

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”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

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TITLE I—SMALL BUSINESSES

Sec. 1001. Definitions.

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. Loan guarantee enhancement extensions.
- 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. 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 increases.

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

- 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

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- 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-protégé 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.
- Sec. 1704. Small business loan guarantee enhancement extensions.

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.
- 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.

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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.
- Sec. 2023. Special rule for long-term contract accounting.

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.
- Sec. 2043. Removal of cellular telephones and similar telecommunications equipment from listed property.

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 continuous levy to tax liabilities of certain Federal contractors.

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.
- Sec. 2113. Special rules for annuities received from only a portion of a contract.

PART III—CLOSING UNINTENDED LOOPHOLES

- Sec. 2121. Crude tall oil ineligible for cellulose biofuel producer credit.
- Sec. 2122. Source rules for income on guarantees.
- Sec. 2123. Elimination of advance refundability of earned income credit.

PART IV—TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES

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

TITLE III—STATE SMALL BUSINESS CREDIT INITIATIVE

- Sec. 3001. Short title.
- Sec. 3002. Definitions.

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- Sec. 3003. Federal funds allocated to States.
- Sec. 3004. Approving States for participation.
- Sec. 3005. Approving State capital access programs.
- Sec. 3006. Approving collateral support and other innovative credit access and guarantee initiatives for small businesses and manufacturers.
- Sec. 3007. Reports.
- Sec. 3008. Remedies for State program termination or failures.
- Sec. 3009. Implementation and administration.
- Sec. 3010. Regulations.
- Sec. 3011. Oversight and audits.

TITLE IV—ADDITIONAL SMALL BUSINESS PROVISIONS

Subtitle A—Small Business Lending Fund

- Sec. 4101. Purpose.
- Sec. 4102. Definitions.
- Sec. 4103. Small business lending fund.
- Sec. 4104. Additional authorities of the Secretary.
- Sec. 4105. Considerations.
- Sec. 4106. Reports.
- Sec. 4107. Oversight and audits.
- Sec. 4108. Credit reform; funding.
- Sec. 4109. Termination and continuation of authorities.
- Sec. 4110. Preservation of authority.
- Sec. 4111. Assurances.
- Sec. 4112. Study and report with respect to women-owned, veteran-owned, and minority-owned businesses.
- Sec. 4113. Sense of congress.

Subtitle B—Other Provisions

PART I—SMALL BUSINESS EXPORT PROMOTION INITIATIVES

- Sec. 4221. Short title.
- Sec. 4222. Global business development and promotion activities of the Department of Commerce.
- Sec. 4223. Additional funding to improve access to global markets for rural businesses.
- Sec. 4224. Additional funding for the ExporTech program.
- Sec. 4225. Additional funding for the market development cooperator program of the department of commerce.
- Sec. 4226. Hollings Manufacturing Partnership Program; Technology Innovation Program.
- Sec. 4227. Sense of the Senate concerning Federal collaboration with States on export promotion issues.
- Sec. 4228. Report on tariff and nontariff barriers.

PART II—MEDICARE FRAUD

- Sec. 4241. Use of predictive modeling and other analytics technologies to identify and prevent waste, fraud, and abuse in the Medicare fee-for-service program.

PART III—AGRICULTURAL DISASTERS

- Sec. 4261. Emergency agricultural disaster assistance.

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

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

7 (b) PROSPECTIVE REPEAL.—Effective January 1,
8 2011, section 7(a) of the Small Business Act (15 U.S.C.
9 636(a)) is amended—

10 (1) in paragraph (2)(A)—

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

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

15 (2) in paragraph (3)(A), by striking
16 “\$4,500,000” and inserting “\$3,750,000”.

17 **SEC. 1112. MAXIMUM LOAN AMOUNTS UNDER 504 PRO-**
18 **GRAM.**

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

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

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

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

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

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

7 **SEC. 1113. MAXIMUM LOAN LIMITS UNDER MICROLOAN**
8 **PROGRAM.**

9 Section 7(m) of the Small Business Act (15 U.S.C.
10 636(m)) is amended—

11 (1) in paragraph (1)(B)(iii), by striking
12 “\$35,000” and inserting “\$50,000”;

13 (2) in paragraph (3)—

14 (A) in subparagraph (C), by striking
15 “\$3,500,000” and inserting “\$5,000,000”; and

16 (B) in subparagraph (E), by striking
17 “\$35,000” each place that term appears and
18 inserting “\$50,000”; and

19 (3) in paragraph (11)(B), by striking
20 “\$35,000” and inserting “\$50,000”.

21 **SEC. 1114. LOAN GUARANTEE ENHANCEMENT EXTENSIONS.**

22 (a) FEES.—Section 501 of the American Recovery
23 and Reinvestment Act of 2009 (Public Law 111–5; 123
24 Stat. 151) is amended by striking “September 30, 2010”

1 each place that term appears and inserting “December 31,
2 2010”.

3 (b) LOAN GUARANTEES.—Section 502(f) of division
4 A of the American Recovery and Reinvestment Act of
5 2009 (Public Law 111–5; 123 Stat. 153) is amended by
6 striking “May 31, 2010” and inserting “December 31,
7 2010”.

8 **SEC. 1115. NEW MARKETS VENTURE CAPITAL COMPANY IN-**
9 **VESTMENT LIMITATIONS.**

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

13 “(e) INVESTMENT LIMITATIONS.—

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

17 “(A) granted final approval by the Admin-
18 istrator under section 354(e) on or after March
19 1, 2002; and

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

22 “(2) LIMITATION.—Except to the extent ap-
23 proved by the Administrator, a covered New Markets
24 Venture Capital company may not acquire or issue
25 commitments for securities under this title for any

1 single enterprise in an aggregate amount equal to
2 more than 10 percent of the sum of—

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

5 “(B) the total amount of leverage pro-
6 jected in the participation agreement of the cov-
7 ered New Markets Venture Capital.”.

8 **SEC. 1116. ALTERNATIVE SIZE STANDARDS.**

9 Section 3(a) of the Small Business Act (15 U.S.C.
10 632(a)) is amended by adding at the end the following:

11 “(5) ALTERNATIVE SIZE STANDARD.—

12 “(A) IN GENERAL.—The Administrator shall
13 establish an alternative size standard for applicants
14 for business loans under section 7(a) and applicants
15 for development company loans under title V of the
16 Small Business Investment Act of 1958 (15 U.S.C.
17 695 et seq.), that uses maximum tangible net worth
18 and average net income as an alternative to the use
19 of industry standards.

20 “(B) INTERIM RULE.—Until the date on which
21 the alternative size standard established under sub-
22 paragraph (A) is in effect, an applicant for a busi-
23 ness loan under section 7(a) or an applicant for a
24 development company loan under title V of the

1 Small Business Investment Act of 1958 may be eli-
2 gible for such a loan if—

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

6 “(ii) the average net income after Federal
7 income taxes (excluding any carry-over losses)
8 of the applicant for the 2 full fiscal years before
9 the date of the application is not more than
10 \$5,000,000.”.

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

12 Section 5(g) of the Small Business Act (15 U.S.C.
13 634(g)) is amended by adding at the end the following:

14 “(6) If the amount of the guaranteed portion of any
15 loan under section 7(a) is more than \$500,000, the Ad-
16 ministrator shall, upon request of a pool assembler, divide
17 the loan guarantee into increments of \$500,000 and 1 in-
18 crement of any remaining amount less than \$500,000, in
19 order to permit the maximum amount of any loan in a
20 pool to be not more than \$500,000. Only 1 increment of
21 any loan guarantee divided under this paragraph may be
22 included in the same pool. Increments of loan guarantees
23 to different borrowers that are divided under this para-
24 graph may be included in the same pool.”.

1 **SEC. 1118. ONLINE LENDING PLATFORM.**

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

5 (1) lists each lender that makes loans guaran-
6 teed by the Small Business Administration and pro-
7 vides information about the loan rates of each such
8 lender; and

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

12 **SEC. 1119. SBA SECONDARY MARKET GUARANTEE AUTHOR-**
13 **ITY.**

14 Section 503(f) of division A of the American Recovery
15 and Reinvestment Act of 2009 (Public Law 111–5; 123
16 Stat. 155) is amended by striking “on the date 2 years
17 after the date of enactment of this section” and inserting
18 “2 years after the date of the first sale of a pool of first
19 lien position 504 loans guaranteed under this section to
20 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. FLOOR PLAN PILOT PROGRAM EXTENSION.**

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

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

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

22 “(34) FLOOR PLAN FINANCING PROGRAM.—

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

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

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

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

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

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

16 “(E) GUARANTEE PERCENTAGE.—The Ad-
17 ministrator may guarantee—

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

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

24 “(F) ADVANCE RATE.—The lender for an
25 open-end extension of credit guaranteed under

1 this paragraph may allow the borrower to draw
2 funds on the line of credit in an amount equal
3 to not more than 100 percent of the value of
4 the eligible retail goods to be purchased.”.

5 (b) SUNSET.—Effective September 30, 2013, section
6 7(a) of the Small Business Act (15 U.S.C. 636(a)) is
7 amended—

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

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

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

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

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

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

23 “(1) ELIGIBLE COMMUNITY DEVELOPMENT FI-
24 NANCIAL INSTITUTION.—The term ‘eligible commu-
25 nity development financial institution’ means a com-

1 community development financial institution (as de-
2 scribed in section 1805.201 of title 12, Code of Fed-
3 eral Regulations, or any successor thereto) certified
4 by the Secretary that has applied to a qualified
5 issuer for, or been granted by a qualified issuer, a
6 loan under the Program.

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

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

12 “(B) includes the provision of community
13 or economic development in low-income or un-
14 derserved rural areas.

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

23 “(4) LOAN.—The term ‘loan’ means any credit
24 instrument that is extended under the Program for

1 any eligible community or economic development
2 purpose.

3 “(5) MASTER SERVICER.—

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

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

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

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

22 “(iii) managing regional or national
23 originator communication systems and in-
24 frastructure;

1 “(iv) developing and implementing
2 training and other risk management strat-
3 egies on a regional or national basis; and
4 “(v) compliance monitoring, investor
5 relations, and reporting.

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

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

14 “(8) QUALIFIED ISSUER.—

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

22 “(B) APPROVAL CRITERIA FOR QUALIFIED
23 ISSUERS.—

24 “(i) IN GENERAL.—The Secretary
25 shall approve a qualified issuer for a guar-

1 antee under the Program in accordance
2 with the requirements of this paragraph,
3 and such additional requirements as the
4 Secretary may establish, by regulation.

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

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

12 “(II) provide to the Secretary—

13 “(aa) an acceptable state-
14 ment of the proposed sources and
15 uses of the funds; and

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

19 “(III) certify to the Secretary
20 that the bonds or notes to be guaran-
21 teed are to be used for eligible com-
22 munity or economic development pur-
23 poses.

24 “(C) DEPARTMENT OPINION; TIMING.—

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

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

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

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

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

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

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

5 “(c) GENERAL PROGRAM REQUIREMENTS.—

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

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

23 “(3) LIMITATIONS ON UNPAID PRINCIPAL BAL-
24 ANCES.—The proceeds of guaranteed bonds or notes
25 under the Program may not be used to pay fees

1 (other than costs of issuance fees), and shall be held
2 in—

3 “(A) community or economic development
4 loans;

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

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

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

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

19 “(A) prohibit, as appropriate, certain uses
20 of amounts from the guarantee of a bond or
21 note under the Program, including the use of
22 such funds for political activities, lobbying, out-
23 reach, counseling services, or travel expenses;
24 and

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

4 “(i) the qualified issuer; or

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

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

14 “(e) GUARANTEES.—

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

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

20 “(B) be fully assignable and transferable
21 to the capital market, on terms and conditions
22 that are consistent with comparable Govern-
23 ment-guaranteed bonds, and satisfactory to the
24 Secretary;

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

3 “(D) not exceed 30 years.

4 “(2) LIMITATIONS.—

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

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

14 “(f) SERVICING OF TRANSACTIONS.—

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

20 “(2) DUTIES OF PROGRAM ADMINISTRATOR.—

21 The duties of a Program administrator shall in-
22 clude—

23 “(A) approving and qualifying eligible com-
24 munity development financial institution appli-
25 cations for participation in the Program;

1 “(B) compliance monitoring;

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

4 “(D) all other duties and related services
5 that are customarily expected of a Program ad-
6 ministrator.

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

9 “(A) billing and collecting loan payments;

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

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

14 “(D) loan administration and servicing;

15 “(E) systematic and timely reporting of
16 loan performance through remittance and serv-
17 icing reports;

18 “(F) proper measurement of annual out-
19 standing loan requirements; and

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

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

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

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

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

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

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

13 “(F) loan administration and servicing;

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

17 “(H) proper distribution of funds to inves-
18 tors; and

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

22 “(g) FEES.—

23 “(1) IN GENERAL.—A qualified issuer that re-
24 ceives a guarantee issued under this section on a
25 bond or note shall pay a fee to the Secretary, in an

1 amount equal to 10 basis points of the amount of
2 the unpaid principal of the bond or note guaranteed.

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

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

12 “(h) AUTHORIZATION OF APPROPRIATIONS.—

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

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

22 “(i) INVESTMENT IN GUARANTEED BONDS INELI-
23 GIBLE FOR COMMUNITY REINVESTMENT ACT PUR-
24 POSES.—Notwithstanding any other provision of law, any
25 investment by a financial institution in bonds or notes

1 guaranteed under the Program shall not be taken into ac-
2 count in assessing the record of such institution for pur-
3 poses of the Community Reinvestment Act of 1977 (12
4 U.S.C. 2901).

5 “(j) ADMINISTRATION.—

6 “(1) REGULATIONS.—Not later than 1 year
7 after the date of enactment of this section, the Sec-
8 retary shall promulgate regulations to carry out this
9 section.

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

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

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

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

20 (b) PROSPECTIVE REPEAL.—Effective 1 year after
21 the date of enactment of this Act, section 7(a)(31)(D) of
22 the Small Business Act (15 U.S.C. 636(a)(31)(D)) is
23 amended by striking “\$1,000,000” and inserting
24 “\$350,000”.

1 **SEC. 1136. PROHIBITION ON USING TARP FUNDS OR TAX IN-**
2 **CREASES.**

3 (a) IN GENERAL.—Except as provided in subsection
4 (b), nothing in section 1111, 1112, 1113, 1114, 1115,
5 1116, 1117, 1118, 1122, or 1131, or an amendment made
6 by such sections, shall be construed to limit the ability
7 of Congress to appropriate funds.

8 (b) TARP FUNDS AND TAX INCREASES.—

9 (1) IN GENERAL.—Any covered amounts may
10 not be used to carry out section 1111, 1112, 1113,
11 1114, 1115, 1116, 1117, 1118, 1122, or 1131, or
12 an amendment made by such sections.

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

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

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

1 **Subtitle B—Small Business Trade**
2 **and Exporting**

3 **SEC. 1201. SHORT TITLE.**

4 This subtitle may be cited as the “Small Business
5 Export Enhancement and International Trade Act of
6 2010”.

7 **SEC. 1202. DEFINITIONS.**

8 (a) **DEFINITIONS.**—In this subtitle—

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

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

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

21 (b) **TECHNICAL AND CONFORMING AMENDMENTS.**—

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

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

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

9 (2) CONFORMING AMENDMENT.—Section
10 4(b)(3)(B)(x) of the Small Business Act (15 U.S.C.
11 633(b)(3)(B)(x)) is amended by striking “Adminis-
12 tration district and region” and inserting “district
13 and region of the Administration”.

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

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

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

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

20 “(a) ESTABLISHMENT.—

21 “(1) OFFICE.—There”; and

22 (2) in subsection (a)—

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

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

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

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

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

10 (b) AUTHORITY FOR ADDITIONAL ASSOCIATE AD-
11 MINISTRATOR.—Section 4(b)(1) of the Small Business Act
12 (15 U.S.C. 633(b)(1)) is amended—

13 (1) in the fifth sentence, by striking “five Asso-
14 ciate Administrators” and inserting “Associate Ad-
15 ministrators”; and

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

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

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

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

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

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

11 “(A) the staff of the Office; and

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

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

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

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

24 (e) IMPLEMENTATION DATE.—Not later than 90
25 days after the date of enactment of this Act, the Adminis-

1 trator of the Small Business Administration shall appoint
2 an Associate Administrator for International Trade under
3 section 22(a) of the Small Business Act (15 U.S.C.
4 649(a)), as added by this section.

5 **SEC. 1204. DUTIES OF THE OFFICE OF INTERNATIONAL**
6 **TRADE.**

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

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

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

24 “(1) maintain a distribution network, using re-
25 gional and district offices of the Administration, the

1 small business development center network, net-
2 works of women's business centers, the Service
3 Corps of Retired Executives authorized by section
4 8(b)(1), and Export Assistance Centers, for pro-
5 grams relating to—

6 “(A) trade promotion;

7 “(B) trade finance;

8 “(C) trade adjustment assistance;

9 “(D) trade remedy assistance; and

10 “(E) trade data collection;

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

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

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

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

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

12 (2) in subsection (c)—

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

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

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

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

22 “(1) establish annual goals for the Office relat-
23 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 in foreign markets;

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 “(35) EXPORT EXPRESS PROGRAM.—

2 “(A) DEFINITIONS.—In this paragraph—

3 “(i) the term ‘export development ac-
4 tivity’ includes—

5 “(I) obtaining a standby letter of
6 credit when required as a bid bond,
7 performance bond, or advance pay-
8 ment guarantee;

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

12 “(III) translation of product bro-
13 chures or catalogues for use in mar-
14 kets outside the United States;

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

17 “(V) performing a service con-
18 tract from buyers located outside the
19 United States;

20 “(VI) obtaining transaction-spe-
21 cific financing associated with com-
22 pleting export orders;

23 “(VII) purchasing real estate or
24 equipment to be used in the produc-
25 tion of goods or services for export;

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 quirements 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 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 **SEC. 1704. SMALL BUSINESS LOAN GUARANTEE ENHANCE-**
21 **MENT EXTENSIONS.**

22 (a) EXTENSION OF PROGRAMS.—

23 (1) IN GENERAL.—There is appropriated, out
24 of any funds in the Treasury not otherwise appro-
25 priated, for an additional amount for “Small Busi-

1 ness Administration—Business Loans Program Ac-
2 count”, \$505,000,000, to remain available through
3 December 31, 2010, for the cost of—

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

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

13 (2) COST.—For purposes of this subsection, the
14 term “cost” has the same meaning as in section 502
15 of the Congressional Budget Act of 1974 (2 U.S.C.
16 661a).

