

HONORING THE LIFE OF HERB BROOKS

Mr. FRIST. I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 235 and the Senate proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 235) honoring the life of the late Herb Brooks and expressing the deepest condolences of the Senate to his family on his death.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and any statements related thereto be printed in the RECORD, with no intervening action.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 235) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 235

Whereas the Senate has learned with great sadness of the death of Herb Brooks;

Whereas Herb Brooks, born in Saint Paul, Minnesota, greatly distinguished himself by his long commitment to the game of hockey, the players whom he coached, the State of Minnesota, and the United States of America;

Whereas Herb Brooks was a member of the 1964 and 1968 United States Olympic Hockey Teams;

Whereas Herb Brooks coached the 1980 United States Olympic Hockey Team, also known as the "Miracle on Ice", to a sensational victory against the favored Soviet Union team, providing the United States with an unforgettable moment that highlighted American determination, resilience, and spirit;

Whereas the United States Olympic Team continued victoriously on and won the Gold Medal at the 1980 Olympic Games;

Whereas Herb Brooks coached 3 University of Minnesota hockey teams to NCAA National Championships in 1974, 1976, and 1979;

Whereas Herb Brooks subsequently coached the Minnesota North Stars, the New York Rangers, the New Jersey Devils, and the Pittsburgh Penguins;

Whereas Herb Brooks spearheaded the development of the Division I hockey program at Saint Cloud State University by serving as the first coach of the team, obtaining the funding for a world-class ice arena, and recruiting top-level players to the new program;

Whereas in 1990, Herb Brooks was inducted into the United States Hockey Hall of Fame and in 1999 was inducted into the International Hockey Hall of Fame;

Whereas Herb Brooks was a devoted husband to his wife, Patti, and a loving father to his 2 children, Dan and Kelly; and

Whereas his life was remarkable for its constant pursuit of excellence: Now, therefore, be it

Resolved, That the Senate—

(1) pays tribute to the outstanding career, character, and dedicated work of the great American Herb Brooks;

(2) expresses its deepest condolences to the family of Herb Brooks; and

(3) directs the Secretary of the Senate to transmit an enrolled copy of this resolution to the family of Herb Brooks.

SMALL BUSINESS ADMINISTRATION 50TH ANNIVERSARY REAUTHORIZATION ACT OF 2003

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar 248, S. 1375.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1375) to provide for the reauthorization of programs administered by the Small Business Administration, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Small Business and Entrepreneurship, with amendments, as follows:

[Strike the parts shown in black brackets and insert the part shown in italic.]

S. 1375

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Small Business Administration 50th Anniversary Reauthorization Act of 2003".

(b) TABLE OF CONTENTS.—The table of contents for 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. Debuture 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.

Sec. 265. Pilot program for guarantees on pools of non-SBA loans.

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. [A]HUBZone authorizations.
 - Sec. 409. Definition of [HUBzone] HUBZone; treatment of certain former military installation lands as [HUBzones] HUBZones.
 - Sec. 410. Definition of [HUBzone] 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 [program] authority for technology assistance programs.
 - Sec. 503. [R]BusinessLINC report to Congress.

SEC. 2. EFFECTIVE DATE.

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

(b) RULEMAKING AUTHORITY.—

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

(2) FINAL REGULATIONS.—Except as otherwise specifically provided in this Act, not later than 300 days after the date of enactment of this Act, the Administrator shall issue final regulations to carry out the provisions of this Act and the amendments made by this Act.

TITLE I—GENERAL PROVISIONS

Subtitle A—Administration Accountability

SEC. 101. DOCUMENT RETENTION AND INVESTIGATIONS.

Section 10(e) of the Small Business Act (15 U.S.C. 639(e)) is amended by striking the matter preceding paragraph (2) and inserting the following:

“(e) DOCUMENT RETENTION; INVESTIGATIONS.—

“(1) DOCUMENT RETENTION.—The [Administration] Administrator and the Inspector General of the Administration shall—

“(A) retain all documents and records, including correspondence, records of inquiry, memoranda (including those relating to all investigations conducted by or for the Administration), reports, studies, analyses, contracts, agreements, opinions, computer entries, e-mail messages, forms, manuals, briefing materials, press releases, and books for a period of not less than 2 years from the date such documents are created;

“(B) keep the items described in subparagraph (A) available at all times for inspection and examination by the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives, or their duly authorized representatives; and

“(C) upon the written request of the Committee on Small Business and Entrepreneurship of the Senate or the Committee on Small Business of the House of Representatives pursuant to subparagraph (B), the Administrator or the Inspector General, as applicable, shall make such documents or

records available to the requesting committee or its duly authorized representative within 5 business days of the request, and if a document or record cannot be made available within such timeframe, the Administrator or the Inspector General, as applicable, shall provide the requesting committee with a written explanation stating the reason that each document or record requested has not been provided and a date certain for its production.”.

SEC. 102. MANAGEMENT OF THE SMALL BUSINESS ADMINISTRATION.

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

(1) by striking “SEC. 4.” and inserting the following:

“SEC. 4. MANAGEMENT OF THE SMALL BUSINESS ADMINISTRATION.”;

(2) in subsection (a), by striking “(a)” and inserting the following:

“(a) ESTABLISHMENT.—”;

(3) in subsection (b)—

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

“(b) AUTHORITY OF ADMINISTRATOR.—

“(1) IN GENERAL.—

“(A) APPOINTMENT.—”;

(B) in paragraph (1)—

(i) by striking “The Administrator shall not engage” and inserting the following:

“(B) SOLE EMPLOYMENT.—The Administrator shall not engage”;

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

“(C) NONDISCRIMINATION; SPECIAL CONSIDERATION FOR VETERANS.—In carrying out”; and

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

“(D) APPOINTMENT OF DEPUTY ADMINISTRATOR; ASSOCIATE ADMINISTRATORS.—The President”; and

(C) in paragraph (2), by striking “the Administrator also” and inserting “RESPONSIBILITIES OF ADMINISTRATOR.—The Administrator”; and

(4) by adding at the end the following:

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

“(1) formulate, execute, and promote policies and procedures of the Administration that provide adequate and effective oversight and review of lenders participating in, or applying to participate in, the loan and loan guaranty programs for small business concerns under this Act and the Small Business Investment Act of 1958 (15 U.S.C. 661 et seq.); and

“(2) report directly to the Chief Operating Officer of the Administration.”.

Subtitle B—Authorizations

SEC. 111. PROGRAM AUTHORIZATION LEVELS.

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

(1) in subsection (a)(1), by striking “certification” each place that term appears and inserting “accreditation”;

(2) by striking subsections (c) through (h) and inserting the following:

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

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

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

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

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

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

(4) by adding at the end the following:

“(e) FISCAL YEAR 2004.—

“(1) PROGRAM LEVELS.—The following program levels are authorized for fiscal year 2004:

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

“(i) \$70,000,000 in technical assistance grants, as provided in section 7(m); and

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

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

“(i) \$16,000,000,000 in general business loans, as provided in section 7(a);

“(ii) \$5,000,000,000 in certified development company financings, as provided in section 7(a)(13) of this Act and section 504 of the Small Business Investment Act of 1958;

“(iii) \$500,000,000 in loans, as provided in section 7(a)(21); and

“(iv) \$50,000,000 in loans, as provided in section 7(m).

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

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

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

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

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

“(2) ADDITIONAL AUTHORIZATIONS.—

“(A) There are authorized to be appropriated to the Administration for fiscal year 2004 such sums as may be necessary to carry out the provisions of this Act not elsewhere provided for, including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out title IV of the Small Business Investment Act of 1958, including salaries and expenses of the Administration.

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

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

“(ii) the Administration may not approve loans on its own behalf or on behalf of any other Federal department or agency, by contract or otherwise, under terms and conditions other than those specifically authorized under this Act or the Small Business Investment Act of 1958, except that it may approve loans under section 7(a)(21) of this Act in gross amounts of not more than \$2,000,000.

“(f) FISCAL YEAR 2005.—

“(1) PROGRAM LEVELS.—The following program levels are authorized for fiscal year 2005:

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

“(i) \$75,000,000 in technical assistance grants, as provided in section 7(m); and

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

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

“(i) \$16,500,000,000 in general business loans, as provided in section 7(a);

“(ii) \$5,250,000,000 in certified development company financings, as provided in section

7(a)(13) of this Act and section 504 of the Small Business Investment Act of 1958;

“(iii) \$500,000,000 in loans, as provided in section 7(a)(21); and

“(iv) \$50,000,000 in loans, as provided in section 7(m).

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

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

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

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

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

“(2) ADDITIONAL AUTHORIZATIONS.—

“(A) There are authorized to be appropriated to the Administration for fiscal year 2005 such sums as may be necessary to carry out the provisions of this Act not elsewhere provided for, including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out title IV of the Small Business Investment Act of 1958, including salaries and expenses of the Administration.

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

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

“(ii) the Administration may not approve loans on its own behalf or on behalf of any other Federal department or agency, by contract or otherwise, under terms and conditions other than those specifically authorized under this Act or the Small Business Investment Act of 1958, except that it may approve loans under section 7(a)(21) of this Act in gross amounts of not more than \$2,000,000.

“(g) FISCAL YEAR 2006.—

“(1) PROGRAM LEVELS.—The following program levels are authorized for fiscal year 2006:

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

“(i) \$80,000,000 in technical assistance grants, as provided in section 7(m); and

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

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

“(i) \$17,000,000,000 in general business loans, as provided in section 7(a);

“(ii) \$5,500,000,000 in certified development company financings, as provided in section 7(a)(13) of this Act and section 504 of the Small Business Investment Act of 1958;

“(iii) \$500,000,000 in loans, as provided in section 7(a)(21); and

“(iv) \$50,000,000 in loans, as provided in section 7(m).

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

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

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

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

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

“(2) ADDITIONAL AUTHORIZATIONS.—

“(A) There are authorized to be appropriated to the Administration for fiscal year 2006 such sums as may be necessary to carry out the provisions of this Act not elsewhere provided for, including administrative expenses and necessary loan capital for disaster loans pursuant to section 7(b), and to carry out title IV of the Small Business Investment Act of 1958, including salaries and expenses of the Administration.

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

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

“(ii) the Administration may not approve loans on its own behalf or on behalf of any other Federal department or agency, by contract or otherwise, under terms and conditions other than those specifically authorized under this Act or the Small Business Investment Act of 1958, except that it may approve loans under section 7(a)(21) of this Act in gross amounts of not more than \$2,000,000.”.

SEC. 112. ADDITIONAL REAUTHORIZATIONS.

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

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

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

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

“(vii) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subparagraph—

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

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

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

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

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

“(viii) LIMITATION.—From the funds appropriated pursuant to clause (vii), the Administration shall reserve not less than \$1,000,000 in each fiscal year to develop portable assistance for startup and sustainability non-matching grant programs to be conducted by eligible small business development centers in communities that are economically challenged as a result of a business or government facility downsizing or closing, which has resulted in the loss of jobs or small business instability. A non-matching grant under this clause shall not exceed \$100,000, and shall be used for small business development center personnel expenses and related small business programs and services.”.

TITLE II—FINANCIAL ASSISTANCE

Subtitle A—7(a) Loan Guarantee Program

SEC. 201. NATIONAL PREFERRED LENDERS PILOT PROGRAM.

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

“(E) NATIONAL PREFERRED LENDERS PILOT PROGRAM.—

“(i) ESTABLISHMENT.—There is established the National Preferred Lenders Pilot Program, a 3-year pilot program in which a participant in the Preferred Lenders Program may operate as a preferred lender in any State if such lender meets the criteria established by the Administration.

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

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

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

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

“(IV) satisfactory centralized approval, loan servicing, and loan liquidation functions and processes; and

“(V) consideration of any comments and recommendations that may be received from any District Director or Regional Administrator relating to the performance of the applicant.

“(iii) TERMS AND CONDITIONS.—Applicants shall be approved under the following terms and conditions:

“(I) TERM.—Each participant approved under this subparagraph shall be eligible to make loans for up to 1 year under the program established under this subparagraph.

“(II) RENEWAL.—At the expiration of the term described in subclause (I), the authority of a participant to make loans under this subparagraph may be renewed based on a review of performance during the initial term.

“(III) EFFECT OF FAILURE.—Failure to meet the criteria under this subparagraph shall not effect the eligibility of a participant to continue as a preferred lender in States or districts in which it is in good standing.”.

SEC. 202. EXTENSION OF PROGRAM PARTICIPATION FEES.

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

(1) in paragraph (12) by striking “(b)” and inserting the following:

“(B)”;

(2) in paragraph (18)—

(A) in subparagraph (A)—

(i) in clause (i), by striking “2 percent” and inserting “1 percent”; and

(ii) in clause (ii), by striking “3 percent” and inserting “2.5 percent”; and

(B) by striking subparagraph (C); and

(3) in paragraph (23)(A), by striking “0.5 percent” and all that follows through “equal to”.

SEC. 203. LOANS SOLD IN SECONDARY MARKET.

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

“(6) Trust certificates issued pursuant to this subsection may be comprised of a pool of loans, guaranteed by the Administration, with varying interest rates. The interest rate paid by such certificates shall be equal to the weighted average of the interest rates of the loans in the pool. The Administration shall prescribe the maximum amount of variation in the loan characteristics in order to enhance the marketability of the pool.”.

SEC. 204. CLARIFICATION OF ELIGIBILITY FOR VETERANS.

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

"(8) The Administration may make loans under this subsection to—

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

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

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

SEC. 205. ENHANCEMENT OF LOW DOCUMENTATION LOAN PROGRAM.

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

SEC. 206. INCREASED LOAN AMOUNTS FOR EXPORTERS.

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

(1) in paragraph (3)—

(A) in subparagraph (A), by inserting before the semicolon at the end the following: "and paragraph (14)"; and

(B) in subparagraph (B), by striking "\$1,250,000" and inserting "\$1,300,000"; and

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

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

Subtitle B—Microloan Program**SEC. 211. MICROLOAN PROGRAM IMPROVEMENTS.**

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

(1) in subparagraph (A), by striking "in paragraph (10); and" and inserting "of the term 'intermediary' under paragraph (11);"; and

(2) in subparagraph (B)—

(A) by striking "(B) has at least" and inserting the following:

"(B) has—

"(i) at least"; and

(B) by striking the period at the end and inserting the following: "; or

"(ii) a full-time employee who has not less than 3 years experience making microloans to startup, newly established, or growing small business concerns; and

"(C) has at least 1 year experience providing, as an integral part of its microloan program, intensive marketing, management, and technical assistance to its borrowers."

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

(c) LIMITATION ON THIRD PARTY TECHNICAL ASSISTANCE.—Section 7(m)(4)(E)(i) of the Small Business Act (15 U.S.C. 636(m)(4)(E)(i)) is amended—

(1) by striking "TECHNICAL ASSISTANCE" and inserting "THIRD PARTY TECHNICAL ASSISTANCE"; and

(2) by striking "25 percent" and inserting "30 percent".

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

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

(1) by striking "The Administration" and inserting the following:

"(i) IN GENERAL.—The Administration";

(2) by striking the period after "financing"; and

(3) by adding at the end the following:

"(ii) REPORT.—The Administration shall report, in its annual budget request and performance plan to Congress, on the performance by the Administration of the requirements of clause (i)."

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

"(14) IMPROVED SUBSIDY MODEL.—The Administrator shall develop a subsidy model for the microloan program under this subsection, to be used in the fiscal year 2005 budget, that is more accurate than the subsidy model in effect on the day before the date of enactment of this paragraph."

(g) INCREASED FLEXIBILITY FOR PROVIDING TECHNICAL ASSISTANCE TO POTENTIAL BORROWERS.—Section 7(m)(4)(E)(i) of the Small Business Act (15 U.S.C. 636(m)(4)(E)(i)) is amended by striking "25 percent" and inserting "30 percent".

Subtitle C—Lender Oversight**SEC. 221. EXAMINATION AND REVIEW FEES.**

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

(1) in the matter preceding paragraph (1), by striking "(b) In the performance" and inserting the following:

"(b) AUTHORITY OF ADMINISTRATOR.—In the performance";

(2) in paragraph (12), by striking "and" at the end;

(3) in paragraph (13), by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following:

"(14) require lenders participating in the program authorized by section 7(a), including Small Business Lending Companies, to pay reasonable examination and review fees, which shall be—

"(A) deposited in the account for salaries and expenses of the Administration; and

"(B) made available only for the costs of examinations, reviews, and other lender oversight activities concerning lenders participating in the program authorized by section 7(a)."

SEC. 222. ENFORCEMENT AUTHORITY FOR SMALL BUSINESS LENDING COMPANIES AND NON-FEDERALLY REGULATED SBA LENDERS.

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

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

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

"SEC. 36. ENFORCEMENT AUTHORITY FOR SMALL BUSINESS LENDING COMPANIES AND NON-FEDERALLY REGULATED SBA LENDERS

"(a) DEFINED TERM.—In this section the term 'management official' means an officer, director, general partner, manager, employee, agent, or other participant in the management or conduct of the affairs of a Small Business Lending Company or non-federally regulated SBA lender under section 7(a).

"(b) AUTHORIZATION.—

"(1) SMALL BUSINESS LENDING COMPANIES.—The Administration is authorized to—

"(A) supervise the safety and soundness of Small Business Lending Companies;

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

"(C) prescribe regulations governing the operations, oversight, and enforcement of

Small Business Lending Companies, in accordance with the purposes of this Act.

"(2) NON-FEDERALLY REGULATED SBA LENDERS.—The Administration is authorized to—

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

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

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

"(c) CAPITAL DIRECTIVES.—The Administration may—

"(1) deem the failure of a Small Business Lending Company to maintain capital at or above the minimum capital level established by the Administration as an unsafe and unsound practice; and

"(2) in addition to, or in lieu of, any other action authorized by law, issue a directive to a Small Business Lending Company that fails to return or maintain capital at or above its required level, as established by the Administration.

"(d) FORFEITURE OF AUTHORITY FOR NON-COMPLIANCE.—

"(1) IN GENERAL.—Subject to the provisions of subsection (g), if any Small Business Lending Company violates any of the provisions of this Act, or any related regulation, such company shall forfeit all of the rights, privileges, and franchises under this Act.

"(2) ADJUDICATION.—A company under paragraph (1) shall not forfeit its rights, privileges, and franchises under this Act, unless a court of the United States, with jurisdiction over the judicial district in which the principal place of business of such company is located, determines, in a suit brought by, or on behalf of, the Administrator, that such company violated this Act, or regulations promulgated pursuant to this Act.

"(e) REVOCATION OR SUSPENSION OF AUTHORITY.—

"(1) IN GENERAL.—Subject to the provisions of subsection (g), the Administration may revoke or suspend the authority of a participating lender to make, service, or liquidate business loans under section 7(a) if the participating lender—

"(A) knowingly makes false statements in any written statement required under this Act or any regulation issued under this Act;

"(B) fails to state, in any written statement required under this Act or any regulation issued under this Act, a material fact necessary in order to make the statement not misleading in the light of the circumstances under which the statement was made;

"(C) willfully or repeatedly violates—

"(i) any provision of this Act;

"(ii) any rule or regulation issued under this Act; or

"(iii) any condition imposed by the Administration with any application, request, or agreement; or

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

"(2) LENGTH OF SUSPENSION.—The suspension under paragraph (1) shall remain in full force and effect until the Administration issues a written notice of termination.

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

“(4) DELEGATION.—The Administration may delegate the authority to suspend a participating lender’s authority to make loans under section 7(a), but shall not delegate the authority to revoke a participating lender’s authority to make such loans.

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

“(1) order the participating lender or management official to—

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

“(B) take, or refrain from, such action as the Administration deems necessary to ensure compliance with the Act and related regulations; and

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

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

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

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

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

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

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

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

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

“(3) HEARING.—

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

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

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

“(ii) the production of all books, papers, e-mails, faxes, and documents relating to the hearing under this paragraph.

“(C) ENFORCEMENT OF SUBPOENA.—If a party disobeys a subpoena issued under subparagraph (B), the Administration, or any party to a proceeding before the Administration, may invoke the aid of any court of the United States to require—

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

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

“(D) WITNESS FEES.—Witnesses summoned before the Administration shall be paid, by the party at whose instance they were called, the same fees and mileage that are paid witnesses in the courts of the United States.

“(4) ISSUANCE OF ORDER.—

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

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

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

“(ii) the reasons therefore; and

“(iii) the effective date of the order.

“(C) EFFECTIVE DATE.—

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

“(ii) REVOCATION OR SUSPENSION.—An order revoking or suspending the authority of a participating lender under section 7(a) shall be final and conclusive 30 days after the date of issuance of such order unless the participating lender files an appeal under paragraph (5).

“(5) APPEAL.—

“(A) APPEAL BY RIGHT.—Not later than 30 days after an order is issued under paragraph (4), a participating lender may appeal such order by filing a petition requesting that the Administration’s order be set aside or modified with the clerk of the United States district court for the judicial district in which such participating lender has its principal place of business.

“(B) LEAVE OF COURT.—After the expiration of the period described in subparagraph (A), a participating lender may file a petition of appeal only by leave of court and upon a showing of reasonable grounds for failure to timely file such petition.

“(C) DELIVERY OF PETITION.—Upon receiving a petition under this paragraph, the clerk of the court shall immediately deliver a copy of the petition to the Administration, which shall certify and file in the court a transcript of the record upon which the order complained of was entered.

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

“(E) EFFECT OF PETITION.—The filing of a petition for review shall not affect the operation of the order of the Administration, but the district court may restrain or suspend, in whole or in part, the operation of the order pending the final hearing and determination of the petition.

“(F) AUTHORITY OF COURT.—

“(i) IN GENERAL.—Except as provided under clause (ii), the district court may affirm, modify, or set aside any order of the Administration issued under this subsection.

“(ii) LIMITATION.—The district court shall not consider an objection to an order of the Administration unless such objection was presented to the Administration or there were reasonable grounds for failure to do so.

“(G) ADDITIONAL EVIDENCE.—

“(i) IN GENERAL.—If the district court determines that the just and proper disposition of the case requires the taking of additional evidence, the court may take additional evidence and findings of fact, or may order the Administration to reopen the hearing for the taking of such evidence, in such manner and upon such terms and conditions as the court determines to be proper.

“(ii) MODIFICATION OF FINDINGS.—The Administration may modify its findings as to the facts, or make new findings, by reason of the additional evidence so taken, and it shall file its modified or new findings and the amendments, if any, of its order, with the record of such additional evidence.

“(6) ENFORCEMENT OF ORDER.—

“(A) IN GENERAL.—If any participating lender or other person against which an order is issued under this section fails to obey the order, the Administration may file an application with the United States district court within the judicial district where the participating lender has its principal place of business, for the enforcement of the order by filing a transcript of the record upon which the disobeyed order was entered.

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

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

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

“(1) REMOVAL OF MANAGEMENT OFFICIALS.—

“(A) NOTICE OF REMOVAL.—The Administrator may serve upon any management official a written notice of its intention to remove that management official if, in the opinion of the Administrator such management official—

“(i) has willfully and knowingly committed any substantial violation of—

“(I) this Act;

“(II) any regulation issued under this Act;

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

“(IV) any agreement by the management official or the participating lender; or

“(ii) has willfully and knowingly committed or engaged in any act, omission, or practice which constitutes a substantial breach of a fiduciary duty of that person as a management official if the violation or breach of fiduciary duty involves personal dishonesty on the part of such management official.

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

“(i) a statement of the facts constituting the grounds for the removal of the management official; and

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

“(C) HEARINGS.—

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

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

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

“(ii) CONSENT.—If the management official fails to appear, in person or by a duly authorized representative, at a hearing under this paragraph, that management official shall be deemed to have consented to the issuance of an order of removal under subparagraph (A).

“(D) ISSUANCE OF ORDER OF REMOVAL.—

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

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

“(II) the Administrator finds, upon the record of the hearing described in this subsection, that any of the grounds specified in the notice of removal has been established.

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

“(I) become effective on the expiration of the date which is 30 days after the date that notice is provided to the participating lender and the management official concerned (except in the case of an order issued upon consent as described in [clause] subparagraph (C)(ii), which shall become effective at the time specified in such order); and

“(II) remain effective and enforceable, except to the extent it is stayed, modified, terminated, or set aside by action of the Administrator or a reviewing court, in accordance with this section.

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

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

“(i) if necessary to protect the Small Business Lending Company or interests of the Administration, suspend from office any management official described in paragraph (1), or temporarily prohibit such official from further participating in the management or conduct of the affairs of the Small Business Lending Company; and

“(ii) if necessary to protect the interests of the Administration, suspend from office any management official described in paragraph (1) or prohibit from further participation a non-federally regulated SBA lender or any management official described in paragraph (1) in any activities related to the making, servicing, review, approval, or liquidation of any loan made under section 7(a).

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

“(i) shall become effective upon service of notice under paragraph (1); and

“(ii) unless stayed by a court in proceedings under subparagraph (C), shall remain in effect—

“(I) pending the completion of the administrative proceedings pursuant to a notice under paragraph (1); and

“(II) until the Administrator dismisses the charges specified in the notice, or, if an order of removal or prohibition is issued against the management official, until the effective date of any such order.

“(C) JUDICIAL REVIEW.—Not later than 10 days after any management official has been suspended from office or prohibited from participation in the management or conduct of the affairs of a participating lender, the management official may apply for a stay of the suspension or prohibition, pending the completion of the administrative proceedings under this subsection, to—

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

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

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

“(A) IN GENERAL.—If a management official is charged, in any information, indictment, or complaint authorized by a United States attorney or a State prosecutor, with the commission of a felony involving dishonesty or breach of trust, or has been convicted of any felony, the Administrator may suspend that management official from office or prohibit that management official from further participation in the management or conduct of the affairs of the participating lender.

“(B) EFFECTIVENESS.—A suspension or prohibition under paragraph (A) shall remain in effect until the subject information, indictment, or complaint is finally disposed of, or until terminated by the Administrator.

“(C) AUTHORITY UPON CONVICTION.—

“(i) IN GENERAL.—If a judgment of conviction with respect to an offense described in paragraph (A) is entered against a management official and is no longer subject to appellate review, the Administrator may issue an order removing that management official from office.

“(ii) NOTICE.—A copy of the order issued under clause (i) shall be delivered to the management official and the participating lender for which such official was employed.

“(iii) EFFECTIVE DATE.—The order of removal under clause (i) shall take effect upon the delivery of a copy of the order to the participating lender.

“(D) AUTHORITY UPON DISMISSAL OR OTHER DISPOSITION.—A finding of not guilty or other disposition of charges described in subparagraph (A) shall not preclude the Administrator from initiating proceedings to suspend or remove the management official from of-

fice, or to temporarily prohibit the management official from participation in the management or conduct of the affairs of any participating lender.

“(4) PROCEDURAL PROVISIONS; JUDICIAL REVIEW.—

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

“(i) held in the Federal judicial district or in the territory in which the principal office of the participating lender is located, unless the party afforded the hearing consents to another place; and

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

“(B) ISSUANCE OF ORDERS.—After a hearing under this subsection, and not later than 90 days after the Administrator has notified the parties that the case has been submitted for final decision, the Administrator shall—

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

“(ii) issue and serve upon each party to the proceeding an order or orders consistent with the provisions of this section.

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

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

“(ii) after the filing of the record under subparagraph (D)(iii), with permission of the court.

“(D) JUDICIAL REVIEW.—

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

“(ii) PETITION FOR JUDICIAL REVIEW.—Any party to a hearing under this section may obtain a review of any order issued pursuant to subparagraph (B) (other than an order issued with the consent of the management official concerned or an order issued under subsection (d)), by filing, not later than 30 days after the date of service of such order, in the United States district court for the judicial district in which the principal office of the licensee is located or in the United States District Court for the District of Columbia, a written petition requested that the order be modified, terminated, or set aside.

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

“(iv) JURISDICTION.—

“(I) EXCLUSIVE.—Upon the filing of the record under clause (iii), the district court described in clause (ii) shall have exclusive jurisdiction to affirm, modify, terminate, or set aside, in whole or in part, the order of the Administrator, except as provided under paragraph (2)(B)(ii)(II).

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

“(v) JUDICIAL REVIEW NOT A STAY.—The commencement of proceedings for judicial review under this paragraph shall not, unless specifically ordered by the district court, operate as a stay of any order issued by the Administrator under this section.

“(j) INJUNCTIONS.—

“(I) APPLICATION.—If, in the judgment of the Administrator, a participating lender or any other person has engaged, or is about to engage, in any acts or practices which vio-

late any provision of this Act, any rule or regulation under this Act, or any order issued under this Act, the Administrator may apply to the proper district court of the United States, or a United States court of any place subject to the jurisdiction of the United States, for an order to—

“(A) enjoin such acts or practices; or

“(B) enforce compliance with such provision, rule, regulation, or order.

