

In the Senate of the United States,

September 16, 2010.

Resolved, That the bill from the House of Representatives (H.R. 5297) entitled “An Act to create the Small Business Lending Fund Program to direct the Secretary of the Treasury to make capital investments in eligible institutions in order to increase the availability of credit for small businesses, to amend the Internal Revenue Code of 1986 to provide tax incentives for small business job creation, and for other purposes.”, do pass with the following

AMENDMENT:

Strike all after the enacting clause and insert the following:

1 ***SECTION 1. SHORT TITLE.***

2 *This Act may be cited as the “Small Business Jobs*
3 *Act of 2010”.*

4 ***SEC. 2. TABLE OF CONTENTS.***

5 *The table of contents for this Act is as follows:*

Sec. 1. Short title.

Sec. 2. Table of contents.

TITLE I—SMALL BUSINESSES

Sec. 1001. Definitions.

Subtitle A—Small Business Access to Credit

Sec. 1101. Short title.

PART I—NEXT STEPS FOR MAIN STREET CREDIT AVAILABILITY

- Sec. 1111. Section 7(a) business loans.*
- Sec. 1112. Maximum loan amounts under 504 program.*
- Sec. 1113. Maximum loan limits under microloan program.*
- Sec. 1114. Loan guarantee enhancement extensions.*
- Sec. 1115. New Markets Venture Capital company investment limitations.*
- Sec. 1116. Alternative size standards.*
- Sec. 1117. Sale of 7(a) loans in secondary market.*
- Sec. 1118. Online lending platform.*
- Sec. 1119. SBA Secondary Market Guarantee Authority.*

PART II—SMALL BUSINESS ACCESS TO CAPITAL

- Sec. 1122. Low-interest refinancing under the local development business loan program.*

PART III—OTHER MATTERS

- Sec. 1131. Small business intermediary lending pilot program.*
- Sec. 1132. Public policy goals.*
- Sec. 1133. Floor plan pilot program extension.*
- Sec. 1134. Guarantees for bonds and notes issued for community or economic development purposes.*
- Sec. 1135. Temporary express loan enhancement.*
- Sec. 1136. Prohibition on using TARP funds or tax increases.*

Subtitle B—Small Business Trade and Exporting

- Sec. 1201. Short title.*
- Sec. 1202. Definitions.*
- Sec. 1203. Office of International Trade.*
- Sec. 1204. Duties of the Office of International Trade.*
- Sec. 1205. Export assistance centers.*
- Sec. 1206. International trade finance programs.*
- Sec. 1207. State Trade and Export Promotion Grant Program.*
- Sec. 1208. Rural export promotion.*
- Sec. 1209. International trade cooperation by small business development centers.*

Subtitle C—Small Business Contracting

PART I—CONTRACT BUNDLING

- Sec. 1311. Small Business Act.*
- Sec. 1312. Leadership and oversight.*
- Sec. 1313. Consolidation of contract requirements.*
- Sec. 1314. Small business teams pilot program.*

PART II—SUBCONTRACTING INTEGRITY

- Sec. 1321. Subcontracting misrepresentations.*

Sec. 1322. Small business subcontracting improvements.

PART III—ACQUISITION PROCESS

Sec. 1331. Reservation of prime contract awards for small businesses.

Sec. 1332. Micro-purchase guidelines.

Sec. 1333. Agency accountability.

Sec. 1334. Payment of subcontractors.

Sec. 1335. Repeal of Small Business Competitiveness Demonstration Program.

PART IV—SMALL BUSINESS SIZE AND STATUS INTEGRITY

Sec. 1341. Policy and presumptions.

Sec. 1342. Annual certification.

Sec. 1343. Training for contracting and enforcement personnel.

Sec. 1344. Updated size standards.

Sec. 1345. Study and report on the mentor-protege program.

Sec. 1346. Contracting goals reports.

Sec. 1347. Small business contracting parity.

Subtitle D—Small Business Management and Counseling Assistance

Sec. 1401. Matching requirements under small business programs.

Sec. 1402. Grants for SBDCs.

Subtitle E—Disaster Loan Improvement

Sec. 1501. Aquaculture business disaster assistance.

Subtitle F—Small Business Regulatory Relief

Sec. 1601. Requirements providing for more detailed analyses.

Sec. 1602. Office of advocacy.

Subtitle G—Appropriations Provisions

Sec. 1701. Salaries and expenses.

Sec. 1702. Business loans program account.

Sec. 1703. Community Development Financial Institutions Fund program account.

Sec. 1704. Small business loan guarantee enhancement extensions.

TITLE II—TAX PROVISIONS

Sec. 2001. Short title.

Subtitle A—Small Business Relief

PART I—PROVIDING ACCESS TO CAPITAL

Sec. 2011. Temporary exclusion of 100 percent of gain on certain small business stock.

Sec. 2012. General business credits of eligible small businesses for 2010 carried back 5 years.

Sec. 2013. General business credits of eligible small businesses in 2010 not subject to alternative minimum tax.

Sec. 2014. Temporary reduction in recognition period for built-in gains tax.

PART II—ENCOURAGING INVESTMENT

- Sec. 2021. Increased expensing limitations for 2010 and 2011; certain real property treated as section 179 property.*
- Sec. 2022. Additional first-year depreciation for 50 percent of the basis of certain qualified property.*
- Sec. 2023. Special rule for long-term contract accounting.*

PART III—PROMOTING ENTREPRENEURSHIP

- Sec. 2031. Increase in amount allowed as deduction for start-up expenditures in 2010.*
- Sec. 2032. Authorization of appropriations for the United States Trade Representative to develop market access opportunities for United States small- and medium-sized businesses and to enforce trade agreements.*

PART IV—PROMOTING SMALL BUSINESS FAIRNESS

- Sec. 2041. Limitation on penalty for failure to disclose reportable transactions based on resulting tax benefits.*
- Sec. 2042. Deduction for health insurance costs in computing self-employment taxes in 2010.*
- Sec. 2043. Removal of cellular telephones and similar telecommunications equipment from listed property.*

*Subtitle B—Revenue Provisions**PART I—REDUCING THE TAX GAP*

- Sec. 2101. Information reporting for rental property expense payments.*
- Sec. 2102. Increase in information return penalties.*
- Sec. 2103. Report on tax shelter penalties and certain other enforcement actions.*
- Sec. 2104. Application of continuous levy to tax liabilities of certain Federal contractors.*

PART II—PROMOTING RETIREMENT PREPARATION

- Sec. 2111. Participants in government section 457 plans allowed to treat elective deferrals as Roth contributions.*
- Sec. 2112. Rollovers from elective deferral plans to designated Roth accounts.*
- Sec. 2113. Special rules for annuities received from only a portion of a contract.*

PART III—CLOSING UNINTENDED LOOPHOLES

- Sec. 2121. Crude tall oil ineligible for cellulosic biofuel producer credit.*
- Sec. 2122. Source rules for income on guarantees.*

PART IV—TIME FOR PAYMENT OF CORPORATE ESTIMATED TAXES

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

TITLE III—STATE SMALL BUSINESS CREDIT INITIATIVE

- Sec. 3001. Short title.*
- Sec. 3002. Definitions.*
- Sec. 3003. Federal funds allocated to States.*
- Sec. 3004. Approving States for participation.*
- Sec. 3005. Approving State capital access programs.*

- Sec. 3006. Approving collateral support and other innovative credit access and guarantee initiatives for small businesses and manufacturers.*
- Sec. 3007. Reports.*
- Sec. 3008. Remedies for State program termination or failures.*
- Sec. 3009. Implementation and administration.*
- Sec. 3010. Regulations.*
- Sec. 3011. Oversight and audits.*

TITLE IV—ADDITIONAL SMALL BUSINESS PROVISIONS

Subtitle A—Small Business Lending Fund

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

Subtitle B—Other Provisions

PART I—SMALL BUSINESS EXPORT PROMOTION INITIATIVES

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

PART II—MEDICARE FRAUD

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

TITLE V—BUDGETARY PROVISIONS

- Sec. 5001. Determination of budgetary effects.*

1 ***TITLE I—SMALL BUSINESSES***

2 ***SEC. 1001. DEFINITIONS.***

3 *In this title—*

4 *(1) the terms “Administration” and “Adminis-*
 5 *trator” mean the Small Business Administration and*
 6 *the Administrator thereof, respectively; and*

7 *(2) the term “small business concern” has the*
 8 *meaning given that term under section 3 of the Small*
 9 *Business Act (15 U.S.C. 632).*

10 ***Subtitle A—Small Business Access***
 11 ***to Credit***

12 ***SEC. 1101. SHORT TITLE.***

13 *This subtitle may be cited as the “Small Business Job*
 14 *Creation and Access to Capital Act of 2010”.*

15 ***PART I—NEXT STEPS FOR MAIN STREET CREDIT***
 16 ***AVAILABILITY***

17 ***SEC. 1111. SECTION 7(a) BUSINESS LOANS.***

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

20 *(1) in paragraph (2)(A)—*

21 *(A) in clause (i), by striking “75 percent”*
 22 *and inserting “90 percent”; and*

23 *(B) in clause (ii), by striking “85 percent”*
 24 *and inserting “90 percent”; and*

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

5 (b) *PROSPECTIVE REPEAL*.—Effective January 1,
 6 2011, section 7(a) of the Small Business Act (15 U.S.C.
 7 636(a)) is amended—

8 (1) in paragraph (2)(A)—

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

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

13 (2) in paragraph (3)(A), by striking
 14 “\$4,500,000” and inserting “\$3,750,000”.

15 **SEC. 1112. MAXIMUM LOAN AMOUNTS UNDER 504 PROGRAM.**

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

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

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

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

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

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

3 **SEC. 1113. MAXIMUM LOAN LIMITS UNDER MICROLOAN**
4 **PROGRAM.**

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

7 (1) in paragraph (1)(B)(iii), by striking
8 “\$35,000” and inserting “\$50,000”;

9 (2) in paragraph (3)—

10 (A) in subparagraph (C), by striking
11 “\$3,500,000” and inserting “\$5,000,000”; and

12 (B) in subparagraph (E), by striking
13 “\$35,000” each place that term appears and in-
14 serting “\$50,000”; and

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

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

18 (a) *FEES*.—Section 501 of the American Recovery and
19 *Reinvestment Act of 2009* (Public Law 111–5; 123 Stat.
20 151) is amended by striking “September 30, 2010” each
21 place that term appears and inserting “December 31,
22 2010”.

23 (b) *LOAN GUARANTEES*.—Section 502(f) of division A
24 of the *American Recovery and Reinvestment Act of 2009*

1 *(Public Law 111–5; 123 Stat. 153) is amended by striking*
 2 *“May 31, 2010” and inserting “December 31, 2010”.*

3 **SEC. 1115. NEW MARKETS VENTURE CAPITAL COMPANY IN-**
 4 **VESTMENT LIMITATIONS.**

5 *Section 355 of the Small Business Investment Act of*
 6 *1958 (15 U.S.C. 689d) is amended by adding at the end*
 7 *the following:*

8 *“(e) INVESTMENT LIMITATIONS.—*

9 *“(1) DEFINITION.—In this subsection, the term*
 10 *‘covered New Markets Venture Capital company’*
 11 *means a New Markets Venture Capital company—*

12 *“(A) granted final approval by the Admin-*
 13 *istrator under section 354(e) on or after March*
 14 *1, 2002; and*

15 *“(B) that has obtained a financing from the*
 16 *Administrator.*

17 *“(2) LIMITATION.—Except to the extent approved*
 18 *by the Administrator, a covered New Markets Venture*
 19 *Capital company may not acquire or issue commit-*
 20 *ments for securities under this title for any single en-*
 21 *terprise in an aggregate amount equal to more than*
 22 *10 percent of the sum of—*

23 *“(A) the regulatory capital of the covered*
 24 *New Markets Venture Capital company; and*

1 “(B) the total amount of leverage projected
2 in the participation agreement of the covered
3 New Markets Venture Capital.”.

4 **SEC. 1116. ALTERNATIVE SIZE STANDARDS.**

5 Section 3(a) of the Small Business Act (15 U.S.C.
6 632(a)) is amended by adding at the end the following:

7 “(5) *ALTERNATIVE SIZE STANDARD.*—

8 “(A) *IN GENERAL.*—The Administrator shall es-
9 tablish an alternative size standard for applicants for
10 business loans under section 7(a) and applicants for
11 development company loans under title V of the Small
12 Business Investment Act of 1958 (15 U.S.C. 695 et
13 seq.), that uses maximum tangible net worth and av-
14 erage net income as an alternative to the use of indus-
15 try standards.

16 “(B) *INTERIM RULE.*—Until the date on which
17 the alternative size standard established under sub-
18 paragraph (A) is in effect, an applicant for a busi-
19 ness loan under section 7(a) or an applicant for a de-
20 velopment company loan under title V of the Small
21 Business Investment Act of 1958 may be eligible for
22 such a loan if—

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

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

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

7 Section 5(g) of the Small Business Act (15 U.S.C.
8 634(g)) is amended by adding at the end the following:

9 “(6) If the amount of the guaranteed portion of any
10 loan under section 7(a) is more than \$500,000, the Admin-
11 istrator shall, upon request of a pool assembler, divide the
12 loan guarantee into increments of \$500,000 and 1 incre-
13 ment of any remaining amount less than \$500,000, in order
14 to permit the maximum amount of any loan in a pool to
15 be not more than \$500,000. Only 1 increment of any loan
16 guarantee divided under this paragraph may be included
17 in the same pool. Increments of loan guarantees to different
18 borrowers that are divided under this paragraph may be
19 included in the same pool.”.

20 **SEC. 1118. ONLINE LENDING PLATFORM.**

21 It is the sense of Congress that the Administrator of
22 the Small Business Administration should establish a
23 website that—

24 (1) lists each lender that makes loans guaranteed
25 by the Small Business Administration and provides

1 *information about the loan rates of each such lender;*
 2 *and*

3 *(2) allows prospective borrowers to compare rates*
 4 *on loans guaranteed by the Small Business Adminis-*
 5 *tration.*

6 **SEC. 1119. SBA SECONDARY MARKET GUARANTEE AUTHOR-**
 7 **ITY.**

8 *Section 503(f) of division A of the American Recovery*
 9 *and Reinvestment Act of 2009 (Public Law 111–5; 123*
 10 *Stat. 155) is amended by striking “on the date 2 years after*
 11 *the date of enactment of this section” and inserting “2 years*
 12 *after the date of the first sale of a pool of first lien position*
 13 *504 loans guaranteed under this section to a third-party*
 14 *investor”.*

15 **PART II—SMALL BUSINESS ACCESS TO CAPITAL**

16 **SEC. 1122. LOW-INTEREST REFINANCING UNDER THE**
 17 **LOCAL DEVELOPMENT BUSINESS LOAN PRO-**
 18 **GRAM.**

19 *(a) REFINANCING.—Section 502(7) of the Small Busi-*
 20 *ness Investment Act of 1958 (15 U.S.C. 696(7)) is amended*
 21 *by adding at the end the following:*

22 *“(C) REFINANCING NOT INVOLVING EXPAN-*
 23 *SIONS.—*

24 *“(i) DEFINITIONS.—In this subpara-*
 25 *graph—*

1 “(I) the term ‘borrower’ means a
2 small business concern that submits an
3 application to a development company
4 for financing under this subparagraph;

5 “(II) the term ‘eligible fixed asset’
6 means tangible property relating to
7 which the Administrator may provide
8 financing under this section; and

9 “(III) the term ‘qualified debt’
10 means indebtedness—

11 “(aa) that—

12 “(AA) was incurred not
13 less than 2 years before the
14 date of the application for
15 assistance under this sub-
16 paragraph;

17 “(BB) is a commercial
18 loan;

19 “(CC) is not subject to a
20 guarantee by a Federal agen-
21 cy;

22 “(DD) the proceeds of
23 which were used to acquire
24 an eligible fixed asset;

1 “(EE) was incurred for
2 the benefit of the small busi-
3 ness concern; and

4 “(FF) is collateralized
5 by eligible fixed assets; and

6 “(bb) for which the borrower
7 has been current on all payments
8 for not less than 1 year before the
9 date of the application.

