

108TH CONGRESS  
1ST SESSION

# S. 1375

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## AN ACT

To provide for the reauthorization of programs administered by the Small Business Administration, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Small Business Administration 50th Anniversary Reau-  
6 thorization Act of 2003”.

1 (b) TABLE OF CONTENTS.—The table of contents for  
 2 this Act is as follows:

- Sec. 1. Short title; table of contents.  
 Sec. 2. Effective date.

TITLE I—GENERAL PROVISIONS

Subtitle A—Administration Accountability

- Sec. 101. Document retention and investigations.  
 Sec. 102. Management of the Small Business Administration.

Subtitle B—Authorizations

- Sec. 111. Program authorization levels.  
 Sec. 112. Additional reauthorizations.

TITLE II—FINANCIAL ASSISTANCE

Subtitle A—7(a) Loan Guarantee Program

- Sec. 201. National Preferred Lenders Pilot Program.  
 Sec. 202. Extension of program participation fees.  
 Sec. 203. Loans sold in secondary market.  
 Sec. 204. Clarification of eligibility for veterans.  
 Sec. 205. Enhancement of low documentation loan program.  
 Sec. 206. Increased loan amounts for exporters.

Subtitle B—Microloan Program

- Sec. 211. Microloan program improvements.

Subtitle C—Lender Oversight

- Sec. 221. Examination and review fees.  
 Sec. 222. Enforcement authority for Small Business Lending Companies and non-federally regulated SBA lenders.  
 Sec. 223. Definitions for Small Business Lending Companies and non-federally regulated SBA lenders.

Subtitle D—Disaster Assistance Loan Program

- Sec. 231. Conforming amendment for disaster assistance loan program.  
 Sec. 232. Disaster relief for small business concerns damaged by drought.  
 Sec. 233. Disaster mitigation pilot program.

Subtitle E—504 Loan Program

- Sec. 241. Extension of user fees.  
 Sec. 242. Amortized loan loss reserve fund.  
 Sec. 243. Alternative loss reserve for certain premier certified lenders.  
 Sec. 244. Debenture size.  
 Sec. 245. Job creation or retention standards.  
 Sec. 246. Simplified applications.  
 Sec. 247. Child care lending pilot program.  
 Sec. 248. Definition of rural area.

Subtitle F—Surety Bond Program

- Sec. 251. Clarification of maximum surety bond guarantee.
- Sec. 252. Authorization of Preferred Surety Bond Guarantee Program.

Subtitle G—Miscellaneous

- Sec. 261. Coordination of SBA loans.
- Sec. 262. Leasing options for 7(a) and 504 borrowers.
- Sec. 263. Calculation of financing limitation for small business investment companies.
- Sec. 264. Establishing alternative size standard.

Subtitle H—New Markets Venture Capital

- Sec. 271. Time frame for raising private capital.
- Sec. 272. Definition of low-income geographic area.

Subtitle I—Small Business Investment Company Program

- Sec. 281. Investment of excess funds.
- Sec. 282. Maximum prioritized payment rate.
- Sec. 283. Improved distribution requirements.

Subtitle J—Small Business Intermediary Lending Pilot Program

- Sec. 291. Short title.
- Sec. 292. Findings.
- Sec. 293. Small Business Intermediary Lending Pilot Program.

TITLE III—ENTREPRENEURIAL DEVELOPMENT PROGRAMS

Subtitle A—Office of Entrepreneurial Development

- Sec. 301. Service Corps of Retired Executives.
- Sec. 302. Small Business Development Center Program.
- Sec. 303. PRIME reauthorization and transfer to the Small Business Act.

Subtitle B—Women’s Small Business Ownership Programs

- Sec. 311. Office of Women’s Business Ownership.
- Sec. 312. Women’s Business Center Program.
- Sec. 313. National Women’s Business Council.
- Sec. 314. Interagency Committee on Women’s Business Enterprise.
- Sec. 315. Preserving the independence of the National Women’s Business Council.

Subtitle C—Office of Native American Affairs

- Sec. 321. Short title.
- Sec. 322. Native American Small Business Development Program.
- Sec. 323. Pilot programs.

Subtitle D—Office of Veterans Business Development

- Sec. 331. Advisory Committee on Veterans Business Affairs.
- Sec. 332. Outreach grants for veterans.
- Sec. 333. Authorization of appropriations.

TITLE IV—SMALL BUSINESS PROCUREMENT OPPORTUNITIES

- Sec. 401. Contract consolidation.
- Sec. 402. Agency accountability.
- Sec. 403. Small business participation in prime contracting.
- Sec. 404. Small business participation in subcontracting.
- Sec. 405. Evaluating subcontract participation in awarding contracts.
- Sec. 406. Direct payments to subcontractors.
- Sec. 407. Women-owned small business industry study.
- Sec. 408. HUBZone authorizations.
- Sec. 409. Definition of HUBZone; treatment of certain former military installation lands as HUBZones.
- Sec. 410. Definition of HUBZone small business concern.
- Sec. 411. Acquisition regulations.

#### TITLE V—MISCELLANEOUS

- Sec. 501. Minority Small Business and Capital Ownership Development Program.
- Sec. 502. Extension of authority for technology assistance program.
- Sec. 503. BusinessLINC report to Congress.

### 1 **SEC. 2. EFFECTIVE DATE.**

2       (a) **IN GENERAL.**—This Act and the amendments  
3 made by this Act shall take effect on October 1, 2003.

4       (b) **RULEMAKING AUTHORITY.**—

5               (1) **PROPOSED REGULATIONS.**—Except as otherwise  
6 otherwise specifically provided in this Act, not later  
7 than 180 days after the date of enactment of this  
8 Act, the Administrator of the Small Business Administration (referred to in this Act as the “Administrator” and the “Administration”, respectively)  
9 shall publish proposed regulations to carry out the  
10 provisions of this Act and the amendments made by  
11 this Act.

14               (2) **FINAL REGULATIONS.**—Except as otherwise  
15 specifically provided in this Act, not later than 300  
16 days after the date of enactment of this Act, the Administrator shall issue final regulations to carry out  
17

1 the provisions of this Act and the amendments made  
2 by this Act.

3 **TITLE I—GENERAL PROVISIONS**  
4 **Subtitle A—Administration**  
5 **Accountability**

6 **SEC. 101. DOCUMENT RETENTION AND INVESTIGATIONS.**

7 Section 10(e) of the Small Business Act (15 U.S.C.  
8 639(e)) is amended by striking the matter preceding para-  
9 graph (2) and inserting the following:

10 “(e) DOCUMENT RETENTION; INVESTIGATIONS.—

11 “(1) DOCUMENT RETENTION.—The Adminis-  
12 trator and the Inspector General of the Administra-  
13 tion shall—

14 “(A) retain all documents and records, in-  
15 cluding correspondence, records of inquiry,  
16 memoranda (including those relating to all in-  
17 vestigations conducted by or for the Adminis-  
18 tration), reports, studies, analyses, contracts,  
19 agreements, opinions, computer entries, e-mail  
20 messages, forms, manuals, briefing materials,  
21 press releases, and books for a period of not  
22 less than 2 years from the date such documents  
23 are created;

24 “(B) keep the items described in subpara-  
25 graph (A) available at all times for inspection

1 and examination by the Committee on Small  
2 Business and Entrepreneurship of the Senate  
3 and the Committee on Small Business of the  
4 House of Representatives, or their duly author-  
5 ized representatives; and

6 “(C) upon the written request of the Com-  
7 mittee on Small Business and Entrepreneurship  
8 of the Senate or the Committee on Small Busi-  
9 ness of the House of Representatives pursuant  
10 to subparagraph (B), the Administrator or the  
11 Inspector General, as applicable, shall make  
12 such documents or records available to the re-  
13 questing committee or its duly authorized rep-  
14 resentative within 5 business days of the re-  
15 quest, and if a document or record cannot be  
16 made available within such timeframe, the Ad-  
17 ministrator or the Inspector General, as appli-  
18 cable, shall provide the requesting committee  
19 with a written explanation stating the reason  
20 that each document or record requested has not  
21 been provided and a date certain for its produc-  
22 tion.”.

1 **SEC. 102. MANAGEMENT OF THE SMALL BUSINESS ADMIN-**  
2 **ISTRATION.**

3 Section 4 of the Small Business Act (15 U.S.C. 633)  
4 is amended—

5 (1) by striking “SEC. 4.” and inserting the fol-  
6 lowing:

7 **“SEC. 4. MANAGEMENT OF THE SMALL BUSINESS ADMINIS-**  
8 **TRATION.”;**

9 (2) in subsection (a), by striking “(a)” and in-  
10 serting the following:

11 “(a) ESTABLISHMENT.—”;

12 (3) in subsection (b)—

13 (A) by striking “(b)(1)” and inserting the  
14 following:

15 “(b) AUTHORITY OF ADMINISTRATOR.—

16 “(1) IN GENERAL.—

17 “(A) APPOINTMENT.—”;

18 (B) in paragraph (1)—

19 (i) by striking “The Administrator  
20 shall not engage” and inserting the fol-  
21 lowing:

22 “(B) SOLE EMPLOYMENT.—The Adminis-  
23 trator shall not engage”;

24 (ii) by striking “In carrying out” and  
25 inserting the following:

1                   “(C) NONDISCRIMINATION; SPECIAL CON-  
2                   SIDERATION FOR VETERANS.—In carrying out”;  
3                   and

4                   (iii) by striking “The President” and  
5                   inserting the following:

6                   “(D) APPOINTMENT OF DEPUTY ADMINIS-  
7                   TRATOR; ASSOCIATE ADMINISTRATORS.—The  
8                   President”; and

9                   (C) in paragraph (2), by striking “the Ad-  
10                  ministrators also” and inserting “RESPONSIBIL-  
11                  ITIES OF ADMINISTRATOR.—The Adminis-  
12                  trator”; and

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

14                  “(g) OFFICE OF LENDER OVERSIGHT.—The Director  
15                  of the Office of Lender Oversight shall—

16                  “(1) formulate, execute, and promote policies  
17                  and procedures of the Administration that provide  
18                  adequate and effective oversight and review of lend-  
19                  ers participating in, or applying to participate in,  
20                  the loan and loan guaranty programs for small busi-  
21                  ness concerns under this Act and the Small Business  
22                  Investment Act of 1958 (15 U.S.C. 661 et seq.); and

23                  “(2) report directly to the Chief Operating Offi-  
24                  cer of the Administration.”.



## 1           **Subtitle B—Authorizations**

### 2   **SEC. 111. PROGRAM AUTHORIZATION LEVELS.**

3           Section 20 of the Small Business Act (15 U.S.C. 631  
4 note) is amended—

5           (1) in subsection (a)(1), by striking “certifi-  
6 cation” each place that term appears and inserting  
7 “accreditation”;

8           (2) by striking subsections (e) through (h) and  
9 inserting the following:

10          “(c) DISASTER MITIGATION PILOT PROGRAM.—The  
11 following program levels are authorized for loans under  
12 section 7(b)(1)(C):

13           “(1) \$15,000,000 for fiscal year 2003.

14           “(2) \$15,000,000 for fiscal year 2004.

15           “(3) \$15,000,000 for fiscal year 2005.

16           “(4) \$15,000,000 for fiscal year 2006.”;

17           (3) by redesignating subsection (i) as subsection  
18 (d); and

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

20          “(e) FISCAL YEAR 2004.—

21           “(1) PROGRAM LEVELS.—The following pro-  
22 gram levels are authorized for fiscal year 2004:

23           “(A) For the programs authorized by this  
24 Act, the Administration is authorized to  
25 make—

1           “(i) \$70,000,000 in technical assist-  
2           ance grants, as provided in section 7(m);  
3           and

4           “(ii) \$100,000,000 in direct loans, as  
5           provided in section 7(m).

6           “(B) For the programs authorized by this  
7           Act, the Administration is authorized to make  
8           \$21,550,000,000 in deferred participation loans  
9           and other financings. Of such sum, the Admin-  
10          istration is authorized to make—

11           “(i) \$16,000,000,000 in general busi-  
12           ness loans, as provided in section 7(a);

13           “(ii) \$5,000,000,000 in certified de-  
14           velopment company financings, as provided  
15           in section 7(a)(13) of this Act and section  
16           504 of the Small Business Investment Act  
17           of 1958;

18           “(iii) \$500,000,000 in loans, as pro-  
19           vided in section 7(a)(21); and

20           “(iv) \$50,000,000 in loans, as pro-  
21           vided in section 7(m).

22           “(C) For the programs authorized by title  
23           III of the Small Business Investment Act of  
24           1958, the Administration is authorized to  
25           make—

1                   “(i) \$4,000,000,000 in purchases of  
2                   participating securities; and

3                   “(ii) \$3,000,000,000 in guarantees of  
4                   debentures.

5                   “(D) For the programs authorized by part  
6                   B of title IV of the Small Business Investment  
7                   Act of 1958, the Administration is authorized  
8                   to enter into guarantees not to exceed  
9                   \$6,000,000,000, of which not more than 50  
10                  percent may be in bonds approved pursuant to  
11                  section 411(a)(3) of that Act.

12                  “(E) The Administration is authorized to  
13                  make grants or enter into cooperative agree-  
14                  ments for a total amount of \$7,000,000 for the  
15                  Service Corps of Retired Executives program  
16                  authorized by section 8(b)(1).

17                  “(2) ADDITIONAL AUTHORIZATIONS.—

18                  “(A) There are authorized to be appro-  
19                  priated to the Administration for fiscal year  
20                  2004 such sums as may be necessary to carry  
21                  out the provisions of this Act not elsewhere pro-  
22                  vided for, including administrative expenses and  
23                  necessary loan capital for disaster loans pursu-  
24                  ant to section 7(b), and to carry out title IV of  
25                  the Small Business Investment Act of 1958, in-

1 including salaries and expenses of the Adminis-  
2 tration.

3 “(B) Notwithstanding any other provision  
4 of this paragraph, for fiscal year 2004—

5 “(i) no funds are authorized to be  
6 used as loan capital for the loan program  
7 authorized by section 7(a)(21) except by  
8 transfer from another Federal department  
9 or agency to the Administration, unless the  
10 program level authorized for general busi-  
11 ness loans under paragraph (1)(B)(i) is  
12 fully funded; and

13 “(ii) the Administration may not ap-  
14 prove loans on its own behalf or on behalf  
15 of any other Federal department or agen-  
16 cy, by contract or otherwise, under terms  
17 and conditions other than those specifically  
18 authorized under this Act or the Small  
19 Business Investment Act of 1958, except  
20 that it may approve loans under section  
21 7(a)(21) of this Act in gross amounts of  
22 not more than \$2,000,000.

23 “(f) FISCAL YEAR 2005.—

24 “(1) PROGRAM LEVELS.—The following pro-  
25 gram levels are authorized for fiscal year 2005:

1           “(A) For the programs authorized by this  
2 Act, the Administration is authorized to  
3 make—

4           “(i) \$75,000,000 in technical assist-  
5 ance grants, as provided in section 7(m);  
6 and

7           “(ii) \$105,000,000 in direct loans, as  
8 provided in 7(m).

9           “(B) For the programs authorized by this  
10 Act, the Administration is authorized to make  
11 \$22,300,000,000 in deferred participation loans  
12 and other financings. Of such sum, the Admin-  
13 istration is authorized to make—

14           “(i) \$16,500,000,000 in general busi-  
15 ness loans, as provided in section 7(a);

16           “(ii) \$5,250,000,000 in certified de-  
17 velopment company financings, as provided  
18 in section 7(a)(13) of this Act and section  
19 504 of the Small Business Investment Act  
20 of 1958;

21           “(iii) \$500,000,000 in loans, as pro-  
22 vided in section 7(a)(21); and

23           “(iv) \$50,000,000 in loans, as pro-  
24 vided in section 7(m).

1           “(C) For the programs authorized by title  
2           III of the Small Business Investment Act of  
3           1958, the Administration is authorized to  
4           make—

5                   “(i) \$4,250,000,000 in purchases of  
6                   participating securities; and

7                   “(ii) \$3,250,000,000 in guarantees of  
8                   debentures.

9           “(D) For the programs authorized by part  
10           B of title IV of the Small Business Investment  
11           Act of 1958, the Administration is authorized  
12           to enter into guarantees not to exceed  
13           \$6,000,000,000, of which not more than 50  
14           percent may be in bonds approved pursuant to  
15           section 411(a)(3) of that Act.

16           “(E) The Administration is authorized to  
17           make grants or enter into cooperative agree-  
18           ments for a total amount of \$7,000,000 for the  
19           Service Corps of Retired Executives program  
20           authorized by section 8(b)(1).

21           “(2) ADDITIONAL AUTHORIZATIONS.—

22                   “(A) There are authorized to be appro-  
23                   priated to the Administration for fiscal year  
24                   2005 such sums as may be necessary to carry  
25                   out the provisions of this Act not elsewhere pro-

1 vided for, including administrative expenses and  
2 necessary loan capital for disaster loans pursu-  
3 ant to section 7(b), and to carry out title IV of  
4 the Small Business Investment Act of 1958, in-  
5 cluding salaries and expenses of the Adminis-  
6 tration.

7 “(B) Notwithstanding any other provision  
8 of this paragraph, for fiscal year 2005—

9 “(i) no funds are authorized to be  
10 used as loan capital for the loan program  
11 authorized by section 7(a)(21) except by  
12 transfer from another Federal department  
13 or agency to the Administration, unless the  
14 program level authorized for general busi-  
15 ness loans under paragraph (1)(B)(i) is  
16 fully funded; and

17 “(ii) the Administration may not ap-  
18 prove loans on its own behalf or on behalf  
19 of any other Federal department or agen-  
20 cy, by contract or otherwise, under terms  
21 and conditions other than those specifically  
22 authorized under this Act or the Small  
23 Business Investment Act of 1958, except  
24 that it may approve loans under section

1           7(a)(21) of this Act in gross amounts of  
2           not more than \$2,000,000.

3           “(g) FISCAL YEAR 2006.—

4           “(1) PROGRAM LEVELS.—The following pro-  
5           gram levels are authorized for fiscal year 2006:

6           “(A) For the programs authorized by this  
7           Act, the Administration is authorized to  
8           make—

9           “(i) \$80,000,000 in technical assist-  
10           ance grants, as provided in section 7(m);  
11           and

12           “(ii) \$110,000,000 in direct loans, as  
13           provided in 7(m).

14           “(B) For the programs authorized by this  
15           Act, the Administration is authorized to make  
16           \$23,050,000,000 in deferred participation loans  
17           and other financings. Of such sum, the Admin-  
18           istration is authorized to make—

19           “(i) \$17,000,000,000 in general busi-  
20           ness loans, as provided in section 7(a);

21           “(ii) \$5,500,000,000 in certified de-  
22           velopment company financings, as provided  
23           in section 7(a)(13) of this Act and section  
24           504 of the Small Business Investment Act  
25           of 1958;



1           “(iii) \$500,000,000 in loans, as pro-  
2           vided in section 7(a)(21); and

3           “(iv) \$50,000,000 in loans, as pro-  
4           vided in section 7(m).

5           “(C) For the programs authorized by title  
6           III of the Small Business Investment Act of  
7           1958, the Administration is authorized to  
8           make—

9           “(i) \$4,500,000,000 in purchases of  
10          participating securities; and

11          “(ii) \$3,500,000,000 in guarantees of  
12          debentures.

13          “(D) For the programs authorized by part  
14          B of title IV of the Small Business Investment  
15          Act of 1958, the Administration is authorized  
16          to enter into guarantees not to exceed  
17          \$6,000,000,000, of which not more than 50  
18          percent may be in bonds approved pursuant to  
19          section 411(a)(3) of that Act.

20          “(E) The Administration is authorized to  
21          make grants or enter into cooperative agree-  
22          ments for a total amount of \$7,000,000 for the  
23          Service Corps of Retired Executives program  
24          authorized by section 8(b)(1).

25          “(2) ADDITIONAL AUTHORIZATIONS.—

1           “(A) There are authorized to be appro-  
2           priated to the Administration for fiscal year  
3           2006 such sums as may be necessary to carry  
4           out the provisions of this Act not elsewhere pro-  
5           vided for, including administrative expenses and  
6           necessary loan capital for disaster loans pursu-  
7           ant to section 7(b), and to carry out title IV of  
8           the Small Business Investment Act of 1958, in-  
9           cluding salaries and expenses of the Adminis-  
10          tration.

11           “(B) Notwithstanding any other provision  
12          of this paragraph, for fiscal year 2006—

13                   “(i) no funds are authorized to be  
14                   used as loan capital for the loan program  
15                   authorized by section 7(a)(21) except by  
16                   transfer from another Federal department  
17                   or agency to the Administration, unless the  
18                   program level authorized for general busi-  
19                   ness loans under paragraph (1)(B)(i) is  
20                   fully funded; and

21                   “(ii) the Administration may not ap-  
22                   prove loans on its own behalf or on behalf  
23                   of any other Federal department or agen-  
24                   cy, by contract or otherwise, under terms  
25                   and conditions other than those specifically

1 authorized under this Act or the Small  
 2 Business Investment Act of 1958, except  
 3 that it may approve loans under section  
 4 7(a)(21) of this Act in gross amounts of  
 5 not more than \$2,000,000.”.

6 **SEC. 112. ADDITIONAL REAUTHORIZATIONS.**

7 (a) DRUG-FREE WORKPLACE PROGRAM ASSIST-  
 8 ANCE.—Section 21(c)(3)(T) of the Small Business Act (15  
 9 U.S.C. 648(c)(3)(T)) is amended by striking “October 1,  
 10 2003” and inserting “October 1, 2006”.

11 (b) PAUL D. COVERDELL DRUG-FREE WORKPLACE  
 12 PROGRAM.—Section 27(g)(1) of the Small Business Act  
 13 (15 U.S.C. 654(g)(1)) is amended by striking “2001  
 14 through 2003” and inserting “2004 through 2006”.

15 (c) SMALL BUSINESS DEVELOPMENT CENTERS.—  
 16 Section 21(a)(4)(C) of the Small Business Act (15 U.S.C.  
 17 648(a)(4)(C)) is amended—

18 (1) by amending clause (vii) to read as follows:

19 “(vii) AUTHORIZATION OF APPROPRIA-  
 20 TIONS.—There are authorized to be appro-  
 21 priated to carry out this subparagraph—

22 “(I) \$125,000,000 for fiscal year  
 23 2004;

24 “(II) \$130,000,000 for fiscal year  
 25 2005; and

1                   “(III) \$135,000,000 for fiscal year  
2                   2006.”;

3                   (2) by redesignating clause (viii) as clause (ix);

4                   and

5                   (3) by inserting after clause (vii) the following:

6                   “(viii) LIMITATION.—From the funds ap-  
7                   propriated pursuant to clause (vii), the Admin-  
8                   istration shall reserve not less than \$1,000,000  
9                   in each fiscal year to develop portable assist-  
10                  ance for startup and sustainability non-match-  
11                  ing grant programs to be conducted by eligible  
12                  small business development centers in commu-  
13                  nities that are economically challenged as a re-  
14                  sult of a business or government facility  
15                  downsizing or closing, which has resulted in the  
16                  loss of jobs or small business instability. A non-  
17                  matching grant under this clause shall not ex-  
18                  ceed \$100,000, and shall be used for small  
19                  business development center personnel expenses  
20                  and related small business programs and serv-  
21                  ices.”.

1                   **TITLE II—FINANCIAL**  
2                   **ASSISTANCE**  
3           **Subtitle A—7(a) Loan Guarantee**  
4                   **Program**

5   **SEC. 201. NATIONAL PREFERRED LENDERS PILOT PRO-**  
6                   **GRAM.**

7           Section 7(a)(2) of the Small Business Act (15 U.S.C.  
8   636(a)(2)(C)) is amended by adding at the end the fol-  
9   lowing:

10                   “(E) NATIONAL PREFERRED LENDERS  
11                   PILOT PROGRAM.—

12                           “(i) ESTABLISHMENT.—There is es-  
13                           tablished the National Preferred Lenders  
14                           Pilot Program, a 3-year pilot program in  
15                           which a participant in the Preferred Lend-  
16                           ers Program may operate as a preferred  
17                           lender in any State if such lender meets  
18                           the criteria established by the Administra-  
19                           tion.

20                           “(ii) ELIGIBILITY CRITERIA.—For  
21                           purposes of clause (i), criteria established  
22                           by the Administration shall include—

23                                   “(I) demonstrated proficiency in  
24                                   the Preferred Lenders Program for  
25                                   not less than 3 years;

1           “(II) annual loan approvals of a  
2           minimum number of 7(a) Preferred  
3           Lenders Program loans, excluding  
4           SBA Express loans, as determined by  
5           the Administration;

6           “(III) operation by the lender in  
7           not less than 5 States or 10 Small  
8           Business Administration districts;

9           “(IV) satisfactory centralized ap-  
10          proval, loan servicing, and loan liq-  
11          uidation functions and processes; and

12          “(V) consideration of any com-  
13          ments and recommendations that may  
14          be received from any District Director  
15          or Regional Administrator relating to  
16          the performance of the applicant.

17          “(iii) TERMS AND CONDITIONS.—Ap-  
18          plicants shall be approved under the fol-  
19          lowing terms and conditions:

20                 “(I) TERM.—Each participant  
21                 approved under this subparagraph  
22                 shall be eligible to make loans for up  
23                 to 1 year under the program estab-  
24                 lished under this subparagraph.

1                   “(II) RENEWAL.—At the expira-  
 2                   tion of the term described in sub-  
 3                   clause (I), the authority of a partici-  
 4                   pant to make loans under this sub-  
 5                   paragraph may be renewed based on a  
 6                   review of performance during the ini-  
 7                   tial term.

8                   “(III) EFFECT OF FAILURE.—  
 9                   Failure to meet the criteria under this  
 10                  subparagraph shall not effect the eli-  
 11                  gibility of a participant to continue as  
 12                  a preferred lender in States or dis-  
 13                  tricts in which it is in good stand-  
 14                  ing.”.

15 **SEC. 202. EXTENSION OF PROGRAM PARTICIPATION FEES.**

16                  Section 7(a) of the Small Business Act (15 U.S.C.  
 17                  636(a)) is amended—

18                   (1) in paragraph (12) by striking “(b)” and in-  
 19                  serting the following:

20                   “**(B)**”;

21                   (2) in paragraph (18)—

22                   (A) in subparagraph (A)—

23                   (i) in clause (i), by striking “2 per-  
 24                  cent” and inserting “1 percent”; and

1                   (ii) in clause (ii), by striking “3 per-  
2                   cent” and inserting “2.5 percent”; and  
3                   (B) by striking subparagraph (C); and  
4                   (3) in paragraph (23)(A), by striking “0.5 per-  
5                   cent” and all that follows through “equal to”.

6 **SEC. 203. LOANS SOLD IN SECONDARY MARKET.**

7                   Section 5(g) of the Small Business Act (15 U.S.C.  
8 634(g)) is amended by adding at the end the following:  
9                   “(6) Trust certificates issued pursuant to this sub-  
10 section may be comprised of a pool of loans, guaranteed  
11 by the Administration, with varying interest rates. The in-  
12 terest rate paid by such certificates shall be equal to the  
13 weighted average of the interest rates of the loans in the  
14 pool. The Administration shall prescribe the maximum  
15 amount of variation in the loan characteristics in order  
16 to enhance the marketability of the pool.”.