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

“(3) ISSUANCE.—Upon a showing by the Administrator that a participating lender or other person has engaged, or is about to engage, in any act or practice described in paragraph (1), the court shall issue, without bond—

“(A) a permanent or temporary injunction;

“(B) a restraining order; or

“(C) any other appropriate order.

“(j) APPOINTMENT OF RECEIVERS.—In any injunction proceeding under subsection (i), the district court may—

“(1) seize the assets of 1 or more Small Business Lending Companies; and

“(2) appoint the Administration, or another receiver, to hold or administer the assets seized under paragraph (1) under the direction of the court.

“(k) POSSESSION OF ASSETS.—

“(1) SMALL BUSINESS LENDING COMPANIES.—If a Small Business Lending Company is insolvent, out of compliance with capital requirements under this section, or otherwise operating in an unsafe or unsound condition, the Administration may take possession of—

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

“(B) servicing activities of loans that are guaranteed by the Administration and sell such servicing rights to a third party through a receiver appointed under subsection (j)(2).

“(2) NON-FEDERALLY REGULATED SBA LENDERS.—If a non-federally regulated SBA lender is insolvent or otherwise operating in an unsafe and unsound condition, the Administration may take possession of—

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

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

“(j) PENALTIES AND FORFEITURES.—

“(1) IN GENERAL.—Except as provided under paragraph (3), a Small Business Lending Company or a non-federally regulated SBA lender that violates any regulation or written directive issued by the Administrator regarding the filing of any regular or special report shall pay to the United States a civil penalty of not more than \$5,000 for every day after the due date in which the lender fails to file such report, unless such failure is due to reasonable cause and not willful neglect.

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

“(3) EXEMPTION.—The Administrator may, by regulation, order, or upon the application of an interested party, at any time before a report is due under paragraph (1) and after notice and opportunity for hearing, exempt, in whole or in part, any Small Business Lending Company from the provisions of paragraph (1), upon such terms and conditions and for such period of time as the Administrator determines to be appropriate, if the Administrator finds that such action is consistent with the public interest or the protection of the Administration.

“(4) ALTERNATIVE REQUIREMENTS.—If an exemption is granted under paragraph (3), the Administrator may, for the purposes of this section, make any alternative requirements appropriate to the situation.”.

SEC. 223. DEFINITIONS FOR SMALL BUSINESS LENDING COMPANIES AND NON-FEDERALLY REGULATED SBA LENDERS.

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

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

(2) by adding at the end the following: “(r) SMALL BUSINESS LENDING COMPANY.—In this Act, the term ‘Small Business Lending Company’ means a non-depository financial institution that is licensed, supervised, examined, and regulated by the Administration to only make loans under section 7.

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

“(1) the Farm Credit Administration;

“(2) the Federal Financial Institution Examination Council;

“(3) the Board of Governors of the Federal Reserve System;

“(4) the Office of the Comptroller of the Currency;

“(5) the Federal Deposit Insurance Corporation;

“(6) the Office of Thrift Supervision; or

“(7) the National Credit Union Administration.”.

Subtitle D—Disaster Assistance Loan Program

SEC. 231. CONFORMING AMENDMENT FOR DISASTER ASSISTANCE LOAN PROGRAM.

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

(1) by striking “\$500,000” each place it appears and inserting “\$1,500,000”; and

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

SEC. 232. DISASTER RELIEF FOR SMALL BUSINESS CONCERNS DAMAGED BY DROUGHT.

(a) DROUGHT DISASTER AUTHORITY.—

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

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

(B) by adding at the end the following:

“(2) For purposes of section 7(b)(2), the term ‘disaster’ includes—

“(A) drought; and

“(B) below average water levels in the Great Lakes, or on any body of water in the United States that supports commerce by small business concerns.”.

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

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

(B) in subparagraph (B), by striking “the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961)” and inserting the following: “section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961), in which case, assistance under this paragraph may be provided to farm-related and nonfarm-related small business concerns, subject to the other applicable requirements of this paragraph”.

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

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

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

SEC. 233. DISASTER MITIGATION PILOT PROGRAM.

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

Subtitle E—504 Loan Program

SEC. 241. EXTENSION OF USER FEES.

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

SEC. 242. AMORTIZED LOAN LOSS RESERVE FUND.

Paragraph (6) of section 508(c) of the Small Business Investment Act of 1958 (15 U.S.C. 697e(c)) is amended—

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

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

(2) by adding at the end the following new subparagraph:

“(B) TEMPORARY REDUCTION BASED ON OUTSTANDING BALANCE.—Notwithstanding subparagraph (A), the Administration shall allow the certified development company to withdraw from the loss reserve such amounts as are in excess of 1 percent of the aggregate outstanding balances of debentures to which such loss reserve relates. The preceding sentence shall not apply with respect to any debenture before 100 percent of the contribution described in paragraph (4) with respect to such debenture has been made.”.

SEC. 243. ALTERNATIVE LOSS RESERVE FOR CERTAIN PREMIER CERTIFIED LENDERS.

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

“(7) ALTERNATIVE LOSS RESERVE.—

“(A) ELECTION.—With respect to any eligible calendar quarter, any qualified high loss reserve PCL may elect to have the requirements of this paragraph apply in lieu of the requirements of paragraphs (2) and (4) for such quarter.

“(B) CONTRIBUTIONS.—

“(i) ORDINARY RULES INAPPLICABLE.—Except as provided under clause (ii) and paragraph (5), a qualified high loss reserve PCL that makes the election described in subparagraph (A) with respect to a calendar quarter shall not be required to make contributions to its loss reserve during such quarter.

“(ii) BASED ON LOSS.—A qualified high loss reserve PCL that makes the election described in subparagraph (A) with respect to any calendar quarter shall, before the last day of such quarter, make such contributions to its loss reserve as are necessary to ensure that the amount of the loss reserve of the PCL is—

“(I) not less than \$100,000; and

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

“(iii) CERTIFICATION.—Before the end of any calendar quarter for which an election is in effect under subparagraph (A), the head of the PCL shall submit to the Administrator a certification that the loss reserve of the PCL is sufficient to meet such PCL’s obligation to protect the Federal Government from risk of loss. Such certification shall be in such form and submitted in such manner as the Administrator may require and shall be signed by the head of such PCL and the auditor making the determination under clause (ii)(II).

“(C) DISBURSEMENTS.—

“(i) ORDINARY RULE INAPPLICABLE.—Paragraph (6) shall not apply with respect to any qualified high loss reserve PCL for any calendar quarter for which an election is in effect under subparagraph (A).

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

“(I) the amount of the loss reserve, over

“(II) the greater of \$100,000 or the amount which is determined under subparagraph (B)(ii) to be sufficient to meet the PCL’s obligation to protect the Federal Government from risk of loss.

“(D) RECONTRIBUTION.—If the requirements of this paragraph apply to a qualified high loss reserve PCL for any calendar quarter and cease to apply to such PCL for any subsequent calendar quarter, such PCL shall make a contribution to its loss reserve in such amount as the Administrator may determine provided that such amount does not exceed the amount which would result in the total amount in the loss reserve being equal to the amount which would have been in such loss reserve had this paragraph never applied to such PCL. The Administrator may require that such payment be made as a single payment or as a series of payments.

“(E) RISK MANAGEMENT.—If a qualified high loss reserve PCL fails to meet the requirement of subparagraph (F)(iii) during any period for which an election is in effect under subparagraph (A) and such failure continues for 180 days, the requirements of paragraphs (2), (4), and (6) shall apply to such PCL as of the end of such 180-day period and such PCL shall make the contribution to its loss reserve described in subparagraph (D). The Administrator may waive the requirements of this subparagraph.

“(F) QUALIFIED HIGH LOSS RESERVE PCL.—The term ‘qualified high loss reserve PCL’ means, with respect to any calendar year, any premier certified lender designated by the Administrator as a qualified high loss reserve PCL for such year. The Administrator shall not designate a company under the preceding sentence unless the Administrator determines that—

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

“(ii) the company has established and is utilizing an appropriate and effective process for analyzing the risk of loss associated with its portfolio of PCLP loans and for grading each PCLP loan made by the company on the basis of the risk of loss associated with such loan; and

“(iii) the company meets or exceeds 4 or more of the specified risk management benchmarks as of the most recent assessment by the Administration or the Administration has issued a waiver with respect to the requirement of this clause.

“(G) SPECIFIED RISK MANAGEMENT BENCHMARKS.—For purposes of this paragraph, the term ‘specified risk management benchmarks’ means the following rates, as determined by the Administrator:

“(i) Currency rate.

"(ii) Delinquency rate.

"(iii) Default rate.

"(iv) Liquidation rate.

"(v) Loss rate.

"(H) QUALIFIED INDEPENDENT AUDITOR.—For purposes of this paragraph, the term 'qualified independent auditor' means any licensed auditor who—

"(i) is compensated by the qualified high loss reserve PCL;

"(ii) is independent of such PCL; and

"(iii) has been approved by the Administrator during the preceding year.

"(I) PCLP LOAN.—For purposes of this paragraph, the term 'PCLP loan' means any loan guaranteed under this section.

"(J) ELIGIBLE CALENDAR QUARTER.—For purposes of this paragraph, the term 'eligible calendar quarter' means—

"(i) the first calendar quarter that begins after the end of the 90-day period beginning with the date of the enactment of this paragraph; and

"(ii) the [7] succeeding calendar quarters.

"(K) CALENDAR QUARTER.—For purposes of this paragraph, the term 'calendar quarter' means—

"(i) the period which begins on January 1 and ends on March 31 of each year;

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

"(iii) the period which begins on July 1 and ends on September 30 of each year; and

"(iv) the period which begins on October 1 and ends on December 31 of each year.

"(L) REGULATIONS.—Not later than 45 days after the date of the enactment of this paragraph, the Administrator shall publish in the Federal Register and transmit to Congress regulations to carry out this paragraph. Such regulations shall include provisions relating to—

"(i) the approval of auditors under subparagraph (H); and

"(ii) the designation of qualified high loss reserve PCLs under subparagraph (F), including the determination of whether a process for analyzing risk of loss is appropriate and effective for purposes of subparagraph (F)(ii)."

(b) INCREASED REIMBURSEMENT FOR LOSSES RELATED TO DEBENTURES ISSUED DURING ELECTION PERIOD.—Subparagraph (C) of section 508(b)(2) of the Small Business Investment Act of 1958 (15 U.S.C. 697e(b)(2)) is amended by inserting "(15 percent in the case of any such loss attributable to a debenture issued by the company during any period for which an election is in effect under subsection (c)(7) for such company)" before "; and".

(c) CONFORMING AMENDMENTS.—

(1) Subparagraph (D) of section 508(b)(2) of the Small Business Investment Act of 1958 (15 U.S.C. 697e(b)(2)) is amended by striking "subsection (c)(2)" and inserting "subsection (c)".

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

(d) STUDY AND REPORT.—

(1) IN GENERAL.—The Administrator shall enter into a contract with a Federal agency experienced in community development lending and financial regulation or with a member of the Federal Financial Institutions Examinations Council to study and prepare a report regarding—

(A) the extent to which statutory requirements have caused over capitalization in the loss reserves maintained by certified development companies participating in the Premier Certified Lenders Program established under section 508 of the Small Business Investment Act of 1958 (15 U.S.C. 697e); and

(B) alternatives for establishing and maintaining loss reserves that are sufficient to

protect the Federal Government from the risk of loss associated with loans guaranteed under such Program.

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

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

SEC. 244. DEBENTURE SIZE.

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

["(1) by striking "The Administration may," and inserting the following:

"(a) IN GENERAL.—The Administration may,";

(2) by striking "": *Provided, however, That the foregoing powers*" and inserting the following:

"(b) CONDITIONS.—The authority under subsection (a)" and

(3) in subsection (b) (as designated by paragraph (2)), by amending paragraph (2) to read as follows:"]

"(2) MAXIMUM AMOUNT.—Loans made by the Administration under this section shall be limited to—

"(A) \$1,500,000 for each small business concern if the loan proceeds will not be directed toward a goal or project described in subparagraph (B) or (C);

"(B) \$2,000,000 for each small business concern if the loan proceeds will be directed toward 1 or more of the public policy goals described under section 501(d)(3); and

"(C) \$2,000,000 for each small business concern if the loan proceeds will be directed toward manufacturing projects.""]

"(C) \$4,000,000 for each small business concern if the loan proceeds will be directed toward manufacturing projects."

SEC. 245. JOB CREATION OR RETENTION STANDARDS.

Section 501 of the Small Business Investment Act of 1958 (15 U.S.C. 695) is amended by striking the undesignated paragraph at the end and inserting the following:

"(e) JOB CREATION OR RETENTION.—

["(1) IN GENERAL.—A project being funded by the debenture is deemed to satisfy the job creation or retention requirement under subsection (d)(1) if the project creates or retains 1 job opportunity for every \$50,000 guaranteed by the Administration."]

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

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

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

"(2) TEMPORARY JOB CREATION WAIVER.—

"(A) IN GENERAL.—If a development company fails to meet the job creation and retention requirements under this section, the company may apply for a temporary waiver from the Administration. Not later than 30 days after the request for such waiver, the Administration shall respond to the request and may temporarily waive the requirement if the development company shows reasonable cause for its failure to meet the job creation and retention requirements under this section and demonstrates how it intends to attain such requirements in the future.

"(B) AGGREGATION OF GOALS AND OBJECTIVES.—If a project meets the economic development objectives or public policy goals under paragraphs (2) and (3) of subsection (d), the project does not need to meet the individual job creation or retention require-

ments for that particular project if the outstanding portfolio of the development company meets or exceeds the job creation or retention criteria under subsection (d)(1)."

SEC. 246. SIMPLIFIED APPLICATIONS.

(a) LOANS OF \$400,000 OR LESS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Administrator shall develop a shorter, more concise, and simplified application form for loan guarantees involving not more than \$400,000 authorized under section 504 of the Small Business Investment Act of 1958 (15 U.S.C. 697a).

(2) AVAILABILITY TO CERTIFIED DEVELOPMENT COMPANIES.—The form developed under paragraph (1) shall be made available to certified development companies not later than 180 days after the date of enactment of this Act.

(b) ALL OTHER LOANS.—

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

(2) AVAILABILITY TO CERTIFIED DEVELOPMENT COMPANIES.—The form developed under paragraph (1) shall be made available to certified development companies not later than 270 days after the date of enactment of this Act.

SEC. 247. CHILD CARE LENDING PILOT PROGRAM.

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

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

(A) by striking "The Administration" and inserting the following:

"(a) AUTHORIZATION.—The Administration";

(B) by striking "and such loans" and inserting "Such loans";

(C) by striking "": *Provided, however, That the foregoing powers shall be subject to the following restrictions and limitations:*" and inserting a period; and

(D) by adding at the end the following:

"(b) RESTRICTIONS AND LIMITATIONS.—The authority under subsection (a) shall be subject to the following restrictions and limitations:"; and

(2) in paragraph (1)—

(A) by inserting after "USE OF PROCEEDS.—" the following:

"(A) IN GENERAL.—"; and

(B) by adding at the end the following:

"(B) LOANS TO SMALL, NONPROFIT CHILD CARE BUSINESSES.—

"(i) IN GENERAL.—Notwithstanding subsection (a)(1), the proceeds of any loan described in subsection (a) may be used by the certified development company to assist small, nonprofit child care businesses, provided that—

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

"(II) each such business receiving financial assistance meets all of the same eligibility requirements applicable to for-profit businesses under this title, except for status as a for-profit business;

"(III) 1 or more individuals has personally guaranteed the loan;

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

"(V) the small, non-profit child care business has sufficient cash flow from its operations to meet its obligations on the loan

and its normal and reasonable operating expenses.

“(ii) **LIMITATION ON VOLUME.**—Not more than 7 percent of the total number of loans guaranteed in any fiscal year under this title may be awarded under the pilot program.

“(iii) **DEFINED TERM.**—For purposes of this subparagraph, the term ‘small, non-profit child care business’ means an establishment that—

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

“(II) is primarily engaged in providing child care for infants, toddlers, pre-school, or pre-kindergarten children (or any combination thereof), may provide care for older children when they are not in school, and may offer pre-kindergarten educational programs;

“(III) including its affiliates, has tangible net worth that does not exceed \$7,000,000, and has average net income (excluding any carryover losses) for the preceding 2 completed fiscal years that does not exceed \$2,500,000; and

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

“(iv) **SUNSET PROVISION.**—This subparagraph shall remain in effect until September 30, 2006, and shall apply to all loans authorized under this subparagraph that are applied for, approved, or disbursed during the period beginning on the date of enactment of the Small Business Administration 50th Anniversary Reauthorization Act of 2003 and ending on September 30, 2006.”

(b) **REPORTS.**—

(1) **SMALL BUSINESS ADMINISTRATION.**—

(A) **IN GENERAL.**—Not later than 6 months after the date of enactment of this Act, and every 6 months thereafter until September 30, 2006, the Administrator shall submit a report on the implementation of the program under subsection (a) to—

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

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

(B) **CONTENTS.**—The report under subparagraph (A) shall contain—

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

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

(iii) the number and dollar amount of loans under the program applied for, approved, and disbursed during the previous 6 months—

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

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

(2) **GENERAL ACCOUNTING OFFICE.**—

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

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

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

(B) **CONTENTS.**—The report under subparagraph (A) shall contain information gathered during the first 2 years of the loan program, including—

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

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

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

(iv) by location (State, insular area, and District of Columbia) and in total, the num-

ber of child care small businesses, categorized by status as a for-profit or non-profit business, that—

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

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

(III) received loan disbursements under the program (and whether they are a new or expanding child care provider); and

(v) with respect to the businesses described under clause (iv)(III)—

(I) the number of such businesses in each State, insular area, and District of Columbia, as of the year of enactment of this Act;

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

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

(IV) the average loan amount and term;

(V) the currency rate, delinquencies, defaults, and losses of the loans;

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

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

(C) **ACCESS TO INFORMATION.**—

(i) **IN GENERAL.**—The Administration shall collect and maintain such information as may be necessary to carry out this paragraph from certified development centers and child care providers, and such centers and providers shall comply with a request for information from the Administration for that purpose.

(ii) **PROVISION OF INFORMATION TO GAO.**—The Administration shall provide information collected under this subparagraph to the Comptroller General of the United States for purposes of the report required by this paragraph.

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

SEC. 248. DEFINITION OF RURAL AREA.

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

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

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

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

Subtitle F—Surety Bond Program

SEC. 251. CLARIFICATION OF MAXIMUM SURETY BOND GUARANTEE.

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

SEC. 252. AUTHORIZATION OF PREFERRED SURETY BOND GUARANTEE PROGRAM.

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

Subtitle G—Miscellaneous

SEC. 261. COORDINATION OF SBA LOANS.

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

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

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

“(A) if the total amount outstanding and committed (by participation or otherwise) to

the borrower under section 7(a) would exceed \$1,000,000 (or if the gross loan amount would exceed \$2,000,000), except as provided in subparagraph (B), plus an amount not to exceed the maximum amount of a development company financing under title V of the Small Business Investment Act of 1958 (15 U.S.C. 695 et seq.), and the Administration shall report to Congress in its annual budget request and performance plan on the number of small business concerns that have financings under both section 7(a) and under title V of the Small Business Investment Act of 1958, and the total amount and general performance of such financings.”

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

(a) **7(a) LOANS.**—Section 7(a)(28) of the Small Business Act (15 U.S.C. 636(a)(28)) is amended to read as follows:

“(28) **LEASING.**—In addition to such other lease arrangements as may be authorized by the Administration, a borrower under this section may lease, permanently or for a short term, to 1 or more tenants, not more than 40 percent of any property purchased or constructed as part of a project financed under this section if the borrower permanently occupies and uses not less than 60 percent of the total business space of the property.”

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

“(5) **LEASING.**—In addition to such other lease arrangements as may be authorized by the Administration, a borrower under this title may lease, permanently or for a short term, to 1 or more tenants, not more than 40 percent of any property purchased or constructed as part of a project financed under this title if the borrower permanently occupies and uses not less than 60 percent of the total business space of the property.”

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

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

“(b) In calculating the 20 percent limitation under subsection (a) or any guarantee required of a small business investment company by the Administration, only 50 percent of the value of any loans issued under either section 7(a) of the Small Business Act or title V of this Act, which are received by the enterprise in which the small business investment company has issued commitments, shall be taken into consideration, but for any 1 such enterprise, a small business investment company may not simultaneously take advantage of this discounted calculation for loans under both section 7(a) of the Small Business Act (15 U.S.C. 636(a)) and title V of this Act.”

SEC. 264. ESTABLISHING ALTERNATIVE SIZE STANDARD.

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

(1) by striking “When establishing” and inserting the following: “ESTABLISHMENT OF SIZE STANDARDS.—

“(1) **IN GENERAL.**—When establishing”; and

(2) by adding at the end the following:

“(2) **ALTERNATIVE SIZE STANDARD.**—The Administrator shall establish an alternative size standard pursuant to paragraph (2), which—

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

“(B) shall utilize the maximum net worth and maximum net income of the pro-

spective borrower as an alternative to the use of industry standards.”.

SEC. 265. PILOT PROGRAM FOR GUARANTEES ON POOLS OF NON-SBA LOANS.

Title IV of the Small Business Investment Act of 1958 (15 U.S.C. 692 et seq.) is amended by adding at the end the following:

“PART C—CREDIT ENHANCEMENT GUARANTEES

“SEC. 420. (a) The Administration is authorized, upon such terms and conditions as it may prescribe, in order to encourage lenders to increase the availability of small business financing by improving such lenders’ access to reasonable sources of funding, to provide a credit enhancement guarantee, or commitment to guarantee, of the timely payment of a portion of the principal and interest on securities issued and managed by not less than 2 and not more than 5 qualified entities authorized and approved by the Administration.

“(b)(1) The Administration may provide its credit enhancement guarantees in respect of securities that represent interests in, or other obligations issued by, a trust, pool, or other entity whose assets (other than the Administration’s credit enhancement guarantee and credit enhancements provided by other parties) consist of loans made to small business concerns.

“(2) All loans under paragraph (1) shall be originated, purchased, or assembled and managed consistent with requirements prescribed by the Administration in connection with this credit enhancement guarantee program.

“(3) The Administration shall prescribe requirements to be observed by the issuers and managers of the securities covered by credit enhancement guarantees to ensure the safety and soundness of the credit enhancement guarantee program.

“(4) The Administration may authorize affiliates of lenders designated as Preferred Lenders (as defined in the Small Business Act) to become issuers and managers of securities covered by credit enhancement guarantees if not more than 50 percent of the voting and economic ownership interests of any such issuer or manager are owned, directly or indirectly, by any single Preferred Lender or any person directly or indirectly controlling such Preferred Lender.

“(c) The full faith and credit of the United States is pledged to the payment of all amounts the Administration may be required to pay as a result of credit enhancement guarantees under this section.

“(d)(1) The Administration may issue an amount of credit enhancement guarantees in any fiscal year not exceeding the amount of the business loan and development company debenture guarantee authority available to the Administration for such year under this Act and the Small Business Act.

“(2) The Administration shall set the percentage and priority of each credit enhancement guarantee on issued securities so that the amount of the Administration’s anticipated net loss (if any) as a result of such guarantee is fully reserved in a credit subsidy account funded in whole or in part by fees collected by the Administration.

“(3) The Administration shall charge and collect a fee from the issuer based on the Administration’s guaranteed amount of issued securities, but the amount of such fee may not exceed the estimated credit subsidy cost of the Administration’s credit enhancement guarantee.

“(e) REPORTING AND ANALYSIS.—

“(1) REPORTING.—During the development and implementation of the pilot program, the Administrator shall provide a report on the status of the pilot program under this section to Congress in each annual budget request and performance plan.

“(2) ANALYSIS AND REPORT.—Not later than December 30, 2005, the Comptroller General shall—

“(A) conduct an analysis of the pilot program under this section; and

“(B) submit a report to Congress that contains a summary of the analysis conducted under subparagraph (A) and a description of any effects, not attributable to other causes, of the pilot program on the lending programs under section 7(a) of the Small Business Act (15 U.S.C. 636(a)) and title V of this Act.

“(3) IMPLEMENTATION.—

“(A) REPORT.—After completing operational guidelines to carry out the pilot program under this section, the Administration shall submit a report, which describes the method in which the pilot program will be implemented, to—

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

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

“(B) TIMING.—The Administration shall not implement the pilot program under this section until the date that is 50 days after the report has been submitted under subparagraph (A).

“(f) SUNSET PROVISION.—This section shall remain in effect until September 30, 2006.”.

Subtitle H—New Markets Venture Capital

SEC. 271. TIME FRAME FOR RAISING PRIVATE CAPITAL.

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

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

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

“(1) IN GENERAL.—The Administrator shall give each conditionally approved company 2 years to satisfy the requirements under this subsection. If a conditionally approved company meets these requirements before the end of such 2-year period, the Administrator shall proceed to final approval according to the [following] requirement[~~s~~] under subsection (e).”.

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

Section 351(3)(A)(ii)[(II)](I) of the Small Business Investment Act of 1958 (15 U.S.C. 689(3)(A)(ii)[(II)](I)) is amended by striking “[household income] 50 percent or more” and all that follows and inserting “[family] the median household income for such tract does not exceed 80 percent of the greater of the statewide median [family] household income or metropolitan area median [family] household income.”.

Subtitle I—Small Business Investment Company Program

SEC. 281. INVESTMENT OF EXCESS FUNDS.

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

“(1) direct obligations of, or obligations guaranteed as to principal and interest by, the United States;

“(2) in [savings account or] certificates of deposit maturing within 1 year [that are issued] after issuance by any institution, whose accounts are [F]ederally insured, or in savings accounts of such institution; or

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

SEC. 282. MAXIMUM PRIORITIZED PAYMENT RATE.

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

(1) in the matter preceding paragraph (1),

“(A)” by striking “In order” and inserting “GUARANTEES OF PARTICIPATING SECURITIES.—In order”; and

“(B)” by striking “For purposes of this section,” and all that follows through “the extent of earnings.”; and]

(2) in paragraph (2), by striking “1.38 percent” and inserting “1.7 percent”.

SEC. 283. IMPROVED DISTRIBUTION REQUIREMENTS.

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

“(9) After making any distribution pursuant to paragraph (8), a company with participating securities outstanding may distribute the balance of income to its investors if—

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

“(B) any amounts received by the Administration under this paragraph and paragraph (8) are first applied as prepayment of the principal amount of the outstanding participating securities or debentures of the company at the time of such distribution and then applied to the profit participation under paragraph (11); and

“(C) any distributions under this paragraph are made to private investors and to the Administration in the ratio of private capital to leverage as of the date immediately preceding the distribution until the outstanding participating securities or debentures of the company have been paid in full, after which any remaining distributions under this paragraph are made to private investors and to the Administration in the ratio provided for the distribution of profits under paragraph (11).”.

Subtitle J—Small Business Intermediary Lending Pilot Program

SEC. 291. SHORT TITLE.

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

SEC. 292. FINDINGS.

Congress finds the following:

(1) Small and emerging businesses, particularly startups and businesses that lack sufficient or conventional collateral, continue to face barriers accessing mid-sized loans in amounts between \$35,000 and \$200,000, with affordable terms and conditions.

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

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

(B) less flexible terms and conditions, which are often necessary for small and emerging businesses.

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

(A) providing riskier, up front, or subordinated capital;

(B) offering flexible terms and underwriting procedures; and

(C) providing technical assistance to businesses in order to reduce the transaction costs and risk exposure of banks.

(4) Several Federal programs, including the Microloan Program under section 7(m) of the

Small Business Act (15 U.S.C. 636(m)) and the Intermediary Relending Program of the Department of Agriculture, have demonstrated the effectiveness of working through non-profit intermediaries to address the needs of small business concerns that are unable to access capital through conventional sources.

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

(A) successfully providing financial and technical assistance to small and emerging businesses;

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

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

SEC. 293. SMALL BUSINESS INTERMEDIARY LENDING PILOT PROGRAM.

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

“(1) SMALL BUSINESS INTERMEDIARY LENDING PROGRAM.—

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

“(A) the term ‘intermediary’ means an entity that seeks to borrow, or has borrowed, funds from the Administration to make mid-size loans to small business concerns under this subsection that is a private, nonprofit entity, including—

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

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

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

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

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

“(2) ESTABLISHMENT.—There is established a 3-year small business intermediary lending pilot program (referred to in this section as the “Program”), under which the Administration may make direct loans to eligible intermediaries, for the purpose of making fixed interest rate mid-size loans to startup, newly established, and growing small business concerns.