10 “(ii) *AUTHORITY*.—A project that does
11 not involve the expansion of a small busi-
12 ness concern may include the refinancing of
13 qualified debt if—

14 “(I) the amount of the financing
15 is not more than 90 percent of the
16 value of the collateral for the financing,
17 except that, if the appraised value of
18 the eligible fixed assets serving as col-
19 lateral for the financing is less than
20 the amount equal to 125 percent of the
21 amount of the financing, the borrower
22 may provide additional cash or other
23 collateral to eliminate any deficiency;

1 “(II) the borrower has been in op-
2 eration for all of the 2-year period end-
3 ing on the date of the loan; and

4 “(III) for a financing for which
5 the Administrator determines there
6 will be an additional cost attributable
7 to the refinancing of the qualified debt,
8 the borrower agrees to pay a fee in an
9 amount equal to the anticipated addi-
10 tional cost.

11 “(iii) *FINANCING FOR BUSINESS EX-*
12 *PENSES.—*

13 “(I) *FINANCING FOR BUSINESS*
14 *EXPENSES.—The Administrator may*
15 *provide financing to a borrower that*
16 *receives financing that includes a refi-*
17 *nancing of qualified debt under clause*
18 *(ii), in addition to the refinancing*
19 *under clause (ii), to be used solely for*
20 *the payment of business expenses.*

21 “(II) *APPLICATION FOR FINANC-*
22 *ING.—An application for financing*
23 *under subclause (I) shall include—*

1 “(aa) a specific description
2 of the expenses for which the addi-
3 tional financing is requested; and

4 “(bb) an itemization of the
5 amount of each expense.

6 “(III) *CONDITION ON ADDITIONAL*
7 *FINANCING.*—A borrower may not use
8 any part of the financing under this
9 clause for non-business purposes.

10 “(iv) *LOANS BASED ON JOBS.*—

11 “(I) *JOB CREATION AND RETEN-*
12 *TION GOALS.*—

13 “(aa) *IN GENERAL.*—The Ad-
14 ministrators may provide financ-
15 ing under this subparagraph for a
16 borrower that meets the job cre-
17 ation goals under subsection (d)
18 or (e) of section 501.

19 “(bb) *ALTERNATE JOB RE-*
20 *TENTION GOAL.*—The Adminis-
21 trator may provide financing
22 under this subparagraph to a bor-
23 rower that does not meet the goals
24 described in item (aa) in an
25 amount that is not more than the

1 product obtained by multiplying
2 the number of employees of the
3 borrower by \$65,000.

4 “(II) NUMBER OF EMPLOYEES.—
5 For purposes of subclause (I), the num-
6 ber of employees of a borrower is equal
7 to the sum of—

8 “(aa) the number of full-time
9 employees of the borrower on the
10 date on which the borrower ap-
11 plies for a loan under this sub-
12 paragraph; and

13 “(bb) the product obtained by
14 multiplying—

15 “(AA) the number of
16 part-time employees of the
17 borrower on the date on
18 which the borrower applies
19 for a loan under this sub-
20 paragraph; by

21 “(BB) the quotient ob-
22 tained by dividing the aver-
23 age number of hours each
24 part time employee of the

1 *borrower works each week by*
 2 *40.*

3 “(v) *NONDELEGATION.—Notwith-*
 4 *standing section 508(e), the Administrator*
 5 *may not permit a premier certified lender*
 6 *to approve or disapprove an application for*
 7 *assistance under this subparagraph.*

8 “(vi) *TOTAL AMOUNT OF LOANS.—The*
 9 *Administrator may provide not more than*
 10 *a total of \$7,500,000,000 of financing under*
 11 *this subparagraph for each fiscal year.”.*

12 (b) *PROSPECTIVE REPEAL.—Effective 2 years after the*
 13 *date of enactment of this Act, section 502(7) of the Small*
 14 *Business Investment Act of 1958 (15 U.S.C. 696(7)) is*
 15 *amended by striking subparagraph (C).*

16 (c) *TECHNICAL CORRECTION.—Section 502(2)(A)(i) of*
 17 *the Small Business Investment Act of 1958 (15 U.S.C.*
 18 *696(2)(A)(i)) is amended by striking “subparagraph (B) or*
 19 *(C)” and inserting “clause (ii), (iii), (iv), or (v)”.*

20 **PART III—OTHER MATTERS**

21 **SEC. 1131. SMALL BUSINESS INTERMEDIARY LENDING** 22 **PILOT PROGRAM.**

23 (a) *IN GENERAL.—Section 7 of the Small Business Act*
 24 *(15 U.S.C. 636) is amended by striking subsection (l) and*
 25 *inserting the following:*

1 “(l) *SMALL BUSINESS INTERMEDIARY LENDING PILOT*
2 *PROGRAM.*—

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

4 “(A) *the term ‘eligible intermediary’—*

5 “(i) *means a private, nonprofit entity*
6 *that—*

7 “(I) *seeks or has been awarded a*
8 *loan from the Administrator to make*
9 *loans to small business concerns under*
10 *this subsection; and*

11 “(II) *has not less than 1 year of*
12 *experience making loans to startup,*
13 *newly established, or growing small*
14 *business concerns; and*

15 “(ii) *includes—*

16 “(I) *a private, nonprofit commu-*
17 *nity development corporation;*

18 “(II) *a consortium of private,*
19 *nonprofit organizations or nonprofit*
20 *community development corporations;*
21 *and*

22 “(III) *an agency of or nonprofit*
23 *entity established by a Native Amer-*
24 *ican Tribal Government; and*

1 “(B) the term ‘Program’ means the small
2 business intermediary lending pilot program es-
3 tablished under paragraph (2).

4 “(2) *ESTABLISHMENT*.—There is established a 3-
5 year small business intermediary lending pilot pro-
6 gram, under which the Administrator may make di-
7 rect loans to eligible intermediaries, for the purpose
8 of making loans to startup, newly established, and
9 growing small business concerns.

10 “(3) *PURPOSES*.—The purposes of the Program
11 are—

12 “(A) to assist small business concerns in
13 areas suffering from a lack of credit due to poor
14 economic conditions or changes in the financial
15 market; and

16 “(B) to establish a loan program under
17 which the Administrator may provide loans to
18 eligible intermediaries to enable the eligible
19 intermediaries to provide loans to startup, newly
20 established, and growing small business concerns
21 for working capital, real estate, or the acquisi-
22 tion of materials, supplies, or equipment.

23 “(4) *LOANS TO ELIGIBLE INTERMEDIARIES*.—

24 “(A) *APPLICATION*.—Each eligible inter-
25 mediary desiring a loan under this subsection

1 *shall submit an application to the Administrator*
2 *that describes—*

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

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

7 “(iii) *the interest rate and terms of*
8 *loans to be made;*

9 “(iv) *the geographic area to be served*
10 *and the economic, poverty, and unemploy-*
11 *ment characteristics of the area;*

12 “(v) *the status of small business con-*
13 *cerns in the area to be served and an anal-*
14 *ysis of the availability of credit; and*

15 “(vi) *the qualifications of the applicant*
16 *to carry out this subsection.*

17 “(B) *LOAN LIMITS.—No loan may be made*
18 *to an eligible intermediary under this subsection*
19 *if the total amount outstanding and committed*
20 *to the eligible intermediary by the Administrator*
21 *would, as a result of such loan, exceed \$1,000,000*
22 *during the participation of the eligible inter-*
23 *mediary in the Program.*

1 “(C) *LOAN DURATION.*—*Loans made by the*
2 *Administrator under this subsection shall be for*
3 *a term of 20 years.*

4 “(D) *APPLICABLE INTEREST RATES.*—
5 *Loans made by the Administrator to an eligible*
6 *intermediary under the Program shall bear an*
7 *annual interest rate equal to 1.00 percent.*

8 “(E) *FEES; COLLATERAL.*—*The Adminis-*
9 *trator may not charge any fees or require collat-*
10 *eral with respect to any loan made to an eligible*
11 *intermediary under this subsection.*

12 “(F) *DELAYED PAYMENTS.*—*The Adminis-*
13 *trator shall not require the repayment of prin-*
14 *cipal or interest on a loan made to an eligible*
15 *intermediary under the Program during the 2-*
16 *year period beginning on the date of the initial*
17 *disbursement of funds under that loan.*

18 “(G) *MAXIMUM PARTICIPANTS AND*
19 *AMOUNTS.*—*During each of fiscal years 2011,*
20 *2012, and 2013, the Administrator may make*
21 *loans under the Program—*

22 “(i) *to not more than 20 eligible inter-*
23 *mediaries; and*

24 “(ii) *in a total amount of not more*
25 *than \$20,000,000.*

1 “(5) *LOANS TO SMALL BUSINESS CONCERNS.*—

2 “(A) *IN GENERAL.*—*The Administrator,*
3 *through an eligible intermediary, shall make*
4 *loans to startup, newly established, and growing*
5 *small business concerns for working capital, real*
6 *estate, and the acquisition of materials, supplies,*
7 *furniture, fixtures, and equipment.*

8 “(B) *MAXIMUM LOAN.*—*An eligible inter-*
9 *mediary may not make a loan under this sub-*
10 *section of more than \$200,000 to any 1 small*
11 *business concern.*

12 “(C) *APPLICABLE INTEREST RATES.*—*A*
13 *loan made by an eligible intermediary to a small*
14 *business concern under this subsection, may have*
15 *a fixed or a variable interest rate, and shall bear*
16 *an interest rate specified by the eligible inter-*
17 *mediary in the application of the eligible inter-*
18 *mediary for a loan under this subsection.*

19 “(D) *REVIEW RESTRICTIONS.*—*The Admin-*
20 *istrator may not review individual loans made*
21 *by an eligible intermediary to a small business*
22 *concern before approval of the loan by the eligi-*
23 *ble intermediary.*

24 “(6) *TERMINATION.*—*The authority of the Ad-*
25 *ministrator to make loans under the Program shall*

1 *terminate 3 years after the date of enactment of the*
 2 *Small Business Job Creation and Access to Capital*
 3 *Act of 2010.”.*

4 (b) *RULEMAKING AUTHORITY.*—*Not later than 180*
 5 *days after the date of enactment of this Act, the Adminis-*
 6 *trator shall issue regulations to carry out section 7(l) of*
 7 *the Small Business Act, as amended by subsection (a).*

8 (c) *AVAILABILITY OF FUNDS.*—*Any amounts provided*
 9 *to the Administrator for the purposes of carrying out sec-*
 10 *tion 7(l) of the Small Business Act, as amended by sub-*
 11 *section (a), shall remain available until expended.*

12 **SEC. 1132. PUBLIC POLICY GOALS.**

13 *Section 501(d)(3) of the Small Business Investment*
 14 *Act of 1958 (15 U.S.C. 695(d)(3)) is amended—*

15 (1) *in subparagraph (J), by striking “or” at the*
 16 *end;*

17 (2) *in subparagraph (K), by striking the period*
 18 *at the end and inserting “, or”; and*

19 (3) *by adding at the end the following:*

20 “(L) *reduction of rates of unemployment in*
 21 *labor surplus areas, as such areas are deter-*
 22 *mined by the Secretary of Labor.”.*

23 **SEC. 1133. FLOOR PLAN PILOT PROGRAM EXTENSION.**

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

1 (1) by redesignating paragraph (32), relating to
 2 increased veteran participation, as added by section
 3 208 of the Military Reservist and Veteran Small
 4 Business Reauthorization and Opportunity Act of
 5 2008 (Public Law 110–186; 122 Stat. 631), as para-
 6 graph (33); and

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

8 “(34) *FLOOR PLAN FINANCING PROGRAM.*—

9 “(A) *DEFINITION.*—In this paragraph, the
 10 term ‘eligible retail good’—

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

13 “(ii) includes an automobile, rec-
 14 reational vehicle, boat, and manufactured
 15 home.

16 “(B) *PROGRAM.*—The Administrator may
 17 guarantee the timely payment of an open-end ex-
 18 tension of credit to a small business concern, the
 19 proceeds of which may be used for the purchase
 20 of eligible retail goods for resale.

21 “(C) *AMOUNT.*—An open-end extension of
 22 credit guaranteed under this paragraph shall be
 23 in an amount not less than \$500,000 and not
 24 more than \$5,000,000.

1 “(D) *TERM.*—An open-end extension of
2 credit guaranteed under this paragraph shall
3 have a term of not more than 5 years.

4 “(E) *GUARANTEE PERCENTAGE.*—The Ad-
5 ministrators may guarantee—

6 “(i) not less than 60 percent of an
7 open-end extension of credit under this
8 paragraph; and

9 “(ii) not more than 75 percent of an
10 open-end extension of credit under this
11 paragraph.

12 “(F) *ADVANCE RATE.*—The lender for an
13 open-end extension of credit guaranteed under
14 this paragraph may allow the borrower to draw
15 funds on the line of credit in an amount equal
16 to not more than 100 percent of the value of the
17 eligible retail goods to be purchased.”.

18 (b) *SUNSET.*—Effective September 30, 2013, section
19 7(a) of the Small Business Act (15 U.S.C. 636(a)) is
20 amended—

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

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

1 **SEC. 1134. GUARANTEES FOR BONDS AND NOTES ISSUED**
 2 **FOR COMMUNITY OR ECONOMIC DEVELOP-**
 3 **MENT PURPOSES.**

4 *The Riegle Community Development and Regulatory*
 5 *Improvement Act of 1994 (12 U.S.C. 4701 et seq.) is amend-*
 6 *ed by inserting after section 114 (12 U.S.C. 4713) the fol-*
 7 *lowing:*

8 **“SEC. 114A. GUARANTEES FOR BONDS AND NOTES ISSUED**
 9 **FOR COMMUNITY OR ECONOMIC DEVELOP-**
 10 **MENT PURPOSES.**

11 *“(a) DEFINITIONS.—In this section, the following defi-*
 12 *nitions shall apply:*

13 *“(1) ELIGIBLE COMMUNITY DEVELOPMENT FI-*
 14 *NANCIAL INSTITUTION.—The term ‘eligible community*
 15 *development financial institution’ means a commu-*
 16 *nity development financial institution (as described*
 17 *in section 1805.201 of title 12, Code of Federal Regu-*
 18 *lations, or any successor thereto) certified by the Sec-*
 19 *retary that has applied to a qualified issuer for, or*
 20 *been granted by a qualified issuer, a loan under the*
 21 *Program.*

22 *“(2) ELIGIBLE COMMUNITY OR ECONOMIC DE-*
 23 *VELOPMENT PURPOSE.—The term ‘eligible community*
 24 *or economic development purpose’—*

25 *“(A) means any purpose described in sec-*
 26 *tion 108(b); and*

1 “(B) includes the provision of community
2 or economic development in low-income or un-
3 derserved rural areas.