17 **SEC. 204. CLARIFICATION OF ELIGIBILITY FOR VETERANS.**

18                   Section 7(a)(8) of the Small Business Act (15 U.S.C.  
19 636(a)(8)) is amended to read as follows:

20                   “(8) The Administration may make loans under  
21 this subsection to—

22                   “(A) small business concerns owned and  
23 controlled by veterans (as defined in section  
24 101(2) of title 38, United States Code);



1           “(B) small business concerns owned and  
2           controlled by disabled veterans (as defined in  
3           section 4211(3) of title 38, United States  
4           Code); and

5           “(C) small business concerns owned and  
6           controlled by members of Reserve components  
7           of the Armed Forces (as defined in section  
8           101(c)(6) of title 10, United States Code).”.

9   **SEC. 205. ENHANCEMENT OF LOW DOCUMENTATION LOAN**  
10                   **PROGRAM.**

11           Section 7(a)(25)(C) of the Small Business Act (15  
12   U.S.C. 636(a)(25)(C)) is amended by striking “\$100,000”  
13   and inserting “\$250,000”.

14   **SEC. 206. INCREASED LOAN AMOUNTS FOR EXPORTERS.**

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

17           (1) in paragraph (3)—

18                   (A) in subparagraph (A), by inserting be-  
19                   fore the semicolon at the end the following:  
20                   “and paragraph (14)”; and

21                   (B) in subparagraph (B), by striking  
22                   “\$1,250,000” and inserting “\$1,300,000”; and

23           (2) in paragraph (14), by adding at the end the  
24   following:

1           “(D) The total amount of financings under this  
 2 paragraph that are outstanding and committed (by  
 3 participation or otherwise) to the borrower from the  
 4 business loan and investment fund established under  
 5 this Act may not exceed \$1,300,000 and the gross  
 6 loan amount under this paragraph may not exceed  
 7 \$2,600,000.”.

## 8           **Subtitle B—Microloan Program**

### 9           **SEC. 211. MICROLOAN PROGRAM IMPROVEMENTS.**

10           (a) INTERMEDIARY ELIGIBILITY REQUIREMENTS.—  
 11 Section 7(m)(2) of the Small Business Act (15 U.S.C.  
 12 636(m)(2)) is amended—

13           (1) in subparagraph (A), by striking “in para-  
 14 graph (10); and” and inserting “of the term ‘inter-  
 15 mediary’ under paragraph (11);”; and

16           (2) in subparagraph (B)—

17           (A) by striking “(B) has at least” and in-  
 18 sserting the following:

19           “(B) has—

20           “(i) at least”; and

21           (B) by striking the period at the end and  
 22 inserting the following: “; or

23           “(ii) a full-time employee who has not  
 24 less than 3 years experience making

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

3 “(C) has at least 1 year experience pro-  
4 viding, as an integral part of its microloan pro-  
5 gram, intensive marketing, management, and  
6 technical assistance to its borrowers.”.

7 (b) CONFORMING CHANGE IN AVERAGE SMALLER  
8 LOAN SIZE.—Section 7(m)(3)(F)(iii) of the Small Busi-  
9 ness Act (15 U.S.C. 636(m)(3)(F)(iii)) is amended by  
10 striking “\$7,500” and inserting “\$10,000”.

11 (c) LIMITATION ON THIRD PARTY TECHNICAL AS-  
12 SISTANCE.—Section 7(m)(4)(E)(ii) of the Small Business  
13 Act (15 U.S.C. 636(m)(4)(E)(ii)) is amended—

14 (1) by striking “TECHNICAL ASSISTANCE” and  
15 inserting “THIRD PARTY TECHNICAL ASSISTANCE”;  
16 and

17 (2) by striking “25 percent” and inserting “30  
18 percent”.

19 (d) LOAN TERMS.—Section 7(m)(1)(B)(i) of the  
20 Small Business Act (15 U.S.C. 636(m)(1)(B)(i)) is  
21 amended by striking “short-term”.

22 (e) REPORT ON TRANSFERRED AMOUNTS.—Section  
23 7(m)(9)(B) of the Small Business Act (15 U.S.C.  
24 636(m)(9)(B)) is amended—

1           (1) by striking “The Administration” and in-  
2           serting the following:

3                       “(i) IN GENERAL.—The Administra-  
4                       tion”;

5           (2) by striking the period after “financing”;  
6           and

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

8                       “(ii) REPORT.—The Administration  
9                       shall report, in its annual budget request  
10                      and performance plan to Congress, on the  
11                      performance by the Administration of the  
12                      requirements of clause (i).”.

13          (f) ACCURATE SUBSIDY MODEL.—Section 7(m) of  
14          the Small Business Act (15 U.S.C. 636(m)) is amended  
15          by adding at the end the following:

16                      “(14) IMPROVED SUBSIDY MODEL.—The Ad-  
17                      ministrator shall develop a subsidy model for the  
18                      microloan program under this subsection, to be used  
19                      in the fiscal year 2005 budget, that is more accurate  
20                      than the subsidy model in effect on the day before  
21                      the date of enactment of this paragraph.”.

22          (g) INCREASED FLEXIBILITY FOR PROVIDING TECH-  
23          NICAL ASSISTANCE TO POTENTIAL BORROWERS.—Section  
24          7(m)(4)(E)(i) of the Small Business Act (15 U.S.C.

1 636(m)(4)(E)(i) is amended by striking “25 percent” and  
2 inserting “30 percent”.

### 3 **Subtitle C—Lender Oversight**

#### 4 **SEC. 221. EXAMINATION AND REVIEW FEES.**

5 Section 5(b) of the Small Business Act (15 U.S.C.  
6 634(b)) is amended—

7 (1) in the matter preceding paragraph (1), by  
8 striking “(b) In the performance” and inserting the  
9 following:

10 “(b) AUTHORITY OF ADMINISTRATOR.—In the per-  
11 formance”;

12 (2) in paragraph (12), by striking “and” at the  
13 end;

14 (3) in paragraph (13), by striking the period at  
15 the end and inserting “; and”; and

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

17 “(14) require lenders participating in the pro-  
18 gram authorized by section 7(a), including Small  
19 Business Lending Companies, to pay reasonable ex-  
20 amination and review fees, which shall be—

21 “(A) deposited in the account for salaries  
22 and expenses of the Administration; and

23 “(B) made available only for the costs of  
24 examinations, reviews, and other lender over-

1           sight activities concerning lenders participating  
2           in the program authorized by section 7(a).”.

3 **SEC. 222. ENFORCEMENT AUTHORITY FOR SMALL BUSI-**  
4                   **NESS LENDING COMPANIES AND NON-FEDER-**  
5                   **ALLY REGULATED SBA LENDERS.**

6           The Small Business Act (15 U.S.C. 631 et seq.) is  
7 amended—

8           (1) by redesignating section 36 as section 37;  
9           and

10           (2) by inserting after section 35 the following  
11           new section:

12 “SEC. 36. ENFORCEMENT AUTHORITY FOR SMALL BUSI-  
13           NESS LENDING COMPANIES AND NON-FEDERALLY  
14           REGULATED SBA LENDERS

15           “(a) DEFINED TERM.—In this section the term  
16 ‘management official’ means an officer, director, general  
17 partner, manager, employee, agent, or other participant  
18 in the management or conduct of the affairs of a Small  
19 Business Lending Company or non-federally regulated  
20 SBA lender under section 7(a).

21           “(b) AUTHORIZATION.—

22           “(1) SMALL BUSINESS LENDING COMPANIES.—

23           The Administration is authorized to—

24                   “(A) supervise the safety and soundness of  
25                   Small Business Lending Companies;

1           “(B) set capital standards for, regulate,  
2           examine, and enforce laws relating to Small  
3           Business Lending Companies; and

4           “(C) prescribe regulations governing the  
5           operations, oversight, and enforcement of Small  
6           Business Lending Companies, in accordance  
7           with the purposes of this Act.

8           “(2) NON-FEDERALLY REGULATED SBA LEND-  
9           ERS.—The Administration is authorized to—

10           “(A) supervise the safety and soundness of  
11           non-federally regulated SBA lenders;

12           “(B) regulate, examine, and enforce laws  
13           relating to lending by non-federally regulated  
14           SBA lenders under section 7(a); and

15           “(C) prescribe regulations governing the  
16           operations, oversight, and enforcement of non-  
17           federally regulated SBA lenders, in accordance  
18           with the purposes of this Act.

19           “(c) CAPITAL DIRECTIVES.—The Administration  
20           may—

21           “(1) deem the failure of a Small Business  
22           Lending Company to maintain capital at or above  
23           the minimum capital level established by the Admin-  
24           istration as an unsafe and unsound practice; and

1           “(2) in addition to, or in lieu of, any other ac-  
2           tion authorized by law, issue a directive to a Small  
3           Business Lending Company that fails to return or  
4           maintain capital at or above its required level, as es-  
5           tablished by the Administration.

6           “(d) FORFEITURE OF AUTHORITY FOR NONCOMPLI-  
7           ANCE.—

8           “(1) IN GENERAL.—Subject to the provisions of  
9           subsection (g), if any Small Business Lending Com-  
10          pany violates any of the provisions of this Act, or  
11          any related regulation, such company shall forfeit all  
12          of the rights, privileges, and franchises under this  
13          Act.

14          “(2) ADJUDICATION.—A company under para-  
15          graph (1) shall not forfeit its rights, privileges, and  
16          franchises under this Act, unless a court of the  
17          United States, with jurisdiction over the judicial dis-  
18          trict in which the principal place of business of such  
19          company is located, determines, in a suit brought by,  
20          or on behalf of, the Administrator, that such com-  
21          pany violated this Act, or regulations promulgated  
22          pursuant to this Act.

23          “(e) REVOCATION OR SUSPENSION OF AUTHORITY.—

24          “(1) IN GENERAL.—Subject to the provisions of  
25          subsection (g), the Administration may revoke or



1 suspend the authority of a participating lender to  
2 make, service, or liquidate business loans under sec-  
3 tion 7(a) if the participating lender—

4 “(A) knowingly makes false statements in  
5 any written statement required under this Act  
6 or any regulation issued under this Act;

7 “(B) fails to state, in any written state-  
8 ment required under this Act or any regulation  
9 issued under this Act, a material fact necessary  
10 in order to make the statement not misleading  
11 in the light of the circumstances under which  
12 the statement was made;

13 “(C) willfully or repeatedly violates—

14 “(i) any provision of this Act;

15 “(ii) any rule or regulation issued  
16 under this Act; or

17 “(iii) any condition imposed by the  
18 Administration with any application, re-  
19 quest, or agreement; or

20 “(D) violates any cease and desist order  
21 issued by the Administration under this section.

22 “(2) LENGTH OF SUSPENSION.—The suspen-  
23 sion under paragraph (1) shall remain in full force  
24 and effect until the Administration issues a written  
25 notice of termination.

1           “(3) NOTIFICATION.—If the lending authority  
2 of a lender is revoked under paragraph (1), the lend-  
3 er shall send notification, not later than 30 days  
4 after such revocation, to all existing borrowers that  
5 such authority has been revoked and that a new  
6 servicer has been appointed to service their loans. If  
7 the lender fails to provide such notification before  
8 the deadline, the Administration shall provide such  
9 notification to borrowers.

10           “(4) DELEGATION.—The Administration may  
11 delegate the authority to suspend a participating  
12 lender’s authority to make loans under section 7(a),  
13 but shall not delegate the authority to revoke a par-  
14 ticipating lender’s authority to make such loans.

15           “(f) CEASE AND DESIST ORDERS.—If a participating  
16 lender or management official has violated, or is about to  
17 violate any provision of this Act, or any related regulation,  
18 the Administration, subject to the provisions of subsection  
19 (g), may—

20           “(1) order the participating lender or manage-  
21 ment official to—

22           “(A) cease and desist from such violation;

23           and

24           “(B) take, or refrain from, such action as

25           the Administration deems necessary to ensure

1 compliance with the Act and related regula-  
2 tions; and

3 “(2) suspend the authority of such participating  
4 lender pending full compliance with all orders issued  
5 under paragraph (1).

6 “(g) PROCESS FOR REVOCATION OR SUSPENSION OF  
7 AUTHORITY OR CEASE AND DESIST ORDERS.—

8 “(1) NOTICE.—Before revoking or suspending  
9 the authority of a participating lender pursuant to  
10 subsection (e) or issuing a cease and desist order  
11 pursuant to subsection (f), the Administration  
12 shall—

13 “(A) provide notice to the participating  
14 lender that such action is contemplated; and

15 “(B) provide the participating lender with  
16 an opportunity to show cause why such action  
17 should not be taken.

18 “(2) CONTENTS.—A notice under paragraph  
19 (1) shall contain—

20 “(A) a statement of the matters of fact  
21 and law asserted by the Administration;

22 “(B) a description of the legal authority  
23 and jurisdiction under which a hearing is to be  
24 held; and

1           “(C) the time and place of the hearing that  
2 will be held before the Administration.

3           “(3) HEARING.—

4           “(A) IN GENERAL.—A hearing under this  
5 subsection shall take place before the Office of  
6 Hearings and Appeals of the Administration.

7           “(B) SUBPOENA.—The Administration  
8 may require by subpoena—

9           “(i) the attendance and testimony of  
10 witnesses; and

11           “(ii) the production of all books, pa-  
12 pers, e-mails, faxes, and documents relat-  
13 ing to the hearing under this paragraph.

14           “(C) ENFORCEMENT OF SUBPOENA.—If a  
15 party disobeys a subpoena issued under sub-  
16 paragraph (B), the Administration, or any  
17 party to a proceeding before the Administra-  
18 tion, may invoke the aid of any court of the  
19 United States to require—

20           “(i) the attendance and testimony of  
21 witnesses; and

22           “(ii) the production of books, papers,  
23 e-mails, faxes, and documents.

24           “(D) WITNESS FEES.—Witnesses sum-  
25 moned before the Administration shall be paid,

1 by the party at whose instance they were called,  
2 the same fees and mileage that are paid wit-  
3 nesses in the courts of the United States.

4 “(4) ISSUANCE OF ORDER.—

5 “(A) IN GENERAL.—If the Administration,  
6 after a hearing, or a waiver thereof, determines  
7 on the record that an order revoking or sus-  
8 pending the authority of a participating lender  
9 under section 7(a) or a cease and desist order  
10 should be issued, the Administration shall  
11 promptly issue such order to the participating  
12 lender and any other person involved.

13 “(B) CONTENTS.—The order issued under  
14 subparagraph (A) shall contain—

15 “(i) a statement of the findings of the  
16 Administration;

17 “(ii) the reasons therefore; and

18 “(iii) the effective date of the order.

19 “(C) EFFECTIVE DATE.—

20 “(i) CEASE AND DESIST ORDER.—A  
21 cease and desist order issued under this  
22 paragraph shall become effective on the  
23 date specified therein.

24 “(ii) REVOCATION OR SUSPENSION.—

25 An order revoking or suspending the au-

1           thority of a participating lender under sec-  
2           tion 7(a) shall be final and conclusive 30  
3           days after the date of issuance of such  
4           order unless the participating lender files  
5           an appeal under paragraph (5).

6           “(5) APPEAL.—

7           “(A) APPEAL BY RIGHT.—Not later than  
8           30 days after an order is issued under para-  
9           graph (4), a participating lender may appeal  
10          such order by filing a petition requesting that  
11          the Administration’s order be set aside or modi-  
12          fied with the clerk of the United States district  
13          court for the judicial district in which such par-  
14          ticipating lender has its principal place of busi-  
15          ness.

16          “(B) LEAVE OF COURT.—After the expira-  
17          tion of the period described in subparagraph  
18          (A), a participating lender may file a petition of  
19          appeal only by leave of court and upon a show-  
20          ing of reasonable grounds for failure to timely  
21          file such petition.

22          “(C) DELIVERY OF PETITION.—Upon re-  
23          ceiving a petition under this paragraph, the  
24          clerk of the court shall immediately deliver a  
25          copy of the petition to the Administration,

1           which shall certify and file in the court a tran-  
2           script of the record upon which the order com-  
3           plained of was entered.

4           “(D) AMENDMENT OF PETITION.—If the  
5           Administration amends or sets aside its order,  
6           in whole or in part, before the record is filed  
7           under subparagraph (C), the petitioner may  
8           amend the petition within such time as the  
9           court may determine, on notice to the Adminis-  
10          tration.

11          “(E) EFFECT OF PETITION.—The filing of  
12          a petition for review shall not affect the oper-  
13          ation of the order of the Administration, but  
14          the district court may restrain or suspend, in  
15          whole or in part, the operation of the order  
16          pending the final hearing and determination of  
17          the petition.

18          “(F) AUTHORITY OF COURT.—

19                 “(i) IN GENERAL.—Except as pro-  
20                 vided under clause (ii), the district court  
21                 may affirm, modify, or set aside any order  
22                 of the Administration issued under this  
23                 subsection.

24                 “(ii) LIMITATION.—The district court  
25                 shall not consider an objection to an order

1 of the Administration unless such objection  
2 was presented to the Administration or  
3 there were reasonable grounds for failure  
4 to do so.

5 “(G) ADDITIONAL EVIDENCE.—

6 “(i) IN GENERAL.—If the district  
7 court determines that the just and proper  
8 disposition of the case requires the taking  
9 of additional evidence, the court may take  
10 additional evidence and findings of fact, or  
11 may order the Administration to reopen  
12 the hearing for the taking of such evi-  
13 dence, in such manner and upon such  
14 terms and conditions as the court deter-  
15 mines to be proper.

16 “(ii) MODIFICATION OF FINDINGS.—

17 The Administration may modify its find-  
18 ings as to the facts, or make new findings,  
19 by reason of the additional evidence so  
20 taken, and it shall file its modified or new  
21 findings and the amendments, if any, of its  
22 order, with the record of such additional  
23 evidence.

24 “(6) ENFORCEMENT OF ORDER.—



1           “(A) IN GENERAL.—If any participating  
2 lender or other person against which an order  
3 is issued under this section fails to obey the  
4 order, the Administration may file an applica-  
5 tion with the United States district court within  
6 the judicial district where the participating  
7 lender has its principal place of business, for  
8 the enforcement of the order by filing a tran-  
9 script of the record upon which the disobeyed  
10 order was entered.

11           “(B) NOTICE.—Upon the receipt of the  
12 application filed under subparagraph (A), the  
13 court shall notify the participating lender or  
14 other person of such enforcement action.

15           “(C) PROCEDURE.—The evidence to be  
16 considered, the procedure to be followed, and  
17 the jurisdiction of the court shall be the same  
18 as is provided in paragraph (5) for applications  
19 to set aside or modify orders.

20           “(h) REMOVAL OR SUSPENSION OF MANAGEMENT  
21 OFFICIALS.—

22           “(1) REMOVAL OF MANAGEMENT OFFICIALS.—

23           “(A) NOTICE OF REMOVAL.—The Adminis-  
24 trator may serve upon any management official  
25 a written notice of its intention to remove that

1 management official if, in the opinion of the  
2 Administrator such management official—

3 “(i) has willfully and knowingly com-  
4 mitted any substantial violation of—

5 “(I) this Act;

6 “(II) any regulation issued under  
7 this Act;

8 “(III) a cease-and-desist order  
9 which has become final; or

10 “(IV) any agreement by the man-  
11 agement official or the participating  
12 lender; or

13 “(ii) has willfully and knowingly com-  
14 mitted or engaged in any act, omission, or  
15 practice which constitutes a substantial  
16 breach of a fiduciary duty of that person  
17 as a management official if the violation or  
18 breach of fiduciary duty involves personal  
19 dishonesty on the part of such manage-  
20 ment official.

21 “(B) CONTENTS OF NOTICE.—A notice  
22 provided under subparagraph (A) shall  
23 contain—

1           “(i) a statement of the facts consti-  
2           tuting the grounds for the removal of the  
3           management official; and

4           “(ii) the time and place at which a  
5           hearing will be held to determine if the  
6           management official should be removed  
7           from office.

8           “(C) HEARINGS.—

9           “(i) TIMING.—A hearing described in  
10           subparagraph (B) shall take place not ear-  
11           lier than 30 days nor later than 60 days  
12           after the date on which notice is provided  
13           under subparagraph (A), unless an earlier  
14           or later date is set by the Administrator at  
15           the request of—

16                   “(I) the management official, for  
17                   good cause shown; or

18                   “(II) the Attorney General of the  
19                   United States.

20           “(ii) CONSENT.—If the management  
21           official fails to appear, in person or by a  
22           duly authorized representative, at a hear-  
23           ing under this paragraph, that manage-  
24           ment official shall be deemed to have con-

1           sented to the issuance of an order of re-  
2           moval under subparagraph (A).

3           “(D) ISSUANCE OF ORDER OF REMOVAL.—

4                 “(i) IN GENERAL.—The Administrator  
5           may issue an order of removal from office  
6           if—

7                         “(I) consent is deemed under  
8                         subparagraph (C)(ii); or

9                         “(II) the Administrator finds,  
10           upon the record of the hearing de-  
11           scribed in this subsection, that any of  
12           the grounds specified in the notice of  
13           removal has been established.

14           “(ii) EFFECTIVENESS.—An order  
15           under clause (i) shall—

16                         “(I) become effective on the expi-  
17                         ration of the date which is 30 days  
18                         after the date that notice is provided  
19                         to the participating lender and the  
20                         management official concerned (except  
21                         in the case of an order issued upon  
22                         consent as described in subparagraph  
23                         (C)(ii), which shall become effective at  
24                         the time specified in such order); and

1                   “(II) remain effective and en-  
2                   forceable, except to the extent it is  
3                   stayed, modified, terminated, or set  
4                   aside by action of the Administrator  
5                   or a reviewing court, in accordance  
6                   with this section.

7                   “(2) AUTHORITY TO SUSPEND OR PROHIBIT  
8                   PARTICIPATION.—

9                   “(A) IN GENERAL.—The Administrator  
10                  may—

11                  “(i) if necessary to protect the Small  
12                  Business Lending Company or interests of  
13                  the Administration, suspend from office  
14                  any management official described in para-  
15                  graph (1), or temporarily prohibit such of-  
16                  ficial from further participating in the  
17                  management or conduct of the affairs of  
18                  the Small Business Lending Company; and

19                  “(ii) if necessary to protect the inter-  
20                  ests of the Administration, suspend from  
21                  office any management official described in  
22                  paragraph (1) or prohibit from further  
23                  participation a non-federally regulated  
24                  SBA lender or any management official de-  
25                  scribed in paragraph (1) in any activities

1 related to the making, servicing, review,  
2 approval, or liquidation of any loan made  
3 under section 7(a).

4 “(B) EFFECTIVENESS.—A suspension or  
5 prohibition under subparagraph (A)—

6 “(i) shall become effective upon serv-  
7 ice of notice under paragraph (1); and

8 “(ii) unless stayed by a court in pro-  
9 ceedings under subparagraph (C), shall re-  
10 main in effect—

11 “(I) pending the completion of  
12 the administrative proceedings pursu-  
13 ant to a notice under paragraph (1);  
14 and

15 “(II) until the Administrator dis-  
16 misses the charges specified in the no-  
17 tice, or, if an order of removal or pro-  
18 hibition is issued against the manage-  
19 ment official, until the effective date  
20 of any such order.

21 “(C) JUDICIAL REVIEW.—Not later than  
22 10 days after any management official has been  
23 suspended from office or prohibited from par-  
24 ticipation in the management or conduct of the  
25 affairs of a participating lender, the manage-

1           ment official may apply for a stay of the sus-  
2           pension or prohibition, pending the completion  
3           of the administrative proceedings under this  
4           subsection, to—

5                   “(i) the United States district court  
6                   for the judicial district in which the home  
7                   office of the participating lender is located;  
8                   or

9                   “(ii) the United States District Court  
10                  for the District of Columbia.

11               “(3) AUTHORITY TO SUSPEND ON CRIMINAL  
12               CHARGES.—

13                   “(A) IN GENERAL.—If a management offi-  
14                   cial is charged, in any information, indictment,  
15                   or complaint authorized by a United States at-  
16                   torney or a State prosecutor, with the commis-  
17                   sion of a felony involving dishonesty or breach  
18                   of trust, or has been convicted of any felony,  
19                   the Administrator may suspend that manage-  
20                   ment official from office or prohibit that man-  
21                   agement official from further participation in  
22                   the management or conduct of the affairs of the  
23                   participating lender.

24                   “(B) EFFECTIVENESS.—A suspension or  
25                   prohibition under paragraph (A) shall remain in

1 effect until the subject information, indictment,  
2 or complaint is finally disposed of, or until ter-  
3 minated by the Administrator.

4 “(C) AUTHORITY UPON CONVICTION.—

5 “(i) IN GENERAL.—If a judgment of  
6 conviction with respect to an offense de-  
7 scribed in paragraph (A) is entered against  
8 a management official and is no longer  
9 subject to appellate review, the Adminis-  
10 trator may issue an order removing that  
11 management official from office.

12 “(ii) NOTICE.—A copy of the order  
13 issued under clause (i) shall be delivered to  
14 the management official and the partici-  
15 pating lender for which such official was  
16 employed.

17 “(iii) EFFECTIVE DATE.—The order  
18 of removal under clause (i) shall take ef-  
19 fect upon the delivery of a copy of the  
20 order to the participating lender.

21 “(D) AUTHORITY UPON DISMISSAL OR  
22 OTHER DISPOSITION.—A finding of not guilty  
23 or other disposition of charges described in sub-  
24 paragraph (A) shall not preclude the Adminis-  
25 trator from initiating proceedings to suspend or



1 remove the management official from office, or  
2 to temporarily prohibit the management official  
3 from participation in the management or con-  
4 duct of the affairs of any participating lender.

5 “(4) PROCEDURAL PROVISIONS; JUDICIAL RE-  
6 VIEW.—

7 “(A) HEARING VENUE.—Any hearing  
8 under this subsection shall be—

9 “(i) held in the Federal judicial dis-  
10 trict or in the territory in which the prin-  
11 cipal office of the participating lender is lo-  
12 cated, unless the party afforded the hear-  
13 ing consents to another place; and

14 “(ii) conducted in accordance with the  
15 provisions of chapter 5 of title 5, United  
16 States Code.

17 “(B) ISSUANCE OF ORDERS.—After a  
18 hearing under this subsection, and not later  
19 than 90 days after the Administrator has noti-  
20 fied the parties that the case has been sub-  
21 mitted for final decision, the Administrator  
22 shall—

23 “(i) render a decision in the matter,  
24 which shall include findings of fact upon  
25 which its decision is predicated; and

1           “(ii) issue and serve upon each party  
2           to the proceeding an order or orders con-  
3           sistent with the provisions of this section.