17 (b) ADMINISTRATIVE EXPENSES.—There is appro-
18 priated for an additional amount, out of any funds in the
19 Treasury not otherwise appropriated, for administrative
20 expenses to carry out sections 501 and 502 of division A
21 of the American Recovery and Reinvestment Act of 2009
22 (Public Law 111–5), \$5,000,000, to remain available until
23 expended, which may be transferred and merged with the
24 appropriation for “Small Business Administration—Sala-
25 ries and Expenses”.

1 **TITLE II—TAX PROVISIONS**

2 **SEC. 2001. SHORT TITLE.**

3 This title may be cited as the “Creating Small Busi-
4 ness Jobs Act of 2010”.

5 **Subtitle A—Small Business Relief**

6 **PART I—PROVIDING ACCESS TO CAPITAL**

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

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

12 “(4) 100 PERCENT EXCLUSION FOR STOCK AC-
13 QUIRED DURING CERTAIN PERIODS IN 2010.—In the
14 case of qualified small business stock acquired after
15 the date of the enactment of the Creating Small
16 Business Jobs Act of 2010 and before January 1,
17 2011—

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

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

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

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

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 “(D) TREATMENT OF PARTNERS AND S
20 CORPORATION SHAREHOLDERS.—Credits deter-
21 mined with respect to a partnership or S cor-
22 poration shall not be treated as eligible small
23 business credits by any partner or shareholder
24 unless such partner or shareholder meets the
25 gross receipts test under subparagraph (C) for

1 the taxable year in which such credits are treat-
2 ed as current year business credits.”.

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

6 (c) CONFORMING AMENDMENTS.—

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

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

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

20 (d) EFFECTIVE DATE.—The amendments made by
21 subsection (a) shall apply to credits determined in taxable
22 years beginning after December 31, 2009, and to
23 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) REVOCABILITY OF ELECTION.—Paragraph (2) of
10 section 179(c) of the Internal Revenue Code of 1986 is
11 amended by striking “2011” and inserting “2012”.

12 (d) COMPUTER SOFTWARE TREATED AS 179 PROP-
13 erty.—Clause (ii) of section 179(d)(1)(A) is amended by
14 striking “2011” and inserting “2012”.

15 (e) EFFECTIVE DATES.—

16 (1) IN GENERAL.—Except as provided in para-
17 graph (2), the amendments made by this section
18 shall apply to property placed in service after De-
19 cember 31, 2009, in taxable years beginning after
20 such date.

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

1 **SEC. 2022. ADDITIONAL FIRST-YEAR DEPRECIATION FOR 50**
2 **PERCENT OF THE BASIS OF CERTAIN QUALI-**
3 **FIED PROPERTY.**

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

6 (1) by striking “January 1, 2011” in subpara-
7 graph (A)(iv) and inserting “January 1, 2012”, and

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

10 (b) CONFORMING AMENDMENTS.—

11 (1) The heading for subsection (k) of section
12 168 of the Internal Revenue Code of 1986 is amend-
13 ed by striking “JANUARY 1, 2010” and inserting
14 “JANUARY 1, 2011”.

15 (2) The heading for clause (ii) of section
16 168(k)(2)(B) of such Code is amended by striking
17 “PRE-JANUARY 1, 2010” and inserting “PRE-JANU-
18 ARY 1, 2011”.

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

24 “(iv) ‘January 1, 2011’ shall be sub-
25 stituted for ‘January 1, 2012’ in subpara-
26 graph (A)(iv) thereof, and

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

4 (4) Subparagraph (B) of section 168(l)(5) of
5 such Code is amended by striking “January 1,
6 2010” and inserting “January 1, 2011”.

7 (5) Subparagraph (C) of section 168(n)(2) of
8 such Code is amended by striking “January 1,
9 2010” and inserting “January 1, 2011”.

10 (6) Subparagraph (D) of section 1400L(b)(2)
11 of such Code is amended by striking “January 1,
12 2010” and inserting “January 1, 2011”.

13 (7) Subparagraph (B) of section 1400N(d)(3)
14 of such Code is amended by striking “January 1,
15 2010” and inserting “January 1, 2011”.

16 (c) EFFECTIVE DATE.—The amendments made by
17 this section shall apply to property placed in service after
18 December 31, 2009, in taxable years ending after such
19 date.

20 **SEC. 2023. SPECIAL RULE FOR LONG-TERM CONTRACT AC-**
21 **COUNTING.**

22 (a) IN GENERAL.—Section 460(c) of the Internal
23 Revenue Code of 1986 is amended by adding at the end
24 the following new paragraph:

1 “(6) SPECIAL RULE FOR ALLOCATION OF
2 BONUS DEPRECIATION WITH RESPECT TO CERTAIN
3 PROPERTY.—

4 “(A) IN GENERAL.—Solely for purposes of
5 determining the percentage of completion under
6 subsection (b)(1)(A), the cost of qualified prop-
7 erty shall be taken into account as a cost allo-
8 cated to the contract as if subsection (k) of sec-
9 tion 168 had not been enacted.

10 “(B) QUALIFIED PROPERTY.—For pur-
11 poses of this paragraph, the term ‘qualified
12 property’ means property described in section
13 168(k)(2) which—

14 “(i) has a recovery period of 7 years
15 or less, and

16 “(ii) is placed in service after Decem-
17 ber 31, 2009, and before January 1, 2011
18 (January 1, 2012, in the case of property
19 described in section 168(k)(2)(B)).”.

20 (b) EFFECTIVE DATE.—The amendment made by
21 this section shall apply to property placed in service after
22 December 31, 2009.

1 **PART III—PROMOTING ENTREPRENEURSHIP**

2 **SEC. 2031. INCREASE IN AMOUNT ALLOWED AS DEDUCTION**
3 **FOR START-UP EXPENDITURES IN 2010.**

4 (a) **START-UP EXPENDITURES.**—Subsection (b) of
5 section 195 of the Internal Revenue Code of 1986 is
6 amended by adding at the end the following new para-
7 graph:

8 “(3) **SPECIAL RULE FOR TAXABLE YEARS BE-**
9 **GINNING IN 2010.**—In the case of a taxable year be-
10 ginning in 2010, paragraph (1)(A)(ii) shall be ap-
11 plied—

12 “(A) by substituting ‘\$10,000’ for
13 ‘\$5,000’, and

14 “(B) by substituting ‘\$60,000’ for
15 ‘\$50,000’.”.

16 (b) **EFFECTIVE DATE.**—The amendment made by
17 this section shall apply to amounts paid or incurred in tax-
18 able years beginning after December 31, 2009.

19 **SEC. 2032. AUTHORIZATION OF APPROPRIATIONS FOR THE**
20 **UNITED STATES TRADE REPRESENTATIVE TO**
21 **DEVELOP MARKET ACCESS OPPORTUNITIES**
22 **FOR UNITED STATES SMALL- AND MEDIUM-**
23 **SIZED BUSINESSES AND TO ENFORCE TRADE**
24 **AGREEMENTS.**

25 (a) **IN GENERAL.**—There are authorized to be appro-
26 priated to the Office of the United States Trade Rep-

1 representative \$5,230,000, to remain available until ex-
2 pended, for—

3 (1) analyzing and developing opportunities for
4 businesses in the United States to access the mar-
5 kets of foreign countries; and

6 (2) enforcing trade agreements to which the
7 United States is a party.

8 (b) REQUIREMENTS.—In obligating and expending
9 the funds authorized to be appropriated under subsection
10 (a), the United States Trade Representative shall—

11 (1) give preference to those initiatives that the
12 United States Trade Representative determines will
13 create or sustain the greatest number of jobs in the
14 United States or result in the greatest benefit to the
15 economy of the United States; and

16 (2) consider the needs of small- and medium-
17 sized businesses in the United States with respect
18 to—

19 (A) accessing the markets of foreign coun-
20 tries; and

21 (B) the enforcement of trade agreements
22 to which the United States is a party.

1 **PART IV—PROMOTING SMALL BUSINESS**

2 **FAIRNESS**

3 **SEC. 2041. LIMITATION ON PENALTY FOR FAILURE TO DIS-**
4 **CLOSE REPORTABLE TRANSACTIONS BASED**
5 **ON RESULTING TAX BENEFITS.**

6 (a) IN GENERAL.—Subsection (b) of section 6707A
7 of the Internal Revenue Code of 1986 is amended to read
8 as follows:

9 “(b) AMOUNT OF PENALTY.—

10 “(1) IN GENERAL.—Except as otherwise pro-
11 vided in this subsection, the amount of the penalty
12 under subsection (a) with respect to any reportable
13 transaction shall be 75 percent of the decrease in
14 tax shown on the return as a result of such trans-
15 action (or which would have resulted from such
16 transaction if such transaction were respected for
17 Federal tax purposes).

18 “(2) MAXIMUM PENALTY.—The amount of the
19 penalty under subsection (a) with respect to any re-
20 portable transaction shall not exceed—

21 “(A) in the case of a listed transaction,
22 \$200,000 (\$100,000 in the case of a natural
23 person), or

24 “(B) in the case of any other reportable
25 transaction, \$50,000 (\$10,000 in the case of a
26 natural person).

1 “(3) MINIMUM PENALTY.—The amount of the
2 penalty under subsection (a) with respect to any
3 transaction shall not be less than \$10,000 (\$5,000
4 in the case of a natural person).”.

5 (b) EFFECTIVE DATE.—The amendment made by
6 this section shall apply to penalties assessed after Decem-
7 ber 31, 2006.

8 **SEC. 2042. DEDUCTION FOR HEALTH INSURANCE COSTS IN**
9 **COMPUTING SELF-EMPLOYMENT TAXES IN**
10 **2010.**

11 (a) IN GENERAL.—Paragraph (4) of section 162(l)
12 of the Internal Revenue Code of 1986 is amended by in-
13 serting “for taxable years beginning before January 1,
14 2010, or after December 31, 2010” before the period.

15 (b) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to taxable years beginning after
17 December 31, 2009.

18 **SEC. 2043. REMOVAL OF CELLULAR TELEPHONES AND**
19 **SIMILAR TELECOMMUNICATIONS EQUIP-**
20 **MENT FROM LISTED PROPERTY.**

21 (a) IN GENERAL.—Subparagraph (A) of section
22 280F(d)(4) of the Internal Revenue Code of 1986 (defin-
23 ing listed property) is amended by adding “‘and’” at the
24 end of clause (iv), by striking clause (v), and by redesign-
25 ating clause (vi) as clause (v).

1 (b) EFFECTIVE DATE.—The amendment 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 **URNS.**—

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 CONTINUOUS LEVY TO TAX LI-**
16 **ABILITIES OF CERTAIN FEDERAL CONTRAC-**
17 **TORS.**

18 (a) IN GENERAL.—Subsection (f) of section 6330 of
19 the Internal Revenue Code of 1986 is amended by striking
20 “or” at the end of paragraph (2), by inserting “or” at
21 the end of paragraph (3), and by inserting after paragraph
22 (3) the following new paragraph:

23 “(4) the Secretary has served a Federal con-
24 tractor levy,”.

1 (b) FEDERAL CONTRACTOR LEVY.—Subsection (h)
2 of section 6330 of the Internal Revenue Code of 1986 is
3 amended—

4 (1) by striking all that precedes “any levy in
5 connection with the collection” and inserting the fol-
6 lowing:

7 “(h) DEFINITIONS RELATED TO EXCEPTIONS.—For
8 purposes of subsection (f)—

9 “(1) DISQUALIFIED EMPLOYMENT TAX LEVY.—
10 A disqualified employment tax levy is”; and

11 (2) by adding at the end the following new
12 paragraph:

13 “(2) FEDERAL CONTRACTOR LEVY.—A Federal
14 contractor levy is any levy if the person whose prop-
15 erty is subject to the levy (or any predecessor there-
16 of) is a Federal contractor.”.

17 (c) CONFORMING AMENDMENT.—The heading of
18 subsection (f) of section 6330 of the Internal Revenue
19 Code of 1986 is amended by striking “JEOPARDY AND
20 STATE REFUND COLLECTION” and inserting “EXCEP-
21 TIONS”.

22 (d) EFFECTIVE DATE.—The amendments made by
23 this section shall apply to levies issued after the date of
24 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 **SEC. 2113. SPECIAL RULES FOR ANNUITIES RECEIVED**
5 **FROM ONLY A PORTION OF A CONTRACT.**

6 (a) IN GENERAL.—Subsection (a) of section 72 of the
7 Internal Revenue Code of 1986 is amended to read as fol-
8 lows:

9 “(a) GENERAL RULES FOR ANNUITIES.—

10 “(1) INCOME INCLUSION.—Except as otherwise
11 provided in this chapter, gross income includes any
12 amount received as an annuity (whether for a period
13 certain or during one or more lives) under an annu-
14 ity, endowment, or life insurance contract.

15 “(2) PARTIAL ANNUITIZATION.—If any amount
16 is received as an annuity for a period of 10 years
17 or more or during one or more lives under any por-
18 tion of an annuity, endowment, or life insurance con-
19 tract—

20 “(A) such portion shall be treated as a
21 separate contract for purposes of this section,

22 “(B) for purposes of applying subsections
23 (b), (c), and (e), the investment in the contract
24 shall be allocated pro rata between each portion
25 of the contract from which amounts are re-

1 (4) by striking “UNPROCESSED” in the heading
2 and inserting “CERTAIN”.

3 (b) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to fuels sold or used on or after
5 January 1, 2010.

6 **SEC. 2122. SOURCE RULES FOR INCOME ON GUARANTEES.**

7 (a) AMOUNTS SOURCED WITHIN THE UNITED
8 STATES.—Subsection (a) of section 861 of the Internal
9 Revenue Code of 1986 is amended by adding at the end
10 the following new paragraph:

11 “(9) GUARANTEES.—Amounts received, directly
12 or indirectly, from—

13 “(A) a noncorporate resident or domestic
14 corporation for the provision of a guarantee of
15 any indebtedness of such resident or corpora-
16 tion, or

17 “(B) any foreign person for the provision
18 of a guarantee of any indebtedness of such per-
19 son, if such amount is connected with income
20 which is effectively connected (or treated as ef-
21 fectively connected) with the conduct of a trade
22 or business in the United States.”.

23 (b) AMOUNTS SOURCED WITHOUT THE UNITED
24 STATES.—Subsection (a) of section 862 of the Internal
25 Revenue Code of 1986 is amended by striking “and” at

1 the end of paragraph (7), by striking the period at the
2 end of paragraph (8) and inserting “; and”, and by adding
3 at the end the following new paragraph:

4 “(9) amounts received, directly or indirectly,
5 from a foreign person for the provision of a guar-
6 antee of indebtedness of such person other than
7 amounts which are derived from sources within the
8 United States as provided in section 861(a)(9).”.

9 (c) CONFORMING AMENDMENT.—Clause (ii) of sec-
10 tion 864(c)(4)(B) of the Internal Revenue Code of 1986
11 is amended by striking “dividends or interest” and insert-
12 ing “dividends, interest, or amounts received for the provi-
13 sion of guarantees of indebtedness”.

14 (d) EFFECTIVE DATE.—The amendments made by
15 this section shall apply to guarantees issued after the date
16 of the enactment of this Act.

17 **SEC. 2123. ELIMINATION OF ADVANCE REFUNDABILITY OF**
18 **EARNED INCOME CREDIT.**

19 (a) IN GENERAL.—The following provisions of the In-
20 ternal Revenue Code of 1986 are repealed:

- 21 (1) Section 3507.
22 (2) Subsection (g) of section 32.
23 (3) Paragraph (7) of section 6051(a).

24 (b) CONFORMING AMENDMENTS.—

1 (1) Section 6012(a) of the Internal Revenue
2 Code of 1986 is amended by striking paragraph (8)
3 and by redesignating paragraph (9) as paragraph
4 (8).

5 (2) Section 6302 of such Code is amended by
6 striking subsection (i).

7 (3) The table of sections for chapter 25 of such
8 Code is amended by striking the item relating to sec-
9 tion 3507.

10 (c) EFFECTIVE DATE.—The repeals and amend-
11 ments made by this section shall apply to taxable years
12 beginning after December 31, 2010.

13 **PART IV—TIME FOR PAYMENT OF CORPORATE**

14 **ESTIMATED TAXES**

15 **SEC. 2131. TIME FOR PAYMENT OF CORPORATE ESTIMATED**

16 **TAXES.**

17 The percentage under paragraph (2) of section 561
18 of the Hiring Incentives to Restore Employment Act in
19 effect on the date of the enactment of this Act is increased
20 by 36 percentage points.

21 **TITLE III—STATE SMALL**

22 **BUSINESS CREDIT INITIATIVE**

23 **SEC. 3001. SHORT TITLE.**

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

1 **SEC. 3002. DEFINITIONS.**

2 In this title, the following definitions shall apply:

3 (1) APPROPRIATE COMMITTEES OF CON-
4 GRESS.—The term “appropriate committees of Con-
5 gress” means—

6 (A) the Committee on Small Business and
7 Entrepreneurship, the Committee on Agri-
8 culture, Nutrition, and Forestry, the Committee
9 on Banking, Housing, and Urban Affairs, the
10 Committee on Finance, the Committee on the
11 Budget, and the Committee on Appropriations
12 of the Senate; and

13 (B) the Committee on Small Business, the
14 Committee on Agriculture, the Committee on
15 Financial Services, the Committee on Ways and
16 Means, the Committee on the Budget, and the
17 Committee on Appropriations of the House of
18 Representatives.

19 (2) APPROPRIATE FEDERAL BANKING AGEN-
20 CY.—The term “appropriate Federal banking agen-
21 cy”—

22 (A) has the same meaning as in section
23 3(q) of the Federal Deposit Insurance Act (12
24 U.S.C. 1813(q)); and

25 (B) includes the National Credit Union
26 Administration Board in the case of any credit

1 union the deposits of which are insured in ac-
2 cordance with the Federal Credit Union Act.