4 “(3) *GUARANTEE.*—The term ‘guarantee’ means
5 a written agreement between the Secretary and a
6 qualified issuer (or trustee), pursuant to which the
7 Secretary ensures repayment of the verifiable losses of
8 principal, interest, and call premium, if any, on
9 notes or bonds issued by a qualified issuer to finance
10 or refinance loans to eligible community development
11 financial institutions.

12 “(4) *LOAN.*—The term ‘loan’ means any credit
13 instrument that is extended under the Program for
14 any eligible community or economic development pur-
15 pose.

16 “(5) *MASTER SERVICER.*—

17 “(A) *IN GENERAL.*—The term ‘master
18 servicer’ means any entity approved by the Sec-
19 retary in accordance with subparagraph (B) to
20 oversee the activities of servicers, as provided in
21 subsection (f)(4).

22 “(B) *APPROVAL CRITERIA FOR MASTER*
23 *SERVICERS.*—The Secretary shall approve or
24 deny any application to become a master
25 servicer under the Program not later than 90

1 *days after the date on which all required infor-*
 2 *mation is submitted to the Secretary, based on*
 3 *the capacity and experience of the applicant*
 4 *in—*

5 *“(i) loan administration, servicing,*
 6 *and loan monitoring;*

7 *“(ii) managing regional or national*
 8 *loan intake, processing, or servicing oper-*
 9 *ational systems and infrastructure;*

10 *“(iii) managing regional or national*
 11 *originator communication systems and in-*
 12 *frastructure;*

13 *“(iv) developing and implementing*
 14 *training and other risk management strate-*
 15 *gies on a regional or national basis; and*

16 *“(v) compliance monitoring, investor*
 17 *relations, and reporting.*

18 *“(6) PROGRAM.—The term ‘Program’ means the*
 19 *guarantee Program for bonds and notes issued for eli-*
 20 *gible community or economic development purposes*
 21 *established under this section.*

22 *“(7) PROGRAM ADMINISTRATOR.—The term ‘Pro-*
 23 *gram administrator’ means an entity designated by*
 24 *the issuer to perform administrative duties, as pro-*
 25 *vided in subsection (f)(2).*

1 “(8) *QUALIFIED ISSUER.*—

2 “(A) *IN GENERAL.*—*The term ‘qualified*
 3 *issuer’ means a community development finan-*
 4 *cial institution (or any entity designated to issue*
 5 *notes or bonds on behalf of such community de-*
 6 *velopment financial institution) that meets the*
 7 *qualification requirements of this paragraph.*

8 “(B) *APPROVAL CRITERIA FOR QUALIFIED*
 9 *ISSUERS.*—

10 “(i) *IN GENERAL.*—*The Secretary shall*
 11 *approve a qualified issuer for a guarantee*
 12 *under the Program in accordance with the*
 13 *requirements of this paragraph, and such*
 14 *additional requirements as the Secretary*
 15 *may establish, by regulation.*

16 “(ii) *TERMS AND QUALIFICATIONS.*—*A*
 17 *qualified issuer shall—*

18 “(I) *have appropriate expertise,*
 19 *capacity, and experience, or otherwise*
 20 *be qualified to make loans for eligible*
 21 *community or economic development*
 22 *purposes;*

23 “(II) *provide to the Secretary—*

1 “(aa) an acceptable state-
2 ment of the proposed sources and
3 uses of the funds; and

4 “(bb) a capital distribution
5 plan that meets the requirements
6 of subsection (c)(1); and

7 “(III) certify to the Secretary that
8 the bonds or notes to be guaranteed are
9 to be used for eligible community or
10 economic development purposes.

11 “(C) DEPARTMENT OPINION; TIMING.—

12 “(i) DEPARTMENT OPINION.—Not later
13 than 30 days after the date of a request by
14 a qualified issuer for approval of a guar-
15 antee under the Program, the Secretary
16 shall provide an opinion regarding compli-
17 ance by the issuer with the requirements of
18 the Program under this section.

19 “(ii) TIMING.—The Secretary shall ap-
20 prove or deny a guarantee under this sec-
21 tion after consideration of the opinion pro-
22 vided to the Secretary under clause (i), and
23 in no case later than 90 days after receipt
24 of all required information by the Secretary
25 with respect to a request for such guarantee.

1 “(9) *SECRETARY.*—*The term ‘Secretary’ means*
2 *the Secretary of the Treasury.*

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

6 “(b) *GUARANTEES AUTHORIZED.*—*The Secretary shall*
7 *guarantee payments on bonds or notes issued by any quali-*
8 *fied issuer, if the proceeds of the bonds or notes are used*
9 *in accordance with this section to make loans to eligible*
10 *community development financial institutions—*

11 *“(1) for eligible community or economic develop-*
12 *ment purposes; or*

13 *“(2) to refinance loans or notes issued for such*
14 *purposes.*

15 “(c) *GENERAL PROGRAM REQUIREMENTS.*—

16 “(1) *IN GENERAL.*—*A capital distribution plan*
17 *meets the requirements of this subsection, if not less*
18 *than 90 percent of the principal amount of guaran-*
19 *teed bonds or notes (other than costs of issuance fees)*
20 *are used to make loans for any eligible community or*
21 *economic development purpose, measured annually,*
22 *beginning at the end of the 1-year period beginning*
23 *on the issuance date of such guaranteed bonds or*
24 *notes.*

1 “(2) *RELENDING ACCOUNT.*—Not more than 10
 2 percent of the principal amount of guaranteed bonds
 3 or notes, multiplied by an amount equal to the out-
 4 standing principal balance of issued notes or bonds,
 5 minus the risk-share pool amount under subsection
 6 (d), may be held in a relending account and may be
 7 made available for new eligible community or eco-
 8 nomic development purposes.

9 “(3) *LIMITATIONS ON UNPAID PRINCIPAL BAL-*
 10 *ANCES.*—The proceeds of guaranteed bonds or notes
 11 under the Program may not be used to pay fees (other
 12 than costs of issuance fees), and shall be held in—

13 “(A) *community or economic development*
 14 *loans;*

15 “(B) *a relending account, to the extent au-*
 16 *thorized under paragraph (2); or*

17 “(C) *a risk-share pool established under*
 18 *subsection (d).*

19 “(4) *REPAYMENT.*—If a qualified issuer fails to
 20 meet the requirements of paragraph (1) by the end of
 21 the 90-day period beginning at the end of the annual
 22 measurement period, repayment shall be made on that
 23 portion of bonds or notes necessary to bring the bonds
 24 or notes that remain outstanding after such repay-

1 *ment into compliance with the 90 percent require-*
2 *ment of paragraph (1).*

3 “(5) *PROHIBITED USES.*—*The Secretary shall,*
4 *by regulation—*

5 “(A) *prohibit, as appropriate, certain uses*
6 *of amounts from the guarantee of a bond or note*
7 *under the Program, including the use of such*
8 *funds for political activities, lobbying, outreach,*
9 *counseling services, or travel expenses; and*

10 “(B) *provide that the guarantee of a bond*
11 *or note under the Program may not be used for*
12 *salaries or other administrative costs of—*

13 “(i) *the qualified issuer; or*

14 “(ii) *any recipient of amounts from*
15 *the guarantee of a bond or note.*

16 “(d) *RISK-SHARE POOL.*—*Each qualified issuer shall,*
17 *during the term of a guarantee provided under the Pro-*
18 *gram, establish a risk-share pool, capitalized by contribu-*
19 *tions from eligible community development financial insti-*
20 *tution participants an amount equal to 3 percent of the*
21 *guaranteed amount outstanding on the subject notes and*
22 *bonds.*

23 “(e) *GUARANTEES.*—

24 “(1) *IN GENERAL.*—*A guarantee issued under the*
25 *Program shall—*

1 “(A) be for the full amount of a bond or
2 note, including the amount of principal, interest,
3 and call premiums;

4 “(B) be fully assignable and transferable to
5 the capital market, on terms and conditions that
6 are consistent with comparable Government-
7 guaranteed bonds, and satisfactory to the Sec-
8 retary;

9 “(C) represent the full faith and credit of
10 the United States; and

11 “(D) not exceed 30 years.

12 “(2) LIMITATIONS.—

13 “(A) ANNUAL NUMBER OF GUARANTEES.—
14 The Secretary shall issue not more than 10 guar-
15 antees in any calendar year under the Program.

16 “(B) GUARANTEE AMOUNT.—The Secretary
17 may not guarantee any amount under the Pro-
18 gram equal to less than \$100,000,000, but the
19 total of all such guarantees in any fiscal year
20 may not exceed \$1,000,000,000.

21 “(f) SERVICING OF TRANSACTIONS.—

22 “(1) IN GENERAL.—To maximize efficiencies and
23 minimize cost and interest rates, loans made under
24 this section may be serviced by qualified Program ad-
25 ministrators, bond servicers, and a master servicer.

1 “(2) *DUTIES OF PROGRAM ADMINISTRATOR.*—
 2 *The duties of a Program administrator shall in-*
 3 *clude—*

4 “(A) *approving and qualifying eligible com-*
 5 *munity development financial institution appli-*
 6 *cations for participation in the Program;*

7 “(B) *compliance monitoring;*

8 “(C) *bond packaging in connection with the*
 9 *Program; and*

10 “(D) *all other duties and related services*
 11 *that are customarily expected of a Program ad-*
 12 *ministrator.*

13 “(3) *DUTIES OF SERVICER.*—*The duties of a*
 14 *servicer shall include—*

15 “(A) *billing and collecting loan payments;*

16 “(B) *initiating collection activities on past-*
 17 *due loans;*

18 “(C) *transferring loan payments to the*
 19 *master servicing accounts;*

20 “(D) *loan administration and servicing;*

21 “(E) *systematic and timely reporting of*
 22 *loan performance through remittance and serv-*
 23 *icing reports;*

24 “(F) *proper measurement of annual out-*
 25 *standing loan requirements; and*

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

3 “(4) DUTIES OF MASTER SERVICER.—The duties
4 of a master servicer shall include—

5 “(A) tracking the movement of funds be-
6 tween the accounts of the master servicer and
7 any other servicer;

8 “(B) ensuring orderly receipt of the monthly
9 remittance and servicing reports of the servicer;

10 “(C) monitoring the collection comments
11 and foreclosure actions;

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

14 “(E) removing and replacing a servicer, as
15 necessary;

16 “(F) loan administration and servicing;

17 “(G) systematic and timely reporting of
18 loan performance compiled from all bond
19 servicers’ reports;

20 “(H) proper distribution of funds to inves-
21 tors; and

22 “(I) all other duties and related services
23 that are customarily expected of a master
24 servicer.

25 “(g) FEES.—

1 “(1) *IN GENERAL.*—*A qualified issuer that re-*
 2 *ceives a guarantee issued under this section on a bond*
 3 *or note shall pay a fee to the Secretary, in an amount*
 4 *equal to 10 basis points of the amount of the unpaid*
 5 *principal of the bond or note guaranteed.*

6 “(2) *PAYMENT.*—*A qualified issuer shall pay the*
 7 *fee required under this subsection on an annual basis.*

8 “(3) *USE OF FEES.*—*Fees collected by the Sec-*
 9 *retary under this subsection shall be used to reim-*
 10 *burse the Department of the Treasury for any admin-*
 11 *istrative costs incurred by the Department in imple-*
 12 *menting the Program established under this section.*

13 “(h) *AUTHORIZATION OF APPROPRIATIONS.*—

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

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

23 “(i) *INVESTMENT IN GUARANTEED BONDS INELIGIBLE*
 24 *FOR COMMUNITY REINVESTMENT ACT PURPOSES.*—*Not-*
 25 *withstanding any other provision of law, any investment*

1 *by a financial institution in bonds or notes guaranteed*
 2 *under the Program shall not be taken into account in assess-*
 3 *ing the record of such institution for purposes of the Com-*
 4 *munity Reinvestment Act of 1977 (12 U.S.C. 2901).*

5 “(j) *ADMINISTRATION.*—

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

9 “(2) *IMPLEMENTATION.*—*Not later than 2 years*
 10 *after the date of enactment of this section, the Sec-*
 11 *retary shall implement this section.*

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

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

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

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

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

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

8 (b) *TARP FUNDS AND TAX INCREASES.*—

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

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

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

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

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

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

4 *This subtitle may be cited as the “Small Business Ex-*
 5 *port Enhancement and International Trade Act of 2010”.*

6 **SEC. 1202. DEFINITIONS.**

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

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

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

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

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

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

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

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

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

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

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

16 (1) by striking “SEC. 22. (a) There” and insert-
 17 ing the following:

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

19 “(a) *ESTABLISHMENT*.—

20 “(1) *OFFICE*.—There”; and

21 (2) in subsection (a)—

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

1 “(A) the number of small business concerns
2 that export; and

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

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

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

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

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

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

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

1 “(h) *DISCHARGE OF INTERNATIONAL TRADE RESPON-*
 2 *SIBILITIES OF ADMINISTRATION.*—*The Administrator shall*
 3 *ensure that—*

4 “(1) *the responsibilities of the Administration re-*
 5 *garding international trade are carried out by the As-*
 6 *sociate Administrator;*

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

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

11 “(A) *the staff of the Office; and*

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

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

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

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

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

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

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

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

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

11 *“(b) TRADE DISTRIBUTION NETWORK.—The Associate*
 12 *Administrator, working in close cooperation with the Sec-*
 13 *retary of Commerce, the United States Trade Representa-*
 14 *tive, the Secretary of Agriculture, the Secretary of State,*
 15 *the President of the Export-Import Bank of the United*
 16 *States, the President of the Overseas Private Investment*
 17 *Corporation, Director of the United States Trade and De-*
 18 *velopment Agency, and other relevant Federal agencies,*
 19 *small business development centers engaged in export pro-*
 20 *motion efforts, Export Assistance Centers, regional and dis-*
 21 *trict offices of the Administration, the small business com-*
 22 *munity, and relevant State and local export promotion pro-*
 23 *grams, shall—*

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

1 *small business development center network, networks*
2 *of women’s business centers, the Service Corps of Re-*
3 *tired Executives authorized by section 8(b)(1), and*
4 *Export Assistance Centers, for programs relating to—*

5 *“(A) trade promotion;*

6 *“(B) trade finance;*

7 *“(C) trade adjustment assistance;*

8 *“(D) trade remedy assistance; and*

9 *“(E) trade data collection;*

10 *“(2) aggressively market the programs described*
11 *in paragraph (1) and disseminate information, in-*
12 *cluding computerized marketing data, to small busi-*
13 *ness concerns on exporting trends, market-specific*
14 *growth, industry trends, and international prospects*
15 *for exports;*

16 *“(3) promote export assistance programs through*
17 *the district and regional offices of the Administration,*
18 *the small business development center network, Export*
19 *Assistance Centers, the network of women’s business*
20 *centers, chapters of the Service Corps of Retired Ex-*
21 *ecutives, State and local export promotion programs,*
22 *and partners in the private sector; and*