4           “(C) AUTHORITY TO MODIFY ORDERS.—  
5           The Administrator may modify, terminate, or  
6           set aside any order issued under this section—

7           “(i) at any time, upon such notice,  
8           and in such manner as the Administrator  
9           may prescribe, until a petition for review is  
10          timely filed with a United States district  
11          court, in accordance with subparagraph  
12          (D)(ii) and a record of the proceeding has  
13          been filed in accordance with subparagraph  
14          (D)(iii); and

15          “(ii) after the filing of the record  
16          under subparagraph (D)(iii), with permis-  
17          sion of the court.

18          “(D) JUDICIAL REVIEW.—

19          “(i) IN GENERAL.—Judicial review of  
20          an order issued under this section shall be  
21          limited to the provisions of this subsection.

22          “(ii) PETITION FOR JUDICIAL RE-  
23          VIEW.—Any party to a hearing under this  
24          section may obtain a review of any order  
25          issued pursuant to subparagraph (B)

1 (other than an order issued with the con-  
2 sent of the management official concerned  
3 or an order issued under subsection (d)),  
4 by filing, not later than 30 days after the  
5 date of service of such order, in the United  
6 States district court for the judicial district  
7 in which the principal office of the licensee  
8 is located or in the United States District  
9 Court for the District of Columbia, a writ-  
10 ten petition requested that the order be  
11 modified, terminated, or set aside.

12 “(iii) NOTICE TO ADMINISTRATION.—  
13 The clerk of the court receiving a petition  
14 under clause (ii) shall transmit a copy of  
15 the petition to the Administrator, who  
16 shall submit to the court the record of the  
17 proceeding, in accordance with section  
18 2112 of title 28, United States Code.

19 “(iv) JURISDICTION.—

20 “(I) EXCLUSIVE.—Upon the fil-  
21 ing of the record under clause (iii),  
22 the district court described in clause  
23 (ii) shall have exclusive jurisdiction to  
24 affirm, modify, terminate, or set  
25 aside, in whole or in part, the order of

1 the Administrator, except as provided  
2 under paragraph (2)(B)(ii)(II).

3 “(II) REVIEW.—The review of  
4 any proceeding under subclause (I)  
5 shall be in accordance with chapter 7  
6 of title 5, United States Code.

7 “(v) JUDICIAL REVIEW NOT A STAY.—  
8 The commencement of proceedings for ju-  
9 dicial review under this paragraph shall  
10 not, unless specifically ordered by the dis-  
11 trict court, operate as a stay of any order  
12 issued by the Administrator under this sec-  
13 tion.

14 “(i) INJUNCTIONS.—

15 “(1) APPLICATION.—If, in the judgment of the  
16 Administrator, a participating lender or any other  
17 person has engaged, or is about to engage, in any  
18 acts or practices which violate any provision of this  
19 Act, any rule or regulation under this Act, or any  
20 order issued under this Act, the Administrator may  
21 apply to the proper district court of the United  
22 States, or a United States court of any place subject  
23 to the jurisdiction of the United States, for an order  
24 to—

25 “(A) enjoin such acts or practices; or

1           “(B) enforce compliance with such provi-  
2           sion, rule, regulation, or order.

3           “(2) JURISDICTION.—A court under paragraph  
4           (1) shall have jurisdiction over any action under  
5           paragraph (1).

6           “(3) ISSUANCE.—Upon a showing by the Ad-  
7           ministrators that a participating lender or other per-  
8           son has engaged, or is about to engage, in any act  
9           or practice described in paragraph (1), the court  
10          shall issue, without bond—

11                   “(A) a permanent or temporary injunction;

12                   “(B) a restraining order; or

13                   “(C) any other appropriate order.

14          “(j) APPOINTMENT OF RECEIVERS.—In any injunc-  
15          tion proceeding under subsection (i), the district court  
16          may—

17                   “(1) seize the assets of 1 or more Small Busi-  
18                   ness Lending Companies; and

19                   “(2) appoint the Administration, or another re-  
20                   ceiver, to hold or administer the assets seized under  
21                   paragraph (1) under the direction of the court.

22          “(k) POSSESSION OF ASSETS.—

23                   “(1) SMALL BUSINESS LENDING COMPANIES.—

24                   If a Small Business Lending Company is insolvent,  
25                   out of compliance with capital requirements under

1 this section, or otherwise operating in an unsafe or  
2 unsound condition, the Administration may take  
3 possession of—

4 “(A) the portfolio of loans guaranteed by  
5 the Administration and sell such loans to a  
6 third party through a receiver appointed under  
7 subsection (j)(2); and

8 “(B) servicing activities of loans that are  
9 guaranteed by the Administration and sell such  
10 servicing rights to a third party through a re-  
11 ceiver appointed under subsection (j)(2).

12 “(2) NON-FEDERALLY REGULATED SBA LEND-  
13 ERS.—If a non-federally regulated SBA lender is in-  
14 solvent or otherwise operating in an unsafe and un-  
15 sound condition, the Administration may take pos-  
16 session of—

17 “(A) the portfolio of loans guaranteed by  
18 the Administration and sell such loans to a  
19 third party; and

20 “(B) servicing activities of loans that are  
21 guaranteed by the Administration and sell such  
22 servicing rights to a third party.

23 “(1) PENALTIES AND FORFEITURES.—

24 “(1) IN GENERAL.—Except as provided under  
25 paragraph (3), a Small Business Lending Company

1 or a non-federally regulated SBA lender that violates  
2 any regulation or written directive issued by the Ad-  
3 ministrator regarding the filing of any regular or  
4 special report shall pay to the United States a civil  
5 penalty of not more than \$5,000 for every day after  
6 the due date in which the lender fails to file such re-  
7 port, unless such failure is due to reasonable cause  
8 and not willful neglect.

9 “(2) RECOVERY OF CIVIL PENALTY.—The civil  
10 penalty provided for in this section shall accrue to  
11 the United States and may be recovered in a civil  
12 action brought by the Administration.

13 “(3) EXEMPTION.—The Administrator may, by  
14 regulation, order, or upon the application of an in-  
15 terested party, at any time before a report is due  
16 under paragraph (1) and after notice and oppor-  
17 tunity for hearing, exempt, in whole or in part, any  
18 Small Business Lending Company from the provi-  
19 sions of paragraph (1), upon such terms and condi-  
20 tions and for such period of time as the Adminis-  
21 trator determines to be appropriate, if the Adminis-  
22 trator finds that such action is consistent with the  
23 public interest or the protection of the Administra-  
24 tion.

1           “(4) ALTERNATIVE REQUIREMENTS.—If an ex-  
 2           emption is granted under paragraph (3), the Admin-  
 3           istrator may, for the purposes of this section, make  
 4           any alternative requirements appropriate to the situ-  
 5           ation.”.

6 **SEC. 223. DEFINITIONS FOR SMALL BUSINESS LENDING**  
 7                           **COMPANIES AND NON-FEDERALLY REGU-**  
 8                           **LATED SBA LENDERS.**

9           Section 3 of the Small Business Act (15 U.S.C. 632)  
 10 is amended—

11           (1) in subsection (l), by striking “Act—  
 12           “(1) the term” and inserting “Act, the term”;  
 13           and

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

15           “(r) SMALL BUSINESS LENDING COMPANY.—In this  
 16 Act, the term ‘Small Business Lending Company’ means  
 17 a non-depository financial institution that is licensed, su-  
 18 pervised, examined, and regulated by the Administration  
 19 to only make loans under section 7.

20           “(s) NON-FEDERALLY REGULATED SBA LENDER.—  
 21 In this Act, the term ‘non-federally regulated SBA lender’  
 22 means a financial institution, other than a Small Business  
 23 Lending Company, that makes loans under section 7 and  
 24 is not regulated by—

25           “(1) the Farm Credit Administration;



1           “(2) the Federal Financial Institution Exam-  
2           ination Council;

3           “(3) the Board of Governors of the Federal Re-  
4           serve System;

5           “(4) the Office of the Comptroller of the Cur-  
6           rency;

7           “(5) the Federal Deposit Insurance Corpora-  
8           tion;

9           “(6) the Office of Thrift Supervision; or

10          “(7) the National Credit Union Administra-  
11          tion.”.

## 12           **Subtitle D—Disaster Assistance** 13           **Loan Program**

### 14   **SEC. 231. CONFORMING AMENDMENT FOR DISASTER AS-** 15           **SISTANCE LOAN PROGRAM.**

16          Section 7(c)(6) of the Small Business Act (15 U.S.C.  
17   636(c)(6)) is amended—

18           (1) by striking “\$500,000” each place it ap-  
19           pears and inserting “\$1,500,000”; and

20           (2) by inserting “commencing on or after April  
21           1, 1993,” before “unless an applicant”.

### 22   **SEC. 232. DISASTER RELIEF FOR SMALL BUSINESS CON-** 23           **CERNS DAMAGED BY DROUGHT.**

24          (a) DROUGHT DISASTER AUTHORITY.—

1           (1) DEFINITION OF DISASTER.—Section 3(k) of  
2 the Small Business Act (15 U.S.C. 632(k)) is  
3 amended—

4                   (A) by inserting “(1)” after “(k)”; and

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

6           “(2) For purposes of section 7(b)(2), the term ‘dis-  
7 aster’ includes—

8                   “(A) drought; and

9                   “(B) below average water levels in the Great  
10 Lakes, or on any body of water in the United States  
11 that supports commerce by small business con-  
12 cerns.”.

13           (2) DROUGHT DISASTER RELIEF AUTHORITY.—  
14 Section 7(b)(2) of the Small Business Act (15  
15 U.S.C. 636(b)(2)) is amended—

16                   (A) by inserting “(including drought), with  
17 respect to both farm-related and nonfarm-re-  
18 lated small business concerns,” before “if the  
19 Administration”; and

20                   (B) in subparagraph (B), by striking “the  
21 Consolidated Farmers Home Administration  
22 Act of 1961 (7 U.S.C. 1961)” and inserting the  
23 following: “section 321 of the Consolidated  
24 Farm and Rural Development Act (7 U.S.C.  
25 1961), in which case, assistance under this

1 paragraph may be provided to farm-related and  
2 nonfarm-related small business concerns, sub-  
3 ject to the other applicable requirements of this  
4 paragraph”.

5 (b) LIMITATION ON LOANS.—From funds otherwise  
6 appropriated pursuant to section 20 for loans under sec-  
7 tion 7(b) of the Small Business Act (15 U.S.C. 636(b)),  
8 not more than \$9,000,000 may be used during fiscal year  
9 2004 to provide drought disaster loans to nonfarm-related  
10 small business concerns.

11 (c) PROMPT RESPONSE TO DISASTER REQUESTS.—  
12 Section 7(b)(2)(D) of the Small Business Act (15 U.S.C.  
13 636(b)(2)(D)) is amended by striking “Upon receipt of  
14 such certification, the Administration may” and inserting  
15 “Not later than 30 days after the date of receipt of such  
16 certification by a Governor of a State, the Administration  
17 shall respond in writing to that Governor on its determina-  
18 tion and the reasons therefore, and may”.

19 (d) RULEMAKING.—Not later than 45 days after the  
20 date of enactment of this section, the Administrator shall  
21 promulgate final rules to carry out this section and the  
22 amendments made by this section.

1 **SEC. 233. DISASTER MITIGATION PILOT PROGRAM.**

2 Section 7(b)(1)(C) of the Small Business Act (15  
3 U.S.C. 636(b)(1)(C)) is amended by striking “2000  
4 through 2004” and inserting “2003 through 2006”.

5 **Subtitle E—504 Loan Program**

6 **SEC. 241. EXTENSION OF USER FEES.**

7 Section 503(f) of the Small Business Investment Act  
8 of 1958 (15 U.S.C. 697(f)) is amended by striking “Octo-  
9 ber 1, 2003” and inserting “October 1, 2006”.

10 **SEC. 242. AMORTIZED LOAN LOSS RESERVE FUND.**

11 Paragraph (6) of section 508(c) of the Small Busi-  
12 ness Investment Act of 1958 (15 U.S.C. 697e(e)) is  
13 amended—

14 (1) by striking “The Administration” and in-  
15 serting the following:

16 “(A) IN GENERAL.—The Administration”;

17 and

18 (2) by adding at the end the following new sub-  
19 paragraph:

20 “(B) TEMPORARY REDUCTION BASED ON

21 OUTSTANDING BALANCE.—Notwithstanding

22 subparagraph (A), the Administration shall

23 allow the certified development company to

24 withdraw from the loss reserve such amounts as

25 are in excess of 1 percent of the aggregate out-

26 standing balances of debentures to which such

1           loss reserve relates. The preceding sentence  
 2           shall not apply with respect to any debenture  
 3           before 100 percent of the contribution described  
 4           in paragraph (4) with respect to such debenture  
 5           has been made.”.

6 **SEC. 243. ALTERNATIVE LOSS RESERVE FOR CERTAIN PRE-**  
 7                           **MIER CERTIFIED LENDERS.**

8           (a) IN GENERAL.—Subsection (c) of section 508 of  
 9           the Small Business Investment Act of 1958 (15 U.S.C.  
 10          697e) is amended by adding at the end the following:

11                   “(7) ALTERNATIVE LOSS RESERVE.—

12                           “(A) ELECTION.—With respect to any eli-  
 13                           gible calendar quarter, any qualified high loss  
 14                           reserve PCL may elect to have the requirements  
 15                           of this paragraph apply in lieu of the require-  
 16                           ments of paragraphs (2) and (4) for such quar-  
 17                           ter.

18                           “(B) CONTRIBUTIONS.—

19                                   “(i) ORDINARY RULES INAPPLI-  
 20                                   CABLE.—Except as provided under clause  
 21                                   (ii) and paragraph (5), a qualified high  
 22                                   loss reserve PCL that makes the election  
 23                                   described in subparagraph (A) with respect  
 24                                   to a calendar quarter shall not be required

1 to make contributions to its loss reserve  
2 during such quarter.

3 “(ii) BASED ON LOSS.—A qualified  
4 high loss reserve PCL that makes the elec-  
5 tion described in subparagraph (A) with  
6 respect to any calendar quarter shall, be-  
7 fore the last day of such quarter, make  
8 such contributions to its loss reserve as are  
9 necessary to ensure that the amount of the  
10 loss reserve of the PCL is—

11 “(I) not less than \$100,000; and

12 “(II) sufficient, as determined by  
13 a qualified independent auditor, for  
14 the PCL to meet its obligations to  
15 protect the Federal Government from  
16 risk of loss.

17 “(iii) CERTIFICATION.—Before the  
18 end of any calendar quarter for which an  
19 election is in effect under subparagraph  
20 (A), the head of the PCL shall submit to  
21 the Administrator a certification that the  
22 loss reserve of the PCL is sufficient to  
23 meet such PCL’s obligation to protect the  
24 Federal Government from risk of loss.  
25 Such certification shall be in such form

1 and submitted in such manner as the Ad-  
 2 ministrator may require and shall be  
 3 signed by the head of such PCL and the  
 4 auditor making the determination under  
 5 clause (ii)(II).

6 “(C) DISBURSEMENTS.—

7 “(i) ORDINARY RULE INAPPLI-  
 8 CABLE.—Paragraph (6) shall not apply  
 9 with respect to any qualified high loss re-  
 10 serve PCL for any calendar quarter for  
 11 which an election is in effect under sub-  
 12 paragraph (A).

13 “(ii) EXCESS FUNDS.—At the end of  
 14 each calendar quarter for which an election  
 15 is in effect under subparagraph (A), the  
 16 Administration shall allow the qualified  
 17 high loss reserve PCL to withdraw from its  
 18 loss reserve the excess of—

19 “(I) the amount of the loss re-  
 20 serve, over

21 “(II) the greater of \$100,000 or  
 22 the amount which is determined under  
 23 subparagraph (B)(ii) to be sufficient  
 24 to meet the PCL’s obligation to pro-

1                    tect the Federal Government from  
2                    risk of loss.

3                    “(D) RECONTRIBUTION.—If the require-  
4                    ments of this paragraph apply to a qualified  
5                    high loss reserve PCL for any calendar quarter  
6                    and cease to apply to such PCL for any subse-  
7                    quent calendar quarter, such PCL shall make a  
8                    contribution to its loss reserve in such amount  
9                    as the Administrator may determine provided  
10                   that such amount does not exceed the amount  
11                   which would result in the total amount in the  
12                   loss reserve being equal to the amount which  
13                   would have been in such loss reserve had this  
14                   paragraph never applied to such PCL. The Ad-  
15                   ministrator may require that such payment be  
16                   made as a single payment or as a series of pay-  
17                   ments.

18                   “(E) RISK MANAGEMENT.—If a qualified  
19                   high loss reserve PCL fails to meet the require-  
20                   ment of subparagraph (F)(iii) during any pe-  
21                   riod for which an election is in effect under sub-  
22                   paragraph (A) and such failure continues for  
23                   180 days, the requirements of paragraphs (2),  
24                   (4), and (6) shall apply to such PCL as of the  
25                   end of such 180-day period and such PCL shall



1           make the contribution to its loss reserve de-  
2           scribed in subparagraph (D). The Adminis-  
3           trator may waive the requirements of this sub-  
4           paragraph.

5           “(F) QUALIFIED HIGH LOSS RESERVE  
6           PCL.—The term ‘qualified high loss reserve  
7           PCL’ means, with respect to any calendar year,  
8           any premier certified lender designated by the  
9           Administrator as a qualified high loss reserve  
10          PCL for such year. The Administrator shall not  
11          designate a company under the preceding sen-  
12          tence unless the Administrator determines  
13          that—

14                 “(i) the amount of the loss reserve of  
15                 the company is not less than \$100,000;

16                 “(ii) the company has established and  
17                 is utilizing an appropriate and effective  
18                 process for analyzing the risk of loss asso-  
19                 ciated with its portfolio of PCLP loans and  
20                 for grading each PCLP loan made by the  
21                 company on the basis of the risk of loss as-  
22                 sociated with such loan; and

23                 “(iii) the company meets or exceeds 4  
24                 or more of the specified risk management  
25                 benchmarks as of the most recent assess-

1                   ment by the Administration or the Admin-  
 2                   istration has issued a waiver with respect  
 3                   to the requirement of this clause.

4                   “(G) SPECIFIED RISK MANAGEMENT  
 5                   BENCHMARKS.—For purposes of this para-  
 6                   graph, the term ‘specified risk management  
 7                   benchmarks’ means the following rates, as de-  
 8                   termined by the Administrator:

9                   “(i) Currency rate.

10                  “(ii) Delinquency rate.

11                  “(iii) Default rate.

12                  “(iv) Liquidation rate.

13                  “(v) Loss rate.

14                  “(H) QUALIFIED INDEPENDENT AUDI-  
 15                  TOR.—For purposes of this paragraph, the term  
 16                  ‘qualified independent auditor’ means any li-  
 17                  censed auditor who—

18                   “(i) is compensated by the qualified  
 19                   high loss reserve PCL;

20                   “(ii) is independent of such PCL; and

21                   “(iii) has been approved by the Ad-  
 22                   ministrator during the preceding year.

23                  “(I) PCLP LOAN.—For purposes of this  
 24                  paragraph, the term ‘PCLP loan’ means any  
 25                  loan guaranteed under this section.

1           “(J) ELIGIBLE CALENDAR QUARTER.—For  
2 purposes of this paragraph, the term ‘eligible  
3 calendar quarter’ means—

4           “(i) the first calendar quarter that be-  
5 gins after the end of the 90-day period be-  
6 ginning with the date of the enactment of  
7 this paragraph; and

8           “(ii) the 11 succeeding calendar quar-  
9 ters.

10          “(K) CALENDAR QUARTER.—For purposes  
11 of this paragraph, the term ‘calendar quarter’  
12 means—

13          “(i) the period which begins on Janu-  
14 ary 1 and ends on March 31 of each year;

15          “(ii) the period which begins on April  
16 1 and ends on June 30 of each year;

17          “(iii) the period which begins on July  
18 1 and ends on September 30 of each year;  
19 and

20          “(iv) the period which begins on Octo-  
21 ber 1 and ends on December 31 of each  
22 year.

23          “(L) REGULATIONS.—Not later than 45  
24 days after the date of the enactment of this  
25 paragraph, the Administrator shall publish in

1 the Federal Register and transmit to Congress  
2 regulations to carry out this paragraph. Such  
3 regulations shall include provisions relating  
4 to—

5 “(i) the approval of auditors under  
6 subparagraph (H); and

7 “(ii) the designation of qualified high  
8 loss reserve PCLs under subparagraph  
9 (F), including the determination of wheth-  
10 er a process for analyzing risk of loss is  
11 appropriate and effective for purposes of  
12 subparagraph (F)(ii).”.

13 (b) INCREASED REIMBURSEMENT FOR LOSSES RE-  
14 LATED TO DEBENTURES ISSUED DURING ELECTION PE-  
15 RIOD.—Subparagraph (C) of section 508(b)(2) of the  
16 Small Business Investment Act of 1958 (15 U.S.C.  
17 697e(b)(2)) is amended by inserting “(15 percent in the  
18 case of any such loss attributable to a debenture issued  
19 by the company during any period for which an election  
20 is in effect under subsection (c)(7) for such company)”  
21 before “; and”.

22 (c) CONFORMING AMENDMENTS.—

23 (1) Subparagraph (D) of section 508(b)(2) of  
24 the Small Business Investment Act of 1958 (15

1 U.S.C. 697e(b)(2)) is amended by striking “sub-  
2 section (c)(2)” and inserting “subsection (c)”.

3 (2) Paragraph (5) of section 508(c) of the  
4 Small Business Investment Act of 1958 (15 U.S.C.  
5 697e(c)) is amended by striking “10 percent”.

6 (d) STUDY AND REPORT.—

7 (1) IN GENERAL.—The Administrator shall  
8 enter into a contract with a Federal agency experi-  
9 enced in community development lending and finan-  
10 cial regulation or with a member of the Federal Fi-  
11 nancial Institutions Examinations Council to study  
12 and prepare a report regarding—

13 (A) the extent to which statutory require-  
14 ments have caused over capitalization in the  
15 loss reserves maintained by certified develop-  
16 ment companies participating in the Premier  
17 Certified Lenders Program established under  
18 section 508 of the Small Business Investment  
19 Act of 1958 (15 U.S.C. 697e); and

20 (B) alternatives for establishing and main-  
21 taining loss reserves that are sufficient to pro-  
22 tect the Federal Government from the risk of  
23 loss associated with loans guaranteed under  
24 such Program.

1           (2) TRANSMISSION OF REPORT.—The report  
2 described in paragraph (1) shall be transmitted to  
3 the Committee on Small Business of the House of  
4 Representatives and the Committee on Small Busi-  
5 ness and Entrepreneurship of the Senate not later  
6 than 180 days after the date of the enactment of  
7 this Act.

8           (3) LIMITATION.—The amount of the contract  
9 described in paragraph (1) shall not exceed \$75,000.

10 **SEC. 244. DEBENTURE SIZE.**

11           Section 502(2) of the Small Business Investment Act  
12 of 1958 (15 U.S.C. 696) is amended to read as follows:

13           “(2) MAXIMUM AMOUNT.—Loans made by the  
14 Administration under this section shall be limited  
15 to—

16           “(A) \$1,500,000 for each small business  
17 concern if the loan proceeds will not be directed  
18 toward a goal or project described in subpara-  
19 graph (B) or (C);

20           “(B) \$2,000,000 for each small business  
21 concern if the loan proceeds will be directed to-  
22 ward 1 or more of the public policy goals de-  
23 scribed under section 501(d)(3); and

1           “(C) \$4,000,000 for each small business  
2           concern if the loan proceeds will be directed to-  
3           ward manufacturing projects.”.

4 **SEC. 245. JOB CREATION OR RETENTION STANDARDS.**

5           Section 501 of the Small Business Investment Act  
6 of 1958 (15 U.S.C. 695) is amended by striking the un-  
7 designated paragraph at the end and inserting the fol-  
8 lowing:

9           “(e) **JOB CREATION OR RETENTION.**—

10           “(1) **IN GENERAL.**—A project being funded by  
11 the debenture is deemed to satisfy the job creation  
12 or retention requirement under subsection (d)(1) if  
13 the project creates or retains—

14           “(A) 1 job opportunity for every \$50,000  
15 guaranteed by the Administration; or

16           “(B) in the case of a manufacturing  
17 project, 1 job opportunity for every \$100,000  
18 guaranteed by the Administration.

19           “(2) **TEMPORARY JOB CREATION WAIVER.**—

20           “(A) **IN GENERAL.**—If a development com-  
21 pany fails to meet the job creation and reten-  
22 tion requirements under this section, the com-  
23 pany may apply for a temporary waiver from  
24 the Administration. Not later than 30 days  
25 after the request for such waiver, the Adminis-

1           tration shall respond to the request and may  
2           temporarily waive the requirement if the devel-  
3           opment company shows reasonable cause for its  
4           failure to meet the job creation and retention  
5           requirements under this section and dem-  
6           onstrates how it intends to attain such require-  
7           ments in the future.

8           “(B) AGGREGATION OF GOALS AND OBJEC-  
9           TIVES.—If a project meets the economic devel-  
10          opment objectives or public policy goals under  
11          paragraphs (2) and (3) of subsection (d), the  
12          project does not need to meet the individual job  
13          creation or retention requirements for that par-  
14          ticular project if the outstanding portfolio of  
15          the development company meets or exceeds the  
16          job creation or retention criteria under sub-  
17          section (d)(1).”.

18 **SEC. 246. SIMPLIFIED APPLICATIONS.**

19       (a) **LOANS OF \$400,000 OR LESS.—**

20           (1) **IN GENERAL.—**Not later than 180 days  
21          after the date of enactment of this Act, the Adminis-  
22          trator shall develop a shorter, more concise, and  
23          simplified application form for loan guarantees in-  
24          volving not more than \$400,000 authorized under



1 section 504 of the Small Business Investment Act of  
2 1958 (15 U.S.C. 697a).

3 (2) AVAILABILITY TO CERTIFIED DEVELOP-  
4 MENT COMPANIES.—The form developed under para-  
5 graph (1) shall be made available to certified devel-  
6 opment companies not later than 180 days after the  
7 date of enactment of this Act.

8 (b) ALL OTHER LOANS.—

9 (1) IN GENERAL.—Not later than 270 days  
10 after the date of enactment of this Act, the Adminis-  
11 trator shall develop a shorter, more concise, and  
12 simplified application form for all loan guarantees  
13 authorized under section 504 of the Small Business  
14 Investment Act of 1958 (15 U.S.C. 697a), including  
15 those described in subsection (a).

16 (2) AVAILABILITY TO CERTIFIED DEVELOP-  
17 MENT COMPANIES.—The form developed under para-  
18 graph (1) shall be made available to certified devel-  
19 opment companies not later than 270 days after the  
20 date of enactment of this Act.

