Business Act (15 U.S.C. 636(a)(2)) is amend-  
6 ed—

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

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

14 (C) by adding at the end the following:

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

20 (b) WORKING CAPITAL.—Section 7(a)(16)(A) of the  
21 Small Business Act (15 U.S.C. 636(a)(16)(A)) is amend-  
22 ed—

23 (1) in the matter preceding clause (i), by strik-  
24 ing “in—” and inserting “—”;

25 (2) in clause (i)—

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

2 (B) by striking “or” at the end;

3 (3) in clause (ii)—

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

5 (B) by striking the period at the end and

6 inserting “, including any debt that qualifies for

7 refinancing under any other provision of this

8 subsection; or”; and

9 (4) by adding at the end the following:

10 “(iii) by providing working capital.”.

11 (c) COLLATERAL.—Section 7(a)(16)(B) of the Small

12 Business Act (15 U.S.C. 636(a)(16)(B)) is amended—

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

14 following:

15 “(i) IN GENERAL.—Except as pro-

16 vided in clause (ii), each loan”; and

17 (2) by adding at the end the following:

18 “(ii) EXCEPTION.—A loan under this

19 paragraph may be secured by a second lien

20 position on the property or equipment fi-

21 nanced by the loan or on other assets of

22 the small business concern, if the Adminis-

23 trator determines the lien provides ade-

24 quate assurance of the payment of the

25 loan.”.

1 (d) EXPORT WORKING CAPITAL PROGRAM.—Section  
2 7(a) of the Small Business Act (15 U.S.C. 636(a)) is  
3 amended—

4 (1) in paragraph (2)(D), by striking “not ex-  
5 ceed” and inserting “be”; and

6 (2) in paragraph (14)—

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

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

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

13 “(C) CONSIDERATIONS.—When consid-  
14 ering”;

15 (C) by striking “(C) The Administration”  
16 and inserting the following:

17 “(D) MARKETING.—The Administrator”;

18 and

19 (D) by inserting after subparagraph (A)  
20 the following:

21 “(B) TERMS.—

22 “(i) LOAN AMOUNT.—The Adminis-  
23 trator may not guarantee a loan under this  
24 paragraph of more than \$5,000,000.

25 “(ii) FEES.—

1                   “(I) IN GENERAL.—For a loan  
2                   under this paragraph, the Adminis-  
3                   trator shall collect the fee assessed  
4                   under paragraph (23) not more fre-  
5                   quently than once each year.

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

10           (e) PARTICIPATION IN PREFERRED LENDERS PRO-  
11   GRAM.—Section 7(a)(2)(C) of the Small Business Act (15  
12   U.S.C. 636(a)(2)(C)) is amended—

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

14           and

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

16                   “(ii) EXPORT-IMPORT BANK LEND-  
17                   ERS.—Any lender that is participating in  
18                   the Delegated Authority Lender Program  
19                   of the Export-Import Bank of the United  
20                   States (or any successor to the Program)  
21                   shall be eligible to participate in the Pre-  
22                   ferred Lenders Program.”.

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



1                   “(VIII) providing term loans or  
2                   other financing to enable a small busi-  
3                   ness concern, including an export  
4                   trading company and an export man-  
5                   agement company, to develop a mar-  
6                   ket outside the United States; and

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

13                  “(ii) the term ‘express loan’ means a  
14                  loan in which a lender uses to the max-  
15                  imum extent practicable the loan analyses,  
16                  procedures, and documentation of the lend-  
17                  er to provide expedited processing of the  
18                  loan application.

19                  “(B) AUTHORITY.—The Administrator  
20                  may guarantee the timely payment of an ex-  
21                  press loan to a small business concern made for  
22                  an export development activity.

23                  “(C) LEVEL OF PARTICIPATION.—

24                  “(i) MAXIMUM AMOUNT.—The max-  
25                  imum amount of an express loan guaran-



1           teed under this paragraph shall be  
2           \$500,000.

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

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

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

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

15                      “(F) LIST OF EXPORT FINANCE LEND-  
16                      ERS.—

17                      “(i) PUBLICATION OF LIST RE-  
18                      QUIRED.—The Administrator shall publish  
19                      an annual list of the banks and partici-  
20                      pating lending institutions that, during the  
21                      1-year period ending on the date of publi-  
22                      cation of the list, have made loans guaran-  
23                      teed by the Administration under—

24                               “(I) this paragraph;

25                               “(II) paragraph (14); or

1 “(III) paragraph (34).

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

4 “(I) post the list published under  
5 clause (i) on the website of the Ad-  
6 ministration; and

7 “(II) make the list published  
8 under clause (i) available, upon re-  
9 quest, at each district office of the  
10 Administration.”.

11 (h) APPLICABILITY.—The amendments made by sub-  
12 sections (a) through (f) shall apply with respect to any  
13 loan made after the date of enactment of this Act.

14 **SEC. 1207. STATE TRADE AND EXPORT PROMOTION GRANT**  
15 **PROGRAM.**

16 (a) DEFINITIONS.—In this section—

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

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

23 (B) is operating profitably, based on oper-  
24 ations in the United States;

1 (C) has demonstrated understanding of the  
2 costs associated with exporting and doing busi-  
3 ness with foreign purchasers, including the  
4 costs of freight forwarding, customs brokers,  
5 packing and shipping, as determined by the As-  
6 sociate Administrator; and

7 (D) has in effect a strategic plan for ex-  
8 porting;

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

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

16 (4) the term “socially and economically dis-  
17 advantaged small business concern” has the mean-  
18 ing given that term in section 8(a)(4)(A) of the  
19 Small Business Act (15 U.S.C. 6537(a)(4)(A)); and

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

24 (b) ESTABLISHMENT OF PROGRAM.—The Associate  
25 Administrator shall establish a 3-year trade and export

1 promotion pilot program to be known as the State Trade  
2 and Export Promotion Grant Program, to make grants  
3 to States to carry out export programs that assist eligible  
4 small business concerns in—

5 (1) participation in a foreign trade mission;

6 (2) a foreign market sales trip;

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

9 (4) the payment of website translation fees;

10 (5) the design of international marketing  
11 media;

12 (6) a trade show exhibition;

13 (7) participation in training workshops; or

14 (8) any other export initiative determined ap-  
15 propriate by the Associate Administrator.

16 (c) GRANTS.—

17 (1) JOINT REVIEW.—In carrying out the pro-  
18 gram, the Associate Administrator may make a  
19 grant to a State to increase the number of eligible  
20 small business concerns in the State that export or  
21 to increase the value of the exports by eligible small  
22 business concerns in the State.

23 (2) CONSIDERATIONS.—In making grants  
24 under this section, the Associate Administrator may

1 give priority to an application by a State that pro-  
2 poses a program that—

3 (A) focuses on eligible small business con-  
4 cerns as part of an export promotion program;

5 (B) demonstrates success in promoting ex-  
6 ports by—

7 (i) socially and economically disadvan-  
8 tagged small business concerns;

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

11 (iii) rural small business concerns;

12 (C) promotes exports from a State that is  
13 not 1 of the 10 States with the highest percent-  
14 age of exporters that are small business con-  
15 cerns, based upon the latest data available from  
16 the Department of Commerce; and

17 (D) promotes new-to-market export oppor-  
18 tunities to the People's Republic of China for  
19 eligible small business concerns in the United  
20 States.

21 (3) LIMITATIONS.—

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

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

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

14                  (d) COMPETITIVE BASIS.—The Associate Adminis-  
15                  trator shall award grants under the program on a competi-  
16                  tive basis.

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

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

23                    (2) for a State that does not have a high export  
24                    volume, as determined by the Associate Adminis-  
25                    trator, not more than 75 percent.

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

8 (g) REPORTS.—

9 (1) INITIAL REPORT.—Not later than 120 days  
10 after the date of enactment of this Act, the Asso-  
11 ciate Administrator shall submit to the Committee  
12 on Small Business and Entrepreneurship of the Sen-  
13 ate and the Committee on Small Business of the  
14 House of Representatives a report, which shall in-  
15 clude—

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

18 (B) a management plan for the program;

19 and

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

22 (2) ANNUAL REPORTS.—The Associate Admin-  
23 istrator shall submit an annual report to the Com-  
24 mittee on Small Business and Entrepreneurship of  
25 the Senate and the Committee on Small Business of

1 the House of Representatives regarding the pro-  
2 gram, which shall include—

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

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

10 (C) the effect of each grant on exports by  
11 eligible small business concerns in the State re-  
12 ceiving the grant.

13 (h) REVIEWS BY INSPECTOR GENERAL.—

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

16 (A) the extent to which recipients of grants  
17 under the program are measuring the perform-  
18 ance of the activities being conducted and the  
19 results of the measurements; and

20 (B) the overall management and effective-  
21 ness of the program.

22 (2) REPORT.—Not later than September 30,  
23 2012, the Inspector General of the Administration  
24 shall submit to the Committee on Small Business  
25 and Entrepreneurship of the Senate and the Com-



1       mittee on Small Business of the House of Rep-  
2       resentatives a report regarding the review conducted  
3       under paragraph (1).

4       (i) AUTHORIZATION OF APPROPRIATIONS.—There is  
5       authorized to be appropriated to carry out the program  
6       \$30,000,000 for each of fiscal years 2011, 2012, and  
7       2013.

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

11      **SEC. 1208. RURAL EXPORT PROMOTION.**

12      Not later than 6 months after the date of enactment  
13      of this Act, the Administrator, in consultation with the  
14      Secretary of Agriculture and the Secretary of Commerce,  
15      shall submit to the Committee on Small Business and En-  
16      trepreneurship of the Senate and the Committee on Small  
17      Business of the House of Representatives a report that  
18      contains—

19              (1) a description of each program of the Ad-  
20              ministration that promotes exports by rural small  
21              business concerns, including—

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

24                      (B) the change, if any, in the number of  
25                      rural small business concerns as a result of par-

1 participation in the program during the 10-year  
2 period ending on the date of enactment of this  
3 Act;

4 (C) the volume of exports by rural small  
5 business concerns that participate in the pro-  
6 gram; and

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

11 (2) a description of the coordination between  
12 programs of the Administration and other Federal  
13 programs that promote exports by rural small busi-  
14 ness concerns;

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

17 (4) a description of any plan by the Administra-  
18 tion to market the international trade financing pro-  
19 grams of the Administration through lenders that—

20 (A) serve rural small business concerns;

21 and

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

24 (5) recommendations, if any, for improving co-  
25 ordination between the counseling programs and ex-

1 port financing programs of the Administration, in  
2 order to increase the volume of exports by rural  
3 small business concerns; and

4 (6) any additional information the Adminis-  
5 trator determines is necessary.

6 **SEC. 1209. INTERNATIONAL TRADE COOPERATION BY**  
7 **SMALL BUSINESS DEVELOPMENT CENTERS.**

8 Section 21(a) of the Small Business Act (15 U.S.C.  
9 648(a)) is amended—

10 (1) by striking “(2) The Small Business Devel-  
11 opment Centers” and inserting the following:

12 “(2) COOPERATION TO PROVIDE INTER-  
13 NATIONAL TRADE SERVICES.—

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

16 (2) in paragraph (2)—

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

20 (B) by adding at the end the following:

21 “(B) COOPERATION WITH STATE TRADE  
22 AGENCIES AND EXPORT ASSISTANCE CEN-  
23 TERS.—A small business development center  
24 that counsels a small business concern on issues  
25 relating to international trade shall—



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

5 **SEC. 1312. LEADERSHIP AND OVERSIGHT.**

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

9           “(q) BUNDLING ACCOUNTABILITY MEASURES.—

10           “(1) TEAMING REQUIREMENTS.—Each Federal  
11 agency shall include in each solicitation for any mul-  
12 tiple award contract above the substantial bundling  
13 threshold of the Federal agency a provision soliciting  
14 bids from any responsible source, including respon-  
15 sible small business concerns and teams or joint ven-  
16 tures of small business concerns.

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

19           “(A) IN GENERAL.—Not later than 1 year  
20 after the date of enactment of this subsection,  
21 the Federal Acquisition Regulatory Council es-  
22 tablished under section 25(a) of the Office of  
23 Federal Procurement Policy Act (41 U.S.C.  
24 4219(a)) shall amend the Federal Acquisition

1 Regulation issued under section 25 of such Act  
2 to—

3 “(i) establish a Government-wide pol-  
4 icy regarding contract bundling, including  
5 regarding the solicitation of teaming and  
6 joint ventures under paragraph (1); and

7 “(ii) require that the policy estab-  
8 lished under clause (i) be published on the  
9 website of each Federal agency.

10 “(B) RATIONALE FOR CONTRACT BUN-  
11 DLING.—Not later than 30 days after the date  
12 on which the head of a Federal agency submits  
13 data certifications to the Administrator for  
14 Federal Procurement Policy, the head of the  
15 Federal agency shall publish on the website of  
16 the Federal agency a list and rationale for any  
17 bundled contract for which the Federal agency  
18 solicited bids or that was awarded by the Fed-  
19 eral agency.

20 “(3) REPORTING.—Not later than 90 days after  
21 the date of enactment of this subsection, and every  
22 3 years thereafter, the Administrator shall submit to  
23 the Committee on Small Business and Entrepre-  
24 neurship of the Senate and the Committee on Small  
25 Business of the House of Representatives a report

1 regarding procurement center representatives and  
2 commercial market representatives, which shall—

3 “(A) identify each area for which the Ad-  
4 ministration has assigned a procurement center  
5 representative or a commercial market rep-  
6 resentative;

7 “(B) explain why the Administration se-  
8 lected the areas identified under subparagraph  
9 (A); and

10 “(C) describe the activities performed by  
11 procurement center representatives and com-  
12 mercial market representatives.”.

13 (b) TECHNICAL CORRECTION.—Section 15(g) of the  
14 Small Business Act (15 U.S.C. 644(g)) is amended by  
15 striking “Administrator of the Office of Federal Procure-  
16 ment Policy” each place it appears and inserting “Admin-  
17 istrator for Federal Procurement Policy”.

18 (c) REPORT.—

19 (1) IN GENERAL.—Not later than 180 days  
20 after the date of enactment of this Act, the Comp-  
21 troller General of the United States shall submit to  
22 Congress a report regarding the procurement center  
23 representative program of the Administration.

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

1 (A) address ways to improve the effective-  
2 ness of the procurement center representative  
3 program in helping small business concerns ob-  
4 tain Federal contracts;

5 (B) evaluate the effectiveness of procure-  
6 ment center representatives and commercial  
7 marketing representatives; and

8 (C) include recommendations, if any, on  
9 how to improve the procurement center rep-  
10 resentative program.

11 (d) ELECTRONIC PROCUREMENT CENTER REP-  
12 RESENTATIVE.—

13 (1) IN GENERAL.—Not later than 1 year after  
14 the date of enactment of this Act, the Administrator  
15 shall implement a 3-year pilot electronic procure-  
16 ment center representative program.

17 (2) REPORT.—Not later than 30 days after the  
18 pilot program under paragraph (1) ends, the Comp-  
19 troller General of the United States shall submit to  
20 the Committee on Small Business and Entrepre-  
21 neurship of the Senate and the Committee on Small  
22 Business of the House of Representatives a report  
23 regarding the pilot program.



1 **SEC. 1313. CONSOLIDATION OF CONTRACT REQUIREMENTS.**

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

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

5 and

6 (2) by inserting after section 43 the following:

7 **“SEC. 44. CONSOLIDATION OF CONTRACT REQUIREMENTS.**

8 “(a) DEFINITIONS.—In this section—

9 “(1) the term ‘Chief Acquisition Officer’ means  
10 the employee of a Federal agency designated as the  
11 Chief Acquisition Officer for the Federal agency  
12 under section 16(a) of the Office of Federal Pro-  
13 curement Policy Act (41 U.S.C. 414(a));

14 “(2) the term ‘consolidation of contract require-  
15 ments’, with respect to contract requirements of a  
16 Federal agency, means a use of a solicitation to ob-  
17 tain offers for a single contract or a multiple award  
18 contract to satisfy 2 or more requirements of the  
19 Federal agency for goods or services that have been  
20 provided to or performed for the Federal agency  
21 under 2 or more separate contracts lower in cost  
22 than the total cost of the contract for which the of-  
23 fers are solicited; and

24 “(3) the term ‘senior procurement executive’  
25 means an official designated under section 16(e) of  
26 the Office of Federal Procurement Policy Act (41

1 U.S.C. 414(c)) as the senior procurement executive  
2 for a Federal agency.

3 “(b) POLICY.—The head of each Federal agency shall  
4 ensure that the decisions made by the Federal agency re-  
5 garding consolidation of contract requirements of the Fed-  
6 eral agency are made with a view to providing small busi-  
7 ness concerns with appropriate opportunities to partici-  
8 pate as prime contractors and subcontractors in the pro-  
9 curements of the Federal agency.

10 “(c) LIMITATION ON USE OF ACQUISITION STRATE-  
11 GIES INVOLVING CONSOLIDATION.—

12 “(1) IN GENERAL.—Subject to paragraph (4),  
13 the head of a Federal agency may not carry out an  
14 acquisition strategy that includes a consolidation of  
15 contract requirements of the Federal agency with a  
16 total value of more than \$2,000,000, unless the sen-  
17 ior procurement executive or Chief Acquisition Offi-  
18 cer for the Federal agency, before carrying out the  
19 acquisition strategy—

20 “(A) conducts market research;

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

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

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

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

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

12                 “(A) IN GENERAL.—A senior procurement  
13                 executive or Chief Acquisition Officer may de-  
14                 termine that an acquisition strategy involving a  
15                 consolidation of contract requirements is nec-  
16                 essary and justified for the purposes of para-  
17                 graph (1)(C) if the benefits of the acquisition  
18                 strategy substantially exceed the benefits of  
19                 each of the possible alternative contracting ap-  
20                 proaches identified under paragraph (1)(B).

21                 “(B) SAVINGS IN ADMINISTRATIVE OR  
22                 PERSONNEL COSTS.—For purposes of subpara-  
23                 graph (A), savings in administrative or per-  
24                 sonnel costs alone do not constitute a sufficient  
25                 justification for a consolidation of contract re-

1            requirements in a procurement unless the ex-  
2            pected total amount of the cost savings, as de-  
3            termined by the senior procurement executive  
4            or Chief Acquisition Officer, is expected to be  
5            substantial in relation to the total cost of the  
6            procurement.

7            “(3) BENEFITS TO BE CONSIDERED.—The ben-  
8            efits considered for the purposes of paragraphs (1)  
9            and (2) may include cost and, regardless of whether  
10          quantifiable in dollar amounts—

11                  “(A) quality;

12                  “(B) acquisition cycle;

13                  “(C) terms and conditions; and

14                  “(D) any other benefit.

15          “(4) DEPARTMENT OF DEFENSE.—

16                  “(A) IN GENERAL.—The Department of  
17          Defense and each military department shall  
18          comply with this section until after the date de-  
19          scribed in subparagraph (C).

20                  “(B) RULE.—After the date described in  
21          subparagraph (C), contracting by the Depart-  
22          ment of Defense or a military department shall  
23          be conducted in accordance with section 2382  
24          of title 10, United States Code.

1           “(C) DATE.—The date described in this  
2           subparagraph is the date on which the Adminis-  
3           trator determines the Department of Defense or  
4           a military department is in compliance with the  
5           Government-wide contracting goals under sec-  
6           tion 15.”.

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

11   **SEC. 1314. SMALL BUSINESS TEAMS PILOT PROGRAM.**

12          (a) DEFINITIONS.—In this section—

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

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

22                       (A) customer relations and outreach;

23                       (B) team relations and outreach; and

24                       (C) performance measurement and quality  
25               assurance.