23 *“(4) give preference in hiring or approving the*
24 *transfer of any employee into the Office or to a posi-*
25 *tion described in subsection (c)(9) to otherwise quali-*

1 *fied applicants who are fluent in a language in addi-*
 2 *tion to English, to—*

3 *“(A) accompany small business concerns on*
 4 *foreign trade missions; and*

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

9 *(2) in subsection (c)—*

10 *(A) by striking “(c) The Office” and insert-*
 11 *ing the following:*

12 *“(c) PROMOTION OF SALES OPPORTUNITIES.—The As-*
 13 *sociate Administrator”;*

14 *(B) by redesignating paragraphs (1)*
 15 *through (8) as paragraphs (2) through (9), re-*
 16 *spectively;*

17 *(C) by inserting before paragraph (2), as so*
 18 *redesignated, the following:*

19 *“(1) establish annual goals for the Office relating*
 20 *to—*

21 *“(A) enhancing the exporting capability of*
 22 *small business concerns and small manufactur-*
 23 *ers;*

24 *“(B) facilitating technology transfers;*

1 “(C) enhancing programs and services to
2 assist small business concerns and small manu-
3 facturers to compete effectively and efficiently in
4 foreign markets;

5 “(D) increasing the ability of small business
6 concerns to access capital; and

7 “(E) disseminating information concerning
8 Federal, State, and private programs and initia-
9 tives;”;

10 (D) in paragraph (2), as so redesignated, by
11 striking “mechanism for” and all that follows
12 through “(D) assisting” and inserting the fol-
13 lowing: “mechanism for—

14 “(A) identifying subsectors of the small
15 business community with strong export poten-
16 tial;

17 “(B) identifying areas of demand in foreign
18 markets;

19 “(C) prescreening foreign buyers for com-
20 mercial and credit purposes; and

21 “(D) assisting”;

22 (E) in paragraph (3), as so redesignated, by
23 striking “assist small businesses in the formation
24 and utilization of” and inserting “assist small
25 business concerns in forming and using”;

1 (F) in paragraph (4), as so redesignated—

2 (i) by striking “local” and inserting
3 “district”;

4 (ii) by striking “existing”;

5 (iii) by striking “Small Business De-
6 velopment Center network” and inserting
7 “small business development center net-
8 work”; and

9 (iv) by striking “Small Business De-
10 velopment Center Program” and inserting
11 “small business development center pro-
12 gram”;

13 (G) in paragraph (5), as so redesignated—

14 (i) in subparagraph (A), by striking
15 “Gross State Produce” and inserting “Gross
16 State Product”;

17 (ii) in subparagraph (B), by striking
18 “SIC” each place it appears and inserting
19 “North American Industry Classification
20 System”; and

21 (iii) in subparagraph (C), by striking
22 “small businesses” and inserting “small
23 business concerns”;

1 (H) in paragraph (6), as so redesignated,
2 by striking the period at the end and inserting
3 a semicolon;

4 (I) in paragraph (7), as so redesignated—

5 (i) in the matter preceding subpara-
6 graph (A)—

7 (I) by inserting “concerns” after
8 “small business”; and

9 (II) by striking “current” and in-
10 serting “up to date”;

11 (ii) in subparagraph (A), by striking
12 “Administration’s regional offices” and in-
13 serting “regional and district offices of the
14 Administration”;

15 (iii) in subparagraph (B) by striking
16 “current”;

17 (iv) in subparagraph (C), by striking
18 “current”; and

19 (v) by striking “small businesses” each
20 place that term appears and inserting
21 “small business concerns”;

22 (J) in paragraph (8), as so redesignated, by
23 striking and at the end;

24 (K) in paragraph (9), as so redesignated—

1 (i) in the matter preceding subpara-
2 graph (A)—

3 (I) by striking “full-time export
4 development specialists to each Admin-
5 istration regional office and assign-
6 ing”; and

7 (II) by striking “person in each
8 district office. Such specialists” and
9 inserting “individual in each district
10 office and providing each Administra-
11 tion regional office with a full-time ex-
12 port development specialist, who”;

13 (ii) in subparagraph (B)—

14 (I) by striking “current”; and

15 (II) by striking “with” and in-
16 serting “in”;

17 (iii) in subparagraph (D)—

18 (I) by striking “Administration
19 personnel involved in granting” and
20 inserting “personnel of the Administra-
21 tion involved in making”; and

22 (II) by striking “and” at the end;

23 (iv) in subparagraph (E)—

1 (I) by striking “small businesses’
2 needs” and inserting “the needs of
3 small business concerns”; and

4 (II) by striking the period at the
5 end and inserting a semicolon;

6 (v) by adding at the end the following:

7 “(F) participate, jointly with employees of
8 the Office, in an annual training program that
9 focuses on current small business needs for ex-
10 porting; and

11 “(G) develop and conduct training pro-
12 grams for exporters and lenders, in cooperation
13 with the Export Assistance Centers, the Depart-
14 ment of Commerce, the Department of Agri-
15 culture, small business development centers,
16 women’s business centers, the Export-Import
17 Bank of the United States, the Overseas Private
18 Investment Corporation, and other relevant Fed-
19 eral agencies;”; and

20 (vi) by striking “small businesses” each
21 place that term appears and inserting
22 “small business concerns”; and

23 (L) by adding at the end the following:

1 “(10) make available on the website of the Ad-
2 ministration the name and contact information of
3 each individual described in paragraph (9);

4 “(11) carry out a nationwide marketing effort
5 using technology, online resources, training, and other
6 strategies to promote exporting as a business develop-
7 ment opportunity for small business concerns;

8 “(12) disseminate information to the small busi-
9 ness community through regional and district offices
10 of the Administration, the small business development
11 center network, Export Assistance Centers, the net-
12 work of women’s business centers, chapters of the
13 Service Corps of Retired Executives authorized by sec-
14 tion 8(b)(1), State and local export promotion pro-
15 grams, and partners in the private sector regarding
16 exporting trends, market-specific growth, industry
17 trends, and prospects for exporting; and

18 “(13) establish and carry out training programs
19 for the staff of the regional and district offices of the
20 Administration and resource partners of the Adminis-
21 tration on export promotion and providing assistance
22 relating to exports.”;

23 (3) in subsection (d)—

1 (A) by redesignating paragraphs (1)
2 through (5) as clauses (i) through (v), respec-
3 tively, and adjusting the margins accordingly;

4 (B) by striking “(d) The Office” and insert-
5 ing the following:

6 “(d) *EXPORT FINANCING PROGRAMS.*—

7 “(1) *IN GENERAL.*—*The Associate Adminis-*
8 *trator*”; and

9 (C) by striking “To accomplish this goal,
10 the Office shall work” and inserting the fol-
11 lowing:

12 “(2) *TRADE FINANCE SPECIALIST.*—*To accom-*
13 *plish the goal established under paragraph (1), the*
14 *Associate Administrator shall—*

15 “(A) designate at least 1 individual within
16 the Administration as a trade finance specialist
17 to oversee international loan programs and as-
18 sist Administration employees with trade finance
19 issues; and

20 “(B) work”;

21 (4) in subsection (e), by striking “(e) The Office”
22 and inserting the following:

23 “(e) *TRADE REMEDIES.*—*The Associate Adminis-*
24 *trator*”;

25 (5) by amending subsection (f) to read as follows:

1 “(f) *REPORTING REQUIREMENT.*—*The Associate Ad-*
 2 *ministrator shall submit an annual report to the Committee*
 3 *on Small Business and Entrepreneurship of the Senate and*
 4 *the Committee on Small Business of the House of Represent-*
 5 *atives that contains—*

6 “(1) *a description of the progress of the Office in*
 7 *implementing the requirements of this section;*

8 “(2) *a detailed account of the results of export*
 9 *growth activities of the Administration, including the*
 10 *activities of each district and regional office of the*
 11 *Administration, based on the performance measures*
 12 *described in subsection (i);*

13 “(3) *an estimate of the total number of jobs cre-*
 14 *ated or retained as a result of export assistance pro-*
 15 *vided by the Administration and resource partners of*
 16 *the Administration;*

17 “(4) *for any travel by the staff of the Office, the*
 18 *destination of such travel and the benefits to the Ad-*
 19 *ministration and to small business concerns resulting*
 20 *from such travel; and*

21 “(5) *a description of the participation by the Of-*
 22 *fice in trade negotiations.”;*

23 (6) *in subsection (g), by striking “(g) The Office”*
 24 *and inserting the following:*

25 “(g) *STUDIES.*—*The Associate Administrator”; and*

(7) by adding after subsection (h), as added by section 1203 of this subtitle, the following:

“(i) *EXPORT AND TRADE COUNSELING.*—

“(1) *DEFINITION.*—In this subsection—

“(A) the term ‘lead small business development center’ means a small business development center that has received a grant from the Administration; and

“(B) the term ‘lead women’s business center’ means a women’s business center that has received a grant from the Administration.

“(2) *CERTIFICATION PROGRAM.*—The Administrator shall establish an export and trade counseling certification program to certify employees of lead small business development centers and lead women’s business centers in providing export assistance to small business concerns.

“(3) *NUMBER OF CERTIFIED EMPLOYEES.*—The Administrator shall ensure that the number of employees of each lead small business development center who are certified in providing export assistance is not less than the lesser of—

“(A) 5; or

1 “(B) 10 percent of the total number of em-
 2 ployees of the lead small business development
 3 center.

4 “(4) REIMBURSEMENT FOR CERTIFICATION.—

5 “(A) IN GENERAL.—Subject to the avail-
 6 ability of appropriations, the Administrator
 7 shall reimburse a lead small business develop-
 8 ment center or a lead women’s business center
 9 for costs relating to the certification of an em-
 10 ployee of the lead small business center or lead
 11 women’s business center in providing export as-
 12 sistance under the program established under
 13 paragraph (2).

14 “(B) LIMITATION.—The total amount reim-
 15 bursed by the Administrator under subparagraph
 16 (A) may not exceed \$350,000 in any fiscal year.

17 “(j) PERFORMANCE MEASURES.—

18 “(1) IN GENERAL.—The Associate Administrator
 19 shall develop performance measures for the Adminis-
 20 tration to support export growth goals for the activi-
 21 ties of the Office under this section that include—

22 “(A) the number of small business concerns
 23 that—

24 “(i) receive assistance from the Admin-
 25 istration;

1 “(ii) *had not exported goods or services*
2 *before receiving the assistance described in*
3 *clause (i); and*

4 “(iii) *export goods or services;*

5 “(B) *the number of small business concerns*
6 *receiving assistance from the Administration*
7 *that export goods or services to a market outside*
8 *the United States into which the small business*
9 *concern did not export before receiving the assist-*
10 *ance;*

11 “(C) *export revenues by small business con-*
12 *cerns assisted by programs of the Administra-*
13 *tion;*

14 “(D) *the number of small business concerns*
15 *referred to an Export Assistance Center or a*
16 *small business development center by the staff of*
17 *the Office;*

18 “(E) *the number of small business concerns*
19 *referred to the Administration by an Export As-*
20 *sistance Center or a small business development*
21 *center; and*

22 “(F) *the number of small business concerns*
23 *referred to the Department of Commerce, the De-*
24 *partment of Agriculture, the Department of*
25 *State, the Export-Import Bank of the United*

1 *States, the Overseas Private Investment Corpora-*
 2 *tion, or the United States Trade and Develop-*
 3 *ment Agency by the staff of the Office, an Export*
 4 *Assistance Center, or a small business develop-*
 5 *ment center.*

6 “(2) *JOINT PERFORMANCE MEASURES.*—*The As-*
 7 *sociate Administrator shall develop joint performance*
 8 *measures for the district offices of the Administration*
 9 *and the Export Assistance Centers that include the*
 10 *number of export loans made under—*

11 “(A) *section 7(a)(16);*

12 “(B) *the Export Working Capital Program*
 13 *established under section 7(a)(14);*

14 “(C) *the Preferred Lenders Program, as de-*
 15 *finied in section 7(a)(2)(C)(ii); and*

16 “(D) *the export express program established*
 17 *under section 7(a)(34).*

18 “(3) *CONSISTENCY OF TRACKING.*—*The Associate*
 19 *Administrator, in coordination with the departments*
 20 *and agencies that are represented on the Trade Pro-*
 21 *motion Coordinating Committee established under*
 22 *section 2312 of the Export Enhancement Act of 1988*
 23 *(15 U.S.C. 4727) and the small business development*
 24 *center network, shall develop a system to track exports*
 25 *by small business concerns, including information re-*

1 *lating to the performance measures developed under*
 2 *paragraph (1), that is consistent with systems used by*
 3 *the departments and agencies and the network.”.*

4 *(b) REPORT.—Not later than 60 days after the date*
 5 *of enactment of this Act, the Administrator shall submit*
 6 *a report to the Committee on Small Business and Entrepre-*
 7 *neurship of the Senate and the Committee on Small Busi-*
 8 *ness of the House of Representatives on any travel by the*
 9 *staff of the Office of International Trade of the Administra-*
 10 *tion, during the period beginning on October 1, 2004, and*
 11 *ending on the date of enactment of the Act, including the*
 12 *destination of such travel and the benefits to the Adminis-*
 13 *tration and to small business concerns resulting from such*
 14 *travel.*

15 **SEC. 1205. EXPORT ASSISTANCE CENTERS.**

16 *(a) EXPORT ASSISTANCE CENTERS.—Section 22 of the*
 17 *Small Business Act (15 U.S.C. 649), as amended by this*
 18 *subtitle, is amended by adding at the end the following:*

19 *“(k) EXPORT ASSISTANCE CENTERS.—*

20 *“(1) EXPORT FINANCE SPECIALISTS.—*

21 *“(A) MINIMUM NUMBER OF EXPORT FI-*
 22 *NANCE SPECIALISTS.—On and after the date that*
 23 *is 90 days after the date of enactment of this*
 24 *subsection, the Administrator, in coordination*
 25 *with the Secretary of Commerce, shall ensure*

1 *that the number of export finance specialists is*
 2 *not less than the number of such employees so as-*
 3 *signed on January 1, 2003.*

4 “(B) *EXPORT FINANCE SPECIALISTS AS-*
 5 *SIGNED TO EACH REGION OF THE ADMINISTRA-*
 6 *TION.—On and after the date that is 2 years*
 7 *after the date of enactment of this subsection, the*
 8 *Administrator, in coordination with the Sec-*
 9 *retary of Commerce, shall ensure that there are*
 10 *not fewer than 3 export finance specialists in*
 11 *each region of the Administration.*

12 “(2) *PLACEMENT OF EXPORT FINANCE SPECIAL-*
 13 *ISTS.—*

14 “(A) *PRIORITY.—The Administrator shall*
 15 *give priority, to the maximum extent prac-*
 16 *ticable, to placing employees of the Administra-*
 17 *tion at any Export Assistance Center that—*

18 “(i) *had an Administration employee*
 19 *assigned to the Export Assistance Center be-*
 20 *fore January 2003; and*

21 “(ii) *has not had an Administration*
 22 *employee assigned to the Export Assistance*
 23 *Center during the period beginning Janu-*
 24 *ary 2003, and ending on the date of enact-*

1 *ment of this subsection, either through re-*
2 *tirement or reassignment.*

3 “(B) *NEEDS OF EXPORTERS.*—*The Admin-*
4 *istrator shall, to the maximum extent prac-*
5 *ticable, strategically assign Administration em-*
6 *ployees to Export Assistance Centers, based on*
7 *the needs of exporters.*

8 “(C) *RULE OF CONSTRUCTION.*—*Nothing in*
9 *this subsection may be construed to require the*
10 *Administrator to reassign or remove an export*
11 *finance specialist who is assigned to an Export*
12 *Assistance Center on the date of enactment of*
13 *this subsection.*

14 “(3) *GOALS.*—*The Associate Administrator shall*
15 *work with the Department of Commerce, the Export-*
16 *Import Bank of the United States, and the Overseas*
17 *Private Investment Corporation to establish shared*
18 *annual goals for the Export Assistance Centers.*

19 “(4) *OVERSIGHT.*—*The Associate Administrator*
20 *shall designate an individual within the Administra-*
21 *tion to oversee all activities conducted by Administra-*
22 *tion employees assigned to Export Assistance Centers.*

23 “(l) *DEFINITIONS.*—*In this section—*

1 “(1) the term ‘Associate Administrator’ means
2 the Associate Administrator for International Trade
3 described in subsection (a)(2);

4 “(2) the term ‘Export Assistance Center’ means
5 a one-stop shop for United States exporters estab-
6 lished by the United States and Foreign Commercial
7 Service of the Department of Commerce pursuant to
8 section 2301(b)(8) of the Omnibus Trade and Com-
9 petitiveness Act of 1988 (15 U.S.C. 4721(b)(8));

10 “(3) the term ‘export finance specialist’ means a
11 full-time equivalent employee of the Office assigned to
12 an Export Assistance Center to carry out the duties
13 described in subsection (e); and

14 “(4) the term ‘Office’ means the Office of Inter-
15 national Trade established under subsection (a)(1).”.

