

116TH CONGRESS
2D SESSION

S. 3551

To help small businesses access capital and create jobs by reauthorizing
the successful State Small Business Credit Initiative.

IN THE SENATE OF THE UNITED STATES

MARCH 20, 2020

Mr. PETERS (for himself, Mrs. SHAHEEN, Ms. STABENOW, and Ms. HASSAN)
introduced the following bill; which was read twice and referred to the
Committee on Small Business and Entrepreneurship

A BILL

To help small businesses access capital and create jobs by
reauthorizing the successful State Small Business Credit
Initiative.

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.**

4 This Act may be cited as the “Small Business Access
5 to Capital Act of 2020”.

1 **SEC. 2. NEW TRANCHES OF CAPITAL FOR SUCCESSFUL**
 2 **STATE PROGRAMS.**

3 Section 3003 of the Small Business Jobs Act of 2010
 4 (12 U.S.C. 5702) is amended by adding at the end the
 5 following:

6 “(d) **ADDITIONAL ALLOCATION AND COMPETITIVE**
 7 **AWARDS.**—

8 “(1) **DEFINITIONS.**—In this subsection—

9 “(A) the term ‘eligible participating State’
 10 means a participating State that has certified
 11 to the Secretary that the State has expended,
 12 transferred, or obligated not less than 80 per-
 13 cent of the second $\frac{1}{3}$ of the 2010 allocation
 14 transferred to the State under subsection
 15 (c)(1)(A)(iii); and

16 “(B) the term ‘unused funds’ means—

17 “(i) amounts made available to the
 18 Secretary under clause (i)(II) or (ii)(II) of
 19 paragraph (2)(E); and

20 “(ii) amounts made available to the
 21 Secretary under paragraph (4)(B)(ii).

22 “(2) **ALLOCATION FOR 2010 PARTICIPATING**
 23 **STATES.**—

24 “(A) **ALLOCATION.**—Of the amount made
 25 available under paragraph (6)(D), the Secretary
 26 shall allocate a total of \$1,000,000,000 among

1 eligible participating States in the same ratio as
 2 funds were allocated under the 2010 allocation
 3 under subsection (b)(1) among participating
 4 States.

5 “(B) APPLICATION.—An eligible partici-
 6 pating State desiring to receive funds allocated
 7 under this paragraph shall submit an applica-
 8 tion—

9 “(i) not later than the date that is 6
 10 months after the date of enactment of the
 11 Small Business Access to Capital Act of
 12 2020; and

13 “(ii) in such manner and containing
 14 such information as the Secretary may re-
 15 quire.

16 “(C) AVAILABILITY OF ALLOCATED
 17 AMOUNT.—

18 “(i) IN GENERAL.—Notwithstanding
 19 subsection (c)(1), after an eligible partici-
 20 pating State approved by the Secretary to
 21 receive an allocation under this paragraph
 22 has certified to the Secretary that the eligi-
 23 ble participating State has expended,
 24 transferred, or obligated not less than 80
 25 percent of the last $\frac{1}{3}$ of the 2010 alloca-

tion to the eligible participating State, the Secretary shall transfer to the eligible participating State the funds allocated to the eligible participating State under this paragraph.

“(ii) EFFECT ON AGREEMENTS.—The allocation or transfer of funds under this paragraph to an eligible participating State shall not be construed to—

“(I) amend or modify the terms of the Allocation Agreement entered into by the eligible participating State relating to the 2010 allocation; or

“(II) modify or extend the Allocation Time Period, as defined under such Allocation Agreement.

“(D) USE OF TRANSFERRED FUNDS.—An eligible participating State may use funds transferred under this paragraph for any purpose authorized under subparagraph (A) or (B) of subsection (c)(3).

“(E) TERMINATION OF AVAILABILITY OF AMOUNTS.—

“(i) IN GENERAL.—If an eligible participating State has not certified to the

1 Secretary that the State has expended,
2 transferred, or obligated not less than 80
3 percent of the last $\frac{1}{3}$ of the 2010 alloca-
4 tion as of the date that is 2 years after the
5 date on which the Secretary approves the
6 eligible participating State to receive an al-
7 location under this paragraph, any
8 amounts allocated to the eligible partici-
9 pating State under this paragraph—

10 “(I) may not be transferred to
11 the eligible participating State under
12 this paragraph; and

13 “(II) shall be available to the
14 Secretary to make awards under para-
15 graph (4).