1 (b) ESTABLISHMENT.—The Administrator shall es-  
2 tablish a Small Business Teaming Pilot Program for  
3 teaming and joint ventures involving small business con-  
4 cerns.

5 (c) GRANTS.—Under the Pilot Program, the Admin-  
6 istrator may make grants to eligible organizations to pro-  
7 vide assistance and guidance to teams of small business  
8 concerns seeking to compete for larger procurement con-  
9 tracts.

10 (d) CONTRACTING OPPORTUNITIES.—The Adminis-  
11 trator shall work with eligible organizations receiving a  
12 grant under the Pilot Program to recommend appropriate  
13 contracting opportunities for teams or joint ventures of  
14 small business concerns.

15 (e) REPORT.—Not later than 1 year before the date  
16 on which the authority to carry out the Pilot Program ter-  
17 minates under subsection (f), the Administrator shall sub-  
18 mit to the Committee on Small Business and Entrepre-  
19 neurship of the Senate and the Committee on Small Busi-  
20 ness of the House of Representatives a report on the effec-  
21 tiveness of the Pilot Program.

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

1 (g) AUTHORIZATION OF APPROPRIATIONS.—There  
2 are authorized to be appropriated for grants under sub-  
3 section (c) \$5,000,000 for each of fiscal years 2010  
4 through 2015.

5 **PART II—SUBCONTRACTING INTEGRITY**

6 **SEC. 1321. SUBCONTRACTING MISREPRESENTATIONS.**

7 Not later than 1 year after the date of enactment  
8 of this Act, the Administrator, in consultation with the  
9 Administrator for Federal Procurement Policy, shall pro-  
10 mulgate regulations relating to, and the Federal Acquisi-  
11 tion Regulatory Council established under section 25(a)  
12 of the Office of Federal Procurement Policy Act (41  
13 U.S.C. 421(a)) shall amend the Federal Acquisition Regu-  
14 lation issued under section 25 of such Act to establish a  
15 policy on, subcontracting compliance relating to small  
16 business concerns, including assignment of compliance re-  
17 sponsibilities between contracting offices, small business  
18 offices, and program offices and periodic oversight and re-  
19 view activities.

20 **SEC. 1322. SMALL BUSINESS SUBCONTRACTING IMPROVE-**  
21 **MENTS.**

22 Section 8(d)(6) of the Small Business Act (15 U.S.C.  
23 637(d)(6)) is amended—

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

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

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

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

6                           “(i) make a good faith effort to ac-  
7                           quire articles, equipment, supplies, serv-  
8                           ices, or materials, or obtain the perform-  
9                           ance of construction work from the small  
10                          business concerns used in preparing and  
11                          submitting to the contracting agency the  
12                          bid or proposal, in the same amount and  
13                          quality used in preparing and submitting  
14                          the bid or proposal; and

15                           “(ii) provide to the contracting officer  
16                          a written explanation if the offeror or bid-  
17                          der fails to acquire articles, equipment,  
18                          supplies, services, or materials or obtain  
19                          the performance of construction work as  
20                          described in clause (i).”.



1                   **PART III—ACQUISITION PROCESS**

2   **SEC. 1331. RESERVATION OF PRIME CONTRACT AWARDS**  
3                   **FOR SMALL BUSINESSES.**

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

7           “(r) **MULTIPLE AWARD CONTRACTS.**—Not later than  
8 1 year after the date of enactment of this subsection, the  
9 Administrator for Federal Procurement Policy and the  
10 Administrator, in consultation with the Administrator of  
11 General Services, shall, by regulation, establish guidance  
12 under which Federal agencies may, at their discretion—

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

17                   “(2) notwithstanding the fair opportunity re-  
18 quirements under section 2304c(b) of title 10,  
19 United States Code, and section 303J(b) of the Fed-  
20 eral Property and Administrative Services Act of  
21 1949 (41 U.S.C. 253j(b)), set aside orders placed  
22 against multiple award contracts for small business  
23 concerns, including the subcategories of small busi-  
24 ness concerns identified in subsection (g)(2); and

25                   “(3) reserve 1 or more contract awards for  
26 small business concerns under full and open multiple

1 award procurements, including the subcategories of  
2 small business concerns identified in subsection  
3 (g)(2).”.

4 **SEC. 1332. MICRO-PURCHASE GUIDELINES.**

5 Not later than 1 year after the date of enactment  
6 of this Act, the Director of the Office of Management and  
7 Budget, in coordination with the Administrator of General  
8 Services, shall issue guidelines regarding the analysis of  
9 purchase card expenditures to identify opportunities for  
10 achieving and accurately measuring fair participation of  
11 small business concerns in purchases in an amount not  
12 in excess of the micro-purchase threshold, as defined in  
13 section 32 of the Office of Federal Procurement Policy  
14 Act (41 U.S.C. 428) (in this section referred to as “micro-  
15 purchases”), consistent with the national policy on small  
16 business participation in Federal procurements set forth  
17 in sections 2(a) and 15(g) of the Small Business Act (15  
18 U.S.C. 631(a) and 644(g)), and dissemination of best  
19 practices for participation of small business concerns in  
20 micro-purchases.

21 **SEC. 1333. AGENCY ACCOUNTABILITY.**

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

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

1           (2) by striking “Goals established” and insert-  
2           ing the following:

3           “(B) Goals established”;

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

6           “(C) Whenever”;

7           (4) by striking “For the purpose of” and insert-  
8           ing the following:

9           “(D) For the purpose of”;

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

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

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

17                 (A) by striking “(A) contracts” and insert-  
18                 ing “(i) contracts”; and

19                 (B) by striking “(B) contracts” and insert-  
20                 ing “(ii) contracts”; and

21          (7) by adding at the end the following:

22          “(F)(i) Each procurement employee or program man-  
23          ager described in clause (ii) shall communicate to the sub-  
24          ordinates of the procurement employee or program man-  
25          ager the importance of achieving small business goals.

1       “(ii) A procurement employee or program manager  
2 described in this clause is a senior procurement executive,  
3 senior program manager, or Director of Small and Dis-  
4 advantaged Business Utilization of a Federal agency hav-  
5 ing contracting authority.”.

6 **SEC. 1334. PAYMENT OF SUBCONTRACTORS.**

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

9       “(12) PAYMENT OF SUBCONTRACTORS.—

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

14           “(B) NOTICE.—

15           “(i) IN GENERAL.—A prime contractor for  
16 a covered contract shall notify in writing the  
17 contracting officer for the covered contract if  
18 the prime contractor pays a reduced price to a  
19 subcontractor for goods and services upon com-  
20 pletion of the responsibilities of the subcon-  
21 tractor or the payment to a subcontractor is  
22 more than 90 days past due for goods or serv-  
23 ices provided for the covered contract for which  
24 the Federal agency has paid the prime con-  
25 tractor.

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

5                   “(C) PERFORMANCE.—A contracting officer for  
6                   a covered contract shall consider the unjustified fail-  
7                   ure by a prime contractor to make a full or timely  
8                   payment to a subcontractor in evaluating the per-  
9                   formance of the prime contractor.

10                  “(D) CONTROL OF FUNDS.—If the contracting  
11                  officer for a covered contract determines that a  
12                  prime contractor has a history of unjustified, un-  
13                  timely payments to contractors, the contracting offi-  
14                  cer shall record the identity of the contractor in ac-  
15                  cordance with the regulations promulgated under  
16                  subparagraph (E).

17                  “(E) REGULATIONS.—Not later than 1 year  
18                  after the date of enactment of this paragraph, the  
19                  Federal Acquisition Regulatory Council established  
20                  under section 25(a) of the Office of Federal Pro-  
21                  curement Policy Act (41 U.S.C. 421(a)) shall amend  
22                  the Federal Acquisition Regulation issued under sec-  
23                  tion 25 of such Act to—

24                               “(i) describe the circumstances under  
25                               which a contractor may be determined to have

1 a history of unjustified, untimely payments to  
2 subcontractors;

3 “(ii) establish a process for contracting of-  
4 ficers to record the identity of a contractor de-  
5 scribed in clause (i); and

6 “(iii) require the identity of a contractor  
7 described in clause (i) to be incorporated in,  
8 and made publicly available through, the Fed-  
9 eral Awardee Performance and Integrity Infor-  
10 mation System, or any successor thereto.”.

11 **SEC. 1335. REPEAL OF SMALL BUSINESS COMPETITIVENESS**

12 **DEMONSTRATION PROGRAM.**

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

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

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

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

1     **PART IV—SMALL BUSINESS SIZE AND STATUS**

2                             **INTEGRITY**

3     **SEC. 1341. POLICY AND PRESUMPTIONS.**

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

7             “(w) PRESUMPTION.—

8                     “(1) IN GENERAL.—In every contract, sub-  
9 contract, cooperative agreement, cooperative re-  
10 search and development agreement, or grant which  
11 is set aside, reserved, or otherwise classified as in-  
12 tended for award to small business concerns, there  
13 shall be a presumption of loss to the United States  
14 based on the total amount expended on the contract,  
15 subcontract, cooperative agreement, cooperative re-  
16 search and development agreement, or grant when-  
17 ever it is established that a business concern other  
18 than a small business concern willfully sought and  
19 received the award by misrepresentation.

20                     “(2) DEEMED CERTIFICATIONS.—The following  
21 actions shall be deemed affirmative, willful, and in-  
22 tentional certifications of small business size and  
23 status:

24                             “(A) Submission of a bid or proposal for a  
25 Federal grant, contract, subcontract, coopera-  
26 tive agreement, or cooperative research and de-

1           velopment agreement reserved, set aside, or oth-  
2           erwise classified as intended for award to small  
3           business concerns.

4           “(B) Submission of a bid or proposal for  
5           a Federal grant, contract, subcontract, coopera-  
6           tive agreement, or cooperative research and de-  
7           velopment agreement which in any way encour-  
8           ages a Federal agency to classify the bid or pro-  
9           posal, if awarded, as an award to a small busi-  
10          ness concern.

11          “(C) Registration on any Federal elec-  
12          tronic database for the purpose of being consid-  
13          ered for award of a Federal grant, contract,  
14          subcontract, cooperative agreement, or coopera-  
15          tive research agreement, as a small business  
16          concern.

17          “(3) CERTIFICATION BY SIGNATURE OF RE-  
18          SPONSIBLE OFFICIAL.—

19          “(A) IN GENERAL.—Each solicitation, bid,  
20          or application for a Federal contract, sub-  
21          contract, or grant shall contain a certification  
22          concerning the small business size and status of  
23          a business concern seeking the Federal con-  
24          tract, subcontract, or grant.



1           “(B) CONTENT OF CERTIFICATIONS.—A  
2           certification that a business concern qualifies as  
3           a small business concern of the exact size and  
4           status claimed by the business concern for pur-  
5           poses of bidding on a Federal contract or sub-  
6           contract, or applying for a Federal grant, shall  
7           contain the signature of an authorized official  
8           on the same page on which the certification is  
9           contained.

10           “(4) REGULATIONS.—The Administrator shall  
11           promulgate regulations to provide adequate protec-  
12           tions to individuals and business concerns from li-  
13           ability under this subsection in cases of uninten-  
14           tional errors, technical malfunctions, and other simi-  
15           lar situations.”.

16 **SEC. 1342. ANNUAL CERTIFICATION.**

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

20           “(x) ANNUAL CERTIFICATION.—

21           “(1) IN GENERAL.—Each business certified as  
22           a small business concern under this Act shall annu-  
23           ally certify its small business size and, if appro-  
24           priate, its small business status, by means of a con-  
25           firming entry on the Online Representations and

1 Certifications Application database of the Adminis-  
2 tration, or any successor thereto.

3 “(2) REGULATIONS.—Not later than 1 year  
4 after the date of enactment of this subsection, the  
5 Administrator, in consultation with the Inspector  
6 General and the Chief Counsel for Advocacy of the  
7 Administration, shall promulgate regulations to en-  
8 sure that—

9 “(A) no business concern continues to be  
10 certified as a small business concern on the On-  
11 line Representations and Certifications Applica-  
12 tion database of the Administration, or any suc-  
13 cessor thereto, without fulfilling the require-  
14 ments for annual certification under this sub-  
15 section; and

16 “(B) the requirements of this subsection  
17 are implemented in a manner presenting the  
18 least possible regulatory burden on small busi-  
19 ness concerns.”.

20 **SEC. 1343. TRAINING FOR CONTRACTING AND ENFORCE-**  
21 **MENT PERSONNEL.**

22 (a) IN GENERAL.—Not later than 1 year after the  
23 date of enactment of this Act, the Federal Acquisition In-  
24 stitute, in consultation with the Administrator for Federal  
25 Procurement Policy, the Defense Acquisition University,

1 and the Administrator, shall develop courses for acqui-  
2 sition personnel concerning proper classification of business  
3 concerns and small business size and status for purposes  
4 of Federal contracts, subcontracts, grants, cooperative  
5 agreements, and cooperative research and development  
6 agreements.

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

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

18 **SEC. 1344. UPDATED SIZE STANDARDS.**

19 (a) ROLLING REVIEW.—

20 (1) IN GENERAL.—The Administrator shall—

21 (A) during the 18-month period beginning  
22 on the date of enactment of this Act, and dur-  
23 ing every 18-month period thereafter, conduct a  
24 detailed review of not less than  $\frac{1}{3}$  of the size  
25 standards for small business concerns estab-

1           lished under section 3(a)(2) of the Small Busi-  
2           ness Act (15 U.S.C. 632(a)(2)), which shall in-  
3           clude holding not less than 2 public forums lo-  
4           cated in different geographic regions of the  
5           United States;

6                   (B) after completing each review under  
7           subparagraph (A) make appropriate adjust-  
8           ments to the size standards established under  
9           section 3(a)(2) of the Small Business Act to re-  
10          flect market conditions;

11                   (C) make publicly available—

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

15                           (ii) information regarding the criteria  
16                           used for any revised size standards pro-  
17                           mulgated under subparagraph (B); and

18                   (D) not later than 30 days after the date  
19           on which the Administrator completes each re-  
20           view under subparagraph (A), submit to the  
21           Committee on Small Business and Entrepre-  
22           neurship of the Senate and the Committee on  
23           Small Business of the House of Representatives  
24           and make publicly available a report regarding  
25           the review, including why the Administrator—

1 (i) used the factors and criteria de-  
2 scribed in subparagraph (C); and

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

6 (2) COMPLETE REVIEW OF SIZE STANDARDS.—

7 The Administrator shall ensure that each size stand-  
8 ard for small business concerns established under  
9 section 3(a)(2) of the Small Business Act (15 U.S.C.  
10 632(a)(2)) is reviewed under paragraph (1) not less  
11 frequently than once every 5 years.

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

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

18 (a) IN GENERAL.—The Comptroller General of the  
19 United States shall conduct a study of the mentor-protege  
20 program of the Administration for small business concerns  
21 participating in programs under section 8(a) of the Small  
22 Business Act (15 U.S.C. 637(a)), and other relationships  
23 and strategic alliances pairing a larger business and a  
24 small business concern partner to gain access to Federal  
25 Government contracts, to determine whether the programs

1 and relationships are effectively supporting the goal of in-  
2 creasing the participation of small business concerns in  
3 Government contracting.

4 (b) MATTERS TO BE STUDIED.—The study con-  
5 ducted under this section shall include—

6 (1) a review of a broad cross-section of indus-  
7 tries; and

8 (2) an evaluation of—

9 (A) how each Federal agency carrying out  
10 a program described in subsection (a) admin-  
11 isters and monitors the program;

12 (B) whether there are systems in place to  
13 ensure that the mentor-protege relationship, or  
14 similar affiliation, promotes real gain to the  
15 protege, and is not just a mechanism to enable  
16 participants that would not otherwise qualify  
17 under section 8(a) of the Small Business Act  
18 (15 U.S.C. 637(a)) to receive contracts under  
19 that section; and

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

23 (c) REPORT TO CONGRESS.—Not later than 180 days  
24 after the date of enactment of this Act, the Comptroller  
25 General shall submit to the Committee on Small Business

1 and Entrepreneurship of the Senate and the Committee  
2 on Small Business of the House of Representatives a re-  
3 port on the results of the study conducted under this sec-  
4 tion.

5 **SEC. 1346. CONTRACTING GOALS REPORTS.**

6 Section 15(h)(2) of the Small Business Act (15  
7 U.S.C. 644(h)(2)) is amended by striking “submit them”  
8 and all that follows through “the following:” and inserting  
9 “submit to the President and the Committee on Small  
10 Business and Entrepreneurship of the Senate and the  
11 Committee on Small Business of the House of Representa-  
12 tives the compilation and analysis, which shall include the  
13 following:”.

14 **SEC. 1347. SMALL BUSINESS CONTRACTING PARITY.**

15 (a) DEFINITIONS.—In this section—

16 (1) the terms “Administration” and “Adminis-  
17 trator” mean the Small Business Administration  
18 and the Administrator thereof, respectively; and

19 (2) the terms “HUBZone small business con-  
20 cern”, “small business concern”, “small business  
21 concern owned and controlled by service-disabled  
22 veterans”, and “small business concern owned and  
23 controlled by women” have the same meanings as in  
24 section 3 of the Small Business Act (15 U.S.C.  
25 632).

1 (b) CONTRACTING IMPROVEMENTS.—

2 (1) CONTRACTING OPPORTUNITIES.—Section  
3 31(b)(2)(B) of the Small Business Act (15 U.S.C.  
4 657a(b)(2)(B)) is amended by striking “shall” and  
5 inserting “may”.

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

11 (3) MENTOR-PROTEGE PROGRAMS.—The Ad-  
12 ministrator may establish mentor-protege programs  
13 for small business concerns owned and controlled by  
14 service-disabled veterans, small business concerns  
15 owned and controlled by women, and HUBZone  
16 small business concerns modeled on the mentor-pro-  
17 tege program of the Administration for small busi-  
18 ness concerns participating in programs under sec-  
19 tion 8(a) of the Small Business Act (15 U.S.C.  
20 637(a)).

21 (c) SMALL BUSINESS CONTRACTING PROGRAMS PAR-  
22 ITY.—Section 31(b)(2) of the Small Business Act (15  
23 U.S.C. 657a(b)(2)) is amended—



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

4 (2) in subparagraph (A)—

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

8 (B) in clause (iii), by striking the semi-  
9 colon at the end and inserting a period;

10 (3) in subparagraph (B)—

11 (A) by striking “a contract opportunity  
12 shall” and inserting “RESTRICTED COMPETI-  
13 TION.—A contract opportunity may”; and

14 (B) by striking “; and” and inserting a pe-  
15 riod; and

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

18 **Subtitle D—Small Business Man-**  
19 **agement and Counseling Assist-**  
20 **ance**

21 **SEC. 1401. MATCHING REQUIREMENTS UNDER SMALL BUSI-**  
22 **NESS PROGRAMS.**

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

25 (1) in paragraph (3)(B)—

1 (A) by striking “As a condition” and in-  
2 serting the following:

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

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

7 (C) by adding at the end the following:

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

10 “(I) IN GENERAL.—Upon request  
11 by an intermediary, and in accordance  
12 with this clause, the Administrator  
13 may waive, in whole or in part, the re-  
14 quirement to obtain non-Federal  
15 funds under clause (i) for a fiscal  
16 year. The Administrator may waive  
17 the requirement to obtain non-Federal  
18 funds under this clause for successive  
19 fiscal years.

20 “(II) CONSIDERATIONS.—In de-  
21 termining whether to waive the re-  
22 quirement to obtain non-Federal  
23 funds under this clause, the Adminis-  
24 trator shall consider—

1           “(aa) the economic condi-  
2 tions affecting the intermediary;

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

7           “(cc) the demonstrated abil-  
8 ity of the intermediary to raise  
9 non-Federal funds; and

10           “(dd) the performance of  
11 the intermediary.