16 (b) *STUDY AND REPORT ON FILLING GAPS IN HIGH-*
17 *AND-LOW-EXPORT VOLUME AREAS.—*

18 (1) *STUDY AND REPORT.—Not later than 6*
19 *months after the date of enactment of this Act, and*
20 *every 2 years thereafter, the Administrator shall—*

21 (A) *conduct a study of—*

22 (i) *the volume of exports for each State;*

23 (ii) *the availability of export finance*
24 *specialists in each State;*

1 (iii) the number of exporters in each
2 State that are small business concerns;

3 (iv) the percentage of exporters in each
4 State that are small business concerns;

5 (v) the change, if any, in the number
6 of exporters that are small business concerns
7 in each State—

8 (I) for the first study conducted
9 under this subparagraph, during the
10 10-year period ending on the date of
11 enactment of this Act; and

12 (II) for each subsequent study,
13 during the 10-year period ending on
14 the date the study is commenced;

15 (vi) the total value of the exports in
16 each State by small business concerns;

17 (vii) the percentage of the total volume
18 of exports in each State that is attributable
19 to small business concerns; and

20 (viii) the change, if any, in the per-
21 centage of the total volume of exports in
22 each State that is attributable to small busi-
23 ness concerns—

24 (I) for the first study conducted
25 under this subparagraph, during the

1 10-year period ending on the date of
2 enactment of this Act; and

3 (II) for each subsequent study,
4 during the 10-year period ending on
5 the date the study is commenced; and

6 (B) submit to the Committee on Small
7 Business and Entrepreneurship of the Senate
8 and the Committee on Small Business of the
9 House of Representatives a report containing—

10 (i) the results of the study under sub-
11 paragraph (A);

12 (ii) to the extent practicable, a rec-
13 ommendation regarding how to eliminate
14 gaps between the supply of and demand for
15 export finance specialists in the 15 States
16 that have the greatest volume of exports,
17 based upon the most recent data available
18 from the Department of Commerce;

19 (iii) to the extent practicable, a rec-
20 ommendation regarding how to eliminate
21 gaps between the supply of and demand for
22 export finance specialists in the 15 States
23 that have the lowest volume of exports, based
24 upon the most recent data available from
25 the Department of Commerce; and

1 (iv) such additional information as the
2 Administrator determines is appropriate.

3 (2) *DEFINITION.*—In this subsection, the term
4 “export finance specialist” has the meaning given
5 that term in section 22(l) of the Small Business Act,
6 as added by this title.

7 **SEC. 1206. INTERNATIONAL TRADE FINANCE PROGRAMS.**

8 (a) *LOAN LIMITS.*—

9 (1) *TOTAL AMOUNT OUTSTANDING.*—Section
10 7(a)(3)(B) of the Small Business Act (15 U.S.C.
11 636(a)(3)(B)) is amended by striking “\$1,750,000, of
12 which not more than \$1,250,000” and inserting
13 “\$4,500,000 (or if the gross loan amount would exceed
14 \$5,000,000), of which not more than \$4,000,000”.

15 (2) *PARTICIPATION.*—Section 7(a)(2) of the
16 Small Business Act (15 U.S.C. 636(a)(2)) is amend-
17 ed—

18 (A) in subparagraph (A), in the matter pre-
19 ceding clause (i), by striking “subparagraph
20 (B)” and inserting “subparagraphs (B), (D),
21 and (E)”;

22 (B) in subparagraph (D), by striking “Not-
23 withstanding subparagraph (A), in” and insert-
24 ing “In”; and

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

1 “(E) *PARTICIPATION IN INTERNATIONAL*
 2 *TRADE LOAN.*—*In an agreement to participate*
 3 *in a loan on a deferred basis under paragraph*
 4 *(16), the participation by the Administration*
 5 *may not exceed 90 percent.”.*

6 (b) *WORKING CAPITAL.*—*Section 7(a)(16)(A) of the*
 7 *Small Business Act (15 U.S.C. 636(a)(16)(A)) is amend-*
 8 *ed—*

9 (1) *in the matter preceding clause (i), by strik-*
 10 *ing “in—” and inserting “—”;*

11 (2) *in clause (i)—*

12 (A) *by inserting “in” after “(i)”;* *and*

13 (B) *by striking “or” at the end;*

14 (3) *in clause (ii)—*

15 (A) *by inserting “in” after “(ii)”;* *and*

16 (B) *by striking the period at the end and*

17 *inserting “, including any debt that qualifies for*

18 *refinancing under any other provision of this*

19 *subsection; or”;* *and*

20 (4) *by adding at the end the following:*

21 *“(iii) by providing working capital.”.*

22 (c) *COLLATERAL.*—*Section 7(a)(16)(B) of the Small*
 23 *Business Act (15 U.S.C. 636(a)(16)(B)) is amended—*

24 (1) *by striking “Each loan” and inserting the*
 25 *following:*

1 “(i) *IN GENERAL*.—*Except as provided*
 2 *in clause (ii), each loan*”; and
 3 (2) *by adding at the end the following:*

4 “(ii) *EXCEPTION*.—*A loan under this*
 5 *paragraph may be secured by a second lien*
 6 *position on the property or equipment fi-*
 7 *nanced by the loan or on other assets of the*
 8 *small business concern, if the Administrator*
 9 *determines the lien provides adequate assur-*
 10 *ance of the payment of the loan.*”.

11 (d) *EXPORT WORKING CAPITAL PROGRAM*.—*Section*
 12 7(a) *of the Small Business Act (15 U.S.C. 636(a)) is*
 13 *amended—*

14 (1) *in paragraph (2)(D), by striking “not ex-*
 15 *ceed” and inserting “be”; and*

16 (2) *in paragraph (14)—*

17 (A) *by striking “(A) The Administration”*
 18 *and inserting the following: “EXPORT WORKING*
 19 *CAPITAL PROGRAM.—*

20 “(A) *IN GENERAL*.—*The Administrator*”;

21 (B) *by striking “(B) When considering”*
 22 *and inserting the following:*

23 “(C) *CONSIDERATIONS*.—*When consid-*
 24 *ering*”;

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

3 “(D) *MARKETING.—The Administrator*”;
 4 and

5 (D) by inserting after subparagraph (A) the
 6 following:

7 “(B) *TERMS.—*

8 “(i) *LOAN AMOUNT.—The Adminis-*
 9 *trator may not guarantee a loan under this*
 10 *paragraph of more than \$5,000,000.*

11 “(ii) *FEES.—*

12 “(I) *IN GENERAL.—For a loan*
 13 *under this paragraph, the Adminis-*
 14 *trator shall collect the fee assessed*
 15 *under paragraph (23) not more fre-*
 16 *quently than once each year.*

17 “(II) *UNTAPPED CREDIT.—The*
 18 *Administrator may not assess a fee on*
 19 *capital that is not accessed by the*
 20 *small business concern.”.*

21 (e) *PARTICIPATION IN PREFERRED LENDERS PRO-*
 22 *GRAM.—Section 7(a)(2)(C) of the Small Business Act (15*
 23 *U.S.C. 636(a)(2)(C)) is amended—*

24 (1) by redesignating clause (ii) as clause (iii);
 25 and

(2) by inserting after clause (i) the following:

“(ii) *EXPORT-IMPORT BANK LENDERS.—Any lender that is participating in the Delegated Authority Lender Program of the Export-Import Bank of the United States (or any successor to the Program) shall be eligible to participate in the Preferred Lenders Program.*”.

(f) *EXPORT EXPRESS PROGRAM.—Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended by adding at the end the following:*

“(35) *EXPORT EXPRESS PROGRAM.—*

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

“(i) *the term ‘export development activity’ includes—*

“(I) *obtaining a standby letter of credit when required as a bid bond, performance bond, or advance payment guarantee;*

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

“(III) *translation of product brochures or catalogues for use in markets outside the United States;*

1 “(IV) obtaining a general line of
2 credit for export purposes;

3 “(V) performing a service contract
4 from buyers located outside the United
5 States;

6 “(VI) obtaining transaction-spe-
7 cific financing associated with com-
8 pleting export orders;

9 “(VII) purchasing real estate or
10 equipment to be used in the production
11 of goods or services for export;

12 “(VIII) providing term loans or
13 other financing to enable a small busi-
14 ness concern, including an export trad-
15 ing company and an export manage-
16 ment company, to develop a market
17 outside the United States; and

18 “(IX) acquiring, constructing,
19 renovating, modernizing, improving, or
20 expanding a production facility or
21 equipment to be used in the United
22 States in the production of goods or
23 services for export; and

24 “(ii) the term ‘express loan’ means a
25 loan in which a lender uses to the max-

imum extent practicable the loan analyses, procedures, and documentation of the lender to provide expedited processing of the loan application.

“(B) *AUTHORITY.*—The Administrator may guarantee the timely payment of an express loan to a small business concern made for an export development activity.

“(C) *LEVEL OF PARTICIPATION.*—

“(i) *MAXIMUM AMOUNT.*—The maximum amount of an express loan guaranteed under this paragraph shall be \$500,000.

“(ii) *PERCENTAGE.*—For an express loan guaranteed under this paragraph, the Administrator shall guarantee—

“(I) 90 percent of a loan that is not more than \$350,000; and

“(II) 75 percent of a loan that is more than \$350,000 and not more than \$500,000.”.

(g) *ANNUAL LISTING OF EXPORT FINANCE LENDERS.*—Section 7(a)(16) of the Small Business Act (15 U.S.C. 636(a)(16)) is amended by adding at the end the following:

1 “(F) *LIST OF EXPORT FINANCE LENDERS.*—

2 “(i) *PUBLICATION OF LIST RE-*
 3 *QUIRED.*—*The Administrator shall publish*
 4 *an annual list of the banks and partici-*
 5 *pating lending institutions that, during the*
 6 *1-year period ending on the date of publica-*
 7 *tion of the list, have made loans guaranteed*
 8 *by the Administration under—*

9 “(I) *this paragraph;*

10 “(II) *paragraph (14); or*

11 “(III) *paragraph (34).*

12 “(ii) *AVAILABILITY OF LIST.*—*The Ad-*
 13 *ministrator shall—*

14 “(I) *post the list published under*
 15 *clause (i) on the website of the Admin-*
 16 *istration; and*

17 “(II) *make the list published*
 18 *under clause (i) available, upon re-*
 19 *quest, at each district office of the Ad-*
 20 *ministration.”.*

21 (h) *APPLICABILITY.*—*The amendments made by sub-*
 22 *sections (a) through (f) shall apply with respect to any loan*
 23 *made after the date of enactment of this Act.*

1 **SEC. 1207. STATE TRADE AND EXPORT PROMOTION GRANT**
2 **PROGRAM.**

3 (a) *DEFINITIONS.—In this section—*

4 (1) *the term “eligible small business concern”*
5 *means a small business concern that—*

6 (A) *has been in business for not less than*
7 *the 1-year period ending on the date on which*
8 *assistance is provided using a grant under this*
9 *section;*

10 (B) *is operating profitably, based on oper-*
11 *ations in the United States;*

12 (C) *has demonstrated understanding of the*
13 *costs associated with exporting and doing busi-*
14 *ness with foreign purchasers, including the costs*
15 *of freight forwarding, customs brokers, packing*
16 *and shipping, as determined by the Associate*
17 *Administrator; and*

18 (D) *has in effect a strategic plan for export-*
19 *ing;*

20 (2) *the term “program” means the State Trade*
21 *and Export Promotion Grant Program established*
22 *under subsection (b);*

23 (3) *the term “small business concern owned and*
24 *controlled by women” has the meaning given that*
25 *term in section 3 of the Small Business Act (15*
26 *U.S.C. 632);*

1 (4) *the term “socially and economically dis-*
 2 *advantaged small business concern” has the meaning*
 3 *given that term in section 8(a)(4)(A) of the Small*
 4 *Business Act (15 U.S.C. 6537(a)(4)(A)); and*

5 (5) *the term “State” means each of the several*
 6 *States, the District of Columbia, the Commonwealth*
 7 *of Puerto Rico, the Virgin Islands, Guam, and Amer-*
 8 *ican Samoa.*

9 (b) *ESTABLISHMENT OF PROGRAM.—The Associate*
 10 *Administrator shall establish a 3-year trade and export*
 11 *promotion pilot program to be known as the State Trade*
 12 *and Export Promotion Grant Program, to make grants to*
 13 *States to carry out export programs that assist eligible*
 14 *small business concerns in—*

15 (1) *participation in a foreign trade mission;*

16 (2) *a foreign market sales trip;*

17 (3) *a subscription to services provided by the De-*
 18 *partment of Commerce;*

19 (4) *the payment of website translation fees;*

20 (5) *the design of international marketing media;*

21 (6) *a trade show exhibition;*

22 (7) *participation in training workshops; or*

23 (8) *any other export initiative determined ap-*
 24 *propriate by the Associate Administrator.*

25 (c) *GRANTS.—*

1 (1) *JOINT REVIEW.*—*In carrying out the pro-*
2 *gram, the Associate Administrator may make a grant*
3 *to a State to increase the number of eligible small*
4 *business concerns in the State that export or to in-*
5 *crease the value of the exports by eligible small busi-*
6 *ness concerns in the State.*

7 (2) *CONSIDERATIONS.*—*In making grants under*
8 *this section, the Associate Administrator may give*
9 *priority to an application by a State that proposes*
10 *a program that—*

11 (A) *focuses on eligible small business con-*
12 *cerns as part of an export promotion program;*