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

8 (4) FEDERAL CONTRIBUTION.—The term “Fed-
9 eral contribution” means the portion of the contribu-
10 tion made by a participating State to, or for the ac-
11 count of, an approved State program that is made
12 with Federal funds allocated to the State by the Sec-
13 retary under section 3003.

14 (5) FINANCIAL INSTITUTION.—The term “fi-
15 nancial institution” means any insured depository
16 institution, insured credit union, or community de-
17 velopment financial institution, as those terms are
18 each defined in section 103 of the Riegle Community
19 Development and Regulatory Improvement Act of
20 1994 (12 U.S.C. 4702)

21 (6) PARTICIPATING STATE.—The term “partici-
22 pating State” means any State that has been ap-
23 proved for participation in the Program under sec-
24 tion 3004.

1 (7) PROGRAM.—The term “Program” means
2 the State Small Business Credit Initiative estab-
3 lished under this title.

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

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

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

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

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

22 (A) depositing all required premium
23 charges paid by the financial institution lender
24 and by each borrower receiving a loan under an

1 approved State program from that financial in-
2 stitution lender;

3 (B) depositing contributions made by the
4 participating State, including State contribu-
5 tions made with Federal contributions; and

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

8 (10) STATE.—The term “State” means—

9 (A) a State of the United States;

10 (B) the District of Columbia, the Common-
11 wealth of Puerto Rico, the Commonwealth of
12 Northern Mariana Islands, Guam, American
13 Samoa, and the United States Virgin Islands;

14 (C) when designated by a State of the
15 United States, a political subdivision of that
16 State that the Secretary determines has the ca-
17 pacity to participate in the Program; and

18 (D) under the circumstances described in
19 section 3004(d), a municipality of a State of
20 the United States to which the Secretary has
21 given a special permission under section
22 3004(d).

23 (11) STATE CAPITAL ACCESS PROGRAM.—The
24 term “State capital access program” means a pro-
25 gram of a State that—

1 (A) uses public resources to promote pri-
2 vate access to credit; and

3 (B) meets the eligibility criteria in section
4 3005(c).

5 (12) STATE OTHER CREDIT SUPPORT PRO-
6 GRAM.—The term “State other credit support pro-
7 gram”—

8 (A) means a program of a State that—

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

11 (ii) is not a State capital access pro-
12 gram; and

13 (iii) meets the eligibility criteria in
14 section 3006(c); and

15 (B) includes, collateral support programs,
16 loan participation programs, State-run venture
17 capital fund programs, and credit guarantee
18 programs.

19 (13) STATE PROGRAM.—The term “State pro-
20 gram” means a State capital access program or a
21 State other credit support program.

22 (14) SECRETARY.—The term “Secretary”
23 means the Secretary of the Treasury.

1 **SEC. 3003. FEDERAL FUNDS ALLOCATED TO STATES.**

2 (a) PROGRAM ESTABLISHED; PURPOSE.—There is
3 established the State Small Business Credit Initiative, to
4 be administered by the Secretary. Under the Program, the
5 Secretary shall allocate Federal funds to participating
6 States and make the allocated funds available to the par-
7 ticipating States as provided in this section for the uses
8 described in this section.

9 (b) ALLOCATION FORMULA.—

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

16 (A) would receive under the 2009 alloca-
17 tion, as determined under paragraph (2); and

18 (B) would receive under the 2010 alloca-
19 tion, as determined under paragraph (3).

20 (2) 2009 ALLOCATION FORMULA.—

21 (A) IN GENERAL.—The Secretary shall de-
22 termine the 2009 allocation by allocating Fed-
23 eral funds among the States in the proportion
24 that each such State's 2008 State employment
25 decline bears to the aggregate of the 2008
26 State employment declines for all States.

1 (B) MINIMUM ALLOCATION.—The Sec-
2 retary shall adjust the allocations under sub-
3 paragraph (A) for each State to the extent nec-
4 essary to ensure that no State receives less than
5 0.9 percent of the Federal funds.

6 (C) 2008 STATE EMPLOYMENT DECLINE
7 DEFINED.—In this paragraph and with respect
8 to a State, the term “2008 State employment
9 decline” means the excess (if any) of—

10 (i) the number of individuals em-
11 ployed in such State determined for De-
12 cember 2007; over

13 (ii) the number of individuals em-
14 ployed in such State determined for De-
15 cember 2008.

16 (3) 2010 ALLOCATION FORMULA.—

17 (A) IN GENERAL.—The Secretary shall de-
18 termine the 2010 allocation by allocating Fed-
19 eral funds among the States in the proportion
20 that each such State’s 2009 unemployment
21 number bears to the aggregate of the 2009 un-
22 employment numbers for all of the States.

23 (B) MINIMUM ALLOCATION.—The Sec-
24 retary shall adjust the allocations under sub-
25 paragraph (A) for each State to the extent nec-

1 pended, transferred, or obligated 80 per-
2 cent of the last transferred $\frac{1}{3}$ for Federal
3 contributions to, or for the account of,
4 State programs.

5 (B) AUTHORITY TO WITHHOLD PENDING
6 AUDIT.—The Secretary may withhold the trans-
7 fer of any successive $\frac{1}{3}$ pending results of a fi-
8 nancial audit.

9 (C) INSPECTOR GENERAL AUDITS.—

10 (i) IN GENERAL.—The Inspector Gen-
11 eral of the Department of the Treasury
12 shall carry out an audit of the partici-
13 pating State's use of allocated Federal
14 funds transferred to the State.

15 (ii) RECOUPMENT OF MISUSED
16 TRANSFERRED FUNDS REQUIRED.—The al-
17 location agreement between the Secretary
18 and the participating State shall provide
19 that the Secretary shall recoup any allo-
20 cated Federal funds transferred to the par-
21 ticipating State if the results of the an
22 audit include a finding that there was an
23 intentional or reckless misuse of trans-
24 ferred funds by the State.

1 (iii) PENALTY FOR MISSTATEMENT.—

2 Any participating State that is found to
3 have intentionally misstated any report
4 issued to the Secretary under the Program
5 shall be ineligible to receive any additional
6 funds under the Program. Funds that had
7 been allocated or that would otherwise
8 have been allocated to such participating
9 State shall be paid into the general fund of
10 the Treasury for reduction of the public
11 debt.

12 (iv) MUNICIPALITIES.—In this sub-
13 paragraph, the term “participating State”
14 shall include a municipality given special
15 permission to participate in the Program,
16 under section 3004(d).

17 (D) EXCEPTION.—The Secretary may, in
18 the Secretary’s discretion, transfer the full
19 amount of the participating State’s allocated
20 amount to the State in a single transfer if the
21 participating State applies to the Secretary for
22 approval to use the full amount of the allocation
23 as collateral for a qualifying loan or swap fund-
24 ing facility.

1 (2) TRANSFERRED AMOUNTS.—Each amount
2 transferred to a participating State under this sec-
3 tion shall remain available to the State until used by
4 the State as permitted under paragraph (3).

5 (3) USE OF TRANSFERRED FUNDS.—Each par-
6 ticipating State may use funds transferred to it
7 under this section only—

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

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

12 (C) in the case of the first $\frac{1}{3}$ transferred,
13 for paying administrative costs incurred by the
14 State in implementing an approved State pro-
15 gram in an amount not to exceed 5 percent of
16 that first $\frac{1}{3}$; or

17 (D) in the case of each successive $\frac{1}{3}$ trans-
18 ferred, for paying administrative costs incurred
19 by the State in implementing an approved State
20 program in an amount not to exceed 3 percent
21 of that successive $\frac{1}{3}$.

22 (4) TERMINATION OF AVAILABILITY OF
23 AMOUNTS NOT TRANSFERRED WITHIN 2 YEARS OF
24 PARTICIPATION.—Any portion of a participating
25 State's allocated amount that has not been trans-

1 **SEC. 3004. APPROVING STATES FOR PARTICIPATION.**

2 (a) APPLICATION.—Any State may apply to the Sec-
3 retary for approval to be a participating State under the
4 Program and to be eligible for an allocation of Federal
5 funds under the Program.

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

8 (1) a specific department, agency, or political
9 subdivision of the State has been designated to im-
10 plement a State program and participate in the Pro-
11 gram;

12 (2) all legal actions necessary to enable such
13 designated department, agency, or political subdivi-
14 sion to implement a State program and participate
15 in the Program have been accomplished;

16 (3) the State has filed an application with the
17 Secretary for approval of a State capital access pro-
18 gram under section 3005 or approval as a State
19 other credit support program under section 3006, in
20 each case within the time period provided in the re-
21 spective section; and

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

24 (A) conforms to the requirements of this
25 title;

1 (B) ensures that the State program com-
2 plies with such national standards as are estab-
3 lished by the Secretary under section
4 3009(a)(2);

5 (C) sets forth internal control, compliance,
6 and reporting requirements as established by
7 the Secretary, and such other terms and condi-
8 tions necessary to carry out the purposes of this
9 title, including an agreement by the State to
10 allow the Secretary to audit State programs;

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

17 (E) includes an agreement by the State to
18 deliver to the Secretary, and update annually, a
19 schedule describing how the State intends to
20 apportion among its State programs the Fed-
21 eral funds allocated to the State.

22 (c) CONTRACTUAL ARRANGEMENTS FOR IMPLEMEN-
23 TATION OF STATE PROGRAMS.—A State may be approved
24 to be a participating State, and be eligible for an allocation
25 of Federal funds under the Program, if the State has con-

1 tractual arrangements for the implementation and admin-
2 istration of its State program with—

3 (1) an existing, approved State program admin-
4 istered by another State; or

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

8 (d) SPECIAL PERMISSION.—

9 (1) CIRCUMSTANCES WHEN A MUNICIPALITY
10 MAY APPLY DIRECTLY.—If a State does not, within
11 60 days after the date of enactment of this Act, file
12 with the Secretary a notice of its intent to apply for
13 approval by the Secretary of a State program or
14 within 9 months after the date of enactment of this
15 Act, file with the Secretary a complete application
16 for approval of a State program, the Secretary may
17 grant to municipalities of that State a special per-
18 mission that will allow them to apply directly to the
19 Secretary without the State for approval to be par-
20 ticipating municipalities.

21 (2) TIMING REQUIREMENTS APPLICABLE TO
22 MUNICIPALITIES APPLYING DIRECTLY.—To qualify
23 for the special permission, a municipality of a State
24 shall be required, within 12 months after the date
25 of enactment of this Act, to file with the Secretary

1 a complete application for approval by the Secretary
2 of a State program.

3 (3) NOTICES OF INTENT AND APPLICATIONS
4 FROM MORE THAN 1 MUNICIPALITY.—A municipality
5 of a State may combine with 1 or more other mu-
6 nicipalities of that State to file a joint notice of in-
7 tent to file and a joint application.

8 (4) APPROVAL CRITERIA.—The general ap-
9 proval criteria in paragraphs (2) and (4) shall apply.

10 (5) ALLOCATION TO MUNICIPALITIES.—

11 (A) IF MORE THAN 3.—If more than 3 mu-
12 nicipalities, or combination of municipalities as
13 provided in paragraph (3), of a State apply for
14 approval by the Secretary to be participating
15 municipalities under this subsection, and the
16 applications meet the approval criteria in para-
17 graph (4), the Secretary shall allocate Federal
18 funds to the 3 municipalities with the largest
19 populations.

20 (B) IF 3 OR FEWER.—If 3 or fewer mu-
21 nicipalities, or combination of municipalities as
22 provided in paragraph (3), of a State apply for
23 approval by the Secretary to be participating
24 municipalities under this subsection, and the
25 applications meet the approval criteria in para-

1 graph (4), the Secretary shall allocate Federal
2 funds to each applicant municipality or com-
3 bination of municipalities.

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

14 (7) APPROVING STATE PROGRAMS FOR MUNICI-
15 PALITIES.—If the Secretary approves municipalities
16 to be participating municipalities under this sub-
17 section, the Secretary shall take into account the ad-
18 ditional considerations in section 3006(d) in making
19 the determination under section 3005 or 3006 that
20 the State program or programs to be implemented
21 by the participating municipalities, including a State
22 capital access program, is eligible for Federal con-
23 tributions to, or for the account of, the State pro-
24 gram.

1 **SEC. 3005. APPROVING STATE CAPITAL ACCESS PROGRAMS.**

2 (a) APPLICATION.—A participating State that estab-
3 lishes a new, or has an existing, State capital access pro-
4 gram that meets the eligibility criteria in subsection (c)
5 may apply to Secretary to have the State capital access
6 program approved as eligible for Federal contributions to
7 the reserve fund.

8 (b) APPROVAL.—The Secretary shall approve such
9 State capital access program as eligible for Federal con-
10 tributions to the reserve fund if—

11 (1) within 60 days after the date of enactment
12 of this Act, the State has filed with the Secretary a
13 notice of intent to apply for approval by the Sec-
14 retary of a State capital access program;

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

19 (3) the State satisfies the requirements of sub-
20 sections (a) and (b) of section 3004; and

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

23 (c) ELIGIBILITY CRITERIA FOR STATE CAPITAL AC-
24 CESS PROGRAMS.—For a State capital access program to
25 be approved under this section, that program shall be re-
26 quired to be a program of the State that—

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

4 (2) requires insurance premiums to be paid by
5 the financial institution lenders and by the business
6 borrowers to the reserve fund to have their loans en-
7 rolled in the reserve fund;

8 (3) provides for contributions to be made by the
9 State to the reserve fund in amounts at least equal
10 to the sum of the amount of the insurance premium
11 charges paid by the borrower and the financial insti-
12 tution to the reserve fund for any newly enrolled
13 loan; and

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

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

19 (B) The loan amount does not exceed
20 \$5,000,000.

21 (d) FEDERAL CONTRIBUTIONS TO APPROVED STATE
22 CAPITAL ACCESS PROGRAMS.—A State capital access pro-
23 gram approved under this section will be eligible for receiv-
24 ing Federal contributions to the reserve fund in an
25 amount equal to the sum of the amount of the insurance

1 premium charges paid by the borrowers and by the finan-
2 cial institution to the reserve fund for loans that meet the
3 requirements in subsection (c)(4). A participating State
4 may use the Federal contribution to make its contribution
5 to the reserve fund of an approved State capital access
6 program.

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

11 (1) EXPERIENCE AND CAPACITY.—The partici-
12 pating State shall determine for each financial insti-
13 tution that participates in the State capital access
14 program, after consultation with the appropriate
15 Federal banking agency or, in the case of a financial
16 institution that is a nondepository community devel-
17 opment financial institution, the Community Devel-
18 opment Financial Institution Fund, that the finan-
19 cial institution has sufficient commercial lending ex-
20 perience and financial and managerial capacity to
21 participate in the approved State capital access pro-
22 gram. The determination by the State shall not be
23 reviewable by the Secretary.

24 (2) INVESTMENT AUTHORITY.—Subject to ap-
25 plicable State law, the participating State may in-

1 vest, or cause to be invested, funds held in a reserve
2 fund by establishing a deposit account at the finan-
3 cial institution lender in the name of the partici-
4 pating State. In the event that funds in the reserve
5 fund are not deposited in such an account, such
6 funds shall be invested in a form that the partici-
7 pating State determines is safe and liquid.

8 (3) LOAN TERMS AND CONDITIONS TO BE DE-
9 TERMINED BY AGREEMENT.—A loan to be filed for
10 enrollment in an approved State capital access pro-
11 gram may be made with such interest rate, fees, and
12 other terms and conditions, and the loan may be en-
13 rolled in the approved State capital access program
14 and claims may be filed and paid, as agreed upon
15 by the financial institution lender and the borrower,
16 consistent with applicable law.

17 (4) LENDER CAPITAL AT-RISK.—A loan to be
18 filed for enrollment in the State capital access pro-
19 gram shall require the financial institution lender to
20 have a meaningful amount of its own capital re-
21 sources at risk in the loan.

22 (5) PREMIUM CHARGES MINIMUM AND MAX-
23 IMUM AMOUNTS.—The insurance premium charges
24 payable to the reserve fund by the borrower and the
25 financial institution lender shall be prescribed by the

1 financial institution lender, within minimum and
2 maximum limits that require that the sum of the in-
3 surance premium charges paid in connection with a
4 loan by the borrower and the financial institution
5 lender may not be less than 2 percent nor more than
6 7 percent of the amount of the loan enrolled in the
7 approved State capital access program.

8 (6) STATE CONTRIBUTIONS.—In enrolling a
9 loan in an approved State capital access program,
10 the participating State may make a contribution to
11 the reserve fund to supplement Federal contribu-
12 tions made under this Program.

13 (7) LOAN PURPOSE.—

14 (A) PARTICULAR LOAN PURPOSE REQUIRE-
15 MENTS AND PROHIBITIONS.—In connection
16 with the filing of a loan for enrollment in an
17 approved State capital access program, the fi-
18 nancial institution lender—

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

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

23 (II) the loan will not be used to
24 finance such business activities as the
25 Secretary, by regulation, may pro-

1 scribe as prohibited loan purposes for
2 enrollment in an approved State cap-
3 ital access program; and
4 (III) the borrower is not—
5 (aa) an executive officer, di-
6 rector, or principal shareholder of
7 the financial institution lender;
8 (bb) a member of the imme-
9 diate family of an executive offi-
10 cer, director, or principal share-
11 holder of the financial institution
12 lender; or
13 (cc) a related interest of any
14 such executive officer, director,
15 principal shareholder, or member
16 of the immediate family;
17 (ii) shall provide assurances to the
18 participating State that the loan has not
19 been made in order to place under the pro-
20 tection of the approved State capital access
21 program prior debt that is not covered
22 under the approved State capital access
23 program and that is or was owed by the
24 borrower to the financial institution lender

1 or to an affiliate of the financial institution
2 lender;

3 (iii) shall not allow the enrollment of
4 a loan to a borrower that is a refinancing
5 of a loan previously made to that borrower
6 by the financial institution lender or an af-
7 filiate of the financial institution lender;
8 and

9 (iv) may include additional restric-
10 tions on the eligibility of loans or bor-
11 rowers that are not inconsistent with the
12 provisions and purposes of this title, in-
13 cluding compliance with all applicable Fed-
14 eral and State laws, regulations, ordi-
15 nances, and Executive orders.