21 **SEC. 247. CHILD CARE LENDING PILOT PROGRAM.**

22 (a) LOANS AUTHORIZED.—Section 502 of the Small  
23 Business Investment Act of 1958 (15 U.S.C. 696) is  
24 amended—

25 (1) in the matter preceding paragraph (1)—

1 (A) by striking “The Administration” and  
 2 inserting the following:

3 “(a) AUTHORIZATION.—The Administration”;

4 (B) by striking “and such loans” and in-  
 5 serting “. Such loans”;

6 (C) by striking “: *Provided, however,* That  
 7 the foregoing powers shall be subject to the fol-  
 8 lowing restrictions and limitations:” and insert-  
 9 ing a period; and

10 (D) by adding at the end the following:

11 “(b) RESTRICTIONS AND LIMITATIONS.—The author-  
 12 ity under subsection (a) shall be subject to the following  
 13 restrictions and limitations:”; and

14 (2) in paragraph (1)—

15 (A) by inserting after “USE OF PRO-  
 16 CEEDS.—” the following:

17 “(A) IN GENERAL.—”; and

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

19 “(B) LOANS TO SMALL, NONPROFIT CHILD  
 20 CARE BUSINESSES.—

21 “(i) IN GENERAL.—Notwithstanding  
 22 subsection (a)(1), the proceeds of any loan  
 23 described in subsection (a) may be used by  
 24 the certified development company to as-

1           sist small, nonprofit child care businesses,  
2           provided that—

3                   “(I) the loan will be used for a  
4                   sound business purpose that has been  
5                   approved by the Administration;

6                   “(II) each such business receiv-  
7                   ing financial assistance meets all of  
8                   the same eligibility requirements ap-  
9                   plicable to for-profit businesses under  
10                  this title, except for status as a for-  
11                  profit business;

12                  “(III) 1 or more individuals has  
13                  personally guaranteed the loan;

14                  “(IV) the small, non-profit child  
15                  care business has clear and singular  
16                  title to the collateral for the loan; and

17                  “(V) the small, non-profit child  
18                  care business has sufficient cash flow  
19                  from its operations to meet its obliga-  
20                  tions on the loan and its normal and  
21                  reasonable operating expenses.

22                  “(ii) LIMITATION ON VOLUME.—Not  
23                  more than 7 percent of the total number of  
24                  loans guaranteed in any fiscal year under

1 this title may be awarded under the pilot  
2 program.

3 “(iii) DEFINED TERM.—For purposes  
4 of this subparagraph, the term ‘small, non-  
5 profit child care business’ means an estab-  
6 lishment that—

7 “(I) is organized in accordance  
8 with section 501(c)(3) of the Internal  
9 Revenue Code of 1986;

10 “(II) is primarily engaged in pro-  
11 viding child care for infants, toddlers,  
12 pre-school, or pre-kindergarten chil-  
13 dren (or any combination thereof),  
14 may provide care for older children  
15 when they are not in school, and may  
16 offer pre-kindergarten educational  
17 programs;

18 “(III) including its affiliates, has  
19 tangible net worth that does not ex-  
20 ceed \$7,000,000, and has average net  
21 income (excluding any carryover  
22 losses) for the preceding 2 completed  
23 fiscal years that does not exceed  
24 \$2,500,000; and

1                   “(IV) is licensed as a child care  
2                   provider by the District of Columbia,  
3                   the insular area, or the State in which  
4                   it is located.”.

5                   “(iv) SUNSET PROVISION.—This sub-  
6                   paragraph shall remain in effect until Sep-  
7                   tember 30, 2006, and shall apply to all  
8                   loans authorized under this subparagraph  
9                   that are applied for, approved, or dis-  
10                  bursed during the period beginning on the  
11                  date of enactment of the Small Business  
12                  Administration 50th Anniversary Reau-  
13                  thorization Act of 2003 and ending on  
14                  September 30, 2006.”.

15                  (b) REPORTS.—

16                   (1) SMALL BUSINESS ADMINISTRATION.—

17                   (A) IN GENERAL.—Not later than 6  
18                   months after the date of enactment of this Act,  
19                   and every 6 months thereafter until September  
20                   30, 2006, the Administrator shall submit a re-  
21                   port on the implementation of the program  
22                   under subsection (a) to—

23                   (i) the Committee on Small Business  
24                   and Entrepreneurship of the Senate; and

1 (ii) the Committee on Small Business  
2 of the House of Representatives.

3 (B) CONTENTS.—The report under sub-  
4 paragraph (A) shall contain—

5 (i) the date on which the program is  
6 implemented;

7 (ii) the date on which the rules are  
8 issued pursuant to subsection (c); and

9 (iii) the number and dollar amount of  
10 loans under the program applied for, ap-  
11 proved, and disbursed during the previous  
12 6 months—

13 (I) with respect to nonprofit child  
14 care business; and

15 (II) with respect to for profit  
16 child care business.

17 (2) GENERAL ACCOUNTING OFFICE.—

18 (A) IN GENERAL.—Not later than March  
19 31, 2006, the Comptroller General of the  
20 United States shall submit a report on the child  
21 care small business loans authorized by section  
22 502(b)(1)(B) of the Small Business Investment  
23 Act of 1958, as added by this Act, to—

24 (i) the Committee on Small Business  
25 and Entrepreneurship of the Senate; and

1 (ii) the Committee on Small Business  
2 of the House of Representatives.

3 (B) CONTENTS.—The report under sub-  
4 paragraph (A) shall contain information gath-  
5 ered during the first 2 years of the loan pro-  
6 gram, including—

7 (i) an evaluation of the timeliness of  
8 the implementation of the loan program;

9 (ii) a description of the effectiveness  
10 and ease with which certified development  
11 companies, lenders, and small businesses  
12 have participated in the loan program;

13 (iii) a description and assessment of  
14 how the loan program was marketed;

15 (iv) by location (State, insular area,  
16 and District of Columbia) and in total, the  
17 number of child care small businesses, cat-  
18 egorized by status as a for-profit or non-  
19 profit business, that—

20 (I) applied for loans under the  
21 program (and whether it was a new or  
22 expanding child care provider);

23 (II) were approved for loans  
24 under the program; and

1 (III) received loan disbursements  
2 under the program (and whether they  
3 are a new or expanding child care pro-  
4 vider); and

5 (v) with respect to the businesses de-  
6 scribed under clause (iv)(III)—

7 (I) the number of such busi-  
8 nesses in each State, insular area, and  
9 District of Columbia, as of the year of  
10 enactment of this Act;

11 (II) the total amount loaned to  
12 such businesses under the program;

13 (III) the total number of loans to  
14 such businesses under the program;

15 (IV) the average loan amount  
16 and term;

17 (V) the currency rate, delin-  
18 quencies, defaults, and losses of the  
19 loans;

20 (VI) the number and percent of  
21 children served who receive subsidized  
22 assistance; and

23 (VII) the number and percent of  
24 children served who are low income.

25 (C) ACCESS TO INFORMATION.—



1 (i) IN GENERAL.—The Administration  
2 shall collect and maintain such information  
3 as may be necessary to carry out this para-  
4 graph from certified development centers  
5 and child care providers, and such centers  
6 and providers shall comply with a request  
7 for information from the Administration  
8 for that purpose.

9 (ii) PROVISION OF INFORMATION TO  
10 GAO.—The Administration shall provide in-  
11 formation collected under this subpara-  
12 graph to the Comptroller General of the  
13 United States for purposes of the report  
14 required by this paragraph.

15 (c) RULEMAKING AUTHORITY.—Not later than 120  
16 days after the date of enactment of this Act, the Adminis-  
17 trator shall issue final rules to carry out the loan program  
18 authorized by section 502(b)(1)(B) of the Small Business  
19 Investment Act of 1958, as added by this Act.

20 **SEC. 248. DEFINITION OF RURAL AREA.**

21 Section 501 of the Small Business Investment Act  
22 of 1958 (15 U.S.C. 695) is amended by adding at the end  
23 the following:

1 “(f) DEFINITION OF RURAL AREA.—For purposes of  
 2 this title, the term ‘rural area’ means any area other  
 3 than—

4 “(1) a city or town with a population of not less  
 5 than 50,000 inhabitants; or

6 “(2) the urbanized area adjacent to a city or  
 7 town under subparagraph (A).”.

## 8 **Subtitle F—Surety Bond Program**

### 9 **SEC. 251. CLARIFICATION OF MAXIMUM SURETY BOND** 10 **GUARANTEE.**

11 (a) IN GENERAL.—Section 411(a)(1) of the Small  
 12 Business Investment Act of 1958 (15 U.S.C. 694b(a)(1))  
 13 is amended by striking “contract up to” and inserting  
 14 “total work order or contract amount at the time of bond  
 15 execution that does not exceed”.

### 16 **SEC. 252. AUTHORIZATION OF PREFERRED SURETY BOND** 17 **GUARANTEE PROGRAM.**

18 Section 411(a) of the Small Business Investment Act  
 19 of 1958 (15 U.S.C. 694b(a)) is amended by adding at the  
 20 end the following: “This paragraph shall remain in effect  
 21 through September 30, 2006.”.

## 22 **Subtitle G—Miscellaneous**

### 23 **SEC. 261. COORDINATION OF SBA LOANS.**

24 Section 7(a)(3) of the Small Business Act (15 U.S.C.  
 25 636(a)(3)) is amended—

1           (1) by inserting “TOTAL AMOUNT OF  
2 LOANS.—” before “No loan”; and

3           (2) by amending subparagraph (A) to read as  
4 follows:

5           “(A) if the total amount outstanding and  
6 committed (by participation or otherwise) to the  
7 borrower under section 7(a) would exceed  
8 \$1,000,000 (or if the gross loan amount would  
9 exceed \$2,000,000), except as provided in sub-  
10 paragraph (B), plus an amount not to exceed  
11 the maximum amount of a development com-  
12 pany financing under title V of the Small Busi-  
13 ness Investment Act of 1958 (15 U.S.C. 695 et  
14 seq.), and the Administration shall report to  
15 Congress in its annual budget request and per-  
16 formance plan on the number of small business  
17 concerns that have financings under both sec-  
18 tion 7(a) and under title V of the Small Busi-  
19 ness Investment Act of 1958, and the total  
20 amount and general performance of such  
21 financings;”.

22 **SEC. 262. LEASING OPTIONS FOR 7(a) AND 504 BORROWERS.**

23           (a) 7(a) LOANS.—Section 7(a)(28) of the Small Busi-  
24 ness Act (15 U.S.C. 636(a)(28)) is amended to read as  
25 follows:

1           “(28) LEASING.—In addition to such other  
2           lease arrangements as may be authorized by the Ad-  
3           ministration, a borrower under this section may  
4           lease, permanently or for a short term, to 1 or more  
5           tenants, not more than 40 percent of any property  
6           purchased or constructed as part of a project fi-  
7           nanced under this section if the borrower perma-  
8           nently occupies and uses not less than 60 percent of  
9           the total business space of the property.”.

10          (b) 504 LOANS.—Subsection (b)(5) of section 502 of  
11          the Small Business Investment Act of 1958 (15 U.S.C.  
12          696), as redesignated by this Act, is amended to read as  
13          follows:

14               “(5) LEASING.—In addition to such other lease  
15               arrangements as may be authorized by the Adminis-  
16               tration, a borrower under this title may lease, per-  
17               manently or for a short term, to 1 or more tenants,  
18               not more than 40 percent of any property purchased  
19               or constructed as part of a project financed under  
20               this title if the borrower permanently occupies and  
21               uses not less than 60 percent of the total business  
22               space of the property.”.

1 **SEC. 263. CALCULATION OF FINANCING LIMITATION FOR**  
2 **SMALL BUSINESS INVESTMENT COMPANIES.**

3 Section 306 of the Small Business Investment Act  
4 of 1958 (15 U.S.C. 686) is amended by inserting after  
5 subsection (a) the following:

6 “(b) In calculating the 20 percent limitation under  
7 subsection (a) or any guarantee required of a small busi-  
8 ness investment company by the Administration, only 50  
9 percent of the value of any loans issued under either sec-  
10 tion 7(a) of the Small Business Act or title V of this Act,  
11 which are received by the enterprise in which the small  
12 business investment company has issued commitments,  
13 shall be taken into consideration, but for any 1 such enter-  
14 prise, a small business investment company may not si-  
15 multaneously take advantage of this discounted calcula-  
16 tion for loans under both section 7(a) of the Small Busi-  
17 ness Act (15 U.S.C. 636(a)) and title V of this Act.”.

18 **SEC. 264. ESTABLISHING ALTERNATIVE SIZE STANDARD.**

19 Section 3(a)(3) of the Small Business Act (15 U.S.C.  
20 632(a)(3) is amended—

21 (1) by striking “When establishing” and insert-  
22 ing the following: “ESTABLISHMENT OF SIZE  
23 STANDARDS.—

24 “(A) IN GENERAL.—When establishing”; and

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

1           “(B) ALTERNATIVE SIZE STANDARD.—The Ad-  
 2           ministrator shall establish an alternative size stand-  
 3           ard pursuant to paragraph (2), which—

4                   “(i) shall be applicable to loan applicants  
 5                   under section 7(a) of this Act or title V of the  
 6                   Small Business Investment Act of 1958 (15  
 7                   U.S.C. 695 et seq.); and

8                   “(ii) shall utilize the maximum net worth  
 9                   and maximum net income of the prospective  
 10                  borrower as an alternative to the use of indus-  
 11                  try standards.”.

## 12   **Subtitle H—New Markets Venture** 13                                   **Capital**

### 14   **SEC. 271. TIME FRAME FOR RAISING PRIVATE CAPITAL.**

15           Section 354(d) of the Small Business Investment Act  
 16           of 1958 (15 U.S.C. 689c(d)) is amended—

17                   (1) by redesignating paragraphs (1) and (2) as  
 18                   paragraphs (2) and (3), respectively; and

19                   (2) by striking “The Administrator shall” and  
 20                   all that follows through “following requirements:”  
 21                   and inserting the following:

22                   “(1) IN GENERAL.—The Administrator shall  
 23                   give each conditionally approved company 2 years to  
 24                   satisfy the requirements under this subsection. If a  
 25                   conditionally approved company meets these require-

1       ments before the end of such 2-year period, the Ad-  
 2       ministrators shall proceed to final approval according  
 3       to the requirements under subsection (e).”.

4       **SEC. 272. DEFINITION OF LOW-INCOME GEOGRAPHIC AREA.**

5       Section 351(3)(A)(ii) of the Small Business Invest-  
 6       ment Act of 1958 (15 U.S.C. 689(3)(A)(ii)) is amended—

7               (1) in subclause (I), by striking “50 percent or  
 8       more” and all that follows and inserting “the me-  
 9       dian family income for such tract does not exceed 80  
 10       percent of the greater of the statewide median fam-  
 11       ily income or metropolitan area median family in-  
 12       come; or”; and

13              (2) in subclause (II), by striking “household in-  
 14       come” each place it appears and inserting “family  
 15       income”.

16                               **Subtitle I—Small Business**  
 17                               **Investment Company Program**

18       **SEC. 281. INVESTMENT OF EXCESS FUNDS.**

19       Section 308(b) of the Small Business Investment Act  
 20       of 1958 (15 U.S.C. 687(b)) is amended by striking the  
 21       last sentence and inserting the following: “Such companies  
 22       with outstanding financings are authorized to invest funds  
 23       not reasonably needed for their operations in—

1           “(1) direct obligations of, or obligations guaran-  
2           teed as to principal and interest by, the United  
3           States;

4           “(2) in certificates of deposit maturing within 1  
5           year after issuance by any institution, whose ac-  
6           counts are federally insured, or in savings accounts  
7           of such institution; or

8           “(3) in such other investment securities, mutual  
9           funds, or instruments that solely consist of, invest  
10          in, or are supported by the instruments described in  
11          paragraphs (1) and (2).”.

12 **SEC. 282. MAXIMUM PRIORITIZED PAYMENT RATE.**

13          Section 303(g) of the Small Business Investment Act  
14 of 1958 (15 U.S.C. 683(g)) is amended—

15           (1) in the matter preceding paragraph (1), by  
16           striking “In order” and inserting “GUARANTEES OF  
17           PARTICIPATING SECURITIES.—In order”; and

18           (2) in paragraph (2), by striking “1.38 per-  
19           cent” and inserting “1.7 percent”.

20 **SEC. 283. IMPROVED DISTRIBUTION REQUIREMENTS.**

21          Section 303(g)(9) of the Small Business Investment  
22 Act of 1958 (15 U.S.C. 683(g)(9)) is amended to read  
23 as follows:

24           “(9) After making any distribution pursuant to  
25           paragraph (8), a company with participating securi-



1       ties outstanding may distribute the balance of in-  
2       come to its investors if—

3               “(A) there are no accumulated and unpaid  
4       prioritized payments;

5               “(B) any amounts received by the Admin-  
6       istration under this paragraph and paragraph  
7       (8) are first applied as prepayment of the prin-  
8       cipal amount of the outstanding participating  
9       securities or debentures of the company at the  
10      time of such distribution and then applied to  
11      the profit participation under paragraph (11);  
12      and

13              “(C) any distributions under this para-  
14      graph are made to private investors and to the  
15      Administration in the ratio of private capital to  
16      leverage as of the date immediately preceding  
17      the distribution until the outstanding partici-  
18      pating securities or debentures of the company  
19      have been paid in full, after which any remain-  
20      ing distributions under this paragraph are  
21      made to private investors and to the Adminis-  
22      tration in the ratio provided for the distribution  
23      of profits under paragraph (11).”.

1 **Subtitle J—Small Business Inter-**  
2 **mediary Lending Pilot Program**

3 **SEC. 291. SHORT TITLE.**

4 This subtitle may be cited as the “Small Business  
5 Intermediary Lending Pilot Program Act of 2003”.

6 **SEC. 292. FINDINGS.**

7 Congress finds the following:

8 (1) Small and emerging businesses, particularly  
9 startups and businesses that lack sufficient or con-  
10 ventional collateral, continue to face barriers access-  
11 ing mid-sized loans in amounts between \$35,000 and  
12 \$200,000, with affordable terms and conditions.

13 (2) Consolidation in the banking industry has  
14 resulted in a decrease in the number of small, locally  
15 controlled banks with not more than \$100,000,000  
16 in assets and has changed the method by which  
17 banks make small business credit decisions with—

18 (A) credit scoring techniques replacing re-  
19 lationship-based lending, which often works to  
20 the disadvantage of small or startup businesses  
21 that do not conform with a bank’s standardized  
22 credit formulas; and

23 (B) less flexible terms and conditions,  
24 which are often necessary for small and emerg-  
25 ing businesses.

1           (3) In the environment described in paragraphs  
2           (1) and (2), non-profit intermediary lenders, includ-  
3           ing community development corporations, providing  
4           financial resources that serve to supplement the  
5           small business lending and investments of a bank  
6           by—

7                   (A) providing riskier, up front, or subordi-  
8                   nated capital;

9                   (B) offering flexible terms and under-  
10                  writing procedures; and

11                  (C) providing technical assistance to busi-  
12                  nesses in order to reduce the transaction costs  
13                  and risk exposure of banks.

14           (4) Several Federal programs, including the  
15           Microloan Program under section 7(m) of the Small  
16           Business Act (15 U.S.C. 636(m)) and the Inter-  
17           mediary Relending Program of the Department of  
18           Agriculture, have demonstrated the effectiveness of  
19           working through non-profit intermediaries to ad-  
20           dress the needs of small business concerns that are  
21           unable to access capital through conventional  
22           sources.

23           (5) More than 1,000 non-profit intermediary  
24           lenders in the United States are—

1 (A) successfully providing financial and  
2 technical assistance to small and emerging busi-  
3 nesses;

4 (B) working with banks and other lenders  
5 to leverage additional capital for their business  
6 borrowers; and

7 (C) creating employment opportunities for  
8 low income individuals through their lending  
9 and business development activities.

10 **SEC. 293. SMALL BUSINESS INTERMEDIARY LENDING PILOT**  
11 **PROGRAM.**

12 (a) IN GENERAL.—Section 7(l) of the Small Business  
13 Act (15 U.S.C. 636(l)) is amended to read as follows:

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

16 “(1) DEFINITIONS.—For purposes of this  
17 subsection—

18 “(A) the term ‘intermediary’ means an en-  
19 tity that seeks to borrow, or has borrowed,  
20 funds from the Administration to make mid-size  
21 loans to small business concerns under this sub-  
22 section that is a private, nonprofit entity,  
23 including—

24 “(i) a private, nonprofit community  
25 development corporation;

1           “(ii) a consortium of private, non-  
2           profit organizations or nonprofit commu-  
3           nity development corporations;

4           “(iii) a quasi-governmental economic  
5           development entity (such as a planning  
6           and development district), other than a  
7           State, county, or municipal government;  
8           and

9           “(v) an agency of or nonprofit entity  
10          established by a Native American Tribal  
11          Government; and

12          “(B) the term ‘mid-size loan’ means a  
13          fixed rate loan of not less than \$35,000 and not  
14          more than \$200,000, made by an intermediary  
15          to a startup, newly established, or growing  
16          small business concern.

17          “(2) ESTABLISHMENT.—There is established a  
18          3-year small business intermediary lending pilot pro-  
19          gram (referred to in this section as the “Program”),  
20          under which the Administration may make direct  
21          loans to eligible intermediaries, for the purpose of  
22          making fixed interest rate mid-size loans to startup,  
23          newly established, and growing small business con-  
24          cerns.

1           “(3) PURPOSES.—The purposes of the small  
2 business intermediary lender pilot program are—

3           “(A) to assist small business concerns in  
4 those areas suffering from a lack of credit due  
5 to poor economic conditions;

6           “(B) to create employment opportunities  
7 for low-income individuals;

8           “(C) to establish a mid-size loan program  
9 to be administered by the Small Business Ad-  
10 ministration to make loans to eligible inter-  
11 mediaries to enable such intermediaries to pro-  
12 vide small-scale loans, particularly loans in  
13 amounts averaging not more than \$150,000, to  
14 startup, newly established, or growing small  
15 business concerns for working capital or the ac-  
16 quisition of materials, supplies, or equipment;

17           “(D) to test the effectiveness of non-profit  
18 intermediaries—

19           “(i) as a delivery system for a mid-  
20 size loan program; and

21           “(ii) in addressing the credit needs of  
22 small businesses and leveraging other  
23 sources of credit; and

1           “(E) to determine the advisability and fea-  
2           sibility of implementing a mid-size loan pro-  
3           gram nationwide.

4           “(4) ELIGIBILITY FOR PARTICIPATION.—An  
5           intermediary shall be eligible to receive loans if the  
6           intermediary has at least 1 year of experience mak-  
7           ing loans to startup, newly established, or growing  
8           small business concerns.

9           “(5) LOANS TO INTERMEDIARIES.—

10           “(A) APPLICATION.—Each intermediary  
11           desiring a loan under this subsection shall sub-  
12           mit an application to the Administration, which  
13           describes—

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

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

18                   “(iii) the geographic area to be served  
19                   and its economic, poverty, and unemploy-  
20                   ment characteristics;

21                   “(iv) the status of small business con-  
22                   cerns in the area to be served and an anal-  
23                   ysis of the availability of credit; and

24                   “(v) the qualifications of the applicant  
25                   to carry out the purpose of this subsection.

1           “(B) LOAN LIMITS.—Notwithstanding sub-  
2           section (a)(3), no loan may be made under this  
3           subsection if the total amount outstanding and  
4           committed to an intermediary from the business  
5           loan and investment fund established by this  
6           Act would, as a result of such loan, exceed  
7           \$1,000,000 during the participation of the  
8           intermediary in the Program.

9           “(C) LOAN DURATION.—Loans made by  
10          the Administration under this subsection shall  
11          be for a maximum term of 20 years.

12          “(D) APPLICABLE INTEREST RATES.—  
13          Loans made by the Administration to an inter-  
14          mediary under the Program shall bear an an-  
15          nual interest rate equal to 1.00 percent.

16          “(E) FEES; COLLATERAL.—The Adminis-  
17          tration may not charge any fees or require col-  
18          lateral with respect to any loan made to an  
19          intermediary under this subsection.

20          “(F) LEVERAGE.—Any loan to a small  
21          business concern shall not exceed 75 percent of  
22          the total cost of the project, with the remaining  
23          funds being leveraged from other sources,  
24          including—

25                 “(i) banks or credit unions;



1                   “(ii) community development financial  
2                   institutions; and

3                   “(iii) other sources with funds avail-  
4                   able to the intermediary lender.

5                   “(G) DELAYED PAYMENTS.—The Adminis-  
6                   tration shall not require the repayment of prin-  
7                   cipal or interest on a loan made to an inter-  
8                   mediary under this section during the first 2  
9                   years of the loan.

10                  “(6) PROGRAM FUNDING FOR MID-SIZE  
11                  LOANS.—

12                   “(A) NUMBER OF PARTICIPANTS.—Under  
13                   the Program, the Administration may provide  
14                   loans, on a competitive basis, to not more than  
15                   20 intermediaries.

16                   “(B) EQUITABLE DISTRIBUTION OF INTER-  
17                   MEDIARIES.—The Administration shall select  
18                   and provide funding under the Program to such  
19                   intermediaries as will ensure geographic diver-  
20                   sity and representation of urban and rural com-  
21                   munities.

22                   “(7) REPORT TO CONGRESS.—

23                   “(A) INITIAL REPORT.—Not later than 30  
24                   months after the date of enactment of the  
25                   Small Business Administration 50th Anniver-

1 sary Reauthorization Act of 2003, the Adminis-  
2 tration shall submit a report containing an eval-  
3 uation of the effectiveness of the Program to—

4 “(i) the Committee on Small Business  
5 and Entrepreneurship of the Senate; and

6 “(ii) the Committee on Small Busi-  
7 ness of the House of Representatives.

8 “(B) ANNUAL REPORT.—Not later than 12  
9 months after the date of enactment of the  
10 Small Business Administration 50th Anniver-  
11 sary Reauthorization Act of 2003, and each  
12 year thereafter, the Administration shall submit  
13 an annual report containing an evaluation of  
14 the effectiveness of the Program to the Com-  
15 mittees described in subparagraph (A).

16 “(C) CONTENTS.—The reports submitted  
17 under subparagraphs (A) and (B) shall  
18 include—

19 “(i) the numbers and locations of the  
20 intermediaries receiving funds to provide  
21 mid-size loans;

22 “(ii) the amounts of each loan to an  
23 intermediary;

1           “(iii) the numbers and amounts of  
2           mid-size loans made by intermediaries to  
3           small business concerns;

4           “(iv) the repayment history of each  
5           intermediary;

6           “(v) a description of the loan portfolio  
7           of each intermediary, including the extent  
8           to which it provides mid-size loans to small  
9           business concerns in rural and economi-  
10          cally depressed areas;

11          “(vi) an estimate of the number of  
12          low-income individuals who have been em-  
13          ployed as a direct result of the Program;  
14          and

15          “(vii) any recommendations for legis-  
16          lative changes that would improve the op-  
17          eration of the Program.”.

18          (b) RULEMAKING AUTHORITY.—Not later than 180  
19          days after the date of enactment of this Act, the Adminis-  
20          trator shall issue regulations to carry out the amendment  
21          made by subsection (a).

22          (c) AUTHORIZATION OF APPROPRIATIONS.—

23                 (1) IN GENERAL.—There are authorized to be  
24                 appropriated such sums as may be necessary for  
25                 each of the fiscal years 2004 through 2006 to pro-

1       vide \$20,000,000 in loans under section 7(l) of the  
2       Small Business Act, as amended by subsection (a).

3               (2) AVAILABILITY.—Any amounts appropriated  
4       pursuant to paragraph (1) shall remain available  
5       until expended.