13 (B) *demonstrates success in promoting ex-*
14 *ports by—*

15 (i) *socially and economically disadvan-*
16 *tagged small business concerns;*

17 (ii) *small business concerns owned or*
18 *controlled by women; and*

19 (iii) *rural small business concerns;*

20 (C) *promotes exports from a State that is*
21 *not 1 of the 10 States with the highest percentage*
22 *of exporters that are small business concerns,*
23 *based upon the latest data available from the De-*
24 *partment of Commerce; and*

1 (D) *promotes new-to-market export opportu-*
2 *nities to the People's Republic of China for eligi-*
3 *ble small business concerns in the United States.*

4 (3) *LIMITATIONS.—*

5 (A) *SINGLE APPLICATION.—A State may*
6 *not submit more than 1 application for a grant*
7 *under the program in any 1 fiscal year.*

8 (B) *PROPORTION OF AMOUNTS.—The total*
9 *value of grants under the program made during*
10 *a fiscal year to the 10 States with the highest*
11 *number of exporters that are small business con-*
12 *cerns, based upon the latest data available from*
13 *the Department of Commerce, shall be not more*
14 *than 40 percent of the amounts appropriated for*
15 *the program for that fiscal year.*

16 (4) *APPLICATION.—A State desiring a grant*
17 *under the program shall submit an application at*
18 *such time, in such manner, and accompanied by such*
19 *information as the Associate Administrator may es-*
20 *tablish.*

21 (d) *COMPETITIVE BASIS.—The Associate Adminis-*
22 *trator shall award grants under the program on a competi-*
23 *tive basis.*

1 (e) *FEDERAL SHARE.*—*The Federal share of the cost*
 2 *of an export program carried out using a grant under the*
 3 *program shall be—*

4 (1) *for a State that has a high export volume, as*
 5 *determined by the Associate Administrator, not more*
 6 *than 65 percent; and*

7 (2) *for a State that does not have a high export*
 8 *volume, as determined by the Associate Adminis-*
 9 *trator, not more than 75 percent.*

10 (f) *NON-FEDERAL SHARE.*—*The non-Federal share of*
 11 *the cost of an export program carried using a grant under*
 12 *the program shall be comprised of not less than 50 percent*
 13 *cash and not more than 50 percent of indirect costs and*
 14 *in-kind contributions, except that no such costs or contribu-*
 15 *tions may be derived from funds from any other Federal*
 16 *program.*

17 (g) *REPORTS.*—

18 (1) *INITIAL REPORT.*—*Not later than 120 days*
 19 *after the date of enactment of this Act, the Associate*
 20 *Administrator shall submit to the Committee on*
 21 *Small Business and Entrepreneurship of the Senate*
 22 *and the Committee on Small Business of the House*
 23 *of Representatives a report, which shall include—*

24 (A) *a description of the structure of and*
 25 *procedures for the program;*

1 (B) a management plan for the program;

2 and

3 (C) a description of the merit-based review
4 process to be used in the program.

5 (2) ANNUAL REPORTS.—The Associate Adminis-
6 trator shall submit an annual report to the Com-
7 mittee on Small Business and Entrepreneurship of
8 the Senate and the Committee on Small Business of
9 the House of Representatives regarding the program,
10 which shall include—

11 (A) the number and amount of grants made
12 under the program during the preceding year;

13 (B) a list of the States receiving a grant
14 under the program during the preceding year,
15 including the activities being performed with
16 grant; and

17 (C) the effect of each grant on exports by el-
18 igible small business concerns in the State receiv-
19 ing the grant.

20 (h) REVIEWS BY INSPECTOR GENERAL.—

21 (1) IN GENERAL.—The Inspector General of the
22 Administration shall conduct a review of—

23 (A) the extent to which recipients of grants
24 under the program are measuring the perform-

1 *ance of the activities being conducted and the re-*
 2 *sults of the measurements; and*

3 *(B) the overall management and effective-*
 4 *ness of the program.*

5 *(2) REPORT.—Not later than September 30,*
 6 *2012, the Inspector General of the Administration*
 7 *shall submit to the Committee on Small Business and*
 8 *Entrepreneurship of the Senate and the Committee on*
 9 *Small Business of the House of Representatives a re-*
 10 *port regarding the review conducted under paragraph*
 11 *(1).*

12 *(i) AUTHORIZATION OF APPROPRIATIONS.—There is*
 13 *authorized to be appropriated to carry out the program*
 14 *\$30,000,000 for each of fiscal years 2011, 2012, and 2013.*

15 *(j) TERMINATION.—The authority to carry out the pro-*
 16 *gram shall terminate 3 years after the date on which the*
 17 *Associate Administrator establishes the program.*

18 **SEC. 1208. RURAL EXPORT PROMOTION.**

19 *Not later than 6 months after the date of enactment*
 20 *of this Act, the Administrator, in consultation with the Sec-*
 21 *retary of Agriculture and the Secretary of Commerce, shall*
 22 *submit to the Committee on Small Business and Entrepre-*
 23 *neurship of the Senate and the Committee on Small Busi-*
 24 *ness of the House of Representatives a report that con-*
 25 *tains—*

1 (1) a description of each program of the Admin-
2 istration that promotes exports by rural small busi-
3 ness concerns, including—

4 (A) the number of rural small business con-
5 cerns served by the program;

6 (B) the change, if any, in the number of
7 rural small business concerns as a result of par-
8 ticipation in the program during the 10-year pe-
9 riod ending on the date of enactment of this Act;

10 (C) the volume of exports by rural small
11 business concerns that participate in the pro-
12 gram; and

13 (D) the change, if any, in the volume of ex-
14 ports by rural small businesses that participate
15 in the program during the 10-year period ending
16 on the date of enactment of this Act;

17 (2) a description of the coordination between
18 programs of the Administration and other Federal
19 programs that promote exports by rural small busi-
20 ness concerns;

21 (3) recommendations, if any, for improving the
22 coordination described in paragraph (2);

23 (4) a description of any plan by the Administra-
24 tion to market the international trade financing pro-
25 grams of the Administration through lenders that—

1 (A) *serve rural small business concerns; and*
 2 (B) *are associated with financing programs*
 3 *of the Department of Agriculture;*

4 (5) *recommendations, if any, for improving co-*
 5 *ordination between the counseling programs and ex-*
 6 *port financing programs of the Administration, in*
 7 *order to increase the volume of exports by rural small*
 8 *business concerns; and*

9 (6) *any additional information the Adminis-*
 10 *trator determines is necessary.*

11 **SEC. 1209. INTERNATIONAL TRADE COOPERATION BY**
 12 **SMALL BUSINESS DEVELOPMENT CENTERS.**

13 *Section 21(a) of the Small Business Act (15 U.S.C.*
 14 *648(a)) is amended—*

15 (1) *by striking “(2) The Small Business Develop-*
 16 *ment Centers” and inserting the following:*

17 “(2) COOPERATION TO PROVIDE INTERNATIONAL
 18 TRADE SERVICES.—

19 “(A) INFORMATION AND SERVICES.—*The*
 20 *small business development centers”; and*

21 (2) *in paragraph (2)—*

22 (A) *in subparagraph (A), as so designated,*
 23 *by inserting “(including State trade agencies),”*
 24 *after “local agencies”; and*

25 (B) *by adding at the end the following:*

1 “(B) COOPERATION WITH STATE TRADE
2 AGENCIES AND EXPORT ASSISTANCE CENTERS.—
3 *A small business development center that coun-*
4 *sels a small business concern on issues relating*
5 *to international trade shall—*

6 “(i) *consult with State trade agencies*
7 *and Export Assistance Centers to provide*
8 *appropriate services to the small business*
9 *concern; and*

10 “(ii) *as necessary, refer the small busi-*
11 *ness concern to a State trade agency or an*
12 *Export Assistance Center for further coun-*
13 *seling or assistance.*

14 “(C) DEFINITION.—*In this paragraph, the*
15 *term ‘Export Assistance Center’ has the same*
16 *meaning as in section 22.’.*

17 ***Subtitle C—Small Business***
18 ***Contracting***

19 ***PART I—CONTRACT BUNDLING***

20 ***SEC. 1311. SMALL BUSINESS ACT.***

21 *Section 3 of the Small Business Act (15 U.S.C. 632),*
22 *as amended by section 1202, is amended by adding at the*
23 *end the following:*

24 “(v) *MULTIPLE AWARD CONTRACT.—In this Act, the*
25 *term ‘multiple award contract’ means—*

1 “(1) a multiple award task order contract or de-
 2 livery order contract that is entered into under the
 3 authority of sections 303H through 303K of the Fed-
 4 eral Property and Administrative Services Act of
 5 1949 (41 U.S.C. 253h through 253k); and

6 “(2) any other indefinite delivery, indefinite
 7 quantity contract that is entered into by the head of
 8 a Federal agency with 2 or more sources pursuant to
 9 the same solicitation.”.

10 **SEC. 1312. LEADERSHIP AND OVERSIGHT.**

11 (a) *IN GENERAL*.—Section 15 of the Small Business
 12 Act (15 U.S.C. 644) is amended by adding at the end the
 13 following:

14 “(q) *BUNDLING ACCOUNTABILITY MEASURES*.—

15 “(1) *TEAMING REQUIREMENTS*.—Each Federal
 16 agency shall include in each solicitation for any mul-
 17 tiple award contract above the substantial bundling
 18 threshold of the Federal agency a provision soliciting
 19 bids from any responsible source, including respon-
 20 sible small business concerns and teams or joint ven-
 21 tures of small business concerns.

22 “(2) *POLICIES ON REDUCTION OF CONTRACT*
 23 *BUNDLING*.—

24 “(A) *IN GENERAL*.—Not later than 1 year
 25 after the date of enactment of this subsection, the

1 *Federal Acquisition Regulatory Council estab-*
2 *lished under section 25(a) of the Office of Federal*
3 *Procurement Policy Act (41 U.S.C. 4219(a))*
4 *shall amend the Federal Acquisition Regulation*
5 *issued under section 25 of such Act to—*

6 “(i) *establish a Government-wide pol-*
7 *icy regarding contract bundling, including*
8 *regarding the solicitation of teaming and*
9 *joint ventures under paragraph (1); and*

10 “(ii) *require that the policy established*
11 *under clause (i) be published on the website*
12 *of each Federal agency.*

13 “(B) *RATIONALE FOR CONTRACT BUN-*
14 *DLING.—Not later than 30 days after the date on*
15 *which the head of a Federal agency submits data*
16 *certifications to the Administrator for Federal*
17 *Procurement Policy, the head of the Federal*
18 *agency shall publish on the website of the Federal*
19 *agency a list and rationale for any bundled con-*
20 *tract for which the Federal agency solicited bids*
21 *or that was awarded by the Federal agency.*

22 “(3) *REPORTING.—Not later than 90 days after*
23 *the date of enactment of this subsection, and every 3*
24 *years thereafter, the Administrator shall submit to the*
25 *Committee on Small Business and Entrepreneurship*

1 *of the Senate and the Committee on Small Business*
 2 *of the House of Representatives a report regarding*
 3 *procurement center representatives and commercial*
 4 *market representatives, which shall—*

5 *“(A) identify each area for which the Ad-*
 6 *ministration has assigned a procurement center*
 7 *representative or a commercial market represent-*
 8 *ative;*

9 *“(B) explain why the Administration se-*
 10 *lected the areas identified under subparagraph*
 11 *(A); and*

12 *“(C) describe the activities performed by*
 13 *procurement center representatives and commer-*
 14 *cial market representatives.”.*

15 ***(b) TECHNICAL CORRECTION.***—*Section 15(g) of the*
 16 *Small Business Act (15 U.S.C. 644(g)) is amended by strik-*
 17 *ing “Administrator of the Office of Federal Procurement*
 18 *Policy” each place it appears and inserting “Administrator*
 19 *for Federal Procurement Policy”.*

20 ***(c) REPORT.***—

21 ***(1) IN GENERAL.***—*Not later than 180 days after*
 22 *the date of enactment of this Act, the Comptroller*
 23 *General of the United States shall submit to Congress*
 24 *a report regarding the procurement center representa-*
 25 *tive program of the Administration.*

1 (2) *CONTENTS.*—*The report submitted under*
 2 *paragraph (1) shall—*

3 (A) *address ways to improve the effective-*
 4 *ness of the procurement center representative*
 5 *program in helping small business concerns ob-*
 6 *tain Federal contracts;*

7 (B) *evaluate the effectiveness of procurement*
 8 *center representatives and commercial marketing*
 9 *representatives; and*

10 (C) *include recommendations, if any, on*
 11 *how to improve the procurement center rep-*
 12 *resentative program.*

13 (d) *ELECTRONIC PROCUREMENT CENTER REPRESENT-*
 14 *ATIVE.*—

15 (1) *IN GENERAL.*—*Not later than 1 year after*
 16 *the date of enactment of this Act, the Administrator*
 17 *shall implement a 3-year pilot electronic procurement*
 18 *center representative program.*

19 (2) *REPORT.*—*Not later than 30 days after the*
 20 *pilot program under paragraph (1) ends, the Comp-*
 21 *troller General of the United States shall submit to*
 22 *the Committee on Small Business and Entrepreneur-*
 23 *ship of the Senate and the Committee on Small Busi-*
 24 *ness of the House of Representatives a report regard-*
 25 *ing the pilot program.*

1 **SEC. 1313. CONSOLIDATION OF CONTRACT REQUIREMENTS.**

2 (a) *IN GENERAL.*—*The Small Business Act (15 U.S.C.*
3 *631 et seq.) is amended—*

4 (1) *by redesignating section 44 as section 45;*
5 *and*

6 (2) *by inserting after section 43 the following:*

7 **“SEC. 44. CONSOLIDATION OF CONTRACT REQUIREMENTS.**

8 “(a) *DEFINITIONS.*—*In this section—*

9 “(1) *the term ‘Chief Acquisition Officer’ means*
10 *the employee of a Federal agency designated as the*
11 *Chief Acquisition Officer for the Federal agency under*
12 *section 16(a) of the Office of Federal Procurement*
13 *Policy Act (41 U.S.C. 414(a));*

14 “(2) *the term ‘consolidation of contract require-*
15 *ments’, with respect to contract requirements of a*
16 *Federal agency, means a use of a solicitation to ob-*
17 *tain offers for a single contract or a multiple award*
18 *contract to satisfy 2 or more requirements of the Fed-*
19 *eral agency for goods or services that have been pro-*
20 *vided to or performed for the Federal agency under 2*
21 *or more separate contracts lower in cost than the total*
22 *cost of the contract for which the offers are solicited;*
23 *and*

24 “(3) *the term ‘senior procurement executive’*
25 *means an official designated under section 16(c) of*
26 *the Office of Federal Procurement Policy Act (41*

1 *U.S.C. 414(c)) as the senior procurement executive for*
2 *a Federal agency.*

3 “(b) *POLICY.—The head of each Federal agency shall*
4 *ensure that the decisions made by the Federal agency re-*
5 *garding consolidation of contract requirements of the Fed-*
6 *eral agency are made with a view to providing small busi-*
7 *ness concerns with appropriate opportunities to participate*
8 *as prime contractors and subcontractors in the procure-*
9 *ments of the Federal agency.*

10 “(c) *LIMITATION ON USE OF ACQUISITION STRATE-*
11 *GIES INVOLVING CONSOLIDATION.—*

12 “(1) *IN GENERAL.—Subject to paragraph (4), the*
13 *head of a Federal agency may not carry out an ac-*
14 *quisition strategy that includes a consolidation of*
15 *contract requirements of the Federal agency with a*
16 *total value of more than \$2,000,000, unless the senior*
17 *procurement executive or Chief Acquisition Officer for*
18 *the Federal agency, before carrying out the acquisi-*
19 *tion strategy—*

20 “(A) *conducts market research;*

21 “(B) *identifies any alternative contracting*
22 *approaches that would involve a lesser degree of*
23 *consolidation of contract requirements;*

1 “(C) makes a written determination that
2 the consolidation of contract requirements is nec-
3 essary and justified;

4 “(D) identifies any negative impact by the
5 acquisition strategy on contracting with small
6 business concerns; and

7 “(E) certifies to the head of the Federal
8 agency that steps will be taken to include small
9 business concerns in the acquisition strategy.