12           “(III) LIMITATIONS.—

13           “(aa) IN GENERAL.—The  
14 Administrator may not waive the  
15 requirement to obtain non-Fed-  
16 eral funds under this clause if  
17 granting the waiver would under-  
18 mine the credibility of the  
19 microloan program under this  
20 subsection.

21           “(bb) SUNSET.—The Ad-  
22 ministrator may not waive the re-  
23 quirement to obtain non-Federal  
24 funds under this clause for fiscal

1 year 2013 or any fiscal year  
2 thereafter.”; and

3 (2) in paragraph (4)(B)—

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

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

11 (B) by adding at the end the following:

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

14 “(I) IN GENERAL.—Upon request  
15 by an intermediary, and in accordance  
16 with this clause, the Administrator  
17 may waive, in whole or in part, the re-  
18 quirement to obtain non-Federal  
19 funds under clause (i) for a fiscal  
20 year. The Administrator may waive  
21 the requirement to obtain non-Federal  
22 funds under this clause for successive  
23 fiscal years.

24 “(II) CONSIDERATIONS.—In de-  
25 termining whether to waive the re-

1 requirement to obtain non-Federal  
2 funds under this clause, the Adminis-  
3 trator shall consider—

4 “(aa) the economic condi-  
5 tions affecting the intermediary;

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

10 “(cc) the demonstrated abil-  
11 ity of the intermediary to raise  
12 non-Federal funds; and

13 “(dd) the performance of  
14 the intermediary.

15 “(III) LIMITATIONS.—

16 “(aa) IN GENERAL.—The  
17 Administrator may not waive the  
18 requirement to obtain non-Fed-  
19 eral funds under this clause if  
20 granting the waiver would under-  
21 mine the credibility of the  
22 microloan program under this  
23 subsection.

24 “(bb) SUNSET.—The Ad-  
25 ministrator may not waive the re-

1                   requirement to obtain non-Federal  
2                   funds under this clause for fiscal  
3                   year 2013 or any fiscal year  
4                   thereafter.”.

5           (b) WOMEN’S BUSINESS CENTER PROGRAM.—Sec-  
6   tion 29(c) of the Small Business Act (15 U.S.C. 656(c))  
7   is amended—

8                   (1) in paragraph (1), by striking “As a condi-  
9                   tion” and inserting “Subject to paragraph (5), as a  
10                  condition”; and

11                  (2) by adding at the end the following:

12                   “(5) WAIVER OF NON-FEDERAL SHARE RELAT-  
13                   ING TO TECHNICAL ASSISTANCE AND COUN-  
14                   SELING.—

15                   “(A) IN GENERAL.—Upon request by a re-  
16                   cipient organization, and in accordance with  
17                   this paragraph, the Administrator may waive,  
18                   in whole or in part, the requirement to obtain  
19                   non-Federal funds under this subsection for the  
20                   technical assistance and counseling activities of  
21                   the recipient organization carried out using fi-  
22                   nancial assistance under this section for a fiscal  
23                   year. The Administrator may waive the require-  
24                   ment to obtain non-Federal funds under this  
25                   paragraph for successive fiscal years.

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

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

7                   “(ii) the impact a waiver under this  
8 clause would have on the credibility of the  
9 women’s business center program under  
10 this section;

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

14                   “(iv) the performance of the recipient  
15 organization.

16           “(C) LIMITATIONS.—

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

23                   “(ii) SUNSET.—The Administrator  
24 may not waive the requirement to obtain  
25 non-Federal funds under this paragraph

1                   for fiscal year 2013 or any fiscal year  
2                   thereafter.”.

3           (c) PROSPECTIVE REPEALS.—Effective October 1,  
4 2012, the Small Business Act (15 U.S.C. 631 et seq.) is  
5 amended—

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

7           (A) in paragraph (3)(B)—

8                   (i) by striking “INTERMEDIARY CON-  
9                   TRIBUTION.—” and all that follows  
10                   through “Subject to clause (ii), as” and in-  
11                   serting “INTERMEDIARY CONTRIBUTION.—  
12                   As”; and

13                   (ii) by striking clause (ii); and

14           (B) in paragraph (4)(B)—

15                   (i) by striking “CONTRIBUTION.—”  
16                   and all that follows through “Subject to  
17                   clause (ii), as” and inserting “CONTRIBU-  
18                   TION.—As”; and

19                   (ii) by striking clause (ii); and

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

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

23           (B) by striking paragraph (5).



1 **SEC. 1402. GRANTS FOR SBDCS.**

2 (a) IN GENERAL.—The Administrator may make  
3 grants to small business development centers under sec-  
4 tion 21 of the Small Business Act (15 U.S.C. 648) to pro-  
5 vide targeted technical assistance to small business con-  
6 cerns seeking access to capital or credit, Federal procure-  
7 ment opportunities, energy efficiency audits to reduce en-  
8 ergy bills, opportunities to export products or provide serv-  
9 ices to foreign customers, adopting, making innovations  
10 in, and using broadband technologies, or other assistance.

11 (b) ALLOCATION.—

12 (1) IN GENERAL.—Subject to paragraph (2),  
13 and notwithstanding the requirements of section  
14 21(a)(4)(C)(iii) of the Small Business Act (15  
15 U.S.C. 648(a)(4)(C)(iii)), the amount appropriated  
16 to carry out this section shall be allocated under the  
17 formula under section 21(a)(4)(C)(i) of that Act.

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

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

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

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

3 (c) NO NON-FEDERAL SHARE REQUIRED.—Notwith-  
4 standing section 21(a)(4)(A) of the Small Business Act  
5 (15 U.S.C. 648(a)(4)(A)), the recipient of a grant made  
6 under this section shall not be required to provide non-  
7 Federal matching funds.

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

12 (e) AUTHORIZATION OF APPROPRIATIONS.—There is  
13 authorized to be appropriated to the Administrator  
14 \$50,000,000 to carry out this section.

## 15 **Subtitle E—Disaster Loan** 16 **Improvement**

17 **SEC. 1501. AQUACULTURE BUSINESS DISASTER ASSIST-**  
18 **ANCE.**

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

22 “(z) AQUACULTURE BUSINESS DISASTER ASSIST-  
23 ANCE.—Subject to section 18(a) and notwithstanding sec-  
24 tion 18(b)(1), the Administrator may provide disaster as-

1 sistance under section 7(b)(2) to aquaculture enterprises  
2 that are small businesses.”.

3           **Subtitle F—Small Business**  
4           **Regulatory Relief**

5 **SEC. 1601. REQUIREMENTS PROVIDING FOR MORE DE-**  
6           **TAILED ANALYSES.**

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

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

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

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

14           (4) by inserting after paragraph (2) the fol-  
15 lowing:

16           “(3) the response of the agency to any com-  
17 ments filed by the Chief Counsel for Advocacy of the  
18 Small Business Administration in response to the  
19 proposed rule, and a detailed statement of any  
20 change made to the proposed rule in the final rule  
21 as a result of the comments;”.

22 **SEC. 1602. OFFICE OF ADVOCACY.**

23           (a) IN GENERAL.—Section 203 of Public Law 94–  
24 305 (15 U.S.C. 634c) is amended—

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

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

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

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

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

13 **“SEC. 207. BUDGETARY LINE ITEM AND AUTHORIZATION OF**  
14 **APPROPRIATIONS.**

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

22 “(b) ADMINISTRATIVE OPERATIONS.—The Adminis-  
23 trator of the Small Business Administration shall provide  
24 the Office of Advocacy with appropriate and adequate of-  
25 fice space at central and field office locations, together

1 with such equipment, operating budget, and communica-  
2 tions facilities and services as may be necessary, and shall  
3 provide necessary maintenance services for such offices  
4 and the equipment and facilities located in such offices.

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

## 10 **Subtitle G—Appropriations** 11 **Provisions**

### 12 **SEC. 1701. SALARIES AND EXPENSES.**

13 (a) APPROPRIATION.—There is appropriated, out of  
14 any money in the Treasury not otherwise appropriated,  
15 for the fiscal year ending September 30, 2010,  
16 \$150,000,000, to remain available until September 30,  
17 2012, for an additional amount for the appropriations ac-  
18 count appropriated under the heading “SALARIES AND EX-  
19 PENSES” under the heading “SMALL BUSINESS ADMINIS-  
20 TRATION”, of which—

21 (1) \$50,000,000 is for grants to small business  
22 development centers authorized under section 1402;

23 (2) \$1,000,000 is for the costs of administering  
24 grants authorized under section 1402;

1           (3) \$30,000,000 is for grants to States for fis-  
2 cal year 2011 to carry out export programs that as-  
3 sist small business concerns authorized under section  
4 1207;

5           (4) \$30,000,000 is for grants to States for fis-  
6 cal year 2012 to carry out export programs that as-  
7 sist small business concerns authorized under section  
8 1207;

9           (5) \$2,500,000 is for the costs of administering  
10 grants authorized under section 1207;

11           (6) \$5,000,000 is for grants for fiscal year  
12 2011 under the Small Business Teaming Pilot Pro-  
13 gram under section 1314; and

14           (7) \$5,000,000 is for grants for fiscal year  
15 2012 under the Small Business Teaming Pilot Pro-  
16 gram under section 1314.

17       (b) REPORT.—Not later than 60 days after the date  
18 of enactment of this Act, the Administrator shall submit  
19 to the Committee on Appropriations of the Senate and the  
20 Committee on Appropriations of the House of Representa-  
21 tives a detailed expenditure plan for using the funds pro-  
22 vided under subsection (a).

23 **SEC. 1702. BUSINESS LOANS PROGRAM ACCOUNT.**

24       (a) IN GENERAL.—There is appropriated, out of any  
25 money in the Treasury not otherwise appropriated, for the

1 fiscal year ending September 30, 2010, for an additional  
2 amount for the appropriations account appropriated under  
3 the heading “BUSINESS LOANS PROGRAM ACCOUNT” under  
4 the heading “SMALL BUSINESS ADMINISTRATION”—

5 (1) \$8,000,000, to remain available until Sep-  
6 tember 30, 2012, for fiscal year 2011 for the cost  
7 of direct loans authorized under section 7(l) of the  
8 Small Business Act, as added by section 1131 of  
9 this title, including the cost of modifying the loans;

10 (2) \$8,000,000, to remain available until Sep-  
11 tember 30, 2012, for fiscal year 2012 for the cost  
12 of direct loans authorized under section 7(l) of the  
13 Small Business Act, as added by section 1131 of  
14 this title, including the cost of modifying the loans;

15 (3) \$6,500,000, to remain available until Sep-  
16 tember 30, 2012, for administrative expenses to  
17 carry out the direct loan program authorized under  
18 section 7(l) of the Small Business Act, as added by  
19 section 1131 of this title, which may be transferred  
20 to and merged with the appropriations account ap-  
21 propriated under the heading “SALARIES AND EX-  
22 PENSES” under the heading “SMALL BUSINESS AD-  
23 MINISTRATION”; and

24 (4) \$15,000,000, to remain available until Sep-  
25 tember 30, 2011, for the cost of guaranteed loans as

1 authorized under section 7(a) of the Small Business  
2 Act, including the cost of modifying the loans.

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

6 **SEC. 1703. COMMUNITY DEVELOPMENT FINANCIAL INSTI-**  
7 **TUTIONS FUND PROGRAM ACCOUNT.**

8 There is appropriated, out of any money in the Treas-  
9 ury not otherwise appropriated, for the fiscal year ending  
10 September 30, 2010, for an additional amount for the ap-  
11 propriations account appropriated under the heading  
12 “COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS  
13 FUND PROGRAM ACCOUNT” under the heading “DE-  
14 PARTMENT OF THE TREASURY”, \$13,500,000, to  
15 remain available until September 30, 2012, for the costs  
16 of administering guarantees for bonds and notes as au-  
17 thorized under section 114A of the Riegle Community De-  
18 velopment and Regulatory Improvement Act of 1994, as  
19 added by section 1134 of this Act.

20 **TITLE II—TAX PROVISIONS**

21 **SEC. 2001. SHORT TITLE.**

22 This title may be cited as the “Creating Small Busi-  
23 ness Jobs Act of 2010”.



1     **Subtitle A—Small Business Relief**

2             **PART I—PROVIDING ACCESS TO CAPITAL**

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

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

8                     “(4) 100 PERCENT EXCLUSION FOR STOCK AC-  
9             QUIRED DURING CERTAIN PERIODS IN 2010.—In the  
10             case of qualified small business stock acquired after  
11             the date of the enactment of the Creating Small  
12             Business Jobs Act of 2010 and before January 1,  
13             2011—

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

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

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

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

22                     (1) by inserting “CERTAIN PERIODS IN” before  
23             “2010” in the heading, and



1                   “(I) by substituting ‘25 taxable  
2                   years’ for ‘21 taxable years’ in sub-  
3                   paragraph (A) thereof, and

4                   “(II) by substituting ‘24 taxable  
5                   years’ for ‘20 taxable years’ in sub-  
6                   paragraph (B) thereof.

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

11           (b)           CONFORMING            AMENDMENT.—Section  
12 39(a)(3)(A) of the Internal Revenue Code of 1986 is  
13 amended by inserting “or the eligible small business cred-  
14 its” after “credit”).

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

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

21           (a) IN GENERAL.—Section 38(c) of the Internal Rev-  
22 enue Code of 1986 is amended by redesignating paragraph  
23 (5) as paragraph (6) and by inserting after paragraph (4)  
24 the following new paragraph:

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

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

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

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

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

13                           “(II) the limitation under para-  
14 graph (1) (as modified by subclause  
15 (I)) shall be reduced by the credit al-  
16 lowed under subsection (a) for the  
17 taxable year (other than the eligible  
18 small business credits).

19           “(B) ELIGIBLE SMALL BUSINESS CRED-  
20 ITS.—For purposes of this subsection, the term  
21 ‘eligible small business credits’ means the sum  
22 of the credits listed in subsection (b) which are  
23 determined for the taxable year with respect to  
24 an eligible small business. Such credits shall not

1 be taken into account under paragraph (2), (3),  
2 or (4).

3 “(C) ELIGIBLE SMALL BUSINESS.—For  
4 purposes of this subsection, the term ‘eligible  
5 small business’ means, with respect to any tax-  
6 able year—

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

9 “(ii) a partnership, or

10 “(iii) a sole proprietorship,

11 if the average annual gross receipts of such cor-  
12 poration, partnership, or sole proprietorship for  
13 the 3-taxable-year period preceding such taxable  
14 year does not exceed \$50,000,000. For pur-  
15 poses of applying the test under the preceding  
16 sentence, rules similar to the rules of para-  
17 graphs (2) and (3) of section 448(c) shall  
18 apply.”.

19 (b) TECHNICAL AMENDMENT.—Section 55(e)(5) of  
20 the Internal Revenue Code of 1986 is amended by striking  
21 “38(c)(3)(B)” and inserting “38(c)(4)(B)”.

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

1 **SEC. 2014. TEMPORARY REDUCTION IN RECOGNITION PE-**  
2 **RIOD FOR BUILT-IN GAINS TAX.**

3 (a) IN GENERAL.—Subparagraph (B) of section  
4 1374(d)(7) of the Internal Revenue Code of 1986 is  
5 amended to read as follows:

6 “(B) SPECIAL RULES FOR 2009, 2010, AND  
7 2011.—No tax shall be imposed on the net rec-  
8 ognized built-in gain of an S corporation—

9 “(i) in the case of any taxable year  
10 beginning in 2009 or 2010, if the 7th tax-  
11 able year in the recognition period pre-  
12 ceded such taxable year, or

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

17 The preceding sentence shall be applied sepa-  
18 rately with respect to any asset to which para-  
19 graph (8) applies.”.

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

1           **PART II—ENCOURAGING INVESTMENT**  
2   **SEC. 2021. INCREASED EXPENSING LIMITATIONS FOR 2010**  
3                   **AND 2011; CERTAIN REAL PROPERTY TREAT-**  
4                   **ED AS SECTION 179 PROPERTY.**

5           (a) INCREASED LIMITATIONS.—Subsection (b) of sec-  
6 tion 179 of the Internal Revenue Code of 1986 is amend-  
7 ed—

8                   (1) by striking “shall not exceed” and all that  
9 follows in paragraph (1) and inserting “shall not ex-  
10 ceed—

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

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

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

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

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

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

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

1 (b) INCLUSION OF CERTAIN REAL PROPERTY.—Sec-  
2 tion 179 of the Internal Revenue Code of 1986 is amended  
3 by adding at the end the following new subsection:

4 “(f) SPECIAL RULES FOR QUALIFIED REAL PROP-  
5 erty.—

6 “(1) IN GENERAL.—If a taxpayer elects the ap-  
7 plication of this subsection for any taxable year be-  
8 ginning in 2010 or 2011, the term ‘section 179  
9 property’ shall include any qualified real property  
10 which is—

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

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

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

17 “(2) QUALIFIED REAL PROPERTY.—For pur-  
18 poses of this subsection, the term ‘qualified real  
19 property’ means—

20 “(A) qualified leasehold improvement prop-  
21 erty described in section 168(e)(6),

22 “(B) qualified restaurant property de-  
23 scribed in section 168(e)(7) (without regard to  
24 the dates specified in subparagraph (A)(i)  
25 thereof), and



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

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

9           “(4) CARRYOVER LIMITATION.—

10           “(A) IN GENERAL.—Notwithstanding sub-  
11           section (b)(3)(B), no amount attributable to  
12           qualified real property may be carried over to a  
13           taxable year beginning after 2011.

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

22           “(C) AMOUNTS CARRIED OVER FROM  
23           2010.—If subparagraph (B) applies to any  
24           amount (or portion of an amount) which is car-  
25           ried over from a taxable year other than the

1 taxpayer's last taxable year beginning in 2011,  
2 such amount (or portion of an amount) shall be  
3 treated for purposes of this title as attributable  
4 to property placed in service on the first day of  
5 the taxpayer's last taxable year beginning in  
6 2011.

7 “(D) ALLOCATION OF AMOUNTS.—For  
8 purposes of applying this paragraph and sub-  
9 section (b)(3)(B) to any taxable year, the  
10 amount which is disallowed under subsection  
11 (b)(3)(A) for such taxable year which is attrib-  
12 uted to qualified real property shall be the  
13 amount which bears the same ratio to the total  
14 amount so disallowed as—

15 “(i) the aggregate amount attrib-  
16 utable to qualified real property placed in  
17 service during such taxable year, increased  
18 by the portion of any amount carried over  
19 to such taxable year from a prior taxable  
20 year which is attributable to such property,  
21 bears to

22 “(ii) the total amount of section 179  
23 property placed in service during such tax-  
24 able year, increased by the aggregate

1 amount carried over to such taxable year  
2 from any prior taxable year.

3 For purposes of the preceding sentence, only  
4 section 179 property with respect to which an  
5 election was made under subsection (c)(1) (de-  
6 termined without regard to subparagraph (B)  
7 of this paragraph) shall be taken into ac-  
8 count.”.

9 (c) EFFECTIVE DATE.—The amendments made by  
10 this section shall apply to property placed in service after  
11 December 31, 2009, in taxable years beginning after such  
12 date.

13 **SEC. 2022. ADDITIONAL FIRST-YEAR DEPRECIATION FOR 50**  
14 **PERCENT OF THE BASIS OF CERTAIN QUALI-**  
15 **FIED PROPERTY.**

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

18 (1) by striking “January 1, 2011” in subpara-  
19 graph (A)(iv) and inserting “January 1, 2012”, and

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

22 (b) CONFORMING AMENDMENTS.—

23 (1) The heading for subsection (k) of section  
24 168 of the Internal Revenue Code of 1986 is amend-

1 ed by striking “JANUARY 1, 2010” and inserting  
2 “JANUARY 1, 2011”.