6       **TITLE III—ENTREPRENEURIAL**  
7       **DEVELOPMENT PROGRAMS**  
8               **Subtitle A—Office of**  
9       **Entrepreneurial Development**

10   **SEC. 301. SERVICE CORPS OF RETIRED EXECUTIVES.**

11       (a) IN GENERAL.—Section 8(b)(1)(B) of the Small  
12   Business Act (15 U.S.C. 637(b)(1)(B)) is amended—

13               (1) by striking “this Act; and to”, and inserting  
14       “this Act. To”;

15               (2) by striking “may maintain at its head-  
16       quarters” and all that follows through “That any”  
17       and inserting “shall maintain at its headquarters  
18       and pay the salaries, benefits, and expenses of a vol-  
19       unteer and professional staff to manage and oversee  
20       the program. Any”; and

21               (3) by striking the period at the end and insert-  
22       ing the following: “and the management of the con-  
23       tributions received.”.

24       (b) REGULATIONS.—The Administration shall, not  
25   later than 180 days after the date of enactment of this

1 Act, promulgate regulations to carry out the amendments  
2 made by subsection (a).

3 (c) EXTENSION OF COSPONSORSHIP AUTHORITY.—  
4 Section 401(a)(2) of the Small Business Administration  
5 Reauthorization and Amendments Act of 1994 (15 U.S.C.  
6 637 note, 108 Stat. 4190) is amended by striking “Sep-  
7 tember 30, 2003” and inserting “September 30, 2006”.

8 **SEC. 302. SMALL BUSINESS DEVELOPMENT CENTER PRO-**  
9 **GRAM.**

10 (a) TERM CHANGE.—Section 21(k) of the Small  
11 Business Act (15 U.S.C. 648(k)) is amended—

12 (1) by striking “CERTIFICATION” each place it  
13 appears and inserting “ACCREDITATION”; and

14 (2) by striking “certification” each place it ap-  
15 pears and inserting “accreditation”.

16 (b) PRIVACY REQUIREMENTS.—Section 21(a) of the  
17 Small Business Act is amended by adding at the end the  
18 following:

19 “(7) PRIVACY REQUIREMENTS.—

20 “(A) IN GENERAL.—A small business de-  
21 velopment center, consortium of small business  
22 development centers, or contractor or agent of  
23 a small business development center may not  
24 disclose the name, address, or telephone num-  
25 ber of any individual or small business concern

1 receiving assistance under this section without  
2 the consent of such individual or small business  
3 concern, unless—

4 “(i) the Administrator is ordered to  
5 make such a disclosure by a court in any  
6 civil or criminal enforcement action initi-  
7 ated by a Federal or State agency; or

8 “(ii) the Administrator considers such  
9 a disclosure to be necessary for the pur-  
10 pose of conducting a financial audit of a  
11 small business development center, but a  
12 disclosure under this clause shall be limited  
13 to the information necessary for such  
14 audit.

15 “(B) ADMINISTRATION USE OF INFORMA-  
16 TION.—This section shall not—

17 “(i) restrict Administration access to  
18 program activity data; or

19 “(ii) prevent the Administration from  
20 using client information (other than the in-  
21 formation described in subparagraph (A))  
22 to conduct client surveys.

23 “(C) REGULATIONS.—The Administrator  
24 shall issue regulations to establish standards for

1           requiring disclosures during a financial audit  
2           under subparagraph (A)(ii).”.

3           (c) CONFORMING AMENDMENT.—Section 20(a)(1) of  
4 the Small Business Act (15 U.S.C. 631 note) is amended  
5 by striking “certification” each place it appears and in-  
6 serting “accreditation”.

7 **SEC. 303. PRIME REAUTHORIZATION AND TRANSFER TO**  
8 **THE SMALL BUSINESS ACT.**

9           (a) PROGRAM REAUTHORIZATION.—Subtitle C of  
10 title I of the Riegle Community Development and Regu-  
11 latory Improvement Act of 1994 (15 U.S.C. 6901 note)  
12 is amended to read as follows:

13 **“SEC. 37. PROGRAM FOR INVESTMENT IN MICROENTRE-**  
14 **PRENEURS.**

15           “(a) DEFINITIONS.—For purposes of this section, the  
16 following definitions shall apply:

17           “(1) ADMINISTRATION.—The term ‘Administra-  
18 tion’ means the Small Business Administration.

19           “(2) ADMINISTRATOR.—The term ‘Adminis-  
20 trator’ means the Administrator of the Small Busi-  
21 ness Administration.

22           “(3) CAPACITY BUILDING SERVICES.—The term  
23 ‘capacity building services’ means services provided  
24 to an organization that is, or that is in the process  
25 of becoming, a microenterprise development organi-

1 zation or program, for the purpose of enhancing its  
2 ability to provide training and services to disadvan-  
3 tagged entrepreneurs.

4 “(4) COLLABORATIVE.—The term ‘collabo-  
5 rative’ means 2 or more nonprofit entities that agree  
6 to act jointly as a qualified organization under this  
7 section.

8 “(5) DISADVANTAGED ENTREPRENEUR.—The  
9 term ‘disadvantaged entrepreneur’ means a micro-  
10 entrepreneur that—

11 “(A) is a low-income person;

12 “(B) is a very low-income person; or

13 “(C) lacks adequate access to capital or  
14 other resources essential for business success,  
15 or is economically disadvantaged, as determined  
16 by the Administrator.

17 “(6) DISADVANTAGED NATIVE AMERICAN EN-  
18 TREPRENEUR.—The term ‘disadvantaged Native  
19 American entrepreneur’ means a disadvantaged en-  
20 trepreneur who is also a member of an Indian Tribe.

21 “(7) INDIAN TRIBE.—The term ‘Indian tribe’  
22 has the same meaning as in section 4(a) of the In-  
23 dian Self-Determination and Education Assistance  
24 Act.



1           “(8) INTERMEDIARY.—The term ‘intermediary’  
2 means a private, nonprofit entity that seeks to serve  
3 microenterprise development organizations and pro-  
4 grams, as authorized under subsection (d).

5           “(9) LOW-INCOME PERSON.—The term ‘low-in-  
6 come person’ means having an income, adjusted for  
7 family size, of not more than—

8                   “(A) for metropolitan areas, 80 percent of  
9 the area median income; and

10                   “(B) for nonmetropolitan areas, the great-  
11 er of—

12                           “(i) 80 percent of the area median in-  
13 come; or

14                           “(ii) 80 percent of the statewide non-  
15 metropolitan area median income.

16           “(10) MICROENTREPRENEUR.—The term  
17 ‘microentrepreneur’ means the owner or developer of  
18 a microenterprise.

19           “(11) MICROENTERPRISE.—The term ‘micro-  
20 enterprise’ means a sole proprietorship, partnership,  
21 or corporation that—

22                   “(A) has fewer than 5 employees; and

23                   “(B) generally lacks access to conventional  
24 loans, equity, or other banking services.

1           “(12) MICROENTERPRISE DEVELOPMENT ORGA-  
2           NIZATION OR PROGRAM.—The term ‘microenterprise  
3           development organization or program’ means a non-  
4           profit entity, or a program administered by such an  
5           entity, including community development corpora-  
6           tions or other nonprofit development organizations  
7           and social service organizations, that provides serv-  
8           ices to disadvantaged entrepreneurs.

9           “(13) TRAINING AND TECHNICAL ASSIST-  
10          ANCE.—The term ‘training and technical assistance’  
11          means services and support provided to disadvan-  
12          taged entrepreneurs, such as assistance for the pur-  
13          pose of enhancing business planning, marketing,  
14          management, financial management skills, and as-  
15          sistance for the purpose of accessing financial serv-  
16          ices.

17          “(14) VERY LOW-INCOME PERSON.—The term  
18          ‘very low-income person’ means having an income,  
19          adjusted for family size, of not more than 150 per-  
20          cent of the poverty line (as defined in section 673(2)  
21          of the Community Services Block Grant Act (42  
22          U.S.C. 9902(2)), including any revision required by  
23          that section).

24          “(b) ESTABLISHMENT OF PROGRAM.—The Adminis-  
25          trator shall establish a microenterprise technical assist-

1   ance and capacity building grant program to provide as-  
2   sistance from the Administration in the form of grants  
3   to qualified organizations in accordance with this section.

4       “(c) USES OF ASSISTANCE.—A qualified organization  
5   shall use grants made under this section—

6           “(1) to provide training and technical assist-  
7       ance to disadvantaged entrepreneurs;

8           “(2) to provide training and capacity building  
9       services to microenterprise development organiza-  
10      tions and programs and groups of such organiza-  
11      tions to assist such organizations and programs in  
12      developing microenterprise training and services;

13          “(3) to aid in researching and developing the  
14      best practices in the field of microenterprise and  
15      technical assistance programs for disadvantaged en-  
16      trepreneurs;

17          “(4) to provide training and technical assist-  
18      ance to disadvantaged Native American entre-  
19      preneurs and prospective entrepreneurs; and

20          “(5) for such other activities as the Adminis-  
21      trator determines are consistent with the purposes of  
22      this section.

23       “(d) QUALIFIED ORGANIZATIONS.—For purposes of  
24   eligibility for assistance under this section, a qualified or-  
25   ganization shall be—

1           “(1) a nonprofit microenterprise development  
2 organization or program (or a group or collaborative  
3 thereof) that has a demonstrated record of delivering  
4 microenterprise services to disadvantaged entre-  
5 preneurs;

6           “(2) an intermediary;

7           “(3) a microenterprise development organiza-  
8 tion or program that is accountable to a local com-  
9 munity, working in conjunction with a State or local  
10 government or Indian tribe; or

11           “(4) an Indian tribe acting on its own, if the  
12 Indian tribe can certify that no private organization  
13 or program referred to in this subsection exists with-  
14 in its jurisdiction.

15           “(e) ALLOCATION OF ASSISTANCE; SUBGRANTS.—

16           “(1) ALLOCATION OF ASSISTANCE.—

17           “(A) IN GENERAL.—The Administrator  
18 shall allocate assistance from the Administra-  
19 tion under this section to ensure that—

20           “(i) activities described in subsection  
21 (c)(1) are funded using not less than 75  
22 percent of amounts made available for  
23 such assistance; and

24           “(ii) activities described in subsection  
25 (c)(2) are funded using not less than 15

1           percent of amounts made available for  
2           such assistance.

3           “(B) LIMIT ON INDIVIDUAL ASSISTANCE.—

4           No single person may receive more than 10 per-  
5           cent of the total funds appropriated under this  
6           section in a single fiscal year.

7           “(2) TARGETED ASSISTANCE.—The Adminis-  
8           trator shall ensure that not less than 50 percent of  
9           the grants made under this section are used to ben-  
10          efit very low-income persons, including those  
11          residing on Indian reservations.

12          “(3) SUBGRANTS AUTHORIZED.—

13                 “(A) IN GENERAL.—A qualified organiza-  
14                 tion receiving assistance under this section may  
15                 provide grants using that assistance to qualified  
16                 small and emerging microenterprise organiza-  
17                 tions and programs, subject to such rules and  
18                 regulations as the Administrator determines to  
19                 be appropriate.

20                 “(B) LIMIT ON ADMINISTRATIVE EX-  
21                 PENSES.—Not more than 7.5 percent of assist-  
22                 ance received by a qualified organization under  
23                 this section may be used for administrative ex-  
24                 penses in connection with the making of sub-  
25                 grants under subparagraph (A).

1           “(4) DIVERSITY.—In making grants under this  
2 section, the Administrator shall ensure that grant  
3 recipients include both large and small microenter-  
4 prise organizations, serving urban, rural, and Indian  
5 tribal communities serving diverse populations.

6           “(5) PROHIBITION ON PREFERENTIAL CONSID-  
7 ERATION OF CERTAIN SBA PROGRAM PARTICI-  
8 PANTS.—In making grants under this section, the  
9 Administrator shall ensure that any application  
10 made by a qualified organization that is a partici-  
11 pant in the program established under section 7(m)  
12 of the Small Business Act does not receive pref-  
13 erential consideration over applications from other  
14 qualified organizations that are not participants in  
15 such program.

16           “(f) MATCHING REQUIREMENTS.—

17           “(1) IN GENERAL.—Financial assistance under  
18 this section shall be matched with funds from  
19 sources other than the Federal Government on the  
20 basis of not less than 50 percent of each dollar pro-  
21 vided by the Administration.

22           “(2) SOURCES OF MATCHING FUNDS.—Fees,  
23 grants, gifts, funds from loan sources, and in-kind  
24 resources of a grant recipient from public or private

1 sources may be used to comply with the matching  
2 requirement in paragraph (1).

3 “(3) EXCEPTION.—

4 “(A) IN GENERAL.—In the case of an ap-  
5 plicant for assistance under this section with se-  
6 vere constraints on available sources of match-  
7 ing funds, the Administrator may reduce or  
8 eliminate the matching requirements of para-  
9 graph (1).

10 “(B) LIMITATION.—Not more than 10 per-  
11 cent of the total funds made available from the  
12 Administration in any fiscal year to carry out  
13 this section may be excepted from the matching  
14 requirements of paragraph (1), as authorized by  
15 subparagraph (A) of this paragraph.

16 “(g) APPLICATIONS FOR ASSISTANCE.—An applica-  
17 tion for assistance under this section shall be submitted  
18 in such form and in accordance with such procedures as  
19 the Administrator shall establish.

20 “(h) RECORDKEEPING AND REPORTING.—

21 “(1) IN GENERAL.—Each organization that re-  
22 ceives assistance from the Administration in accord-  
23 ance with this section shall—

24 “(A) submit to the Administration not less  
25 than once in every 18-month period, financial

1 statements audited by an independent certified  
2 public accountant;

3 “(B) submit an annual report to the Ad-  
4 ministration on its activities; and

5 “(C) keep such records as may be nec-  
6 essary to disclose the manner in which any as-  
7 sistance under this section is used.

8 “(2) ACCESS.—The Administration shall have  
9 access upon request, for the purposes of determining  
10 compliance with this section, to any records of any  
11 organization that receives assistance from the Ad-  
12 ministration in accordance with this section.

13 “(3) DATA COLLECTION.—Each organization  
14 that receives assistance from the Administration in  
15 accordance with this section shall collect information  
16 relating to, as applicable—

17 “(A) the number of individuals counseled  
18 or trained;

19 “(B) the number of hours of counseling  
20 provided;

21 “(C) the number of startup small business  
22 concerns formed;

23 “(D) the number of small business con-  
24 cerns expanded;



1           “(E) the number of low-income individuals  
2           counseled or trained; and

3           “(F) the number of very low-income indi-  
4           viduals counseled or trained.

5           “(i) AUTHORIZATION OF APPROPRIATIONS.—

6           “(1) IN GENERAL.—There are authorized to be  
7           appropriated to the Administrator \$15,000,000 for  
8           each of the fiscal years 2004 through 2006 to carry  
9           out the provisions of this section, which shall remain  
10          available until expended.

11          “(2) TRAINING FOR NATIVE AMERICAN ENTRE-  
12          PRENEURS.—In addition to the amount authorized  
13          under subsection (i)(1), there are authorized to be  
14          appropriated to the Administrator \$2,000,000 for  
15          each of the fiscal years 2004 through 2006 to carry  
16          out the provisions of subsection (c)(4), which shall  
17          remain available until expended.

18          (b) TRANSFER PROVISIONS.—

19                (1) SMALL BUSINESS ACT AMENDMENTS.—The  
20                Small Business Act (15 U.S.C. 631 et seq.) is  
21                amended by redesignating section 37, as added by  
22                this Act, as section 38.

23                (2) TRANSFER.—Section 37 of the Riegle Com-  
24                munity Development and Regulatory Improvement  
25                Act of 1994 (15 U.S.C. 6901 note), as so designated

1 by subsection (a) of this section, is transferred to,  
 2 and inserted after, section 36 of the Small Business  
 3 Act, as added by this Act.

4 (c) REFERENCES.—All references in Federal law to  
 5 the “Program for Investment in Microentrepreneurs Act  
 6 of 1999” or the “PRIME Act” shall be deemed to be ref-  
 7 erences to section 37 of the Small Business Act, as added  
 8 by this section.

9 (d) RULE OF CONSTRUCTION.—Nothing in this sec-  
 10 tion or the amendments made by this section shall affect  
 11 any grant or assistance provided under the Program for  
 12 Investment in Microentrepreneurs Act of 1999, before the  
 13 date of enactment of this Act, and any such grant or as-  
 14 sistance shall be subject to the Program for Investment  
 15 in Microentrepreneurs Act of 1999, as in effect on the day  
 16 before the date of enactment of this Act.

17 **Subtitle B—Women’s Small**  
 18 **Business Ownership Programs**

19 **SEC. 311. OFFICE OF WOMEN’S BUSINESS OWNERSHIP.**

20 Section 29(g) of the Small Business Act (15 U.S.C.  
 21 656(g)) is amended—

22 (1) in paragraph (2)—

23 (A) in subparagraph (B)(i), by striking “in  
 24 the areas” and all that follows through the end  
 25 of subclause (I), and inserting the following: “to

1 address issues concerning operations, manufac-  
2 turing, technology, finance, retail and product  
3 sales, international trade, and other disciplines  
4 required for—

5 “(I) starting, operating, and  
6 growing a small business concern;”;  
7 and

8 (B) in subparagraph (C), by inserting “,  
9 the National Women’s Business Council, and  
10 any association of women’s business centers, as  
11 defined in subsection (a)” before the period at  
12 the end; and

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

14 “(3) PROGRAMS AND SERVICES FOR WOMEN-  
15 OWNED SMALL BUSINESSES.—The Assistant Admin-  
16 istrator, in consultation with the National Women’s  
17 Business Council, the Interagency Committee on  
18 Women’s Business Enterprise, and 1 or more asso-  
19 ciations of women’s business centers, shall develop  
20 programs and services for women-owned businesses  
21 (as defined in section 408 of the Women’s Business  
22 Ownership Act of 1988 (15 U.S.C. 631 note)) in  
23 business areas, which may include—

24 “(A) manufacturing;

25 “(B) technology;

1           “(C) professional services;  
2           “(D) retail and product sales;  
3           “(E) travel and tourism;  
4           “(F) international trade; and  
5           “(G) Federal Government contract busi-  
6           ness development.

7           “(4) TRAINING.—The Administration shall pro-  
8           vide annual programmatic and financial oversight  
9           training for women’s business ownership representa-  
10          tives and district office technical representatives of  
11          the Administration to enable these representatives to  
12          carry out their responsibilities under this section.

13          “(5) GRANT PROGRAM IMPROVEMENT.—The  
14          Administration shall improve the women’s business  
15          center grant proposal process and the programmatic  
16          and financial oversight process by—

17               “(A) providing notice to the public of each  
18               women’s business center grant announcement  
19               for an initial and renewal grant, not later than  
20               6 months before awarding such grant;

21               “(B) providing notice to grant applicants  
22               and recipients of program evaluation criteria,  
23               not later than 12 months before any such eval-  
24               uation;

1           “(C) reducing paperwork and reporting re-  
2           quirements for grant applicants and recipients;

3           “(D) standardizing the oversight and re-  
4           view process of the Administration; and

5           “(E) providing to each women’s business  
6           center, not later than 30 days after the comple-  
7           tion of a site visit at that center, a copy of site  
8           visit reports and evaluation reports prepared by  
9           district office technical representatives or Ad-  
10          ministration officials.”.

11 **SEC. 312. WOMEN’S BUSINESS CENTER PROGRAM.**

12          (a) WOMEN’S BUSINESS CENTER GRANTS PRO-  
13          GRAM.—Section 29 of the Small Business Act (15 U.S.C.  
14          656) is amended—

15                 (1) in subsection (a)—

16                         (A) by redesignating paragraphs (2), (3),  
17                         and (4), as paragraphs (3), (4), and (5), re-  
18                         spectively; and

19                         (B) by inserting after paragraph (1) the  
20                         following:

21                                 “(2) the term ‘association of women’s business  
22                                 centers’ means an organization that represents not  
23                                 less than 30 percent of the women’s business centers  
24                                 that are participating in a program under this sec-

1 tion and whose primary purpose is to represent  
2 women’s business centers;” and

3 (2) by striking subsections (b) through (f) and  
4 inserting the following:

5 “(b) GRANTS AUTHORIZED.—

6 “(1) IN GENERAL.—The Administration may  
7 award initial and renewal grants of not more than  
8 \$150,000 per year, which shall be known as ‘wom-  
9 en’s business center grants’, to private nonprofit or-  
10 ganizations to conduct projects for the benefit of  
11 small business concerns owned and controlled by  
12 women. At the end of the initial 4-year grant period,  
13 and every 3 years thereafter, the grant recipient  
14 may apply to renew the grant in accordance with  
15 this subsection and subsection (e)(2). In the event  
16 that the Administration has insufficient funds to  
17 provide grants of \$150,000, for each eligible wom-  
18 en’s business center, available funds shall be allo-  
19 cated evenly to eligible centers, unless any center re-  
20 quests a lower amount than the allocable amount.

21 “(2) COOPERATIVE AGREEMENT AUTHORITY.—

22 “(A) IN GENERAL.—The Administration  
23 may enter into Federal cooperative agreements  
24 with grant recipients under this subsection to  
25 perform the services described under paragraph

1 (3) only to the extent and in the amount pro-  
2 vided by appropriated funds.

3 “(B) TERMINATION.—

4 “(i) IN GENERAL.—If any grant re-  
5 cipient under this subsection does not ful-  
6 fill its grant obligations, after advanced no-  
7 tification, during the period of the grant,  
8 the Administration may terminate the  
9 grant.

10 “(ii) EXCEPTION.—Notwithstanding a  
11 grant recipient’s violation of a grant obli-  
12 gation under this section, the Administra-  
13 tion may continue to fund the grant if the  
14 grant recipient is making a good faith ef-  
15 fort to comply with such obligation.

16 “(3) USE OF FUNDS.—Grants awarded under  
17 paragraph (1) may be used to provide training and  
18 counseling in the areas of—

19 “(A) pre-business, business startup, and  
20 business operations;

21 “(B) financial planning assistance;

22 “(C) procurement assistance;

23 “(D) management assistance; and

24 “(E) marketing assistance.

25 “(4) MATCHING REQUIREMENT.—

1           “(A) WOMEN’S BUSINESS CENTER  
2 GRANTS.—As a condition of receiving financial  
3 assistance under this section, the grant recipi-  
4 ent shall agree to obtain, after its application  
5 has been approved and notice of award has  
6 been issued, cash contributions from non-Fed-  
7 eral sources as follows:

8           “(i) In the first and second years, 1  
9 non-Federal dollar for each 2 Federal dol-  
10 lars provided under the 4-year grant.

11           “(ii) In the third and fourth years, 1  
12 non-Federal dollar for each Federal dollar  
13 provided under the 4-year grant.

14           “(iii) In each renewal period, 1 non-  
15 Federal dollar for each Federal dollar pro-  
16 vided under the 3-year grant.

17           “(B) FORM OF NON-FEDERAL CONTRIBU-  
18 TIONS.—Not more than  $\frac{1}{2}$  of the non-Federal  
19 sector matching assistance may be in the form  
20 of in-kind contributions that are budget line  
21 items only, including office equipment and of-  
22 fice space.

23           “(C) FAILURE TO OBTAIN NON-FEDERAL  
24 FUNDING.—



1           “(i) ADVANCE DISBURSEMENTS.—If  
2           any grant recipient fails to obtain the re-  
3           quired non-Federal contribution during  
4           any project year, it shall not be eligible for  
5           advance disbursements pursuant to sub-  
6           paragraph (D) during the remainder of  
7           that project year.

8           “(ii) ABILITY TO OBTAIN NON-FED-  
9           ERAL FUNDING.—Before approving assist-  
10          ance to a grant recipient that has failed to  
11          obtain the required non-Federal contribu-  
12          tion for any other projects under this Act,  
13          the Administration shall require the grant  
14          recipient to certify that it will be able to  
15          obtain the requisite non-Federal funding  
16          and enter a written finding setting forth  
17          the reasons for making such determina-  
18          tion.

19          “(D) FORM OF FEDERAL CONTRIBU-  
20          TIONS.—The financial assistance authorized  
21          pursuant to this section may be made by grant  
22          or cooperative agreement and may contain such  
23          provision, as necessary, to provide for payments  
24          in lump sum or installments, and in advance or  
25          by way of reimbursement. The Administration

1           may disburse up to 25 percent of each year’s  
2           Federal share awarded to a grant recipient  
3           after notice of the award has been issued and  
4           before the non-Federal sector matching funds  
5           are obtained.

6           “(5) APPLICATION FOR AN INITIAL GRANT.—  
7           Each organization desiring an initial grant under  
8           this subsection, shall submit to the Administration  
9           an application that contains—

10                   “(A) a certification that the applicant—

11                           “(i) is a private nonprofit organiza-  
12                           tion;

13                           “(ii) has designated an executive di-  
14                           rector or program manager, who may be  
15                           compensated from grant funds or other  
16                           sources, to manage the center; and

17                           “(iii) as a condition of receiving a  
18                           grant under this subsection, agrees—

19                                   “(I) to receive a site visit as part  
20                                   of the final selection process;

21                                   “(II) to undergo an annual pro-  
22                                   grammatic and financial examination;  
23                                   and

24                                   “(III) to the maximum extent  
25                                   practicable, to remedy any problems

1 identified pursuant to the site visit or  
2 examination under subclauses (I) and  
3 (II);

4 “(B) information demonstrating that the  
5 applicant has the ability and resources to meet  
6 the needs of the market to be served by the  
7 women’s business center site for which an ini-  
8 tial grant is sought, including the ability to  
9 comply with the matching requirement under  
10 paragraph (4);

11 “(C) information relating to assistance to  
12 be provided by the women’s business center site  
13 for which an initial grant is sought in the area  
14 in which the site is located;

15 “(D) information demonstrating the effec-  
16 tive experience of the applicant in—

17 “(i) conducting financial, manage-  
18 ment, and marketing assistance programs,  
19 as described under paragraph (3), which  
20 are designed to teach or upgrade the busi-  
21 ness skills of women who are business own-  
22 ers or potential business owners;

23 “(ii) providing training and services to  
24 a representative number of women who are

1 both socially and economically disadvan-  
2 tagged; and

3 “(iii) using resource partners of the  
4 Administration and other entities, such as  
5 universities;

6 “(E) a 4-year plan that projects the ability  
7 of the women’s business center site for which  
8 an initial grant is sought—

9 “(i) to serve women business owners  
10 or potential owners in the future by im-  
11 proving training and counseling activities;  
12 and

13 “(ii) to provide training and services  
14 to a representative number of women who  
15 are both socially and economically dis-  
16 advantaged; and

17 “(F) any additional information that the  
18 Administration may reasonably require.

19 “(6) REVIEW AND APPROVAL OF APPLICATIONS  
20 FOR AN INITIAL GRANT.—

21 “(A) IN GENERAL.—The Administration  
22 shall—

23 “(i) review each application submitted  
24 under paragraph (5) based on the informa-  
25 tion provided in such paragraph and the

1 criteria set forth under subparagraph (B);  
2 and

3 “(ii) as part of the final selection  
4 process, conduct a site visit at each wom-  
5 en’s business center for which an initial  
6 grant is sought.