16 (B) DEFINITIONS.—In this paragraph, the
17 terms “executive officer”, “director”, “principal
18 shareholder”, “immediate family”, and “related
19 interest” refer to the same relationship to a fi-
20 nancial institution lender as the relationship de-
21 scribed in part 215 of title 12 of the Code of
22 Federal Regulations, or any successor to such
23 part.

24 (8) CAPITAL ACCESS FOR SMALL BUSINESSES
25 IN UNDERSERVED COMMUNITIES.—At the time that

1 a State applies to the Secretary to have the State
2 capital access program approved as eligible for Fed-
3 eral contributions, the State shall deliver to the Sec-
4 retary a report stating how the State plans to use
5 the Federal contributions to the reserve fund to pro-
6 vide access to capital for small businesses in low-
7 and moderate-income, minority, and other under-
8 served communities, including women- and minority-
9 owned small businesses.

10 **SEC. 3006. APPROVING COLLATERAL SUPPORT AND OTHER**
11 **INNOVATIVE CREDIT ACCESS AND GUAR-**
12 **ANTEE INITIATIVES FOR SMALL BUSINESSES**
13 **AND MANUFACTURERS.**

14 (a) APPLICATION.—A participating State that estab-
15 lishes a new, or has an existing, credit support program
16 that meets the eligibility criteria in subsection (c) may
17 apply to the Secretary to have the State other credit sup-
18 port program approved as eligible for Federal contribu-
19 tions to, or for the account of, the State program.

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

23 (1) the Secretary determines that the State sat-
24 isfies the requirements of paragraphs (1) through
25 (3) of section 3005(b);

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

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

7 (4) within 9 months after the date of enactment
8 of this Act, the State has filed with Treasury a com-
9 plete application for Treasury approval.

10 (c) ELIGIBILITY CRITERIA FOR STATE OTHER CRED-
11 IT SUPPORT PROGRAMS.—For a State other credit sup-
12 port program to be approved under this section, that pro-
13 gram shall be required to be a program of the State that—

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

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

1 (3) for those State other credit support pro-
2 grams that provide their credit support through 1 or
3 more financial institution lenders, requires the finan-
4 cial institution lenders to have a meaningful amount
5 of their own capital resources at risk in their small
6 business lending; and

7 (4) uses Federal funds allocated under this title
8 to extend credit support that—

9 (A) targets an average borrower size of
10 500 employees or less;

11 (B) does not extend credit support to bor-
12 rowers that have more than 750 employees;

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

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

18 (d) ADDITIONAL CONSIDERATIONS.—In making a de-
19 termination that a State other credit support program is
20 eligible for Federal contributions to, or for the account
21 of, the State program, the Secretary shall take into ac-
22 count the following additional considerations:

23 (1) The anticipated benefits to the State, its
24 businesses, and its residents to be derived from the
25 Federal contributions to, or for the account of, the

1 approved State other credit support program, includ-
2 ing the extent to which resulting small business
3 lending will expand economic opportunities.

4 (2) The operational capacity, skills, and experi-
5 ence of the management team of the State other
6 credit support program.

7 (3) The capacity of the State other credit sup-
8 port program to manage increases in the volume of
9 its small business lending.

10 (4) The internal accounting and administrative
11 controls systems of the State other credit support
12 program, and the extent to which they can provide
13 reasonable assurance that funds of the State pro-
14 gram are safeguarded against waste, loss, unauthor-
15 ized use, or misappropriation.

16 (5) The soundness of the program design and
17 implementation plan of the State other credit sup-
18 port program.

19 (e) FEDERAL CONTRIBUTIONS TO APPROVED STATE
20 OTHER CREDIT SUPPORT PROGRAMS.—A State other
21 credit support program approved under this section will
22 be eligible for receiving Federal contributions to, or for
23 the account of, the State program in an amount consistent
24 with the schedule describing the apportionment of allo-

1 cated Federal funds among State programs delivered by
2 the State to the Secretary under the allocation agreement.

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

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

9 (2) CONSIDERATIONS FOR FUND.—In pre-
10 scribing minimum Program requirements for ap-
11 proved State other credit support programs, the Sec-
12 retary shall take into consideration, to the extent the
13 Secretary determines applicable and appropriate, the
14 minimum Program requirements for approved State
15 capital access programs in section 3005(e).

16 **SEC. 3007. REPORTS.**

17 (a) QUARTERLY USE-OF-FUNDS REPORT.—

18 (1) IN GENERAL.—Not later than 30 days after
19 the beginning of each calendar quarter, beginning
20 after the first full calendar quarter to occur after
21 the date the Secretary approves a State for partici-
22 pation, the participating State shall submit to the
23 Secretary a report on the use of Federal funding by
24 the participating State during the previous calendar
25 quarter.

1 (2) REPORT CONTENTS.—Each report under
2 this subsection shall—

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

5 (B) include a certification by the partici-
6 pating State that—

7 (i) the information provided in accord-
8 ance with subparagraph (A) is accurate;

9 (ii) funds continue to be available and
10 legally committed to contributions by the
11 State to, or for the account of, approved
12 State programs, less any amount that has
13 been contributed by the State to, or for the
14 account of, approved State programs sub-
15 sequent to the State being approved for
16 participation in the Program; and

17 (iii) the participating State is imple-
18 menting its approved State program or
19 programs in accordance with this title and
20 regulations issued under section 3010.

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

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

5 (2) The total amount of such new loans.

6 (3) Breakdowns by industry type, loan size, an-
7 nual sales, and number of employees of the bor-
8 rowers that received such new loans.

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

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

14 (c) FORM.—The reports and data filed under sub-
15 sections (a) and (b) shall be in such form as the Secretary,
16 in the Secretary's sole discretion, may require.

17 (d) TERMINATION OF REPORTING REQUIRE-
18 MENTS.—The requirement to submit reports under sub-
19 sections (a) and (b) shall terminate for a participating
20 State with the submission of the completed reports due
21 on the first March 31 to occur after 5 complete 12-month
22 periods after the State is approved by the Secretary to
23 be a participating State.

1 **SEC. 3008. REMEDIES FOR STATE PROGRAM TERMINATION**
2 **OR FAILURES.**

3 (a) REMEDIES.—

4 (1) IN GENERAL.—If any of the events listed in
5 paragraph (2) occur, the Secretary, in the Sec-
6 retary's discretion, may—

7 (A) reduce the amount of Federal funds al-
8 located to the State under the Program; or

9 (B) terminate any further transfers of allo-
10 cated amounts that have not yet been trans-
11 ferred to the State.

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

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

16 (B) failure on the part of a participating
17 State to submit complete reports under section
18 3007 on a timely basis; or

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

22 (b) DEALLOCATED AMOUNTS TO BE REALLO-
23 CATED.—If, after 13 months, any portion of the amount
24 of Federal funds allocated to a participating State is
25 deemed by the Secretary to be no longer allocated to the
26 State after actions taken by the Secretary under sub-

1 section (a)(1), the Secretary shall reallocate that portion
2 among the participating States, excluding the State whose
3 allocated funds were deemed to be no longer allocated, as
4 provided in section 3003(b).

5 **SEC. 3009. IMPLEMENTATION AND ADMINISTRATION.**

6 (a) GENERAL AUTHORITIES AND DUTIES.—The Sec-
7 retary shall—

8 (1) consult with the Administrator of the Small
9 Business Administration and the appropriate Fed-
10 eral banking agencies on the administration of the
11 Program;

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

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

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

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

23 (b) APPROPRIATIONS.—There is hereby appropriated
24 to the Secretary, out of funds in the Treasury not other-
25 wise appropriated, \$1,500,000,000 to carry out the Pro-

1 gram, including to pay reasonable costs of administering
2 the Program.

3 (c) **TERMINATION OF SECRETARY'S PROGRAM AD-**
4 **MINISTRATION FUNCTIONS.**—The authorities and duties
5 of the Secretary to implement and administer the Program
6 shall terminate at the end of the 7-year period beginning
7 on the date of enactment of this Act.

8 (d) **EXPEDITED CONTRACTING.**—During the 1-year
9 period beginning on the date of enactment of this Act, the
10 Secretary may enter into contracts without regard to any
11 other provision of law regarding public contracts, for pur-
12 poses of carrying out this title.

13 **SEC. 3010. REGULATIONS.**

14 The Secretary, in consultation with the Administrator
15 of the Small Business Administration, shall issue such
16 regulations and other guidance as the Secretary deter-
17 mines necessary or appropriate to implement this title in-
18 cluding to define terms, to establish compliance and re-
19 porting requirements, and such other terms and conditions
20 necessary to carry out the purposes of this title.

21 **SEC. 3011. OVERSIGHT AND AUDITS.**

22 (a) **INSPECTOR GENERAL OVERSIGHT.**—The Inspec-
23 tor General of the Department of the Treasury shall con-
24 duct, supervise, and coordinate audits and investigations
25 of the use of funds made available under the Program.

1 (b) GAO AUDIT.—The Comptroller General of the
2 United States shall perform an annual audit of the Pro-
3 gram and issue a report to the appropriate committees
4 of Congress containing the results of such audit.

5 (c) REQUIRED CERTIFICATION.—

6 (1) FINANCIAL INSTITUTIONS CERTIFI-
7 CATION.—With respect to funds received by a par-
8 ticipating State under the Program, any financial in-
9 stitution that receives a loan, a loan guarantee, or
10 other financial assistance using such funds after the
11 date of the enactment of this Act shall certify that
12 such institution is in compliance with the require-
13 ments of section 103.121 of title 31, Code of Fed-
14 eral Regulations, a regulation that, at a minimum,
15 requires financial institutions, as that term is de-
16 fined in section 5312 (a)(2) and (c)(1)(A) of title
17 31, United States Code, to implement reasonable
18 procedures to verify the identity of any person seek-
19 ing to open an account, to the extent reasonable and
20 practicable, maintain records of the information
21 used to verify the person's identity, and determine
22 whether the person appears on any lists of known or
23 suspected terrorists or terrorist organizations pro-
24 vided to the financial institution by any government
25 agency.

1 (2) SEX OFFENSE CERTIFICATION.—With re-
2 spect to funds received by a participating State
3 under the Program, any private entity that receives
4 a loan, a loan guarantee, or other financial assist-
5 ance using such funds after the date of the enact-
6 ment of this Act shall certify to the participating
7 State that the principals of such entity have not
8 been convicted of a sex offense against a minor (as
9 such terms are defined in section 111 of the Sex Of-
10 fender Registration and Notification Act (42 U.S.C.
11 16911)).

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

1 **TITLE IV—ADDITIONAL SMALL**
2 **BUSINESS PROVISIONS**
3 **Subtitle A—Small Business**
4 **Lending Fund**

5 **SEC. 4101. PURPOSE.**

6 The purpose of this subtitle is to address the ongoing
7 effects of the financial crisis on small businesses by pro-
8 viding temporary authority to the Secretary of the Treas-
9 ury to make capital investments in eligible institutions in
10 order to increase the availability of credit for small busi-
11 nesses.

12 **SEC. 4102. DEFINITIONS.**

13 For purposes of this subtitle:

14 (1) APPROPRIATE COMMITTEES OF CON-
15 GRESS.—The term “appropriate committees of Con-
16 gress” means—

17 (A) the Committee on Small Business and
18 Entrepreneurship, the Committee on Agri-
19 culture, Nutrition, and Forestry, the Committee
20 on Banking, Housing, and Urban Affairs, the
21 Committee on Finance, the Committee on the
22 Budget, and the Committee on Appropriations
23 of the Senate; and

24 (B) the Committee on Small Business, the
25 Committee on Agriculture, the Committee on

1 Financial Services, the Committee on Ways and
2 Means, the Committee on the Budget, and the
3 Committee on Appropriations of the House of
4 Representatives.

5 (2) APPROPRIATE FEDERAL BANKING AGEN-
6 CY.—The term “appropriate Federal banking agen-
7 cy” has the meaning given such term under section
8 3(q) of the Federal Deposit Insurance Act (12
9 U.S.C. 1813(q)).

10 (3) BANK HOLDING COMPANY.—The term
11 “bank holding company” has the meaning given
12 such term under section 2(a)(1) of the Bank Hold-
13 ing Company Act of 1956 (12 U.S.C.
14 1841(2)(a)(1)).

15 (4) CALL REPORT.—The term “call report”
16 means—

17 (A) reports of Condition and Income sub-
18 mitted to the Office of the Comptroller of the
19 Currency, the Board of Governors of the Fed-
20 eral Reserve System, and the Federal Deposit
21 Insurance Corporation;

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

24 (C) any report that is designated by the
25 Office of the Comptroller of the Currency, the

1 Board of Governors of the Federal Reserve Sys-
2 tem, the Federal Deposit Insurance Corpora-
3 tion, or the Office of Thrift Supervision, as ap-
4 plicable, as a successor to any report referred to
5 in subparagraph (A) or (B);

6 (D) reports of Condition and Income as
7 designated through guidance developed by the
8 Secretary, in consultation with the Director of
9 the Community Development Financial Institu-
10 tions Fund; and

11 (E) with respect to an eligible institution
12 for which no report exists that is described
13 under subparagraph (A), (B), (C), or (D), such
14 other report or set of information as the Sec-
15 retary, in consultation with the Administrator
16 of the Small Business Administration, may pre-
17 scribe.

18 (5) CDCI.—The term “CDCI” means the Com-
19 munity Development Capital Initiative created by
20 the Secretary under the Troubled Asset Relief Pro-
21 gram established by the Emergency Economic Sta-
22 bilization Act of 2008.

23 (6) CDCI INVESTMENT.—The term “CDCI in-
24 vestment” means, with respect to any eligible insti-
25 tution, the principal amount of any investment made

1 by the Secretary in such eligible institution under
2 the CDCI that has not been repaid.

3 (7) CDFI; COMMUNITY DEVELOPMENT FINAN-
4 CIAL INSTITUTION.—The terms “CDFI” and “com-
5 munity development financial institution” have the
6 meaning given the term “community development fi-
7 nancial institution” under the Riegle Community
8 Development and Regulatory Improvement Act of
9 1994.

10 (8) CDLF; COMMUNITY DEVELOPMENT LOAN
11 FUND.—The terms “CDLF” and “community devel-
12 opment loan fund” mean any entity that—

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

16 (B) is exempt from taxation under the In-
17 ternal Revenue Code of 1986; and

18 (C) had assets less than or equal to
19 \$10,000,000,000 as of the end of the fourth
20 quarter of calendar year 2009.

21 (9) CPP.—The term “CPP” means the Capital
22 Purchase Program created by the Secretary under
23 the Troubled Asset Relief Program established by
24 the Emergency Economic Stabilization Act of 2008.

1 (10) CPP INVESTMENT.—The term “CPP in-
2 vestment” means, with respect to any eligible insti-
3 tution, the principal amount of any investment made
4 by the Secretary in such eligible institution under
5 the CPP that has not been repaid.

6 (11) ELIGIBLE INSTITUTION.—The term “eligi-
7 ble institution” means—

8 (A) any insured depository institution,
9 which—

10 (i) is not controlled by a bank holding
11 company or savings and loan holding com-
12 pany that is also an eligible institution;

13 (ii) has total assets of equal to or less
14 than \$10,000,000,000, as reported in the
15 call report of the insured depository insti-
16 tution as of the end of the fourth quarter
17 of calendar year 2009; and

18 (iii) is not directly or indirectly con-
19 trolled by any company or other entity that
20 has total consolidated assets of more than
21 \$10,000,000,000, as so reported;

22 (B) any bank holding company which has
23 total consolidated assets of equal to or less than
24 \$10,000,000,000, as reported in the call report

1 of the bank holding company as of the end of
2 the fourth quarter of calendar year 2009;

3 (C) any savings and loan holding company
4 which has total consolidated assets of equal to
5 or less than \$10,000,000,000, as reported in
6 the call report of the savings and loan holding
7 company as of the end of the fourth quarter of
8 calendar year 2009; and

9 (D) any community development financial
10 institution loan fund which has total assets of
11 equal to or less than \$10,000,000,000, as re-
12 ported in audited financial statements for the
13 fiscal year of the community development finan-
14 cial institution loan fund that ends in calendar
15 year 2009.

16 (12) FUND.—The term “Fund” means the
17 Small Business Lending Fund established under sec-
18 tion 4103(a)(1).

19 (13) INSURED DEPOSITORY INSTITUTION.—The
20 term “insured depository institution” has the mean-
21 ing given such term under section 3(c)(2) of the
22 Federal Deposit Insurance Act (12 U.S.C.
23 1813(c)(2)).

24 (14) MINORITY-OWNED AND WOMEN-OWNED
25 BUSINESS.—The terms “minority-owned business”

1 and “women-owned business” shall have the mean-
2 ing given the terms “minority-owned business” and
3 “women’s business”, respectively, under section
4 21A(r)(4) of the Federal Home Loan Bank Act (12
5 U.S.C. 1441A(r)(4)).

6 (15) PROGRAM.—The term “Program” means
7 the Small Business Lending Fund Program author-
8 ized under section 4103(a)(2).

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

14 (17) SECRETARY.—The term “Secretary”
15 means the Secretary of the Treasury.

16 (18) SMALL BUSINESS LENDING.—

17 (A) IN GENERAL.—The term “small busi-
18 ness lending” means lending, as defined by and
19 reported in an eligible institutions’ quarterly
20 call report, where each loan comprising such
21 lending is one of the following types:

22 (i) Commercial and industrial loans.

23 (ii) Owner-occupied nonfarm, nonresi-
24 dential real estate loans.

1 (iii) Loans to finance agricultural pro-
2 duction and other loans to farmers.

3 (iv) Loans secured by farmland.

4 (B) EXCLUSION.—No loan that has an
5 original amount greater than \$10,000,000 or
6 that goes to a business with more than
7 \$50,000,000 in revenues shall be included in
8 the measure.

9 (C) TREATMENT OF HOLDING COMPA-
10 NIES.—In the case of eligible institutions that
11 are bank holding companies or savings and loan
12 holding companies having one or more insured
13 depository institution subsidiaries, small busi-
14 ness lending shall be measured based on the
15 combined small business lending reported in the
16 call report of the insured depository institution
17 subsidiaries.