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

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

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

“(C) to establish a mid-size loan program to be administered by the Small Business Administration to make loans to eligible intermediaries to enable such intermediaries to provide small-scale loans, particularly loans in amounts averaging not more than \$150,000, to startup, newly established, or growing small business concerns for working capital or the acquisition of materials, supplies, or equipment;

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

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

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

“(E) to determine the advisability and feasibility of implementing a mid-size loan program nationwide.

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

“(5) LOANS TO INTERMEDIARIES.—

“(A) APPLICATION.—Each intermediary desiring a loan under this subsection shall submit an application to the Administration, which describes—

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

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

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

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

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

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

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

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

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

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

“(i) banks or credit unions;

“(ii) community development financial institutions; and

“(iii) other sources with funds available to the intermediary lender.

“(G) DELAYED PAYMENTS.—The Administration shall not require the repayment of principal or interest on a loan made to an intermediary under this section during the first 2 years of the loan.

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

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

“(B) EQUITABLE DISTRIBUTION OF INTERMEDIARIES.—The Administration shall select and provide funding under the Program to such intermediaries as will ensure geographic diversity and representation of urban and rural communities.

“(7) REPORT TO CONGRESS.—

“(A) INITIAL REPORT.—Not later than 30 months after the date of enactment of the Small Business Administration 50th Anniversary Reauthorization Act of 2003, the Administration shall submit a report containing an evaluation of the effectiveness of the Program to—

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

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

“(B) ANNUAL REPORT.—Not later than 12 months after the date of enactment of the Small Business Administration 50th Anniversary Reauthorization Act of 2003, and each year thereafter, the Administration shall submit an annual report containing an evaluation of the effectiveness of the Program to the Committees described in subparagraph (A).

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

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

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

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

“(iv) the repayment history of each intermediary;

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

“(vi) an estimate of the number of low-income individuals who have been employed as a direct result of the Program; and

“(vii) any recommendations for legislative changes that would improve the operation of the Program.”.

(b) RULEMAKING AUTHORITY.—Not later than 180 days after the date of enactment of this Act, the Administrator shall issue regulations to carry out the amendment made by subsection (a).

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2004 through 2006 to provide \$20,000,000 in loans under section 7(l) of the Small Business Act, as amended by subsection (a).

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

TITLE III—ENTREPRENEURIAL DEVELOPMENT PROGRAMS

Subtitle A—Office of Entrepreneurial Development

SEC. 301. SERVICE CORPS OF RETIRED EXECUTIVES.

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

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

(2) by striking “may maintain at its headquarters” and all that follows through “That any” and inserting “shall maintain at its headquarters and pay the salaries, benefits, and expenses of a volunteer and professional staff to manage and oversee the program. Any”;

(3) by striking the period at the end and inserting the following: “and the management of the contributions received.”.

(b) REGULATIONS.—The Administration shall, not later than 180 days after the date of enactment of this Act, promulgate regulations to carry out the amendments made by subsection (a).

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

SEC. 302. SMALL BUSINESS DEVELOPMENT CENTER PROGRAM.

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

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

(2) by striking “certification” each place it appears and inserting “accreditation”.

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

“(7) PRIVACY REQUIREMENTS.—

“(A) IN GENERAL.—A small business development center, consortium of small business development centers, or contractor or agent of a small business development center may not disclose the name, address, or telephone number of any individual or small business concern receiving assistance under this section without the consent of such individual or small business concern, unless—

“(i) the Administrator is ordered to make such a disclosure by a court in any civil or criminal enforcement action initiated by a Federal or State agency; or

"(ii) the Administrator considers such a disclosure to be necessary for the purpose of conducting a financial audit of a small business development center, but a disclosure under this clause shall be limited to the information necessary for such audit.

"(B) ADMINISTRATION USE OF INFORMATION.—This section shall not—

"(i) restrict Administration access to program activity data; or

"(ii) prevent the Administration from using client information (other than the information described in subparagraph (A)) to conduct client surveys.

"(C) REGULATIONS.—The Administrator shall issue regulations to establish standards for requiring disclosures during a financial audit under subparagraph (A)(ii)."

(c) CONFORMING AMENDMENT.—Section 20(a)(1) of the Small Business Act (15 U.S.C. 631 note) is amended by striking "certification" each place it appears and inserting "accreditation".

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

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

"SEC. 37. PROGRAM FOR INVESTMENT IN MICRO-ENTREPRENEURS.

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

"(1) ADMINISTRATION.—The term 'Administration' means the Small Business Administration.

"(2) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Small Business Administration.

"(3) CAPACITY BUILDING SERVICES.—The term 'capacity building services' means services provided to an organization that is, or that is in the process of becoming, a microenterprise development organization or program, for the purpose of enhancing its ability to provide training and services to disadvantaged entrepreneurs.

"(4) COLLABORATIVE.—The term 'collaborative' means 2 or more nonprofit entities that agree to act jointly as a qualified organization under this section.

"(5) DISADVANTAGED ENTREPRENEUR.—The term 'disadvantaged entrepreneur' means a microentrepreneur that—

"(A) is a low-income person;

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

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

"(6) INDIAN TRIBE.—The term 'Indian tribe' has the same meaning as in section 4(a) of the Indian Self-Determination and Education Assistance Act.

"(7) INTERMEDIARY.—The term 'intermediary' means a private, nonprofit entity that seeks to serve microenterprise development organizations and programs, as authorized under subsection (d).

"(8) LOW-INCOME PERSON.—The term 'low-income person' means having an income, adjusted for family size, of not more than—

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

"(B) for nonmetropolitan areas, the greater of—

"(i) 80 percent of the area median income; or

"(ii) 80 percent of the statewide nonmetropolitan area median income.

"(9) MICROENTREPRENEUR.—The term 'microentrepreneur' means the owner or developer of a microenterprise.

"(10) MICROENTERPRISE.—The term 'microenterprise' means a sole proprietorship, partnership, or corporation that—

"(A) has fewer than 5 employees; and

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

"(11) MICROENTERPRISE DEVELOPMENT ORGANIZATION OR PROGRAM.—The term 'microenter-

prise development organization or program' means a nonprofit entity, or a program administered by such an entity, including community development corporations or other nonprofit development organizations and social service organizations, that provides services to disadvantaged entrepreneurs.

"(12) TRAINING AND TECHNICAL ASSISTANCE.—The term 'training and technical assistance' means services and support provided to disadvantaged entrepreneurs, such as assistance for the purpose of enhancing business planning, marketing, management, financial management skills, and assistance for the purpose of accessing financial services.

"(13) VERY LOW-INCOME PERSON.—The term 'very low-income person' means having an income, adjusted for family size, of not more than 150 percent of the poverty line (as defined in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)), including any revision required by that section).

"(b) ESTABLISHMENT OF PROGRAM.—The Administrator shall establish a microenterprise technical assistance and capacity building grant program to provide assistance from the Administration in the form of grants to qualified organizations in accordance with this section.

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

"(1) to provide training and technical assistance to disadvantaged entrepreneurs;

"(2) to provide training and capacity building services to microenterprise development organizations and programs and groups of such organizations to assist such organizations and programs in developing microenterprise training and services;

"(3) to aid in researching and developing the best practices in the field of microenterprise and technical assistance programs for disadvantaged entrepreneurs; and

"(4) for such other activities as the Administrator determines are consistent with the purposes of this section.

"(d) QUALIFIED ORGANIZATIONS.—For purposes of eligibility for assistance under this section, a qualified organization shall be—

"(1) a nonprofit microenterprise development organization or program (or a group or collaborative thereof) that has a demonstrated record of delivering microenterprise services to disadvantaged entrepreneurs;

"(2) an intermediary;

"(3) a microenterprise development organization or program that is accountable to a local community, working in conjunction with a State or local government or Indian tribe; or

"(4) an Indian tribe acting on its own, if the Indian tribe can certify that no private organization or program referred to in this subsection exists within its jurisdiction.

"(e) ALLOCATION OF ASSISTANCE; SUBGRANTS.—

"(1) ALLOCATION OF ASSISTANCE.—

"(A) IN GENERAL.—The Administrator shall allocate assistance from the Administration under this section to ensure that—

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

"(ii) activities described in subsection (c)(2) are funded using not less than 15 percent of amounts made available for such assistance.

"(B) LIMIT ON INDIVIDUAL ASSISTANCE.—No single person may receive more than 10 percent of the total funds appropriated under this section in a single fiscal year.

"(2) TARGETED ASSISTANCE.—The Administrator shall ensure that not less than 50 percent of the grants made under this section are used to benefit very low-income persons, including those residing on Indian reservations.

"(3) SUBGRANTS AUTHORIZED.—

"(A) IN GENERAL.—A qualified organization receiving assistance under this section may pro-

vide grants using that assistance to qualified small and emerging microenterprise organizations and programs, subject to such rules and regulations as the Administrator determines to be appropriate.

"(B) LIMIT ON ADMINISTRATIVE EXPENSES.—Not more than 7.5 percent of assistance received by a qualified organization under this section may be used for administrative expenses in connection with the making of subgrants under subparagraph (A).

"(4) DIVERSITY.—In making grants under this section, the Administrator shall ensure that grant recipients include both large and small microenterprise organizations, serving urban, rural, and Indian tribal communities serving diverse populations.

"(5) PROHIBITION ON PREFERENTIAL CONSIDERATION OF CERTAIN SBA PROGRAM PARTICIPANTS.—In making grants under this section, the Administrator shall ensure that any application made by a qualified organization that is a participant in the program established under section 7(m) of the Small Business Act does not receive preferential consideration over applications from other qualified organizations that are not participants in such program.

"(f) MATCHING REQUIREMENTS.—

"(1) IN GENERAL.—Financial assistance under this section shall be matched with funds from sources other than the Federal Government on the basis of not less than 50 percent of each dollar provided by the Administration.

"(2) SOURCES OF MATCHING FUNDS.—Fees, grants, gifts, funds from loan sources, and in-kind resources of a grant recipient from public or private sources may be used to comply with the matching requirement in paragraph (1).

"(3) EXCEPTION.—

"(A) IN GENERAL.—In the case of an applicant for assistance under this section with severe constraints on available sources of matching funds, the Administrator may reduce or eliminate the matching requirements of paragraph (1).

"(B) LIMITATION.—Not more than 10 percent of the total funds made available from the Administration in any fiscal year to carry out this section may be excepted from the matching requirements of paragraph (1), as authorized by subparagraph (A) of this paragraph.

"(g) APPLICATIONS FOR ASSISTANCE.—An application for assistance under this section shall be submitted in such form and in accordance with such procedures as the Administrator shall establish.

"(h) RECORDKEEPING AND REPORTING.—

"(1) IN GENERAL.—Each organization that receives assistance from the Administration in accordance with this section shall—

"(A) submit to the Administration not less than once in every 18-month period, financial statements audited by an independent certified public accountant;

"(B) submit an annual report to the Administration on its activities; and

"(C) keep such records as may be necessary to disclose the manner in which any assistance under this section is used.

"(2) ACCESS.—The Administration shall have access upon request, for the purposes of determining compliance with this section, to any records of any organization that receives assistance from the Administration in accordance with this section.

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

"(A) the number of individuals counseled or trained;

"(B) the number of hours of counseling provided;

"(C) the number of startup small business concerns formed;

"(D) the number of small business concerns expanded;

"(E) the number of low-income individuals counseled or trained; and

“(F) the number of very low-income individuals counseled or trained.

“(i) AUTHORIZATION.—There are authorized to be appropriated to the Administrator, to carry out the provisions of this section, to remain available until expended—

“(1) \$15,000,000 for fiscal year 2004;

“(2) \$15,000,000 for fiscal year 2005; and

“(3) \$15,000,000 for fiscal year 2006.”.

(b) TRANSFER PROVISIONS.—

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

(2) TRANSFER.—Section 37 of the Riegle Community Development and Regulatory Improvement Act of 1994 (15 U.S.C. 6901 note), as so designated by subsection (a) of this section, is transferred to, and inserted after, section 36 of the Small Business Act, as added by this Act.

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

(d) RULE OF CONSTRUCTION.—Nothing in this section or the amendments made by this section shall affect any grant or assistance provided under the Program for Investment in Microentrepreneurs Act of 1999, before the date of enactment of this Act, and any such grant or assistance shall be subject to the Program for Investment in Microentrepreneurs Act of 1999, as in effect on the day before the date of enactment of this Act.

Subtitle B—Women's Small Business Ownership Programs

SEC. 311. OFFICE OF WOMEN'S BUSINESS OWNERSHIP.

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

(1) in paragraph (2)—

(A) in subparagraph (B)(i), by striking “in the areas” and all that follows through the end of subclause (I), and inserting the following: “to address issues concerning operations, manufacturing, technology, finance, retail and product sales, international trade, and other disciplines required for—

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

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

(2) by adding at the end the following:

“(3) PROGRAMS AND SERVICES FOR WOMEN-OWNED SMALL BUSINESSES.—The Assistant Administrator, in consultation with the National Women's Business Council, the Interagency Committee on Women's Business Enterprise, and 1 or more associations of women's business centers, shall develop programs and services for women-owned businesses (as defined in section 408 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note)) in business areas, which may include—

“(A) manufacturing;

“(B) technology;

“(C) professional services;

“(D) retail and product sales;

“(E) travel and tourism;

“(F) international trade; and

“(G) Federal Government contract business development.

“(4) TRAINING.—The Administration shall provide annual programmatic and financial oversight training for women's business ownership representatives and district office technical representatives of the Administration to enable these representatives to carry out their responsibilities under this section.

“(5) GRANT PROGRAM IMPROVEMENT.—The Administration shall improve the women's business center grant proposal process and

the programmatic and financial oversight process by—

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

“(B) providing notice to grant applicants and recipients of program evaluation criteria, not later than 12 months before any such evaluation;

“(C) reducing paperwork and reporting requirements for grant applicants and recipients;

“(D) standardizing the oversight and review process of the Administration; and

“(E) providing to each women's business center, not later than 30 days after the completion of a site visit at that center, a copy of site visit reports and evaluation reports prepared by district office technical representatives or Administration officials.”.

SEC. 312. WOMEN'S BUSINESS CENTER PROGRAM.

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

(1) in subsection (a)—

(A) by redesignating paragraphs (2), (3), and (4), as paragraphs (3), (4), and (5), respectively; and

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

“(2) the term ‘association of women's business centers’ means an organization that represents not less than 30 percent of the women's business centers that are participating in a program under this section and whose primary purpose is to represent women's business centers;”; and

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

“(b) GRANTS AUTHORIZED.—

“(1) IN GENERAL.—The Administration may award initial and renewal grants of not more than \$150,000 per year, which shall be known as ‘women's business center grants’, to private nonprofit organizations to conduct projects for the benefit of small business concerns owned and controlled by women. At the end of the initial 4-year grant period, and every 3 years thereafter, the grant recipient may apply to renew the grant in accordance with this subsection and subsection (e)(2). In the event that the Administration has insufficient funds to provide grants of \$150,000, for each eligible women's business center, available funds shall be allocated evenly to eligible centers, unless any center requests a lower amount than the allocable amount.

“(2) COOPERATIVE AGREEMENT AUTHORITY.—

“(A) IN GENERAL.—The Administration may enter into Federal cooperative agreements with grant recipients under this subsection to perform the services described under paragraph (3) only to the extent and in the amount provided by appropriated funds.

“(B) TERMINATION.—

“(i) IN GENERAL.—If any grant recipient under this subsection does not fulfill its grant obligations, after advanced notification, during the period of the grant, the Administration may terminate the grant.

“(ii) EXCEPTION.—Notwithstanding a grant recipient's violation of a grant obligation under this section, the Administration may continue to fund the grant if the grant recipient is making a good faith effort to comply with such obligation.

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

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

“(B) financial planning assistance;

“(C) procurement assistance;

“(D) management assistance; and

“(E) marketing assistance.

“(4) MATCHING REQUIREMENT.—

“(A) WOMEN'S BUSINESS CENTER GRANTS.—As a condition of receiving financial assistance under this section, the grant recipient shall agree to obtain, after its application has been approved and notice of award has been issued, cash contributions from non-Federal sources as follows:

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

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

“(iii) In each renewal period, 1 non-Federal dollar for each Federal dollar provided under the 3-year grant.

“(B) FORM OF NON-FEDERAL CONTRIBUTIONS.—Not more than ½ of the non-Federal sector matching assistance may be in the form of in-kind contributions that are budget line items only, including office equipment and office space.

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

“(i) ADVANCE DISBURSEMENTS.—If any grant recipient fails to obtain the required non-Federal contribution during any project year, it shall not be eligible for advance disbursements pursuant to subparagraph (D) during the remainder of that project year.

“(ii) ABILITY TO OBTAIN NON-FEDERAL FUNDING.—Before approving assistance to a grant recipient that has failed to obtain the required non-Federal contribution for any other projects under this Act, the Administration shall require the grant recipient to certify that it will be able to obtain the requisite non-Federal funding and enter a written finding setting forth the reasons for making such determination.

“(D) FORM OF FEDERAL CONTRIBUTIONS.—The financial assistance authorized pursuant to this section may be made by grant or cooperative agreement and may contain such provision, as necessary, to provide for payments in lump sum or installments, and in advance or by way of reimbursement. The Administration may disburse up to 25 percent of each year's Federal share awarded to a grant recipient after notice of the award has been issued and before the non-Federal sector matching funds are obtained.

“(5) APPLICATION FOR AN INITIAL GRANT.—Each organization desiring an initial grant under this subsection, shall submit to the Administration an application that contains—

“(A) a certification that the applicant—

“(i) is a private nonprofit organization;

“(ii) has designated an executive director or program manager, who may be compensated from grant funds or other sources, to manage the center; and

“(iii) as a condition of receiving a grant under this subsection, agrees—

“(I) to receive a site visit as part of the final selection process;

“(II) to undergo an annual programmatic and financial examination; and

“(III) to the maximum extent practicable, to remedy any problems identified pursuant to the site visit or examination under subclauses (I) and (II);

“(B) information demonstrating that the applicant has the ability and resources to meet the needs of the market to be served by the women's business center site for which an initial grant is sought, including the ability to comply with the matching requirement under paragraph (4);

“(C) information relating to assistance to be provided by the women's business center site for which an initial grant is sought in the area in which the site is located;

“(D) information demonstrating the effective experience of the applicant in—

“(i) conducting financial, management, and marketing assistance programs, as described under paragraph (3), which are designed to teach or upgrade the business skills of women who are business owners or potential business owners;

“(ii) providing training and services to a representative number of women who are both socially and economically disadvantaged; and

“(iii) using resource partners of the Administration and other entities, such as universities;

“(E) a 4-year plan that projects the ability of the women’s business center site for which an initial grant is sought—

“(i) to serve women business owners or potential owners in the future by improving training and counseling activities; and

“(ii) to provide training and services to a representative number of women who are both socially and economically disadvantaged; and

“(F) any additional information that the Administration may reasonably require.

“(6) REVIEW AND APPROVAL OF APPLICATIONS FOR AN INITIAL GRANT.—

“(A) IN GENERAL.—The Administration shall—

“(i) review each application submitted under paragraph (5) based on the information provided in such paragraph and the criteria set forth under subparagraph (B); and

“(ii) as part of the final selection process, conduct a site visit at each women’s business center for which an initial grant is sought.

“(B) SELECTION CRITERIA.—

“(i) IN GENERAL.—The Administration shall evaluate applicants in accordance with predetermined selection criteria that shall be stated in terms of relative importance. Such criteria and their relative importance shall be made publicly available and stated in each solicitation for applications made by the Administration.

“(ii) REQUIRED CRITERIA.—The selection criteria for an initial grant under clause (i) shall include—

“(I) the experience of the applicant in conducting programs or ongoing efforts designed to teach or upgrade the business skills of women business owners or potential owners;

“(II) the ability of the applicant to commence a project within a minimum amount of time;

“(III) the ability of the applicant to provide training and services to a representative number of women who are both socially and economically disadvantaged; and

“(IV) the location for the women’s business center site proposed by the applicant.

“(C) RECORD RETENTION.—The Administration shall maintain a copy of each application submitted under this paragraph for not less than 7 years.

“(7) APPLICATION FOR A RENEWAL GRANT.—Each organization desiring a renewal grant under this subsection, shall submit to the Administration, not later than 3 months before the expiration of an existing grant under this subsection, an application that contains—

“(A) a certification that the applicant—

“(i) is a private nonprofit organization;

“(ii) has designated an executive director or program manager to manage the center; and

“(iii) as a condition of receiving a grant under this subsection, agrees—

“(I) to receive a site visit as part of the final selection process;

“(II) to submit, for the preceding 2 years, annual programmatic and financial examination reports or certified copies of the applicant’s compliance supplemental audits under OMB Circular A-133; and

“(III) to the maximum extent practicable, to remedy any problems identified pursuant

to the site visit or examination under subparagraphs (I) and (II);

“(B) information demonstrating that the applicant has the ability and resources to meet the needs of the market to be served by the women’s business center site for which a renewal grant is sought, including the ability to comply with the matching requirement under paragraph (4);

“(C) information relating to assistance to be provided by the women’s business center site for which a renewal grant is sought in the area in which the site is located;

“(D) information demonstrating the utilization of resource partners of the Administration and other entities;

“(E) a 3-year plan that projects the ability of the women’s business center site for which a renewal grant is sought—

“(i) to serve women business owners or potential owners in the future by improving training and counseling activities; and

“(ii) to provide training and services to a representative number of women who are both socially and economically disadvantaged; and

“(F) any additional information that the Administration may reasonably require.

“(8) REVIEW AND APPROVAL OF APPLICATIONS FOR A RENEWAL GRANT.—

“(A) IN GENERAL.—The Administration shall—

“(i) review each application submitted under paragraph (7) based on the information provided in such paragraph and the criteria set forth under subparagraph (B); and

“(ii) as part of the final selection process, conduct a site visit at each women’s business center for which a renewal grant is sought.

“(B) SELECTION CRITERIA.—The Administration shall evaluate applicants in accordance with predetermined selection criteria that shall be stated in terms of relative importance. Such criteria and their relative importance shall be made publicly available and stated in each solicitation for applications made by the Administration.

“(C) CONDITIONS FOR CONTINUED FUNDING.—In determining whether to renew a grant or cooperative agreement with a women’s business center, the Administration—

“(i) shall consider the results of the most recent evaluation of the center, and, to a lesser extent, previous evaluations; and

“(ii) may withhold such renewal, if the Administration determines that the center has failed to provide the information required to be provided under this subsection, or the information provided by the center is inadequate.

“(D) CONTINUING GRANT AND COOPERATIVE AGREEMENT AUTHORITY.—

“(i) IN GENERAL.—The authority of the Administrator to enter into grants or cooperative agreements under this subsection shall be in effect for each fiscal year only to the extent and in the amounts as are provided in advance in appropriations Acts.

“(ii) RENEWAL.—After the Administrator has entered into a grant or cooperative agreement with any women’s business center under this subsection, it shall not suspend, terminate, or fail to renew or extend any such grant or cooperative agreement unless the Administrator provides the center with written notification setting forth the reasons therefore and affords the center an opportunity for a hearing, appeal, or other administrative proceeding under chapter 5 of title 5, United States Code.

“(E) RECORD RETENTION.—The Administration shall maintain a copy of each application submitted under this paragraph for not less than 7 years.

“(9) DATA COLLECTION.—Consistent with the annual report to Congress under subsection (g), each women’s business center

site that is awarded an initial or renewal grant shall collect information relating to—

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

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

“(C) the number of workshops conducted;

“(D) the number of startup small business concerns formed; and

“(E) the number of jobs created or maintained at assisted small business concerns.

“(10) PRIVACY REQUIREMENTS.—

“(A) IN GENERAL.—A women’s business center may not disclose the name, address, or telephone number of any individual or small business concern receiving assistance under this section without the consent of such individual or small business concern unless—

“(i) the Administrator is ordered to make such a disclosure by a court in any civil or criminal enforcement action initiated by a Federal or State agency; or

“(ii) the Administrator considers such a disclosure to be necessary for the purpose of conducting a financial audit of a small business development center, but a disclosure under this clause shall be limited to the information necessary for such audit.

“(B) ADMINISTRATION USE OF INFORMATION.—This section shall not—

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

“(ii) prevent the Administration from using client information (other than the information described in subparagraph (A)) to conduct client surveys.

“(C) REGULATIONS.—The Administrator shall issue regulations to establish standards for requiring disclosures during a financial audit under subparagraph (A)(ii).

“(11) TRANSITION RULES.—

“(A) IN GENERAL.—Notwithstanding any other provision of law, a grant or cooperative agreement that was awarded as an eligible sustainability grant, from amounts appropriated for fiscal year 2003, to operate a women’s business center, shall remain in full force and effect under the terms, and for the duration, of such agreement, subject to the grant limitation in paragraph (I).

“(B) EXTENSION.—If the sustainability grant under subparagraph (A) is scheduled to expire not later than June 30, 2005, a 1-year extension shall be granted without any interruption of funding, subject to the grant limitation in paragraph (I).

“(C) EFFECT ON CERTAIN EXISTING PROJECTS AND RENEWAL AUTHORITY.—A project being conducted by a women’s business center under this subsection on the day before the date of enactment of the Small Business Administration 50th Anniversary Reauthorization Act of 2003—

“(i) as a 5-year project, shall remain in full force and effect under the terms and for the duration of that agreement; and

“(ii) shall be eligible to apply for a 3-year renewal grant funded at a level equal to not more than \$150,000 per year.

“(c) ASSOCIATIONS OF WOMEN’S BUSINESS CENTERS.—

“(1) RECOGNITION.—The Administration shall recognize the existence and activities of any association of women’s business centers established to address matters of common concern.

“(2) CONSULTATION.—The Administration shall consult with each association of women’s business centers (as defined in subsection (a)) to develop—

“(A) a training program for the staff of the women’s business centers and the Administration; and

“(B) recommendations to improve the policies and procedures for governing the general operations and administration of the Women’s Business Center Program, including

grant program improvements under subsection (g)(5)."

(b) CONFORMING AMENDMENTS.—Section 29 of the Small Business Act (15 U.S.C. 656) is amended—

(1) by redesignating subsections (g), (h), (i), (j), and (k) as subsections (d), (e), (f), (g), and (h), respectively;

(2) in subsection (e)(2), as redesignated by paragraph (1) of this subsection, by striking "to award a contract (as a sustainability grant) under subsection (l) or";

(3) in subsection (g)(1), as redesignated by paragraph (1) of this subsection, by striking "The Administration" and inserting "Not later than November 1st of each year, the Administration";

(4) in subsection (h), as redesignated by paragraph (1) of this subsection—

(A) by amending paragraph (1) to read as follows:

"(1) IN GENERAL.—There are authorized to be appropriated to carry out the provisions of this section, to remain available until expended—

"(A) \$15,000,000 for fiscal year 2004, of which \$500,000 may be used to provide supplemental sustainability grants to women's business centers, except that no such center may receive more than a total of \$125,000 in grant funding for the grant period beginning on July 1, 2003 and ending on June 30, 2004;

"(B) \$16,000,000 for fiscal year 2005; and

"(C) \$17,500,000 for fiscal year 2006.";

(B) by amending paragraph (2) to read as follows:

"(2) USE OF AMOUNTS.—Amounts made available under this subsection may only be used for grant awards and may not be used for costs incurred by the Administration in connection with the management and administration of the program under this section."; and

(C) by striking paragraph (4); and

(5) by striking subsection (l).

SEC. 313. NATIONAL WOMEN'S BUSINESS COUNCIL.

(a) COSPONSORSHIP AUTHORITY.—Section 406 of the Women's Business Ownership Act of 1988 (15 U.S.C. [631 note]7106) is amended by adding at the end the following:

"(f) COSPONSORSHIP AUTHORITY.—The Council is authorized to enter into agreements as cosponsors with public and private entities, in the same manner as is provided in section 8(b)(1)(A) of the Small Business Act (15 U.S.C. 637(b)(1)(A)), to carry out its duties under this section."

(b) MEMBERSHIP.—Section 407(f) of the Women's Business Ownership Act of 1988 (15 U.S.C. [631 note]7107(f)) is amended by adding at the end the following:

"(3) REPRESENTATION OF MEMBER ORGANIZATIONS.—Notwithstanding subsection (b), a national women's business organization or small business that is represented on the Council may, in consultation with the chairperson of the Council, replace its representative member on the Council at any time during the service term to which that member was appointed."

(c) ESTABLISHMENT OF COMMITTEES.—[The] Title IV of the Women's Business Ownership Act of 1988 (15 U.S.C. [631 note]7101 et seq.) is amended by inserting after section [407]410, the following new section:

"SEC. [408]411. COMMITTEES.

"(a) ESTABLISHMENT.—There are established within the Council—

"(1) the Committee on Manufacturing, Technology, and Professional Services;

"(2) the Committee on Travel, Tourism, Product and Retail Sales, and International Trade; and

"(3) the Committee on Federal Procurement and Contracting.