10 “(2) DETERMINATION THAT CONSOLIDATION IS
11 NECESSARY AND JUSTIFIED.—

12 “(A) IN GENERAL.—A senior procurement
13 executive or Chief Acquisition Officer may deter-
14 mine that an acquisition strategy involving a
15 consolidation of contract requirements is nec-
16 essary and justified for the purposes of para-
17 graph (1)(C) if the benefits of the acquisition
18 strategy substantially exceed the benefits of each
19 of the possible alternative contracting approaches
20 identified under paragraph (1)(B).

21 “(B) SAVINGS IN ADMINISTRATIVE OR PER-
22 SONNEL COSTS.—For purposes of subparagraph
23 (A), savings in administrative or personnel costs
24 alone do not constitute a sufficient justification
25 for a consolidation of contract requirements in a

1 *procurement unless the expected total amount of*
 2 *the cost savings, as determined by the senior pro-*
 3 *curement executive or Chief Acquisition Officer,*
 4 *is expected to be substantial in relation to the*
 5 *total cost of the procurement.*

6 “(3) *BENEFITS TO BE CONSIDERED.*—*The bene-*
 7 *fits considered for the purposes of paragraphs (1) and*
 8 *(2) may include cost and, regardless of whether quan-*
 9 *tifiable in dollar amounts—*

10 “(A) *quality;*

11 “(B) *acquisition cycle;*

12 “(C) *terms and conditions; and*

13 “(D) *any other benefit.*

14 “(4) *DEPARTMENT OF DEFENSE.*—

15 “(A) *IN GENERAL.*—*The Department of De-*
 16 *fense and each military department shall comply*
 17 *with this section until after the date described in*
 18 *subparagraph (C).*

19 “(B) *RULE.*—*After the date described in*
 20 *subparagraph (C), contracting by the Depart-*
 21 *ment of Defense or a military department shall*
 22 *be conducted in accordance with section 2382 of*
 23 *title 10, United States Code.*

24 “(C) *DATE.*—*The date described in this sub-*
 25 *paragraph is the date on which the Adminis-*

1 *trator determines the Department of Defense or*
 2 *a military department is in compliance with the*
 3 *Government-wide contracting goals under section*
 4 *15.”.*

5 *(b) TECHNICAL AND CONFORMING AMENDMENT.—Sec-*
 6 *tion 2382(b)(1) of title 10, United States Code, is amended*
 7 *by striking “An official” and inserting “Subject to section*
 8 *44(c)(4), an official”.*

9 **SEC. 1314. SMALL BUSINESS TEAMS PILOT PROGRAM.**

10 *(a) DEFINITIONS.—In this section—*

11 *(1) the term “Pilot Program” means the Small*
 12 *Business Teaming Pilot Program established under*
 13 *subsection (b); and*

14 *(2) the term “eligible organization” means a*
 15 *well-established national organization for small busi-*
 16 *ness concerns with the capacity to provide assistance*
 17 *to small business concerns (which may be provided*
 18 *with the assistance of the Administrator) relating*
 19 *to—*

20 *(A) customer relations and outreach;*

21 *(B) team relations and outreach; and*

22 *(C) performance measurement and quality*
 23 *assurance.*

1 (b) *ESTABLISHMENT.*—*The Administrator shall estab-*
 2 *lish a Small Business Teaming Pilot Program for teaming*
 3 *and joint ventures involving small business concerns.*

4 (c) *GRANTS.*—*Under the Pilot Program, the Adminis-*
 5 *trator may make grants to eligible organizations to provide*
 6 *assistance and guidance to teams of small business concerns*
 7 *seeking to compete for larger procurement contracts.*

8 (d) *CONTRACTING OPPORTUNITIES.*—*The Adminis-*
 9 *trator shall work with eligible organizations receiving a*
 10 *grant under the Pilot Program to recommend appropriate*
 11 *contracting opportunities for teams or joint ventures of*
 12 *small business concerns.*

13 (e) *REPORT.*—*Not later than 1 year before the date*
 14 *on which the authority to carry out the Pilot Program ter-*
 15 *minates under subsection (f), the Administrator shall sub-*
 16 *mit to the Committee on Small Business and Entrepreneur-*
 17 *ship of the Senate and the Committee on Small Business*
 18 *of the House of Representatives a report on the effectiveness*
 19 *of the Pilot Program.*

20 (f) *TERMINATION.*—*The authority to carry out the*
 21 *Pilot Program shall terminate 5 years after the date of en-*
 22 *actment of this Act.*

23 (g) *AUTHORIZATION OF APPROPRIATIONS.*—*There are*
 24 *authorized to be appropriated for grants under subsection*
 25 *(c) \$5,000,000 for each of fiscal years 2010 through 2015.*

1 **PART II—SUBCONTRACTING INTEGRITY**

2 **SEC. 1321. SUBCONTRACTING MISREPRESENTATIONS.**

3 *Not later than 1 year after the date of enactment of*
 4 *this Act, the Administrator, in consultation with the Ad-*
 5 *ministrator for Federal Procurement Policy, shall promul-*
 6 *gate regulations relating to, and the Federal Acquisition*
 7 *Regulatory Council established under section 25(a) of the*
 8 *Office of Federal Procurement Policy Act (41 U.S.C.*
 9 *421(a)) shall amend the Federal Acquisition Regulation*
 10 *issued under section 25 of such Act to establish a policy*
 11 *on, subcontracting compliance relating to small business*
 12 *concerns, including assignment of compliance responsibil-*
 13 *ities between contracting offices, small business offices, and*
 14 *program offices and periodic oversight and review activi-*
 15 *ties.*

16 **SEC. 1322. SMALL BUSINESS SUBCONTRACTING IMPROVE-**
 17 **MENTS.**

18 *Section 8(d)(6) of the Small Business Act (15 U.S.C.*
 19 *637(d)(6)) is amended—*

20 (1) *in subparagraph (E), by striking “and” at*
 21 *the end;*

22 (2) *in subparagraph (F), by striking the period*
 23 *at the end and inserting “; and”; and*

24 (3) *by adding at the end, the following:*

25 “(G) *a representation that the offeror or*
 26 *bidder will—*

1 “(i) make a good faith effort to acquire
 2 articles, equipment, supplies, services, or
 3 materials, or obtain the performance of con-
 4 struction work from the small business con-
 5 cerns used in preparing and submitting to
 6 the contracting agency the bid or proposal,
 7 in the same amount and quality used in
 8 preparing and submitting the bid or pro-
 9 posal; and

10 “(ii) provide to the contracting officer
 11 a written explanation if the offeror or bid-
 12 der fails to acquire articles, equipment, sup-
 13 plies, services, or materials or obtain the
 14 performance of construction work as de-
 15 scribed in clause (i).”.

16 **PART III—ACQUISITION PROCESS**

17 **SEC. 1331. RESERVATION OF PRIME CONTRACT AWARDS** 18 **FOR SMALL BUSINESSES.**

19 Section 15 of the Small Business Act (15 U.S.C. 644),
 20 as amended by this Act, is amended by adding at the end
 21 the following:

22 “(r) **MULTIPLE AWARD CONTRACTS.**—Not later than
 23 1 year after the date of enactment of this subsection, the
 24 Administrator for Federal Procurement Policy and the Ad-
 25 ministrator, in consultation with the Administrator of Gen-

1 *eral Services, shall, by regulation, establish guidance under*
 2 *which Federal agencies may, at their discretion—*

3 “(1) *set aside part or parts of a multiple award*
 4 *contract for small business concerns, including the*
 5 *subcategories of small business concerns identified in*
 6 *subsection (g)(2);*

7 “(2) *notwithstanding the fair opportunity re-*
 8 *quirements under section 2304c(b) of title 10, United*
 9 *States Code, and section 303J(b) of the Federal Prop-*
 10 *erty and Administrative Services Act of 1949 (41*
 11 *U.S.C. 253j(b)), set aside orders placed against mul-*
 12 *tiple award contracts for small business concerns, in-*
 13 *cluding the subcategories of small business concerns*
 14 *identified in subsection (g)(2); and*

15 “(3) *reserve 1 or more contract awards for small*
 16 *business concerns under full and open multiple award*
 17 *procurements, including the subcategories of small*
 18 *business concerns identified in subsection (g)(2).”.*

19 **SEC. 1332. MICRO-PURCHASE GUIDELINES.**

20 *Not later than 1 year after the date of enactment of*
 21 *this Act, the Director of the Office of Management and*
 22 *Budget, in coordination with the Administrator of General*
 23 *Services, shall issue guidelines regarding the analysis of*
 24 *purchase card expenditures to identify opportunities for*
 25 *achieving and accurately measuring fair participation of*

1 *small business concerns in purchases in an amount not in*
 2 *excess of the micro-purchase threshold, as defined in section*
 3 *32 of the Office of Federal Procurement Policy Act (41*
 4 *U.S.C. 428) (in this section referred to as “micro-pur-*
 5 *chases”), consistent with the national policy on small busi-*
 6 *ness participation in Federal procurements set forth in sec-*
 7 *tions 2(a) and 15(g) of the Small Business Act (15 U.S.C.*
 8 *631(a) and 644(g)), and dissemination of best practices for*
 9 *participation of small business concerns in micro-pur-*
 10 *chases.*

11 **SEC. 1333. AGENCY ACCOUNTABILITY.**

12 *Section 15(g)(2) of the Small Business Act (15 U.S.C.*
 13 *644(g)(2)) is amended—*

14 *(1) by inserting “(A)” after “(2)”;*

15 *(2) by striking “Goals established” and inserting*
 16 *the following:*

17 *“(B) Goals established”;*

18 *(3) by striking “Whenever” and inserting the fol-*
 19 *lowing:*

20 *“(C) Whenever”;*

21 *(4) by striking “For the purpose of” and insert-*
 22 *ing the following:*

23 *“(D) For the purpose of”;*

1 (5) by striking “The head of each Federal agen-
 2 cy, in attempting to attain such participation” and
 3 inserting the following:

4 “(E) The head of each Federal agency, in attempting
 5 to attain the participation described in subparagraph (D)”.

6 (6) in subparagraph (E), as so designated—

7 (A) by striking “(A) contracts” and insert-
 8 ing “(i) contracts”; and

9 (B) by striking “(B) contracts” and insert-
 10 ing “(ii) contracts”; and

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

12 “(F)(i) Each procurement employee or program man-
 13 ager described in clause (ii) shall communicate to the subor-
 14 dinates of the procurement employee or program manager
 15 the importance of achieving small business goals.

16 “(ii) A procurement employee or program manager de-
 17 scribed in this clause is a senior procurement executive, sen-
 18 ior program manager, or Director of Small and Disadvan-
 19 taged Business Utilization of a Federal agency having con-
 20 tracting authority.”.

21 **SEC. 1334. PAYMENT OF SUBCONTRACTORS.**

22 Section 8(d) of the Small Business Act (15 U.S.C.
 23 637(d)) is amended by adding at the end the following:

24 “(12) PAYMENT OF SUBCONTRACTORS.—

1 “(A) *DEFINITION.*—In this paragraph, the term
2 ‘covered contract’ means a contract relating to which
3 a prime contractor is required to develop a subcon-
4 tracting plan under paragraph (4) or (5).

5 “(B) *NOTICE.*—

6 “(i) *IN GENERAL.*—A prime contractor for
7 a covered contract shall notify in writing the
8 contracting officer for the covered contract if the
9 prime contractor pays a reduced price to a sub-
10 contractor for goods and services upon comple-
11 tion of the responsibilities of the subcontractor or
12 the payment to a subcontractor is more than 90
13 days past due for goods or services provided for
14 the covered contract for which the Federal agency
15 has paid the prime contractor.

16 “(ii) *CONTENTS.*—A prime contractor shall
17 include the reason for the reduction in a pay-
18 ment to or failure to pay a subcontractor in any
19 notice made under clause (i).

20 “(C) *PERFORMANCE.*—A contracting officer for a
21 covered contract shall consider the unjustified failure
22 by a prime contractor to make a full or timely pay-
23 ment to a subcontractor in evaluating the perform-
24 ance of the prime contractor.

1 “(D) *CONTROL OF FUNDS.*—If the contracting of-
 2 ficer for a covered contract determines that a prime
 3 contractor has a history of unjustified, untimely pay-
 4 ments to contractors, the contracting officer shall
 5 record the identity of the contractor in accordance
 6 with the regulations promulgated under subparagraph
 7 (E).

