

111TH CONGRESS
2D SESSION

H. R. 4629

To create a loan program to provide funds to State special purpose vehicles for use in collateral support programs and loan participation programs to benefit qualified manufacturers.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 22, 2010

Mr. LEVIN (for himself, Mr. FRANK of Massachusetts, Mr. PETERS, Mr. MOORE of Kansas, Mr. DINGELL, Mr. KANJORSKI, Mr. RANGEL, Ms. FUDGE, Mr. KILDEE, Mr. PASCRELL, Mr. LIPINSKI, Mr. DOYLE, Ms. SCHWARTZ, Mr. BUTTERFIELD, Mr. ETHERIDGE, and Mr. RYAN of Ohio) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To create a loan program to provide funds to State special purpose vehicles for use in collateral support programs and loan participation programs to benefit qualified manufacturers.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Manufacturing Mod-
5 ernization and Diversification Act of 2010”.

1 **SEC. 2. DEFINITIONS.**

2 For purposes of this Act:

3 (1) **BANK.**—The term “bank” means—

4 (A) an insured depository institution, as
5 such term is defined under section 3(c)(2) of
6 the Federal Deposit Insurance Act (12 U.S.C.
7 1813(c)(2)); and

8 (B) an insured credit union, as such term
9 is defined under section 101(7) of the Federal
10 Credit Union Act (12 U.S.C. 1752(7)).

11 (2) **COLLATERAL SUPPORT PROGRAM.**—The
12 term “Collateral Support Program” means a pro-
13 gram described under section 4.

14 (3) **LOAN PARTICIPATION PROGRAM.**—The term
15 “Loan Participation Program” means a program de-
16 scribed under section 5.

17 (4) **QUALIFIED MANUFACTURER.**—The term
18 “qualified manufacturer” means a business that is
19 engaged in manufacturing and—

20 (A) has less than \$50,000,000 in annual
21 revenue; and

22 (B) has less than \$50,000,000 in assets.

23 (5) **REVOLVING LOAN FUND.**—The term “re-
24 volving loan fund” means the revolving loan fund es-
25 tablished under section 3(d).

1 (6) SECRETARY.—The term “Secretary” means
2 the Secretary of the Treasury.

3 (7) SPV.—The term “SPV” means a special
4 purpose vehicle created by a State.

5 (8) TERMINATION DATE.—The term “termi-
6 nation date” means the date that is the end of the
7 2-year period beginning on the date the Secretary
8 issues regulations pursuant to section 3(b)(4).

9 **SEC. 3. FEDERAL LOAN PROGRAM TO SPVS.**

10 (a) IN GENERAL.—The Secretary shall certify SPVs
11 to take part in a program to carry out Collateral Support
12 Programs and Loan Participation Programs for the ben-
13 efit of qualified manufacturers (hereinafter in this section
14 described as the “loan program”).

15 (b) APPLICATION PROCESS.—

16 (1) IN GENERAL.—Each SPV wishing to par-
17 ticipate in the loan program shall submit an applica-
18 tion to the Secretary, in such form and manner as
19 the Secretary may require, containing—

20 (A) a detailed proposal for the structure of
21 the Collateral Support Program the SPV pro-
22 poses to carry out, including what criteria the
23 SPV intends to use to determine which quali-
24 fied manufacturers will be eligible to partici-
25 pate;

1 (B) a detailed proposal for the structure of
2 the Loan Participation Program the SPV pro-
3 poses to carry out, including what criteria the
4 SPV intends to use to determine which quali-
5 fied manufacturers will be eligible to partici-
6 pate; and

7 (C) such other information as the Sec-
8 retary may require.

9 (2) ADDITIONAL REQUIREMENTS.—

10 (A) INTEREST RATE.—Loans made to
11 SPVs by the Secretary under the loan program
12 shall be made with an interest rate of 0.5 per-
13 cent.

14 (B) TREATMENT OF PAYMENTS FROM
15 QUALIFIED MANUFACTURERS.—The amount of
16 all fees and interest payments paid by qualified
17 manufacturers to an SPV under Collateral Sup-
18 port Programs and Loan Participation Pro-
19 grams that is more than the amount required
20 by the SPV to repay the principal and interest
21 amounts on loans made to the SPV under the
22 loan program shall be retained by the SPV.