7 “(B) SELECTION CRITERIA.—

8 “(i) IN GENERAL.—The Administra-  
9 tion shall evaluate applicants in accordance  
10 with predetermined selection criteria that  
11 shall be stated in terms of relative impor-  
12 tance. Such criteria and their relative im-  
13 portance shall be made publicly available  
14 and stated in each solicitation for applica-  
15 tions made by the Administration.

16 “(ii) REQUIRED CRITERIA.—The se-  
17 lection criteria for an initial grant under  
18 clause (i) shall include—

19 “(I) the experience of the appli-  
20 cant in conducting programs or ongo-  
21 ing efforts designed to teach or up-  
22 grade the business skills of women  
23 business owners or potential owners;

1                   “(II) the ability of the applicant  
2                   to commence a project within a min-  
3                   imum amount of time;

4                   “(III) the ability of the applicant  
5                   to provide training and services to a  
6                   representative number of women who  
7                   are both socially and economically dis-  
8                   advantaged; and

9                   “(IV) the location for the wom-  
10                  en’s business center site proposed by  
11                  the applicant.

12                  “(C) RECORD RETENTION.—The Adminis-  
13                  tration shall maintain a copy of each applica-  
14                  tion submitted under this paragraph for not  
15                  less than 7 years.

16                  “(7) APPLICATION FOR A RENEWAL GRANT.—  
17                  Each organization desiring a renewal grant under  
18                  this subsection, shall submit to the Administration,  
19                  not later than 3 months before the expiration of an  
20                  existing grant under this subsection, an application  
21                  that contains—

22                         “(A) a certification that the applicant—

23                                 “(i) is a private nonprofit organiza-  
24                                 tion;

1           “(ii) has designated an executive di-  
2           rector or program manager to manage the  
3           center; and

4           “(iii) as a condition of receiving a  
5           grant under this subsection, agrees—

6                   “(I) to receive a site visit as part  
7                   of the final selection process;

8                   “(II) to submit, for the preceding  
9                   2 years, annual programmatic and fi-  
10                  nancial examination reports or cer-  
11                  tified copies of the applicant’s compli-  
12                  ance supplemental audits under OMB  
13                  Circular A–133; and

14                  “(III) to the maximum extent  
15                  practicable, to remedy any problems  
16                  identified pursuant to the site visit or  
17                  examination under subclauses (I) and  
18                  (II);

19                  “(B) information demonstrating that the  
20                  applicant has the ability and resources to meet  
21                  the needs of the market to be served by the  
22                  women’s business center site for which a re-  
23                  newal grant is sought, including the ability to  
24                  comply with the matching requirement under  
25                  paragraph (4);

1           “(C) information relating to assistance to  
2           be provided by the women’s business center site  
3           for which a renewal grant is sought in the area  
4           in which the site is located;

5           “(D) information demonstrating the utili-  
6           zation of resource partners of the Administra-  
7           tion and other entities;

8           “(E) a 3-year plan that projects the ability  
9           of the women’s business center site for which a  
10          renewal grant is sought—

11           “(i) to serve women business owners  
12           or potential owners in the future by im-  
13           proving training and counseling activities;  
14           and

15           “(ii) to provide training and services  
16           to a representative number of women who  
17           are both socially and economically dis-  
18           advantaged; and

19           “(F) any additional information that the  
20          Administration may reasonably require.

21          “(8) REVIEW AND APPROVAL OF APPLICATIONS  
22          FOR A RENEWAL GRANT.—

23           “(A) IN GENERAL.—The Administration  
24          shall—



1           “(i) review each application submitted  
2           under paragraph (7) based on the informa-  
3           tion provided in such paragraph and the  
4           criteria set forth under subparagraph (B);  
5           and

6           “(ii) as part of the final selection  
7           process, conduct a site visit at each wom-  
8           en’s business center for which a renewal  
9           grant is sought.

10           “(B) SELECTION CRITERIA.—The Admin-  
11           istration shall evaluate applicants in accordance  
12           with predetermined selection criteria that shall  
13           be stated in terms of relative importance. Such  
14           criteria and their relative importance shall be  
15           made publicly available and stated in each solici-  
16           tation for applications made by the Adminis-  
17           tration.

18           “(C) CONDITIONS FOR CONTINUED FUND-  
19           ING.—In determining whether to renew a grant  
20           or cooperative agreement with a women’s busi-  
21           ness center, the Administration—

22           “(i) shall consider the results of the  
23           most recent evaluation of the center, and,  
24           to a lesser extent, previous evaluations;  
25           and

1           “(ii) may withhold such renewal, if  
2           the Administration determines that the  
3           center has failed to provide the information  
4           required to be provided under this sub-  
5           section, or the information provided by the  
6           center is inadequate.

7           “(D) CONTINUING GRANT AND COOPERA-  
8           TIVE AGREEMENT AUTHORITY.—

9           “(i) IN GENERAL.—The authority of  
10          the Administrator to enter into grants or  
11          cooperative agreements under this sub-  
12          section shall be in effect for each fiscal  
13          year only to the extent and in the amounts  
14          as are provided in advance in appropria-  
15          tions Acts.

16          “(ii) RENEWAL.—After the Adminis-  
17          trator has entered into a grant or coopera-  
18          tive agreement with any women’s business  
19          center under this subsection, it shall not  
20          suspend, terminate, or fail to renew or ex-  
21          tend any such grant or cooperative agree-  
22          ment unless the Administrator provides the  
23          center with written notification setting  
24          forth the reasons therefore and affords the  
25          center an opportunity for a hearing, ap-

1           peal, or other administrative proceeding  
2           under chapter 5 of title 5, United States  
3           Code.

4           “(E) RECORD RETENTION.—The Adminis-  
5           tration shall maintain a copy of each applica-  
6           tion submitted under this paragraph for not  
7           less than 7 years.

8           “(9) DATA COLLECTION.—Consistent with the  
9           annual report to Congress under subsection (g),  
10          each women’s business center site that is awarded  
11          an initial or renewal grant shall collect information  
12          relating to—

13                 “(A) the number of individuals counseled  
14                 or trained;

15                 “(B) the number of hours of counseling  
16                 provided;

17                 “(C) the number of workshops conducted;

18                 “(D) the number of startup small business  
19                 concerns formed; and

20                 “(E) the number of jobs created or main-  
21                 tained at assisted small business concerns.

22          “(10) PRIVACY REQUIREMENTS.—

23                 “(A) IN GENERAL.—A women’s business  
24                 center may not disclose the name, address, or  
25                 telephone number of any individual or small

1 business concern receiving assistance under this  
2 section without the consent of such individual  
3 or small business concern unless—

4 “(i) the Administrator is ordered to  
5 make such a disclosure by a court in any  
6 civil or criminal enforcement action initi-  
7 ated by a Federal or State agency; or

8 “(ii) the Administrator considers such  
9 a disclosure to be necessary for the pur-  
10 pose of conducting a financial audit of a  
11 small business development center, but a  
12 disclosure under this clause shall be limited  
13 to the information necessary for such  
14 audit.

15 “(B) ADMINISTRATION USE OF INFORMA-  
16 TION.—This section shall not—

17 “(i) restrict Administration access to  
18 program activity data; or

19 “(ii) prevent the Administration from  
20 using client information (other than the in-  
21 formation described in subparagraph (A))  
22 to conduct client surveys.

23 “(C) REGULATIONS.—The Administrator  
24 shall issue regulations to establish standards for

1 requiring disclosures during a financial audit  
2 under subparagraph (A)(ii).

3 “(11) TRANSITION RULES.—

4 “(A) IN GENERAL.—Notwithstanding any  
5 other provision of law, a grant or cooperative  
6 agreement that was awarded as an eligible sus-  
7 tainability grant, from amounts appropriated  
8 for fiscal year 2003, to operate a women’s busi-  
9 ness center, shall remain in full force and effect  
10 under the terms, and for the duration, of such  
11 agreement, subject to the grant limitation in  
12 paragraph (1).

13 “(B) EXTENSION.—If the sustainability  
14 grant under subparagraph (A) is scheduled to  
15 expire not later than June 30, 2005, a 1-year  
16 extension shall be granted without any interrup-  
17 tion of funding, subject to the grant limitation  
18 in paragraph (1).

19 “(C) EFFECT ON CERTAIN EXISTING  
20 PROJECTS AND RENEWAL AUTHORITY.—A  
21 project being conducted by a women’s business  
22 center under this subsection on the day before  
23 the date of enactment of the Small Business  
24 Administration 50th Anniversary Reauthoriza-  
25 tion Act of 2003—

1                   “(i) as a 5-year project, shall remain  
2                   in full force and effect under the terms  
3                   and for the duration of that agreement;  
4                   and

5                   “(ii) shall be eligible to apply for a 3-  
6                   year renewal grant funded at a level equal  
7                   to not more than \$150,000 per year.

8           “(c) ASSOCIATIONS OF WOMEN’S BUSINESS CEN-  
9   TERS.—

10                   “(1) RECOGNITION.—The Administration shall  
11                   recognize the existence and activities of any associa-  
12                   tion of women’s business centers established to ad-  
13                   dress matters of common concern.

14                   “(2) CONSULTATION.—The Administration  
15                   shall consult with each association of women’s busi-  
16                   ness centers (as defined in subsection (a)) to  
17                   develop—

18                   “(A) a training program for the staff of  
19                   the women’s business centers and the Adminis-  
20                   tration; and

21                   “(B) recommendations to improve the poli-  
22                   cies and procedures for governing the general  
23                   operations and administration of the Women’s  
24                   Business Center Program, including grant pro-  
25                   gram improvements under subsection (g)(5).”.

1 (b) CONFORMING AMENDMENTS.—Section 29 of the  
2 Small Business Act (15 U.S.C. 656) is amended—

3 (1) by redesignating subsections (g), (h), (i),  
4 (j), and (k) as subsections (d), (e), (f), (g), and (h),  
5 respectively;

6 (2) in subsection (e)(2), as redesignated by  
7 paragraph (1) of this subsection, by striking “to  
8 award a contract (as a sustainability grant) under  
9 subsection (l) or”;

10 (3) in subsection (g)(1), as redesignated by  
11 paragraph (1) of this subsection, by striking “The  
12 Administration” and inserting “Not later than No-  
13 vember 1st of each year, the Administration”;

14 (4) in subsection (h), as redesignated by para-  
15 graph (1) of this subsection—

16 (A) by amending paragraph (1) to read as  
17 follows:

18 “(1) IN GENERAL.—There are authorized to be  
19 appropriated to carry out the provisions of this sec-  
20 tion, to remain available until expended—

21 “(A) \$15,000,000 for fiscal year 2004, of  
22 which \$500,000 may be used to provide supple-  
23 mental sustainability grants to women’s busi-  
24 ness centers, except that no such center may re-  
25 ceive more than a total of \$125,000 in grant

1 funding for the grant period beginning on July  
2 1, 2003 and ending on June 30, 2004;

3 “(B) \$16,000,000 for fiscal year 2005; and

4 “(C) \$17,500,000 for fiscal year 2006.”;

5 (B) by amending paragraph (2) to read as  
6 follows:

7 “(2) USE OF AMOUNTS.—Amounts made avail-  
8 able under this subsection may only be used for  
9 grant awards and may not be used for costs incurred  
10 by the Administration in connection with the man-  
11 agement and administration of the program under  
12 this section.”; and

13 (C) by striking paragraph (4); and

14 (5) by striking subsection (l).

15 **SEC. 313. NATIONAL WOMEN’S BUSINESS COUNCIL.**

16 (a) COSPONSORSHIP AUTHORITY.—Section 406 of  
17 the Women’s Business Ownership Act of 1988 (15 U.S.C.  
18 7106) is amended by adding at the end the following:

19 “(f) COSPONSORSHIP AUTHORITY.—The Council is  
20 authorized to enter into agreements as cosponsors with  
21 public and private entities, in the same manner as is pro-  
22 vided in section 8(b)(1)(A) of the Small Business Act (15  
23 U.S.C. 637(b)(1)(A)), to carry out its duties under this  
24 section.”.



1 (b) MEMBERSHIP.—Section 407(f) of the Women’s  
2 Business Ownership Act of 1988 (15 U.S.C. 7107(f)) is  
3 amended by adding at the end the following:

4 “(3) REPRESENTATION OF MEMBER ORGANIZA-  
5 TIONS.—Notwithstanding subsection (b), a national  
6 women’s business organization or small business  
7 that is represented on the Council may, in consulta-  
8 tion with the chairperson of the Council, replace its  
9 representative member on the Council at any time  
10 during the service term to which that member was  
11 appointed.”.

12 (c) ESTABLISHMENT OF COMMITTEES.—Title IV of  
13 the Women’s Business Ownership Act of 1988 (15 U.S.C.  
14 7101 et seq.) is amended by inserting after section 410,  
15 the following new section:

16 **“SEC. 411. COMMITTEES.**

17 “(a) ESTABLISHMENT.—There are established within  
18 the Council—

19 “(1) the Committee on Manufacturing, Tech-  
20 nology, and Professional Services;

21 “(2) the Committee on Travel, Tourism, Prod-  
22 uct and Retail Sales, and International Trade; and

23 “(3) the Committee on Federal Procurement  
24 and Contracting.

1       “(b) DUTIES.—The Committees established under  
2 subsection (a) shall perform such duties as the chairperson  
3 shall direct.”.

4       (d) CLEARINGHOUSE FOR HISTORICAL DOCU-  
5 MENTS.—Section 409 of the Women’s Business Owner-  
6 ship Act of 1988 (15 U.S.C. 7109) is amended by adding  
7 at the end the following:

8       “(c) CLEARINGHOUSE FOR HISTORICAL DOCU-  
9 MENTS.—The Council shall serve as a clearinghouse for  
10 information on small businesses owned and controlled by  
11 women, including research conducted by other organiza-  
12 tions and individuals relating to ownership by women of  
13 small businesses in the United States.”.

14       (e) AUTHORIZATION OF APPROPRIATIONS.—Section  
15 410(a) of the Women’s Business Ownership Act of 1988  
16 (15 U.S.C. 7110(a)) is amended by striking “2001  
17 through 2003, of which \$550,000” and inserting “2004  
18 through 2006, of which at least 30 percent”.

19 **SEC. 314. INTERAGENCY COMMITTEE ON WOMEN’S BUSI-**  
20 **NESS ENTERPRISE.**

21       (a) CHAIRPERSON.—Section 403(b) of the Women’s  
22 Business Ownership Act of 1988 (15 U.S.C. 7103(b)) is  
23 amended—

24               (1) by striking “Not later” and inserting the  
25 following:

1 “(1) IN GENERAL.—Not later”; and

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

3 “(2) VACANCY.—In the event that a chair-  
4 person is not appointed under paragraph (1), the  
5 Deputy Administrator of the Small Business Admin-  
6 istration shall serve as acting chairperson of the  
7 Interagency Committee until a chairperson is ap-  
8 pointed under paragraph (1).”.

9 (b) POLICY ADVISORY GROUP.—Section 401 of the  
10 Women’s Business Ownership Act of 1988 (15 U.S.C.  
11 7101) is amended—

12 (1) by striking “There” and inserting the fol-  
13 lowing:

14 “(a) IN GENERAL.—There”; and

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

16 “(b) POLICY ADVISORY GROUP.—

17 “(1) ESTABLISHMENT.—There is established a  
18 Policy Advisory Group to assist the chairperson in  
19 developing policies and programs under this Act.

20 “(2) MEMBERSHIP.—The Policy Advisory  
21 Group shall be composed of 7 policy making offi-  
22 cials, of whom—

23 “(A) 1 shall be a representative of the  
24 Small Business Administration;

1           “(B) 1 shall be a representative of the De-  
2           partment of Commerce;

3           “(C) 1 shall be a representative of the De-  
4           partment of Labor;

5           “(D) 1 shall be a representative of the De-  
6           partment of Defense;

7           “(E) 1 shall be a representative of the De-  
8           partment of the Treasury; and

9           “(F) 2 shall be representatives of the Na-  
10          tional Women’s Business Council.”.

11          (c) ESTABLISHMENT OF SUBCOMMITTEES.—Section  
12 401 of the Women’s Business Ownership Act of 1988 (15  
13 U.S.C. 7101), as amended by subsection (b), is further  
14 amended by adding at the end the following:

15          “(c) SUBCOMMITTEES.—

16                 “(1)           ESTABLISHMENT.—There           are  
17           established—

18                 “(A) the Subcommittee on Manufacturing,  
19           Technology, and Professional Services;

20                 “(B) the Subcommittee on Travel, Tour-  
21           ism, Product and Retail Sales, and Inter-  
22           national Trade; and

23                 “(C) the Subcommittee on Federal Pro-  
24           curement and Contracting.

1           “(2) DUTIES.—The Subcommittees established  
2 under paragraph (1) shall perform such duties as  
3 the chairperson shall direct.

4           “(3) MEETINGS.—The Interagency Committee  
5 shall meet not less frequently than 3 times each year  
6 to—

7                   “(A) plan activities for the new fiscal year;

8                   “(B) track year-to-date agency contracting  
9 goals; and

10                   “(C) evaluate the progress during the fis-  
11 cal year and prepare an annual report.”.

12 **SEC. 315. PRESERVING THE INDEPENDENCE OF THE NA-**  
13 **TIONAL WOMEN’S BUSINESS COUNCIL.**

14           (a) SHORT TITLE.—This section may be cited as the  
15 “National Women’s Business Council Independence Pres-  
16 ervation Act of 2003”.

17           (b) FINDINGS.—Congress finds the following:

18                   (1) The National Women’s Business Council  
19 provides an independent source of advice and policy  
20 recommendations regarding women’s business devel-  
21 opment and the needs of women entrepreneurs in  
22 the United States to—

23                           (A) the President;

24                           (B) Congress;

1 (C) the Interagency Committee on Wom-  
2 en's Business Enterprise; and

3 (D) the Administrator of the Small Busi-  
4 ness Administration.

5 (2) The members of the National Women's  
6 Business Council are small business owners, rep-  
7 resentatives of business organizations, and rep-  
8 resentatives of women's business centers.

9 (3) The chair and ranking member of the Com-  
10 mittee on Small Business and Entrepreneurship of  
11 the Senate and the Committee on Small Business of  
12 the House of Representatives make recommenda-  
13 tions to the Administrator to fill 8 of the positions  
14 on the National Women's Business Council. Four of  
15 the positions are reserved for small business owners  
16 who are affiliated with the political party of the  
17 President and 4 of the positions are reserved for  
18 small business owners who are not affiliated with the  
19 political party of the President. This method of ap-  
20 pointment ensures that the National Women's Busi-  
21 ness Council will provide Congress with nonpartisan,  
22 balanced, and independent advice.

23 (4) In order to maintain the independence of  
24 the National Women's Business Council and to en-  
25 sure that the Council continues to provide Congress

1 with advice on a nonpartisan basis, it is essential  
2 that the Council maintain the bipartisan balance es-  
3 tablished under section 407 of the Women’s Busi-  
4 ness Ownership Act of 1988 (15 U.S.C. 7107).

5 (c) MAINTENANCE OF PARTISAN BALANCE.—Section  
6 407(f) of the Women’s Business Ownership Act of 1988  
7 (15 U.S.C. 7107(f)) is amended—

8 (1) by striking “A vacancy” and inserting the  
9 following:

10 “(1) IN GENERAL.—A vacancy”; and

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

12 “(2) PARTISAN BALANCE.—When filling vacan-  
13 cies under paragraph (1), the Administrator shall, to  
14 the extent practicable, ensure that there are an  
15 equal number of members on the Council from each  
16 of the 2 major political parties.

17 “(3) ACCOUNTABILITY.—If a vacancy is not  
18 filled within the 30-day period required under para-  
19 graph (1) or if there exists an imbalance of party-  
20 affiliated members on the Council for a period ex-  
21 ceeding 30 days, the Administrator shall submit a  
22 report, not later than 10 days after the respective  
23 30-day deadline, to the Committee on Small Busi-  
24 ness and Entrepreneurship of the Senate and the  
25 Committee on Small Business of the House of Rep-

1 representatives, that explains why the respective dead-  
2 line was not met and provides an estimated date on  
3 which any vacancies will be filled.”.

## 4 **Subtitle C—Office of Native** 5 **American Affairs**

### 6 **SEC. 321. SHORT TITLE.**

7 This subtitle may be cited as the “Native American  
8 Small Business Development Act”.

### 9 **SEC. 322. NATIVE AMERICAN SMALL BUSINESS DEVELOP-** 10 **MENT PROGRAM.**

11 The Small Business Act (15 U.S.C. 631 et seq.) is  
12 amended—

13 (1) by redesignating section 36 as section 37;

14 and

15 (2) by inserting after section 35 the following:

### 16 **“SEC. 36. NATIVE AMERICAN SMALL BUSINESS DEVELOP-** 17 **MENT PROGRAM.**

18 “(a) DEFINITIONS.—In this section—

19 “(1) the term ‘Alaska Native’ has the same  
20 meaning as the term ‘Native’ in section 3(b) of the  
21 Alaska Native Claims Settlement Act (43 U.S.C.  
22 1602(b));

23 “(2) the term ‘Alaska Native corporation’ has  
24 the same meaning as the term ‘Native Corporation’



1 in section 3(m) of the Alaska Native Claims Settle-  
2 ment Act (43 U.S.C. 1602(m));

3 “(3) the term ‘Assistant Administrator’ means  
4 the Assistant Administrator of the Office of Native  
5 American Affairs established under subsection (b);

6 “(4) the terms ‘center’ and ‘Native American  
7 business center’ mean a center established under  
8 subsection (c);

9 “(5) the term ‘Native American business devel-  
10 opment center’ means an entity providing business  
11 development assistance to federally recognized tribes  
12 and Native Americans under a grant from the Mi-  
13 nority Business Development Agency of the Depart-  
14 ment of Commerce;

15 “(6) the term ‘Native American small business  
16 concern’ means a small business concern that is  
17 owned and controlled by—

18 “(A) a member of an Indian tribe or tribal  
19 government;

20 “(B) an Alaska Native or Alaska Native  
21 corporation; or

22 “(C) a Native Hawaiian or Native Hawai-  
23 ian organization;

1           “(7) the term ‘Native Hawaiian’ has the same  
2 meaning as in section 625 of the Older Americans  
3 Act of 1965 (42 U.S.C. 3057k);

4           “(8) the term ‘Native Hawaiian organization’  
5 has the same meaning as in section 8(a)(15) of this  
6 Act;

7           “(9) the term ‘tribal college’ has the same  
8 meaning as the term ‘tribally controlled college or  
9 university’ has in section 2(a)(4) of the Tribally  
10 Controlled Community College Assistance Act of  
11 1978 (25 U.S.C. 1801(a)(4));

12           “(10) the term ‘tribal government’ has the  
13 same meaning as the term ‘Indian tribe’ has in sec-  
14 tion 7501(a)(9) of title 31, United States Code; and

15           “(11) the term ‘tribal lands’ means all lands  
16 within the exterior boundaries of any Indian reserva-  
17 tion.

18           “(b) OFFICE OF NATIVE AMERICAN AFFAIRS.—

19           “(1) ESTABLISHMENT.—There is established  
20 within the Administration the Office of Native  
21 American Affairs, which, under the direction of the  
22 Assistant Administrator, shall implement the Admin-  
23 istration’s programs for the development of business  
24 enterprises by Native Americans.

1           “(2) PURPOSE.—The purpose of the Office of  
2 Native American Affairs is to assist Native Amer-  
3 ican entrepreneurs to—

4           “(A) start, operate, and grow small busi-  
5 ness concerns;

6           “(B) develop management and technical  
7 skills;

8           “(C) seek Federal procurement opportuni-  
9 ties;

10          “(D) increase employment opportunities  
11 for Native Americans through the start and ex-  
12 pansion of small business concerns; and

13          “(E) increase the access of Native Ameri-  
14 cans to capital markets.

15          “(3) ASSISTANT ADMINISTRATOR.—

16          “(A) APPOINTMENT.—The Administrator  
17 shall appoint a qualified individual to serve as  
18 Assistant Administrator of the Office of Native  
19 American Affairs in accordance with this para-  
20 graph.

21          “(B) QUALIFICATIONS.—The Assistant  
22 Administrator appointed under subparagraph  
23 (A) shall have—

24           “(i) knowledge of the Native Amer-  
25 ican culture; and

1           “(ii) experience providing culturally  
2           tailored small business development assist-  
3           ance to Native Americans.

4           “(C) EMPLOYMENT STATUS.—The Assist-  
5           ant Administrator shall be a Senior Executive  
6           Service position under section 3132(a)(2) of  
7           title 5, United States Code, and shall serve as  
8           a noncareer appointee, as defined in section  
9           3132(a)(7) of title 5, United States Code.

10          “(D) RESPONSIBILITIES AND DUTIES.—  
11          The Assistant Administrator shall—

12           “(i) administer and manage the Na-  
13           tive American Small Business Development  
14           program established under this section;

15           “(ii) recommend the annual adminis-  
16           trative and program budgets for the Office  
17           of Native American Affairs;

18           “(iii) consult with Native American  
19           business centers in carrying out the pro-  
20           gram established under this section;

21           “(iv) recommend appropriate funding  
22           levels;

23           “(v) review the annual budgets sub-  
24           mitted by each applicant for the Native

1 American Small Business Development  
2 program;

3 “(vi) select applicants to participate in  
4 the program under this section;

5 “(vii) implement this section; and

6 “(viii) maintain a clearinghouse to  
7 provide for the dissemination and exchange  
8 of information between Native American  
9 business centers.

10 “(E) CONSULTATION REQUIREMENTS.—In  
11 carrying out the responsibilities and duties de-  
12 scribed in this paragraph, the Assistant Admin-  
13 istrator shall confer with and seek the advice  
14 of—

15 “(i) Administration officials working  
16 in areas served by Native American busi-  
17 ness centers and Native American business  
18 development centers;

19 “(ii) the Bureau of Indian Affairs of  
20 the Department of the Interior;

21 “(iii) tribal governments;

22 “(iv) tribal colleges;

23 “(v) Alaska Native corporations; and

24 “(vi) Native Hawaiian organizations.

1       “(c) NATIVE AMERICAN SMALL BUSINESS DEVELOP-  
2   MENT PROGRAM.—

3               “(1) AUTHORIZATION.—

4                       “(A) IN GENERAL.—The Administration,  
5                       through the Office of Native American Affairs,  
6                       shall provide financial assistance to tribal gov-  
7                       ernments, tribal colleges, Native Hawaiian or-  
8                       ganizations, and Alaska Native corporations to  
9                       create Native American business centers in ac-  
10                      cordance with this section.

11                     “(B) USE OF FUNDS.—The financial and  
12                     resource assistance provided under this sub-  
13                     section shall be used to overcome obstacles im-  
14                     peding the creation, development, and expan-  
15                     sion of small business concerns, in accordance  
16                     with this section, by—

17                               “(i) reservation-based American Indi-  
18                               ans;

19                               “(ii) Alaska Natives; and

20                               “(iii) Native Hawaiians.