"(b) DUTIES.—The Committees established under subsection (a) shall perform such duties as the chairperson shall direct."

(d) CLEARINGHOUSE FOR HISTORICAL DOCUMENTS.—Section 409 of the Women's Business Ownership Act of 1988 (15 U.S.C. 631 note7109) is amended by adding at the end the following:

"(c) CLEARINGHOUSE FOR HISTORICAL DOCUMENTS.—The Council shall serve as a clearinghouse for information on small businesses owned and controlled by women, including research conducted by other organizations and individuals relating to ownership by women of small businesses in the United States."

(e) AUTHORIZATION OF APPROPRIATIONS.—Section 410(a) of the Women's Business Ownership Act of 1988 (15 U.S.C. [631 note]7110(a)) is amended by striking "2001 through 2003, of which \$550,000" and inserting "2004 through 2006, of which at least 30 percent".

SEC. 314. INTERAGENCY COMMITTEE ON WOMEN'S BUSINESS ENTERPRISE.

(a) CHAIRPERSON.—Section 403(b) of the Women's Business Ownership Act of 1988 (15 U.S.C. [631 note]7103(b)) is amended—

(1) by striking "Not later" and inserting the following:

"(1) IN GENERAL.—Not later"; and

(2) by adding at the end the following:

"(2) VACANCY.—In the event that a chairperson is not appointed under paragraph (1), the Deputy Administrator of the Small Business Administration shall serve as acting chairperson of the Interagency Committee until a chairperson is appointed under paragraph (1)."

(b) POLICY ADVISORY GROUP.—Section 401 of the Women's Business Ownership Act of 1988 (15 U.S.C. [631 note]7101) is amended—

(1) by striking "There" and inserting the following:

"(a) IN GENERAL.—There"; and

(2) by adding at the end the following:

"(b) POLICY ADVISORY GROUP.—

"(1) ESTABLISHMENT.—There is established a Policy Advisory Group to assist the chairperson in developing policies and programs under this Act.

"(2) MEMBERSHIP.—The Policy Advisory Group shall be composed of 7 policy making officials, of whom—

"(A) 1 shall be a representative of the Small Business Administration;

"(B) 1 shall be a representative of the Department of Commerce;

"(C) 1 shall be a representative of the Department of Labor;

"(D) 1 shall be a representative of the Department of Defense;

"(E) 1 shall be a representative of the Department of the Treasury; and

"(F) 2 shall be representatives of the National Women's Business Council."

(c) ESTABLISHMENT OF SUBCOMMITTEES.—Section 401 of the Women's Business Ownership Act of 1988 (15 U.S.C. [631 note]7101), as amended by subsection (b), is further amended by adding at the end the following:

"(c) SUBCOMMITTEES.—

"(1) ESTABLISHMENT.—There are established—

"(A) the Subcommittee on Manufacturing, Technology, and Professional Services;

"(B) the Subcommittee on Travel, Tourism, Product and Retail Sales, and International Trade; and

"(C) the Subcommittee on Federal Procurement and Contracting.

"(2) DUTIES.—The Subcommittees established under paragraph (1) shall perform such duties as the chairperson shall direct.

"(3) MEETINGS.—The Interagency Committee shall meet not less frequently than 3 times each year to—

"(A) plan activities for the new fiscal year;

"(B) track year-to-date agency contracting goals; and

"(C) evaluate the progress during the fiscal year and prepare an annual report."

SEC. 315. PRESERVING THE INDEPENDENCE OF THE NATIONAL WOMEN'S BUSINESS COUNCIL.

(a) SHORT TITLE.—This section may be cited as the "National Women's Business Council Independence Preservation Act of 2003".

(b) FINDINGS.—Congress finds the following:

(1) The National Women's Business Council provides an independent source of advice and policy recommendations regarding women's business development and the needs of women entrepreneurs in the United States to—

(A) the President;

(B) Congress;

(C) the Interagency Committee on Women's Business Enterprise; and

(D) the Administrator of the Small Business Administration.

(2) The members of the National Women's Business Council are small business owners, representatives of business organizations, and representatives of women's business centers.

(3) The chair and ranking member of the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives make recommendations to the Administrator to fill 8 of the positions on the National Women's Business Council. Four of the positions are reserved for small business owners who are affiliated with the political party of the President and 4 of the positions are reserved for small business owners who are not affiliated with the political party of the President. This method of appointment ensures that the National Women's Business Council will provide Congress with nonpartisan, balanced, and independent advice.

(4) In order to maintain the independence of the National Women's Business Council and to ensure that the Council continues to provide Congress with advice on a nonpartisan basis, it is essential that the Council maintain the bipartisan balance established under section 407 of the Women's Business Ownership Act of 1988 (15 U.S.C. 7107).

(c) MAINTENANCE OF PARTISAN BALANCE.—Section 407(f) of the Women's Business Ownership Act of 1988 (15 U.S.C. 7107(f)) is amended—

(1) by striking "A vacancy" and inserting the following:

"(1) IN GENERAL.—A vacancy"; and

(2) by adding at the end the following:

"(2) PARTISAN BALANCE.—When filling vacancies under paragraph (1), the Administrator shall, to the extent practicable, ensure that there are an equal number of members on the Council from each of the 2 major political parties.

"(3) ACCOUNTABILITY.—If a vacancy is not filled within the 30-day period required under paragraph (1) or if there exists an imbalance of party-affiliated members on the Council for a period exceeding 30 days, the Administrator shall submit a report, not later than 10 days after the respective 30-day deadline, to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives, that explains why the respective deadline was not met and provides an estimated date on which any vacancies will be filled."

Subtitle C—Office of Native American Affairs

SEC. 321. SHORT TITLE.

This subtitle may be cited as the "Native American Small Business Development Act".

SEC. 322. NATIVE AMERICAN SMALL BUSINESS DEVELOPMENT PROGRAM.

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

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

(2) by inserting after section 35 the following:

"SEC. 36. NATIVE AMERICAN SMALL BUSINESS DEVELOPMENT PROGRAM.

"(a) DEFINITIONS.—In this section—

"(1) the term 'Alaska Native' has the same meaning as the term 'Native' in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b));

"(2) the term 'Alaska Native corporation' has the same meaning as the term 'Native Corporation' in section 3(m) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(m));

"(3) the term 'Assistant Administrator' means the Assistant Administrator of the Office of Native American Affairs established under subsection (b);

"(4) the terms 'center' and 'Native American business center' mean a center established under subsection (c);

"(5) the term 'Native American business development center' means an entity providing business development assistance to federally recognized tribes and Native Americans under a grant from the Minority Business Development Agency of the Department of Commerce;

"(6) the term 'Native American small business concern' means a small business concern that is owned and controlled by—

"(A) a member of an Indian tribe or tribal government;

"(B) an Alaska Native or Alaska Native corporation; or

"(C) a Native Hawaiian or Native Hawaiian organization;

"(7) the term 'Native Hawaiian' has the same meaning as in section 625 of the Older Americans Act of 1965 (42 U.S.C. 3057k);

"(8) the term 'Native Hawaiian organization' has the same meaning as in section 8(a)(15) of this Act;

"(9) the term 'tribal college' has the same meaning as the term 'tribally controlled college or university' has in section 2(a)(4) of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801(a)(4));

"(10) the term 'tribal government' has the same meaning as the term 'Indian tribe' has in section 7501(a)(9) of title 31, United States Code; and

"(11) the term 'tribal lands' means all lands within the exterior boundaries of any Indian reservation.

"(b) OFFICE OF NATIVE AMERICAN AFFAIRS.—

"(1) ESTABLISHMENT.—There is established within the Administration the Office of Native American Affairs, which, under the direction of the Assistant Administrator, shall implement the Administration's programs for the development of business enterprises by Native Americans.

"(2) PURPOSE.—The purpose of the Office of Native American Affairs is to assist Native American entrepreneurs to—

"(A) start, operate, and grow small business concerns;

"(B) develop management and technical skills;

"(C) seek Federal procurement opportunities;

"(D) increase employment opportunities for Native Americans through the start and expansion of small business concerns; and

"(E) increase the access of Native Americans to capital markets.

"(3) ASSISTANT ADMINISTRATOR.—

"(A) APPOINTMENT.—The Administrator shall appoint a qualified individual to serve as Assistant Administrator of the Office of Native American Affairs in accordance with this paragraph.

"(B) QUALIFICATIONS.—The Assistant Administrator appointed under subparagraph (A) shall have—

"(i) knowledge of the Native American culture; and

"(ii) experience providing culturally tailored small business development assistance to Native Americans.

"(C) EMPLOYMENT STATUS.—The Assistant Administrator shall be a Senior Executive Service position under section 3132(a)(2) of title 5, United States Code, and shall serve as a noncareer appointee, as defined in section 3132(a)(7) of title 5, United States Code.

"(D) RESPONSIBILITIES AND DUTIES.—The Assistant Administrator shall—

"(i) administer and manage the Native American Small Business Development program established under this section;

"(ii) recommend the annual administrative and program budgets for the Office of Native American Affairs;

"(iii) consult with Native American business centers in carrying out the program established under this section;

"(iv) recommend appropriate funding levels;

"(v) review the annual budgets submitted by each applicant for the Native American Small Business Development program;

"(vi) select applicants to participate in the program under this section;

"(vii) implement this section; and

"(viii) maintain a clearinghouse to provide for the dissemination and exchange of information between Native American business centers.

"(E) CONSULTATION REQUIREMENTS.—In carrying out the responsibilities and duties described in this paragraph, the Assistant Administrator shall confer with and seek the advice of—

"(i) Administration officials working in areas served by Native American business centers and Native American business development centers;

"(ii) the Bureau of Indian Affairs of the Department of the Interior;

"(iii) tribal governments;

"(iv) tribal colleges;

"(v) Alaska Native corporations; and

"(vi) Native Hawaiian organizations.

"(c) NATIVE AMERICAN SMALL BUSINESS DEVELOPMENT PROGRAM.—

"(1) AUTHORIZATION.—

"(A) IN GENERAL.—The Administration, through the Office of Native American Affairs, shall provide financial assistance to tribal governments, tribal colleges, Native Hawaiian organizations, and Alaska Native corporations to create Native American business centers in accordance with this section.

"(B) USE OF FUNDS.—The financial and resource assistance provided under this subsection shall be used to overcome obstacles impeding the creation, development, and expansion of small business concerns, in accordance with this section, by—

"(i) reservation-based American Indians;

"(ii) Alaska Natives; and

"(iii) Native Hawaiians.

"(2) 5-YEAR PROJECTS.—

"(A) IN GENERAL.—Each Native American business center that receives assistance under paragraph (1)(A) shall conduct 5-year projects that offer culturally tailored business development assistance in the form of—

"(i) financial education, including training and counseling in—

"(I) applying for and securing business credit and investment capital;

"(II) preparing and presenting financial statements; and

"(III) managing cash flow and other financial operations of a business concern;

"(ii) management education, including training and counseling in planning, organizing, staffing, directing, and controlling each major activity and function of a small business concern; and

"(iii) marketing education, including training and counseling in—

"(I) identifying and segmenting domestic and international market opportunities;

"(II) preparing and executing marketing plans;

"(III) developing pricing strategies;

"(IV) locating contract opportunities;

"(V) negotiating contracts; and

"(VI) utilizing varying public relations and advertising techniques.

"(B) BUSINESS DEVELOPMENT ASSISTANCE RECIPIENTS.—The business development assistance under subparagraph (A) shall be offered to prospective and current owners of small business concerns that are owned by—

"(i) American Indians or tribal governments, and located on or near tribal lands;

"(ii) Alaska Natives or Alaska Native corporations; or

"(iii) Native Hawaiians or Native Hawaiian organizations.

"(3) FORM OF FEDERAL FINANCIAL ASSISTANCE.—

"(A) DOCUMENTATION.—

"(i) IN GENERAL.—The financial assistance to Native American business centers authorized under this subsection may be made by grant, contract, or cooperative agreement.

"(ii) EXCEPTION.—Financial assistance under this subsection to Alaska Native corporations or Native Hawaiian organizations may only be made by grant.

"(B) PAYMENTS.—

"(i) TIMING.—Payments made under this subsection may be disbursed in an annual lump sum or in periodic installments, at the request of the recipient.

"(ii) ADVANCE.—The Administration may disburse not more than 25 percent of the annual amount of Federal financial assistance awarded to a Native American small business center after notice of the award has been issued.

"(iii) NO MATCHING REQUIREMENT.—The Administration shall not require a grant recipient to match grant funding received under this subsection with non-Federal resources as a condition of receiving the grant.

"(4) CONTRACT AND COOPERATIVE AGREEMENT AUTHORITY.—A Native American business center may enter into a contract or cooperative agreement with a Federal department or agency to provide specific assistance to Native American and other under-served small business concerns located on or near tribal lands, to the extent that such contract or cooperative agreement is consistent with the terms of any assistance received by the Native American business center from the Administration.

"(5) APPLICATION PROCESS.—

"(A) SUBMISSION OF A 5-YEAR PLAN.—Each applicant for assistance under paragraph (1) shall submit a 5-year plan to the Administration on proposed assistance and training activities.

"(B) CRITERIA.—

"(i) IN GENERAL.—The Administration shall evaluate and rank applicants in accordance with predetermined selection criteria that shall be stated in terms of relative importance.

"(ii) PUBLIC NOTICE.—The criteria required by this paragraph and their relative importance shall be made publicly available, within a reasonable time, and stated in each solicitation for applications made by the Administration.

"(iii) CONSIDERATIONS.—The criteria required by this paragraph shall include—

"(I) the experience of the applicant in conducting programs or ongoing efforts designed to impart or upgrade the business skills of current or potential owners of Native American small business concerns;

"(II) the ability of the applicant to commence a project within a minimum amount of time;

"(III) the ability of the applicant to provide quality training and services to a significant number of Native Americans;

“(IV) previous assistance from the Small Business Administration to provide services in Native American communities; and

“(V) the proposed location for the Native American business center site, with priority given based on the proximity of the center to the population being served and to achieve a broad geographic dispersion of the centers.

“(6) PROGRAM EXAMINATION.—

“(A) IN GENERAL.—Each Native American business center established pursuant to this subsection shall annually provide the Administration with an itemized cost breakdown of actual expenditures incurred during the preceding year.

“(B) ADMINISTRATION ACTION.—Based on information received under subparagraph (A), the Administration shall—

“(i) develop and implement an annual programmatic and financial examination of each Native American business center assisted pursuant to this subsection; and

“(ii) analyze the results of each examination conducted under clause (i) to determine the programmatic and financial viability of each Native American business center.

“(C) CONDITIONS FOR CONTINUED FUNDING.—In determining whether to renew a grant, contract, or cooperative agreement with a Native American business center, the Administration—

“(i) shall consider the results of the most recent examination of the center under subparagraph (B), and, to a lesser extent, previous examinations; and

“(ii) may withhold such renewal, if the Administration determines that—

“(I) the center has failed to provide adequate information required to be provided under subparagraph (A), or the information provided by the center is inadequate; or

“(II) the center has failed to provide adequate information required to be provided by the center for purposes of the report of the Administration under subparagraph (E).

“(D) CONTINUING CONTRACT AND COOPERATIVE AGREEMENT AUTHORITY.—

“(i) IN GENERAL.—The authority of the Administrator to enter into contracts or cooperative agreements in accordance with this subsection shall be in effect for each fiscal year only to the extent and in the amounts as are provided in advance in appropriations Acts.

“(ii) RENEWAL.—After the Administrator has entered into a contract or cooperative agreement with any Native American business center under this subsection, it shall not suspend, terminate, or fail to renew or extend any such contract or cooperative agreement unless the Administrator provides the center with written notification setting forth the reasons therefore and affords the center an opportunity for a hearing, appeal, or other administrative proceeding under chapter 5 of title 5, United States Code.

“(E) MANAGEMENT REPORT.—

“(i) IN GENERAL.—The Administration shall prepare and submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives an annual report on the effectiveness of all projects conducted by Native American business centers under this subsection and any pilot programs administered by the Office of Native American Affairs.

“(ii) CONTENTS.—Each report submitted under clause (i) shall include, with respect to each Native American business center receiving financial assistance under this subsection—

“(I) the number of individuals receiving assistance from the Native American business center;

“(II) the number of startup business concerns created;

“(III) the number of existing businesses seeking to expand employment;

“(IV) jobs created or maintained, on an annual basis, by Native American small business concerns assisted by the center since receiving funding under this Act;

“(V) to the maximum extent practicable, the capital investment and loan financing utilized by emerging and expanding businesses that were assisted by a Native American business center; and

“(VI) the most recent examination, as required under subparagraph (B), and the subsequent determination made by the Administration under that subparagraph.

“(7) ANNUAL REPORT.—Each entity receiving financial assistance under this subsection shall annually report to the Administration on the services provided with such financial assistance, including—

“(A) the number of individuals assisted, categorized by ethnicity;

“(B) the number of hours spent providing counseling and training for those individuals;

“(C) the number of startup small business concerns created or maintained;

“(D) the gross receipts of assisted small business concerns;

“(E) the number of jobs created or maintained at assisted small business concerns; and

“(F) the number of Native American jobs created or maintained at assisted small business concerns.

“(8) RECORD RETENTION.—

“(A) APPLICATIONS.—The Administration shall maintain a copy of each application submitted under this subsection for not less than 7 years.

“(B) ANNUAL REPORTS.—The Administration shall maintain copies of the information collected under paragraph (6)(A) indefinitely.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$5,000,000 for each of the fiscal years 2004 through 2008, to carry out the Native American Small Business Development Program, authorized under subsection (c).”.

SEC. 323. PILOT PROGRAMS.

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

(1) INCORPORATION BY REFERENCE.—The terms defined in section 36(a) of the Small Business Act (as added by this Act) have the same meanings as in that section 36(a) when used in this section.

(2) JOINT PROJECT.—The term “joint project” means the combined resources and expertise of 2 or more distinct entities at a physical location dedicated to assisting the Native American community.

(b) NATIVE AMERICAN DEVELOPMENT GRANT PILOT PROGRAM.—

(1) AUTHORIZATION.—

(A) IN GENERAL.—There is established a 4-year pilot program under which the Administration is authorized to award Native American development grants to provide culturally tailored business development training and related services to Native Americans and Native American small business concerns.

(B) ELIGIBLE ORGANIZATIONS.—The grants authorized under subparagraph (A) may be awarded to—

(i) any small business development center; or

(ii) any private, nonprofit organization that—

(I) has members of an Indian tribe comprising a majority of its board of directors;

(II) is a Native Hawaiian organization; or

(III) is an Alaska Native corporation.

(C) AMOUNTS.—The Administration shall not award a grant under this subsection in an amount which exceeds \$100,000 for each year of the project.

(D) GRANT DURATION.—Each grant under this subsection shall be awarded for not less than a 2-year period and not more than a 4-year period.

(2) CONDITIONS FOR PARTICIPATION.—Each entity desiring a grant under this subsection shall submit an application to the Administration that contains—

(A) a certification that the applicant—

(i) is a small business development center or a private, nonprofit organization under paragraph (1)(B)(i);

(ii) employs an executive director or program manager to manage the facility; and

(iii) agrees—

(I) to a site visit as part of the final selection process;

(II) to an annual programmatic and financial examination; and

(III) to the maximum extent practicable, to remedy any problems identified pursuant to that site visit or examination;

(B) information demonstrating that the applicant has the ability and resources to meet the needs, including cultural needs, of the Native Americans to be served by the grant;

(C) information relating to proposed assistance that the grant will provide, including—

(i) the number of individuals to be assisted; and

(ii) the number of hours of counseling, training, and workshops to be provided;

(D) information demonstrating the effective experience of the applicant in—

(i) conducting financial, management, and marketing assistance programs designed to impart or upgrade the business skills of current or prospective Native American business owners;

(ii) providing training and services to a representative number of Native Americans;

(iii) using resource partners of the Administration and other entities, including universities, tribal governments, or tribal colleges; and

(iv) the prudent management of finances and staffing;

(E) the location where the applicant will provide training and services to Native Americans; and

(F) a multiyear plan, corresponding to the length of the grant, that describes—

(i) the number of Native Americans and Native American small business concerns to be served by the grant;

(ii) in the continental United States, the number of Native Americans to be served by the grant; and

(iii) the training and services to be provided to a representative number of Native Americans.

(3) REVIEW OF APPLICATIONS.—The Administration shall—

(A) evaluate and rank applicants under paragraph (2) in accordance with predetermined selection criteria that is stated in terms of relative importance;

(B) include such criteria in each solicitation under this subsection and make such information available to the public; and

(C) approve or disapprove each completed application submitted under this subsection not more than 60 days after submission.

(4) ANNUAL REPORT.—Each recipient of a Native American development grant under this subsection shall annually report to the Administration on the impact of the grant funding, including—

(A) the number of individuals assisted, categorized by ethnicity;

(B) the number of hours spent providing counseling and training for those individuals;

(C) the number of startup small business concerns created or maintained with assistance from a Native American business center;

(D) the gross receipts of assisted small business concerns;

(E) the number of jobs created or maintained at assisted small business concerns; and

(F) the number of Native American jobs created or maintained at assisted small business concerns.

(5) RECORD RETENTION.—

(A) APPLICATIONS.—The Administration shall maintain a copy of each application submitted under this subsection for not less than 7 years.

(B) ANNUAL REPORTS.—The Administration shall maintain copies of the information collected under paragraph (4) indefinitely.

(C) AMERICAN INDIAN TRIBAL ASSISTANCE CENTER GRANT PILOT PROGRAM.—

(1) AUTHORIZATION.—

(A) IN GENERAL.—There is established a 4-year pilot program, under which the Administration shall award not less than 3 American Indian Tribal Assistance Center grants to establish joint projects to provide culturally tailored business development assistance to prospective and current owners of small business concerns located on or near tribal lands.

(B) ELIGIBLE ORGANIZATIONS.—

(i) CLASS 1.—Not fewer than 1 grant shall be awarded to a joint project performed by a Native American business center, a Native American business development center, and a small business development center.

(ii) CLASS 2.—Not fewer than 2 grants shall be awarded to joint projects performed by a Native American business center and a Native American business development center.

(C) AMOUNTS.—The Administration shall not award a grant under this subsection in an amount which exceeds \$200,000 for each year of the project.

(D) GRANT DURATION.—Each grant under this subsection shall be awarded for a 3-year period.

(2) CONDITIONS FOR PARTICIPATION.—Each entity desiring a grant under this subsection shall submit to the Administration a joint application that contains—

(A) a certification that each participant of the joint application—

(i) is either a Native American business center, a Native American business development center, or a small business development center;

(ii) employs an executive director or program manager to manage the center; and

(iii) as a condition of receiving the American Indian Tribal Assistance Center grant, agrees—

(I) to an annual programmatic and financial examination; and

(II) to the maximum extent practicable, to remedy any problems identified pursuant to that examination;

(B) information demonstrating an historic commitment to providing assistance to Native Americans—

(i) residing on or near tribal lands; or

(ii) operating a small business concern on or near tribal lands;

(C) information demonstrating that each participant of the joint application has the ability and resources to meet the needs, including the cultural needs of the Native Americans to be served by the grant;

(D) information relating to proposed assistance that the grant will provide, including—

(i) the number of individuals to be assisted; and

(ii) the number of hours of counseling, training, and workshops to be provided;

(E) information demonstrating the effective experience of each participant of the joint application in—

(i) conducting financial, management, and marketing assistance programs, as described

above, designed to impart or upgrade the business skills of current or prospective Native American business owners; and

(ii) the prudent management of finances and staffing; and

(F) a plan for the length of the grant, that describes—

(i) the number of Native Americans and Native American small business concerns to be served by the grant; and

(ii) the training and services to be provided.

(3) REVIEW OF APPLICATIONS.—The Administration shall—

(A) evaluate and rank applicants under paragraph (2) in accordance with predetermined selection criteria that is stated in terms of relative importance;

(B) include such criteria in each solicitation under this subsection and make such information available to the public; and

(C) approve or disapprove each application submitted under this subsection not more than 60 days after submission.

(4) ANNUAL REPORT.—Each recipient of an American Indian tribal assistance center grant under this subsection shall annually report to the Administration on the impact of the grant funding received during the reporting year, and the cumulative impact of the grant funding received since the initiation of the grant, including—

(A) the number of individuals assisted, categorized by ethnicity;

(B) the number of hours of counseling and training provided and workshops conducted;

(C) the number of startup business concerns created or maintained with assistance from a Native American business center;

(D) the gross receipts of assisted small business concerns;

(E) the number of jobs created or maintained at assisted small business concerns; and

(F) the number of Native American jobs created or maintained at assisted small business concerns.

(5) RECORD RETENTION.—

(A) APPLICATIONS.—The Administration shall maintain a copy of each application submitted under this subsection for not less than 7 years.

(B) ANNUAL REPORTS.—The Administration shall maintain copies of the information collected under paragraph (4) indefinitely.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

(1) \$1,000,000 for each of the fiscal years 2004 through 2007, to carry out the Native American Development Grant Pilot Program, authorized under subsection (b); and

(2) \$1,000,000 for each of the fiscal years 2004 through 2007, to carry out the American Indian Tribal Assistance Center Grant Pilot Program, authorized under subsection (c).

Subtitle D—Office of Veterans Business Development

SEC. 331. ADVISORY COMMITTEE ON VETERANS BUSINESS AFFAIRS.

(a) RETENTION OF DUTIES.—Section 33(h) of the Small Business Act (15 U.S.C. 657c(h)) is amended by striking “October 1, 2004” and inserting “October 1, 2006”.

(b) EXTENSION OF AUTHORITY.—Section 203(h) of the Veterans Entrepreneurship and Small Business Development Act of 1999 (15 U.S.C. 657b note) is amended by striking “September 30, 2004” and inserting “September 30, 2006”.

SEC. 332. OUTREACH GRANTS FOR VETERANS.

Section 8(b)(17) of the Small Business Act (15 U.S.C. 637(b)(17)) is amended by inserting before the period at the end the following: “, veterans, and members of a reserve component of the Armed Forces”.

SEC. 333. AUTHORIZATION OF APPROPRIATIONS.

Section 32 of the Small Business Act (15 U.S.C. 657b) is amended by adding at the end the following:

“(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for carrying out the provisions of this section—

“(1) \$1,000,000 for fiscal year 2004;

“(2) \$1,500,000 for fiscal year 2005; and

“(3) \$2,000,000 for fiscal year 2006.”.

TITLE IV—SMALL BUSINESS

PROCUREMENT OPPORTUNITIES

SEC. 401. CONTRACT CONSOLIDATION.

(a) DEFINITIONS.—Section 3(o) of the Small Business Act (15 U.S.C. 632(o)) is amended to read as follows:

“(o) DEFINITIONS RELATING TO CONSOLIDATION OF CONTRACT REQUIREMENTS.—In this Act—

“(1) the terms ‘consolidation of contract requirements’ and ‘consolidation’, with respect to contract requirements of a military department, Defense Agency, Department of Defense Field Activity, or any other Federal department or agency having contracting authority mean a use of a solicitation to obtain offers for a single contract or a multiple award contract to satisfy 2 or more requirements of that department, agency, or activity for goods or services that—

“(A) have previously been provided to or performed for that department, agency, or activity under 2 or more separate contracts that are smaller in cost than the total cost of the contract for which the offers are solicited; or

“(B) are of a type capable of being provided or performed by a small business concern for that department, agency, or activity under 2 or more separate contracts that are smaller in cost than the total cost of the contract for which the offers are solicited;

“(2) the term ‘multiple award contract’ means—

“(A) a contract that is entered into by the Administrator of General Services under the multiple award schedule program referred to in section 2302(2)(C) of title 10, United States Code;

“(B) a multiple award task order contract or delivery order contract that is entered into under the authority of sections 2304a through 2304d of title 10, United States Code, or sections 303H through 303K of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253h through 253k); and

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

“(3) the term ‘senior procurement executive’ means—

“(A) with respect to a military department, the official designated under section 16(3) of the Office of Federal Procurement Policy Act (41 U.S.C. 414(3)) as the senior procurement executive for the military department;

“(B) with respect to a Defense Agency or a Department of Defense Field Activity, the official so designated for the Department of Defense; and

“(C) with respect to a Federal department or agency other than those referred to in subparagraphs (A) and (B), the official so designated by that department or agency.”.

(b) PROCUREMENT STRATEGIES.—Section 15(e) of the Small Business Act (15 U.S.C. 644(e)) is amended—

(1) in paragraph (2)—

(A) by striking “,—

“(A) IN GENERAL.”; and

(B) by striking subparagraphs (B) and (C); and

(2) by striking paragraph (3) and inserting the following:

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

“(A) CERTAIN DEFENSE CONTRACT REQUIREMENTS.—An official of a military department, defense agency, or Department of Defense Field Activity shall not execute an acquisition strategy that includes a consolidation of contract requirements of the military department, agency, or activity with a total value in excess of \$5,000,000, unless the senior procurement executive first—

“(i) conducts market research;

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

“(iii) determines that the consolidation is necessary and justified.