18 (19) VETERAN-OWNED BUSINESS.—

19 (A) The term “veteran-owned business”
20 means a business—

21 (i) more than 50 percent of the own-
22 ership or control of which is held by 1 or
23 more veterans;

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

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

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

11 **SEC. 4103. SMALL BUSINESS LENDING FUND.**

12 (a) FUND AND PROGRAM.—

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

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

21 (b) USE OF FUND.—

22 (1) IN GENERAL.—Subject to paragraph (2),
23 the Fund shall be available to the Secretary, without
24 further appropriation or fiscal year limitation, for
25 the costs of purchases (including commitments to

1 purchase), and modifications of such purchases, of
2 preferred stock and other financial instruments from
3 eligible institutions on such terms and conditions as
4 are determined by the Secretary in accordance with
5 this subtitle. For purposes of this paragraph and
6 with respect to an eligible institution, the term
7 “other financial instruments” shall include only debt
8 instruments for which such eligible institution is
9 fully liable or equity equivalent capital of the eligible
10 institution. Such debt instruments may be subordi-
11 nated to the claims of other creditors of the eligible
12 institution.

13 (2) MAXIMUM PURCHASE LIMIT.—The aggre-
14 gate amount of purchases (and commitments to pur-
15 chase) made pursuant to paragraph (1) may not ex-
16 ceed \$30,000,000,000.

17 (3) PROCEEDS USED TO PAY DOWN PUBLIC
18 DEBT.—All funds received by the Secretary in con-
19 nection with purchases made pursuant to paragraph
20 (1), including interest payments, dividend payments,
21 and proceeds from the sale of any financial instru-
22 ment, shall be paid into the general fund of the
23 Treasury for reduction of the public debt.

24 (4) LIMITATION ON PURCHASES FROM
25 CDLFS.—

1 (A) IN GENERAL.—Not more than 1 per-
2 cent of the maximum purchase limit of the Pro-
3 gram, pursuant to paragraph (2), may be used
4 to make purchases from community develop-
5 ment loan funds.

6 (B) ELIGIBILITY STANDARDS.—The Sec-
7 retary, in consultation with the Community De-
8 velopment Financial Institutions Fund, shall
9 develop eligibility criteria to determine the fi-
10 nancial ability of a CDLF to participate in the
11 Program and repay the investment. Such cri-
12 teria shall include the following:

13 (i) Ratio of net assets to total assets
14 is at least 20 percent.

15 (ii) Ratio of loan loss reserves to loans
16 and leases 90 days or more delinquent (in-
17 cluding loans sold with full recourse) is at
18 least 30 percent.

19 (iii) Positive net income measured on
20 a 3-year rolling average.

21 (iv) Operating liquidity ratio of at
22 least 1.0 for the 4 most recent quarters
23 and for one or both of the two preceding
24 years.

1 (v) Ratio of loans and leases 90 days
2 or more delinquent (including loans sold
3 with full recourse) to total equity plus loan
4 loss reserves is less than 40 percent.

5 (C) REQUIREMENT TO SUBMIT AUDITED
6 FINANCIAL STATEMENTS.—CDLFs partici-
7 pating in the Program shall submit audited fi-
8 nancial statements to the Secretary, have a
9 clean audit opinion, and have at least 3 years
10 of operating experience.

11 (c) CREDITS TO THE FUND.—There shall be credited
12 to the Fund amounts made available pursuant to section
13 4108, to the extent provided by appropriations Acts.

14 (d) TERMS.—

15 (1) APPLICATION.—

16 (A) INSTITUTIONS WITH ASSETS OF
17 \$1,000,000,000 OR LESS.—Eligible institutions
18 having total assets equal to or less than
19 \$1,000,000,000, as reported in a call report as
20 of the end of the fourth quarter of calendar
21 year 2009, may apply to receive a capital in-
22 vestment from the Fund in an amount not ex-
23 ceeding 5 percent of risk-weighted assets, as re-
24 ported in the call report immediately preceding

1 the date of application, less the amount of any
2 CDCI investment and any CPP investment.

3 (B) INSTITUTIONS WITH ASSETS OF MORE
4 THAN \$1,000,000,000 AND LESS THAN OR EQUAL
5 TO \$10,000,000,000.—Eligible institutions having
6 total assets of more than \$1,000,000,000 but
7 less than \$10,000,000,000, as of the end of the
8 fourth quarter of calendar year 2009, may
9 apply to receive a capital investment from the
10 Fund in an amount not exceeding 3 percent of
11 risk-weighted assets, as reported in the call re-
12 port immediately preceding the date of applica-
13 tion, less the amount of any CDCI investment
14 and any CPP investment.

15 (C) TREATMENT OF HOLDING COMPA-
16 NIES.—In the case of an eligible institution that
17 is a bank holding company or a savings and
18 loan holding company having one or more in-
19 sured depository institution subsidiaries, total
20 assets shall be measured based on the combined
21 total assets reported in the call report of the in-
22 sured depository institution subsidiaries as of
23 the end of the fourth quarter of calendar year
24 2009 and risk-weighted assets shall be meas-
25 ured based on the combined risk-weighted as-

1 sets of the insured depository institution sub-
2 sidiaries as reported in the call report imme-
3 diately preceding the date of application.

4 (D) TREATMENT OF APPLICANTS THAT
5 ARE INSTITUTIONS CONTROLLED BY HOLDING
6 COMPANIES.—If an eligible institution that ap-
7 plies to receive a capital investment under the
8 Program is under the control of a bank holding
9 company or a savings and loan holding com-
10 pany, then the Secretary may use the Fund to
11 purchase preferred stock or other financial in-
12 struments from the top-tier bank holding com-
13 pany or savings and loan holding company of
14 such eligible institution, as applicable. For pur-
15 poses of this subparagraph, the term “control”
16 with respect to a bank holding company shall
17 have the same meaning as in section 2(a)(2) of
18 the Bank Holding Company Act of 1956 (12
19 U.S.C. 1841(2)(a)(2)). For purposes of this
20 subparagraph, the term “control” with respect
21 to a savings and loan holding company shall
22 have the same meaning as in 10(a)(2) of the
23 Home Owners’ Loan Act (12 U.S.C.
24 1467a(a)(2)).

1 (E) REQUIREMENT TO PROVIDE A SMALL
2 BUSINESS LENDING PLAN.—At the time that an
3 applicant submits an application to the Sec-
4 retary for a capital investment under the Pro-
5 gram, the applicant shall deliver to the appro-
6 priate Federal banking agency, and, for appli-
7 cants that are State-chartered banks, to the ap-
8 propriate State banking regulator, a small busi-
9 ness lending plan describing how the applicant’s
10 business strategy and operating goals will allow
11 it to address the needs of small businesses in
12 the areas it serves, as well as a plan to provide
13 linguistically and culturally appropriate out-
14 reach, where appropriate. In the case of eligible
15 institutions that are community development
16 loan funds, this plan shall be submitted to the
17 Secretary. This plan shall be confidential super-
18 visory information.

19 (F) TREATMENT OF APPLICANTS THAT
20 ARE COMMUNITY DEVELOPMENT LOAN
21 FUNDS.—Eligible institutions that are commu-
22 nity development loan funds may apply to re-
23 ceive a capital investment from the Fund in an
24 amount not exceeding 5 percent of total assets,
25 as reported in the audited financial statements

1 for the fiscal year of the eligible institution that
2 ends in calendar year 2009.

3 (2) CONSULTATION WITH REGULATORS.—For
4 each eligible institution that applies to receive a cap-
5 ital investment under the Program, the Secretary
6 shall—

7 (A) consult with the appropriate Federal
8 banking agency or, in the case of an eligible in-
9 stitution that is a nondepository community de-
10 velopment financial institution, the Community
11 Development Financial Institution Fund, for
12 the eligible institution, to determine whether
13 the eligible institution may receive such capital
14 investment;

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

21 (C) in the case of a community develop-
22 ment financial institution loan fund, consult
23 with the Community Development Financial In-
24 stitution Fund.

1 (3) CONSIDERATION OF MATCHED PRIVATE IN-
2 VESTMENTS.—

3 (A) IN GENERAL.—For an eligible institu-
4 tion that applies to receive a capital investment
5 under the Program, if the entity to be consulted
6 under paragraph (2) would not otherwise rec-
7 ommend the eligible institution to receive the
8 capital investment, the Secretary, in consulta-
9 tion with the entity to be so consulted, may
10 consider whether the entity to be consulted
11 would recommend the eligible institution to re-
12 ceive a capital investment based on the financial
13 condition of the institution if the conditions in
14 subparagraph (B) are satisfied.

15 (B) CONDITIONS.—The conditions referred
16 to in subparagraph (A) are as follows:

17 (i) CAPITAL SOURCES.—The eligible
18 institution shall receive capital both under
19 the Program and from private, nongovern-
20 ment investors.

21 (ii) AMOUNT OF CAPITAL.—The
22 amount of capital to be received under the
23 Program shall not exceed 3 percent of risk-
24 weighted assets, as reported in the call re-
25 port immediately preceding the date of ap-

1 plication, less the amount of any CDCI in-
2 vestment and any CPP investment.

3 (iii) TERMS.—The amount of capital
4 to be received from private, nongovernment
5 investors shall be—

6 (I) equal to or greater than 100
7 percent of the capital to be received
8 under the Program; and

9 (II) subordinate to the capital in-
10 vestment made by the Secretary under
11 the Program.

12 (4) INELIGIBILITY OF INSTITUTIONS ON FDIC
13 PROBLEM BANK LIST.—

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

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

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

22 (B) CONSTRUCTION.—Nothing in subpara-
23 graph (A) shall be construed as limiting the dis-
24 cretion of the Secretary to deny the application

1 of an eligible institution that is not on the
2 FDIC problem bank list.

3 (C) FDIC PROBLEM BANK LIST DE-
4 FINED.—For purposes of this paragraph, the
5 term “FDIC problem bank list” means the list
6 of depository institutions having a current rat-
7 ing of 4 or 5 under the Uniform Financial In-
8 stitutions Rating System, or such other list des-
9 igned by the Federal Deposit Insurance Cor-
10 poration.

11 (5) INCENTIVES TO LEND.—

12 (A) REQUIREMENTS ON PREFERRED
13 STOCK AND OTHER FINANCIAL INSTRU-
14 MENTS.—Any preferred stock or other financial
15 instrument issued to Treasury by an eligible in-
16 stitution receiving a capital investment under
17 the Program shall provide that—

18 (i) the rate at which dividends or in-
19 terest are payable shall be 5 percent per
20 annum initially;

21 (ii) within the first 2 years after the
22 date of the capital investment under the
23 Program, the rate may be adjusted based
24 on the amount of an eligible institution’s
25 small business lending. Changes in the

1 amount of small business lending shall be
2 measured against the average amount of
3 small business lending reported by the eli-
4 gible institution in its call reports for the
5 4 full quarters immediately preceding the
6 date of enactment of this Act, minus ad-
7 justments from each quarterly balance in
8 respect of—

9 (I) net loan charge offs with re-
10 spect to small business lending; and

11 (II) gains realized by the eligible
12 institution resulting from mergers, ac-
13 quisitions or purchases of loans after
14 origination and syndication; which ad-
15 justments shall be determined in ac-
16 cordance with guidance promulgated
17 by the Secretary; and

18 (iii) during any calendar quarter dur-
19 ing the initial 2-year period referred to in
20 clause (ii), an institution's rate shall be ad-
21 justed to reflect the following schedule,
22 based on that institution's change in the
23 amount of small business lending relative
24 to the baseline—

1 (I) if the amount of small busi-
2 ness lending has increased by less
3 than 2.5 percent, the dividend or in-
4 terest rate shall be 5 percent;

5 (II) if the amount of small busi-
6 ness lending has increased by 2.5 per-
7 cent or greater, but by less than 5.0
8 percent, the dividend or interest rate
9 shall be 4 percent;

10 (III) if the amount of small busi-
11 ness lending has increased by 5.0 per-
12 cent or greater, but by less than 7.5
13 percent, the dividend or interest rate
14 shall be 3 percent;

15 (IV) if the amount of small busi-
16 ness lending has increased by 7.5 per-
17 cent or greater, and but by less than
18 10.0 percent, the dividend or interest
19 rate shall be 2 percent; or

20 (V) if the amount of small busi-
21 ness lending has increased by 10 per-
22 cent or greater, the dividend or inter-
23 est rate shall be 1 percent.

24 (B) BASIS OF INITIAL RATE.—The initial
25 dividend or interest rate shall be based on call

1 report data published in the quarter imme-
2 diately preceding the date of the capital invest-
3 ment under the Program.

4 (C) TIMING OF RATE ADJUSTMENTS.—Any
5 rate adjustment shall occur in the calendar
6 quarter following the publication of call report
7 data, such that the rate based on call report
8 data from any one calendar quarter, which is
9 published in the first following calendar quar-
10 ter, shall be adjusted in that first following cal-
11 endar quarter and payable in the second fol-
12 lowing quarter.

13 (D) RATE FOLLOWING INITIAL 2-YEAR PE-
14 RIOD.—Generally, the rate based on call report
15 data from the eighth calendar quarter after the
16 date of the capital investment under the Pro-
17 gram shall be payable until the expiration of
18 the 4½-year period that begins on the date of
19 the investment. In the case where the amount
20 of small business lending has remained the
21 same or decreased relative to the institution's
22 baseline in the eighth quarter after the date of
23 the capital investment under the Program, the
24 rate shall be 7 percent until the expiration of

1 the 4½-year period that begins on the date of
2 the investment.

3 (E) RATE FOLLOWING INITIAL 4½ -YEAR
4 PERIOD.—The dividend or interest rate paid on
5 any preferred stock or other financial instru-
6 ment issued by an eligible institution that re-
7 ceives a capital investment under the Program
8 shall increase to 9 percent at the end of the
9 4½-year period that begins on the date of the
10 capital investment under the Program.

11 (F) LIMITATION ON RATE REDUCTIONS
12 WITH RESPECT TO CERTAIN AMOUNT.—The re-
13 duction in the dividend or interest rate payable
14 to Treasury by any eligible institution shall be
15 limited such that the rate reduction shall not
16 apply to a dollar amount of the investment
17 made by Treasury that is greater than the dol-
18 lar amount increase in the amount of small
19 business lending realized under this program.
20 The Secretary may issue guidelines that will
21 apply to new capital investments limiting the
22 amount of capital available to eligible institu-
23 tions consistent with this limitation.

24 (G) RATE ADJUSTMENTS FOR S CORPORA-
25 TION.—Before making a capital investment in

1 an eligible institution that is an S corporation
2 or a corporation organized on a mutual basis,
3 the Secretary may adjust the dividend or inter-
4 est rate on the financial instrument to be issued
5 to the Secretary, from the dividend or interest
6 rate that would apply under subparagraphs (A)
7 through (F), to take into account any differen-
8 tial tax treatment of securities issued by such
9 eligible institution. For purpose of this subpara-
10 graph, the term “S corporation” has the same
11 meaning as in section 1361(a) of the Internal
12 Revenue Code of 1986.

13 (H) REPAYMENT DEADLINE.—The capital
14 investment received by an eligible institution
15 under the Program shall be evidenced by pre-
16 ferred stock or other financial instrument
17 that—

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

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

24 (II) at the end of such 10-year
25 period, be subject to such additional

1 terms as the Secretary shall prescribe,
2 which shall include a requirement that
3 the stock or instrument shall carry
4 the highest dividend or interest rate
5 payable; and

6 (ii) provides that the term and condi-
7 tion described under clause (i) shall not
8 apply if the application of that term and
9 condition would adversely affect the capital
10 treatment of the stock or financial instru-
11 ment under current or successor applicable
12 capital provisions compared to a capital in-
13 strument with identical terms other than
14 the term and condition described under
15 clause (i).

16 (I) REQUIREMENTS ON FINANCIAL IN-
17 STRUMENTS ISSUED BY A COMMUNITY DEVEL-
18 OPMENT FINANCIAL INSTITUTION LOAN
19 FUND.—Any equity equivalent capital issued to
20 the Treasury by a community development loan
21 fund receiving a capital investment under the
22 Program shall provide that the rate at which in-
23 terest is payable shall be 2 percent per annum
24 for 8 years. After 8 years, the rate at which in-
25 terest is payable shall be 9 percent.

1 (6) ADDITIONAL INCENTIVES TO REPAY.—The
2 Secretary may, by regulation or guidance issued
3 under section 4104(9), establish repayment incen-
4 tives in addition to the incentive in paragraph (5)(E)
5 that will apply to new capital investments in a man-
6 ner that the Secretary determines to be consistent
7 with the purposes of this subtitle.

8 (7) CAPITAL PURCHASE PROGRAM REFI-
9 NANCE.—

10 (A) IN GENERAL.—The Secretary shall, in
11 a manner that the Secretary determines to be
12 consistent with the purposes of this subtitle,
13 issue regulations and other guidance to permit
14 eligible institutions to refinance securities
15 issued to Treasury under the CDCI and the
16 CPP for securities to be issued under the Pro-
17 gram.

18 (B) PROHIBITION ON PARTICIPATION BY
19 NON-PAYING CPP PARTICIPANTS.—Subpara-
20 graph (A) shall not apply to any eligible institu-
21 tion that has missed more than one dividend
22 payment due under the CPP. For purposes of
23 this subparagraph, a CPP dividend payment
24 that is submitted within 60 days of the due

1 date of such payment shall not be considered a
2 missed dividend payment.

3 (8) OUTREACH TO MINORITIES, WOMEN, AND
4 VETERANS.—The Secretary shall require eligible in-
5 stitutions receiving capital investments under the
6 Program to provide linguistically and culturally ap-
7 propriate outreach and advertising in the applicant
8 pool describing the availability and application proc-
9 ess of receiving loans from the eligible institution
10 that are made possible by the Program through the
11 use of print, radio, television or electronic media out-
12 lets which target organizations, trade associations,
13 and individuals that—

14 (A) represent or work within or are mem-
15 bers of minority communities;

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

18 (C) represent or work with or are veterans.

19 (9) ADDITIONAL TERMS.—The Secretary may,
20 by regulation or guidance issued under section
21 4104(9), make modifications that will apply to new
22 capital investments in order to manage risks associ-
23 ated with the administration of the Fund in a man-
24 ner consistent with the purposes of this subtitle.

1 (10) MINIMUM UNDERWRITING STANDARDS.—

2 The appropriate Federal banking agency for an eli-
3 gible institution that receives funds under the Pro-
4 gram shall within 60 days issue guidance regarding
5 prudent underwriting standards that must be used
6 for loans made by the eligible institution using such
7 funds.