16 “(ii) OTHER AMOUNTS.—Effective on
17 the date that is 2 years after the date of
18 enactment of the Small Business Access to
19 Capital Act of 2020, any amounts allo-
20 cated under this paragraph to a partici-
21 pating State that, as of such date, is not
22 an eligible participating State or to an eli-
23 gible participating State that did not sub-
24 mit an application under subparagraph (B)
25 or was not approved by the Secretary to

1 receive an allocation under this para-
 2 graph—

3 “(I) may not be transferred to an
 4 eligible participating State under this
 5 paragraph; and

6 “(II) shall be available to the
 7 Secretary to make awards under para-
 8 graph (4).

9 “(3) COMPETITIVE FUNDING.—

10 “(A) IN GENERAL.—Of the amount made
 11 available under paragraph (6)(D), the Secretary
 12 may award, on a competitive basis, not more
 13 than a total of \$2,000,000,000 to participating
 14 States and consortiums of participating States
 15 for use for any purpose authorized under sub-
 16 paragraph (A) or (B) of subsection (c)(3).

17 “(B) APPLICATION.—

18 “(i) IN GENERAL.—A participating
 19 State or consortium of participating States
 20 desiring to receive an award under this
 21 paragraph shall submit an application—

22 “(I) not later than the date es-
 23 tablished by the Secretary, which shall
 24 be not later than the date that is 1
 25 year after the date of enactment of

1 the Small Business Access to Capital
2 Act of 2020; and

3 “(II) in such manner and con-
4 taining such information as the Sec-
5 retary may require.

6 “(ii) NUMBER OF APPLICATIONS.—A
7 participating State may submit not more
8 than 1 application on behalf of the partici-
9 pating State and not more than 1 applica-
10 tion as part of a consortium of partici-
11 pating States.

12 “(iii) STATES THAT DID NOT PARTICI-
13 PATE.—A State that is not a participating
14 State may apply to the Secretary for ap-
15 proval to be a participating State for pur-
16 poses of this paragraph and paragraph (4),
17 in accordance with section 3004.

18 “(C) FACTORS.—In determining whether
19 to make an award to a participating State or
20 consortium of participating States under this
21 paragraph, the Secretary shall consider—

22 “(i) how the participating State or
23 consortium of participating States plan to
24 use amounts provided under the award
25 under the approved State program to—

1 “(I) leverage private sector cap-
2 ital;

3 “(II) create and retain jobs dur-
4 ing the 2-year period beginning on the
5 date of the award;

6 “(III) serve businesses that have
7 been incorporated or in operation for
8 not more than 5 years; and

9 “(IV) serve low- or moderate-in-
10 come communities;

11 “(ii) the extent to which the partici-
12 pating State or consortium of participating
13 States will establish or continue a robust
14 self-evaluation of the activities of the par-
15 ticipating State or consortium of partici-
16 pating States using amounts made avail-
17 able under this title;

18 “(iii) the extent to which the partici-
19 pating State or consortium of participating
20 States will provide non-Federal funds in
21 excess of the amount required under sub-
22 paragraph (E); and

23 “(iv) the extent to which the partici-
24 pating State expended, obligated, or trans-
25 ferred the 2010 allocation to the State.

1 “(D) AWARD OF FUNDS.—

2 “(i) FIRST TRANCHE.—Notwithstand-
3 ing subsection (c)(1), and not later than
4 30 days after making an award under this
5 paragraph to a participating State or con-
6 sortium of participating States, the Sec-
7 retary shall transfer 50 percent of the
8 amount of the award to the participating
9 State or consortium of participating
10 States.

11 “(ii) SECOND TRANCHE.—After a par-
12 ticipating State or consortium of partici-
13 pating States has certified to the Secretary
14 that the participating State or consortium
15 of participating States has expended,
16 transferred, or obligated not less than 80
17 percent of the amount transferred under
18 clause (i), the Secretary shall transfer to
19 the participating State or consortium of
20 participating States the remaining amount
21 of the award.