“(B) CERTAIN CIVILIAN AGENCY CONTRACT REQUIREMENTS.—The head of a Federal agency not described in subparagraph (A) that has contracting authority shall not execute an acquisition strategy that includes a consolidation of contract requirements of the agency with a total value in excess of \$2,000,000, unless the senior procurement executive of the agency first—

“(i) conducts market research;

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

“(iii) determines that the consolidation is necessary and justified.

“(C) ADDITIONAL REQUIREMENTS FOR HIGHER VALUE CONSOLIDATED CONTRACTS.—In addition to meeting the requirements under subparagraph (A) or (B), a procurement strategy by a civilian agency that includes a consolidated contract valued at more than \$5,000,000, or by a defense agency that includes a consolidated contract valued at more than \$7,000,000 shall include—

“(i) an assessment of the specific impediments to participation by small business concerns as prime contractors that will result from the consolidation;

“(ii) actions designed to maximize small business participation as prime contractors, including provisions that encourage small business teaming for the consolidated requirement;

“(iii) actions designed to maximize small business participation as subcontractors (including suppliers) at any tier under the contract or contracts that may be awarded to meet the requirements; and

“(iv) the identification of the alternative strategies that would reduce or minimize the scope of the consolidation and the rationale for not choosing those alternatives.

“(D) NECESSARY AND JUSTIFIED.—A senior procurement executive may determine that an acquisition strategy involving a consolidation of contract requirements is necessary and justified for purposes of subparagraph (A), (B), or (C), if the benefits of the acquisition strategy substantially exceed the benefits of each of the possible alternative contracting approaches identified under clause (ii) of any of those subparagraphs, as applicable. However, savings in administrative or personnel costs alone do not constitute, for such purpose, a sufficient justification for a consolidation of contract requirements in a procurement, unless the total amount of the cost savings is expected to be substantial in relation to the total cost of the procurement.

“(E) BENEFITS.—Benefits considered for purposes of this paragraph may include cost and, regardless of whether quantifiable in dollar amounts—

“(i) quality;

“(ii) acquisition cycle;

“(iii) terms and conditions; and

“(iv) any other benefit directly related to national security or homeland defense.”.

(c) REPORT REQUIREMENTS.—Section 15(p)(4)(B) of the Small Business Act (15 U.S.C. 644(p)(4)(B)) is amended—

(1) in clause (i), by striking “and” at the end;

(2) in clause (ii), by striking the period at the end and inserting the following: “; and”;

and

(3) by adding at the end the following:

“(iii) a description of best practices for maximizing small business prime and subcontracting opportunities.”.

(d) PROCUREMENT CENTER REPRESENTATIVES.—Section 15(j) of the Small Business Act (15 U.S.C. 644(j)) is amended—

(1) by striking “(l)(1)” and inserting “(2)”;

(2) by redesignating paragraphs (2) through (7) as paragraphs (3) through (8), respectively;

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

“(j)(1) The Administration shall assign not fewer than 1 procurement center representative at each major procurement center, in addition to no less than 1 for each State.”;

(4) in paragraph (2), as redesignated, by striking “to the representative referred to in subsection (k)(6)” and inserting “to the traditional procurement center representative and the commercial market representative, with each such position filled by a different individual, and each such representative having separate and distinct duties and responsibilities.”; and

(5) by striking “paragraph (2)” each place that term appears and inserting “paragraph (3)”.

(e) ADDITIONAL TO TECHNICAL ADVISERS.—Section 15(k)(8) of the Small Business Act (15 U.S.C. 644(k)(8)) is amended—

(1) in paragraph (5), by striking “bundled contract” and inserting “consolidated contract”;

(2) in paragraph (8), by striking “representative” and inserting “representative at each major procurement center under subsection (j)(1)—”.

(f) CONFORMING AMENDMENTS.—Section 15(p) of the Small Business Act (15 U.S.C. 644(p)) is amended—

(1) in the subsection heading, by striking “BUNDLED CONTRACTS” and inserting “CONSOLIDATED CONTRACTS”;

(2) in paragraph (1), in the paragraph heading, by striking “BUNDLED CONTRACT” and inserting “CONSOLIDATED CONTRACT”;

(3) in paragraph (4), in the paragraph heading, by striking “CONTRACT BUNDLING” and inserting “CONTRACT CONSOLIDATION”;

(4) by striking “bundled contracts” each place that term appears and inserting “consolidated contracts”;

(5) by striking “bundled contract” each place that term appears and inserting “consolidated contract”;

(6) by striking “bundling of contract requirements” each place that term appears and inserting “consolidation of contract requirements”;

(7) in paragraph (4)(B)(ii), by striking “previously bundled” and inserting “previously consolidated”;

(8) in paragraph (4)(B)(ii)(I), by striking “were bundled” and inserting “were consolidated”;

(9) in paragraph (4)(B)(ii)(II)(bb), by striking “bundling the contract requirements” and inserting “the consolidation of contract requirements”;

(10) in paragraph (4)(B)(ii)(II)(cc), by striking “bundled status” and inserting “consolidated status”.

(g) GAO STUDY AND REPORT.—

(1) FEASIBILITY STUDY REQUIRED.—The Comptroller General of the United States shall conduct a study of the feasibility of setting thresholds, based on industry category, for permitting the consolidation of contract requirements to

proceed without being subject to the additional benefit analyses required by the amendments made by this section.

(2) CONSIDERATIONS.—The study conducted under paragraph (1) shall include consideration of thresholds based on—

(A) the dollar value of the overall prime contract at issue (including the average dollar value of a prime contract in each industry category);

(B) the portion of such prime contract amounts that could potentially include small business participation as subcontractors;

(C) the availability of small business concerns in each industry that have the capabilities and resources to fulfill prime contract requirements; and

(D) such other criteria that the Comptroller determines relevant.

(3) REPORT.—Not later than June 30, 2004, the Comptroller General shall submit a report to Congress and the Administration on the results of the study conducted under this subsection, together with any recommendations with legislative or regulatory action.

SEC. 402. AGENCY ACCOUNTABILITY.

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

(1) by inserting “(A)” after “(2)”;

(2) by striking “shall, after consultation” and inserting the following: “shall—

“(i) after consultation”;

(3) by striking “agency. Goals established” and inserting the following: “agency;

“(ii) identify a percentage of the procurement budget of the agency to be awarded to small business concerns, in consultation with the Office of Small and Disadvantaged Business Utilization of the agency, which information shall be included in the strategic plan required under section 306 of title 5, United States Code, and the annual budget submission to Congress by that agency, and, upon request, in any testimony provided by that agency before the Congress in connection with the budget process; and

“(iii) report, as part of its annual performance plan, required under section 1115 of title 31, United States Code, the extent to which the agency achieved the goals referred to in clause (ii), and appropriate justification for any failure to do so.

“(B) Goals established”;

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

“(C) Whenever”;

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

“(D) For the purpose of”;

(6) in the last sentence—

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

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

(7) by adding at the end the following:

“(E)(i) Each procurement employee described in clause (iii)—

“(I) shall have as an annual performance evaluation factor, where appropriate, the success of that procurement employee in small business utilization, in accordance with the goals established under this subsection; and

“(II)(I) shall communicate to their subordinates the importance of achieving small business goals; and

“(II) shall have as an annual performance evaluation factor, where appropriate, the success of that procurement employee in small business utilization, in accordance with the goals established under this subsection.

“(ii) An appropriate percentage of any performance-related bonus awarded to a procurement employee described in clause (iii) shall be withheld, where appropriate, for failure to achieve the goals established under this subsection.

“(iii) A procurement employee described in this clause is a senior procurement executive, senior program manager, or small and disadvantaged business utilization manager of a Federal agency having contracting authority.”.

(b) **SMALL AND DISADVANTAGED BUSINESS UTILIZATION.**—Section 15(k)(3) of the Small Business Act (15 U.S.C. 644(k)(3)) is amended to read as follows:

“(3) be responsible only to, and report directly to, the head of such agency, except that the Director of Small and Disadvantaged Business Utilization for the Department of Defense shall be responsible only to, and report directly to, the Undersecretary of Defense for Acquisition, Technology, and Logistics.”.

(c) **REPORTS ON SMALL BUSINESS UTILIZATION.**—Section 10(d) of the Small Business Act (15 U.S.C. 639(d)) is amended—

(1) by inserting “and each agency that is a member of the President’s Management Council (or any successor thereto)” after “Department of Defense” the first place that term appears; and

(2) by inserting “or that agency” after “Department of Defense” the second place that term appears.

(d) **TECHNICAL CORRECTION.**—

(1) **IN GENERAL.**—Section 502(b) of the Veterans Entrepreneurship and Small Business Development Act of 1999 (Public Law 106–50, 113 Stat. 248) is amended by striking “Section 15” and inserting “Section 15(g)(2)”.

(2) **EFFECT.**—The amendment made by paragraph (1) shall be deemed to have the same effective date as section 502(b) of the Veterans Entrepreneurship and Small Business Development Act of 1999.

SEC. 403. SMALL BUSINESS PARTICIPATION IN PRIME CONTRACTING.

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

“(3) The governmentwide goal for participation by small business concerns in any multiple award contract shall be established at not less than 23 percent of the total dollar value of all awards under that contract.”.

(b) **RESERVED CONTRACTS.**—Section 15(j) of the Small Business Act (15 U.S.C. 644(j)) is amended—

(1) in paragraph (1), by inserting “, including any order of 1 or more Federal Supply Schedule items,” after “goods and services”; and

(2) by adding at the end the following:

“(4) Any adjustment to the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))), shall be immediately matched by an identical adjustment to the small business reserve for purposes of this subsection.”.

SEC. 404. SMALL BUSINESS PARTICIPATION IN SUBCONTRACTING.

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

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

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

(3) by adding at the end the following:

“(G) the name and signature of the individual that is the president, chief executive officer, or head of the entity, certifying that subcontracting data provided are accurate and complete; and

“(H) certification that the offeror or bidder will acquire articles, equipment, supplies, services, or materials, or obtain the performance of construction work from small business concerns in the amount and quality

used in preparing the bid or proposal, unless such small business concerns are no longer in business or can no longer meet the quality, quantity, or delivery date.”.

(b) **PENALTIES FOR FALSE CERTIFICATIONS.**—Section 16(f) of the Small Business Act (14 U.S.C. 645(f)) is amended by inserting “or 8(d)(6)(G))” before “of this Act”.

SEC. 405. EVALUATING SUBCONTRACT PARTICIPATION IN AWARDING CONTRACTS.

(a) **SIGNIFICANT FACTORS.**—Section 8(d)(4)(G) of the Small Business Act (15 U.S.C. 637(d)(4)(G)) is amended by striking “a bundled” and inserting “any”.

(b) **EVALUATION REPORTS.**—Section 8(d)(10) of the Small Business Act (15 U.S.C. 637(d)(10)) is amended—

(1) by striking “is authorized to” and inserting “shall”;

(2) in subparagraph (B), by striking “and” at the end;

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

(4) by adding at the end the following:

“(D) report the results of each evaluation under subparagraph (C) to the appropriate contracting officers.”.

(c) **CENTRALIZED DATABASE; PAYMENTS PENDING REPORTS.**—Section 8(d) of the Small Business Act (15 U.S.C. 637(d)) is amended—

(1) by redesignating paragraph (11) as paragraph (13); and

(2) by inserting after paragraph (10) the following:

“(11) **CENTRALIZED DATABASE.**—The results of an evaluation under paragraph (10)(C) shall be included in a national centralized governmentwide database.

“(12) **PAYMENTS PENDING REPORTS.**—Each Federal agency having contracting authority shall ensure that the terms of each contract for goods and services includes a provision allowing the contracting officer of an agency to withhold an appropriate amount of payment with respect to a contract (depending on the size of the contract) until the date of receipt of complete, accurate, and timely subcontracting reports in accordance with paragraph (6)(G).”.

(d) **REFERRAL OF MATERIAL BREACH TO INSPECTORS GENERAL.**—Section 8(d)(8) of the Small Business Act (15 U.S.C. 637(d)(8)) is amended by adding at the end the following: “A material breach described in this paragraph shall be referred for investigation to the Inspector General (or the equivalent) of the affected agency.”.

SEC. 406. DIRECT PAYMENTS TO SUBCONTRACTORS.

(a) **IN GENERAL.**—Section 8(d) of the Small Business Act (15 U.S.C. 637(d)), as amended by section 405, is further amended by adding at the end the following:

“(14) **TIMELY PAYMENT TO SMALL BUSINESS SUBCONTRACTORS.**—

“(A) **IN GENERAL.**—Subject to subparagraph (B), the failure of a civilian agency prime contractor, as defined in subparagraph (D), to make a timely payment, as determined by the contract with the subcontractor, to a subcontractor that is a small business concern shall be a material breach of the contract with the Federal agency.

“(B) **CONSIDERATION OF PERFORMANCE.**—Before making a determination under subparagraph (A), the contracting officer shall consider all reasonable issues regarding the performance, or lack of performance, of the subcontractor.

“(C) **WITHHOLDING OF PAYMENTS.**—Not later than 30 days after the date on which a material breach under subparagraph (A) is determined by the contracting officer, the Federal agency may withhold any amounts due and owing the subcontractor from payments due to the prime contractor and pay such amounts directly to the subcontractor.

“(D) **DEFINED TERM.**—As used in this paragraph, the term ‘civilian agency prime contractor’ means a prime contractor that offers any combination of services or manufactured goods to Federal agencies other than the Department of Defense or agencies with responsibility for homeland security or national security.”.

(b) **SUNSET.**—The amendment made by this section shall remain in effect during the period beginning on the date of enactment of this Act and ending on September 30, 2006.

SEC. 407. WOMEN-OWNED SMALL BUSINESS INDUSTRY STUDY.

Section 8(m)(4) of the Small Business Act (15 U.S.C. 637(m)(4)) is amended to read as follows:

“(4) **GAO IDENTIFICATION OF INDUSTRIES.**—

“(A) **STUDY.**—The Comptroller General of the United States shall conduct a study to identify industries in which small business concerns owned and controlled by women are underrepresented with respect to Federal procurement contracting.

“(B) **REPORT TO CONGRESS.**—Not later than December 31, 2003, the Comptroller General shall submit a report to Congress on the results of the study conducted under subparagraph (A), together with any recommendations for legislative action.

“(C) **ASSISTANCE FROM OTHER AGENCIES.**—The Comptroller General may request of any Federal agency, and such agency shall provide, such information as the Comptroller General determines necessary in carrying out this paragraph, to the extent otherwise permitted by law.”.

SEC. 408. HUBZONE AUTHORIZATIONS.

Section 31(d) of the Small Business Act (15 U.S.C. 657a(d)) is amended—

(1) by striking “2001” and inserting “2004”; and

(2) by striking “2003” and inserting “2006”.

SEC. 409. DEFINITION OF HUBZONE; TREATMENT OF CERTAIN FORMER MILITARY INSTALLATION LANDS AS HUBZONES.

(a) **BASE CLOSURE AREAS.**—Section 3(p)(1) of the Small Business Act (15 U.S.C. 632(p)(1)) is amended—

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

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

(3) by adding at the end the following:

“(E) base closure areas.”.

(b) **DEFINITION.**—Section 3(p)(4) of the Small Business Act (15 U.S.C. 632(p)(4)) is amended by adding at the end the following:

“(D) **BASE CLOSURE AREA.**—The term ‘base closure area’ means lands within the external boundaries of a military installation that were closed through a privatization process under the authority of—

“(i) the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Division B of Public Law 101–510; 10 U.S.C. 2687 note);

“(ii) title II of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100–526; 10 U.S.C. 2687 note);

“(iii) section 2687 of title 10, United States Code; or

“(iv) any other provision of law authorizing or directing the Secretary of Defense or the Secretary of a military department to dispose of real property at the military installation for purposes relating to base closures of redevelopment, while retaining the authority to enter into a leaseback of all or a portion of the property for military use.”.

SEC. 410. DEFINITION OF HUBZONE SMALL BUSINESS CONCERN.

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

(1) by redesignating paragraphs (4) through (7) as paragraphs (5) through (8), respectively; and

(2) by inserting after paragraph (3) the following:

“(4) **RULE OF CONSTRUCTION RELATING TO OWNERSHIP.**—For purposes of paragraph (3)(A), the term ‘person’ includes any small business investment company, specialized small business investment company, New Markets Venture Capital company (as those terms are defined in sections 103 and 351, respectively, of the Small Business Investment Act of 1958 (15 U.S.C. 662, 689), or other similar investment company, as determined by the Administrator, if any such company comprises not more than 15 percent of the ownership of the subject small business concern.”.

SEC. 411. ACQUISITION REGULATIONS.

Not later than 180 days after the date of enactment of this Act, the [G]overnmentwide procurement regulations issued under sections 6(a) and 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(a) and 421(c)) and the procurement regulations described in section 25(c)(2) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(2)) that are issued by the Department of Defense shall be amended as necessary to carry out this title and the amendments made by this title.

TITLE V—MISCELLANEOUS

SEC. 501. MINORITY SMALL BUSINESS AND CAPITAL OWNERSHIP DEVELOPMENT PROGRAM.

(a) **NAME CHANGE.**—Sections 4(b), 7(j), and 8(a) of the Small Business Act (15 U.S.C. 633(b), 636(j), and 637(a)) are amended by striking “Minority Small Business and Capital Ownership Development” each place it appears and inserting “Business Development”.

(b) **CONFORMING AMENDMENTS.**—The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) in section 2(d)(2)(B)(ii), by striking “small business and capital ownership development program” and inserting “small business development program”;

(2) in section 7(j)(10), by striking “small business and capital ownership development program” and inserting “small business development program”;

(3) in section 7(j)(12)(A), by striking “Capital Ownership Development Program” and inserting “Business Development Program”; and

(4) in section 8(a)(21)(B)(v)(I), by striking “Capital Ownership Development Program” and inserting “Business Development Program”.

(c) **ANNUAL REPORT.**—Section 8(a)(20)(A) of the Small Business Act (15 U.S.C. 637(a)(20)(A)) is amended by striking “semi-annually report to their assigned Business Opportunity Specialist” and inserting “annually submit, to their assigned Business Opportunity Specialist, a report, which shall include”.

SEC. 502. EXTENSION OF [PROGRAM] AUTHORITY FOR TECHNOLOGY ASSISTANCE PROGRAM.

(a) **RURAL OUTREACH.**—Section 9(s)(2) of the Small Business Act (15 U.S.C. 638(s)(2)) is amended by striking “2005” and inserting “2006”.

(b) **FAST PROGRAM.**—Section 34 of the Small Business Act (15 U.S.C. 657d) is amended—

(1) in subsection (h), by striking “2005” each place it appears and inserting “2006”; and

(2) by striking “September 30, 2005” and inserting “September 30, 2006”.

SEC. 503. BUSINESSLINC REPORT TO CONGRESS.

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

“(4) **ANNUAL REPORT.**—

“(A) **IN GENERAL.**—The Associate Administrator of Business Development shall collect data on the BusinessLINC program and submit an annual report by April 30 of each year on the effectiveness of the program to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House.

“(B) **CONTENTS.**—The report submitted under subparagraph (A) shall include—

“(i) the number of programs administered in each State;

“(ii) the corresponding grant awards and the date of each award;

“(iii) the dollar amount of the contracts in effect in each State as a result of the BusinessLINC program; and

“(iv) the number of teaming arrangements or partnerships created as a result of the BusinessLINC program.”.

Ms. SNOWE. Mr. President, I rise today to seek unanimous consent for the passage of the Small Business Administration 50th Anniversary Reauthorization Act of 2003, S. 1375, a bill to reauthorize the U.S. Small Business Administration, SBA and its programs for the next 3 years, together with a managers’ amendment.

As the chair of the Committee on Small Business and Entrepreneurship, I am pleased to report that this legislation passed the Committee on July 10, 2003, by a unanimous vote. It is the product of significant contributions by the members of my committee, and I am grateful for the efforts of the committee’s ranking member, Senator KERRY, to make this a truly bipartisan bill.

The challenge for today’s SBA is enormous. Each year, there are 3 to 4 million new business start-ups—1 in 25 adult Americans is taking steps to start a business. And, small businesses account for approximately two-thirds of the net new jobs in our country.

We began the reauthorization process this year with a series of hearings, roundtables, and discussions to develop a bill that would improve the SBA programs that provide counseling and training for entrepreneurs—and to improve the SBA’s financial assistance and Government procurement programs that enable small businesses to prosper and expand. While the particulars of this bill are extensive, let me highlight a few of its key areas.

In terms of financing programs for small businesses, I have focused extensively on improving the credit and venture capital resources that the SBA provides for small businesses. These programs are the centerpiece of the SBA’s efforts to help entrepreneurs get started and assist small businesses to prosper. In fact, in just the past 3 years alone, the SBA’s lending programs made it possible for small businesses to create or retain more than 1.3 million jobs.

Nevertheless, access to capital continues to rank as a primary concern for small business owners. So, we are proposing to continue the growth of the financing programs through reasonable increases in the authorization levels of the 7(a), 504 and Microloan programs. The bill also increases the amount that

small businesses can borrow subject to the SBA’s guarantee, so that the SBA’s loan sizes realistically reflect what it costs to start and operate a small business in today’s economy. Moreover, the bill addresses access to capital by helping SBA’s lending partners—for instance, through the new National Preferred Lenders Pilot Program.

In the area of entrepreneurial development, we set out to ensure that the SBA’s programs continue to provide the products and services essential to small businesses. Recognizing the tremendous accomplishments by women entrepreneurs, I have included the Women’s Small Business Improvement Act of 2003, which I introduced earlier this year, to integrate and better leverage the spectrum of women’s business programs that the SBA provides for women entrepreneurs.

A cornerstone of these improvements involves making the Women’s Business Center Program a permanent program that will offer opportunities for the creation of new centers and renewal grants for existing centers on a competitive basis. By replacing the pilot Sustainability Program, which expires at the end of the current fiscal year, with a fair and balanced grant program, the bill will correct the funding constraints that have plagued the program in 2003.

In addition, the SBA’s entrepreneurial development partners—the Small Business Development Centers and the Service Corps of Retired Executives—continue to provide quality training and free counseling through almost 2,000 locations. As a result, in addition to minor technical changes in these programs, the bill reauthorizes these critical programs for the next three years.

Finally, one of the most serious problems facing small businesses is their inability to participate fully in Federal contracts, on either a prime or sub-contract basis. In the last 10 years, contract bundling has forced more than 50 percent of small businesses out of the Federal marketplace. The bill addresses the practice of Federal contract bundling by changing the definition of “contract bundling” to limit its use so that small businesses have better access to Federal contracts and a fair opportunity to compete for them.

Furthermore, the bill implements the Procurement Program for Women-owned Small Business Concerns, which will give contracting officers the tools necessary to help women-owned small businesses compete in the Federal marketplace more effectively. The bill also contains improvements to the HUBZone program, including the designation of a closed military base as a HUBZone for 5 years to reduce the serious consequences that military base closings pose for our local communities.

With this bill, I am offering a managers’ amendment, which is co-sponsored by Senator KERRY, to address several issues that have risen since the

committee's markup of the bill. In working with several of my colleagues, on and off of the Small Business Committee, I believe the changes encompassed in this amendment address certain concerns and strengthen particular aspects of the bill so that it provides the greatest benefit to small businesses and entrepreneurs in this country. Let me highlight several of these changes.

First, the amendment removes section 265, which would have authorized the SBA to develop and implement an innovative 3-year pilot program in which the SBA would provide a partial guarantee on pools of securitized small business loans that are not otherwise guaranteed by the SBA.

When the President's Fiscal Year 2004 budget request was transmitted to the Congress this past February, it stated that the SBA was exploring a possible new approach to expand the opportunities of small businesses to access capital markets by facilitating the securitization of conventional small business loans that were not already guaranteed by the SBA. Increasing access to capital is a high priority of small businesses, and has been one of the Committee's priorities throughout its history. We are always seeking innovative ways to increase access to capital for small businesses, while at the same time measuring the cost and risk of loss that the Federal Government must incur to facilitate such financing. Accordingly, I recognized the potential benefits of this proposal for small businesses across the Nation.

At our roundtable on April 30, 2003, the committee examined the loan-pooling proposal in greater detail. The SBA reported that it had been exploring this type of program for some time, and thought the idea had considerable merit. The agency, however, was uncertain if it had the authority to develop and implement such a program, absent legislative authorization. After the roundtable, we consulted with the SBA and with participants in the small business financing industry to determine the program's appropriate elements.

In addition to the support the SBA expressed for the proposal in its budget request, at the committee's roundtable, and in subsequent discussions with committee staff, the SBA took other steps to help make the proposal a success. For example, the agency entered into a contract with Dun & Bradstreet and with Fair, Isaacs, Co., to create a credit-scoring model for small businesses, similar to individual consumer credit scores, to help small businesses gauge their credit quality. The scoring model will assist the pooling proposal by providing uniformity of pricing, thus reducing a primary obstacle to the securitization of non-SBA small business loans. The SBA also helped build support for the proposal by publicizing the need to take the foundational steps to build a secondary market for small business loans, rather

than later trying to create such a market in one step when economic pressures called for an immediate response.

The SBA is not alone in its support for a program to securitize small business loans. The Board of Governors of the Federal Reserve System, in its September 2002 Report to the Congress on the Availability of Credit to Small Businesses, stated that the securitization of small business loans could "substantially influence the availability of credit" to small businesses. The Federal Reserve noted that one primary benefit of a secondary market would be that small business borrowers could enjoy lower financing costs. In addition to the Federal Reserve report, other studies have shown that small businesses could benefit from an efficient secondary market for small business loans.

The Federal Reserve report noted that a primary obstacle to a widespread secondary market for small business loans was the lack of standardized information to evaluate small business loans for re-sale. As noted, the SBA has exercised foresight by securing the contract with Dun & Bradstreet and Fair, Isaacs to attack this problem. With the information provided by this new credit-scoring model, the securitization of non-SBA small business loans will be far more feasible.

The committee has received support for the pilot program from representatives of thousands of small businesses that believe the program could improve access to capital, and could improve the terms of loans received, for many small businesses, particularly those without significant real estate property to use as collateral. Significant support for the program has been expressed particularly by small businesses that are owned by minorities or by women. For these small businesses, which often have less real estate collateral, on average, than other small businesses, the pilot program holds great potential for creating capital resources to meet their financing needs.

Financial firms currently involved in the pooling and securitization of SBA 7(a) and 504 loans have also expressed their support for the program, and have stated their belief that it will increase small businesses' access to effective capital.

With this input from the SBA, small businesses, and financial firms in hand, and having considered many studies regarding small business credit and the effectiveness of secondary markets, we included Section 265 in S. 1375, which was approved unanimously by the committee. Section 265 authorized, but did not require, the SBA to develop the pilot program if the SBA determined that it could be practically implemented.

The rationale for this proposal is to increase effective liquidity for small businesses by improving the quality and amount of loans available to them. The pooling structure is based on similar arrangements for home mortgages,

credit card loans, and car loans, which have active secondary markets. This program would allow lenders, including community banks, to benefit from the increased liquidity of small business loans and to utilize capital that is otherwise locked into existing loans, and therefore provide better terms on loans to small businesses, as well as to make more small business loans.

This proposal, as embodied in Section 265, is not a departure from the SBA's current practice of guaranteeing loans and regulating the securitization of those loans. The SBA already regulates the securitization of both guaranteed portions of loans provided to small businesses and non-guaranteed portions of the same loans. These loans are made both by Federally-regulated lenders and by lenders that are not Federally regulated. In Fiscal Year 2002, the SBA regulated the securitization of \$3.4 billion in Government-guaranteed small business loans made under Section 7(a) of the Small Business Act. When the guaranteed portions of the 7(a) loans are securitized separately from the non-guaranteed portions, the SBA is guaranteeing 100 percent of the loan pools.

The new proposal presents a much more measured SBA involvement than is involved with the SBA's current financing programs. Under the pilot program, financial firms approved by the SBA would pool loans not individually guaranteed by the SBA. These pooling entities would then issue securities offering returns based upon the returns from the loans in the pool. The securities would be rated by a rating agency and sold to investors.

The pooling entity would also offer a partial "first-loss" guarantee to investors on the securities' returns. If the loans had insufficient returns to pay the expected returns on the securities, the pooling entity's guarantee would be the first guarantee called into performance to pay investors. The SBA would issue partial, not complete, "second loss" guarantees on the return from the securities, but not on individual loans within the pool. The agency's guarantees would thus be available only after the first-loss guarantees offered by the pool issuers are exhausted. In addition, the SBA will only need to provide guarantees at a much lower percentage level than is currently the case for the SBA's guarantees on individual loans. Finally, and perhaps most importantly, the cost of the SBA guarantees will be fully funded by fees paid by the loan poolers, so no Federal appropriations will be necessary.