3 (2) The heading for clause (ii) of section  
4 168(k)(2)(B) of such Code is amended by striking  
5 “PRE-JANUARY 1, 2010” and inserting “PRE-JANU-  
6 ARY 1, 2011”.

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

12 “(iv) ‘January 1, 2011’ shall be sub-  
13 stituted for ‘January 1, 2012’ in subpara-  
14 graph (A)(iv) thereof, and

15 “(v) ‘January 1, 2010’ shall be sub-  
16 stituted for ‘January 1, 2011’ each place it  
17 appears in subparagraph (A) thereof.”.

18 (4) Subparagraph (B) of section 168(l)(5) of  
19 such Code is amended by striking “January 1,  
20 2010” and inserting “January 1, 2011”.

21 (5) Subparagraph (C) of section 168(n)(2) of  
22 such Code is amended by striking “January 1,  
23 2010” and inserting “January 1, 2011”.



1 (b) EFFECTIVE DATE.—The amendment made by  
2 this section shall apply to amounts paid or incurred in tax-  
3 able years beginning after December 31, 2009.

4 **SEC. 2032. AUTHORIZATION OF APPROPRIATIONS FOR THE**  
5 **UNITED STATES TRADE REPRESENTATIVE TO**  
6 **DEVELOP MARKET ACCESS OPPORTUNITIES**  
7 **FOR UNITED STATES SMALL- AND MEDIUM-**  
8 **SIZED BUSINESSES AND TO ENFORCE TRADE**  
9 **AGREEMENTS.**

10 (a) IN GENERAL.—There are authorized to be appro-  
11 priated to the Office of the United States Trade Rep-  
12 resentative \$5,230,000, to remain available until ex-  
13 pended, for—

14 (1) analyzing and developing opportunities for  
15 businesses in the United States to access the mar-  
16 kets of foreign countries; and

17 (2) enforcing trade agreements to which the  
18 United States is a party.

19 (b) REQUIREMENTS.—In obligating and expending  
20 the funds authorized to be appropriated under subsection  
21 (a), the United States Trade Representative shall—

22 (1) give preference to those initiatives that the  
23 United States Trade Representative determines will  
24 create or sustain the greatest number of jobs in the

1 United States or result in the greatest benefit to the  
2 economy of the United States; and

3 (2) consider the needs of small- and medium-  
4 sized businesses in the United States with respect  
5 to—

6 (A) accessing the markets of foreign coun-  
7 tries; and

8 (B) the enforcement of trade agreements  
9 to which the United States is a party.

10 **PART IV—PROMOTING SMALL BUSINESS**

11 **FAIRNESS**

12 **SEC. 2041. LIMITATION ON PENALTY FOR FAILURE TO DIS-**  
13 **CLOSE REPORTABLE TRANSACTIONS BASED**  
14 **ON RESULTING TAX BENEFITS.**

15 (a) IN GENERAL.—Subsection (b) of section 6707A  
16 of the Internal Revenue Code of 1986 is amended to read  
17 as follows:

18 “(b) AMOUNT OF PENALTY.—

19 “(1) IN GENERAL.—Except as otherwise pro-  
20 vided in this subsection, the amount of the penalty  
21 under subsection (a) with respect to any reportable  
22 transaction shall be 75 percent of the decrease in  
23 tax shown on the return as a result of such trans-  
24 action (or which would have resulted from such

1 transaction if such transaction were respected for  
2 Federal tax purposes).

3 “(2) MAXIMUM PENALTY.—The amount of the  
4 penalty under subsection (a) with respect to any re-  
5 reportable transaction shall not exceed—

6 “(A) in the case of a listed transaction,  
7 \$200,000 (\$100,000 in the case of a natural  
8 person), or

9 “(B) in the case of any other reportable  
10 transaction, \$50,000 (\$10,000 in the case of a  
11 natural person).

12 “(3) MINIMUM PENALTY.—The amount of the  
13 penalty under subsection (a) with respect to any  
14 transaction shall not be less than \$10,000 (\$5,000  
15 in the case of a natural person).”.

16 (b) EFFECTIVE DATE.—The amendment made by  
17 this section shall apply to penalties assessed after Decem-  
18 ber 31, 2006.

19 **SEC. 2042. DEDUCTION FOR HEALTH INSURANCE COSTS IN**  
20 **COMPUTING SELF-EMPLOYMENT TAXES IN**  
21 **2010.**

22 (a) IN GENERAL.—Paragraph (4) of section 162(l)  
23 of the Internal Revenue Code of 1986 is amended by in-  
24 serting “for taxable years beginning before January 1,  
25 2010, or after December 31, 2010” before the period.



1 (b) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years beginning after  
3 December 31, 2009.

## 4 **Subtitle B—Revenue Provisions**

### 5 **PART I—REDUCING THE TAX GAP**

#### 6 **SEC. 2101. INFORMATION REPORTING FOR RENTAL PROP-** 7 **ERTY EXPENSE PAYMENTS.**

8 (a) IN GENERAL.—Section 6041 of the Internal Rev-  
9 enue Code of 1986, as amended by section 9006 of the  
10 Patient Protection and Affordable Care Act, is amended  
11 by redesignating subsections (h) and (i) as subsections (i)  
12 and (j), respectively, and by inserting after subsection (g)  
13 the following new subsection:

14 “(h) TREATMENT OF RENTAL PROPERTY EXPENSE  
15 PAYMENTS.—

16 “(1) IN GENERAL.—Solely for purposes of sub-  
17 section (a) and except as provided in paragraph (2),  
18 a person receiving rental income from real estate  
19 shall be considered to be engaged in a trade or busi-  
20 ness of renting property.

21 “(2) EXCEPTIONS.—Paragraph (1) shall not  
22 apply to—

23 “(A) any individual, including any indi-  
24 vidual who is an active member of the uni-  
25 formed services or an employee of the intel-

1           ligence community (as defined in section  
2           121(d)(9)(C)(iv)), if substantially all rental in-  
3           come is derived from renting the principal resi-  
4           dence (within the meaning of section 121) of  
5           such individual on a temporary basis,

6                   “(B) any individual who receives rental in-  
7           come of not more than the minimal amount, as  
8           determined under regulations prescribed by the  
9           Secretary, and

10                   “(C) any other individual for whom the re-  
11           quirements of this section would cause hard-  
12           ship, as determined under regulations pre-  
13           scribed by the Secretary.”.

14           (b) **EFFECTIVE DATE.**—The amendments made by  
15           subsection (a) shall apply to payments made after Decem-  
16           ber 31, 2010.

17           **SEC. 2102. INCREASE IN INFORMATION RETURN PEN-**  
18                   **ALTIES.**

19           (a) **FAILURE TO FILE CORRECT INFORMATION RE-**  
20           **TURNS.**—

21                   (1) **IN GENERAL.**—Subsections (a)(1),  
22           (b)(1)(A), and (b)(2)(A) of section 6721 of the In-  
23           ternal Revenue Code of 1986 are each amended by  
24           striking “\$50” and inserting “\$100”.

1           (2) AGGREGATE ANNUAL LIMITATION.—Sub-  
2 sections (a)(1), (d)(1)(A), and (e)(3)(A) of section  
3 6721 of such Code are each amended by striking  
4 “\$250,000” and inserting “\$1,500,000”.

5           (b) REDUCTION WHERE CORRECTION WITHIN 30  
6 DAYS.—

7           (1) IN GENERAL.—Subparagraph (A) of section  
8 6721(b)(1) of the Internal Revenue Code of 1986 is  
9 amended by striking “\$15” and inserting “\$30”.

10           (2) AGGREGATE ANNUAL LIMITATION.—Sub-  
11 sections (b)(1)(B) and (d)(1)(B) of section 6721 of  
12 such Code are each amended by striking “\$75,000”  
13 and inserting “\$250,000”.

14           (c) REDUCTION WHERE CORRECTION ON OR BEFORE  
15 AUGUST 1.—

16           (1) IN GENERAL.—Subparagraph (A) of section  
17 6721(b)(2) of the Internal Revenue Code of 1986 is  
18 amended by striking “\$30” and inserting “\$60”.

19           (2) AGGREGATE ANNUAL LIMITATION.—Sub-  
20 sections (b)(2)(B) and (d)(1)(C) of section 6721 of  
21 such Code are each amended by striking “\$150,000”  
22 and inserting “\$500,000”.

23           (d) AGGREGATE ANNUAL LIMITATIONS FOR PER-  
24 SONS WITH GROSS RECEIPTS OF NOT MORE THAN  
25 \$5,000,000.—

1           (1) IN GENERAL.—Paragraph (1) of section  
2           6721(d) of the Internal Revenue Code of 1986 is  
3           amended—

4                   (A) by striking “\$100,000” in subpara-  
5                   graph (A) and inserting “\$500,000”,

6                   (B) by striking “\$25,000” in subpara-  
7                   graph (B) and inserting “\$75,000”, and

8                   (C) by striking “\$50,000” in subparagraph  
9                   (C) and inserting “\$200,000”.

10           (2) TECHNICAL AMENDMENT.—Paragraph (1)  
11           of section 6721(d) of such Code is amended by strik-  
12           ing “such taxable year” and inserting “such cal-  
13           endar year”.

14           (e) PENALTY IN CASE OF INTENTIONAL DIS-  
15           REGARD.—Paragraph (2) of section 6721(e) of the Inter-  
16           nal Revenue Code of 1986 is amended by striking “\$100”  
17           and inserting “\$250”.

18           (f) ADJUSTMENT FOR INFLATION.—Section 6721 of  
19           the Internal Revenue Code of 1986 is amended by adding  
20           at the end the following new subsection:

21           “(f) ADJUSTMENT FOR INFLATION.—

22                   “(1) IN GENERAL.—For each fifth calendar  
23                   year beginning after 2012, each of the dollar  
24                   amounts under subsections (a), (b), (d) (other than  
25                   paragraph (2)(A) thereof), and (e) shall be increased

1 by such dollar amount multiplied by the cost-of-liv-  
2 ing adjustment determined under section 1(f)(3) de-  
3 termined by substituting ‘calendar year 2011’ for  
4 ‘calendar year 1992’ in subparagraph (B) thereof.

5 “(2) ROUNDING.—If any amount adjusted  
6 under paragraph (1)—

7 “(A) is not less than \$75,000 and is not  
8 a multiple of \$500, such amount shall be  
9 rounded to the next lowest multiple of \$500,  
10 and

11 “(B) is not described in subparagraph (A)  
12 and is not a multiple of \$10, such amount shall  
13 be rounded to the next lowest multiple of \$10.”.

14 (g) FAILURE TO FURNISH CORRECT PAYEE STATE-  
15 MENTS.—Section 6722 of the Internal Revenue Code of  
16 1986 is amended to read as follows:

17 **“SEC. 6722. FAILURE TO FURNISH CORRECT PAYEE STATE-**  
18 **MENTS.**

19 “(a) IMPOSITION OF PENALTY.—

20 “(1) GENERAL RULE.—In the case of each fail-  
21 ure described in paragraph (2) by any person with  
22 respect to a payee statement, such person shall pay  
23 a penalty of \$100 for each statement with respect to  
24 which such a failure occurs, but the total amount

1 imposed on such person for all such failures during  
2 any calendar year shall not exceed \$1,500,000.

3 “(2) FAILURES SUBJECT TO PENALTY.—For  
4 purposes of paragraph (1), the failures described in  
5 this paragraph are—

6 “(A) any failure to furnish a payee state-  
7 ment on or before the date prescribed therefor  
8 to the person to whom such statement is re-  
9 quired to be furnished, and

10 “(B) any failure to include all of the infor-  
11 mation required to be shown on a payee state-  
12 ment or the inclusion of incorrect information.

13 “(b) REDUCTION WHERE CORRECTION IN SPECIFIED  
14 PERIOD.—

15 “(1) CORRECTION WITHIN 30 DAYS.—If any  
16 failure described in subsection (a)(2) is corrected on  
17 or before the day 30 days after the required filing  
18 date—

19 “(A) the penalty imposed by subsection (a)  
20 shall be \$30 in lieu of \$100, and

21 “(B) the total amount imposed on the per-  
22 son for all such failures during any calendar  
23 year which are so corrected shall not exceed  
24 \$250,000.

1           “(2) FAILURES CORRECTED ON OR BEFORE AU-  
2           GUST 1.—If any failure described in subsection  
3           (a)(2) is corrected after the 30th day referred to in  
4           paragraph (1) but on or before August 1 of the cal-  
5           endar year in which the required filing date occurs—

6                   “(A) the penalty imposed by subsection (a)  
7                   shall be \$60 in lieu of \$100, and

8                   “(B) the total amount imposed on the per-  
9                   son for all such failures during the calendar  
10                  year which are so corrected shall not exceed  
11                  \$500,000.

12          “(c) EXCEPTION FOR DE MINIMIS FAILURES.—

13                  “(1) IN GENERAL.—If—

14                          “(A) a payee statement is furnished to the  
15                          person to whom such statement is required to  
16                          be furnished,

17                          “(B) there is a failure described in sub-  
18                          section (a)(2)(B) (determined after the applica-  
19                          tion of section 6724(a)) with respect to such  
20                          statement, and

21                          “(C) such failure is corrected on or before  
22                          August 1 of the calendar year in which the re-  
23                          quired filing date occurs,

1 for purposes of this section, such statement shall be  
2 treated as having been furnished with all of the cor-  
3 rect required information.

4 “(2) LIMITATION.—The number of payee state-  
5 ments to which paragraph (1) applies for any cal-  
6 endar year shall not exceed the greater of—

7 “(A) 10, or

8 “(B) one-half of 1 percent of the total  
9 number of payee statements required to be filed  
10 by the person during the calendar year.

11 “(d) LOWER LIMITATIONS FOR PERSONS WITH  
12 GROSS RECEIPTS OF NOT MORE THAN \$5,000,000.—

13 “(1) IN GENERAL.—If any person meets the  
14 gross receipts test of paragraph (2) with respect to  
15 any calendar year, with respect to failures during  
16 such calendar year—

17 “(A) subsection (a)(1) shall be applied by  
18 substituting ‘\$500,000’ for ‘\$1,500,000’,

19 “(B) subsection (b)(1)(B) shall be applied  
20 by substituting ‘\$75,000’ for ‘\$250,000’, and

21 “(C) subsection (b)(2)(B) shall be applied  
22 by substituting ‘\$200,000’ for ‘\$500,000’.

23 “(2) GROSS RECEIPTS TEST.—A person meets  
24 the gross receipts test of this paragraph if such per-



1 son meets the gross receipts test of section  
2 6721(d)(2).

3 “(e) PENALTY IN CASE OF INTENTIONAL DIS-  
4 REGARD.—If 1 or more failures to which subsection (a)  
5 applies are due to intentional disregard of the requirement  
6 to furnish a payee statement (or the correct information  
7 reporting requirement), then, with respect to each such  
8 failure—

9 “(1) subsections (b), (c), and (d) shall not  
10 apply,

11 “(2) the penalty imposed under subsection  
12 (a)(1) shall be \$250, or, if greater—

13 “(A) in the case of a payee statement  
14 other than a statement required under section  
15 6045(b), 6041A(e) (in respect of a return re-  
16 quired under section 6041A(b)), 6050H(d),  
17 6050J(e), 6050K(b), or 6050L(c), 10 percent  
18 of the aggregate amount of the items required  
19 to be reported correctly, or

20 “(B) in the case of a payee statement re-  
21 quired under section 6045(b), 6050K(b), or  
22 6050L(c), 5 percent of the aggregate amount of  
23 the items required to be reported correctly, and

24 “(3) in the case of any penalty determined  
25 under paragraph (2)—

1           “(A) the \$1,500,000 limitation under sub-  
2           section (a) shall not apply, and

3           “(B) such penalty shall not be taken into  
4           account in applying such limitation to penalties  
5           not determined under paragraph (2).

6           “(f) ADJUSTMENT FOR INFLATION.—

7           “(1) IN GENERAL.—For each fifth calendar  
8           year beginning after 2012, each of the dollar  
9           amounts under subsections (a), (b), (d)(1), and (e)  
10          shall be increased by such dollar amount multiplied  
11          by the cost-of-living adjustment determined under  
12          section 1(f)(3) determined by substituting ‘calendar  
13          year 2011’ for ‘calendar year 1992’ in subparagraph  
14          (B) thereof.

15          “(2) ROUNDING.—If any amount adjusted  
16          under paragraph (1)—

17                 “(A) is not less than \$75,000 and is not  
18                 a multiple of \$500, such amount shall be  
19                 rounded to the next lowest multiple of \$500,  
20                 and

21                 “(B) is not described in subparagraph (A)  
22                 and is not a multiple of \$10, such amount shall  
23                 be rounded to the next lowest multiple of \$10.”.

1 (h) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply with respect to information returns  
3 required to be filed on or after January 1, 2011.

4 **SEC. 2103. REPORT ON TAX SHELTER PENALTIES AND CER-**  
5 **TAIN OTHER ENFORCEMENT ACTIONS.**

6 (a) IN GENERAL.—The Commissioner of Internal  
7 Revenue, in consultation with the Secretary of the Treas-  
8 ury, shall submit to the Committee on Ways and Means  
9 of the House of Representatives and the Committee on  
10 Finance of the Senate an annual report on the penalties  
11 assessed by the Internal Revenue Service during the pre-  
12 ceding year under each of the following provisions of the  
13 Internal Revenue Code of 1986:

14 (1) Section 6662A (relating to accuracy-related  
15 penalty on understatements with respect to report-  
16 able transactions).

17 (2) Section 6700(a) (relating to promoting abu-  
18 sive tax shelters).

19 (3) Section 6707 (relating to failure to furnish  
20 information regarding reportable transactions).

21 (4) Section 6707A (relating to failure to include  
22 reportable transaction information with return).

23 (5) Section 6708 (relating to failure to main-  
24 tain lists of advisees with respect to reportable  
25 transactions).

1 (b) ADDITIONAL INFORMATION.—The report re-  
2 quired under subsection (a) shall also include information  
3 on the following with respect to each year:

4 (1) Any action taken under section 330(b) of  
5 title 31, United States Code, with respect to any re-  
6 portable transaction (as defined in section 6707A(c)  
7 of the Internal Revenue Code of 1986).

8 (2) Any extension of the time for assessment of  
9 tax enforced, or assessment of any amount under  
10 such an extension, under paragraph (10) of section  
11 6501(c) of the Internal Revenue Code of 1986.

12 (c) DATE OF REPORT.—The first report required  
13 under subsection (a) shall be submitted not later than De-  
14 cember 31, 2010.

15 **SEC. 2104. APPLICATION OF LEVY TO PAYMENTS TO FED-**  
16 **ERAL VENDORS RELATING TO PROPERTY.**

17 (a) IN GENERAL.—Section 6331(h)(3) of the Inter-  
18 nal Revenue Code of 1986 is amended by striking “goods  
19 or services” and inserting “property, goods, or services”.

20 (b) EFFECTIVE DATE.—The amendment made by  
21 this section shall apply to levies issued after the date of  
22 the enactment of this Act.

1 **SEC. 2105. APPLICATION OF CONTINUOUS LEVY TO TAX LI-**  
2 **ABILITIES OF CERTAIN FEDERAL CONTRAC-**  
3 **TORS.**

4 (a) **IN GENERAL.**—Subsection (f) of section 6330 of  
5 the Internal Revenue Code of 1986 is amended by striking  
6 “or” at the end of paragraph (2), by inserting “or” at  
7 the end of paragraph (3), and by inserting after paragraph  
8 (3) the following new paragraph:

9 “(4) the Secretary has served a Federal con-  
10 tractor levy,”.