21               “(2) 5-YEAR PROJECTS.—

22                       “(A) IN GENERAL.—Each Native Amer-  
23                       ican business center that receives assistance  
24                       under paragraph (1)(A) shall conduct 5-year

1 projects that offer culturally tailored business  
2 development assistance in the form of—

3 “(i) financial education, including  
4 training and counseling in—

5 “(I) applying for and securing  
6 business credit and investment cap-  
7 ital;

8 “(II) preparing and presenting fi-  
9 nancial statements; and

10 “(III) managing cash flow and  
11 other financial operations of a busi-  
12 ness concern;

13 “(ii) management education, including  
14 training and counseling in planning, orga-  
15 nizing, staffing, directing, and controlling  
16 each major activity and function of a small  
17 business concern; and

18 “(iii) marketing education, including  
19 training and counseling in—

20 “(I) identifying and segmenting  
21 domestic and international market op-  
22 portunities;

23 “(II) preparing and executing  
24 marketing plans;

1 “(III) developing pricing strate-  
2 gies;

3 “(IV) locating contract opportu-  
4 nities;

5 “(V) negotiating contracts; and

6 “(VI) utilizing varying public re-  
7 lations and advertising techniques.

8 “(B) BUSINESS DEVELOPMENT ASSIST-  
9 ANCE RECIPIENTS.—The business development  
10 assistance under subparagraph (A) shall be of-  
11 fered to prospective and current owners of small  
12 business concerns that are owned by—

13 “(i) American Indians or tribal gov-  
14 ernments, and located on or near tribal  
15 lands;

16 “(ii) Alaska Natives or Alaska Native  
17 corporations; or

18 “(iii) Native Hawaiians or Native Ha-  
19 waiian organizations.

20 “(3) FORM OF FEDERAL FINANCIAL ASSIST-  
21 ANCE.—

22 “(A) DOCUMENTATION.—

23 “(i) IN GENERAL.—The financial as-  
24 sistance to Native American business cen-  
25 ters authorized under this subsection may



1 be made by grant, contract, or cooperative  
2 agreement.

3 “(ii) EXCEPTION.—Financial assist-  
4 ance under this subsection to Alaska Na-  
5 tive corporations or Native Hawaiian orga-  
6 nizations may only be made by grant.

7 “(B) PAYMENTS.—

8 “(i) TIMING.—Payments made under  
9 this subsection may be disbursed in an an-  
10 nual lump sum or in periodic installments,  
11 at the request of the recipient.

12 “(ii) ADVANCE.—The Administration  
13 may disburse not more than 25 percent of  
14 the annual amount of Federal financial as-  
15 sistance awarded to a Native American  
16 small business center after notice of the  
17 award has been issued.

18 “(iii) NO MATCHING REQUIREMENT.—  
19 The Administration shall not require a  
20 grant recipient to match grant funding re-  
21 ceived under this subsection with non-Fed-  
22 eral resources as a condition of receiving  
23 the grant.

24 “(4) CONTRACT AND COOPERATIVE AGREE-  
25 MENT AUTHORITY.—A Native American business

1 center may enter into a contract or cooperative  
2 agreement with a Federal department or agency to  
3 provide specific assistance to Native American and  
4 other under-served small business concerns located  
5 on or near tribal lands, to the extent that such con-  
6 tract or cooperative agreement is consistent with the  
7 terms of any assistance received by the Native  
8 American business center from the Administration.

9 “(5) APPLICATION PROCESS.—

10 “(A) SUBMISSION OF A 5-YEAR PLAN.—

11 Each applicant for assistance under paragraph  
12 (1) shall submit a 5-year plan to the Adminis-  
13 tration on proposed assistance and training ac-  
14 tivities.

15 “(B) CRITERIA.—

16 “(i) IN GENERAL.—The Administra-  
17 tion shall evaluate and rank applicants in  
18 accordance with predetermined selection  
19 criteria that shall be stated in terms of rel-  
20 ative importance.

21 “(ii) PUBLIC NOTICE.—The criteria  
22 required by this paragraph and their rel-  
23 ative importance shall be made publicly  
24 available, within a reasonable time, and

1 stated in each solicitation for applications  
2 made by the Administration.

3 “(iii) CONSIDERATIONS.—The criteria  
4 required by this paragraph shall include—

5 “(I) the experience of the appli-  
6 cant in conducting programs or ongo-  
7 ing efforts designed to impart or up-  
8 grade the business skills of current or  
9 potential owners of Native American  
10 small business concerns;

11 “(II) the ability of the applicant  
12 to commence a project within a min-  
13 imum amount of time;

14 “(III) the ability of the applicant  
15 to provide quality training and serv-  
16 ices to a significant number of Native  
17 Americans;

18 “(IV) previous assistance from  
19 the Small Business Administration to  
20 provide services in Native American  
21 communities; and

22 “(V) the proposed location for  
23 the Native American business center  
24 site, with priority given based on the  
25 proximity of the center to the popu-

1                   lation being served and to achieve a  
2                   broad geographic dispersion of the  
3                   centers.

4                   “(6) PROGRAM EXAMINATION.—

5                   “(A) IN GENERAL.—Each Native Amer-  
6                   ican business center established pursuant to  
7                   this subsection shall annually provide the Ad-  
8                   ministration with an itemized cost breakdown of  
9                   actual expenditures incurred during the pre-  
10                  ceding year.

11                  “(B) ADMINISTRATION ACTION.—Based on  
12                  information received under subparagraph (A),  
13                  the Administration shall—

14                         “(i) develop and implement an annual  
15                         programmatic and financial examination of  
16                         each Native American business center as-  
17                         sisted pursuant to this subsection; and

18                         “(ii) analyze the results of each exam-  
19                         ination conducted under clause (i) to deter-  
20                         mine the programmatic and financial via-  
21                         bility of each Native American business  
22                         center.

23                         “(C) CONDITIONS FOR CONTINUED FUND-  
24                         ING.—In determining whether to renew a grant,  
25                         contract, or cooperative agreement with a Na-

1           tive American business center, the  
2           Administration—

3                   “(i) shall consider the results of the  
4                   most recent examination of the center  
5                   under subparagraph (B), and, to a lesser  
6                   extent, previous examinations; and

7                   “(ii) may withhold such renewal, if  
8                   the Administration determines that—

9                           “(I) the center has failed to pro-  
10                           vide adequate information required to  
11                           be provided under subparagraph (A),  
12                           or the information provided by the  
13                           center is inadequate; or

14                           “(II) the center has failed to pro-  
15                           vide adequate information required to  
16                           be provided by the center for purposes  
17                           of the report of the Administration  
18                           under subparagraph (E).

19                   “(D) CONTINUING CONTRACT AND COOP-  
20                   ERATIVE AGREEMENT AUTHORITY.—

21                           “(i) IN GENERAL.—The authority of  
22                           the Administrator to enter into contracts  
23                           or cooperative agreements in accordance  
24                           with this subsection shall be in effect for  
25                           each fiscal year only to the extent and in

1 the amounts as are provided in advance in  
2 appropriations Acts.

3 “(ii) RENEWAL.—After the Adminis-  
4 trator has entered into a contract or coop-  
5 erative agreement with any Native Amer-  
6 ican business center under this subsection,  
7 it shall not suspend, terminate, or fail to  
8 renew or extend any such contract or coop-  
9 erative agreement unless the Administrator  
10 provides the center with written notifica-  
11 tion setting forth the reasons therefore and  
12 affords the center an opportunity for a  
13 hearing, appeal, or other administrative  
14 proceeding under chapter 5 of title 5,  
15 United States Code.

16 “(E) MANAGEMENT REPORT.—

17 “(i) IN GENERAL.—The Administra-  
18 tion shall prepare and submit to the Com-  
19 mittee on Small Business and Entrepre-  
20 neurship of the Senate and the Committee  
21 on Small Business of the House of Rep-  
22 resentatives an annual report on the effec-  
23 tiveness of all projects conducted by Native  
24 American business centers under this sub-  
25 section and any pilot programs adminis-

1           tered by the Office of Native American Af-  
2           fairs.

3           “(ii) CONTENTS.—Each report sub-  
4           mitted under clause (i) shall include, with  
5           respect to each Native American business  
6           center receiving financial assistance under  
7           this subsection—

8                   “(I) the number of individuals re-  
9                   ceiving assistance from the Native  
10                  American business center;

11                  “(II) the number of startup busi-  
12                  ness concerns created;

13                  “(III) the number of existing  
14                  businesses seeking to expand employ-  
15                  ment;

16                  “(IV) jobs created or maintained,  
17                  on an annual basis, by Native Amer-  
18                  ican small business concerns assisted  
19                  by the center since receiving funding  
20                  under this Act;

21                  “(V) to the maximum extent  
22                  practicable, the capital investment and  
23                  loan financing utilized by emerging  
24                  and expanding businesses that were

1           assisted by a Native American busi-  
2           ness center; and

3                   “(VI) the most recent examina-  
4           tion, as required under subparagraph  
5           (B), and the subsequent determina-  
6           tion made by the Administration  
7           under that subparagraph.

8           “(7) ANNUAL REPORT.—Each entity receiving  
9           financial assistance under this subsection shall annu-  
10          ally report to the Administration on the services pro-  
11          vided with such financial assistance, including—

12                   “(A) the number of individuals assisted,  
13           categorized by ethnicity;

14                   “(B) the number of hours spent providing  
15           counseling and training for those individuals;

16                   “(C) the number of startup small business  
17           concerns created or maintained;

18                   “(D) the gross receipts of assisted small  
19           business concerns;

20                   “(E) the number of jobs created or main-  
21           tained at assisted small business concerns; and

22                   “(F) the number of Native American jobs  
23           created or maintained at assisted small business  
24           concerns.

25          “(8) RECORD RETENTION.—



1           “(A) APPLICATIONS.—The Administration  
2           shall maintain a copy of each application sub-  
3           mitted under this subsection for not less than  
4           7 years.

5           “(B) ANNUAL REPORTS.—The Administra-  
6           tion shall maintain copies of the information  
7           collected under paragraph (6)(A) indefinitely.

8           “(d) AUTHORIZATION OF APPROPRIATIONS.—There  
9           are authorized to be appropriated \$5,000,000 for each of  
10          the fiscal years 2004 through 2008, to carry out the Na-  
11          tive American Small Business Development Program, au-  
12          thorized under subsection (c).”.

13   **SEC. 323. PILOT PROGRAMS.**

14          (a) DEFINITIONS.—In this section, the following defi-  
15          nitions shall apply:

16               (1) INCORPORATION BY REFERENCE.—The  
17               terms defined in section 36(a) of the Small Business  
18               Act (as added by this Act) have the same meanings  
19               as in that section 36(a) when used in this section.

20               (2) JOINT PROJECT.—The term “joint project”  
21               means the combined resources and expertise of 2 or  
22               more distinct entities at a physical location dedi-  
23               cated to assisting the Native American community.

24          (b) NATIVE AMERICAN DEVELOPMENT GRANT PILOT  
25          PROGRAM.—

1 (1) AUTHORIZATION.—

2 (A) IN GENERAL.—There is established a  
3 4-year pilot program under which the Adminis-  
4 tration is authorized to award Native American  
5 development grants to provide culturally tai-  
6 lored business development training and related  
7 services to Native Americans and Native Amer-  
8 ican small business concerns.

9 (B) ELIGIBLE ORGANIZATIONS.—The  
10 grants authorized under subparagraph (A) may  
11 be awarded to—

12 (i) any small business development  
13 center; or

14 (ii) any private, nonprofit organization  
15 that—

16 (I) has members of an Indian  
17 tribe comprising a majority of its  
18 board of directors;

19 (II) is a Native Hawaiian organi-  
20 zation; or

21 (III) is an Alaska Native cor-  
22 poration.

23 (C) AMOUNTS.—The Administration shall  
24 not award a grant under this subsection in an

1 amount which exceeds \$100,000 for each year  
2 of the project.

3 (D) GRANT DURATION.—Each grant under  
4 this subsection shall be awarded for not less  
5 than a 2-year period and not more than a 4-  
6 year period.

7 (2) CONDITIONS FOR PARTICIPATION.—Each  
8 entity desiring a grant under this subsection shall  
9 submit an application to the Administration that  
10 contains—

11 (A) a certification that the applicant—

12 (i) is a small business development  
13 center or a private, nonprofit organization  
14 under paragraph (1)(B)(i);

15 (ii) employs an executive director or  
16 program manager to manage the facility;  
17 and

18 (iii) agrees—

19 (I) to a site visit as part of the  
20 final selection process;

21 (II) to an annual programmatic  
22 and financial examination; and

23 (III) to the maximum extent  
24 practicable, to remedy any problems

1 identified pursuant to that site visit or  
2 examination;

3 (B) information demonstrating that the  
4 applicant has the ability and resources to meet  
5 the needs, including cultural needs, of the Na-  
6 tive Americans to be served by the grant;

7 (C) information relating to proposed assist-  
8 ance that the grant will provide, including—

9 (i) the number of individuals to be as-  
10 sisted; and

11 (ii) the number of hours of counseling,  
12 training, and workshops to be provided;

13 (D) information demonstrating the effec-  
14 tive experience of the applicant in—

15 (i) conducting financial, management,  
16 and marketing assistance programs de-  
17 signed to impart or upgrade the business  
18 skills of current or prospective Native  
19 American business owners;

20 (ii) providing training and services to  
21 a representative number of Native Ameri-  
22 cans;

23 (iii) using resource partners of the  
24 Administration and other entities, includ-

1           ing universities, tribal governments, or  
2           tribal colleges; and

3                   (iv) the prudent management of fi-  
4           nances and staffing;

5                   (E) the location where the applicant will  
6           provide training and services to Native Ameri-  
7           cans; and

8                   (F) a multiyear plan, corresponding to the  
9           length of the grant, that describes—

10                   (i) the number of Native Americans  
11           and Native American small business con-  
12           cerns to be served by the grant;

13                   (ii) in the continental United States,  
14           the number of Native Americans to be  
15           served by the grant; and

16                   (iii) the training and services to be  
17           provided to a representative number of Na-  
18           tive Americans.

19           (3) REVIEW OF APPLICATIONS.—The Adminis-  
20           tration shall—

21                   (A) evaluate and rank applicants under  
22           paragraph (2) in accordance with predeter-  
23           mined selection criteria that is stated in terms  
24           of relative importance;

1 (B) include such criteria in each solicita-  
2 tion under this subsection and make such infor-  
3 mation available to the public; and

4 (C) approve or disapprove each completed  
5 application submitted under this subsection not  
6 more than 60 days after submission.

7 (4) ANNUAL REPORT.—Each recipient of a Na-  
8 tive American development grant under this sub-  
9 section shall annually report to the Administration  
10 on the impact of the grant funding, including—

11 (A) the number of individuals assisted, cat-  
12 egorized by ethnicity;

13 (B) the number of hours spent providing  
14 counseling and training for those individuals;

15 (C) the number of startup small business  
16 concerns created or maintained with assistance  
17 from a Native American business center;

18 (D) the gross receipts of assisted small  
19 business concerns;

20 (E) the number of jobs created or main-  
21 tained at assisted small business concerns; and

22 (F) the number of Native American jobs  
23 created or maintained at assisted small business  
24 concerns.

25 (5) RECORD RETENTION.—

1           (A) APPLICATIONS.—The Administration  
2 shall maintain a copy of each application sub-  
3 mitted under this subsection for not less than  
4 7 years.

5           (B) ANNUAL REPORTS.—The Administra-  
6 tion shall maintain copies of the information  
7 collected under paragraph (4) indefinitely.

8           (c) AMERICAN INDIAN TRIBAL ASSISTANCE CENTER  
9 GRANT PILOT PROGRAM.—

10           (1) AUTHORIZATION.—

11           (A) IN GENERAL.—There is established a  
12 4-year pilot program, under which the Adminis-  
13 tration shall award not less than 3 American  
14 Indian Tribal Assistance Center grants to es-  
15 tablish joint projects to provide culturally tai-  
16 lored business development assistance to pro-  
17 spective and current owners of small business  
18 concerns located on or near tribal lands.

19           (B) ELIGIBLE ORGANIZATIONS.—

20           (i) CLASS 1.—Not fewer than 1 grant  
21 shall be awarded to a joint project per-  
22 formed by a Native American business cen-  
23 ter, a Native American business develop-  
24 ment center, and a small business develop-  
25 ment center.

1           (ii) CLASS 2.—Not fewer than 2  
2           grants shall be awarded to joint projects  
3           performed by a Native American business  
4           center and a Native American business de-  
5           velopment center.

6           (C) AMOUNTS.—The Administration shall  
7           not award a grant under this subsection in an  
8           amount which exceeds \$200,000 for each year  
9           of the project.

10          (D) GRANT DURATION.—Each grant under  
11          this subsection shall be awarded for a 3-year  
12          period.

13          (2) CONDITIONS FOR PARTICIPATION.—Each  
14          entity desiring a grant under this subsection shall  
15          submit to the Administration a joint application that  
16          contains—

17               (A) a certification that each participant of  
18               the joint application—

19                       (i) is either a Native American busi-  
20                       ness center, a Native American business  
21                       development center, or a small business de-  
22                       velopment center;

23                       (ii) employs an executive director or  
24                       program manager to manage the center;  
25                       and



1 (iii) as a condition of receiving the  
2 American Indian Tribal Assistance Center  
3 grant, agrees—

4 (I) to an annual programmatic  
5 and financial examination; and

6 (II) to the maximum extent prac-  
7 ticable, to remedy any problems iden-  
8 tified pursuant to that examination;

9 (B) information demonstrating an historic  
10 commitment to providing assistance to Native  
11 Americans—

12 (i) residing on or near tribal lands; or

13 (ii) operating a small business concern  
14 on or near tribal lands;

15 (C) information demonstrating that each  
16 participant of the joint application has the abil-  
17 ity and resources to meet the needs, including  
18 the cultural needs of the Native Americans to  
19 be served by the grant;

20 (D) information relating to proposed as-  
21 sistance that the grant will provide, including—

22 (i) the number of individuals to be as-  
23 sisted; and

24 (ii) the number of hours of counseling,  
25 training, and workshops to be provided;

1 (E) information demonstrating the effective  
2 experience of each participant of the joint  
3 application in—

4 (i) conducting financial, management,  
5 and marketing assistance programs, as described  
6 above, designed to impart or upgrade the business  
7 skills of current or prospective Native American  
8 business owners;  
9 and

10 (ii) the prudent management of finances  
11 and staffing; and

12 (F) a plan for the length of the grant, that  
13 describes—

14 (i) the number of Native Americans  
15 and Native American small business concerns  
16 to be served by the grant; and

17 (ii) the training and services to be  
18 provided.

19 (3) REVIEW OF APPLICATIONS.—The Administration  
20 shall—

21 (A) evaluate and rank applicants under  
22 paragraph (2) in accordance with predetermined  
23 selection criteria that is stated in terms  
24 of relative importance;

1 (B) include such criteria in each solicita-  
2 tion under this subsection and make such infor-  
3 mation available to the public; and

4 (C) approve or disapprove each application  
5 submitted under this subsection not more than  
6 60 days after submission.

7 (4) ANNUAL REPORT.—Each recipient of an  
8 American Indian tribal assistance center grant  
9 under this subsection shall annually report to the  
10 Administration on the impact of the grant funding  
11 received during the reporting year, and the cumu-  
12 lative impact of the grant funding received since the  
13 initiation of the grant, including—

14 (A) the number of individuals assisted, cat-  
15 egorized by ethnicity;

16 (B) the number of hours of counseling and  
17 training provided and workshops conducted;

18 (C) the number of startup business con-  
19 cerns created or maintained with assistance  
20 from a Native American business center;

21 (D) the gross receipts of assisted small  
22 business concerns;

23 (E) the number of jobs created or main-  
24 tained at assisted small business concerns; and

1 (F) the number of Native American jobs  
2 created or maintained at assisted small business  
3 concerns.

4 (5) RECORD RETENTION.—

5 (A) APPLICATIONS.—The Administration  
6 shall maintain a copy of each application sub-  
7 mitted under this subsection for not less than  
8 7 years.

9 (B) ANNUAL REPORTS.—The Administra-  
10 tion shall maintain copies of the information  
11 collected under paragraph (4) indefinitely.

12 (d) AUTHORIZATION OF APPROPRIATIONS.—There  
13 are authorized to be appropriated—

14 (1) \$1,000,000 for each of the fiscal years 2004  
15 through 2007, to carry out the Native American De-  
16 velopment Grant Pilot Program, authorized under  
17 subsection (b); and

18 (2) \$1,000,000 for each of the fiscal years 2004  
19 through 2007, to carry out the American Indian  
20 Tribal Assistance Center Grant Pilot Program, au-  
21 thorized under subsection (c).

1           **Subtitle D—Office of Veterans**  
2                   **Business Development**

3   **SEC. 331. ADVISORY COMMITTEE ON VETERANS BUSINESS**  
4                   **AFFAIRS.**

5           (a) **RETENTION OF DUTIES.**—Section 33(h) of the  
6 Small Business Act (15 U.S.C. 657c(h)) is amended by  
7 striking “October 1, 2004” and inserting “October 1,  
8 2006”.

9           (b) **EXTENSION OF AUTHORITY.**—Section 203(h) of  
10 the Veterans Entrepreneurship and Small Business Devel-  
11 opment Act of 1999 (15 U.S.C. 657b note) is amended  
12 by striking “September 30, 2004” and inserting “Sep-  
13 tember 30, 2006”.

14   **SEC. 332. OUTREACH GRANTS FOR VETERANS.**

15           Section 8(b)(17) of the Small Business Act (15  
16 U.S.C. 637(b)(17)) is amended by inserting before the pe-  
17 riod at the end the following: “, veterans, and members  
18 of a reserve component of the Armed Forces”.

19   **SEC. 333. AUTHORIZATION OF APPROPRIATIONS.**

20           Section 32 of the Small Business Act (15 U.S.C.  
21 657b) is amended by adding at the end the following:

22           “(c) **AUTHORIZATION OF APPROPRIATIONS.**—There  
23 are authorized to be appropriated for carrying out the pro-  
24 visions of this section—

25                   “(1) \$1,000,000 for fiscal year 2004;

1 “(2) \$1,500,000 for fiscal year 2005; and

2 “(3) \$2,000,000 for fiscal year 2006.”.

3 **TITLE IV—SMALL BUSINESS**  
4 **PROCUREMENT OPPORTUNITIES**

5 **SEC. 401. CONTRACT CONSOLIDATION.**

6 (a) DEFINITIONS.—Section 3(o) of the Small Busi-  
7 ness Act (15 U.S.C. 632(o)) is amended to read as follows:

8 “(o) DEFINITIONS RELATING TO CONSOLIDATION OF  
9 CONTRACT REQUIREMENTS.—In this Act—

10 “(1) the terms ‘consolidation of contract re-  
11 quirements’ and ‘consolidation’, with respect to con-  
12 tract requirements of a military department, De-  
13 fense Agency, Department of Defense Field Activity,  
14 or any other Federal department or agency having  
15 contracting authority mean a use of a solicitation to  
16 obtain offers for a single contract or a multiple  
17 award contract to satisfy 2 or more requirements of  
18 that department, agency, or activity for goods or  
19 services that—

20 “(A) have previously been provided to or  
21 performed for that department, agency, or ac-  
22 tivity under 2 or more separate contracts that  
23 are smaller in cost than the total cost of the  
24 contract for which the offers are solicited; or

1           “(B) are of a type capable of being pro-  
2           vided or performed by a small business concern  
3           for that department, agency, or activity under  
4           2 or more separate contracts that are smaller in  
5           cost than the total cost of the contract for  
6           which the offers are solicited;

7           “(2) the term ‘multiple award contract’  
8           means—

9           “(A) a contract that is entered into by the  
10           Administrator of General Services under the  
11           multiple award schedule program referred to in  
12           section 2302(2)(C) of title 10, United States  
13           Code;

14           “(B) a multiple award task order contract  
15           or delivery order contract that is entered into  
16           under the authority of sections 2304a through  
17           2304d of title 10, United States Code, or sec-  
18           tions 303H through 303K of the Federal Prop-  
19           erty and Administrative Services Act of 1949  
20           (41 U.S.C. 253h through 253k); and

21           “(C) any other indeterminate delivery, in-  
22           determinate quantity contract that is entered  
23           into by the head of a Federal agency with 2 or  
24           more sources pursuant to the same solicitation;  
25           and

1           “(3) the term ‘senior procurement executive’  
2 means—

3           “(A) with respect to a military department,  
4 the official designated under section 16(3) of  
5 the Office of Federal Procurement Policy Act  
6 (41 U.S.C. 414(3)) as the senior procurement  
7 executive for the military department;

8           “(B) with respect to a Defense Agency or  
9 a Department of Defense Field Activity, the of-  
10 ficial so designated for the Department of De-  
11 fense; and

12           “(C) with respect to a Federal department  
13 or agency other than those referred to in sub-  
14 paragraphs (A) and (B), the official so des-  
15 ignated by that department or agency.”.

16       (b) PROCUREMENT STRATEGIES.—Section 15(e) of  
17 the Small Business Act (15 U.S.C. 644(e)) is amended—

18           (1) in paragraph (2)—

19               (A) by striking “.—

20               “(A) IN GENERAL”; and

21               (B) by striking subparagraphs (B) and  
22               (C); and

23           (2) by striking paragraph (3) and inserting the  
24 following:



1           “(3) LIMITATION ON USE OF ACQUISITION  
2 STRATEGIES INVOLVING CONSOLIDATION.—

3           “(A) CERTAIN DEFENSE CONTRACT RE-  
4 QUIREMENTS.—An official of a military depart-  
5 ment, defense agency, or Department of De-  
6 fense Field Activity shall not execute an acqui-  
7 sition strategy that includes a consolidation of  
8 contract requirements of the military depart-  
9 ment, agency, or activity with a total value in  
10 excess of \$5,000,000, unless the senior procure-  
11 ment executive first—

12                   “(i) conducts market research;

13                   “(ii) identifies any alternative con-  
14 tracting approaches that would involve a  
15 lesser degree of consolidation of contract  
16 requirements; and

17                   “(iii) determines that the consolida-  
18 tion is necessary and justified.

19           “(B) CERTAIN CIVILIAN AGENCY CON-  
20 TRACT REQUIREMENTS.—The head of a Federal  
21 agency not described in subparagraph (A) that  
22 has contracting authority shall not execute an  
23 acquisition strategy that includes a consolida-  
24 tion of contract requirements of the agency with  
25 a total value in excess of \$2,000,000, unless the

1 senior procurement executive of the agency  
2 first—

3 “(i) conducts market research;

4 “(ii) identifies any alternative con-  
5 tracting approaches that would involve a  
6 lesser degree of consolidation of contract  
7 requirements; and

8 “(iii) determines that the consolida-  
9 tion is necessary and justified.