22 “(E) STATE SHARE.—The State share of
23 the cost of the activities, excluding administra-
24 tive expenses, carried out using an award under
25 this paragraph shall be not less than 10 per-

1 cent. The Secretary may determine what con-
2 tributions by a State qualify as part of the
3 State share of the cost for purposes of this sub-
4 paragraph.

5 “(4) AWARD OF UNUSED FUNDS.—

6 “(A) IN GENERAL.—The Secretary may
7 award, on a competitive basis, unused funds to
8 participating States for use for any purpose au-
9 thorized under subparagraph (A) or (B) of sub-
10 section (c)(3).

11 “(B) UNUSED 2010 FUNDS.—

12 “(i) IN GENERAL.—The Secretary
13 shall determine whether any amounts allo-
14 cated to a participating State under sub-
15 section (b) shall be deemed no longer allo-
16 cated and no longer available if a partici-
17 pating State has not certified to the Sec-
18 retary that the State has expended, trans-
19 ferred, or obligated 80 percent of the sec-
20 ond $\frac{1}{3}$ of the 2010 allocation by December
21 31, 2021.

22 “(ii) AVAILABILITY.—Effective on the
23 date of the determination under clause (i),
24 any amounts identified in the determina-
25 tion that were deemed no longer allocated

1 and no longer available to the participating
2 State shall be available to the Secretary to
3 make awards under this paragraph.

4 “(C) APPLICATION.—A participating State
5 desiring to receive an award under this para-
6 graph shall submit an application—

7 “(i) not later than 3 months after the
8 date on which funds are deemed no longer
9 allocated and no longer available to any
10 participating State; and

11 “(ii) in such manner and containing
12 such information as the Secretary may re-
13 quire.

14 “(D) FACTORS.—In determining whether
15 to make an award to a participating State
16 under this paragraph, the Secretary shall con-
17 sider the factors described in paragraph (3)(C).

18 “(E) MINIMUM AMOUNT.—The Secretary
19 may not make an award of less than
20 \$5,000,000 under this paragraph.

21 “(5) COMPLIANCE AND REPORTING REQUIRE-
22 MENTS.—During the period beginning on the date
23 on which a participating State first receives funds
24 under paragraph (2), (3), or (4) and ending on the
25 date that is 8 years after the date of enactment of

1 the Small Business Access to Capital Act of 2020,
2 the participating State shall submit quarterly and
3 annual reports containing the information described
4 in, and in accordance with the deadlines established
5 under, section 3007.

6 “(6) ADMINISTRATION AND IMPLEMENTA-
7 TION.—

8 “(A) ADMINISTRATIVE EXPENSES FOR
9 PARTICIPATING STATES.—A participating State
10 may use not more than 3 percent of the amount
11 made available to the participating State under
12 paragraph (2), (3), or (4) for administrative ex-
13 penses incurred by the participating State in
14 implementing an approved State program.

15 “(B) CONTRACTING.—During the 1-year
16 period beginning on the date of enactment of
17 the Small Business Access to Capital Act of
18 2020, and notwithstanding any other provision
19 of law relating to public contracting, the Sec-
20 retary may enter into contracts to carry out
21 this subsection.

22 “(C) AMOUNTS NOT ASSISTANCE.—Any
23 amounts transferred to a participating State
24 under paragraph (2), (3), or (4) shall not be

1 considered assistance for purposes of subtitle V
2 of title 31, United States Code.

3 “(D) APPROPRIATION.—There are appro-
4 priated to the Secretary, out of any funds in
5 the Treasury not otherwise appropriated,
6 \$3,000,000,000 to carry out this subsection, in-
7 cluding to pay reasonable costs of administering
8 the programs under this subsection, to remain
9 available until expended.

10 “(E) TERMINATION OF SECRETARY’S PRO-
11 GRAM ADMINISTRATION FUNCTIONS.—Notwith-
12 standing section 3009(c), the authorities and
13 duties of the Secretary to implement and ad-
14 minister the program under this subsection
15 shall terminate at the end of the 8-year period
16 beginning on the date of enactment of the
17 Small Business Access to Capital Act of
18 2020.”.

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