11 (b) **FEDERAL CONTRACTOR LEVY.**—Subsection (h)  
12 of section 6330 of the Internal Revenue Code of 1986 is  
13 amended—

14 (1) by striking all that precedes “any levy in  
15 connection with the collection” and inserting the fol-  
16 lowing:

17 “(h) **DEFINITIONS RELATED TO EXCEPTIONS.**—For  
18 purposes of subsection (f)—

19 “(1) **DISQUALIFIED EMPLOYMENT TAX LEVY.**—  
20 A disqualified employment tax levy is”; and

21 (2) by adding at the end the following new  
22 paragraph:

23 “(2) **FEDERAL CONTRACTOR LEVY.**—A Federal  
24 contractor levy is any levy if the person whose prop-  
25 erty is subject to the levy (or any predecessor there-  
26 of) is a Federal contractor.”.

1           (c) CONFORMING AMENDMENT.—The heading of  
2 subsection (f) of section 6330 of the Internal Revenue  
3 Code of 1986 is amended by striking “JEOPARDY AND  
4 STATE REFUND COLLECTION” and inserting “EXCEP-  
5 TIONS”.

6           (d) EFFECTIVE DATE.—The amendments made by  
7 this section shall apply to levies issued after the date of  
8 the enactment of this Act.

9   **SEC. 2106. APPLICATION OF BAD CHECKS PENALTY TO**  
10                                   **ELECTRONIC PAYMENTS.**

11           (a) IN GENERAL.—Section 6657 of the Internal Rev-  
12 enue Code of 1986 is amended—

13                   (1) by striking “If any check or money order in  
14 payment of any amount” and inserting “If any in-  
15 strument in payment, by any commercially accept-  
16 able means, of any amount”, and

17                   (2) by striking “such check” each place it ap-  
18 pears and inserting “such instrument”.

19           (b) EFFECTIVE DATES.—The amendments made by  
20 this section shall apply to instruments tendered after the  
21 date of the enactment of this Act.

1                   **PART II—PROMOTING RETIREMENT**  
2                                   **PREPARATION**  
3 **SEC. 2111. PARTICIPANTS IN GOVERNMENT SECTION 457**  
4                                   **PLANS ALLOWED TO TREAT ELECTIVE DE-**  
5                                   **FERRALS AS ROTH CONTRIBUTIONS.**

6           (a) IN GENERAL.—Section 402A(e)(1) of the Inter-  
7   nal Revenue Code of 1986 is amended by striking “and”  
8   at the end of subparagraph (A), by striking the period  
9   at the end of subparagraph (B) and inserting “, and”,  
10 and by adding at the end the following:

11                           “(C) an eligible deferred compensation  
12                           plan (as defined in section 457(b)) of an eligible  
13                           employer described in section 457(e)(1)(A).”.

14           (b) ELECTIVE DEFERRALS.—Section 402A(e)(2) of  
15 the Internal Revenue Code of 1986 is amended to read  
16 as follows:

17                           “(2) ELECTIVE DEFERRAL.—The term ‘elective  
18                           deferral’ means—

19                                   “(A) any elective deferral described in sub-  
20                                   paragraph (A) or (C) of section 402(g)(3), and

21                                   “(B) any elective deferral of compensation  
22                                   by an individual under an eligible deferred com-  
23                                   pensation plan (as defined in section 457(b)) of  
24                                   an eligible employer described in section  
25                                   457(e)(1)(A).”.

1           (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years beginning after  
3 December 31, 2010.

4   **SEC. 2112. ROLLOVERS FROM ELECTIVE DEFERRAL PLANS**  
5                           **TO DESIGNATED ROTH ACCOUNTS.**

6           (a) IN GENERAL.—Section 402A(c) of the Internal  
7 Revenue Code of 1986 is amended by adding at the end  
8 the following new paragraph:

9                           “(4) TAXABLE ROLLOVERS TO DESIGNATED  
10           ROTH ACCOUNTS.—

11                           “(A) IN GENERAL.—Notwithstanding sec-  
12           tions 402(c), 403(b)(8), and 457(e)(16), in the  
13           case of any distribution to which this paragraph  
14           applies—

15                           “(i) there shall be included in gross  
16           income any amount which would be includ-  
17           ible were it not part of a qualified rollover  
18           contribution,

19                           “(ii) section 72(t) shall not apply, and

20                           “(iii) unless the taxpayer elects not to  
21           have this clause apply, any amount re-  
22           quired to be included in gross income for  
23           any taxable year beginning in 2010 by rea-  
24           son of this paragraph shall be so included  
25           ratably over the 2-taxable-year period be-



1           ginning with the first taxable year begin-  
2           ning in 2011.

3           Any election under clause (iii) for any distribu-  
4           tions during a taxable year may not be changed  
5           after the due date for such taxable year.

6           “(B) DISTRIBUTIONS TO WHICH PARA-  
7           GRAPH APPLIES.—In the case of an applicable  
8           retirement plan which includes a qualified Roth  
9           contribution program, this paragraph shall  
10          apply to a distribution from such plan other  
11          than from a designated Roth account which is  
12          contributed in a qualified rollover contribution  
13          (within the meaning of section 408A(e)) to the  
14          designated Roth account maintained under such  
15          plan for the benefit of the individual to whom  
16          the distribution is made.

17          “(C) COORDINATION WITH LIMIT.—Any  
18          distribution to which this paragraph applies  
19          shall not be taken into account for purposes of  
20          paragraph (1).

21          “(D) OTHER RULES.—The rules of sub-  
22          paragraphs (D), (E), and (F) of section  
23          408A(d)(3) (as in effect for taxable years begin-  
24          ning after 2009) shall apply for purposes of  
25          this paragraph.”.

1 (b) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to distributions after the date of  
3 the enactment of this Act.

4 **PART III—CLOSING UNINTENDED LOOPHOLES**

5 **SEC. 2121. CRUDE TALL OIL INELIGIBLE FOR CELLULOSIC**  
6 **BIOFUEL PRODUCER CREDIT.**

7 (a) IN GENERAL.—Clause (iii) of section 40(b)(6)(E)  
8 of the Internal Revenue Code of 1986, as added by the  
9 Health Care and Education Reconciliation Act of 2010,  
10 is amended—

11 (1) by striking “or” at the end of subclause (I),

12 (2) by striking the period at the end of sub-  
13 clause (II) and inserting “, or”,

14 (3) by adding at the end the following new sub-  
15 clause:

16 “(III) such fuel has an acid num-  
17 ber greater than 25.”, and

18 (4) by striking “UNPROCESSED” in the heading  
19 and inserting “CERTAIN”.

20 (b) EFFECTIVE DATE.—The amendments made by  
21 this section shall apply to fuels sold or used on or after  
22 January 1, 2010.



1 culture, Nutrition, and Forestry, the Committee  
2 on Banking, Housing, and Urban Affairs, the  
3 Committee on Finance, the Committee on the  
4 Budget, and the Committee on Appropriations  
5 of the Senate; and

6 (B) the Committee on Small Business, the  
7 Committee on Agriculture, the Committee on  
8 Financial Services, the Committee on Ways and  
9 Means, the Committee on the Budget, and the  
10 Committee on Appropriations of the House of  
11 Representatives.

12 (2) APPROPRIATE FEDERAL BANKING AGEN-  
13 CY.—The term “appropriate Federal banking agen-  
14 cy” has the meaning given such term under section  
15 3(q) of the Federal Deposit Insurance Act (12  
16 U.S.C. 1813(q)).

17 (3) BANK HOLDING COMPANY.—The term  
18 “bank holding company” has the meaning given  
19 such term under section 2(a)(1) of the Bank Hold-  
20 ing Company Act of 1956 (12 U.S.C.  
21 1841(2)(a)(1)).

22 (4) CALL REPORT.—The term “call report”  
23 means—

24 (A) reports of Condition and Income sub-  
25 mitted to the Office of the Comptroller of the

1 Currency, the Board of Governors of the Fed-  
2 eral Reserve System, and the Federal Deposit  
3 Insurance Corporation;

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

6 (C) any report that is designated by the  
7 Office of the Comptroller of the Currency, the  
8 Board of Governors of the Federal Reserve Sys-  
9 tem, the Federal Deposit Insurance Corpora-  
10 tion, or the Office of Thrift Supervision, as ap-  
11 plicable, as a successor to any report referred to  
12 in subparagraph (A) or (B);

13 (D) reports of Condition and Income as  
14 designated through guidance developed by the  
15 Secretary, in consultation with the Director of  
16 the Community Development Financial Institu-  
17 tions Fund; and

18 (E) with respect to an eligible institution  
19 for which no report exists that is described  
20 under subparagraph (A), (B), (C), or (D), such  
21 other report or set of information as the Sec-  
22 retary, in consultation with the Administrator  
23 of the Small Business Administration, may pre-  
24 scribe.

1           (5) CDCI.—The term “CDCI” means the Com-  
2           munity Development Capital Initiative created by  
3           the Secretary under the Troubled Asset Relief Pro-  
4           gram established by the Emergency Economic Sta-  
5           bilization Act of 2008.

6           (6) CDCI INVESTMENT.—The term “CDCI in-  
7           vestment” means, with respect to any eligible insti-  
8           tution, the principal amount of any investment made  
9           by the Secretary in such eligible institution under  
10          the CDCI that has not been repaid.

11          (7) CDFI; COMMUNITY DEVELOPMENT FINAN-  
12          CIAL INSTITUTION.—The terms “CDFI” and “com-  
13          munity development financial institution” have the  
14          meaning given the term “community development fi-  
15          nancial institution” under the Riegle Community  
16          Development and Regulatory Improvement Act of  
17          1994.

18          (8) CDLF; COMMUNITY DEVELOPMENT LOAN  
19          FUND.—The terms “CDLF” and “community devel-  
20          opment loan fund” mean any entity that—

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

24                 (B) is exempt from taxation under the In-  
25                 ternal Revenue Code of 1986; and

1           (C) had assets less than or equal to  
2           \$10,000,000,000 as of the end of the fourth  
3           quarter of calendar year 2009.

4           (9) CPP.—The term “CPP” means the Capital  
5           Purchase Program created by the Secretary under  
6           the Troubled Asset Relief Program established by  
7           the Emergency Economic Stabilization Act of 2008.

8           (10) CPP INVESTMENT.—The term “CPP in-  
9           vestment” means, with respect to any eligible insti-  
10          tution, the principal amount of any investment made  
11          by the Secretary in such eligible institution under  
12          the CPP that has not been repaid.

13          (11) ELIGIBLE INSTITUTION.—The term “eligi-  
14          ble institution” means—

15                (A) any insured depository institution,  
16                which—

17                       (i) is not controlled by a bank holding  
18                       company or savings and loan holding com-  
19                       pany that is also an eligible institution;

20                       (ii) has total assets of equal to or less  
21                       than \$10,000,000,000, as reported in the  
22                       call report of the insured depository insti-  
23                       tution as of the end of the fourth quarter  
24                       of calendar year 2009; and

1 (iii) is not directly or indirectly con-  
2 trolled by any company or other entity that  
3 has total consolidated assets of more than  
4 \$10,000,000,000, as so reported;

5 (B) any bank holding company which has  
6 total consolidated assets of equal to or less than  
7 \$10,000,000,000, as reported in the call report  
8 of the bank holding company as of the end of  
9 the fourth quarter of calendar year 2009;

10 (C) any savings and loan holding company  
11 which has total consolidated assets of equal to  
12 or less than \$10,000,000,000, as reported in  
13 the call report of the savings and loan holding  
14 company as of the end of the fourth quarter of  
15 calendar year 2009; and

16 (D) any community development financial  
17 institution loan fund which has total assets of  
18 equal to or less than \$10,000,000,000, as re-  
19 ported in audited financial statements for the  
20 fiscal year of the community development finan-  
21 cial institution loan fund that ends in calendar  
22 year 2009.

23 (12) FUND.—The term “Fund” means the  
24 Small Business Lending Fund established under sec-  
25 tion 3103(a)(1).



1           (13) INSURED DEPOSITORY INSTITUTION.—The  
2           term “insured depository institution” has the mean-  
3           ing given such term under section 3(c)(2) of the  
4           Federal Deposit Insurance Act (12 U.S.C.  
5           1813(c)(2)).

6           (14) MINORITY-OWNED AND WOMEN-OWNED  
7           BUSINESS.—The terms “minority-owned business”  
8           and “women-owned business” shall have the mean-  
9           ing given the terms “minority-owned business” and  
10          “women’s business”, respectively, under section  
11          21A(r)(4) of the Federal Home Loan Bank Act (12  
12          U.S.C. 1441A(r)(4)).

13          (15) PROGRAM.—The term “Program” means  
14          the Small Business Lending Fund Program author-  
15          ized under section 3103(a)(2).

16          (16) SAVINGS AND LOAN HOLDING COMPANY.—  
17          The term “savings and loan holding company” has  
18          the meaning given such term under section  
19          10(a)(1)(D) of the Home Owners’ Loan Act (12  
20          U.S.C. 1467a(a)(1)(D)).

21          (17) SECRETARY.—The term “Secretary”  
22          means the Secretary of the Treasury.

23          (18) SMALL BUSINESS LENDING.—

24                 (A) IN GENERAL.—The term “small busi-  
25                 ness lending” means lending, as defined by and

1 reported in an eligible institutions' quarterly  
2 call report, where each loan comprising such  
3 lending is one of the following types:

4 (i) Commercial and industrial loans.

5 (ii) Owner-occupied nonfarm, nonresi-  
6 dential real estate loans.

7 (iii) Loans to finance agricultural pro-  
8 duction and other loans to farmers.

9 (iv) Loans secured by farmland.

10 (B) EXCLUSION.—No loan that has an  
11 original amount greater than \$10,000,000 or  
12 that goes to a business with more than  
13 \$50,000,000 in revenues shall be included in  
14 the measure.

15 (C) TREATMENT OF HOLDING COMPA-  
16 NIES.—In the case of eligible institutions that  
17 are bank holding companies or savings and loan  
18 holding companies having one or more insured  
19 depository institution subsidiaries, small busi-  
20 ness lending shall be measured based on the  
21 combined small business lending reported in the  
22 call report of the insured depository institution  
23 subsidiaries.

24 (19) VETERAN-OWNED BUSINESS.—

1 (A) The term “veteran-owned business”  
2 means a business—

3 (i) more than 50 percent of the own-  
4 ership or control of which is held by 1 or  
5 more veterans;

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

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

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

16 **SEC. 3103. SMALL BUSINESS LENDING FUND.**

17 (a) **FUND AND PROGRAM.—**

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

22 (2) **PROGRAMS AUTHORIZED.—**The Secretary is  
23 authorized to establish the Small Business Lending  
24 Fund Program for using the Fund consistent with  
25 this subtitle.

1 (b) USE OF FUND.—

2 (1) IN GENERAL.—Subject to paragraph (2),  
3 the Fund shall be available to the Secretary, without  
4 further appropriation or fiscal year limitation, for  
5 the costs of purchases (including commitments to  
6 purchase), and modifications of such purchases, of  
7 preferred stock and other financial instruments from  
8 eligible institutions on such terms and conditions as  
9 are determined by the Secretary in accordance with  
10 this subtitle. For purposes of this paragraph and  
11 with respect to an eligible institution, the term  
12 “other financial instruments” shall include only debt  
13 instruments for which such eligible institution is  
14 fully liable or equity equivalent capital of the eligible  
15 institution. Such debt instruments may be subordi-  
16 nated to the claims of other creditors of the eligible  
17 institution.

18 (2) MAXIMUM PURCHASE LIMIT.—The aggre-  
19 gate amount of purchases (and commitments to pur-  
20 chase) made pursuant to paragraph (1) may not ex-  
21 ceed \$30,000,000,000.

22 (3) PROCEEDS USED TO PAY DOWN PUBLIC  
23 DEBT.—All funds received by the Secretary in con-  
24 nection with purchases made pursuant to paragraph  
25 (1), including interest payments, dividend payments,

1 and proceeds from the sale of any financial instru-  
2 ment, shall be paid into the general fund of the  
3 Treasury for reduction of the public debt.

4 (4) LIMITATION ON PURCHASES FROM  
5 CDLFS.—

6 (A) IN GENERAL.—Not more than 1 per-  
7 cent of the maximum purchase limit of the Pro-  
8 gram, pursuant to paragraph (2), may be used  
9 to make purchases from community develop-  
10 ment loan funds.

11 (B) ELIGIBILITY STANDARDS.—The Sec-  
12 retary, in consultation with the Community De-  
13 velopment Financial Institutions Fund, shall  
14 develop eligibility criteria to determine the fi-  
15 nancial ability of a CDLF to participate in the  
16 Program and repay the investment. Such cri-  
17 teria shall include the following:

18 (i) Ratio of net assets to total assets  
19 is at least 20 percent.

20 (ii) Ratio of loan loss reserves to loans  
21 and leases 90 days or more delinquent (in-  
22 cluding loans sold with full recourse) is at  
23 least 30 percent.

24 (iii) Positive net income measured on  
25 a 3-year rolling average.

1 (iv) Operating liquidity ratio of at  
2 least 1.0 for the 4 most recent quarters  
3 and for one or both of the two preceding  
4 years.

5 (v) Ratio of loans and leases 90 days  
6 or more delinquent (including loans sold  
7 with full recourse) to total equity plus loan  
8 loss reserves is less than 40 percent.

9 (C) REQUIREMENT TO SUBMIT AUDITED  
10 FINANCIAL STATEMENTS.—CDLFs partici-  
11 pating in the Program shall submit audited fi-  
12 nancial statements to the Secretary, have a  
13 clean audit opinion, and have at least 3 years  
14 of operating experience.

15 (c) CREDITS TO THE FUND.—There shall be credited  
16 to the Fund amounts made available pursuant to section  
17 3108, to the extent provided by appropriations Acts.

18 (d) TERMS.—

19 (1) APPLICATION.—

20 (A) INSTITUTIONS WITH ASSETS OF  
21 \$1,000,000,000 OR LESS.—Eligible institutions  
22 having total assets equal to or less than  
23 \$1,000,000,000, as reported in a call report as  
24 of the end of the fourth quarter of calendar  
25 year 2009, may apply to receive a capital in-

1 vestment from the Fund in an amount not ex-  
2 ceeding 5 percent of risk-weighted assets, as re-  
3 ported in the call report immediately preceding  
4 the date of application, less the amount of any  
5 CDCI investment and any CPP investment.

6 (B) INSTITUTIONS WITH ASSETS OF MORE  
7 THAN \$1,000,000,000 AND LESS THAN OR EQUAL  
8 TO \$10,000,000,000.—Eligible institutions having  
9 total assets of more than \$1,000,000,000 but  
10 less than \$10,000,000,000, as of the end of the  
11 fourth quarter of calendar year 2009, may  
12 apply to receive a capital investment from the  
13 Fund in an amount not exceeding 3 percent of  
14 risk-weighted assets, as reported in the call re-  
15 port immediately preceding the date of applica-  
16 tion, less the amount of any CDCI investment  
17 and any CPP investment.

18 (C) TREATMENT OF HOLDING COMPA-  
19 NIES.—In the case of an eligible institution that  
20 is a bank holding company or a savings and  
21 loan holding company having one or more in-  
22 sured depository institution subsidiaries, total  
23 assets shall be measured based on the combined  
24 total assets reported in the call report of the in-  
25 sured depository institution subsidiaries as of

1 the end of the fourth quarter of calendar year  
2 2009 and risk-weighted assets shall be meas-  
3 ured based on the combined risk-weighted as-  
4 sets of the insured depository institution sub-  
5 sidiaries as reported in the call report imme-  
6 diately preceding the date of application.