8 **SEC. 4104. ADDITIONAL AUTHORITIES OF THE SECRETARY.**

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

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

19 (2) The Secretary may enter into contracts, in-
20 cluding contracts for services authorized by section
21 3109 of title 5, United States Code.

22 (3) The Secretary may designate any bank, sav-
23 ings association, trust company, security broker or
24 dealer, asset manager, or investment adviser as a fi-
25 nancial agent of the Federal Government and such

1 institution shall perform all such reasonable duties
2 related to this subtitle as financial agent of the Fed-
3 eral Government as may be required. The Secretary
4 shall have authority to amend existing agreements
5 with financial agents, entered into during the 2-year
6 period before the date of enactment of this Act, to
7 perform reasonable duties related to this subtitle.

8 (4) The Secretary may exercise any rights re-
9 ceived in connection with any preferred stock or
10 other financial instruments or assets purchased or
11 acquired pursuant to the authorities granted under
12 this subtitle.

13 (5) Subject to section 4103(b)(3), the Secretary
14 may manage any assets purchased under this sub-
15 title, including revenues and portfolio risks there-
16 from.

17 (6) The Secretary may sell, dispose of, transfer,
18 exchange or enter into securities loans, repurchase
19 transactions, or other financial transactions in re-
20 gard to, any preferred stock or other financial in-
21 strument or asset purchased or acquired under this
22 subtitle, upon terms and conditions and at a price
23 determined by the Secretary.

24 (7) The Secretary may manage or prohibit con-
25 flicts of interest that may arise in connection with

1 the administration and execution of the authorities
2 provided under this subtitle.

3 (8) The Secretary may establish and use vehi-
4 cles, subject to supervision by the Secretary, to pur-
5 chase, hold, and sell preferred stock or other finan-
6 cial instruments and issue obligations.

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

12 **SEC. 4105. CONSIDERATIONS.**

13 In exercising the authorities granted in this subtitle,
14 the Secretary shall take into consideration—

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

17 (2) providing funding to minority-owned eligible
18 institutions and other eligible institutions that serve
19 small businesses that are minority-, veteran-, and
20 women-owned and that also serve low- and mod-
21 erate-income, minority, and other underserved or
22 rural communities;

23 (3) protecting and increasing American jobs;

1 (4) increasing the opportunity for small busi-
2 ness development in areas with high unemployment
3 rates that exceed the national average;

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

8 (6) providing transparency with respect to use
9 of funds provided under this subtitle;

10 (7) minimizing the cost to taxpayers of exer-
11 cising the authorities;

12 (8) promoting and engaging in financial edu-
13 cation to would-be borrowers; and

14 (9) providing funding to eligible institutions
15 that serve small businesses directly affected by the
16 discharge of oil arising from the explosion on and
17 sinking of the mobile offshore drilling unit Deep-
18 water Horizon and small businesses in communities
19 that have suffered negative economic effects as a re-
20 sult of that discharge with particular consideration
21 to States along the coast of the Gulf of Mexico.

22 **SEC. 4106. REPORTS.**

23 The Secretary shall provide to the appropriate com-
24 mittees of Congress—

1 (1) within 7 days of the end of each month
2 commencing with the first month in which trans-
3 actions are made under the Program, a written re-
4 port describing all of the transactions made during
5 the reporting period pursuant to the authorities
6 granted under this subtitle;

7 (2) after the end of March and the end of Sep-
8 tember, commencing September 30, 2010, a written
9 report on all projected costs and liabilities, all oper-
10 ating expenses, including compensation for financial
11 agents, and all transactions made by the Fund,
12 which shall include participating institutions and
13 amounts each institution has received under the Pro-
14 gram; and

15 (3) within 7 days of the end of each calendar
16 quarter commencing with the first calendar quarter
17 in which transactions are made under the Program,
18 a written report detailing how eligible institutions
19 participating in the Program have used the funds
20 such institutions received under the Program.

21 **SEC. 4107. OVERSIGHT AND AUDITS.**

22 (a) INSPECTOR GENERAL OVERSIGHT.—The Inspec-
23 tor General of the Department of the Treasury shall con-
24 duct, supervise, and coordinate audits and investigations
25 of the Program through the Office of Small Business

1 Lending Fund Program Oversight established under sub-
2 section (b).

3 (b) OFFICE OF SMALL BUSINESS LENDING FUND
4 PROGRAM OVERSIGHT.—

5 (1) ESTABLISHMENT.—There is hereby estab-
6 lished within the Office of the Inspector General of
7 the Department of the Treasury a new office to be
8 named the “Office of Small Business Lending Fund
9 Program Oversight” to provide oversight of the Pro-
10 gram.

11 (2) LEADERSHIP.—The Inspector General shall
12 appoint a Special Deputy Inspector General for
13 SBLF Program Oversight to lead the Office, with
14 commensurate staff, who shall report directly to the
15 Inspector General and who shall be responsible for
16 the performance of all auditing and investigative ac-
17 tivities relating to the Program.

18 (3) REPORTING.—

19 (A) IN GENERAL.—The Inspector General
20 shall issue a report no less than two times a
21 year to the Congress and the Secretary devoted
22 to the oversight provided by the Office, includ-
23 ing any recommendations for improvements to
24 the Program.

1 (B) RECOMMENDATIONS.—With respect to
2 any deficiencies identified in a report under
3 subparagraph (A), the Secretary shall either—

4 (i) take actions to address such defi-
5 ciencies; or

6 (ii) certify to the appropriate commit-
7 tees of Congress that no action is nec-
8 essary or appropriate.

9 (4) COORDINATION.—The Inspector General, in
10 maximizing the effectiveness of the Office, shall
11 work with other Offices of Inspector General, as ap-
12 propriate, to minimize duplication of effort and en-
13 sure comprehensive oversight of the Program.

14 (5) TERMINATION.—The Office shall terminate
15 at the end of the 6-month period beginning on the
16 date on which all capital investments are repaid
17 under the Program or the date on which the Sec-
18 retary determines that any remaining capital invest-
19 ments will not be repaid.

20 (6) DEFINITIONS.—For purposes of this sub-
21 section:

22 (A) OFFICE.—The term “Office” means
23 the Office of Small Business Lending Fund
24 Program Oversight established under paragraph
25 (1).

1 (B) INSPECTOR GENERAL.—The term “In-
2 specter General” means the Inspector General
3 of the Department of the Treasury.

4 (c) GAO AUDIT.—The Comptroller General of the
5 United States shall perform an annual audit of the Pro-
6 gram and issue a report to the appropriate committees
7 of Congress containing the results of such audit.

8 (d) REQUIRED CERTIFICATIONS.—

9 (1) ELIGIBLE INSTITUTION CERTIFICATION.—
10 Each eligible institution that participates in the Pro-
11 gram must certify that such institution is in compli-
12 ance with the requirements of section 103.121 of
13 title 31, Code of Federal Regulations, a regulation
14 that, at a minimum, requires financial institutions,
15 as that term is defined in 31 U.S.C. 5312(a)(2) and
16 (c)(1)(A), to implement reasonable procedures to
17 verify the identity of any person seeking to open an
18 account, to the extent reasonable and practicable,
19 maintain records of the information used to verify
20 the person’s identity, and determine whether the
21 person appears on any lists of known or suspected
22 terrorists or terrorist organizations provided to the
23 financial institution by any government agency.

24 (2) LOAN RECIPIENTS.—With respect to funds
25 received by an eligible institution under the Pro-

1 gram, any business receiving a loan from the eligible
2 institution using such funds after the date of the en-
3 actment of this Act shall certify to such eligible in-
4 stitution that the principals of such business have
5 not been convicted of a sex offense against a minor
6 (as such terms are defined in section 111 of the Sex
7 Offender Registration and Notification Act (42
8 U.S.C. 16911)).

9 (e) PROHIBITION ON PORNOGRAPHY.—None of the
10 funds made available under this subtitle may be used to
11 pay the salary of any individual engaged in activities re-
12 lated to the Program who has been officially disciplined
13 for violations of subpart G of the Standards of Ethical
14 Conduct for Employees of the Executive Branch for view-
15 ing, downloading, or exchanging pornography, including
16 child pornography, on a Federal Government computer or
17 while performing official Federal Government duties.

18 **SEC. 4108. CREDIT REFORM; FUNDING.**

19 (a) CREDIT REFORM.—The cost of purchases of pre-
20 ferred stock and other financial instruments made as cap-
21 ital investments under this subtitle shall be determined as
22 provided under the Federal Credit Reform Act of 1990
23 (2 U.S.C. 661 et seq.).

24 (b) FUNDS MADE AVAILABLE.—There are hereby ap-
25 propriated, out of funds in the Treasury not otherwise ap-

1 appropriated, such sums as may be necessary to pay the
2 costs of \$30,000,000,000 of capital investments in eligible
3 institutions, including the costs of modifying such invest-
4 ments, and reasonable costs of administering the program
5 of making, holding, managing, and selling the capital in-
6 vestments.

7 **SEC. 4109. TERMINATION AND CONTINUATION OF AU-**
8 **THORITIES.**

9 (a) **TERMINATION OF INVESTMENT AUTHORITY.**—
10 The authority to make capital investments in eligible insti-
11 tutions, including commitments to purchase preferred
12 stock or other instruments, provided under this subtitle
13 shall terminate 1 year after the date of enactment of this
14 Act.

15 (b) **CONTINUATION OF OTHER AUTHORITIES.**—The
16 authorities of the Secretary under section 4104 shall not
17 be limited by the termination date in subsection (a).

18 **SEC. 4110. PRESERVATION OF AUTHORITY.**

19 Nothing in this subtitle may be construed to limit the
20 authority of the Secretary under any other provision of
21 law.

22 **SEC. 4111. ASSURANCES.**

23 (a) **SMALL BUSINESS LENDING FUND SEPARATE**
24 **FROM TARP.**—The Small Business Lending Fund Pro-
25 gram is established as separate and distinct from the

1 Troubled Asset Relief Program established by the Emer-
2 gency Economic Stabilization Act of 2008. An institution
3 shall not, by virtue of a capital investment under the Small
4 Business Lending Fund Program, be considered a recipi-
5 ent of the Troubled Asset Relief Program.

6 (b) CHANGE IN LAW.—If, after a capital investment
7 has been made in an eligible institution under the Pro-
8 gram, there is a change in law that modifies the terms
9 of the investment or program in a materially adverse re-
10 spect for the eligible institution, the eligible institution
11 may, after consultation with the appropriate Federal
12 banking agency for the eligible institution, repay the in-
13 vestment without impediment.

14 **SEC. 4112. STUDY AND REPORT WITH RESPECT TO WOMEN-**
15 **OWNED, VETERAN-OWNED, AND MINORITY-**
16 **OWNED BUSINESSES.**

17 (a) STUDY.—The Secretary shall conduct a study of
18 the impact of the Program on women-owned businesses,
19 veteran-owned businesses, and minority-owned businesses.

20 (b) REPORT.—Not later than one year after the date
21 of enactment of this Act, the Secretary shall submit to
22 Congress a report on the results of the study conducted
23 pursuant to subsection (a). To the extent possible, the
24 Secretary shall disaggregate the results of such study by
25 ethnic group and gender.

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

6 **SEC. 4113. SENSE OF CONGRESS.**

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

13 **Subtitle B—Other Provisions**

14 **PART I—SMALL BUSINESS EXPORT PROMOTION**

15 **INITIATIVES**

16 **SEC. 4221. SHORT TITLE.**

17 This part may be cited as the “Export Promotion Act
18 of 2010”.

19 **SEC. 4222. GLOBAL BUSINESS DEVELOPMENT AND PRO-**
20 **MOTION ACTIVITIES OF THE DEPARTMENT**
21 **OF COMMERCE.**

22 (a) INCREASE IN EMPLOYEES WITH RESPONSIBILITY
23 FOR GLOBAL BUSINESS DEVELOPMENT AND PROMOTION
24 ACTIVITIES.—

1 (1) IN GENERAL.—During the 24-month period
2 beginning on the date of the enactment of this Act,
3 the Secretary of Commerce shall increase the num-
4 ber of full-time departmental employees whose pri-
5 mary responsibilities involve promoting or facili-
6 tating participation by United States businesses in
7 the global marketplace and facilitating the entry
8 into, or expansion of, such participation by United
9 States businesses. In carrying out this subsection,
10 the Secretary shall ensure that—

11 (A) the cohort of such employees is in-
12 creased by not less than 80 persons; and

13 (B) a substantial portion of the increased
14 cohort is stationed outside the United States.

15 (2) ENHANCED FOCUS ON UNITED STATES
16 SMALL- AND MEDIUM-SIZED BUSINESSES.—In car-
17 rying out this subsection, the Secretary shall take
18 such action as may be necessary to ensure that the
19 activities of the Department of Commerce relating to
20 promoting and facilitating participation by United
21 States businesses in the global marketplace include
22 promoting and facilitating such participation by
23 small and medium-sized businesses in the United
24 States.

1 (3) AUTHORIZATION OF APPROPRIATIONS.—

2 There are authorized to be appropriated to the Sec-
3 retary for each of the fiscal years 2011 and 2012
4 such sums as may be necessary to carry out this sec-
5 tion.

6 (b) ADDITIONAL FUNDING FOR GLOBAL BUSINESS
7 DEVELOPMENT AND PROMOTION ACTIVITIES OF THE DE-
8 PARTMENT OF COMMERCE.—

9 (1) IN GENERAL.—There are authorized to be
10 appropriated to the Secretary of Commerce for the
11 period beginning on the date of the enactment of
12 this Act and ending 18 months thereafter,
13 \$30,000,000 to promote or facilitate participation by
14 United States businesses in the global marketplace
15 and facilitating the entry into, or expansion of, such
16 participation by United States businesses.

17 (2) REQUIREMENTS.—In obligating and ex-
18 pending the funds authorized to be appropriated by
19 paragraph (1), the Secretary of Commerce shall give
20 preference to activities that—

21 (A) assist small- and medium-sized busi-
22 nesses in the United States; and

23 (B) the Secretary determines will create or
24 sustain the greatest number of jobs in the

1 United States and obtain the maximum return
2 on investment.

3 **SEC. 4223. ADDITIONAL FUNDING TO IMPROVE ACCESS TO**
4 **GLOBAL MARKETS FOR RURAL BUSINESSES.**

5 (a) IN GENERAL.—There are authorized to be appro-
6 priated to the Secretary of Commerce \$5,000,000 for each
7 of the fiscal years 2011 and 2012 for improving access
8 to the global marketplace for goods and services provided
9 by rural businesses in the United States.

10 (b) REQUIREMENTS.—In obligating and expending
11 the funds authorized to be appropriated by subsection (a),
12 the Secretary of Commerce shall give preference to activi-
13 ties that—

14 (1) assist small- and medium-sized businesses
15 in the United States; and

16 (2) the Secretary determines will create or sus-
17 tain the greatest number of jobs in the United
18 States and obtain the maximum return on invest-
19 ment.

20 **SEC. 4224. ADDITIONAL FUNDING FOR THE EXPORTECH**
21 **PROGRAM.**

22 (a) IN GENERAL.—There are authorized to be appro-
23 priated to the Secretary of Commerce \$11,000,000 for the
24 period beginning on the date of the enactment of this Act
25 and ending 18 months thereafter, to expand ExporTech,

1 a joint program of the Hollings Manufacturing Partner-
2 ship Program and the Export Assistance Centers of the
3 Department of Commerce.

4 (b) REQUIREMENTS.—In obligating and expending
5 the funds authorized to be appropriated by subsection (a),
6 the Secretary of Commerce shall give preference to activi-
7 ties that—

8 (1) assist small- and medium-sized businesses
9 in the United States; and

10 (2) the Secretary determines will create or sus-
11 tain the greatest number of jobs in the United
12 States and obtain the maximum return on invest-
13 ment.

14 **SEC. 4225. ADDITIONAL FUNDING FOR THE MARKET DE-**
15 **VELOPMENT COOPERATOR PROGRAM OF**
16 **THE DEPARTMENT OF COMMERCE.**

17 (a) IN GENERAL.—There are authorized to be appro-
18 priated to the Secretary of Commerce for the period begin-
19 ning on the date of the enactment of this Act and ending
20 18 months thereafter, \$15,000,000 for the Manufacturing
21 and Services unit of the International Trade Administra-
22 tion—

23 (1) to establish public-private partnerships
24 under the Market Development Cooperator Program
25 of the International Trade Administration; and

1 (2) to underwrite a portion of the start-up costs
2 for new projects carried out under that Program to
3 strengthen the competitiveness and market share of
4 United States industry, not to exceed, for each such
5 project, the lesser of—

6 (A) $\frac{1}{3}$ of the total start-up costs for the
7 project; or

8 (B) \$500,000.

9 (b) REQUIREMENTS.—In obligating and expending
10 the funds authorized to be appropriated by subsection (a),
11 the Secretary of Commerce shall give preference to activi-
12 ties that—

13 (1) assist small- and medium-sized businesses
14 in the United States; and

15 (2) the Secretary determines will create or sus-
16 tain the greatest number of jobs in the United
17 States and obtain the maximum return on invest-
18 ment.

19 **SEC. 4226. HOLLINGS MANUFACTURING PARTNERSHIP**
20 **PROGRAM; TECHNOLOGY INNOVATION PRO-**
21 **GRAM.**

22 (a) HOLLINGS MANUFACTURING PARTNERSHIP PRO-
23 GRAM.—Section 25(f) of the National Institute of Stand-
24 ards and Technology Act (15 U.S.C. 278k(f)) is amended
25 by adding at the end the following:

1 “(7) GLOBAL MARKETPLACE PROJECTS.—In
2 making awards under this subsection, the Director,
3 in consultation with the Manufacturing Extension
4 Partnership Advisory Board and the Secretary of
5 Commerce, may—

6 “(A) take into consideration whether an
7 application has significant potential for enhanc-
8 ing the competitiveness of small and medium-
9 sized United States manufacturers in the global
10 marketplace; and

11 “(B) give a preference to applications for
12 such projects to the extent the Director deems
13 appropriate, taking into account the broader
14 purposes of this subsection.”.