23 (C) NO DISQUALIFICATION BY REASON OF
24 PARTICIPATION.—Participation in a Collateral
25 Support Program or a Loan Participation Pro-

1 gram by a qualified manufacturer shall not dis-
2 qualify such manufacturer from receiving as-
3 sistance related to such loan under other Fed-
4 eral programs as well, including programs car-
5 ried out by the Small Business Administration
6 and the Department of Agriculture.

7 (D) LIMITATIONS ON SPVS.—Only 1 SPV
8 per State may be certified to participate in the
9 loan program.

10 (E) OVERSIGHT.—The Secretary shall
11 issue regulations to require each SPV partici-
12 pating in the loan program to make periodic re-
13 ports to the Secretary at any time such SPV
14 has a loan outstanding under the loan program.
15 Such reports shall contain such information as
16 the Secretary determines appropriate to main-
17 tain oversight of the funds used in the loan pro-
18 gram.

19 (3) DETERMINATION FACTORS.—In making the
20 determination of which SPVs should be certified to
21 take part in the loan program, the Secretary shall
22 consider—

23 (A) all information submitted in the appli-
24 cation of an SPV under paragraph (1);

1 (B) the number of jobs that will likely be
2 created by programs proposed by the SPV;

3 (C) the amount of economic distress expe-
4 rienced by the State in which the SPV is lo-
5 cated, including the unemployment rate of such
6 State; and

7 (D) the likelihood that the SPV will be
8 able to successfully administer the programs
9 proposed by the SPV.

10 (4) RULEMAKING.—The Secretary shall issue
11 all regulations necessary for the submission of appli-
12 cations described under paragraph (1) no later than
13 90 days after the date of the enactment of this Act.

14 (c) LOAN-MAKING PROCESS.—

15 (1) IN GENERAL.—Each time a certified SPV
16 wishes to make a loan under a Collateral Support
17 Program or a Loan Participation Program, the cer-
18 tified SPV shall make a request to the Secretary,
19 who shall loan the requested amount to the SPV
20 from the revolving loan fund, as long as sufficient
21 amounts remain in the fund.

22 (2) TIME PERIOD.—An SPV may not make any
23 new loans under a Collateral Support Program or a
24 Loan Participation Program after the termination
25 date.

1 (d) REVOLVING LOAN FUND.—

2 (1) IN GENERAL.—There is established in the
3 Treasury a revolving loan fund for the loan program.

4 (2) INITIAL TRANSFER.—

5 (A) FUNDING FROM THE TARP.—Of funds
6 made available to the Secretary under title I of
7 the Emergency Economic Stabilization Act of
8 2008 (12 U.S.C. 5211 et seq.) that remain un-
9 obligated, the Secretary shall transfer and cred-
10 it \$20,000,000,000 to the revolving loan fund.

11 (B) AUTHORIZATION.—The amounts
12 transferred under subparagraph (A) shall be
13 deemed to be for actions authorized under title
14 I of the Emergency Economic Stabilization Act
15 of 2008.

16 (3) EXPENDITURES.—The Secretary shall use
17 the amounts in the revolving loan fund to carry out
18 the loan program.

19 (4) DEPOSITS.—The Secretary shall deposit
20 amounts received as payment and interest on loans
21 provided under the loan program into the revolving
22 loan fund.

23 (e) TERMINATION OF LOAN PROGRAM.—On and
24 after the termination date—

1 (1) no additional loans may be made by the
2 Secretary under the loan program;

3 (2) all amounts in the revolving loan fund shall
4 be paid into the general fund of the Treasury; and

5 (3) all amounts that would otherwise have been
6 paid into the revolving loan fund shall be paid into
7 the general fund of the Treasury.

8 **SEC. 4. COLLATERAL SUPPORT PROGRAM.**

9 (a) IN GENERAL.—With respect to an SPV, a pro-
10 gram is described under this section if, under such pro-
11 gram—

12 (1) a qualified manufacturer that wishes to re-
13 ceive a loan from a bank, but would not otherwise
14 have sufficient collateral to qualify for such a loan,
15 may ask the bank to seek collateral support for such
16 loan from the SPV;

17 (2) the bank submits an application to the SPV
18 to participate in the collateral support program, in
19 such form and manner and containing such informa-
20 tion as the SPV may require;

21 (3) the SPV, if approving such application, de-
22 posits cash with the bank in an interest bearing ac-
23 count under the SPV's name, and allows such cash
24 to act as collateral support for the qualified manu-
25 facturer's loan;

1 (4) the interest paid on such cash deposit is
2 paid to the SPV; and

3 (5) as the qualified manufacturer repays the
4 loan over time, the SPV draws down the amount de-
5 posited with the bank.