7 (D) TREATMENT OF APPLICANTS THAT  
8 ARE INSTITUTIONS CONTROLLED BY HOLDING  
9 COMPANIES.—If an eligible institution that ap-  
10 plies to receive a capital investment under the  
11 Program is under the control of a bank holding  
12 company or a savings and loan holding com-  
13 pany, then the Secretary may use the Fund to  
14 purchase preferred stock or other financial in-  
15 struments from the top-tier bank holding com-  
16 pany or savings and loan holding company of  
17 such eligible institution, as applicable. For pur-  
18 poses of this subparagraph, the term “control”  
19 with respect to a bank holding company shall  
20 have the same meaning as in section 2(a)(2) of  
21 the Bank Holding Company Act of 1956 (12  
22 U.S.C. 1841(2)(a)(2)). For purposes of this  
23 subparagraph, the term “control” with respect  
24 to a savings and loan holding company shall  
25 have the same meaning as in 10(a)(2) of the



1 Home Owners' Loan Act (12 U.S.C.  
2 1467a(a)(2)).

3 (E) REQUIREMENT TO PROVIDE A SMALL  
4 BUSINESS LENDING PLAN.—At the time that an  
5 applicant submits an application to the Sec-  
6 retary for a capital investment under the Pro-  
7 gram, the applicant shall deliver to the appro-  
8 priate Federal banking agency, and, for appli-  
9 cants that are State-chartered banks, to the ap-  
10 propriate State banking regulator, a small busi-  
11 ness lending plan describing how the applicant's  
12 business strategy and operating goals will allow  
13 it to address the needs of small businesses in  
14 the areas it serves, as well as a plan to provide  
15 linguistically and culturally appropriate out-  
16 reach, where appropriate. In the case of eligible  
17 institutions that are community development  
18 loan funds, this plan shall be submitted to the  
19 Secretary. This plan shall be confidential super-  
20 visory information.

21 (F) TREATMENT OF APPLICANTS THAT  
22 ARE COMMUNITY DEVELOPMENT LOAN  
23 FUNDS.—Eligible institutions that are commu-  
24 nity development loan funds may apply to re-  
25 ceive a capital investment from the Fund in an

1 amount not exceeding 5 percent of total assets,  
2 as reported in the audited financial statements  
3 for the fiscal year of the eligible institution that  
4 ends in calendar year 2009.

5 (2) CONSULTATION WITH REGULATORS.—For  
6 each eligible institution that applies to receive a cap-  
7 ital investment under the Program, the Secretary  
8 shall—

9 (A) consult with the appropriate Federal  
10 banking agency or, in the case of an eligible in-  
11 stitution that is a non-depository community  
12 development financial institution, the Commu-  
13 nity Development Financial Institution Fund,  
14 for the eligible institution to determine whether  
15 the eligible institution may receive such capital  
16 investment;

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

23 (C) in the case of a community develop-  
24 ment financial institution loan fund, consult

1 with the Community Development Financial In-  
2 stitution Fund.

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

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

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

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

13 (B) CONSTRUCTION.—Nothing in subpara-  
14 graph (A) shall be construed as limiting the dis-  
15 cretion of the Secretary to deny the application  
16 of an eligible institution that is not on the  
17 FDIC problem bank list.

18 (C) FDIC PROBLEM BANK LIST DE-  
19 FINED.—For purposes of this subparagraph,  
20 the term “FDIC problem bank list” means the  
21 list of institutions with a current rating of 4 or  
22 5 under the Uniform Financial Institutions  
23 Rating System, or such other list designated by  
24 the Federal Deposit Insurance Corporation.

25 (4) INCENTIVES TO LEND.—

1           (A) REQUIREMENTS ON PREFERRED  
2 STOCK AND OTHER FINANCIAL INSTRU-  
3 MENTS.—Any preferred stock or other financial  
4 instrument issued to Treasury by an eligible in-  
5 stitution receiving a capital investment under  
6 the Program shall provide that—

7           (i) the rate at which dividends or in-  
8 terest are payable shall be 5 percent per  
9 annum initially;

10           (ii) within the first 2 years after the  
11 date of the capital investment under the  
12 Program, the rate may be adjusted based  
13 on the amount of an eligible institution's  
14 small business lending. Changes in the  
15 amount of small business lending shall be  
16 measured against the average amount of  
17 small business lending reported by the eli-  
18 gible institution in its call reports for the  
19 4 full quarters immediately preceding the  
20 date of enactment of this Act, minus ad-  
21 justments from each quarterly balance in  
22 respect of—

23           (I) net loan charge offs with re-  
24 spect to small business lending; and

1 (II) gains realized by the eligible  
2 institution resulting from mergers, ac-  
3 quisitions or purchases of loans after  
4 origination and syndication; which ad-  
5 justments shall be determined in ac-  
6 cordance with guidance promulgated  
7 by the Secretary; and

8 (iii) during any calendar quarter dur-  
9 ing the initial 2-year period referred to in  
10 clause (ii), an institution's rate shall be ad-  
11 justed to reflect the following schedule,  
12 based on that institution's change in the  
13 amount of small business lending relative  
14 to the baseline—

15 (I) if the amount of small busi-  
16 ness lending has increased by less  
17 than 2.5 percent, the dividend or in-  
18 terest rate shall be 5 percent;

19 (II) if the amount of small busi-  
20 ness lending has increased by 2.5 per-  
21 cent or greater, but by less than 5.0  
22 percent, the dividend or interest rate  
23 shall be 4 percent;

24 (III) if the amount of small busi-  
25 ness lending has increased by 5.0 per-

1 cent or greater, but by less than 7.5  
2 percent, the dividend or interest rate  
3 shall be 3 percent;

4 (IV) if the amount of small busi-  
5 ness lending has increased by 7.5 per-  
6 cent or greater, and but by less than  
7 10.0 percent, the dividend or interest  
8 rate shall be 2 percent; or

9 (V) if the amount of small busi-  
10 ness lending has increased by 10 per-  
11 cent or greater, the dividend or inter-  
12 est rate shall be 1 percent.

13 (B) BASIS OF INITIAL RATE.—The initial  
14 dividend or interest rate shall be based on call  
15 report data published in the quarter imme-  
16 diately preceding the date of the capital invest-  
17 ment under the Program.

18 (C) TIMING OF RATE ADJUSTMENTS.—Any  
19 rate adjustment shall occur in the calendar  
20 quarter following the publication of call report  
21 data, such that the rate based on call report  
22 data from any one calendar quarter, which is  
23 published in the first following calendar quar-  
24 ter, shall be adjusted in that first following cal-

1           endar quarter and payable in the second fol-  
2           lowing quarter.

3                   (D) RATE FOLLOWING INITIAL 2-YEAR PE-  
4           RIOD.—Generally, the rate based on call report  
5           data from the eighth calendar quarter after the  
6           date of the capital investment under the Pro-  
7           gram shall be payable until the expiration of  
8           the 4½-year period that begins on the date of  
9           the investment. In the case where the amount  
10          of small business lending has remained the  
11          same or decreased relative to the institution’s  
12          baseline in the eighth quarter after the date of  
13          the capital investment under the Program, the  
14          rate shall be 7 percent until the expiration of  
15          the 4½-year period that begins on the date of  
16          the investment.

17                   (E) RATE FOLLOWING INITIAL 4½ -YEAR  
18          PERIOD.—The dividend or interest rate paid on  
19          any preferred stock or other financial instru-  
20          ment issued by an eligible institution that re-  
21          ceives a capital investment under the Program  
22          shall increase to 9 percent at the end of the  
23          4½-year period that begins on the date of the  
24          capital investment under the Program.

1           (F) LIMITATION ON RATE REDUCTIONS  
2           WITH RESPECT TO CERTAIN AMOUNT.—The re-  
3           duction in the dividend or interest rate payable  
4           to Treasury by any eligible institution shall be  
5           limited such that the rate reduction shall not  
6           apply to a dollar amount of the investment  
7           made by Treasury that is greater than the dol-  
8           lar amount increase in the amount of small  
9           business lending realized under this program.  
10          The Secretary may issue guidelines that will  
11          apply to new capital investments limiting the  
12          amount of capital available to eligible institu-  
13          tions consistent with this limitation.

14          (G) RATE ADJUSTMENTS FOR S CORPORA-  
15          TION.—Before making a capital investment in  
16          an eligible institution that is an S corporation  
17          or a corporation organized on a mutual basis,  
18          the Secretary may adjust the dividend or inter-  
19          est rate on the financial instrument to be issued  
20          to the Secretary, from the dividend or interest  
21          rate that would apply under subparagraphs (A)  
22          through (F), to take into account any differen-  
23          tial tax treatment of securities issued by such  
24          eligible institution. For purpose of this subpara-  
25          graph, the term “S corporation” has the same



1 meaning as in section 1361(a) of the Internal  
2 Revenue Code of 1986.

3 (H) REPAYMENT DEADLINE.—The capital  
4 investment received by an eligible institution  
5 under the Program shall be evidenced by pre-  
6 ferred stock or other financial instrument  
7 that—

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

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

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

21 (ii) provides that the term and condi-  
22 tion described under clause (i) shall not  
23 apply if the application of that term and  
24 condition would adversely affect the capital  
25 treatment of the stock or financial instru-

1                   ment under current or successor applicable  
2                   capital provisions compared to a capital in-  
3                   strument with identical terms other than  
4                   the term and condition described under  
5                   clause (i).

6                   (I) REQUIREMENTS ON FINANCIAL IN-  
7                   STRUMENTS ISSUED BY A COMMUNITY DEVEL-  
8                   OPMENT FINANCIAL INSTITUTION LOAN  
9                   FUND.—Any equity equivalent capital issued to  
10                  the Treasury by a community development loan  
11                  fund receiving a capital investment under the  
12                  Program shall provide that the rate at which in-  
13                  terest is payable shall be 2 percent per annum  
14                  for 8 years. After 8 years, the rate at which in-  
15                  terest is payable shall be 9 percent.

16                  (5) ADDITIONAL INCENTIVES TO REPAY.—The  
17                  Secretary may, by regulation or guidance issued  
18                  under section 3104(9), establish repayment incen-  
19                  tives in addition to the incentive in paragraph (4)(E)  
20                  that will apply to new capital investments in a man-  
21                  ner that the Secretary determines to be consistent  
22                  with the purposes of this subtitle.

23                  (6) CAPITAL PURCHASE PROGRAM REFI-  
24                  NANCE.—

1           (A) IN GENERAL.—The Secretary shall, in  
2           a manner that the Secretary determines to be  
3           consistent with the purposes of this subtitle,  
4           issue regulations and other guidance to permit  
5           eligible institutions to refinance securities  
6           issued to Treasury under the CDCI and the  
7           CPP for securities to be issued under the Pro-  
8           gram.

9           (B) PROHIBITION ON PARTICIPATION BY  
10          NON-PAYING CPP PARTICIPANTS.—Subpara-  
11          graph (A) shall not apply to any eligible institu-  
12          tion that has missed more than one dividend  
13          payment due under the CPP. For purposes of  
14          this subparagraph, a CPP dividend payment  
15          that is submitted within 60 days of the due  
16          date of such payment shall not be considered a  
17          missed dividend payment.

18          (7) OUTREACH TO MINORITIES, WOMEN, AND  
19          VETERANS.—The Secretary shall require eligible in-  
20          stitutions receiving capital investments under the  
21          Program to provide linguistically and culturally ap-  
22          propriate outreach and advertising in the applicant  
23          pool describing the availability and application proc-  
24          ess of receiving loans from the eligible institution  
25          that are made possible by the Program through the

1 use of print, radio, television or electronic media out-  
2 lets which target organizations, trade associations,  
3 and individuals that—

4 (A) represent or work within or are mem-  
5 bers of minority communities;

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

8 (C) represent or work with or are veterans.

9 (8) **ADDITIONAL TERMS.**—The Secretary may,  
10 by regulation or guidance issued under section  
11 3104(9), make modifications that will apply to new  
12 capital investments in order to manage risks associ-  
13 ated with the administration of the Fund in a man-  
14 ner consistent with the purposes of this subtitle.

15 (9) **MINIMUM UNDERWRITING STANDARDS.**—  
16 The appropriate Federal banking agency for an eli-  
17 gible institution that receives funds under the Pro-  
18 gram shall within 60 days issue guidance regarding  
19 prudent underwriting standards that must be used  
20 for loans made by the eligible institution using such  
21 funds..

22 **SEC. 3104. ADDITIONAL AUTHORITIES OF THE SECRETARY.**

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

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

8           (2) The Secretary may enter into contracts, in-  
9           cluding contracts for services authorized by section  
10          3109 of title 5, United States Code.

11          (3) The Secretary may designate any bank, sav-  
12          ings association, trust company, security broker or  
13          dealer, asset manager, or investment adviser as a fi-  
14          nancial agent of the Federal Government and such  
15          institution shall perform all such reasonable duties  
16          related to this subtitle as financial agent of the Fed-  
17          eral Government as may be required. The Secretary  
18          shall have authority to amend existing agreements  
19          with financial agents, entered into during the 2-year  
20          period before the date of enactment of this Act, to  
21          perform reasonable duties related to this subtitle.

22          (4) The Secretary may exercise any rights re-  
23          ceived in connection with any preferred stock or  
24          other financial instruments or assets purchased or

1       acquired pursuant to the authorities granted under  
2       this subtitle.

3             (5) Subject to section 3103(b)(3), the Secretary  
4       may manage any assets purchased under this sub-  
5       title, including revenues and portfolio risks there-  
6       from.

7             (6) The Secretary may sell, dispose of, transfer,  
8       exchange or enter into securities loans, repurchase  
9       transactions, or other financial transactions in re-  
10      gard to, any preferred stock or other financial in-  
11      strument or asset purchased or acquired under this  
12      subtitle, upon terms and conditions and at a price  
13      determined by the Secretary.

14            (7) The Secretary may manage or prohibit con-  
15      flicts of interest that may arise in connection with  
16      the administration and execution of the authorities  
17      provided under this subtitle.

18            (8) The Secretary may establish and use vehi-  
19      cles, subject to supervision by the Secretary, to pur-  
20      chase, hold, and sell preferred stock or other finan-  
21      cial instruments and issue obligations.

22            (9) The Secretary may, in consultation with the  
23      Administrator of the Small Business Administration,  
24      issue such regulations and other guidance as may be

1       necessary or appropriate to define terms or carry  
2       out the authorities or purposes of this subtitle.

3       **SEC. 3105. CONSIDERATIONS.**

4       In exercising the authorities granted in this subtitle,  
5       the Secretary shall take into consideration—

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

8               (2) providing funding to minority-owned eligible  
9       institutions and other eligible institutions that serve  
10      small businesses that are minority-, veteran-, and  
11      women-owned and that also serve low- and mod-  
12      erate-income, minority, and other underserved or  
13      rural communities;

14              (3) protecting and increasing American jobs;

15              (4) increasing the opportunity for small busi-  
16      ness development in areas with high unemployment  
17      rates that exceed the national average;

18              (5) ensuring that all eligible institutions may  
19      apply to participate in the program established  
20      under this subtitle, without discrimination based on  
21      geography;

22              (6) providing transparency with respect to use  
23      of funds provided under this subtitle;

24              (7) minimizing the cost to taxpayers of exer-  
25      cising the authorities;

1           (8) promoting and engaging in financial edu-  
2           cation to would-be borrowers; and

3           (9) providing funding to eligible institutions  
4           that serve small businesses directly affected by the  
5           discharge of oil arising from the explosion on and  
6           sinking of the mobile offshore drilling unit Deep-  
7           water Horizon and small businesses in communities  
8           that have suffered negative economic effects as a re-  
9           sult of that discharge with particular consideration  
10          to States along the coast of the Gulf of Mexico.

11 **SEC. 3106. REPORTS.**

12          The Secretary shall provide to the appropriate com-  
13          mittees of Congress—

14               (1) within 7 days of the end of each month  
15               commencing with the first month in which trans-  
16               actions are made under the Program, a written re-  
17               port describing all of the transactions made during  
18               the reporting period pursuant to the authorities  
19               granted under this subtitle;

20               (2) after the end of March and the end of Sep-  
21               tember, commencing September 30, 2010, a written  
22               report on all projected costs and liabilities, all oper-  
23               ating expenses, including compensation for financial  
24               agents, and all transactions made by the Fund,  
25               which shall include participating institutions and



1 amounts each institution has received under the Pro-  
2 gram; and

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

9 **SEC. 3107. OVERSIGHT AND AUDITS.**

10 (a) INSPECTOR GENERAL OVERSIGHT.—The Inspec-  
11 tor General of the Department of the Treasury shall con-  
12 duct, supervise, and coordinate audits and investigations  
13 of the Program through the Office of Small Business  
14 Lending Fund Program Oversight established under sub-  
15 section (b).

16 (b) OFFICE OF SMALL BUSINESS LENDING FUND  
17 PROGRAM OVERSIGHT.—

18 (1) ESTABLISHMENT.—There is hereby estab-  
19 lished within the Office of the Inspector General of  
20 the Department of the Treasury a new office to be  
21 named the “Office of Small Business Lending Fund  
22 Program Oversight” to provide oversight of the Pro-  
23 gram.

24 (2) LEADERSHIP.—The Inspector General shall  
25 appoint a Special Deputy Inspector General for

1 SBLF Program Oversight to lead the Office, with  
2 commensurate staff, who shall report directly to the  
3 Inspector General and who shall be responsible for  
4 the performance of all auditing and investigative ac-  
5 tivities relating to the Program.

6 (3) REPORTING.—

7 (A) IN GENERAL.—The Inspector General  
8 shall issue a report no less than two times a  
9 year to the Congress and the Secretary devoted  
10 to the oversight provided by the Office, includ-  
11 ing any recommendations for improvements to  
12 the Program.

13 (B) RECOMMENDATIONS.—With respect to  
14 any deficiencies identified in a report under  
15 subparagraph (A), the Secretary shall either—

16 (i) take actions to address such defi-  
17 ciencies; or

18 (ii) certify to the appropriate commit-  
19 tees of Congress that no action is nec-  
20 essary or appropriate.

21 (4) COORDINATION.—The Inspector General, in  
22 maximizing the effectiveness of the Office, shall  
23 work with other Offices of Inspector General, as ap-  
24 propriate, to minimize duplication of effort and en-  
25 sure comprehensive oversight of the Program.

1           (5) TERMINATION.—The Office shall terminate  
2           at the end of the 6-month period beginning on the  
3           date on which all capital investments are repaid  
4           under the Program or the date on which the Sec-  
5           retary determines that any remaining capital invest-  
6           ments will not be repaid.

7           (6) DEFINITIONS.—For purposes of this sub-  
8           section:

9                   (A) OFFICE.—The term “Office” means  
10           the Office of Small Business Lending Fund  
11           Program Oversight established under paragraph  
12           (1).

13                   (B) INSPECTOR GENERAL.—The term “In-  
14           specter General” means the Inspector General  
15           of the Department of the Treasury.

16           (c) GAO AUDIT.—The Comptroller General of the  
17           United States shall perform an annual audit of the Pro-  
18           gram and issue a report to the appropriate committees  
19           of Congress containing the results of such audit.

20           (d) REQUIRED CERTIFICATIONS.—

21                   (1) ELIGIBLE INSTITUTION CERTIFICATION.—  
22           Each eligible institution that participates in the Pro-  
23           gram must certify that such institution is in compli-  
24           ance with the requirements of section 103.121 of  
25           title 31, Code of Federal Regulations, a regulation

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

11 (2) LOAN RECIPIENTS.—With respect to funds  
12 received by an eligible institution under the Pro-  
13 gram, any business receiving a loan from the eligible  
14 institution using such funds after the date of the en-  
15 actment of this Act shall certify to such eligible in-  
16 stitution that the principals of such business have  
17 not been convicted of a sex offense against a minor  
18 (as such terms are defined in section 111 of the Sex  
19 Offender Registration and Notification Act (42  
20 U.S.C. 16911)).