15 (b) TECHNOLOGY INNOVATION PROGRAM.—In
16 awarding grants, cooperative agreements, or contracts
17 under section 28 of the National Institute of Standards
18 and Technology Act (15 U.S.C. 278n), in addition to the
19 award criteria set forth in subsection (c) of that section,
20 the Director of the National Institute of Standards and
21 Technology may take into consideration whether an appli-
22 cation has significant potential for enhancing the competi-
23 tiveness of small- and medium-sized businesses in the
24 United States in the global marketplace. The Director
25 shall consult with the Technology Innovation Program Ad-

1 visory Board and the Secretary of Commerce in imple-
2 menting this subsection.

3 **SEC. 4227. SENSE OF THE SENATE CONCERNING FEDERAL**
4 **COLLABORATION WITH STATES ON EXPORT**
5 **PROMOTION ISSUES.**

6 It is the sense of the Senate that the Secretary of
7 Commerce should enhance Federal collaboration with the
8 States on export promotion issues by—

9 (1) providing the necessary training to the staff
10 at State international trade agencies to enable them
11 to assist the United States and Foreign Commercial
12 Service (established by section 2301 of the Export
13 Enhancement Act of 1988 (15 U.S.C. 4721)) in pro-
14 viding counseling and other export services to busi-
15 nesses in their communities; and

16 (2) entering into agreements with State inter-
17 national trade agencies for those agencies to deliver
18 export promotion services in their local communities
19 in order to extend the outreach of United States and
20 Foreign Commercial Service programs.

21 **SEC. 4228. REPORT ON TARIFF AND NONTARIFF BARRIERS.**

22 Not later than 90 days after the date of the enact-
23 ment of this Act, the Secretary of Commerce, in consulta-
24 tion with the United States Trade Representative and
25 other appropriate entities, shall report to Congress on the

1 tariff and nontariff barriers imposed by Colombia, the Re-
2 public of Korea, and Panama with respect to exports of
3 articles from the United States, including articles exported
4 or produced by small- and medium-sized businesses in the
5 United States.

6 **PART II—MEDICARE FRAUD**

7 **SEC. 4241. USE OF PREDICTIVE MODELING AND OTHER**
8 **ANALYTICS TECHNOLOGIES TO IDENTIFY**
9 **AND PREVENT WASTE, FRAUD, AND ABUSE IN**
10 **THE MEDICARE FEE-FOR-SERVICE PROGRAM.**

11 (a) **USE IN THE MEDICARE FEE-FOR-SERVICE PRO-**
12 **GRAM.**—The Secretary shall use predictive modeling and
13 other analytics technologies (in this section referred to as
14 “predictive analytics technologies”) to identify improper
15 claims for reimbursement and to prevent the payment of
16 such claims under the Medicare fee-for-service program.

17 (b) **PREDICTIVE ANALYTICS TECHNOLOGIES RE-**
18 **QUIREMENTS.**—The predictive analytics technologies used
19 by the Secretary shall—

20 (1) capture Medicare provider and Medicare
21 beneficiary activities across the Medicare fee-for-
22 service program to provide a comprehensive view
23 across all providers, beneficiaries, and geographies
24 within such program in order to—

1 (A) identify and analyze Medicare provider
2 networks, provider billing patterns, and bene-
3 ficiary utilization patterns; and

4 (B) identify and detect any such patterns
5 and networks that represent a high risk of
6 fraudulent activity;

7 (2) be integrated into the existing Medicare fee-
8 for-service program claims flow with minimal effort
9 and maximum efficiency;

10 (3) be able to—

11 (A) analyze large data sets for unusual or
12 suspicious patterns or anomalies or contain
13 other factors that are linked to the occurrence
14 of waste, fraud, or abuse;

15 (B) undertake such analysis before pay-
16 ment is made; and

17 (C) prioritize such identified transactions
18 for additional review before payment is made in
19 terms of the likelihood of potential waste, fraud,
20 and abuse to more efficiently utilize investiga-
21 tive resources;

22 (4) capture outcome information on adjudicated
23 claims for reimbursement to allow for refinement
24 and enhancement of the predictive analytics tech-
25 nologies on the basis of such outcome information,

1 including post-payment information about the even-
2 tual status of a claim; and

3 (5) prevent the payment of claims for reim-
4 bursement that have been identified as potentially
5 wasteful, fraudulent, or abusive until such time as
6 the claims have been verified as valid.

7 (c) IMPLEMENTATION REQUIREMENTS.—

8 (1) REQUEST FOR PROPOSALS.—Not later than
9 January 1, 2011, the Secretary shall issue a request
10 for proposals to carry out this section during the
11 first year of implementation. To the extent the Sec-
12 retary determines appropriate—

13 (A) the initial request for proposals may
14 include subsequent implementation years; and

15 (B) the Secretary may issue additional re-
16 quests for proposals with respect to subsequent
17 implementation years.

18 (2) FIRST IMPLEMENTATION YEAR.—The initial
19 request for proposals issued under paragraph (1)
20 shall require the contractors selected to commence
21 using predictive analytics technologies on July 1,
22 2011, in the 10 States identified by the Secretary as
23 having the highest risk of waste, fraud, or abuse in
24 the Medicare fee-for-service program.

1 (3) SECOND IMPLEMENTATION YEAR.—Based
2 on the results of the report and recommendation re-
3 quired under subsection (e)(1)(B), the Secretary
4 shall expand the use of predictive analytics tech-
5 nologies on October 1, 2012, to apply to an addi-
6 tional 10 States identified by the Secretary as hav-
7 ing the highest risk of waste, fraud, or abuse in the
8 Medicare fee-for-service program, after the States
9 identified under paragraph (2).

10 (4) THIRD IMPLEMENTATION YEAR.—Based on
11 the results of the report and recommendation re-
12 quired under subsection (e)(2), the Secretary shall
13 expand the use of predictive analytics technologies
14 on January 1, 2014, to apply to the Medicare fee-
15 for-service program in any State not identified under
16 paragraph (2) or (3) and the commonwealths and
17 territories.

18 (5) FOURTH IMPLEMENTATION YEAR.—Based
19 on the results of the report and recommendation re-
20 quired under subsection (e)(3), the Secretary shall
21 expand the use of predictive analytics technologies,
22 beginning April 1, 2015, to apply to Medicaid and
23 CHIP. To the extent the Secretary determines ap-
24 propriate, such expansion may be made on a phased-
25 in basis.

1 (6) OPTION FOR REFINEMENT AND EVALUA-
2 TION.—If, with respect to the first, second, or third
3 implementation year, the Inspector General of the
4 Department of Health and Human Services certifies
5 as part of the report required under subsection (e)
6 for that year no or only nominal actual savings to
7 the Medicare fee-for-service program, the Secretary
8 may impose a moratorium, not to exceed 12 months,
9 on the expansion of the use of predictive analytics
10 technologies under this section for the succeeding
11 year in order to refine the use of predictive analytics
12 technologies to achieve more than nominal savings
13 before further expansion. If a moratorium is im-
14 posed in accordance with this paragraph, the imple-
15 mentation dates applicable for the succeeding year
16 or years shall be adjusted to reflect the length of the
17 moratorium period.

18 (d) CONTRACTOR SELECTION, QUALIFICATIONS, AND
19 DATA ACCESS REQUIREMENTS.—

20 (1) SELECTION.—

21 (A) IN GENERAL.—The Secretary shall se-
22 lect contractors to carry out this section using
23 competitive procedures as provided for in the
24 Federal Acquisition Regulation.

1 (B) NUMBER OF CONTRACTORS.—The Sec-
2 retary shall select at least 2 contractors to
3 carry out this section with respect to any year.

4 (2) QUALIFICATIONS.—

5 (A) IN GENERAL.—The Secretary shall
6 enter into a contract under this section with an
7 entity only if the entity—

8 (i) has leadership and staff who—

9 (I) have the appropriate clinical
10 knowledge of, and experience with, the
11 payment rules and regulations under
12 the Medicare fee-for-service program;
13 and

14 (II) have direct management ex-
15 perience and proficiency utilizing pre-
16 dictive analytics technologies nec-
17 essary to carry out the requirements
18 under subsection (b); or

19 (ii) has a contract, or will enter into
20 a contract, with another entity that has
21 leadership and staff meeting the criteria
22 described in clause (i).

23 (B) CONFLICT OF INTEREST.—The Sec-
24 retary may only enter into a contract under this
25 section with an entity to the extent that the en-

1 tity complies with such conflict of interest
2 standards as are generally applicable to Federal
3 acquisition and procurement.

4 (3) DATA ACCESS.—The Secretary shall provide
5 entities with a contract under this section with ap-
6 propriate access to data necessary for the entity to
7 use predictive analytics technologies in accordance
8 with the contract.

9 (e) REPORTING REQUIREMENTS.—

10 (1) FIRST IMPLEMENTATION YEAR REPORT.—
11 Not later than 3 months after the completion of the
12 first implementation year under this section, the
13 Secretary shall submit to the appropriate committees
14 of Congress and make available to the public a re-
15 port that includes the following:

16 (A) A description of the implementation of
17 the use of predictive analytics technologies dur-
18 ing the year.

19 (B) A certification of the Inspector Gen-
20 eral of the Department of Health and Human
21 Services that—

22 (i) specifies the actual and projected
23 savings to the Medicare fee-for-service pro-
24 gram as a result of the use of predictive
25 analytics technologies, including estimates

1 of the amounts of such savings with re-
2 spect to both improper payments recovered
3 and improper payments avoided;

4 (ii) the actual and projected savings
5 to the Medicare fee-for-service program as
6 a result of such use of predictive analytics
7 technologies relative to the return on in-
8 vestment for the use of such technologies
9 and in comparison to other strategies or
10 technologies used to prevent and detect
11 fraud, waste, and abuse in the Medicare
12 fee-for-service program; and

13 (iii) includes recommendations regard-
14 ing—

15 (I) whether the Secretary should
16 continue to use predictive analytics
17 technologies;

18 (II) whether the use of such tech-
19 nologies should be expanded in ac-
20 cordance with the requirements of
21 subsection (c); and

22 (III) any modifications or refine-
23 ments that should be made to increase
24 the amount of actual or projected sav-

1 ings or mitigate any adverse impact
2 on Medicare beneficiaries or providers.

3 (C) An analysis of the extent to which the
4 use of predictive analytics technologies success-
5 fully prevented and detected waste, fraud, or
6 abuse in the Medicare fee-for-service program.

7 (D) A review of whether the predictive
8 analytics technologies affected access to, or the
9 quality of, items and services furnished to Medi-
10 care beneficiaries.

11 (E) A review of what effect, if any, the use
12 of predictive analytics technologies had on
13 Medicare providers.

14 (F) Any other items determined appro-
15 priate by the Secretary.

16 (2) SECOND YEAR IMPLEMENTATION RE-
17 PORT.—Not later than 3 months after the comple-
18 tion of the second implementation year under this
19 section, the Secretary shall submit to the appro-
20 priate committees of Congress and make available to
21 the public a report that includes, with respect to
22 such year, the items required under paragraph (1)
23 as well as any other additional items determined ap-
24 propriate by the Secretary with respect to the report
25 for such year.

1 (3) THIRD YEAR IMPLEMENTATION REPORT.—

2 Not later than 3 months after the completion of the
3 third implementation year under this section, the
4 Secretary shall submit to the appropriate committees
5 of Congress, and make available to the public, a re-
6 port that includes with respect to such year, the
7 items required under paragraph (1), as well as any
8 other additional items determined appropriate by the
9 Secretary with respect to the report for such year,
10 and the following:

11 (A) An analysis of the cost-effectiveness
12 and feasibility of expanding the use of pre-
13 dictive analytics technologies to Medicaid and
14 CHIP.

15 (B) An analysis of the effect, if any, the
16 application of predictive analytics technologies
17 to claims under Medicaid and CHIP would have
18 on States and the commonwealths and terri-
19 tories.

20 (C) Recommendations regarding the extent
21 to which technical assistance may be necessary
22 to expand the application of predictive analytics
23 technologies to claims under Medicaid and
24 CHIP, and the type of any such assistance.

25 (f) INDEPENDENT EVALUATION AND REPORT.—

1 (1) EVALUATION.—Upon completion of the first
2 year in which predictive analytics technologies are
3 used with respect to claims under Medicaid and
4 CHIP, the Secretary shall, by grant, contract, or
5 interagency agreement, conduct an independent eval-
6 uation of the use of predictive analytics technologies
7 under the Medicare fee-for-service program and
8 Medicaid and CHIP. The evaluation shall include an
9 analysis with respect to each such program of the
10 items required for the third year implementation re-
11 port under subsection (e)(3).

12 (2) REPORT.—Not later than 18 months after
13 the evaluation required under paragraph (1) is initi-
14 ated, the Secretary shall submit a report to Con-
15 gress on the evaluation that shall include the results
16 of the evaluation, the Secretary's response to such
17 results and, to the extent the Secretary determines
18 appropriate, recommendations for legislation or ad-
19 ministrative actions.

20 (g) WAIVER AUTHORITY.—The Secretary may waive
21 such provisions of titles XI, XVIII, XIX, and XXI of the
22 Social Security Act, including applicable prompt payment
23 requirements under titles XVIII and XIX of such Act, as
24 the Secretary determines to be appropriate to carry out
25 this section.

1 (h) FUNDING.—

2 (1) APPROPRIATION.—Out of any funds in the
3 Treasury not otherwise appropriated, there is appro-
4 priated to the Secretary to carry out this section,
5 \$100,000,000 for the period beginning January 1,
6 2011, to remain available until expended.

7 (2) RESERVATIONS.—

8 (A) INDEPENDENT EVALUATION.—The
9 Secretary shall reserve not more than 5 percent
10 of the funds appropriated under paragraph (1)
11 for purposes of conducting the independent
12 evaluation required under subsection (f).

13 (B) APPLICATION TO MEDICAID AND
14 CHIP.—The Secretary shall reserve such portion
15 of the funds appropriated under paragraph (1)
16 as the Secretary determines appropriate for
17 purposes of providing assistance to States for
18 administrative expenses in the event of the ex-
19 pansion of predictive analytics technologies to
20 claims under Medicaid and CHIP.

21 (i) DEFINITIONS.—In this section:

22 (1) COMMONWEALTHS AND TERRITORIES.—The
23 term “commonwealth and territories” includes the
24 Commonwealth of Puerto Rico, the Virgin Islands,
25 Guam, American Samoa, the Commonwealth of the

1 Northern Mariana Islands, and any other territory
2 or possession of the United States in which the
3 Medicare fee-for-service program, Medicaid, or
4 CHIP operates.

5 (2) CHIP.—The term “CHIP” means the Chil-
6 dren’s Health Insurance Program established under
7 title XXI of the Social Security Act (42 U.S.C.
8 1397aa et seq.).

9 (3) MEDICAID.—The term “Medicaid” means
10 the program to provide grants to States for medical
11 assistance programs established under title XIX of
12 the Social Security Act (42 U.S.C. 1396 et seq.).

13 (4) MEDICARE BENEFICIARY.—The term
14 “Medicare beneficiary” means an individual enrolled
15 in the Medicare fee-for-service program.

16 (5) MEDICARE FEE-FOR-SERVICE PROGRAM.—
17 The term “Medicare fee-for-service program” means
18 the original medicare fee-for-service program under
19 parts A and B of title XVIII of the Social Security
20 Act (42 U.S.C. 1395 et seq.).

21 (6) MEDICARE PROVIDER.—The term “Medi-
22 care provider” means a provider of services (as de-
23 fined in subsection (u) of section 1861 of the Social
24 Security Act (42 U.S.C. 1395x)) and a supplier (as
25 defined in subsection (d) of such section).

1 (7) SECRETARY.—The term “Secretary” means
2 the Secretary of Health and Human Services, acting
3 through the Administrator of the Centers for Medi-
4 care & Medicaid Services.

5 (8) STATE.—The term “State” means each of
6 the 50 States and the District of Columbia.

7 **PART III—AGRICULTURAL DISASTERS**

8 **SEC. 4261. EMERGENCY AGRICULTURAL DISASTER ASSIST-**
9 **ANCE.**

10 (a) DEFINITIONS.—Except as otherwise provided in
11 this section, in this section:

12 (1) DISASTER COUNTY.—

13 (A) IN GENERAL.—The term “disaster
14 county” means a county included in the geo-
15 graphic area covered by a qualifying natural
16 disaster declaration for the 2009 crop year.

17 (B) EXCLUSION.—The term “disaster
18 county” does not include a contiguous county.

19 (2) ELIGIBLE AQUACULTURE PRODUCER.—The
20 term “eligible aquaculture producer” means an
21 aquaculture producer that during the 2009 calendar
22 year, as determined by the Secretary—

23 (A) produced an aquaculture species for
24 which feed costs represented a substantial per-

1 centage of the input costs of the aquaculture
2 operation; and

3 (B) experienced a substantial price in-
4 crease of feed costs above the previous 5-year
5 average.

6 (3) ELIGIBLE PRODUCER.—The term “eligible
7 producer” means an agricultural producer in a dis-
8 aster county.

9 (4) ELIGIBLE SPECIALTY CROP PRODUCER.—
10 The term “eligible specialty crop producer” means
11 an agricultural producer that, for the 2009 crop
12 year, as determined by the Secretary—

13 (A) produced, or was prevented from
14 planting, a specialty crop; and

15 (B) experienced specialty crop losses in a
16 disaster county due to drought, excessive rain-
17 fall, or a related condition.

18 (5) QUALIFYING NATURAL DISASTER DECLARA-
19 TION.—The term “qualifying natural disaster dec-
20 laration” means a natural disaster declared by the
21 Secretary for production losses under section 321(a)
22 of the Consolidated Farm and Rural Development
23 Act (7 U.S.C. 1961(a)).

24 (6) SECRETARY.—The term “Secretary” means
25 the Secretary of Agriculture.

1 (7) SPECIALTY CROP.—The term “specialty
2 crop” has the meaning given the term in section 3
3 of the Specialty Crops Competitiveness Act of 2004
4 (Public Law 108–465; 7 U.S.C. 1621 note).