The proposed program also requires three separate types of reports. The SBA must provide to the committee and to the Committee on Small Business of the House of Representatives a report detailing the pooling program before it is implemented, and wait 50 days after submitting the report before implementing the program. In addition, the SBA must file with the Congress, in the SBA's Budget Request and

Performance Plan, an annual report about the program's performance. Finally, the GAO is required to study the program, if implemented, and report on the program's performance, including any effects the program may have on the 504 or 7(a) programs, before calendar year 2006.

Working with Senator PRYOR and with other colleagues, both on and off the committee, we endeavored to provide greater specificity in the instructions the provision gives the SBA regarding the pilot program, so as to ensure that the pooling proposal provides the greatest benefit to small businesses in need of capital while limiting risk to the Federal Government. I believe those modifications would have greatly improved the pilot program and increased its potential to provide increased access to capital on terms that are beneficial to small businesses.

Access to credit for small businesses is often a challenge, and the committee has consistently believed that encouraging more lending to small businesses that have a likelihood to succeed, grow, and create new jobs is a sound national policy. The pilot program takes advantage of the successful example of the prior securizations of SBA small business loans, and of changes in the investment community, to facilitate lending in the small business community for years to come.

However, while I continue to recognize the merits of this measure and believe that it should be included in this bill, the administration has now taken a contrary position. In the interest of expediting the passage of S. 1375 before the SBA's current authorizing legislation expires, I am reluctantly removing this provision to focus on those elements of the bill that must be enacted.

While I am disappointed to have to remove this section, it is clear that this bill must move forward as quickly as possible. I want to be clear, however, that I continue to appreciate the benefits of this pilot program, and will introduce this provision as a separate bill in the near future. With the support this proposal already has, I am confident we can implement this innovative program, and I look forward to the benefits it can provide for small businesses as we try to assist small businesses to prosper, create more jobs, and pull the economy out of its current doldrums.

The amendment also modifies the provisions of the bill relating to the New Markets Venture Capital Program and the definition of "low-income geographic area," in which New Markets Venture Capital companies are to invest most of their funds. In order to coordinate the definition of "low-income geographic area" used in the SBA's New Markets Venture Capital Program and that used for the New Markets Tax Credit under the tax code, the managers' amendment specifies that the Small Business Act's definition will be based on median family income, rather than median household income as under current law.

This change will eliminate confusion that has resulted from the use of different definitions for two related programs. More importantly, by significantly broadening the definition of those areas in which investment is permitted under the New Markets Venture Capital program, this change will increase the flexibility that New Markets Venture Capital companies have in choosing small businesses in which to invest. As a result, we should see stronger New Markets Venture Capital companies and more small businesses being served through this venture capital program.

The third part of the managers' amendment modifies several provisions in the bill relating to government contracting opportunities for small businesses. In 1994, Congress enacted the Federal Acquisition Streamlining Act, FASA, to streamline Federal procurement processes. FASA included an amendment to the Small Business Act that created an exclusive reservation for small businesses consisting of contracts valued at more than \$2,500 but not more than \$100,000. And, while it had the chance to classify purchases under multiple-award schedule contracts, including Federal Supply Schedule, within this reserve at that time, the Congress expressly excluded these sales from small business set-aside rules. Accordingly, rules on small business set-asides do not apply to Federal Supply Schedule purchases, and, instead, contracting officers are required to give a "preference" to small businesses.

Although reports now indicate that the level of small business participation on schedule contracts is growing and is relatively higher than the share small businesses receive on non-schedule contracts, small businesses continue to report to the committee that they invest time and money to negotiate a schedule contract successfully with the General Services Administration or an executive agent managing a Government-wide Acquisition Contract, and then they never receive the benefit of an order placed against that contract. Small businesses further report that the Government relies on a limited and preferred list of larger firms to meet its requirements for goods and services.

Small businesses deserve to have a fair opportunity to compete for those orders. The Small Business Administration 50th Anniversary Reauthorization Act would protect small businesses and ensure that they continue to have access to, and the opportunity to compete for, multiple-award and schedule purchases. Specifically, the bill restricts competition of schedule orders valued between \$2,500 and \$100,000 for small businesses.

I know that some of my colleagues believe that by setting aside schedule orders under \$100,000, thousands of small firms that supply and sell through contracts held by large firms may significantly be harmed. They also

question the need for action if small businesses are successfully competing for and winning schedule orders each day. Finally, they assert that scheduled contracts are a faster, easier, more flexible way for agencies to meet their needs and any change that reduces that ease should be challenged.

In my view, if small businesses enjoy a majority share of schedule contracts—which they do—should not their participation in these contracts reflect their representation on the supply schedule? Currently, small businesses represent more than 70 percent of the companies listed on the Federal Supply Schedule, yet these small businesses are receiving just under 30 percent of the awards under the schedule.

The intent of multiple-award contracting was not to have a majority of orders awarded on a sole-source basis. Rather, it was designed to be a streamlined acquisition process to achieve competition without increasing the government's risk. Including small business helps to ensure the Federal Government is getting the best products and services at the best prices.

Nevertheless, in order to ensure the timely passage of this important reauthorization legislation, I have agreed to modify the bill's provision that would have allowed small business set-asides of awards on multiple-award contracts, to require, instead, that contracting officers review the offers of at least two small businesses when completing orders on multiple-award contracts. While I had hoped to provide stronger provisions for small businesses seeking to contract with the Federal Government, I believe this compromise will still lead to greater procurement opportunities for small enterprises.

This modification anticipates that a contracting officer will give serious consideration to small businesses seeking to provide goods and services to the Federal Government. As an example, when placing orders for supplies with contractors on the General Services Administration's Federal Supply Schedule, contracting officers should consider the information available on the GSA Advantage on-line shopping service or other catalogs and price lists of at least two small business multiple-award-schedule contractors that provide the supplies that are being purchased.

Placing orders for services, however, may be more complex at times. In these instances, contracting officers purchasing from Government-wide acquisition contracts, multi-agency contracts, or the Federal Supply Schedule should include at least two small businesses when they solicit offers. These actions will ensure that small business multiple-award contractors have a fair opportunity to be considered for orders.

To ensure the necessary steps are taken to establish clear guidance and that agencies follow these established procedures to implement this compromise, my committee will closely

monitor competition and small business participation on multiple-award contracts. Specifically, the amendment mandates the U.S. General Accounting Office, GAO, to report bi-annually to the Committees on Small Business on the number of actions and dollars awarded to small business under multiple-award contracts and help to achieve the level of competition in Federal contracting that Congress envisioned. In addition, the existing provisions in the bill require the GAO to conduct periodic reviews of small business participation in multiple-award contracts, which will help Congress to ensure these provisions are implemented appropriately.

Responding to additional concerns raised by my colleagues, the managers' amendment withdraws language that references the authority of agencies to withhold a portion of a performance-related bonus awarded to procurement officials for failure to achieve small business goals.

The committee believes measures that hold agency officials accountable for their performance will drive results. Therefore, language in the bill, as reported, would have held agency procurement officials accountable for small business goals. It directed agencies to include in the annual performance evaluation for agency procurement officials a factor that measures the success of that official in small business utilization.

It further required agencies to factor the performance of procurement officials in achieving these small business goals into any monetary rewards under consideration. In order to avoid delaying the entire bill for this provision, I have reluctantly agreed to withdraw this latter provision. Nevertheless, my committee will continue to monitor the extent to which agencies are meeting their small business goals and look for every opportunity to hold failing agencies accountable to our small business constituency.

With respect to subcontracting opportunities, once a contract that contains a small business subcontracting plan has been awarded by a Federal agency, the prime contractor is required to submit reports periodically to the Government that include information on the prime contractor's achievement of its subcontracting goals and the dollars awarded to small business subcontractors. While the U.S. General Accounting Office indicates that most contractors that the GAO reviewed make good faith efforts to comply with their subcontracting plans, small businesses report to my committee that not only do prime contractors fail to comply with subcontracting plans, but they also fail to submit complete and accurate subcontracting reports. Therefore, this managers' amendment contains a technical correction to clarify that the company president or the head of the entity must certify that data contained in subcontracting compliance evaluation

reports provided to the government is accurate and complete.

In addition, under current language in the bill, a contracting officer must first consider "all reasonable issues regarding the subcontractor's performance, or lack of performance, before making a determination that the prime contractor failed in its responsibility to timely pay a small business subcontractor." Some of my colleagues, however, have raised concerns that this language limits the contracting officer's discretion to issues regarding only the performance of the subcontractor, and that other issues that might legitimately cause non-payment, such as disputes over off-sets, could not be considered. That was never the intent of the bill reported by the committee.

In light of these concerns, the managers' amendment modifies the language to ensure that a contracting officer can consider "all reasonable issues regarding the circumstances surrounding the failure to make timely payment to a small business subcontractor" before making a determination to make a direct payment to the subcontractor under a pilot program to test direct payments to small business contractors.

The committee also recognizes the economic ramifications that military base closures can have on our local communities and economies. We believe the SBA's Historically Underutilized Business Zone, HUBZone, program can harness the strength and the creativity of the small business sector by providing these firms with incentives to relocate to areas suffering from the effects of a military base closure. Therefore, we included language in the bill to designate base closure areas as HUBZones, and the managers' amendment clarifies that such designation will apply to military bases closed after the date of enactment for a period of 5 years in order to attract small businesses to areas affected by base closure where there are customers and a skilled workforce. The committee believes that new business and new jobs created through HUBZone small businesses means new life for areas affected by base closure.

Lastly, our colleague from New Mexico, Senator BINGAMAN, has requested an adjustment to the Program for Investment in Microentrepreneurs, PRIME, which the bill reauthorizes for 3 years. To accommodate this request, the managers' amendment authorizes \$2 million under the PRIME program to be spent to provide grants to intermediaries to assist disadvantaged Native American entrepreneurs. This modification enhances the bill's provisions that encourage Native American-owned businesses and new Native American entrepreneurs.

Mr. President, I will close by noting that this is one of the most expansive SBA reauthorization bills in the 50-year history of the agency. The SBA estimates that reauthorizing the agen-

cy will result in 3.3 million jobs over the next 5 years, with the SBA and its programs predicted to support over 1 million jobs over that same period through prime contracts and subcontracts.

This bill is based on the deliberative, methodical, and systematic approach that this committee has taken to review the spectrum of SBA programs, building on those that are working and fixing those that are not. How can we do anything less for the economic engine of our economy—small business—which holds the greatest hope for this country's recovery from the current economic doldrums?

I urge my colleagues to support this important legislation.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

• Mr. KERRY. Mr. President, today, as ranking democrat on the Committee on Small Business and Entrepreneurship, I join the committee's chair, Senator OLYMPIA SNOWE, in bringing to the floor for final Senate consideration, a 3-year reauthorization bill for the Small Business Administration's programs.

These programs help small businesses with access to capital, business advice and training and Federal procurement opportunities. But before I speak more specifically about the provisions of the bill, I would like to thank Chair SNOWE for working hand-in-hand with me on this, my third reauthorization of the Small Business Administration since becoming ranking member in 1997. Having worked close on two previous reauthorizations, and as a member of the Small Business and Entrepreneurship Committee for over 18 years, I can tell you that the SBA reauthorization process takes diligence and a strong attention to detail. I want to commend Senator SNOWE for taking the initiative to draft legislation that makes such important and necessary changes to the SBA during this reauthorization process and for showing great leadership in her first 9 months as chair of the Committee on Small Business and Entrepreneurship.

Our bill will strengthen the SBA and dramatically improve the agency's ability to deliver services to small businesses in every State. It is based on a sound committee record. In addition to holding two hearings and three roundtables to specifically address the SBA's programs and related reauthorization issues, our committee met and spoke with numerous constituents, program directors and small business advocates. It is through this correspondence, research and input that our committee has been able to prepare a comprehensive piece of legislation that should serve the Small Business Administration and the entire small-business community well past even the next reauthorization period.

Over the past 3 years, as chairman and ranking member of this committee, I have seen this administration

reduce Government funding and transfer that money to the wealthy with tax cut after tax cut, resulting in a significant loss of revenue for essential initiatives aimed at fostering small businesses and the job creation and economic activity they bring about. While many of like to note that small businesses are the engine of economic growth and should be bolstered by our Government, this administration has given small businesses more words than action.

The need for small business programs—for access to capital, for training and counseling, for assistance in gaining access to the Federal marketplace—runs counter cyclically to the economy. When the economy is slumping, as it now is, small businesses and entrepreneurs need the SBA even more. Our committee has heard from the small-business community that demand for training and assistance and access to capital is up, yet this administration has proposed freezing funding for virtually all SBA programs for 6 years. Their proposal includes no adjustment for inflation or demand, despite the SBA's own numbers that show demand is up for its programs. The SBA's largest lending programs would have run out of money this year had the SBA not taken the drastic step of capping the size of loans. Both the problem of imminent shutdown and the SBA's solution of a cap would have been bad for struggling small businesses. But for additional funding of more than \$3 billion made available by Congress, the SBA's solution would have disrupted many small businesses' access to otherwise unattainable capital. Again, the problem and its solution could have been avoided had the administration properly funded this important program.

It is in carrying out our legislative and oversight responsibilities that Chair SNOWE and I raised a number of concerns regarding the SBA's reauthorization proposal and the overall management and direction of many of the agency's programs through hearings and roundtables and in letters and phone calls to the administration. And after hearing from the community and working with small business experts in the field, Senator SNOWE and I came to the conclusion that many of the proposals put forth by the Small Business Administration would not help the agency's programs, but rather would ultimately hinder them.

This administration and small businesses across this Nation will find, however, that our prescription for small businesses in a flailing economy is quite different. Our reauthorization legislation embraces the initiatives that have worked for years, redirects those that have struggled, and sets the SBA and our small business sector up for continued success.

Although banks have plenty of cash to lend, many small businesses still have a problem getting access to credit. Either the terms are unreasonable,

or they can not get a loan at all. For the past few years as the economy has fizzled, the Federal Reserve has reported that banks have cut back on lending to small businesses, making it harder and more expensive to get loans. And who has been there to pick up the slack? The Small Business Administration and its lending partners.

Lending is up 37 percent in the SBA's largest lending program for working capital. Lending is up 22 percent in the SBA's loan program for small businesses that are growing and need money to buy equipment and buildings. Lending is up in the SBA's microloan program, which serves those with the least access to capital through the private sector. And the SBA's venture capital programs play a significant role in this country's investment in our fastest-growing small businesses, accounting for more than 50 percent of all U.S. venture investments. Last year these loans and investments pumped about \$20 billion into the economy, leveraged millions more from the private sector, fed the local tax base as the Federal Government cut back, and created or retained more than 400,000 jobs.

As the committee reviewed the SBA's programs for reauthorization, these facts figured largely into establishing the program levels. I thank our chair, Senator SNOWE, for working with me to set the levels for the SBA's lending and venture capital programs at increasing levels for the next 3 years. I am particularly pleased with the increased funding levels for the microloan program.

I disagree with the administration's proposals over the past few years to cut back its investment in microloans and training assistance to micro-entrepreneurs. And I disagree with the administration's contention that these borrowers are being served through the 7(a) loan program. The small borrower in the microloan program is different than the small borrower being served through the 7(a) loan program. Both lending vehicles are important, but they are different, and one is not a substitute for the other.

And who are these borrowers being served through the microloan program? Thirty percent are African American. Eleven percent are Hispanic. Thirty-seven percent are women. And anywhere from 30 to 40 percent go to small businesses in rural areas. Banks turn these borrowers away, and yet the administration proposed cutting the microloan program by 36 percent in its most recent budget—fiscal year 2004. The SBA needs to fully fund these programs and put more resources into the office that manages the program. Four people are not enough to manage 1,400 loans and 180 grants.

Not only is the program level for microloans troublesome, but also the level for the agency's largest small business lending program, the 7(a) program. In the report that accompanies S. 1375, the committee notes that our duty as members of this committee, as

well as that of the SBA itself, is not simply to maintain these programs but to monitor the demand and adjust the programs accordingly to meet the needs of small businesses. According to SBA's testimony before the committee on April 30, 2003, the agency estimates demand only by looking backwards—what has happened in the past year. However, there are other important factors to consider: changes in loan volume, trends in the economy, and initiatives and program changes that will affect loan volume. For example, the agency often enters into memoranda of understanding with trade and ethnic associations in order to help their members who own small businesses, and recently the SBA opened its lending programs to all credit unions, which number 10,000. Both of these changes are intended to raise awareness of the SBA's services, which ultimately will affect demand. In a press release from the SBA regarding credit unions, the agency stated that delivery of SBA loans through credit unions, "Represents a possible increase of nearly 30 percent in the overall number of institutions where entrepreneurs can seek capital for their businesses." That possibility, if it becomes a reality, will almost certainly increase demand for 7(a) loans. Therefore, it should be factored into the SBA's estimate of programs demand for fiscal year 2004 and beyond, and aligned in its annual appropriations requests and legislative proposals.

Aside from setting the level for each small business financial assistance program, our SBA reauthorization makes important program changes and starts some important, new initiatives. In the SBA's microloan program, we have adopted many of the provisions we passed last year as part of S. 174, which Senator SNOWE and I introduced and the committee and the full Senate voted to pass by unanimous consent. I thank the Association for Enterprise Opportunity, AEO, as well as the participants of the reauthorization roundtable on April 30, 2003—Mary Mathews of Minnesota's Northeast Entrepreneur Fund, Zach Gast of AEO in Washington, D.C., Alan Corbet of Missouri's Go Connection, and Blake Brown of Maine's Coastal Enterprises—for representing the microloan industry so convincingly and educating the committee on the inextricable correlation between technical assistance, lending and successful businesses that can repay their loans. I thank them for illustrating so vividly how they serve borrowers that would not otherwise have access to capital—because their loans are not profitable enough to appeal to traditional lenders, and because the efficiencies of credit scoring work against these small borrowers, even those with repayment ability. The SBA's microloans represent their only credit option to help them achieve economic independence and become bankable in the future.

Picking up where we left off last year, and even the year before when we

made important changes to the microloan program, S. 1375 will make it possible for lenders to offer small business "short-term" loans. This will benefit small businesses, the lenders and the SBA because it will eliminate repeated paperwork and administrative oversight from those small businesses, such as carpenters, who need revolving loans to finance the jobs as they come in, rather than taking multiple little fixed-term loans. Rather than tying eligibility to the expertise of the entity, we have made it possible for new entities to qualify as the SBA micro-lending intermediaries if they have staff with this unique lending and technical assistance expertise. We have made a conforming change regarding the average smaller size of microloans, increasing it from \$7,500 to \$10,000, to make it consistent with similar changes enacted in December 2000.

Unlike the provisions we considered in 2000 and again last year with S. 174, this bill does not go as far to eliminate the restrictions on lenders contracting out the technical assistance or assistance before a loan is made. Instead, we raise from 25 percent to 30 percent the amount of TA funds an intermediary can contract with an outside expert and the amount of grants a lender can use to counsel prospective borrowers. The latter change does not go as far as I would like, but represents a compromise. Although there is a perception that pre-loan assistance means that TA money is used on microentrepreneurs who never get loans, in actuality the small-business owner in many cases needs help getting the loan more than assistance running the business after he or she gets the loan. Also, unlike the last two microloan bills, instead of including a provision authorizing the SBA to fund peer-to-peer mentoring among microloan lenders and TA providers, the microlenders asked the committee to increase the oversight of an existing statutory provision that requires the SBA to contract out 7 percent of its loan dollars for training of intermediaries.

Now the SBA will have to report annually on this specific provision to highlight what they have done to comply with the law. Last, S. 1375 requires the SBA to develop an improved subsidy rate model to determine the cost of microloans because the one they have used since the program's inception does not reflect the performance of the program. For example, last year, in Fiscal Year 2003, the administration's budget doubled the subsidy rate, which is the Government's cost of the program, from 6.78 percent to 13.05 percent, even though the program had not experienced any loss of Federal funds since the first loan was made in 1992. This broken method of calculating the cost of these loans is a waste of taxpayer money because Congress has to appropriate unnecessary funds to run the program.

In the 7(a) loan program, the SBA's largest loan program, which provides

loans to small businesses for working capital with long terms of up to 25 years, we made permanent the reduction in the fees borrowers and lenders pay. We are testing a proposal that allows the most proficient 7(a) lenders in good standing to lend in every State. Lenders have complained that applying for lending autonomy in each of the 70 district offices and branches is administratively burdensome, both for them and for the agency staff, and that some district offices have taken advantage of the power to approve or disapprove lenders when they apply for this special lending status.

Let me be clear—while I want to avoid unnecessary paperwork and eliminate reported abuses, I do not want the lenders to take this as a signal to quit working with the district directors and district staff. It is important to have a local connection and for the SBA and the lenders to work together to maximize service to the small businesses. We need to maximize resources to reach not only as many small businesses as possible, but also those populations that most need access to affordable capital. It would be unreasonable to continue holding district directors accountable for lending goals in their areas without building in a mechanism to encourage interaction. There are concerns that allowing lenders to make loans on a nationwide basis and bypass the local SBA staff to work only with SBA staff in Washington, DC, could undermine the local infrastructure and the SBA's ability to meet the individual needs of local small businesses. For this purpose I have included a provision that directs the SBA to consider the recommendations and comments of any district directors and regional administrators when reviewing a lender for national lending authority.

To increase the value of 7(a) loans sold in the secondary market, the committee has included a provision to allow the SBA to pool and sell the guaranteed portion of loans with varied rates. Currently, the SBA has the authority to only sell those loans with identical rates. Proponents argue that this will create efficiencies in the market and strengthen the program by bringing it into line with what the private sector has been doing for years.

At Senator SNOWE's request, in order to reach more under-served small businesses, we have enhanced the Low-Doc program, allowing lenders to use the simplified application from for loans up to \$250,000 from \$100,000, making it the same as the SBA Express program. We have also expanded the incentives for lenders to provide financing to export small businesses, and proposed letting 7(a) borrowers use a simplified size standard when determining if an applicant is a small business.

To improve the 504 loan program, which makes long-term loans of up to 20 years to small, growing businesses to buy equipment and buildings, we have raised the debenture size to keep

peace with the rising cost of commercial real estate and equipment. We have raised the job requirement standard up from \$35,000 to \$50,000. This is reasonable given the increase in the Consumer Price Index since the last time the job requirement was changed in 1990. We have directed the SBA to simplify the application and documentation process of applying for and closing 504 loans, long a goal of this Committee and made a priority based on the compelling testimony of some of our witnesses during the reauthorization process. We have also created two alternatives for 504 lenders to use when establishing a loan loss reserve to cover potential losses.

I am particularly pleased that we have included S. 822, the Child Care Lending Pilot Act in the reauthorization bill. It allows small, non-profit childcare businesses access to 504 loans. I thank Senator SNOWE and my colleagues for agreeing to try this for 3 years, similar to what we have done with the microloan program. And I thank the trade association of 504 lenders, the National Association of Certified Development Companies, and other 504 lenders for their endorsement of, and input on, the pilot.

The more research I have done, the more I have come to realize how vitally important it is that we give non-profit day care providers the same opportunities as for-profits to expand their businesses. Non-profit day care centers are often the only childcare suppliers available in needy areas, from the most urban to be most rural. I have taken note of states like Oregon, where 79 percent of day care providers are non-profit, Michigan, where that number jumps to 86 percent, Iowa with 77 percent, my own State of Massachusetts with 90 percent, Ohio with 62 percent, and the list goes on and on. I've learned that in State after State families are waiting for affordable day care; from more than 1,000 families on the waiting list in both Nevada and Maine to more than 30,000 on the list in Texas. These parents are waiting for quality day care they can afford, and making available affordable loans to all licensed child care providers may increase access to care and cut down those waiting lists.

I understand there is concern about the precedent of the SBA lending to non-profits. Right now it is done in only limited circumstances—microloans, physical disaster loans and economic injury disaster loans in the areas affected by the terrorist attacks of 9/11. And I agree it should not be expanded to all industries. However, this is a very unique industry whose critically important services in many States are delivered mostly through non-profits, and the only way to increase facilities to provide the child care is to reach both for-profit and non-profit child care providers. Further, non-profits are usually the providers that care for the neediest kids. I have added provisions to the pilot program to ensure that the underwriting

standards are just as tough, if not more so, as those applied to for-profit centers. The loans must be personally guaranteed, the collateral must be owned outright by the child care provider, and it must be able to make its loan payments and cover normal operating expenses from the revenue generated from its clients. With these protections, the loans to non-profits should perform just as well as those made to for-profits, and if there is a problem, the loans should be collateralized sufficiently to cover the losses.

The bill defines a small, non-profit child care businesses as an entity organized as a 501(c)(3), but not just any organization. It must be a licensed child care provider; it must meet the size standard for a small business; and it must provide care to infants, toddlers and pre-kindergarten and care to older children after school. This makes assistance available to eligible entities that offer Head Start services. At Senator SNOWE's request, the pilot is limited to seven percent of the number of loans guaranteed by the 504 program overall, which is less than the 10 percent allowed for pilots under SBA's 7(a) guaranteed business loan program. I feel that the agreed upon cap should allow for sufficient lending under the pilot to adequately test whether lending to non-profit childcare providers is effective in increasing access to affordable childcare, and whether it protects the general 504 program, which is vital to the financing of small businesses in this country.

Before I move on to discuss another important provision in the bill, I want to thank all the members of the Advisory Committee on Child Care and Small Business in Massachusetts who not only identified the need for this policy change but also developed many innovative ideas to coordinate Federal and State business services and child welfare services to expand the availability of quality, affordable child care and strengthen the businesses of child care of child care providers.

The bill also includes a comprehensive study by the GAO to track and monitor the impact of this program both on child care industry and the 504 program. Last, I want to remind my colleagues that the 504 program is funded entirely through fees and does not require appropriations. Further, when the Congressional Budget Office reviewed the reauthorization act and estimated its cost and the impact the provisions would have on the programs, CBO assessed no cost increase to the 504 program, its subsidy rate, or the agency by enacting the child care lending pilot provision.

Also included in this bill is S. 318, the Small Business Drought Relief Act. This simply reinforces in legislation something that the SBA should already be doing. You see, the SBA doesn't treat all drought victims the same. The agency only helps those small businesses whose income is tied to farming

and agriculture. However, farmers and ranchers are not the only small business owners whose livelihoods are at risk when drought hits their communities. The impact can be just as devastating to the owners of rafting businesses, marinas, and bait and tackle shops. Sadly, at present these small businesses cannot get help through the SBA's disaster loan program because of something taxpayers hate about government—bureaucracy.

The SBA denies these businesses access to disaster loans because its lawyers say drought is not a sudden event and therefore it is not a disaster by definition. Despite numerous requests, written and verbal, for a copy of this legal opinion, the SBA delayed compliance for 6 months. The delay jeopardized enactment of emergency legislation during the 107th Congress, leaving small business drought victims without assistance. Contrary to the agency's position that drought is not a disaster, as of July 16, 2002, the day this legislation was introduced last year, the SBA had drought disaster declarations in effect in 36 States. That number had grown to 48 by the beginning of this year, demonstrating that the problem had gotten worse and even more small businesses were in need.

As I have said time and again, the SBA already has the authority to help all small businesses hurt by drought in declared disaster areas, but the agency will not do it. For years the agency has been applying the law unfairly, helping some and not others, and it is out of compliance with the law. The Small Business Drought Relief Act of 2003 would force the SBA to comply with existing law, restoring fairness to an unfair system, and would get help to small business drought victims that need it. I thank former Governor Jim Hodges of South Carolina, and his staffer Lane Hudson, for bringing this to the committee's attention. They served the needy small businesses of their State extremely well, and I am sorry that politics kept this common sense and much needed provision from being enacted. I thank the other 15 Governors who fought for their constituents, too. And I thank Senator BOND for working with me on this when he was the ranking member of the Committee on Small Business & Entrepreneurship, and Senator SNOWE and her staff for all their help and support. While we might have had a lot of rain recently in the northeast, there are areas like Lake Mead in Arizona and Nevada where it is so dry that the water level is down and small businesses are losing business and having to make expensive changes, such as extending docks to reach the water in order to stay in business.

In this bill are also provisions to strengthen the SBA's venture capital programs—the Small Business Investment Company Debenture and Participating Securities programs, and the New Markets Venture Capital Program. We have balanced investment in-

centives with financial soundness issues and allowed small businesses to receive more SBIC financing than currently permissible if they also have a 504 or 7(a) loan. We have improved the arrangement for distributing payments from successful SBICs so that the SBA and the investors are treated more fairly and the taxpayer has more protection for realizing repayment on the investments. We have put in place conforming amendments to make the New Markets Venture Capital program work with the New Markets Tax Credit, as Congress intended. And we have clarified that New Markets Venture Capital companies have 2 years to raise their matching capital, as Congress intended. The committee has been troubled by the agency's interpretation of the NMVC statute, which SBA viewed as permitting the agency to choose how much time it could give conditionally approved NMVCs to raise the private-sector matching money. The SBA's chosen time frames were unreasonable and not what Congress intended.