21 (e) PROHIBITION ON PORNOGRAPHY.—None of the  
22 funds made available under this subtitle may be used to  
23 pay the salary of any individual engaged in activities re-  
24 lated to the Program who has been officially disciplined  
25 for violations of subpart G of the Standards of Ethical

1 Conduct for Employees of the Executive Branch for view-  
2 ing, downloading, or exchanging pornography, including  
3 child pornography, on a Federal Government computer or  
4 while performing official Federal Government duties.

5 **SEC. 3108. CREDIT REFORM; FUNDING.**

6 (a) CREDIT REFORM.—The cost of purchases of pre-  
7 ferred stock and other financial instruments made as cap-  
8 ital investments under this subtitle shall be determined as  
9 provided under the Federal Credit Reform Act of 1990  
10 (2 U.S.C. 661 et seq.).

11 (b) FUNDS MADE AVAILABLE.—There are hereby ap-  
12 propriated, out of funds in the Treasury not otherwise ap-  
13 propriated, such sums as may be necessary to pay the  
14 costs of \$30,000,000,000 of capital investments in eligible  
15 institutions, including the costs of modifying such invest-  
16 ments, and reasonable costs of administering the program  
17 of making, holding, managing, and selling the capital in-  
18 vestments.

19 **SEC. 3109. TERMINATION AND CONTINUATION OF AU-**  
20 **THORITIES.**

21 (a) TERMINATION OF INVESTMENT AUTHORITY.—  
22 The authority to make capital investments in eligible insti-  
23 tutions, including commitments to purchase preferred  
24 stock or other instruments, provided under this subtitle

1 shall terminate 1 year after the date of enactment of this  
2 Act.

3 (b) CONTINUATION OF OTHER AUTHORITIES.—The  
4 authorities of the Secretary under section 3104 shall not  
5 be limited by the termination date in subsection (a).

6 **SEC. 3110. PRESERVATION OF AUTHORITY.**

7 Nothing in this subtitle may be construed to limit the  
8 authority of the Secretary under any other provision of  
9 law.

10 **SEC. 3111. ASSURANCES.**

11 (a) SMALL BUSINESS LENDING FUND SEPARATE  
12 FROM TARP.—The Small Business Lending Fund Pro-  
13 gram is established as separate and distinct from the  
14 Troubled Asset Relief Program established by the Emer-  
15 gency Economic Stabilization Act of 2008. An institution  
16 shall not, by virtue of a capital investment under the Small  
17 Business Lending Fund Program, be considered a recipi-  
18 ent of the Troubled Asset Relief Program.

19 (b) CHANGE IN LAW.—If, after a capital investment  
20 has been made in an eligible institution under the Pro-  
21 gram, there is a change in law that modifies the terms  
22 of the investment or program in a materially adverse re-  
23 spect for the eligible institution, the eligible institution  
24 may, after consultation with the appropriate Federal

1 banking agency for the eligible institution, repay the in-  
2 vestment without impediment.

3 **SEC. 3112. STUDY AND REPORT WITH RESPECT TO WOMEN-**  
4 **OWNED, VETERAN-OWNED, AND MINORITY-**  
5 **OWNED BUSINESSES.**

6 (a) STUDY.—The Secretary shall conduct a study of  
7 the impact of the Program on women-owned businesses,  
8 veteran-owned businesses, and minority-owned businesses.

9 (b) REPORT.—Not later than one year after the date  
10 of enactment of this Act, the Secretary shall submit to  
11 Congress a report on the results of the study conducted  
12 pursuant to subsection (a). To the extent possible, the  
13 Secretary shall disaggregate the results of such study by  
14 ethnic group and gender.

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

20 **SEC. 3113. SENSE OF CONGRESS.**

21 It is the sense of Congress that the Federal Deposit  
22 Insurance Corporation and other bank regulators are  
23 sending mixed messages to banks regarding regulatory  
24 capital requirements and lending standards, which is a

1 contributing cause of decreased small business lending and  
2 increased regulatory uncertainty at community banks.

3 **Subtitle B—State Small Business**  
4 **Credit Initiative**

5 **SEC. 3201. SHORT TITLE.**

6 This subtitle may be cited as the “State Small Busi-  
7 ness Credit Initiative Act of 2010”.

8 **SEC. 3202. DEFINITIONS.**

9 In this subtitle, the following definitions shall apply:

10 (1) APPROPRIATE COMMITTEES OF CON-  
11 GRESS.—The term “appropriate committees of Con-  
12 gress” means—

13 (A) the Committee on Small Business and  
14 Entrepreneurship, the Committee on Agri-  
15 culture, Nutrition, and Forestry, the Committee  
16 on Banking, Housing, and Urban Affairs, the  
17 Committee on Finance, the Committee on the  
18 Budget, and the Committee on Appropriations  
19 of the Senate; and

20 (B) the Committee on Small Business, the  
21 Committee on Agriculture, the Committee on  
22 Financial Services, the Committee on Ways and  
23 Means, the Committee on the Budget, and the  
24 Committee on Appropriations of the House of  
25 Representatives.



1           (2) APPROPRIATE FEDERAL BANKING AGEN-  
2           CY.—The term “appropriate Federal banking agen-  
3           cy”—

4                   (A) has the same meaning as in section  
5           3(q) of the Federal Deposit Insurance Act (12  
6           U.S.C. 1813(q)); and

7                   (B) includes the National Credit Union  
8           Administration Board in the case of any credit  
9           union the deposits of which are insured in ac-  
10          cordance with the Federal Credit Union Act.

11          (3) ENROLLED LOAN.—The term “enrolled  
12          loan” means a loan made by a financial institution  
13          lender that is enrolled by a participating State in an  
14          approved State capital access program in accordance  
15          with this subtitle.

16          (4) FEDERAL CONTRIBUTION.—The term “Fed-  
17          eral contribution” means the portion of the contribu-  
18          tion made by a participating State to, or for the ac-  
19          count of, an approved State program that is made  
20          with Federal funds allocated to the State by the Sec-  
21          retary under section 3203.

22          (5) FINANCIAL INSTITUTION.—The term “fi-  
23          nancial institution” means any insured depository  
24          institution, insured credit union, or community de-  
25          velopment financial institution, as those terms are

1 each defined in section 103 of the Riegle Community  
2 Development and Regulatory Improvement Act of  
3 1994 (12 U.S.C. 4702)

4 (6) PARTICIPATING STATE.—The term “partici-  
5 pating State” means any State that has been ap-  
6 proved for participation in the Program under sec-  
7 tion 3204.

8 (7) PROGRAM.—The term “Program” means  
9 the State Small Business Credit Initiative estab-  
10 lished under this subtitle.

11 (8) QUALIFYING LOAN OR SWAP FUNDING FA-  
12 CILITY.—The term “qualifying loan or swap funding  
13 facility” means a contractual arrangement between a  
14 participating State and a private financial entity  
15 under which—

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

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

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

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

5           (A) depositing all required premium  
6 charges paid by the financial institution lender  
7 and by each borrower receiving a loan under an  
8 approved State program from that financial in-  
9 stitution lender;

10           (B) depositing contributions made by the  
11 participating State, including State contribu-  
12 tions made with Federal contributions; and

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

15           (10) STATE.—The term “State” means—

16           (A) a State of the United States;

17           (B) the District of Columbia, the Common-  
18 wealth of Puerto Rico, the Commonwealth of  
19 Northern Mariana Islands, Guam, American  
20 Samoa, and the United States Virgin Islands;

21           (C) when designated by a State of the  
22 United States, a political subdivision of that  
23 State that the Secretary determines has the ca-  
24 pacity to participate in the Program; and

1 (D) under the circumstances described in  
2 section 3204(d), a municipality of a State of  
3 the United States to which the Secretary has  
4 given a special permission under section  
5 3204(d).

6 (11) STATE CAPITAL ACCESS PROGRAM.—The  
7 term “State capital access program” means a pro-  
8 gram of a State that—

9 (A) uses public resources to promote pri-  
10 vate access to credit; and

11 (B) meets the eligibility criteria in section  
12 3205(c).

13 (12) STATE OTHER CREDIT SUPPORT PRO-  
14 GRAM.—The term “State other credit support pro-  
15 gram”—

16 (A) means a program of a State that—

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

19 (ii) is not a State capital access pro-  
20 gram; and

21 (iii) meets the eligibility criteria in  
22 section 3206(c); and

23 (B) includes, collateral support programs,  
24 loan participation programs, State-run venture

1 capital fund programs, and credit guarantee  
2 programs.

3 (13) STATE PROGRAM.—The term “State pro-  
4 gram” means a State capital access program or a  
5 State other credit support program.

6 (14) SECRETARY.—The term “Secretary”  
7 means the Secretary of the Treasury.

8 **SEC. 3203. FEDERAL FUNDS ALLOCATED TO STATES.**

9 (a) PROGRAM ESTABLISHED; PURPOSE.—There is  
10 established the State Small Business Credit Initiative, to  
11 be administered by the Secretary. Under the Program, the  
12 Secretary shall allocate Federal funds to participating  
13 States and make the allocated funds available to the par-  
14 ticipating States as provided in this section for the uses  
15 described in this section.

16 (b) ALLOCATION FORMULA.—

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

23 (A) would receive under the 2009 alloca-  
24 tion, as determined under paragraph (2); and

1 (B) would receive under the 2010 alloca-  
2 tion, as determined under paragraph (3).

3 (2) 2009 ALLOCATION FORMULA.—

4 (A) IN GENERAL.—The Secretary shall de-  
5 termine the 2009 allocation by allocating Fed-  
6 eral funds among the States in the proportion  
7 that each such State’s 2008 State employment  
8 decline bears to the aggregate of the 2008  
9 State employment declines for all States.

10 (B) MINIMUM ALLOCATION.—The Sec-  
11 retary shall adjust the allocations under sub-  
12 paragraph (A) for each State to the extent nec-  
13 essary to ensure that no State receives less than  
14 0.9 percent of the Federal funds.

15 (C) 2008 STATE EMPLOYMENT DECLINE  
16 DEFINED.—In this paragraph and with respect  
17 to a State, the term “2008 State employment  
18 decline” means the excess (if any) of—

19 (i) the number of individuals em-  
20 ployed in such State determined for De-  
21 cember 2007; over

22 (ii) the number of individuals em-  
23 ployed in such State determined for De-  
24 cember 2008.

25 (3) 2010 ALLOCATION FORMULA.—

1           (A) IN GENERAL.—The Secretary shall de-  
2           termine the 2010 allocation by allocating Fed-  
3           eral funds among the States in the proportion  
4           that each such State’s 2009 unemployment  
5           number bears to the aggregate of the 2009 un-  
6           employment numbers for all of the States.

7           (B) MINIMUM ALLOCATION.—The Sec-  
8           retary shall adjust the allocations under sub-  
9           paragraph (A) for each State to the extent nec-  
10          essary to ensure that no State receives less than  
11          0.9 percent of the Federal funds.

12          (C) 2009 UNEMPLOYMENT NUMBER DE-  
13          FINED.—In this paragraph and with respect to  
14          a State, the term “2009 unemployment num-  
15          ber” means the number of individuals within  
16          such State who were determined to be unem-  
17          ployed by the Bureau of Labor Statistics for  
18          December 2009.

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

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

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

1 (i) apportion the participating State's  
2 allocated amount into thirds;

3 (ii) transfer to the participating State  
4 the first  $\frac{1}{3}$  when the Secretary approves  
5 the State for participation under section  
6 3204; and

7 (iii) transfer to the participating State  
8 each successive  $\frac{1}{3}$  when the State has cer-  
9 tified to the Secretary that it has ex-  
10 pended, transferred, or obligated 80 per-  
11 cent of the last transferred  $\frac{1}{3}$  for Federal  
12 contributions to, or for the account of,  
13 State programs.

14 (B) AUTHORITY TO WITHHOLD PENDING  
15 AUDIT.—The Secretary may withhold the trans-  
16 fer of any successive  $\frac{1}{3}$  pending results of a fi-  
17 nancial audit.

18 (C) INSPECTOR GENERAL AUDITS.—

19 (i) IN GENERAL.—The Inspector Gen-  
20 eral of the Department of the Treasury  
21 shall carry out an audit of the partici-  
22 pating State's use of allocated Federal  
23 funds transferred to the State.

24 (ii) RECOUPMENT OF MISUSED  
25 TRANSFERRED FUNDS REQUIRED.—The al-



1 location agreement between the Secretary  
2 and the participating State shall provide  
3 that the Secretary shall recoup any allo-  
4 cated Federal funds transferred to the par-  
5 ticipating State if the results of the an  
6 audit include a finding that there was an  
7 intentional or reckless misuse of trans-  
8 ferred funds by the State.

9 (iii) PENALTY FOR MISSTATEMENT.—

10 Any participating State that is found to  
11 have intentionally misstated any report  
12 issued to the Secretary under the Program  
13 shall be ineligible to receive any additional  
14 funds under the Program. Funds that had  
15 been allocated or that would otherwise  
16 have been allocated to such participating  
17 State shall be paid into the general fund of  
18 the Treasury for reduction of the public  
19 debt.

20 (iv) MUNICIPALITIES.—In this sub-

21 paragraph, the term “participating State”  
22 shall include a municipality given special  
23 permission to participate in the Program,  
24 under section 3204(d).

1           (D) EXCEPTION.—The Secretary may, in  
2           the Secretary’s discretion, transfer the full  
3           amount of the participating State’s allocated  
4           amount to the State in a single transfer if the  
5           participating State applies to the Secretary for  
6           approval to use the full amount of the allocation  
7           as collateral for a qualifying loan or swap fund-  
8           ing facility.

9           (2) TRANSFERRED AMOUNTS.—Each amount  
10          transferred to a participating State under this sec-  
11          tion shall remain available to the State until used by  
12          the State as permitted under paragraph (3).

13          (3) USE OF TRANSFERRED FUNDS.—Each par-  
14          ticipating State may use funds transferred to it  
15          under this section only—

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

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

20                (C) in the case of the first  $\frac{1}{3}$  transferred,  
21                for paying administrative costs incurred by the  
22                State in implementing an approved State pro-  
23                gram in an amount not to exceed 5 percent of  
24                that first  $\frac{1}{3}$ ; or

1 (D) in the case of each successive  $\frac{1}{3}$  trans-  
2 ferred, for paying administrative costs incurred  
3 by the State in implementing an approved State  
4 program in an amount not to exceed 3 percent  
5 of that successive  $\frac{1}{3}$ .

6 (4) TERMINATION OF AVAILABILITY OF  
7 AMOUNTS NOT TRANSFERRED WITHIN 2 YEARS OF  
8 PARTICIPATION.—Any portion of a participating  
9 State's allocated amount that has not been trans-  
10 ferred to the State under this section by the end of  
11 the 2-year period beginning on the date that the  
12 Secretary approves the State for participation may  
13 be deemed by the Secretary to be no longer allocated  
14 to the State and no longer available to the State and  
15 shall be returned to the General Fund of the Treas-  
16 ury.

17 (5) TRANSFERRED AMOUNTS NOT ASSIST-  
18 ANCE.—The amounts transferred to a participating  
19 State under this section shall not be considered as-  
20 sistance for purposes of subtitle V of title 31, United  
21 States Code.

22 (6) DEFINITIONS.—In this section—

23 (A) the term “allocated amount” means  
24 the total amount of Federal funds allocated by

1 the Secretary under subsection (b) to the par-  
2 ticipating State; and

3 (B) the term “ $\frac{1}{3}$ ” means—

4 (i) in the case of the first  $\frac{1}{3}$  and sec-  
5 ond  $\frac{1}{3}$ , an amount equal to 33 percent of  
6 a participating State’s allocated amount;  
7 and

8 (ii) in the case of the last  $\frac{1}{3}$ , an  
9 amount equal to 34 percent of a partici-  
10 pating State’s allocated amount.

11 **SEC. 3204. APPROVING STATES FOR PARTICIPATION.**

12 (a) APPLICATION.—Any State may apply to the Sec-  
13 retary for approval to be a participating State under the  
14 Program and to be eligible for an allocation of Federal  
15 funds under the Program.

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

18 (1) a specific department, agency, or political  
19 subdivision of the State has been designated to im-  
20 plement a State program and participate in the Pro-  
21 gram;

22 (2) all legal actions necessary to enable such  
23 designated department, agency, or political subdivi-  
24 sion to implement a State program and participate  
25 in the Program have been accomplished;

1           (3) the State has filed an application with the  
2           Secretary for approval of a State capital access pro-  
3           gram under section 3205 or approval as a State  
4           other credit support program under section 3206, in  
5           each case within the time period provided in the re-  
6           spective section; and

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

9                   (A) conforms to the requirements of this  
10                  subtitle;

11                   (B) ensures that the State program com-  
12                  plies with such national standards as are estab-  
13                  lished by the Secretary under section  
14                  3209(a)(2);

15                   (C) sets forth internal control, compliance,  
16                  and reporting requirements as established by  
17                  the Secretary, and such other terms and condi-  
18                  tions necessary to carry out the purposes of this  
19                  subtitle, including an agreement by the State to  
20                  allow the Secretary to audit State programs;

21                   (D) requires that the State program be  
22                  fully positioned, within 90 days of the State's  
23                  execution of the allocation agreement with the  
24                  Secretary, to act on providing the kind of credit

1 support that the State program was established  
2 to provide; and

3 (E) includes an agreement by the State to  
4 deliver to the Secretary, and update annually, a  
5 schedule describing how the State intends to  
6 apportion among its State programs the Fed-  
7 eral funds allocated to the State.

8 (c) CONTRACTUAL ARRANGEMENTS FOR IMPLEMEN-  
9 TATION OF STATE PROGRAMS.—A State may be approved  
10 to be a participating State, and be eligible for an allocation  
11 of Federal funds under the Program, if the State has con-  
12 tractual arrangements for the implementation and admin-  
13 istration of its State program with—

14 (1) an existing, approved State program admin-  
15 istered by another State; or

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

19 (d) SPECIAL PERMISSION.—

20 (1) CIRCUMSTANCES WHEN A MUNICIPALITY  
21 MAY APPLY DIRECTLY.—If a State does not, within  
22 60 days after the date of enactment of this Act, file  
23 with the Secretary a notice of its intent to apply for  
24 approval by the Secretary of a State program or  
25 within 9 months after the date of enactment of this

1 Act, file with the Secretary a complete application  
2 for approval of a State program, the Secretary may  
3 grant to municipalities of that State a special per-  
4 mission that will allow them to apply directly to the  
5 Secretary without the State for approval to be par-  
6 ticipating municipalities.

7 (2) TIMING REQUIREMENTS APPLICABLE TO  
8 MUNICIPALITIES APPLYING DIRECTLY.—To qualify  
9 for the special permission, a municipality of a State  
10 shall be required, within 12 months after the date  
11 of enactment of this Act, to file with the Secretary  
12 a complete application for approval by the Secretary  
13 of a State program.

14 (3) NOTICES OF INTENT AND APPLICATIONS  
15 FROM MORE THAN 1 MUNICIPALITY.—A municipality  
16 of a State may combine with 1 or more other mu-  
17 nicipalities of that State to file a joint notice of in-  
18 tent to file and a joint application.

19 (4) APPROVAL CRITERIA.—The general ap-  
20 proval criteria in paragraphs (2) and (4) shall apply.