5 (b) SUPPLEMENTAL DIRECT PAYMENT.—

6 (1) IN GENERAL.—Of the funds of the Com-
7 modity Credit Corporation, the Secretary shall use
8 such sums as are necessary to make supplemental
9 payments under sections 1103 and 1303 of the
10 Food, Conservation, and Energy Act of 2008 (7
11 U.S.C. 8713, 8753) to eligible producers on farms
12 located in disaster counties that had at least 1 crop
13 of economic significance (other than specialty crops
14 or crops intended for grazing) suffer at least a 5-
15 percent crop loss on a farm due to a natural dis-
16 aster, including quality losses, as determined by the
17 Secretary, in an amount equal to 90 percent of the
18 direct payment the eligible producers received for the
19 2009 crop year on the farm.

20 (2) ACRE PROGRAM.—Eligible producers that
21 received direct payments under section 1105 of the
22 Food, Conservation, and Energy Act of 2008 (7
23 U.S.C. 8715) for the 2009 crop year and that other-
24 wise meet the requirements of paragraph (1) shall
25 be eligible to receive supplemental payments under

1 that paragraph in an amount equal to 112.5 percent
2 of the reduced direct payment the eligible producers
3 received for the 2009 crop year under section 1103
4 or 1303 of the Food, Conservation, and Energy Act
5 of 2008 (7 U.S.C. 8713, 8753).

6 (3) RELATIONSHIP TO OTHER LAW.—Assistance
7 received under this subsection shall be included in
8 the calculation of farm revenue for the 2009 crop
9 year under section 531(b)(4)(A) of the Federal Crop
10 Insurance Act (7 U.S.C. 1531(b)(4)(A)) and section
11 901(b)(4)(A) of the Trade Act of 1974 (19 U.S.C.
12 2497(b)(4)(A)).

13 (c) SPECIALTY CROP ASSISTANCE.—

14 (1) IN GENERAL.—Of the funds of the Com-
15 modity Credit Corporation, the Secretary shall use
16 not more than \$300,000,000, to remain available
17 until September 30, 2011, to carry out a program
18 of grants to States to assist eligible specialty crop
19 producers for losses due to a natural disaster affect-
20 ing the 2009 crops, of which not more than—

21 (A) \$150,000,000 shall be used to assist
22 eligible specialty crop producers in counties that
23 have been declared a disaster as the result of
24 drought; and

1 (B) \$150,000,000 shall be used to assist
2 eligible specialty crop producers in counties that
3 have been declared a disaster as the result of
4 excessive rainfall or a related condition.

5 (2) NOTIFICATION.—Not later than 45 days
6 after the date of enactment of this Act, the Sec-
7 retary shall notify the State department of agri-
8 culture (or similar entity) in each State of the avail-
9 ability of funds to assist eligible specialty crop pro-
10 ducers, including such terms as are determined by
11 the Secretary to be necessary for the equitable treat-
12 ment of eligible specialty crop producers.

13 (3) PROVISION OF GRANTS.—

14 (A) IN GENERAL.—The Secretary shall
15 make grants to States for disaster counties on
16 a pro rata basis based on the value of specialty
17 crop losses in those counties during the 2009
18 calendar year, as determined by the Secretary.

19 (B) ADMINISTRATIVE COSTS.—State Sec-
20 retary of Agriculture may not use more than
21 five percent of the funds provided for costs as-
22 sociated with the administration of the grants
23 provided in paragraph (1).

24 (C) ADMINISTRATION OF GRANTS.—State
25 Secretary of Agriculture may enter into a con-

1 tract with the Department of Agriculture to ad-
2 minister the grants provided in paragraph (1).

3 (D) TIMING.—Not later than 90 days after
4 the date of enactment of this Act, the Secretary
5 shall make grants to States to provide assist-
6 ance under this subsection.

7 (E) MAXIMUM GRANT.—The maximum
8 amount of a grant made to a State for counties
9 described in paragraph (1)(B) may not exceed
10 \$40,000,000.

11 (4) REQUIREMENTS.—The Secretary shall
12 make grants under this subsection only to States
13 that demonstrate to the satisfaction of the Secretary
14 that the State will—

15 (A) use grant funds to issue payments to
16 eligible specialty crop producers;

17 (B) provide assistance to eligible specialty
18 crop producers not later than 60 days after the
19 date on which the State receives grant funds;
20 and

21 (C) not later than 30 days after the date
22 on which the State provides assistance to eligi-
23 ble specialty crop producers, submit to the Sec-
24 retary a report that describes—

1 (i) the manner in which the State pro-
2 vided assistance;

3 (ii) the amounts of assistance pro-
4 vided by type of specialty crop; and

5 (iii) the process by which the State
6 determined the levels of assistance to eligi-
7 ble specialty crop producers.

8 (D) RELATION TO OTHER LAW.—Assist-
9 ance received under this subsection shall be in-
10 cluded in the calculation of farm revenue for
11 the 2009 crop year under section 531(b)(4)(A)
12 of the Federal Crop Insurance Act (7 U.S.C.
13 1531(b)(4)(A)) and section 901(b)(4)(A) of the
14 Trade Act of 1974 (19 U.S.C. 2497(b)(4)(A)).

15 (d) COTTONSEED ASSISTANCE.—

16 (1) IN GENERAL.—Of the funds of the Com-
17 modity Credit Corporation, the Secretary shall use
18 not more than \$42,000,000 to provide supplemental
19 assistance to eligible producers and first-handlers of
20 the 2009 crop of cottonseed in a disaster county.

21 (2) GENERAL TERMS.—Except as otherwise
22 provided in this subsection, the Secretary shall pro-
23 vide disaster assistance under this subsection under
24 the same terms and conditions as assistance pro-
25 vided under section 3015 of the Emergency Agricul-

1 tural Disaster Assistance Act of 2006 (title III of
2 Public Law 109–234; 120 Stat. 477).

3 (3) DISTRIBUTION OF ASSISTANCE.—The Sec-
4 retary shall distribute assistance to first handlers for
5 the benefit of eligible producers in a disaster county
6 in an amount equal to the product obtained by mul-
7 tipling—

8 (A) the payment rate, as determined under
9 paragraph (4); and

10 (B) the county-eligible production, as de-
11 termined under paragraph (5).

12 (4) PAYMENT RATE.—The payment rate shall
13 be equal to the quotient obtained by dividing—

14 (A) the total funds made available to carry
15 out this subsection; by

16 (B) the sum of the county-eligible produc-
17 tion, as determined under paragraph (5).

18 (5) COUNTY-ELIGIBLE PRODUCTION.—The
19 county-eligible production shall be equal to the prod-
20 uct obtained by multiplying—

21 (A) the number of acres planted to cotton
22 in the disaster county, as reported to the Sec-
23 retary by first handlers;

1 (B) the expected cotton lint yield for the
2 disaster county, as determined by the Secretary
3 based on the best available information; and

4 (C) the national average seed-to-lint ratio,
5 as determined by the Secretary based on the
6 best available information for the 5 crop years
7 immediately preceding the 2009 crop, excluding
8 the year in which the average ratio was the
9 highest and the year in which the average ratio
10 was the lowest in such period.

11 (e) AQUACULTURE ASSISTANCE.—

12 (1) IN GENERAL.—Of the funds of the Com-
13 modity Credit Corporation, the Secretary shall use
14 not more than \$25,000,000, to remain available
15 until September 30, 2011, to carry out a program
16 of grants to States to assist eligible aquaculture pro-
17 ducers for losses associated with high feed input
18 costs during the 2009 calendar year.

19 (2) NOTIFICATION.—Not later than 45 days
20 after the date of enactment of this Act, the Sec-
21 retary shall notify the State department of agri-
22 culture (or similar entity) in each State of the avail-
23 ability of funds to assist eligible aquaculture pro-
24 ducers, including such terms as are determined by

1 the Secretary to be necessary for the equitable treat-
2 ment of eligible aquaculture producers.

3 (3) PROVISION OF GRANTS.—

4 (A) IN GENERAL.—The Secretary shall
5 make grants to States under this subsection on
6 a pro rata basis based on the amount of aqua-
7 culture feed used in each State during the 2009
8 calendar year, as determined by the Secretary.

9 (B) TIMING.—Not later than 90 days after
10 the date of enactment of this Act, the Secretary
11 shall make grants to States to provide assist-
12 ance under this subsection.

13 (4) REQUIREMENTS.—The Secretary shall
14 make grants under this subsection only to States
15 that demonstrate to the satisfaction of the Secretary
16 that the State will—

17 (A) use grant funds to assist eligible aqua-
18 culture producers;

19 (B) provide assistance to eligible aqua-
20 culture producers not later than 60 days after
21 the date on which the State receives grant
22 funds; and

23 (C) not later than 30 days after the date
24 on which the State provides assistance to eligi-

1 ble aquaculture producers, submit to the Sec-
2 retary a report that describes—

3 (i) the manner in which the State pro-
4 vided assistance;

5 (ii) the amounts of assistance pro-
6 vided per species of aquaculture; and

7 (iii) the process by which the State
8 determined the levels of assistance to eligi-
9 ble aquaculture producers.

10 (5) REDUCTION IN PAYMENTS.—An eligible
11 aquaculture producer that receives assistance under
12 this subsection shall not be eligible to receive any
13 other assistance under the supplemental agricultural
14 disaster assistance program established under sec-
15 tion 531 of the Federal Crop Insurance Act (7
16 U.S.C. 1531) and section 901 of the Trade Act of
17 1974 (19 U.S.C. 2497) for any losses in 2009 relat-
18 ing to the same species of aquaculture.

19 (6) REPORT TO CONGRESS.—Not later than
20 240 days after the date of enactment of this Act, the
21 Secretary shall submit to the appropriate committees
22 of Congress a report that—

23 (A) describes in detail the manner in which
24 this subsection has been carried out; and

1 (B) includes the information reported to
2 the Secretary under paragraph (4)(C).

3 (f) HAWAII TRANSPORTATION COOPERATIVE.—Not-
4 withstanding any other provision of law, the Secretary
5 shall use \$21,000,000 of funds of the Commodity Credit
6 Corporation to make a payment to an agricultural trans-
7 portation cooperative in the State of Hawaii, the members
8 of which are eligible to participate in the commodity loan
9 program of the Farm Service Agency, for assistance to
10 maintain and develop employment.

11 (g) LIVESTOCK FORAGE DISASTER PROGRAM.—

12 (1) DEFINITION OF DISASTER COUNTY.—In
13 this subsection:

14 (A) IN GENERAL.—The term “disaster
15 county” means a county included in the geo-
16 graphic area covered by a qualifying natural
17 disaster declaration announced by the Secretary
18 in calendar year 2009.

19 (B) INCLUSION.—The term “disaster
20 county” includes a contiguous county.

21 (2) PAYMENTS.—Of the funds of the Com-
22 modity Credit Corporation, the Secretary shall use
23 not more than \$50,000,000 to carry out a program
24 to make payments to eligible producers that had

1 grazing losses in disaster counties in calendar year
2 2009.

3 (3) CRITERIA.—

4 (A) IN GENERAL.—Except as provided in
5 subparagraph (B), assistance under this sub-
6 section shall be determined under the same cri-
7 teria as are used to carry out the programs
8 under section 531(d) of the Federal Crop In-
9 surance Act (7 U.S.C. 1531(d)) and section
10 901(d) of the Trade Act of 1974 (19 U.S.C.
11 2497(d)).

12 (B) DROUGHT INTENSITY.—For purposes
13 of this subsection, an eligible producer shall not
14 be required to meet the drought intensity re-
15 quirements of section 531(d)(3)(D)(ii) of the
16 Federal Crop Insurance Act (7 U.S.C.
17 1531(d)(3)(D)(ii)) and section 901(d)(3)(D)(ii)
18 of the Trade Act of 1974 (19 U.S.C.
19 2497(d)(3)(D)(ii)).

20 (4) AMOUNT.—Assistance under this subsection
21 shall be in an amount equal to 1 monthly payment
22 using the monthly payment rate under section
23 531(d)(3)(B) of the Federal Crop Insurance Act (7
24 U.S.C. 1531(d)(3)(B)) and section 901(d)(3)(B) of
25 the Trade Act of 1974 (19 U.S.C. 2497(d)(3)(B)).

1 (5) RELATION TO OTHER LAW.—An eligible
2 producer that receives assistance under this sub-
3 section shall be ineligible to receive assistance for
4 2009 grazing losses under the program carried out
5 under section 531(d) of the Federal Crop Insurance
6 Act (7 U.S.C. 1531(d)) and section 901(d) of the
7 Trade Act of 1974 (19 U.S.C. 2497(d)).

8 (h) EMERGENCY LOANS FOR POULTRY PRO-
9 DUCERS.—

10 (1) DEFINITIONS.—In this subsection:

11 (A) ANNOUNCEMENT DATE.—The term
12 “announcement date” means the date on which
13 the Secretary announces the emergency loan
14 program under this subsection.

15 (B) POULTRY INTEGRATOR.—The term
16 “poultry integrator” means a poultry integrator
17 that filed proceedings under chapter 11 of title
18 11, United States Code, in United States Bank-
19 ruptcy Court during the 30-day period begin-
20 ning on December 1, 2008.

21 (2) LOAN PROGRAM.—

22 (A) IN GENERAL.—Of the funds of the
23 Commodity Credit Corporation, the Secretary
24 shall use not more than \$75,000,000, to remain
25 available until expended, for the cost of making

1 no-interest emergency loans available to poultry
2 producers that meet the requirements of this
3 subsection.

4 (B) TERMS AND CONDITIONS.—Except as
5 otherwise provided in this subsection, emer-
6 gency loans under this subsection shall be sub-
7 ject to such terms and conditions as are deter-
8 mined by the Secretary.

9 (3) LOANS.—

10 (A) IN GENERAL.—An emergency loan
11 made to a poultry producer under this sub-
12 section shall be for the purpose of providing fi-
13 nancing to the poultry producer in response to
14 financial losses associated with the termination
15 or nonrenewal of any contract between the poul-
16 try producer and a poultry integrator.

17 (B) ELIGIBILITY.—

18 (i) IN GENERAL.—To be eligible for
19 an emergency loan under this subsection,
20 not later than 90 days after the announce-
21 ment date, a poultry producer shall submit
22 to the Secretary evidence that—

23 (I) the contract of the poultry
24 producer described in subparagraph

25 (A) was not continued; and

1 (II) no similar contract has been
2 awarded subsequently to the poultry
3 producer.

4 (ii) REQUIREMENT TO OFFER
5 LOANS.—Notwithstanding any other provi-
6 sion of law, if a poultry producer meets the
7 eligibility requirements described in clause
8 (i), subject to the availability of funds
9 under paragraph (2)(A), the Secretary
10 shall offer to make a loan under this sub-
11 section to the poultry producer with a min-
12 imum term of 2 years.

13 (4) ADDITIONAL REQUIREMENTS.—

14 (A) IN GENERAL.—A poultry producer
15 that receives an emergency loan under this sub-
16 section may use the emergency loan proceeds
17 only to repay the amount that the poultry pro-
18 ducer owes to any lender for the purchase, im-
19 provement, or operation of the poultry farm.

20 (B) CONVERSION OF THE LOAN.—A poul-
21 try producer that receives an emergency loan
22 under this subsection shall be eligible to have
23 the balance of the emergency loan converted,
24 but not refinanced, to a loan that has the same
25 terms and conditions as an operating loan

1 under subtitle B of the Consolidated Farm and
2 Rural Development Act (7 U.S.C. 1941 et seq.).

3 (i) STATE AND LOCAL GOVERNMENTS.—Section
4 1001(f)(6)(A) of the Food Security Act of 1985 (7 U.S.C.
5 1308(f)(6)(A)) is amended by inserting “(other than the
6 conservation reserve program established under sub-
7 chapter B of chapter 1 of subtitle D of title XII of this
8 Act)” before the period at the end.

9 (j) ADMINISTRATION.—

10 (1) REGULATIONS.—

11 (A) IN GENERAL.—As soon as practicable
12 after the date of enactment of this Act, the Sec-
13 retary shall promulgate such regulations as are
14 necessary to implement this section and the
15 amendment made by this section.

16 (B) PROCEDURE.—The promulgation of
17 the regulations and administration of this sec-
18 tion and the amendment made by this section
19 shall be made without regard to—

20 (i) the notice and comment provisions
21 of section 553 of title 5, United States
22 Code;

23 (ii) the Statement of Policy of the
24 Secretary of Agriculture effective July 24,
25 1971 (36 Fed. Reg. 13804), relating to no-

1 tices of proposed rulemaking and public
2 participation in rulemaking; and

3 (iii) chapter 35 of title 44, United
4 States Code (commonly known as the “Pa-
5 perwork Reduction Act”).

6 (C) CONGRESSIONAL REVIEW OF AGENCY
7 RULEMAKING.—In carrying out this paragraph,
8 the Secretary shall use the authority provided
9 under section 808 of title 5, United States
10 Code.

11 (2) ADMINISTRATIVE COSTS.—Of the funds of
12 the Commodity Credit Corporation, the Secretary
13 may use up to \$10,000,000 to pay administrative
14 costs incurred by the Secretary that are directly re-
15 lated to carrying out this Act.

16 (3) PROHIBITION.—None of the funds of the
17 Agricultural Disaster Relief Trust Fund established
18 under section 902 of the Trade Act of 1974 (19
19 U.S.C. 2497a) may be used to carry out this Act.

20 **SEC. 4262. USE OF UNSPENT FUTURE FUNDS FROM THE**
21 **AMERICAN RECOVERY AND REINVESTMENT**
22 **ACT.**

23 Section 101(a) of division A of the American Recov-
24 ery and Reinvestment Act of 2009 (Public Law 111–5;
25 123 Stat. 120) is amended—

1 (1) in paragraph (1), by inserting before the pe-
2 riod at the end “, if the value of the benefits and
3 block grants would be greater under that calculation
4 than in the absence of this subsection”; and

5 (2) by striking paragraph (2) and inserting the
6 following:

7 “(2) TERMINATION.—The authority provided by
8 this subsection shall terminate after August 31,
9 2017.”.

10 **TITLE V—BUDGETARY**
11 **PROVISIONS**

12 **SEC. 5001. DETERMINATION OF BUDGETARY EFFECTS.**

13 The budgetary effects of this Act, for the purpose of
14 complying with the Statutory Pay-As-You-Go-Act of 2010,
15 shall be determined by reference to the latest statement
16 titled “Budgetary Effects of PAYGO Legislation” for this
17 Act, submitted for printing in the Congressional Record
18 by the Chairman of the Senate Budget Committee, pro-
19 vided that such statement has been submitted prior to the
20 vote on passage.