I very much regret that the managers' amendment that we are considering today does not include a change to the New Markets Venture Capital Program which would better align allowable investments with repayment obligations. Right now the repayment and profit participation schedules are out of sync. Experts argue that this situation could force NMVCs to liquidate promising small businesses in order to raise repayment money. It would be unfortunate if this were to occur, particularly for the employees of small businesses in these high-unemployment areas who will be hard-pressed in this economy to find another job with sustainable wages and benefits. I do not have an SBA NMVC in my State, but there are about 20 States with NMVCs which would have benefited from this proposed change—Maine, New Hampshire, Vermont, Kentucky, Maryland, West Virginia, Ohio, Delaware, New Jersey, Pennsylvania, Arizona, and Washington, DC. I am sorry that we could not reach a compromise and I hope for the sake of existing NMVCs and the small businesses they assist that the experts are not right.

I thank the many experts who have advised this committee over the years on developing and implementing the new markets venture capital program. My colleagues on the committee and I are grateful for their help. It is a great service to the taxpayers and businesses and the communities that will benefit from this innovative investment. In no particular order, I thank Dr. Julia Rubin who helped us when she was at Harvard, at Brown and now at Rutgers University. I thank Saunders Miller, now himself a small business owner of Peaq Funds in Manhattan, who was a principal developer of this program and may other venture capital initiatives for the many years he worked at the SBA. I thank Don Christensen, the former head of the SBA's investment

division, where he served this nation and president Clinton extremely well. And to the many developmental venture capitalists who routinely impart their expertise and wisdom to this committee, such as Elyse Cherry of the Boston Community Venture Fund and Ray Moncrief of Kentucky Highlands.

Responding to findings by the General Accounting Office and the SBA's Office of Inspector General, this legislation includes many measures to strengthen the SBA's oversight of lenders. And we have reauthorized and clarified the law for surety bond guarantees to help small businesses get Government contracts.

While no one would deny the importance that access to capital plays in the success of small businesses, as SBA Administrator Hector Barreto and past SBA administrators have acknowledged time and again, debt is not always the answer. In the SBA's FY 2004 budget request, there is reference to information from the Ewing Marion Kauffman Foundation and Dun & Bradstreet that indicates "80 percent of new businesses discontinue operation within 5 years because of lack of 'knowledge' of key business skills." Despite the recognized importance of such assistance, the SBA's funding request for fiscal year 2004 and its legislative proposal to implement that request would freeze funding levels for virtually all agency programs, without even accounting for inflation, for a 6-year period. If enacted, that would severely hamstring this nation's small businesses and their ability to effectively compete and prosper in the national economy. For this reason, Senator SNOWE and I took a comprehensive approach to supporting and improving the SBA's entrepreneurial development programs, while rejecting proposals put forth that would undermine their success.

Cuts to or inadequate funding of the SBA's entrepreneurial development programs are often attributed to vague and unfounded claims of duplication. Such claims mistake a common mission of training and counseling for duplication, ignoring the reality that small businesses vary greatly, are often at very different stages of development, and have many different needs. Just as it would be ineffective to only have one type of loan or venture capital financing structure for the 25 million small businesses in this country, it would be futile to water down specialized management and training programs to impose a one-size-fits-all approach.

I want to commend Chair SNOWE for giving women entrepreneurs such a prominent place in the reauthorization process. Rarely do women entrepreneurs get the recognition and attention they deserve for their contributions to our economy: Eighteen million Americans would be without jobs today if it were not for these entrepreneurs who had the courage and the vision to strike out on their own. During my

tenure as a member, chair, and lead Democrat of the Senate Committee on Small Business and Entrepreneurship, I have worked to increase and improve the opportunities for enterprising entrepreneurial women in a variety of ways, leading to greater earning power, financial independence and asset accumulation—and I am glad that Senator SNOWE is joining me in this endeavor.

As Chair SNOWE expressed when she introduced the Women's Small Business Programs Improvement Act—and when Senator SNOWE and I passed the Women's Business Center's Preservation Act—protecting the extremely effective and well-established Women's Business Center network was a high priority in this reauthorization. For that reason, we make permanent the Women's Business Center Sustainability Pilot Program by creating 3-year "renewal" grants for those centers with sustainability grants and 4-year "initial" grants for new centers; increase the program's authorization levels; and direct the Office of Women's Business Ownership, OWBO, to make all Women's Business Center grants at \$150K and to consult with the associations of Women's Business Centers when making improvements to the program. Other changes to the Women's Business Center Program include streamlining the data collection and the grant application and selection criteria, protecting the privacy of Women's Business Center, WBC, clients, and providing for a smooth transition from sustainability to the newly established WBC program.

Our legislation will not only secure the future of the Women's Business Center Program, but it will connect all SBA-related women's initiatives with a unified mission, similar guidance and training. These changes were coupled with minor, yet significant, changes to the National Women's Business Council, NWBC, and the Interagency Committee on Women's Business Enterprise. Senator SNOWE and I included provisions to give the NWBC cosponsorship authority, to allow more flexibility in the way the council uses funds, and to direct the council to serve as a clearinghouse for historical data. Each of these things will enable the council to become a better resource for the administration, Congress and the entire small-business community. Since its inception, the NWBC has provided Congress, the Small Business Administration, and the Interagency Committee on Women's Business Enterprise with independent advice and policy recommendations on issues facing women in business.

In recognition of the council's importance to policy making and women in business, Senator LANDRIEU offered and the committee adopted an amendment identical to her National Women's Business Council Independence Preservation Act of 2003, which seeks to maintain the bipartisan balance on the NWBC. The structure of the NWBC helps to maintain its independence. It

has 15 members. The chair is appointed by the President and must be a prominent business woman. Six members are representatives of women's business organizations, including representatives of women's business center sites, and the remaining eight are members appointed by the SBA administrator based upon recommendations of the chair and ranking members of the Senate Small Business and Entrepreneurship Committee and the House Small Business Committee. Of these eight "party-affiliated" members, four come from the same political party as the President and four members who are not from the President's party; all of them must be small business owners. The bipartisan balance in the NWBC's membership helps to ensure that any policy recommendations will reflect the needs of women in business and not the political agenda of one political party over another.

Vacancies on the NWBC are supposed to be filled no later than 30 days after the position becomes open; however, in the past 2 years, the SBA has failed to meet this 30-day statutory deadline. The NWBC Chair was vacant from May 29, 2001, to May 21, 2002, a period of 11 months and 22 days. Of the party-affiliated slots reserved for the President's party, one was vacant for 3 months, two were vacant for a period of 7 months; and one was vacant for 21 months. Two of the seats reserved for members who are not from the President's party were vacant for nearly 2 years, one seat was vacant for 7 months, and the fourth seat remains vacant. At one point during the past 2 years the NWBC had a severe partisan imbalance. There were three Republican members on the NWBC and no Democratic members. The committee is concerned that these vacancies undermine the effectiveness of the NWBC, and that the lack of bipartisan balance will subject any policy positions taken by the NWBC to criticism as being motivated by partisan interests.

Senator LANDRIEU's amendment, which was approved unanimously by the committee, requires that vacancies in the party-affiliated slots will be filled to maintain a bipartisan balance on the NWBC. The provision also ensures accountability by requiring the administration to report to Congress on vacancies that remain unfilled for more than 30 days. The committee expects the report to cite the reasons for the vacancies, what is causing any delays in filling the positions, whether nominees were available for consideration, at what stage in the vetting process nominees are, whether there are any objections to the nominees and what those objections are, an estimate for when the vacancies will be filled, and any other relevant information relating to the vacancies.

To bolster the representation of women business owners in the Federal Government, our bill re-establishes the Interagency Committee on Women's Business Enterprise, directs the Deputy Administrator of the SBA to serve

as acting chairperson of the Inter-agency Committee until a chairperson is appointed, establishes a Policy Advisory Group to assist the Committee's chairperson in developing policies and programs under this act and creates three subcommittees similar to those created under the National Women's Business Council.

This bill also supports and protects the Small Business Development Center network, which has served millions of small-business owners since its inception more than 20 years ago. It should also be noted that in 2001, SBDCs helped small businesses create or retain over 80,000 jobs, generate \$3.9 billion in sales and obtain \$2.7 billion in financing. For every dollar spent on an SBDC, \$2.09 in tax revenue was returned to the Federal Government. Numbers aside, the nationwide network of SBDCs provides important counseling services to small-business owners that are unable to afford private consulting, many of whom are women and minority clients. The SBDC program has grown to serve 1.25 million small-business owners and entrepreneurs each year, and there are nearly 1,000 centers serving every State in the Nation.

While this bill rejects the potentially detrimental changes proposed by the SBA to the SBDC network, it does address concerns expressed by the centers and small businesses. Our bill increases authorization levels to keep up with increased demand and a provision to protect the privacy of the program's clients and a provision to help the SBDCs that have been adversely affected by poor economic conditions or government downsizing. Also included is a portability provision proposed by Senator SNOWE to provide supplemental assistance to State SBDC networks that have been adversely affected by a military base or industrial site closure which has led to a loss of jobs and severe economic harm. If implemented correctly, portability has the potential to help States, reeling in the aftermath of a sudden economic change, to provide the necessary small business assistance to quell the economic injury to a particular area.

Also, included in the entrepreneurial development section of our bill is a provision to increase to \$7 million annually the authorization level for the Service Corps of Retired Executives, SCORE, which has 10,500 volunteers, and technical change to allow SCORE to keep its modest staff of 14 employees. For more than 38 years, SCORE has been one of the SBA's greatest and most efficient successes. In 2002, SCORE volunteers held over 300,000 counseling sessions and put in nearly 1.4 million volunteer hours. To keep up with our nonstop national economy, SCORE has dramatically advanced the outreach of its online services to reach clients 24 hours a day, seven days a week. Last year, for \$5 million, SCORE volunteers provided small business owners an estimated \$170.8 million

worth of professional business advice. It is safe to say that in this down economy, SCORE is one investment that will be paying dividends for years to come.

I thank Senator SNOWE for working with me to include, as introduced, the Native American Small Business Development Act, which I reintroduced earlier this year together with Senator JOHNSON and Senator SMITH to address the SBA's growing lack of commitment to the Native American community. According to a report released by the U.S. Census Bureau, the "three year average poverty rate for American Indians and Alaska Natives from 1998-2000 was 25.9 percent; higher than for any other race groups." With an unemployment rate well above the national average and household income at just three-quarters of the national average, Native American communities need a commitment from the Federal Government that we will help them, particularly during these difficult economic times. To reaffirm this commitment, the Johnson-Kerry-Smith bill provides Native Americans the resources they need to take advantage of the opportunities of entrepreneurship.

The Native American Small Business Development Act, as included in our reauthorization bill, will ensure that the SBA's programs to assist Native American communities cannot be dissolved by making the SBA's Office of Native American Affairs, ONAA, and its assistant administrator permanent. Our legislation would also create a statutory grant program, known as the Native American Development grant program, to assist Native Americans. It would also establish two pilot programs to try new means of assisting Native American communities and require Native American communities to be consulted regarding the future of the SBA programs designed to assist them. In short, this legislation will ensure that our Native American communities receive the adequate assistance they need to help start and grow small businesses.

Senator BINGAMAN and I have worked closely to develop a provision for inclusion in a joint managers' amendment to the reported bill, which will expand the Program for Investment in Micro-entrepreneurs, PRIME, with a separate \$2 million authorization to provide direct, in-depth technical assistance and counseling to disadvantaged Native American small business owners. The provision will complement the Native American Business Centers created in the Native American Small Business Development Act by following the PRIME model, which provides technical assistance through microenterprise entities that have extensive experience helping the least experienced entrepreneurs in low-income communities. The rationale for amending the PRIME Act, rather than creating a separate program, is that PRIME is currently operational and simply needs additional funding so it can better ad-

dress the needs of the Native American entrepreneurial community. The provision follows the existing Small Business Administration's approach and terminology for implementing the PRIME Act to enhance the possibility of economic development through entrepreneurship in Native American communities. The Bingaman provision will strengthen the three-pronged approach the Senator JOHNSON and I designed in the Native American Small Business Development Act to find a solution to the longterm economic handicap existing in Native American communities nationwide. There are a number of microenterprise organizations in states across the country that are willing and prepared to take on the additional challenge of assisting disadvantaged Native American entrepreneurs, and there are a number of Native American communities that are eager to take a different path to economic development. However, there are currently a limited amount of funds to allow that to happen. I commend Senator BINGAMAN for his attention to this matter, for his continued support of my small business legislation, and for his foresight and vision for Native Americans in New Mexico and across the country. The Native American communities across our nation will be better off with the assistance that this provision makes possible. Were it not for the persistence of Senator BINGAMAN, this provision would not be part of SBA's tools to help Native American entrepreneurs. I also want to thank Senator SNOWE for working with Senator BINGAMAN and me to include this provision in the managers' amendment.

To address the growing business development needs of veterans, Senator SNOWE and I reauthorized the Advisory Committee on Veterans Affairs, expanded veterans outreach grants from solely serving disabled veterans, to serving all veterans, reservists and service-disabled veterans. Further, we increase the funding for the Office of Veterans Business Development to enable that office to better deal with the demand by veterans for outreach and development services.

Included in a joint Snowe-Kerry amendment, which was unanimously approved at the Committee markup, is a reauthorization of PRIME at \$15 million. SBA Administrator Hector Barreto has stated, "The PRIME program was created to help the smallest of small businesses. These are entrepreneurs at the most basic stage of starting a business and who typically require the greatest amount of committed service and guidance. In order to succeed, they require training and technical assistance that must be accessible."

PRIME is a powerful investment that provides critical assistance to struggling, distressed communities. It's engineered to help low-income and very low-income families, defined as those at 150 percent of the poverty line or below. A very low-income family of

four earns about \$23,000 a year. The International Labor Organizations estimates that the return on investment in microenterprise development through resources like PRIME ranges from \$2.06 to \$2.72 for every dollar invested. Microenterprise contributes to our national economy through public tax revenues, private income increases, and reduced dependence on public assistance, such as welfare. Small Business Development Centers define a "client" as someone who has received two hours of training. On average, however, PRIME organizations spend 10 hours with low-income and very low-income entrepreneurs.

Many often confuse PRIME assistance with the microloan technical assistance. Unlike the microloan program's technical assistance, which is directly tied to helping microentrepreneurs obtain access to capital through microlenders, the PRIME program is designed to help microentrepreneurs who may not be credit-worthy or don't need or want loans, but do need intensive technical assistance.

Currently, there are fewer than 80 organizations with PRIME grants, yet the need for PRIME assistance is now greater than ever. While access to credit is vital for many microentrepreneurs, for low-income individuals, there is a severe gap between being credit-worthy and receiving the technical assistance needed to be successful in business. The PRIME program addresses this gap. For these reasons, Senator SNOWE and I reauthorized the program for three years. Our bill also moves PRIME's statutory language to the Small Business Act and includes a data collection provision.

We continue to receive reports of the detrimental effects of the Administration's policy of reduced staffing and resources for essential programs aimed at allowing small businesses to thrive. Week after week, the Federal Times reports on the decline in contracts being allocated to small businesses, small businesses losing ground in the Federal marketplace, and most recently, on the awarding of more big contracts with less oversight from Federal agencies. With agencies awarding larger, more complex and more costly contracts with fewer staff performing oversight, this nation's small businesses and its tax payers are the ones shouldering the burden when small business goals continue to be unmet. In addition to helping small businesses obtain access to procurement opportunities, these goals are meant to help the government benefit from the cost-savings and innovations small business contractors can often provide.

Significant improvements to the ongoing problem of contract bundling, also called contract consolidation, are included in this bill. One provision included in this legislation that will make a significant impact on small businesses' ability to compete is the method we have adopted to address the ongoing problem of contract bundling.

This language is a prime example of the effectiveness of bipartisanship, diligence and compromise. This approach incorporates language from an amendment to the Department of Defense reauthorization offered by Senator COLLINS and Senator TALENT, language from my contract bundling bill, S. 633 and the President's initiative on contract bundling.

The first provision creates a two-tiered threshold in order to prevent unnecessary contract consolidation. Civilian agencies will be required to meet specific standards if they attempt to consolidate contracts above \$2 million and \$5 million. The Department of Defense is required to meet similar requirements for contracts above \$5 million and \$7 million. The bill also further expands the definition of contract bundling to include contract consolidation, closing a loophole in the definition that has been widely used and detrimentally affecting small businesses.

The second provision increases in the number of procurement center representatives, PCRs. These representatives advocate on behalf of small businesses in cases directly affecting contracting, such as the bundling or consolidation of contracts. Unfortunately, the number of PCRs has been reduced from over 200 at its peak in the late 1980s to the current level of just 47. In addition to reducing the number of traditional PCRs, the administration has also eliminated the Breakout PCRs, specially trained advocates that analyze highly technical large contracts and "unbundle" contracts and break out portions that are appropriate for small businesses. Their responsibilities have been rolled into that of traditional PCRs, even though the number of PCRs continued to decline. Often, the role of commercial marketing representatives, CMRs, was also incorporated into the responsibilities of traditional PCRs. CMRs are responsible for identifying opportunities and developing marketing strategies for small businesses to appeal to large prime contractors. The SBA's attempt to streamline their offices and replace trained individuals with electronic systems has resulted in the disenfranchisement of small businesses and hindered the SBA's ability to maintain a proper level of oversight over Federal contracting.

In the bill, we have increased the number of procurement center representatives to ensure that every State and every major procurement center is allocated a PCR. Meanwhile, we have also ensured that these PCRs are not burdened with responsibilities that were previously the duties of breakout PCRs and commercial marketing representatives. These two improvements will dramatically increase the efficacy and efficiency of all three positions and allow proper review of the approximately 40 percent of Federal contracts, nearly \$90 billion, that are currently not being reviewed by PCRs. This should increase small business's access to Federal contract opportunities.

The bill would also create a reporting requirement for the BusinessLINC program, which has been showing promise in creating real teaming opportunities for small businesses in the private sector. Although the administration recommended elimination of the program, the reports this committee received regarding the overwhelming success of the existing nine programs made it clear that the SBA did not have sufficient information about BusinessLINC to make an informed decision on its effectiveness. The committee's bill would ensure that the SBA offers the proper level of oversight and would foster the continued success of the program. I would like to thank Senator SNOWE for working with me to find a compromise to preserve this successful program.

At the Committee's roundtable on non-credit programs and the hearing on contract bundling, the small business community reiterated the need for accountability for small business contracting at the agency level. I applaud Senator SNOWE on her efforts to ensure that Federal agencies be held accountable for fully utilizing small businesses and to allow a greater amount of Congressional oversight of the implementation of agency procurement strategies. Provisions within this bill will ensure that the heads of Federal agencies identify a specific portion of their budget request that will be awarded to small businesses in their strategic plan and their annual budget submission to Congress. The bill also gives senior procurement executives and senior program managers additional authority to educate their staff regarding the importance of meeting the government-wide goals for small business utilization and allows for greater accountability in annual performance evaluations. I would like to thank the members of the Senate committee on Government Affairs for working with Senator SNOWE and me on these provisions to ensure that agency officials have the authority, as well as the flexibility, to efficiently and effectively meet the goals we have placed before them.

In addition to increasing opportunities for prime contracts, this bill addresses another serious problem: Small businesses have been severely hampered by dishonest practices by some businesses that have prime contracts with the Federal Government and have received preference over other prime contractors due to their superior small business subcontracting plans. Senator SNOWE and I have worked closely to address the concerns of small businesses regarding delays in payment, false reporting and the use of "bait and switch" tactics by prime contractors.

The bill holds prime contractors responsible for the validity of subcontracting data, requiring the CEO to certify to the accuracy of the subcontracting report under penalty of law. It also expands the penalties for falsifying data included in subcontracting reports to match the \$500,000 or 10

years in prison for businesses that falsify their status as a small and disadvantaged business. If one intentionally falsifies data as a part of a subcontracting report to a Federal agency, he is defrauding the United States government and will be punished to the full extent of the law.

During the committee's reauthorization roundtables, we heard numerous accounts of subcontractors receiving late payments or partial payments from their prime contractors. Small firms do not have the luxury of waiting for their payments when they have invested time and money to provide their products and services to the prime contractor. To address this concern, the bill directs the SBA to create a three-year pilot program, which tests the feasibility of direct payment to subcontractors from the Federal agencies that are receiving the contracts and or services.

In 2000, Congress passed legislation to implement a limited competition, set-aside program for women-owned businesses, intended to assist agencies to increase contracting to these firms and help to meet the five percent government-wide goal. The original bill amended the Small Business Act in section 8(m)(4) to require the SBA Administrator to complete a study to identify industries in which women-owned businesses are under-represented and report to Congress. The original study has been completed, but has been delayed by a subsequent study of the original study's "methodology," causing the program to be delayed indefinitely rather than be implemented in 2002, as it should have been. This bill expedites the implementation of the already overdue program by reassigning the responsibility of the study from the SBA to the GAO and giving the Comptroller a deadline of December 31, 2003, to report his findings to Congress.

During this time of economic downturn, we must ensure that long-term strategies of reorganization and restructuring do not have immediate negative impacts on our communities. One example of this is the economic impact on surrounding areas when a military base is closed. The loss of contracts to small businesses, jobs and resources can cripple a community's economy. To reduce the impact on these regions, this bill utilizes a contracting program, called the HUBZone program, intended to target underserved areas and maintain the profitability of the firms located within these areas. This bill will allow military installations that are closed after passage of this legislation to receive HUBZone status. Senator SNOWE and I have included a further provision within the managers' amendment of S. 1375, which would limit this special classification for 5 years after the closure of the base. The intent of the immediate qualification of these areas is to allow for a smoother transition of the base to commercial use by encouraging small businesses to relocate to those facili-

ties, through Federal contracting opportunities, and employing the workers in that area. Additional options for assistance for these areas are available through the SBA if these areas do not receive continued economic stability following the expiration of the 5-year HUBZone status.

I want to thank Chair SNOWE and her able staff for all of their cooperation over the past several months. I would like to thank the members of the Senate Committees on Armed Services and Government Reform for working closely with me and my staff to ensure that this bill meets the needs of the Federal Government's diverse procurement offices as they work to ensure that the government receives the essential goods and services it requires. I also want to express my gratitude to all the members of the committee for their diligent efforts to improve this legislation and urge them and my other Senate colleagues to support the Small Business Administration 50th Anniversary Reauthorization Act of 2003.●

Mr. BOND. Mr. President, I rise today in recognition of S. 1375, the Small Business Administration 50th Anniversary Reauthorization Act of 2003. This bill revitalizes existing SBA programs and brings to life new pilot programs, all of which promote the demands and growth of the small business community. I commend the chair, Senator SNOWE, for passing this bill through the Small Business Committee with unanimous support.

Upon final passage of this bill, we will take a giant step toward improving and refining the SBA and its programs. With the new provisions that enhance agency record-keeping and realign program operations under a more appropriate department, it is clear that agency accountability and oversight will be strengthened. In addition, small businesses will benefit from improvements in the leading programs, greater access to capital, new innovations in the entrepreneurial programs, expansion of procurement programs, and improved training and assistance provisions.

According to the SBA's Office of Advocacy, small businesses represent more than 99.7 percent of all employers, employ more than half of all private sector employees, and generate 60 to 80 percent of net new jobs annually. Given these statistics and the difficult financial times we face in today's economy, I urge Congress to continue to nurture the needs of the small business community. We must show enthusiastic support for this bill, which I am confident will provide the SBA with greater tools to keep pace with the ever-changing global economy and to serve the small business community in a more effective and efficient manner. To act otherwise could jeopardize this Nation's much needed job growth and innovation.

Before I yield the floor, I refer to an important small business program titled the Historically Underutilized

Business Zone Contracting Program, or as it is commonly referred to, the HUBZone program. This small-business program was one of my personal priorities as former chairman of the Senate Small Business Committee. It was established in 1997 with the intent to create jobs in severely economically distressed communities, both rural and urban. In addition, the HUBZone program provides a Federal contracting preference as an incentive for small businesses to locate in these low-income areas. The jobs created by the HUBZone program bring money to those blighted areas and create a demand for more goods and services, which leads to the creation of more small businesses and increased commerce in the area. Little by little, the community's economic base is reborn.

Today, there are over 8,378 small businesses that are HUBZone certified, and the Government has procured approximately \$1.7 billion in HUBZone contracting this year. The SBA reports that in FY 2001, each dollar spent on the program yielded a return of \$288 in contract awards and as a result, the program helped to create 12,782 jobs in the United States, approximately 8,974 of which were located in distressed areas.

Based on FY 2001 procurement statistics, HUBZone firms increased employment 33 percent to 50 percent as a result of contract awards. Nearly 50 percent of HUBZone firms increased capital expenditures as a result of receiving contracts in FY 2001. As our economy struggles during these difficult times, this vital program will continue to bring jobs to our Nation's inner cities, poor rural counties, and Indian reservations.

I urge Congress to support the HUBZone program in its current form along with the new amendments provided in the Senate's version of the SBA Reauthorization Act of 2003. Any additional changes not supported by the full Senate Committee on Small Business could seriously undermine the original intent of the program.

Thank you for the opportunity to speak today on behalf of the small business community. I encourage my colleagues to support Senator SNOWE and S. 1375, the Small Business Administration 50th Anniversary Reauthorization Act of 2003.

Mr. LEVIN. Mr. President, the Small Business Administration 50th Anniversary Reauthorization Act of 2003 reflects a bipartisan effort that passed the Senate Small Business and Entrepreneurship Committee unanimously. This bill reauthorizes many Small Business Administration, SBA, programs for 3 years as well as authorizes a number of pilot programs.

The reauthorization bill is a great improvement over the President's proposal which would have frozen SBA programs at fiscal year 2003 funding levels for 6 years. By reauthorizing the SBA over a shorter 3-year period, as Congress has done traditionally, our

bill allows Congress to exercise closer oversight than would have been the case under a 6-year bill. Our bill is responsive to our Nation's small businesses and entrepreneurs, many of whom have no alternative credit source and allowing the SBA to make more loans to small entrepreneurs. These entrepreneurs provide the job creation and business expansion that can result from the small business loans.

I am pleased the Senate SBA reauthorization bill contains an amendment I authored to establish the Small Business Intermediary Lending Pilot Program to address the needs of expanding small business. The pilot lending program is aimed at businesses that need loans that are larger than those available under the SBA microloan program but a variety of reasons—including lack of sufficient or conventional collateral—are unable to secure the credit they need at the terms they need through conventional lenders, even with the assistance of the 7(a) program.

The pilot lending program is designed to work through local non-profit lending intermediaries. This proposal authorizes the SBA to make 1 percent, 20-year loans on a competitive basis to up to 20 non-profit lending intermediaries around the country. These loans would be used to capitalize a revolving loan fund through which the intermediary would make loans of between \$35,000 and \$200,000 to small businesses. Unlike the SBA microloan program there would be no technical assistance grant provided to the intermediary. All administrative costs or technical support provided to business borrowers would be covered by the interest rate spread between the lending intermediary's 1 percent loan from the SBA and the loans made to the business borrowers.

While the SBA is committed to ensuring that 7(a) lenders make smaller loans, this pilot is designed to reach a sector of small businesses that 7(a) lenders cannot and will not reach due to the perceived higher risk of these businesses. Many of our States, including Michigan, Maine and Idaho, are fortunate to have a health network of community based, non-profit intermediary lenders that are experienced and successful in meeting the needs of these businesses. This pilot program will give them additional tools to help them create badly needed jobs among small businesses.

Finally, I am pleased that the reauthorization bill contains the bill providing disaster relief for small businesses damaged by drought. This includes a provision I authored which would make eligible small businesses hurt by low water levels on the Great Lakes. I am also glad to see it includes the childcare lending pilot program to allow affordable and low interest SBA 504 loans for non-profit child care center. It is my hope that this program will spur the establishment and expansion of child care providers.

Mr. ENZI. Mr. President, I rise today to speak in support of the Small Business

Administration 50th Anniversary Reauthorization Act of 2003. There are millions of good reasons why we need to pass this important bill today and they are reflected in the millions of small businesses around the country that benefit from the support the Small Business Administration provides small businesses in Wyoming and around the country. Although we do not have time for me to list those millions of reasons I can sum them up in just three words—jobs, jobs, jobs.