21 (5) ALLOCATION TO MUNICIPALITIES.—

22 (A) IF MORE THAN 3.—If more than 3 mu-  
23 nicipalities, or combination of municipalities as  
24 provided in paragraph (3), of a State apply for  
25 approval by the Secretary to be participating

1 municipalities under this subsection, and the  
2 applications meet the approval criteria in para-  
3 graph (4), the Secretary shall allocate Federal  
4 funds to the 3 municipalities with the largest  
5 populations.

6 (B) IF 3 OR FEWER.—If 3 or fewer mu-  
7 nicipalities, or combination of municipalities as  
8 provided in paragraph (3), of a State apply for  
9 approval by the Secretary to be participating  
10 municipalities under this subsection, and the  
11 applications meet the approval criteria in para-  
12 graph (4), the Secretary shall allocate Federal  
13 funds to each applicant municipality or com-  
14 bination of municipalities.

15 (6) APPORTIONMENT OF ALLOCATED AMOUNT  
16 AMONG PARTICIPATING MUNICIPALITIES.—If the  
17 Secretary approves municipalities to be participating  
18 municipalities under this subsection, the Secretary  
19 shall apportion the full amount of the Federal funds  
20 that are allocated to that State to municipalities  
21 that are approved under this subsection in amounts  
22 proportionate to the population of those municipali-  
23 ties, based on the most recent available decennial  
24 census.



1           (7) APPROVING STATE PROGRAMS FOR MUNICI-  
2           PALITIES.—If the Secretary approves municipalities  
3           to be participating municipalities under this sub-  
4           section, the Secretary shall take into account the ad-  
5           ditional considerations in section 3206(d) in making  
6           the determination under section 3205 or 3206 that  
7           the State program or programs to be implemented  
8           by the participating municipalities, including a State  
9           capital access program, is eligible for Federal con-  
10          tributions to, or for the account of, the State pro-  
11          gram.

12 **SEC. 3205. APPROVING STATE CAPITAL ACCESS PROGRAMS.**

13          (a) APPLICATION.—A participating State that estab-  
14          lishes a new, or has an existing, State capital access pro-  
15          gram that meets the eligibility criteria in subsection (c)  
16          may apply to Secretary to have the State capital access  
17          program approved as eligible for Federal contributions to  
18          the reserve fund.

19          (b) APPROVAL.—The Secretary shall approve such  
20          State capital access program as eligible for Federal con-  
21          tributions to the reserve fund if—

22                 (1) within 60 days after the date of enactment  
23                 of this Act, the State has filed with the Secretary a  
24                 notice of intent to apply for approval by the Sec-  
25                 retary of a State capital access program;

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

5           (3) the State satisfies the requirements of sub-  
6 sections (a) and (b) of section 3204; and

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

9           (c) ELIGIBILITY CRITERIA FOR STATE CAPITAL AC-  
10 CESS PROGRAMS.— For a State capital access program  
11 to be approved under this section, that program shall be  
12 required to be a program of the State that—

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

16           (2) requires insurance premiums to be paid by  
17 the financial institution lenders and by the business  
18 borrowers to the reserve fund to have their loans en-  
19 rolled in the reserve fund;

20           (3) provides for contributions to be made by the  
21 State to the reserve fund in amounts at least equal  
22 to the sum of the amount of the insurance premium  
23 charges paid by the borrower and the financial insti-  
24 tution to the reserve fund for any newly enrolled  
25 loan; and

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

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

6                   (B) The loan amount does not exceed  
7                   \$5,000,000.

8           (d) FEDERAL CONTRIBUTIONS TO APPROVED STATE  
9           CAPITAL ACCESS PROGRAMS.—A State capital access pro-  
10          gram approved under this section will be eligible for receiv-  
11          ing Federal contributions to the reserve fund in an  
12          amount equal to the sum of the amount of the insurance  
13          premium charges paid by the borrowers and by the finan-  
14          cial institution to the reserve fund for loans that meet the  
15          requirements in subsection (c)(4). A participating State  
16          may use the Federal contribution to make its contribution  
17          to the reserve fund of an approved State capital access  
18          program.

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

23                   (1) EXPERIENCE AND CAPACITY.—The partici-  
24                   pating State shall determine for each financial insti-  
25                   tution that participates in the State capital access

1 program, after consultation with the appropriate  
2 Federal banking agency or, in the case of a financial  
3 institution that is a nondepository community devel-  
4 opment financial institution, the Community Devel-  
5 opment Financial Institution Fund, that the finan-  
6 cial institution has sufficient commercial lending ex-  
7 perience and financial and managerial capacity to  
8 participate in the approved State capital access pro-  
9 gram. The determination by the State shall not be  
10 reviewable by the Secretary.

11 (2) INVESTMENT AUTHORITY.—Subject to ap-  
12 plicable State law, the participating State may in-  
13 vest, or cause to be invested, funds held in a reserve  
14 fund by establishing a deposit account at the finan-  
15 cial institution lender in the name of the partici-  
16 pating State. In the event that funds in the reserve  
17 fund are not deposited in such an account, such  
18 funds shall be invested in a form that the partici-  
19 pating State determines is safe and liquid.

20 (3) LOAN TERMS AND CONDITIONS TO BE DE-  
21 TERMINED BY AGREEMENT.—A loan to be filed for  
22 enrollment in an approved State capital access pro-  
23 gram may be made with such interest rate, fees, and  
24 other terms and conditions, and the loan may be en-  
25 rolled in the approved State capital access program

1 and claims may be filed and paid, as agreed upon  
2 by the financial institution lender and the borrower,  
3 consistent with applicable law.

4 (4) LENDER CAPITAL AT-RISK.—A loan to be  
5 filed for enrollment in the State capital access pro-  
6 gram shall require the financial institution lender to  
7 have a meaningful amount of its own capital re-  
8 sources at risk in the loan.

9 (5) PREMIUM CHARGES MINIMUM AND MAX-  
10 IMUM AMOUNTS.—The insurance premium charges  
11 payable to the reserve fund by the borrower and the  
12 financial institution lender shall be prescribed by the  
13 financial institution lender, within minimum and  
14 maximum limits that require that the sum of the in-  
15 surance premium charges paid in connection with a  
16 loan by the borrower and the financial institution  
17 lender may not be less than 2 percent nor more than  
18 7 percent of the amount of the loan enrolled in the  
19 approved State capital access program.

20 (6) STATE CONTRIBUTIONS.—In enrolling a  
21 loan in an approved State capital access program,  
22 the participating State may make a contribution to  
23 the reserve fund to supplement Federal contribu-  
24 tions made under this Program.

25 (7) LOAN PURPOSE.—

1                   (A) PARTICULAR LOAN PURPOSE REQUIRE-  
2                   MENTS AND PROHIBITIONS.—In connection  
3                   with the filing of a loan for enrollment in an  
4                   approved State capital access program, the fi-  
5                   nancial institution lender—

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

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

10                  (II) the loan will not be used to  
11                  finance such business activities as the  
12                  Secretary, by regulation, may pro-  
13                  scribe as prohibited loan purposes for  
14                  enrollment in an approved State cap-  
15                  ital access program; and

16                  (III) the borrower is not—

17                   (aa) an executive officer, di-  
18                   rector, or principal shareholder of  
19                   the financial institution lender;

20                   (bb) a member of the imme-  
21                   diate family of an executive offi-  
22                   cer, director, or principal share-  
23                   holder of the financial institution  
24                   lender; or

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

5 (ii) shall provide assurances to the  
6 participating State that the loan has not  
7 been made in order to place under the pro-  
8 tection of the approved State capital access  
9 program prior debt that is not covered  
10 under the approved State capital access  
11 program and that is or was owed by the  
12 borrower to the financial institution lender  
13 or to an affiliate of the financial institution  
14 lender;

15 (iii) shall not allow the enrollment of  
16 a loan to a borrower that is a refinancing  
17 of a loan previously made to that borrower  
18 by the financial institution lender or an af-  
19 filiate of the financial institution lender;  
20 and

21 (iv) may include additional restric-  
22 tions on the eligibility of loans or bor-  
23 rowers that are not inconsistent with the  
24 provisions and purposes of this subtitle, in-  
25 cluding compliance with all applicable Fed-

1           eral and State laws, regulations, ordi-  
2           nances, and Executive orders.

3           (B) DEFINITIONS.—In this paragraph, the  
4           terms “executive officer”, “director”, “principal  
5           shareholder”, “immediate family”, and “related  
6           interest” refer to the same relationship to a fi-  
7           nancial institution lender as the relationship de-  
8           scribed in part 215 of title 12 of the Code of  
9           Federal Regulations, or any successor to such  
10          part.

11          (8) CAPITAL ACCESS FOR SMALL BUSINESSES  
12          IN UNDERSERVED COMMUNITIES.—At the time that  
13          a State applies to the Secretary to have the State  
14          capital access program approved as eligible for Fed-  
15          eral contributions, the State shall deliver to the Sec-  
16          retary a report stating how the State plans to use  
17          the Federal contributions to the reserve fund to pro-  
18          vide access to capital for small businesses in low-  
19          and moderate-income, minority, and other under-  
20          served communities, including women- and minority-  
21          owned small businesses.



1 **SEC. 3206. APPROVING COLLATERAL SUPPORT AND OTHER**  
2 **INNOVATIVE CREDIT ACCESS AND GUAR-**  
3 **ANTEE INITIATIVES FOR SMALL BUSINESSES**  
4 **AND MANUFACTURERS.**

5 (a) APPLICATION.—A participating State that estab-  
6 lishes a new, or has an existing, credit support program  
7 that meets the eligibility criteria in subsection (c) may  
8 apply to the Secretary to have the State other credit sup-  
9 port program approved as eligible for Federal contribu-  
10 tions to, or for the account of, the State program.

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

14 (1) the Secretary determines that the State sat-  
15 isfies the requirements of paragraphs (1) through  
16 (3) of section 3205(b);

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

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

23 (4) within 9 months after the date of enactment  
24 of this Act, the State has filed with Treasury a com-  
25 plete application for Treasury approval.

1           (c) ELIGIBILITY CRITERIA FOR STATE OTHER CRED-  
2 IT SUPPORT PROGRAMS.—For a State other credit sup-  
3 port program to be approved under this section, that pro-  
4 gram shall be required to be a program of the State that—

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

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

16           (3) for those State other credit support pro-  
17 grams that provide their credit support through 1 or  
18 more financial institution lenders, requires the finan-  
19 cial institution lenders to have a meaningful amount  
20 of their own capital resources at risk in their small  
21 business lending; and

22           (4) uses Federal funds allocated under this sub-  
23 title to extend credit support that—

24           (A) targets an average borrower size of  
25 500 employees or less;

1 (B) does not extend credit support to bor-  
2 rowers that have more than 750 employees;

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

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

8 (d) ADDITIONAL CONSIDERATIONS.—In making a de-  
9 termination that a State other credit support program is  
10 eligible for Federal contributions to, or for the account  
11 of, the State program, the Secretary shall take into ac-  
12 count the following additional considerations:

13 (1) The anticipated benefits to the State, its  
14 businesses, and its residents to be derived from the  
15 Federal contributions to, or for the account of, the  
16 approved State other credit support program, includ-  
17 ing the extent to which resulting small business  
18 lending will expand economic opportunities.

19 (2) The operational capacity, skills, and experi-  
20 ence of the management team of the State other  
21 credit support program.

22 (3) The capacity of the State other credit sup-  
23 port program to manage increases in the volume of  
24 its small business lending.

1           (4) The internal accounting and administrative  
2           controls systems of the State other credit support  
3           program, and the extent to which they can provide  
4           reasonable assurance that funds of the State pro-  
5           gram are safeguarded against waste, loss, unauthor-  
6           ized use, or misappropriation.

7           (5) The soundness of the program design and  
8           implementation plan of the State other credit sup-  
9           port program.

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

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

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

24           (2) CONSIDERATIONS FOR FUND.—In pre-  
25           scribing minimum Program requirements for ap-

1       proved State other credit support programs, the Sec-  
2       retary shall take into consideration, to the extent the  
3       Secretary determines applicable and appropriate, the  
4       minimum Program requirements for approved State  
5       capital access programs in section 3205(e).

6       **SEC. 3207. REPORTS.**

7       (a) QUARTERLY USE-OF-FUNDS REPORT.—

8               (1) IN GENERAL.—Not later than 30 days after  
9       the beginning of each calendar quarter, beginning  
10       after the first full calendar quarter to occur after  
11       the date the Secretary approves a State for partici-  
12       pation, the participating State shall submit to the  
13       Secretary a report on the use of Federal funding by  
14       the participating State during the previous calendar  
15       quarter.

16               (2) REPORT CONTENTS.—Each report under  
17       this subsection shall—

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

20                       (B) include a certification by the partici-  
21       pating State that—

22                               (i) the information provided in accord-  
23       ance with subparagraph (A) is accurate;

24                               (ii) funds continue to be available and  
25       legally committed to contributions by the

1 State to, or for the account of, approved  
2 State programs, less any amount that has  
3 been contributed by the State to, or for the  
4 account of, approved State programs sub-  
5 sequent to the State being approved for  
6 participation in the Program; and

7 (iii) the participating State is imple-  
8 menting its approved State program or  
9 programs in accordance with this subtitle  
10 and regulations issued under section 3210.

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

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

19 (2) The total amount of such new loans.

20 (3) Breakdowns by industry type, loan size, an-  
21 nual sales, and number of employees of the bor-  
22 rowers that received such new loans.

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

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

4           (c) FORM.—The reports and data filed under sub-  
5           sections (a) and (b) shall be in such form as the Secretary,  
6           in the Secretary's sole discretion, may require.

7           (d) TERMINATION OF REPORTING REQUIRE-  
8           MENTS.—The requirement to submit reports under sub-  
9           sections (a) and (b) shall terminate for a participating  
10          State with the submission of the completed reports due  
11          on the first March 31 to occur after 5 complete 12-month  
12          periods after the State is approved by the Secretary to  
13          be a participating State.

14   **SEC. 3208. REMEDIES FOR STATE PROGRAM TERMINATION**  
15                           **OR FAILURES.**

16          (a) REMEDIES.—

17               (1) IN GENERAL.—If any of the events listed in  
18               paragraph (2) occur, the Secretary, in the Sec-  
19               retary's discretion, may—

20                       (A) reduce the amount of Federal funds al-  
21                       located to the State under the Program; or

22                       (B) terminate any further transfers of allo-  
23                       cated amounts that have not yet been trans-  
24                       ferred to the State.

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

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

5           (B) failure on the part of a participating  
6 State to submit complete reports under section  
7 3207 on a timely basis; or

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

11       (b) DEALLOCATED AMOUNTS TO BE REALLO-  
12 CATED.—If, after 13 months, any portion of the amount  
13 of Federal funds allocated to a participating State is  
14 deemed by the Secretary to be no longer allocated to the  
15 State after actions taken by the Secretary under sub-  
16 section (a)(1), the Secretary shall reallocate that portion  
17 among the participating States, excluding the State whose  
18 allocated funds were deemed to be no longer allocated, as  
19 provided in section 3203(b).

20 **SEC. 3209. IMPLEMENTATION AND ADMINISTRATION.**

21       (a) GENERAL AUTHORITIES AND DUTIES.—The Sec-  
22 retary shall—

23           (1) consult with the Administrator of the Small  
24 Business Administration and the appropriate Fed-



1       eral banking agencies on the administration of the  
2       Program;

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

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

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

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

14       (b) APPROPRIATIONS.—There is hereby appropriated  
15       to the Secretary, out of funds in the Treasury not other-  
16       wise appropriated, \$900,000,000 to carry out the Pro-  
17       gram, including to pay reasonable costs of administering  
18       the Program.

19       (c) TERMINATION OF SECRETARY'S PROGRAM AD-  
20       MINISTRATION FUNCTIONS.—The authorities and duties  
21       of the Secretary to implement and administer the Program  
22       shall terminate at the end of the 7-year period beginning  
23       on the date of enactment of this Act.

24       (d) EXPEDITED CONTRACTING.—During the 1-year  
25       period beginning on the date of enactment of this Act, the

1 Secretary may enter into contracts without regard to any  
2 other provision of law regarding public contracts, for pur-  
3 poses of carrying out this subtitle.

4 **SEC. 3210. REGULATIONS.**

5 The Secretary, in consultation with the Administrator  
6 of the Small Business Administration, shall issue such  
7 regulations and other guidance as the Secretary deter-  
8 mines necessary or appropriate to implement this subtitle  
9 including to define terms, to establish compliance and re-  
10 porting requirements, and such other terms and conditions  
11 necessary to carry out the purposes of this subtitle.

12 **SEC. 3211. OVERSIGHT AND AUDITS.**

13 (a) **INSPECTOR GENERAL OVERSIGHT.**—The Inspec-  
14 tor General of the Department of the Treasury shall con-  
15 duct, supervise, and coordinate audits and investigations  
16 of the use of funds made available under the Program.

17 (b) **GAO AUDIT.**—The Comptroller General of the  
18 United States shall perform an annual audit of the Pro-  
19 gram and issue a report to the appropriate committees  
20 of Congress containing the results of such audit.

21 (c) **REQUIRED CERTIFICATION.**—

22 (1) **FINANCIAL INSTITUTIONS CERTIFI-**  
23 **CATION.**—With respect to funds received by a par-  
24 ticipating State under the Program, any financial in-  
25 stitution that receives a loan, a loan guarantee, or

1 other financial assistance using such funds after the  
2 date of the enactment of this Act shall certify that  
3 such institution is in compliance with the require-  
4 ments of section 103.121 of title 31, Code of Fed-  
5 eral Regulations, a regulation that, at a minimum,  
6 requires financial institutions, as that term is de-  
7 fined in section 5312 (a)(2) and (c)(1)(A) of title  
8 31, United States Code, to implement reasonable  
9 procedures to verify the identity of any person seek-  
10 ing to open an account, to the extent reasonable and  
11 practicable, maintain records of the information  
12 used to verify the person's identity, and determine  
13 whether the person appears on any lists of known or  
14 suspected terrorists or terrorist organizations pro-  
15 vided to the financial institution by any government  
16 agency.

17 (2) SEX OFFENSE CERTIFICATION.—With re-  
18 spect to funds received by a participating State  
19 under the Program, any private entity that receives  
20 a loan, a loan guarantee, or other financial assist-  
21 ance using such funds after the date of the enact-  
22 ment of this Act shall certify to the participating  
23 State that the principals of such entity have not  
24 been convicted of a sex offense against a minor (as  
25 such terms are defined in section 111 of the Sex Of-

1 fender Registration and Notification Act (42 U.S.C.  
2 16911)).

3 (d) PROHIBITION ON PORNOGRAPHY.—None of the  
4 funds made available under this subtitle may be used to  
5 pay the salary of any individual engaged in activities re-  
6 lated to the Program who has been officially disciplined  
7 for violations of subpart G of the Standards of Ethical  
8 Conduct for Employees of the Executive Branch for view-  
9 ing, downloading, or exchanging pornography, including  
10 child pornography, on a Federal Government computer or  
11 while performing official Federal Government duties.

12 **TITLE IV—BUDGETARY**  
13 **PROVISIONS**

14 **SEC. 4001. DETERMINATION OF BUDGETARY EFFECTS.**

15 The budgetary effects of this Act, for the purpose of  
16 complying with the Statutory Pay-As-You-Go-Act of 2010,  
17 shall be determined by reference to the latest statement  
18 titled “Budgetary Effects of PAYGO Legislation” for this  
19 Act, submitted for printing in the Congressional Record  
20 by the Chairman of the Senate Budget Committee, pro-  
21 vided that such statement has been submitted prior to the  
22 vote on passage.