6 (b) **ADDITIONAL REQUIREMENTS.**—A program de-
7 scribed under subsection (a) shall additionally have the
8 following requirements:

9 (1) **DEPOSIT LIMITS.**—The cash deposit made
10 by the SPV may not represent more than 49.9 per-
11 cent of the total loan amount and may not be in an
12 amount more than 49.9 percent of the non-equity
13 capital of the qualified manufacturer at the time the
14 loan is made.

15 (2) **LOAN AMOUNT.**—The SPV may not provide
16 more than \$20,000,000 to any one qualified manu-
17 facturer under the collateral support program.

18 (3) **FEEES.**—The SPV shall require a fee or fees
19 to be paid by the qualified manufacturer to the SPV,
20 at loan closing or annually, which shall consist of no
21 more than 3 percent of the value of the cash deposit
22 per fee. The SPV may determine whether such fee
23 should be paid in cash or in options to purchase eq-
24 uity in the qualified manufacturer, but in no case
25 may such options allow for the purchase of equity in

1 the qualified manufacturer that would result in the
2 SPV holding more than 15 percent of the voting
3 rights of the equity of such qualified manufacturer.

4 (4) EXIT FEE.—In the event that the qualified
5 manufacturer defaults on the loan made under the
6 collateral support program, the bank shall repay to
7 the SPV an amount equal to 5 percent of the initial
8 deposit made by the SPV.

9 (5) OVERSIGHT.—The SPV shall require—

10 (A) the bank to make periodic reports to
11 the SPV during the life of the loan; and

12 (B) such other reports from the bank and
13 the qualified manufacturer as the SPV deter-
14 mines appropriate to maintain oversight.

15 **SEC. 5. LOAN PARTICIPATION PROGRAM.**

16 (a) IN GENERAL.—With respect to an SPV, a pro-
17 gram is described under this section if, under such pro-
18 gram—

19 (1) a qualified manufacturer that wishes to re-
20 ceive a loan from a bank, but would not otherwise
21 qualify for such a loan, may ask the bank to seek
22 loan participation for such loan from the SPV;

23 (2) the bank submits an application to the SPV
24 to participate in the loan participation program, in

1 such form and manner and containing such informa-
2 tion as the SPV may require;

3 (3) the SPV, if approving such application, will
4 agree to purchase between 1 to 49.9 percent of such
5 loan, upon the bank making such loan;

6 (4) the bank shall continue to service the entire
7 loan; and

8 (5) the SPV may, in coordination with the
9 bank, permit the qualified manufacturer to forbear
10 payments of interest or defer payments of principal
11 on the amount of such loan purchased by the SPV
12 for a period of no longer than 3 years from the date
13 such loan is made.

14 (b) ADDITIONAL REQUIREMENTS.—A program de-
15 scribed under subsection (a) shall additionally have the
16 following requirements:

17 (1) LOAN AMOUNT.—The SPV may not pay
18 more than \$20,000,000 for any portion of loans
19 made to any one qualified manufacturer under the
20 loan participation program.

21 (2) FEE.—

22 (A) ONE-TIME FEE.—The SPV shall re-
23 quire a one-time fee from the qualified manu-
24 facturer in exchange for the SPV participating
25 in the loan participation program.

1 (B) ANNUAL FEE.—The bank shall require
2 the qualified manufacturer to pay an annual fee
3 to the bank of a minimum of 0.5 percent, and
4 a maximum of 2 percent, of the amount of the
5 portion of the loan purchased by the SPV under
6 the loan participation program.

7 (3) OVERSIGHT.—The SPV shall require—

8 (A) the bank to make periodic reports to
9 the SPV during the life of the loan; and

10 (B) such other reports from the bank and
11 the qualified manufacturer as the SPV deter-
12 mines appropriate to maintain oversight.

13 **SEC. 6. REPORT.**

14 Not later than the end of the 6-month period begin-
15 ning on the date of the enactment of this Act, and quar-
16 terly thereafter while any loan remains outstanding under
17 the loan program carried out under section 3, the Sec-
18 retary shall issue a report to the Congress containing—

19 (1) a list of the active participants in Collateral
20 Support Programs and Loan Participation Pro-
21 grams; and

22 (2) an estimate of the impact the loan program
23 has had on—

24 (A) the overall economy; and

- 1 (B) the creation of new jobs or the preser-
- 2 vation of existing jobs.

○