It's an expression we have heard many, many times but it is the truth—small businesses really are the backbone of our economy. They provide careers for the established generation of workers who need jobs to raise their families and they provide jobs to the younger generation of workers—teens and young adults of my State and many others who are looking for employment to help them pay the expenses of school and help them learn the lessons of responsibility, commitment and teamwork.

As a former small business owner myself, I have seen firsthand how a paycheck impacts lives and teaches invaluable life lessons and career skills. A job is more than a responsibility—it's a precious gift that can change your life and help you understand what it means to be a contributing member of society.

In my home state of Wyoming, 96.5 percent of our businesses are small businesses and that translates into a lot of jobs and a lot of families with food on the table and a roof over their heads thanks to the SBA and the programs it provides the people of our country.

That is why I was so pleased to be a part of the important work on the Small Business Administration 50th Anniversary Reauthorization Act of 2003. This is truly a historic occasion as we celebrate the SBA's successes of the past 50 years and set its course for the years to come.

We've all heard the expression—give a man a fish and you will have fed him for today. Teach a man to fish and you will have provided him with the tools he will need to feed himself for the rest of his life.

The SBA operates on a similar principle. It does not give a business funding for a day's operation. Instead, it provides the tools, training and support necessary to ensure that a business begins to operate on firm, solid footing and has a reasonable chance for success.

Then, when the doors open up and the customers come in, the SBA continues to serve as a reference and a source of support to ensure that a small business has a place to turn to for advice, encouragement and help if things take an unexpected turn for the worse.

Expect the unexpected—that's not just good advice—it's the focus of the SBA's updated disaster authority in this bill. This section is one of the changes we were able to make to help

ensure that SBA remains responsive in the bad times—as well as the good. We were able to expand the definition of a disaster to include drought and below average water levels in bodies of water that support small businesses. That change was clearly needed because the impact of a drought or low water level on agriculture is clear to all of us.

What might not be so clear is how these water problems also affect tourism and recreational businesses. It wasn't clear before, so these businesses often fell through the cracks of Federal assistance. With the passage of this bill, however, that crack will be filled in and small businesses will no longer suffer from these problems with no help or relief in sight.

Native Americans will also benefit from this bill and find help for the terrible challenges poverty and unemployment impose on the Native American communities in my State and across the Nation. Promoting the creation and development of small businesses in these areas will bring much needed assistance to those Native Americans who need a chance to help themselves. I believe this approach will work because each tribe will actively support it to ensure the program is a success.

These and many other changes to the SBA will ensure that it remains a beacon of support and hope for small businesses that are carefully navigating the rough and rocky shores of competition and the thousands of details that can slow or destroy a small business at any stage of its development.

As I have already mentioned, our small businesses are the backbone of our economy. The Small Business Administration is the lifeblood of our small businesses. The support and encouragement of each helps make the other more efficient, more productive and more successful.

Our small businesses and the Small Business Administration have a unique and important relationship. They need each other to grow and prosper and best of all—as they do—they help the Nation to do the same.

Mr. PRYOR. Mr. President, today the Senate will consider a bill that is very important to small business owners and their employees. I am referring to S. 1375, the Small Business Administration 50th Anniversary Reauthorization Act. The purpose of this bill is to reauthorize the many needed initiatives at the SBA—from long-term loans and venture capital to help with accessing Government contracts—that have helped create successful businesses that are now household names to many Americans. To name just a few, Callaway Golf, Ben & Jerry's, Winnebago, Apple Computer and FedEx. In Arkansas, last year, more than 305 businesses got loans through the SBA, and with them created jobs and contributed to the local tax base.

We on the committee have worked hard to review the services available to small businesses through the SBA and its lending and counseling partners. As

a result, this bill builds upon what works right at the SBA and improves upon areas that need to be updated. The changes are sensible and fiscally responsible. We also included an innovative provision to address workforce issues.

I offer my thanks and appreciation to Senator SNOWE and Senator KERRY for giving me the opportunity to address my concerns regarding some of the provisions in the SBA reauthorization bill. One of my initial concerns was that we continued to actively support the SBA's 7(a) guaranteed business loan and 504 certified business development company loans programs.

Access to capital is one of the most critical issues facing new and small businesses alike, particularly for minorities and entrepreneurs in inner-city and rural areas who lack sufficient collateral or credit to get loans from banks, even when they have a good idea and repayment ability. I believe, and am hopeful, that the SBA Reauthorization Act will go far in satisfying this demand for capital to those who have traditionally been shut out. Additionally, I have endeavored to ensure that the SBA 7(a) and 504 programs continue unharmed. I encourage the SBA to work with the small business community—the trade associations for 7(a) and 504 lenders and borrowers, the National Association of Government Guaranteed Lenders and the National Association of Development Companies, to ensure they are not harmed.

Small businesses employ millions of people and provide the fuel for our Nation's economic growth. Although most economists aver that the recession has ended, employment figures continue to lag behind other economic data at a rate that continues to cause me great concern—21 months of straight job losses means we should be using every tool we have to create jobs. With the assistance of Senator SNOWE, the SBA Reauthorization Act should help to spur job creation and increase access to much needed capital for our Nation's small businesses.

I ask my colleagues to support this bill because we need to enact this legislation before many of SBA's programs expire on September 30.

Ms. LANDRIEU. Mr. President, before the Senate prepares to consider and pass S. 1375, the Small Business Administration 50th Anniversary Reauthorization Act of 2003, I would like to bring an important issue to the Senate's attention that I hope will be addressed in conference with the House. It relates to the HUBZone program, specifically the price preferences for food aid contracts. I would like to discuss this matter with my colleague, the Chair of the Small Business and Entrepreneurship Committee, so that we have a clear record of our position on the issue prior to final passage of the SBA Reauthorization legislation.

Let me begin by first congratulating her for bringing this bill through Committee and to the Senate floor where it

will pass unanimously. The Committee held informative and useful hearings and roundtable discussions to learn from small business owners and leaders about the value of the Small Business Administration's programs. We also heard from SBA Administrator Hector Barreto, about the Bush administration's reauthorization proposal for improving the agency's ability to respond to the many challenges facing small businesses and the increasing number of start-ups. In the end she put together an excellent bill that I supported when it passed the committee unanimously. I expect the Senate to do the same.

Ms. SNOWE. I thank the Senator for her generous comments, and I appreciate her work on the Committee. She added an excellent amendment to the bill to ensure that the National Women's Business Council maintains a bipartisan balance. I thank her for supporting this bill.

Ms. LANDRIEU. The issue I wanted to bring to your attention relates to HUBZone provisions in the House version of the SBA reauthorization. HUBZones are distressed urban and rural areas characterized by chronic high unemployment and/or low household income. Mr. President, there are 152 HUBZone companies creating jobs and empowering communities throughout my State. Under the program, small businesses that locate in a HUBZone, and hire workers who live in the HUBZone, are eligible to receive price preferences in bidding on government contracts. These price preferences encourage small businesses to locate in our distressed communities and help offset the additional costs they face as a result of being out of the regular stream of commerce. Price preferences also help to even the playing field between HUBZone eligible and non-HUBZone firms in competing for contracts. I support the HUBZone program. It is providing an economic boost through job creation and capital investment to areas of poverty and unemployment that really need it.

Ms. SNOWE. I am also a strong supporter of the HUBZone program. Today there are more than 8,300 HUBZone small businesses that helped to create more than 30,000 jobs in the last 2 years. In our reauthorization bill, the committee has made some minor changes to strengthen the program. One of these changes would ensure that communities affected by military base closures would receive temporary HUBZone eligibility, preventing a significant economic downturn. The bill also allows HUBZone companies to receive up to 15 percent investment from outside organizations, allowing them to raise capital, expand their business and create even more jobs.

Ms. LANDRIEU. I am pleased that the Senate has decided to leave the HUBZone program intact with these limited, but sound modifications. An issue has been brought to my attention involving how the Department of Agri-

culture has interpreted legislation regarding the treatment of HUBZone price preferences for food aid purchases. The current system provides HUBZone firms with a price preference on the first 40 percent of a given tender of food aid. A tender is essentially a contract for aid that spells out how much of a particular commodity—corn, wheat, vegetable oil—would be provided under the contract. The remaining 60 percent of the contract volume is not subject to the preference, so HUBZone companies compete with all other firms, large and small, in full and open competition for this portion of the contract.

The Department of Agriculture has misinterpreted the statute and unfairly limited the participation of HUBZone firms to only 40 percent of any food aid contract. This effectively locked them out of 60 percent of every tender contract offered. The Department has since corrected its interpretation and is allowing the program to perform as it was intended by Congress when these provisions were added to the HUBZone program in 2000.

I am glad that the Department of Agriculture has changed its interpretation. Louisiana has 10 HUBZone firms that are exporters and may be able to participate in the food aid program and compete now that the proper interpretation is in effect. Officials with the Port of Lake Charles in Lake Charles, LA came to me and expressed their concern with the Department's initial interpretation because they operate in a HUBZone and want to attract more businesses to the port. This interpretation limited the amount of contracts HUBZone firms were eligible to bid on. The correct interpretation allows them to bring new businesses to the Lake Charles area and help them to reinvigorate an area that is working to regain its footing in the current economic climate and provide critical jobs for the families who live there.

I know there are some who feel that under the current interpretation HUBZone firms may have an unfair advantage. I welcome the opportunity to work with the chair and the other members of the committee to investigate this further. Perhaps the committee could hold a hearing to learn more about this issue.

Ms. SNOWE. I thank the Senator for bringing this to my attention. I am happy to work with the Senator on this issue. I thank the Senator from Louisiana for her support of this legislation.

Mr. BAYH. Mr. President, today, the Senate will unanimously pass the Small Business Reauthorization Act. This is a critically important piece of legislation for the future of small business in America, and in turn, for our Nation's economy. Small businesses are the engines of economic growth, and they play a vital role in expanding our economy. This is something I believe in so strongly that for 2 weeks in August, I traveled across the State of

Indiana to meet with small business owners and to host a series of small business summits. The purpose of these summits was to link people looking to start or expand their small businesses with every available Federal resource that could help them fulfill their dream.

During my visits in Indiana, I saw first hand the differences small businesses can make in their communities. John Roembke, of Ossian, IN, used a Small Business Administration loan to start his manufacturing and design company nearly 30 years ago. He began as the sole employee for his company, but today he employs more than 60 Hoosiers. Each Hoosier employed at Roembke Manufacturing represents a family that has greater job security and new economic opportunities thanks to John's success and help from the SBA.

Our Nation's unemployment rate now stands at 6.1 percent, and in my State, there are pockets of even higher unemployment. What these areas need, and what our economy needs, is more job creation, and it is a well-known fact that three out of every four new jobs are created by our growing and innovative small businesses. Usually, the only hurdle standing between a company and its desire to expand and hire new workers is capital. Without it, our businesses starve because they cannot obtain space, equipment, tooling, and employees. With it, creative businesses can secure all of these assets, expand productivity, increase sales, add new jobs, and improve the quality of life in their communities.

The legislation we pass today will build on this kind of success, by creating jobs, improving access to capital, and strengthening crucial disaster assistance programs. Through the efforts of Chairman SNOWE, Ranking Member KERRY, and my other fellow members of the Small Business Committee, the Senate has taken an important step toward reauthorizing the Small Business Administration and its important small business assistance programs for the next three years.

Today, I look forward to supporting this bill that reauthorizes the most effective capital access programs that exist today in our Federal government: the 504 and 7(a) loan guaranty programs. These two programs will provide more than \$20 billion in both long and short term funding to America's small businesses each and every year of this reauthorization. In just the last three years, these SBA loan programs have created more than 500,000 new jobs nationwide. Over the past three years in Indiana, the 504 program alone has provided \$125 million in capital to small businesses and created 5,000 new jobs. The employees who fill the new positions and the entrepreneurs who have expanded their businesses return millions of dollars in payroll, sales, income, and real estate taxes to the Federal, State, and local governments in every county and State each year.

These programs also provide specific, critical support to businesses that are owned and operated by women, minorities, and veterans, groups that sometimes face greater difficulty in obtaining capital.

Best of all, the 504 loan program provides all of these opportunities for economic growth at no cost to the taxpayer. The 504 program is subsidy-free, financed purely by user fees that borrowers pay to finance the risk inherent in the program. The cost to the taxpayers is zero.

Even with these advantages, there are still greater needs for capital in Indiana, particularly in the manufacturing sector, which employs 580,000 Hoosiers, a higher percentage of industrial workers than any other State. The manufacturing sector is in crisis. Since July 2000, manufacturing has lost 2.6 million jobs—the largest decline during the post-World War II era. Recent job losses in manufacturing jobs represents nearly 90 percent of total U.S. job losses. Manufacturing output has shown virtually no growth since December 2001.

Manufacturing is, and will continue to be, critical to our country's overall economic growth, and for that reason, I want to help our small manufacturers that are struggling to compete with the low wages and high technology equipment used by our international competitors. In order to address this need, I offered an amendment during the mark-up of this bill that was graciously accepted by the Committee Chair. The provision directly address the needs of America's small manufacturers, providing them with the additional capital they need to stay competitive in both the United States and world markets.

The provision would increase the 504 maximum loan guaranty for small manufacturers to \$4 million and alter the job creation capital requirements for small manufacturers, allowing small manufacturers to create one new job for each \$100,000 in 504 loan guarantees. As a result of this legislation, companies will be able to obtain new equipment, become more competitive and, most importantly, hire new workers. Indiana's Certified Development Companies estimate that the bill could create between 200 and 400 additional jobs each year.

The change to the 504 loan program will allow our manufacturers to acquire more state-of-the-art equipment and technology to become more productive, and lower their operating costs. If small manufacturers are allowed to invest in state-of-the-art technology, and remain competitive with foreign competitors, this will put more hardworking Hoosiers back to work. Further, these jobs will provide higher wages and benefits than we see available in many communities today, thereby improving our quality of life.

This legislation will provide the fuel that our manufacturers need to remain competitive in world market and to

create jobs for workers at home. I commend the Senate for passing this bill and hope that the Senate and the House will reconcile their differences quickly so that this critical legislation can go to the President's desk for his signature.

ON-DEMAND AIR SERVICE

Mr. WYDEN. Mr. President, I want to take a moment to highlight a particular issue that my staff has been talking to the Small Business Administration, SBA about. This relates to an Oregon company named SkyTaxi, which has an innovative and ambitious business plan for providing on-demand air service to small communities. As my colleague from Maine knows better than most, small and rural communities are often gravely underserved by commercial airlines. These are places where transportation links are a make-or-break issue for local economic opportunity. But, as a recent General Accounting Office report concluded last January, the trend is not positive. The current turmoil in the airline industry hits small communities hard, because those are the first places airlines trim or eliminate service when they are looking to cut costs. And most efforts to promote air service to small communities have met with limited long-term success.

Ms. SNOWE. I agree with the Senator that attracting new air service and retaining current service to small communities is a critical economic issue. I am also familiar with the GAO report to which he refers, since Senator WYDEN and I were two of the three Senate requesters of that report, together with our colleague on the Aviation Subcommittee, Senator ROCKEFELLER.

Mr. WYDEN. The Senator may recall, then, that the GAO report briefly discusses SkyTaxi as a potential alternative way to provide air service to small communities. The report observes that SkyTaxi offers a business model that is still relatively new, but that could help meet some of the needs of small communities.

Ms. SNOWE. I share the Senator's view that it is critical to explore, support and promote alternative approaches for meeting the transportation needs of small and rural communities. This includes ensuring that Federal agencies take the appropriate action to provide financial assistance to small business franchisees interested in helping communities improve transportation services.

Mr. WYDEN. SkyTaxi intends to operate through a franchise system, in which individual small businesses would purchase small aircraft and operate local SkyTaxi franchises. But purchasing an aircraft takes a substantial amount of capital, and many potential franchise owners—such as laid-off commercial pilots who now wish to start their own businesses—find that financing for aviation-related businesses is currently very difficult to obtain. SkyTaxi therefore expects and hopes that potential franchise owners

would be able to turn to the SBA and its lending partners for small business loans, in order to get up and running.

The problem now arises because, in order to satisfy FAA safety requirements and obtain FAA certification, SkyTaxi needs to retain certain authority over safety matters, including ensuring the competence of flight crew and the quality of aircraft maintenance.

It has set up its franchise agreement accordingly. Unfortunately, the SBA has so far taken the position that, due to the authority vested in SkyTaxi in the franchise agreement, the SBA would view each of the individual franchise owners as "affiliated" with SkyTaxi and each other—and thus ineligible to apply for individual SBA guarantee loans.

My staff has been in contact with the SBA about this, and I am hopeful that this eligibility problem can be solved. For example, it may be possible to work with FAA to clarify the limits of SkyTaxi's safety-related authority over franchisees, and to rework the franchise agreement to preserve SBA loan eligibility. But for that to happen, it's going to take a commitment from the SBA to work on a cooperative basis to try to find a solution. If the SBA will roll up its sleeves and work creatively with my office and with SkyTaxi, then I think the problem can be solved to everyone's satisfaction. And in the end, the real beneficiaries could be rural communities.

Ms. SNOWE. As chair of the Small Business Committee, I am concerned by any interpretation of the Small Business Act that unnecessarily inhibits access to SBA programs and services by eligible small businesses. This interpretation not only affects the ability of small businesses to receive financial assistance under the 7(a) loan program but also to bid on Federal contracts set aside for small businesses. As the economy struggles to recover, it is critical that we get back to business—an investment in small business is an investment in jobs.

As we work with our colleagues on the House Small Business Committee to reauthorize the SBA's programs and services, we will carefully consider provisions to address this issue and work with the SBA to find an agreeable solution.

Mr. WYDEN. I thank the Senator for her assistance with this issue, and for her consistent and careful attention to small business issues and rural transportation issues alike.

Mr. FRIST. I ask unanimous consent that the committee-reported amendments be agreed to, the managers' amendment at the desk be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments were agreed to.

The amendment (No. 1788) was agreed to, as follows:

(Purpose: To make technical corrections to the bill, and for other purposes)

On page 87, strike line 7 and all that follows through page 91, line 4.

On page 91, strike line 23 and all that follows through page 92, line 5, and insert the following:

Section 351(3)(A)(ii) of the Small Business Investment Act of 1958 (15 U.S.C. 689(3)(A)(ii)) is amended—

(1) in subclause (I), by striking "50 percent or more" and all that follows and inserting "the median family income for such tract does not exceed 80 percent of the greater of the statewide median family income or metropolitan area median family income; or"; and

(2) in subclause (II), by striking "household income" each place it appears and inserting "family income".

On pages 109 through 110, redesignate paragraphs (6) through (13) as paragraphs (7) through (14), respectively.

On page 109, between lines 2 and 3, insert the following:

"(6) DISADVANTAGED NATIVE AMERICAN ENTREPRENEUR.—The term 'disadvantaged Native American entrepreneur' means a disadvantaged entrepreneur who is also a member of an Indian Tribe."

On page 111, line 21, strike "and" and all that follows through "(4)" on line 22, and insert the following:

"(4) to provide training and technical assistance to disadvantaged Native American entrepreneurs and prospective entrepreneurs; and

"(5)"

On page 117, strike lines 9 through 14 and insert the following:

"(i) AUTHORIZATION OF APPROPRIATIONS.—

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

"(2) TRAINING FOR NATIVE AMERICAN ENTREPRENEURS.—In addition to the amount authorized under subsection (i)(1), there are authorized to be appropriated to the Administrator \$2,000,000 for each of the fiscal years 2004 through 2006 to carry out the provisions of subsection (c)(4), which shall remain available until expended."

On page 190, strike line 21 and all that follows through "(iii)" on page 191, line 1, and insert the following:

"(ii)".

On page 192, strike line 11 and all that follows through page 193, line 6, and insert the following:

SEC. 403. SMALL BUSINESS PARTICIPATION IN PRIME CONTRACTING.

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

"(4) Any adjustment to the simplified acquisition threshold (as defined in section 4(11) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(11))), shall be immediately matched by an identical adjustment to the small business reserve for purposes of this subsection."

(b) PARTICIPATION IN MULTIPLE AWARD CONTRACTS.—Section 15(j) of the Small Business Act (15 U.S.C. 644(j)) is amended—

(1) in paragraph (2), by striking "(2) In carrying out paragraph (1)" and inserting "(3) In carrying out paragraphs (1) and (2)";

(2) in paragraph (3), by striking "(3) Nothing in paragraph (1)" and inserting "(4) Nothing in this subsection"; and

(3) by adding after paragraph (1) the following:

"(2)(A) In the case of orders under multiple award contracts, including Federal Supply Schedule contracts and multi-agency contracts, that are subject to the small business reserve, contracting officers shall consider not less than 2 small business concerns if such small business concerns can offer the items sought by the contracting officer on competitive terms, with respect to price, quality, and delivery schedule, with the goods or services available in the market.

"(B) If only 1 small business concern can satisfy the requirement, the contracting officer shall include such small business concern in their evaluation."

(c) REPORT REQUIREMENT.—

(1) IN GENERAL.—Not less than once every 180 days, the Comptroller General shall submit a report on the level of participation in multiple award contracts, including the Federal Supply Schedule to—

(A) the Small Business Administration;

(B) the Committee on Small Business and Entrepreneurship of the Senate; and

(C) the Committee on Small Business of the House of Representatives.

(2) CONTENTS.—Each report submitted under paragraph (1) shall contain, for the 6-month reporting period—

(A) the total number of multiple award contracts;

(B) the total number of small business concerns that received multiple award contracts;

(C) the total number of orders;

(D) the total value of orders;

(E) the number of orders received by small business concerns;

(F) the value of orders received by small business concerns;

(G) the number of small business concerns that received orders; and

(H) such other information that the Comptroller General considers relevant.

On page 193, strike line 14 and all that follows through page 194, line 7, and insert the following:

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

"(G) certification that the offeror or bidder will acquire articles, equipment, supplies, services, or materials, or obtain the performance of construction work from small business concerns in the amount and quality used in preparing the bid or proposal, unless such small business concerns are no longer in business or can no longer meet the quality, quantity, or delivery date."

(b) PENALTIES FOR FALSE CERTIFICATIONS.—Section 16(f) of the Small Business Act (15 U.S.C. 645(f)) is amended by striking "of this Act" and inserting "or the reporting requirements of section 8(d)(11)".

On page 195, strike lines 4 through 19 and insert the following:

(1) by redesignating paragraph (11) as paragraph (14); and

(2) by inserting after paragraph (10) the following:

"(11) CERTIFICATION.—A report submitted by the prime contractor pursuant to paragraph (6)(E) to determine the attainment of a subcontract utilization goal under any subcontracting plan entered into with a Federal agency under this subsection shall contain the name and signature of the president or chief executive officer of the contractor, certifying that the subcontracting data provided in the report are accurate and complete.

"(12) CENTRALIZED DATABASE.—The results of an evaluation under paragraph (10)(C) shall be included in a national centralized governmentwide database.

"(13) PAYMENTS PENDING REPORTS.—Each Federal agency having contracting authority shall ensure that the terms of each contract for goods and services includes a provision

allowing the contracting officer of an agency to withhold an appropriate amount of payment with respect to a contract (depending on the size of the contract) until the date of receipt of complete, accurate, and timely subcontracting reports in accordance with paragraph (11)."

On page 196, lines 17 and 18, strike "performance, or lack of performance of the subcontractor." and insert "circumstances surrounding the failure to make the timely payment described in subparagraph (A)."

On page 199, line 3, strike "(b)" and insert the following:

(b) HUBZONE STATUS TIMELINE AND COMMENCEMENT.—

(1) IN GENERAL.—A base closure area shall be treated as a HUBZone for a period of 5 years beginning on the date of final closure. A military base that was closed before the date of enactment of this Act shall not be considered a base closure area for purposes of this section.

(2) EFFECTIVE DATE.—This section and the amendments made by this section shall take effect on the date of enactment of this Act.

(c)

The bill (S. 1375), as amended, was considered read the third time and passed, as follows:

(The bill will be printed in a future edition of the RECORD.)

ENCOURAGING THE PEOPLE'S REPUBLIC OF CHINA TO ESTABLISH A MARKET-BASED VALUATION OF THE YUAN

Mr. FRIST. Mr. President, I ask unanimous consent that the Finance Committee be discharged from further action on S. Res. 219, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

The resolution (S. Res. 219) to encourage the People's Republic of China to establish a market-based valuation of the yuan and to fulfill its commitments under international trade agreements.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the amendment to the preamble be agreed to, the motion to reconsider be laid upon the table and that any statements regarding this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 219) was agreed to.

The amendment (No. 1789) to the preamble was agreed to, as follows:

AMENDMENT NO. 1789

(Purpose: To make clarifying amendments)

Strike the fourth clause of the preamble.

In the seventh clause of the preamble, strike "free fluctuation" and insert "market-based valuation".

The preamble, as amended, was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 219

Whereas the currency of the People's Republic of China, the yuan or renminbi, has been tightly pegged to the United States dollar at the same fixed level since 1994;

Whereas the undervaluation of China's currency makes exports from China less expensive for foreigners and makes foreign products more expensive for Chinese consumers, an effective subsidization of China's exports and a virtual tariff on foreign imports;

Whereas the Government of the People's Republic of China has significantly intervened in its foreign exchange markets in order to hold the value of the yuan within its tight and artificial trading band, resulting in enormous growth in China's dollar reserves, estimated to be over \$345,000,000,000 as of June 2003;

Whereas the practice of "currency manipulation" to gain a trade or competitive advantage is a violation of the spirit and letter of the World Trade Organization and International Monetary Fund agreements, of which the People's Republic of China is now party;

Whereas the undervaluation of China's currency has had and continues to have a negative impact on the United States manufacturing sector, contributing to significant job losses and business closures;

Whereas the undervaluation of China's currency also has had and continues to have a negative impact on the economies of its neighbor nations, the European Community, Mexico, and Latin America;

Whereas the free fluctuation of currencies is a key component to the health of global trade, and the stability of the world economy; and

Whereas China's central bank governor has stated that the value of the yuan will eventually be determined by market forces rather than pegged firmly to the dollar: Now, therefore, be it

Resolved, That the Senate of the United States—

(1) supports the Secretary of the Treasury's work with regard to the Secretary's discussions with the Government of the People's Republic of China leading to a market-based valuation of the yuan; and

(2) encourages the People's Republic of China to continue to act on its commitments to the trade rules and principles of the international community of which it is now a member.

SURFACE TRANSPORTATION EXTENSION ACT OF 2003

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate immediately proceed to the consideration of H.R. 3087, which is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3087) to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

There being no objection, the Senate proceeded to consider the bill.

Mr. MCCAIN. Mr. President, today, the Senate will approve a 5-month extension of the highway programs authorized by the Transportation Equity Act for the 21st Century, TEA-21, based on an agreement between the Senate and House leadership. Only reluc-

tantly, and because of the need to complete action on the extension immediately to ensure the many TEA-21 programs do not come to a halt, do I accept the terms of the extension as approved by the House for the safety programs administered by the Federal Motor Carrier Safety Administration, FMCSA.

The House-passed short-term extension authorizes \$56 million less, on an annualized basis, for motor carrier safety than the program's fiscal year 2003 appropriated level. I am very concerned that the level of funding in the extension is insufficient to make progress toward the national goal of reducing the rate of truck-related crashes by 30 percent by 2008. The extension does not provide sufficient funding for FMCSA to fully implement existing, authorized programs in the short term, including the "new entrants" program, hazmat permitting, additional carrier compliance reviews, and completion of long overdue rulemaking proceedings. Further, the bill provides no funds to continue construction of inspection facilities at the border. The funding level is significantly below the President's funding request for fiscal year 2004; the Senate Commerce Committee's TEA-21 reauthorization legislation; and the funding levels approved by the Senate and House Appropriations Committees. And, it is entirely inconsistent with the significant funding increases provided over the short-term for highway construction and maintenance.

FMCSA was created after TEA-21 became law to address the increasing number of truck-related accidents on our nation's roads and highways. The duties assigned to the agency through the Motor Carrier Safety Assistance Act, MCSIA, and other legislation have resulted in funding levels significantly above the administrative takedown authorized by TEA-21. The extension, however, fails to recognize this and, on the grounds that the bill must comply with the budget resolution, funding for motor carrier safety is being curtailed, while highway construction and transit funding is being increased.

I want to put my colleagues on notice that either when the full Senate moves its 6-year reauthorization bill, or is faced with a further extension of TEA-21 next February, I will insist that the motor carrier safety programs are authorized at an appropriate level of funding. I believe my views are shared by Senator HOLLINGS, who joined me in sponsoring legislation, S. 1646, that would have funded the safety programs for 5 months at a level consistent with the Commerce Committee's reauthorization proposal.

I take pride in the fact that the Senate Commerce Committee completed work last June on its 6-year reauthorization of the TEA-21 safety programs under its jurisdiction. Our bipartisan bill is designed to meet the level of commitment to safety needed to achieve aggressive goals for reducing accidents and fatalities on the nation's