10 “(C) ADDITIONAL REQUIREMENTS FOR  
11 HIGHER VALUE CONSOLIDATED CONTRACTS.—

12 In addition to meeting the requirements under  
13 subparagraph (A) or (B), a procurement strat-  
14 egy by a civilian agency that includes a consoli-  
15 dated contract valued at more than \$5,000,000,  
16 or by a defense agency that includes a consoli-  
17 dated contract valued at more than \$7,000,000  
18 shall include—

19 “(i) an assessment of the specific im-  
20 pediments to participation by small busi-  
21 ness concerns as prime contractors that  
22 will result from the consolidation;

23 “(ii) actions designed to maximize  
24 small business participation as prime con-  
25 tractors, including provisions that encour-

1           age small business teaming for the consoli-  
2           dated requirement;

3           “(iii) actions designed to maximize  
4           small business participation as subcontractors (including suppliers) at any tier under  
5           the contract or contracts that may be  
6           awarded to meet the requirements; and  
7

8           “(iv) the identification of the alter-  
9           native strategies that would reduce or min-  
10          imize the scope of the consolidation and  
11          the rationale for not choosing those alter-  
12          natives.

13          “(D) NECESSARY AND JUSTIFIED.—A sen-  
14          ior procurement executive may determine that  
15          an acquisition strategy involving a consolidation  
16          of contract requirements is necessary and justi-  
17          fied for purposes of subparagraph (A), (B), or  
18          (C), if the benefits of the acquisition strategy  
19          substantially exceed the benefits of each of the  
20          possible alternative contracting approaches  
21          identified under clause (ii) of any of those sub-  
22          paragraphs, as applicable. However, savings in  
23          administrative or personnel costs alone do not  
24          constitute, for such purpose, a sufficient jus-  
25          tification for a consolidation of contract require-

1           ments in a procurement, unless the total  
2           amount of the cost savings is expected to be  
3           substantial in relation to the total cost of the  
4           procurement.

5           “(E) BENEFITS.—Benefits considered for  
6           purposes of this paragraph may include cost  
7           and, regardless of whether quantifiable in dollar  
8           amounts—

9                   “(i) quality;

10                   “(ii) acquisition cycle;

11                   “(iii) terms and conditions; and

12                   “(iv) any other benefit directly related  
13           to national security or homeland defense.”.

14           (c) REPORT REQUIREMENTS.—Section 15(p)(4)(B)  
15 of the Small Business Act (15 U.S.C. 644(p)(4)(B)) is  
16 amended—

17           (1) in clause (i), by striking “and” at the end;

18           (2) in clause (ii), by striking the period at the  
19           end and inserting the following: “; and”; and

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

21                   “(iii) a description of best practices  
22           for maximizing small business prime and  
23           subcontracting opportunities.”.

1 (d) PROCUREMENT CENTER REPRESENTATIVES.—  
2 Section 15(l) of the Small Business Act (15 U.S.C. 644(l))  
3 is amended—

4 (1) by striking “(l)(1)” and inserting “(2)”;

5 (2) by redesignating paragraphs (2) through  
6 (7) as paragraphs (3) through (8), respectively;

7 (3) by inserting before paragraph (2), as so re-  
8 designated, the following:

9 “(l)(1) The Administration shall assign not fewer  
10 than 1 procurement center representative at each major  
11 procurement center, in addition to no less than 1 for each  
12 State.”;

13 (4) in paragraph (2), as redesignated, by strik-  
14 ing “to the representative referred to in subsection  
15 (k)(6)” and inserting “to the traditional procure-  
16 ment center representative and the commercial mar-  
17 ket representative, with each such position filled by  
18 a different individual, and each such representative  
19 having separate and distinct duties and responsibil-  
20 ities.”; and

21 (5) by striking “paragraph (2)” each place that  
22 term appears and inserting “paragraph (3)”.

23 (e) ADDITIONAL TO TECHNICAL ADVISERS.—Section  
24 15(k) of the Small Business Act (15 U.S.C. 644(k)) is  
25 amended—

1 (1) in paragraph (5), by striking “bundled con-  
2 tract” and inserting “consolidated contract”; and

3 (2) in paragraph (8), by striking “representa-  
4 tive—” and inserting “representative at each major  
5 procurement center under subsection (l)(1)—”.

6 (f) CONFORMING AMENDMENTS.—Section 15(p) of  
7 the Small Business Act (15 U.S.C. 644(p)) is amended—

8 (1) in the subsection heading, by striking  
9 “BUNDLED CONTRACTS” and inserting “CONSOLI-  
10 DATED CONTRACTS”;

11 (2) in paragraph (1), in the paragraph heading,  
12 by striking “BUNDLED CONTRACT” and inserting  
13 “CONSOLIDATED CONTRACT”;

14 (3) in paragraph (4), in the paragraph heading,  
15 by striking “CONTRACT BUNDLING” and inserting  
16 “CONTRACT CONSOLIDATION”;

17 (4) by striking “bundled contracts” each place  
18 that term appears and inserting “consolidated con-  
19 tracts”;

20 (5) by striking “bundled contract” each place  
21 that term appears and inserting “consolidated con-  
22 tract”;

23 (6) by striking “bundling of contract require-  
24 ments” each place that term appears and inserting  
25 “consolidation of contract requirements”;

1           (7) in paragraph (4)(B)(ii), by striking “pre-  
2           viously bundled” and inserting “previously consoli-  
3           dated”;

4           (8) in paragraph (4)(B)(ii)(I), by striking  
5           “were bundled” and inserting “were consolidated”;

6           (9) in paragraph (4)(B)(ii)(II)(bb), by striking  
7           “bundling the contract requirements” and inserting  
8           “the consolidation of contract requirements”; and

9           (10) in paragraph (4)(B)(ii)(II)(cc), by striking  
10          “bundled status” and inserting “consolidated sta-  
11          tus”.

12          (g) GAO STUDY AND REPORT.—

13           (1) FEASIBILITY STUDY REQUIRED.—The  
14          Comptroller General of the United States shall con-  
15          duct a study of the feasibility of setting thresholds,  
16          based on industry category, for permitting the con-  
17          solidation of contract requirements to proceed with-  
18          out being subject to the additional benefit analyses  
19          required by the amendments made by this section.

20           (2) CONSIDERATIONS.—The study conducted  
21          under paragraph (1) shall include consideration of  
22          thresholds based on—

23                   (A) the dollar value of the overall prime  
24                   contract at issue (including the average dollar

1 value of a prime contract in each industry cat-  
2 egory);

3 (B) the portion of such prime contract  
4 amounts that could potentially include small  
5 business participation as subcontractors;

6 (C) the availability of small business con-  
7 cerns in each industry that have the capabilities  
8 and resources to fulfill prime contract require-  
9 ments; and

10 (D) such other criteria that the Comp-  
11 troller determines relevant.

12 (3) REPORT.—Not later than June 30, 2004,  
13 the Comptroller General shall submit a report to  
14 Congress and the Administration on the results of  
15 the study conducted under this subsection, together  
16 with any recommendations with legislative or regu-  
17 latory action.

18 **SEC. 402. AGENCY ACCOUNTABILITY.**

19 (a) AGENCY RESPONSIBILITIES.—Section 15(g)(2) of  
20 the Small Business Act (15 U.S.C. 644(g)(2)) is  
21 amended—

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

23 (2) by striking “shall, after consultation” and  
24 inserting the following: “shall—

25 “(i) after consultation”;



1           (3) by striking “agency. Goals established” and  
2           inserting the following: “agency;

3           “(ii) identify a percentage of the procurement  
4           budget of the agency to be awarded to small busi-  
5           ness concerns, in consultation with the Office of  
6           Small and Disadvantaged Business Utilization of the  
7           agency, which information shall be included in the  
8           strategic plan required under section 306 of title 5,  
9           United States Code, and the annual budget submis-  
10          sion to Congress by that agency, and, upon request,  
11          in any testimony provided by that agency before ~~the~~  
12          Congress in connection with the budget process; and

13          “(iii) report, as part of its annual performance  
14          plan, required under section 1115 of title 31, United  
15          States Code, the extent to which the agency achieved  
16          the goals referred to in clause (ii), and appropriate  
17          justification for any failure to do so.

18          “(B) Goals established”;

19          (4) by striking “Whenever” and inserting the  
20          following:

21          “(C) Whenever”;

22          (5) by striking “For the purpose of” and insert-  
23          ing the following:

24          “(D) For the purpose of”;

25          (6) in the last sentence—

1 (A) by striking “(A) contracts” and insert-  
2 ing “(i) contracts”; and

3 (B) by striking “(B) contracts” and insert-  
4 ing “(ii) contracts”; and

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

6 “(E)(i) Each procurement employee described in  
7 clause (iii)—

8 “(I) shall communicate to their subordinates  
9 the importance of achieving small business goals;  
10 and

11 “(II) shall have as an annual performance eval-  
12 uation factor, where appropriate, the success of that  
13 procurement employee in small business utilization,  
14 in accordance with the goals established under this  
15 subsection.

16 “(ii) A procurement employee described in this clause  
17 is a senior procurement executive, senior program man-  
18 ager, or small and disadvantaged business utilization man-  
19 ager of a Federal agency having contracting authority.”.

20 (b) SMALL AND DISADVANTAGED BUSINESS UTILI-  
21 ZATION.—Section 15(k)(3) of the Small Business Act (15  
22 U.S.C. 644(k)(3)) is amended to read as follows:

23 “(3) be responsible only to, and report directly  
24 to, the head of such agency, except that the Director  
25 of Small and Disadvantaged Business Utilization for

1 the Department of Defense shall be responsible only  
2 to, and report directly to, the Undersecretary of De-  
3 fense for Acquisition, Technology, and Logistics,”.

4 (c) REPORTS ON SMALL BUSINESS UTILIZATION.—  
5 Section 10(d) of the Small Business Act (15 U.S.C.  
6 639(d)) is amended—

7 (1) by inserting “and each agency that is a  
8 member of the President’s Management Council (or  
9 any successor thereto)” after “Department of De-  
10 fense” the first place that term appears; and

11 (2) by inserting “or that agency” after “De-  
12 partment of Defense” the second place that term ap-  
13 pears.

14 (d) TECHNICAL CORRECTION.—

15 (1) IN GENERAL.—Section 502(b) of the Vet-  
16 erans Entrepreneurship and Small Business Devel-  
17 opment Act of 1999 (Public Law 106–50, 113 Stat.  
18 248) is amended by striking “Section 15” and in-  
19 serting “Section 15(g)(2)”.

20 (2) EFFECT.—The amendment made by para-  
21 graph (1) shall be deemed to have the same effective  
22 date as section 502(b) of the Veterans Entrepre-  
23 neurship and Small Business Development Act of  
24 1999.

1 **SEC. 403. SMALL BUSINESS PARTICIPATION IN PRIME CON-**  
2 **TRACTING.**

3 (a) RESERVED CONTRACTS.—Section 15(j) of the  
4 Small Business Act (15 U.S.C. 644(j)) is amended by add-  
5 ing at the end the following:

6 “(4) Any adjustment to the simplified acquisition  
7 threshold (as defined in section 4(11) of the Office of Fed-  
8 eral Procurement Policy Act (41 U.S.C. 403(11))), shall  
9 be immediately matched by an identical adjustment to the  
10 small business reserve for purposes of this subsection.”.

11 (b) PARTICIPATION IN MULTIPLE AWARD CON-  
12 TRACTS.—Section 15(j) of the Small Business Act (15  
13 U.S.C. 644(j)) is amended—

14 (1) in paragraph (2), by striking “(2) In car-  
15 rying out paragraph (1)” and inserting “(3) In car-  
16 rying out paragraphs (1) and (2)”;

17 (2) in paragraph (3), by striking “(3) Nothing  
18 in paragraph (1)” and inserting “(4) Nothing in this  
19 subsection”; and

20 (3) by adding after paragraph (1) the following:

21 “(2)(A) In the case of orders under multiple award  
22 contracts, including Federal Supply Schedule contracts  
23 and multi-agency contracts, that are subject to the small  
24 business reserve, contracting officers shall consider not  
25 less than 2 small business concerns if such small business  
26 concerns can offer the items sought by the contracting of-

1 fier on competitive terms, with respect to price, quality,  
2 and delivery schedule, with the goods or services available  
3 in the market.

4 “(B) If only 1 small business concern can satisfy the  
5 requirement, the contracting officer shall include such  
6 small business concern in their evaluation.”.

7 (c) REPORT REQUIREMENT.—

8 (1) IN GENERAL.—Not less than once every  
9 180 days, the Comptroller General shall submit a re-  
10 port on the level of participation in multiple award  
11 contracts, including the Federal Supply Schedule  
12 to—

13 (A) the Small Business Administration;

14 (B) the Committee on Small Business and  
15 Entrepreneurship of the Senate; and

16 (C) the Committee on Small Business of  
17 the House of Representatives.

18 (2) CONTENTS.—Each report submitted under  
19 paragraph (1) shall contain, for the 6-month report-  
20 ing period—

21 (A) the total number of multiple award  
22 contracts;

23 (B) the total number of small business  
24 concerns that received multiple award contracts;

25 (C) the total number of orders;

1 (D) the total value of orders;

2 (E) the number of orders received by small  
3 business concerns;

4 (F) the value of orders received by small  
5 business concerns;

6 (G) the number of small business concerns  
7 that received orders; and

8 (H) such other information that the Comp-  
9 troller General considers relevant.

10 **SEC. 404. SMALL BUSINESS PARTICIPATION IN SUBCON-**  
11 **TRACTING.**

12 (a) **CERTIFICATIONS REQUIRED.**—Section 8(d)(6) of  
13 the Small Business Act (15 U.S.C. 637(d)(6)) is  
14 amended—

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

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

19 “(G) certification that the offeror or bidder will  
20 acquire articles, equipment, supplies, services, or  
21 materials, or obtain the performance of construction  
22 work from small business concerns in the amount  
23 and quality used in preparing the bid or proposal,  
24 unless such small business concerns are no longer in

1 business or can no longer meet the quality, quantity,  
2 or delivery date.”.

3 (b) PENALTIES FOR FALSE CERTIFICATIONS.—Sec-  
4 tion 16(f) of the Small Business Act (15 U.S.C. 645(f))  
5 is amended by striking “of this Act” and inserting “or  
6 the reporting requirements of section 8(d)(11)”.

7 **SEC. 405. EVALUATING SUBCONTRACT PARTICIPATION IN**  
8 **AWARDING CONTRACTS.**

9 (a) SIGNIFICANT FACTORS.—Section 8(d)(4)(G) of  
10 the Small Business Act (15 U.S.C. 637(d)(4)(G)) is  
11 amended by striking “a bundled” and inserting “any”.

12 (b) EVALUATION REPORTS.—Section 8(d)(10) of the  
13 Small Business Act (15 U.S.C. 637(d)(10)) is amended—

14 (1) by striking “is authorized to” and inserting  
15 “shall”;

16 (2) in subparagraph (B), by striking “and” at  
17 the end;

18 (3) in subparagraph (C), by striking the period  
19 at the end and inserting “; and”; and

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

21 “(D) report the results of each evaluation under  
22 subparagraph (C) to the appropriate contracting of-  
23 ficers.”.

1           (c) CENTRALIZED DATABASE; PAYMENTS PENDING  
2 REPORTS.—Section 8(d) of the Small Business Act (15  
3 U.S.C. 637(d)) is amended—

4           (1) by redesignating paragraph (11) as para-  
5 graph (14); and

6           (2) by inserting after paragraph (10) the fol-  
7 lowing:

8           “(11) CERTIFICATION.—A report submitted by the  
9 prime contractor pursuant to paragraph (6)(E) to deter-  
10 mine the attainment of a subcontract utilization goal  
11 under any subcontracting plan entered into with a Federal  
12 agency under this subsection shall contain the name and  
13 signature of the president or chief executive officer of the  
14 contractor, certifying that the subcontracting data pro-  
15 vided in the report are accurate and complete.

16           “(12) CENTRALIZED DATABASE.—The results of an  
17 evaluation under paragraph (10)(C) shall be included in  
18 a national centralized governmentwide database.

19           “(13) PAYMENTS PENDING REPORTS.—Each Federal  
20 agency having contracting authority shall ensure that the  
21 terms of each contract for goods and services includes a  
22 provision allowing the contracting officer of an agency to  
23 withhold an appropriate amount of payment with respect  
24 to a contract (depending on the size of the contract) until



1 the date of receipt of complete, accurate, and timely sub-  
2 contracting reports in accordance with paragraph (11).”.

3 (d) REFERRAL OF MATERIAL BREACH TO INSPEC-  
4 TORS GENERAL.—Section 8(d)(8) of the Small Business  
5 Act (15 U.S.C. 637(d)(8)) is amended by adding at the  
6 end the following: “A material breach described in this  
7 paragraph shall be referred for investigation to the Inspec-  
8 tor General (or the equivalent) of the affected agency.”.

9 **SEC. 406. DIRECT PAYMENTS TO SUBCONTRACTORS.**

10 (a) IN GENERAL.—Section 8(d) of the Small Busi-  
11 ness Act (15 U.S.C. 637(d)), as amended by section 405,  
12 is further amended by adding at the end the following:

13 “(14) TIMELY PAYMENT TO SMALL BUSINESS SUB-  
14 CONTRACTORS.—

15 “(A) IN GENERAL.—Subject to subparagraph  
16 (B), the failure of a civilian agency prime contractor,  
17 as defined in subparagraph (D), to make a timely  
18 payment, as determined by the contract with the  
19 subcontractor, to a subcontractor that is a small  
20 business concern shall be a material breach of the  
21 contract with the Federal agency.

22 “(B) CONSIDERATION OF PERFORMANCE.—Be-  
23 fore making a determination under subparagraph  
24 (A), the contracting officer shall consider all reason-  
25 able issues regarding the circumstances surrounding

1 the failure to make the timely payment described in  
2 subparagraph (A).

3 “(C) WITHHOLDING OF PAYMENTS.—Not later  
4 than 30 days after the date on which a material  
5 breach under subparagraph (A) is determined by the  
6 contracting officer, the Federal agency may withhold  
7 any amounts due and owing the subcontractor from  
8 payments due to the prime contractor and pay such  
9 amounts directly to the subcontractor.

10 “(D) DEFINED TERM.—As used in this para-  
11 graph, the term ‘civilian agency prime contractor’  
12 means a prime contractor that offers any combina-  
13 tion of services or manufactured goods to Federal  
14 agencies other than the Department of Defense or  
15 agencies with responsibility for homeland security or  
16 national security.”.

17 (b) SUNSET.—The amendment made by this section  
18 shall remain in effect during the period beginning on the  
19 date of enactment of this Act and ending on September  
20 30, 2006.

21 **SEC. 407. WOMEN-OWNED SMALL BUSINESS INDUSTRY**  
22 **STUDY.**

23 Section 8(m)(4) of the Small Business Act (15  
24 U.S.C. 637(m)(4)) is amended to read as follows:

25 “(4) GAO IDENTIFICATION OF INDUSTRIES.—

1           “(A) STUDY.—The Comptroller General of  
2           the United States shall conduct a study to iden-  
3           tify industries in which small business concerns  
4           owned and controlled by women are underrep-  
5           resented with respect to Federal procurement  
6           contracting.

7           “(B) REPORT TO CONGRESS.—Not later  
8           than December 31, 2003, the Comptroller Gen-  
9           eral shall submit a report to Congress on the  
10          results of the study conducted under subpara-  
11          graph (A), together with any recommendations  
12          for legislative action.

13          “(C) ASSISTANCE FROM OTHER AGEN-  
14          CIES.—The Comptroller General may request of  
15          any Federal agency, and such agency shall pro-  
16          vide, such information as the Comptroller Gen-  
17          eral determines necessary in carrying out this  
18          paragraph, to the extent otherwise permitted by  
19          law.”.

20 **SEC. 408. HUBZONE AUTHORIZATIONS.**

21          Section 31(d) of the Small Business Act (15 U.S.C.  
22 657a(d)) is amended—

23               (1) by striking “2001” and inserting “2004”;

24          and

25               (2) by striking “2003” and inserting “2006”.

1 **SEC. 409. DEFINITION OF HUBZONE; TREATMENT OF CER-**  
2 **TAIN FORMER MILITARY INSTALLATION**  
3 **LANDS AS HUBZONES.**

4 (a) **BASE CLOSURE AREAS.**—Section 3(p)(1) of the  
5 Small Business Act (15 U.S.C. 632(p)(1)) is amended—

6 (1) in subparagraph (C), by striking “or” at  
7 the end;

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

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

11 “(E) base closure areas.”.

12 (b) **HUBZONE STATUS TIMELINE AND COMMENCE-**  
13 **MENT.**—

14 (1) **IN GENERAL.**—A base closure area shall be  
15 treated as a HUBZone for a period of 5 years begin-  
16 ning on the date of final closure. A military base  
17 that was closed before the date of enactment of this  
18 Act shall not be considered a base closure area for  
19 purposes of this section.

20 (2) **EFFECTIVE DATE.**—This section and the  
21 amendments made by this section shall take effect  
22 on the date of enactment of this Act.

23 (c) **DEFINITION.**—Section 3(p)(4) of the Small Busi-  
24 ness Act (15 U.S.C. 632(p)(4)) is amended by adding at  
25 the end the following:

1           “(D) BASE CLOSURE AREA.—The term  
2           ‘base closure area’ means lands within the ex-  
3           ternal boundaries of a military installation that  
4           were closed through a privatization process  
5           under the authority of—

6                   “(i) the Defense Base Closure and  
7                   Realignment Act of 1990 (part A of title  
8                   XXIX of Division B of Public Law 101–  
9                   510; 10 U.S.C. 2687 note);

10                   “(ii) title II of the Defense Authoriza-  
11                   tion Amendments and Base Closure and  
12                   Realignment Act (Public Law 100–526; 10  
13                   U.S.C. 2687 note);

14                   “(iii) section 2687 of title 10, United  
15                   States Code; or

16                   “(iv) any other provision of law au-  
17                   thorizing or directing the Secretary of De-  
18                   fense or the Secretary of a military depart-  
19                   ment to dispose of real property at the  
20                   military installation for purposes relating  
21                   to base closures of redevelopment, while re-  
22                   taining the authority to enter into a lease-  
23                   back of all or a portion of the property for  
24                   military use.”.

1 **SEC. 410. DEFINITION OF HUBZONE SMALL BUSINESS CON-**  
2 **CERN.**

3 Section 3(p) of the Small Business Act (15 U.S.C.  
4 632(p)) is amended—

5 (1) by redesignating paragraphs (4) through  
6 (7) as paragraphs (5) through (8), respectively; and

7 (2) by inserting after paragraph (3) the fol-  
8 lowing:

9 “(4) **RULE OF CONSTRUCTION RELATING TO**  
10 **OWNERSHIP.**—For purposes of paragraph (3)(A),  
11 the term ‘person’ includes any small business invest-  
12 ment company, specialized small business investment  
13 company, New Markets Venture Capital company  
14 (as those terms are defined in sections 103 and 351,  
15 respectively, of the Small Business Investment Act  
16 of 1958 (15 U.S.C. 662, 689), or other similar in-  
17 vestment company, as determined by the Adminis-  
18 trator, if any such company comprises not more  
19 than 15 percent of the ownership of the subject  
20 small business concern.”.

21 **SEC. 411. ACQUISITION REGULATIONS.**

22 Not later than 180 days after the date of enactment  
23 of this Act, the governmentwide procurement regulations  
24 issued under sections 6(a) and 25(c) of the Office of Fed-  
25 eral Procurement Policy Act (41 U.S.C. 405(a) and  
26 421(c)) and the procurement regulations described in sec-

1 tion 25(c)(2) of the Office of Federal Procurement Policy  
 2 Act (41 U.S.C. 421(c)(2)) that are issued by the Depart-  
 3 ment of Defense shall be amended as necessary to carry  
 4 out this title and the amendments made by this title.

## 5 **TITLE V—MISCELLANEOUS**

### 6 **SEC. 501. MINORITY SMALL BUSINESS AND CAPITAL OWN- 7 **ERSHIP DEVELOPMENT PROGRAM.****

8 (a) NAME CHANGE.—Sections 4(b), 7(j), and 8(a) of  
 9 the Small Business Act (15 U.S.C. 633(b), 636(j), and  
 10 637(a)) are amended by striking “Minority Small Busi-  
 11 ness and Capital Ownership Development” each place it  
 12 appears and inserting “Business Development”.

13 (b) CONFORMING AMENDMENTS.—The Small Busi-  
 14 ness Act (15 U.S.C. 631 et seq.) is amended—

15 (1) in section 2(d)(2)(B)(ii), by striking “small  
 16 business and capital ownership development pro-  
 17 gram” and inserting “small business development  
 18 program”;

19 (2) in section 7(j)(10), by striking “small busi-  
 20 ness and capital ownership development program”  
 21 and inserting “small business development pro-  
 22 gram”;

23 (3) in section 7(j)(12)(A), by striking “Capital  
 24 Ownership Development Program” and inserting  
 25 “Business Development Program”; and

1           (4) in section 8(a)(21)(B)(v)(I), by striking  
2           “Capital Ownership Development Program” and in-  
3           serting “Business Development Program.

4           (c) ANNUAL REPORT.—Section 8(a)(20)(A) of the  
5           Small Business Act (15 U.S.C. 637(a)(20)(A)) is amended  
6           by striking “semiannually report to their assigned Busi-  
7           ness Opportunity Specialist” and inserting “annually sub-  
8           mit, to their assigned Business Opportunity Specialist, a  
9           report, which shall include”.

10 **SEC. 502. EXTENSION OF AUTHORITY FOR TECHNOLOGY**  
11 **ASSISTANCE PROGRAM.**

12           (a) RURAL OUTREACH.—Section 9(s)(2) of the Small  
13           Business Act (15 U.S.C. 638(s)(2)) is amended by strik-  
14           ing “2005” and inserting “2006”.

15           (b) FAST PROGRAM.—Section 34 of the Small Busi-  
16           ness Act (15 U.S.C. 657d) is amended—

17           (1) in subsection (h), by striking “2005” each  
18           place it appears and inserting “2006”; and

19           (2) by striking “September 30, 2005” and in-  
20           serting “September 30, 2006”.

21 **SEC. 503. BUSINESSLINC REPORT TO CONGRESS.**

22           Section 8(n) of the Small Business Act (15 U.S.C.  
23           637(n)) is amended by adding at the end the following:

24           “(4) ANNUAL REPORT.—



1           “(A) IN GENERAL.—The Associate Admin-  
2           istrator of Business Development shall collect  
3           data on the BusinessLINC program and submit  
4           an annual report by April 30 of each year on  
5           the effectiveness of the program to the Com-  
6           mittee on Small Business and Entrepreneurship  
7           of the Senate and the Committee on Small  
8           Business of the House.

9           “(B) CONTENTS.—The report submitted  
10          under subparagraph (A) shall include—

11                 “(i) the number of programs adminis-  
12                 tered in each State;

13                 “(ii) the corresponding grant awards  
14                 and the date of each award;

15                 “(iii) the dollar amount of the con-  
16                 tracts in effect in each State as a result of  
17                 the BusinessLINC program; and

18                 “(iv) the number of teaming arrange-  
19                 ments or partnerships created as a result  
20                 of the BusinessLINC program.”.

Passed the Senate September 26, 2003.

Attest:

*Secretary.*

108TH CONGRESS  
1ST SESSION

**S. 1375**

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**AN ACT**

To provide for the reauthorization of programs administered by the Small Business Administration, and for other purposes.