8 “(E) *REGULATIONS.*—Not later than 1 year after
 9 the date of enactment of this paragraph, the Federal
 10 Acquisition Regulatory Council established under sec-
 11 tion 25(a) of the Office of Federal Procurement Policy
 12 Act (41 U.S.C. 421(a)) shall amend the Federal Ac-
 13 quisition Regulation issued under section 25 of such
 14 Act to—

15 “(i) describe the circumstances under which
 16 a contractor may be determined to have a his-
 17 tory of unjustified, untimely payments to sub-
 18 contractors;

19 “(ii) establish a process for contracting offi-
 20 cers to record the identity of a contractor de-
 21 scribed in clause (i); and

22 “(iii) require the identity of a contractor
 23 described in clause (i) to be incorporated in, and
 24 made publicly available through, the Federal

1 *Awardee Performance and Integrity Information*
 2 *System, or any successor thereto.”.*

3 **SEC. 1335. REPEAL OF SMALL BUSINESS COMPETITIVENESS**
 4 **DEMONSTRATION PROGRAM.**

5 (a) *IN GENERAL.*—*The Business Opportunity Develop-*
 6 *ment Reform Act of 1988 (Public Law 100–656) is amended*
 7 *by striking title VII (15 U.S.C. 644 note).*

8 (b) *EFFECTIVE DATE AND APPLICABILITY.*—*The*
 9 *amendment made by this section—*

10 (1) *shall take effect on the date of enactment of*
 11 *this Act; and*

12 (2) *apply to the first full fiscal year after the*
 13 *date of enactment of this Act.*

14 **PART IV—SMALL BUSINESS SIZE AND STATUS**
 15 **INTEGRITY**

16 **SEC. 1341. POLICY AND PRESUMPTIONS.**

17 *Section 3 of the Small Business Act (15 U.S.C. 632),*
 18 *as amended by section 1311, is amended by adding at the*
 19 *end the following:*

20 “(w) *PRESUMPTION.*—

21 “(1) *IN GENERAL.*—*In every contract, sub-*
 22 *contract, cooperative agreement, cooperative research*
 23 *and development agreement, or grant which is set*
 24 *aside, reserved, or otherwise classified as intended for*
 25 *award to small business concerns, there shall be a pre-*

1 *sumption of loss to the United States based on the*
2 *total amount expended on the contract, subcontract,*
3 *cooperative agreement, cooperative research and devel-*
4 *opment agreement, or grant whenever it is established*
5 *that a business concern other than a small business*
6 *concern willfully sought and received the award by*
7 *misrepresentation.*

8 “(2) *DEEMED CERTIFICATIONS.—The following*
9 *actions shall be deemed affirmative, willful, and in-*
10 *tentional certifications of small business size and sta-*
11 *tus:*

12 “(A) *Submission of a bid or proposal for a*
13 *Federal grant, contract, subcontract, cooperative*
14 *agreement, or cooperative research and develop-*
15 *ment agreement reserved, set aside, or otherwise*
16 *classified as intended for award to small busi-*
17 *ness concerns.*

18 “(B) *Submission of a bid or proposal for a*
19 *Federal grant, contract, subcontract, cooperative*
20 *agreement, or cooperative research and develop-*
21 *ment agreement which in any way encourages a*
22 *Federal agency to classify the bid or proposal, if*
23 *awarded, as an award to a small business con-*
24 *cern.*

1 “(C) *Registration on any Federal electronic*
 2 *database for the purpose of being considered for*
 3 *award of a Federal grant, contract, subcontract,*
 4 *cooperative agreement, or cooperative research*
 5 *agreement, as a small business concern.*

6 “(3) *CERTIFICATION BY SIGNATURE OF RESPON-*
 7 *SIBLE OFFICIAL.—*

8 “(A) *IN GENERAL.—Each solicitation, bid,*
 9 *or application for a Federal contract, sub-*
 10 *contract, or grant shall contain a certification*
 11 *concerning the small business size and status of*
 12 *a business concern seeking the Federal contract,*
 13 *subcontract, or grant.*

14 “(B) *CONTENT OF CERTIFICATIONS.—A cer-*
 15 *tification that a business concern qualifies as a*
 16 *small business concern of the exact size and sta-*
 17 *tus claimed by the business concern for purposes*
 18 *of bidding on a Federal contract or subcontract,*
 19 *or applying for a Federal grant, shall contain*
 20 *the signature of an authorized official on the*
 21 *same page on which the certification is con-*
 22 *tained.*

23 “(4) *REGULATIONS.—The Administrator shall*
 24 *promulgate regulations to provide adequate protec-*
 25 *tions to individuals and business concerns from li-*

1 *ability under this subsection in cases of unintentional*
 2 *errors, technical malfunctions, and other similar situ-*
 3 *ations.”.*

4 **SEC. 1342. ANNUAL CERTIFICATION.**

5 *Section 3 of the Small Business Act (15 U.S.C. 632),*
 6 *as amended by section 1341, is amended by adding at the*
 7 *end the following:*

8 “(x) *ANNUAL CERTIFICATION.*—

9 “(1) *IN GENERAL.*—*Each business certified as a*
 10 *small business concern under this Act shall annually*
 11 *certify its small business size and, if appropriate, its*
 12 *small business status, by means of a confirming entry*
 13 *on the Online Representations and Certifications Ap-*
 14 *plication database of the Administration, or any suc-*
 15 *cessor thereto.*

16 “(2) *REGULATIONS.*—*Not later than 1 year after*
 17 *the date of enactment of this subsection, the Adminis-*
 18 *trator, in consultation with the Inspector General and*
 19 *the Chief Counsel for Advocacy of the Administration,*
 20 *shall promulgate regulations to ensure that—*

21 “(A) *no business concern continues to be*
 22 *certified as a small business concern on the On-*
 23 *line Representations and Certifications Applica-*
 24 *tion database of the Administration, or any suc-*
 25 *cessor thereto, without fulfilling the requirements*

1 *for annual certification under this subsection;*

2 *and*

3 *“(B) the requirements of this subsection are*
 4 *implemented in a manner presenting the least*
 5 *possible regulatory burden on small business con-*
 6 *cerns.”.*

7 **SEC. 1343. TRAINING FOR CONTRACTING AND ENFORCE-**
 8 **MENT PERSONNEL.**

9 *(a) IN GENERAL.—Not later than 1 year after the date*
 10 *of enactment of this Act, the Federal Acquisition Institute,*
 11 *in consultation with the Administrator for Federal Procure-*
 12 *ment Policy, the Defense Acquisition University, and the*
 13 *Administrator, shall develop courses for acquisition per-*
 14 *sonnel concerning proper classification of business concerns*
 15 *and small business size and status for purposes of Federal*
 16 *contracts, subcontracts, grants, cooperative agreements, and*
 17 *cooperative research and development agreements.*

18 *(b) POLICY ON PROSECUTIONS OF SMALL BUSINESS*
 19 *SIZE AND STATUS FRAUD.—Section 3 of the Small Busi-*
 20 *ness Act (15 U.S.C. 632), as amended by section 1342, is*
 21 *amended by adding at the end the following:*

22 *“(y) POLICY ON PROSECUTIONS OF SMALL BUSINESS*
 23 *SIZE AND STATUS FRAUD.—Not later than 1 year after the*
 24 *date of enactment of this subsection, the Administrator, in*
 25 *consultation with the Attorney General, shall issue a Gov-*

1 *ernment-wide policy on prosecution of small business size*
 2 *and status fraud, which shall direct Federal agencies to ap-*
 3 *propriately publicize the policy.”.*

4 **SEC. 1344. UPDATED SIZE STANDARDS.**

5 *(a) ROLLING REVIEW.—*

6 *(1) IN GENERAL.—The Administrator shall—*

7 *(A) during the 18-month period beginning*
 8 *on the date of enactment of this Act, and during*
 9 *every 18-month period thereafter, conduct a de-*
 10 *tailed review of not less than $\frac{1}{3}$ of the size stand-*
 11 *ards for small business concerns established*
 12 *under section 3(a)(2) of the Small Business Act*
 13 *(15 U.S.C. 632(a)(2)), which shall include hold-*
 14 *ing not less than 2 public forums located in dif-*
 15 *ferent geographic regions of the United States;*

16 *(B) after completing each review under sub-*
 17 *paragraph (A) make appropriate adjustments to*
 18 *the size standards established under section*
 19 *3(a)(2) of the Small Business Act to reflect mar-*
 20 *ket conditions;*

21 *(C) make publicly available—*

22 *(i) information regarding the factors*
 23 *evaluated as part of each review conducted*
 24 *under subparagraph (A); and*

1 (ii) information regarding the criteria
 2 used for any revised size standards promul-
 3 gated under subparagraph (B); and

4 (D) not later than 30 days after the date on
 5 which the Administrator completes each review
 6 under subparagraph (A), submit to the Com-
 7 mittee on Small Business and Entrepreneurship
 8 of the Senate and the Committee on Small Busi-
 9 ness of the House of Representatives and make
 10 publicly available a report regarding the review,
 11 including why the Administrator—

12 (i) used the factors and criteria de-
 13 scribed in subparagraph (C); and

14 (ii) adjusted or did not adjust each size
 15 standard that was reviewed under the re-
 16 view.

17 (2) COMPLETE REVIEW OF SIZE STANDARDS.—

18 *The Administrator shall ensure that each size stand-*
 19 *ard for small business concerns established under sec-*
 20 *tion 3(a)(2) of the Small Business Act (15 U.S.C.*
 21 *632(a)(2)) is reviewed under paragraph (1) not less*
 22 *frequently than once every 5 years.*

23 (b) RULES.—*Not later than 1 year after the date of*
 24 *enactment of this Act, the Administrator shall promulgate*

1 *rules for conducting the reviews required under subsection*
 2 *(a).*

3 **SEC. 1345. STUDY AND REPORT ON THE MENTOR-PROTEGE**
 4 **PROGRAM.**

5 *(a) IN GENERAL.—The Comptroller General of the*
 6 *United States shall conduct a study of the mentor-protege*
 7 *program of the Administration for small business concerns*
 8 *participating in programs under section 8(a) of the Small*
 9 *Business Act (15 U.S.C. 637(a)), and other relationships*
 10 *and strategic alliances pairing a larger business and a*
 11 *small business concern partner to gain access to Federal*
 12 *Government contracts, to determine whether the programs*
 13 *and relationships are effectively supporting the goal of in-*
 14 *creasing the participation of small business concerns in*
 15 *Government contracting.*

16 *(b) MATTERS TO BE STUDIED.—The study conducted*
 17 *under this section shall include—*

18 *(1) a review of a broad cross-section of indus-*
 19 *tries; and*

20 *(2) an evaluation of—*

21 *(A) how each Federal agency carrying out*
 22 *a program described in subsection (a) admin-*
 23 *isters and monitors the program;*

24 *(B) whether there are systems in place to*
 25 *ensure that the mentor-protege relationship, or*

1 *similar affiliation, promotes real gain to the*
 2 *protege, and is not just a mechanism to enable*
 3 *participants that would not otherwise qualify*
 4 *under section 8(a) of the Small Business Act (15*
 5 *U.S.C. 637(a)) to receive contracts under that*
 6 *section; and*

7 *(C) the degree to which protege businesses*
 8 *become able to compete for Federal contracts*
 9 *without the assistance of a mentor.*

10 *(c) REPORT TO CONGRESS.—Not later than 180 days*
 11 *after the date of enactment of this Act, the Comptroller Gen-*
 12 *eral shall submit to the Committee on Small Business and*
 13 *Entrepreneurship of the Senate and the Committee on*
 14 *Small Business of the House of Representatives a report on*
 15 *the results of the study conducted under this section.*

16 **SEC. 1346. CONTRACTING GOALS REPORTS.**

17 *Section 15(h)(2) of the Small Business Act (15 U.S.C.*
 18 *644(h)(2)) is amended by striking “submit them” and all*
 19 *that follows through “the following:” and inserting “submit*
 20 *to the President and the Committee on Small Business and*
 21 *Entrepreneurship of the Senate and the Committee on*
 22 *Small Business of the House of Representatives the compila-*
 23 *tion and analysis, which shall include the following:”.*

24 **SEC. 1347. SMALL BUSINESS CONTRACTING PARITY.**

25 *(a) DEFINITIONS.—In this section—*

1 (1) *the terms “Administration” and “Adminis-*
 2 *trator” mean the Small Business Administration and*
 3 *the Administrator thereof, respectively; and*

4 (2) *the terms “HUBZone small business con-*
 5 *cern”, “small business concern”, “small business con-*
 6 *cern owned and controlled by service-disabled vet-*
 7 *erans”, and “small business concern owned and con-*
 8 *trolled by women” have the same meanings as in sec-*
 9 *tion 3 of the Small Business Act (15 U.S.C. 632).*

10 (b) *CONTRACTING IMPROVEMENTS.—*

11 (1) *CONTRACTING OPPORTUNITIES.—Section*
 12 *31(b)(2)(B) of the Small Business Act (15 U.S.C.*
 13 *657a(b)(2)(B)) is amended by striking “shall” and*
 14 *inserting “may”.*

15 (2) *CONTRACTING GOALS.—Section 15(g)(1) of*
 16 *the Small Business Act (15 U.S.C. 644(g)(1)) is*
 17 *amended in the fourth sentence by inserting “and*
 18 *subcontract” after “not less than 3 percent of the total*
 19 *value of all prime contract”.*

20 (3) *MENTOR-PROTEGE PROGRAMS.—The Admin-*
 21 *istrator may establish mentor-protege programs for*
 22 *small business concerns owned and controlled by serv-*
 23 *ice-disabled veterans, small business concerns owned*
 24 *and controlled by women, and HUBZone small busi-*
 25 *ness concerns modeled on the mentor-protege program*

1 *of the Administration for small business concerns*
 2 *participating in programs under section 8(a) of the*
 3 *Small Business Act (15 U.S.C. 637(a)).*

4 (c) *SMALL BUSINESS CONTRACTING PROGRAMS PAR-*
 5 *ITY.—Section 31(b)(2) of the Small Business Act (15 U.S.C.*
 6 *657a(b)(2)) is amended—*

7 (1) *in the matter preceding subparagraph (A),*
 8 *by striking “Notwithstanding any other provision of*
 9 *law—”;*

10 (2) *in subparagraph (A)—*

11 (A) *in the matter preceding clause (i), by*
 12 *striking “a contracting” and inserting “SOLE*
 13 *SOURCE CONTRACTS.—A contracting”; and*

14 (B) *in clause (iii), by striking the semicolon*
 15 *at the end and inserting a period;*

16 (3) *in subparagraph (B)—*

17 (A) *by striking “a contract opportunity*
 18 *shall” and inserting “RESTRICTED COMPETI-*
 19 *TION.—A contract opportunity may”; and*

20 (B) *by striking “; and” and inserting a pe-*
 21 *riod; and*

22 (4) *in subparagraph (C), by striking “not later”*
 23 *and inserting “APPEALS.—Not later”.*

1 ***Subtitle D—Small Business Man-***
 2 ***agement and Counseling Assist-***
 3 ***ance***

4 ***SEC. 1401. MATCHING REQUIREMENTS UNDER SMALL BUSI-***
 5 ***NESS PROGRAMS.***

6 (a) *MICROLOAN PROGRAM.*—Section 7(m) of the Small
 7 Business Act (15 U.S.C. 636(m)) is amended—

8 (1) in paragraph (3)(B)—

9 (A) by striking “As a condition” and in-
 10 sserting the following:

11 “(i) *IN GENERAL.*—Subject to clause
 12 (ii), as a condition”;

13 (B) by striking “the Administration” and
 14 inserting “the Administrator”; and

15 (C) by adding at the end the following:

16 “(ii) *WAIVER OF NON-FEDERAL*
 17 *SHARE.*—

18 “(I) *IN GENERAL.*—Upon request
 19 by an intermediary, and in accordance
 20 with this clause, the Administrator
 21 may waive, in whole or in part, the re-
 22 quirement to obtain non-Federal funds
 23 under clause (i) for a fiscal year. The
 24 Administrator may waive the require-
 25 ment to obtain non-Federal funds

1 *under this clause for successive fiscal*
2 *years.*

3 “(II) *CONSIDERATIONS.—In de-*
4 *termining whether to waive the re-*
5 *quirement to obtain non-Federal funds*
6 *under this clause, the Administrator*
7 *shall consider—*

8 “(aa) *the economic condi-*
9 *tions affecting the intermediary;*

10 “(bb) *the impact a waiver*
11 *under this clause would have on*
12 *the credibility of the microloan*
13 *program under this subsection;*

14 “(cc) *the demonstrated abil-*
15 *ity of the intermediary to raise*
16 *non-Federal funds; and*

17 “(dd) *the performance of the*
18 *intermediary.*

19 “(III) *LIMITATIONS.—*

20 “(aa) *IN GENERAL.—The Ad-*
21 *ministrator may not waive the re-*
22 *quirement to obtain non-Federal*
23 *funds under this clause if grant-*
24 *ing the waiver would undermine*

1 *the credibility of the microloan*
 2 *program under this subsection.*

3 “(bb) *SUNSET.*—*The Admin-*
 4 *istrator may not waive the re-*
 5 *quirement to obtain non-Federal*
 6 *funds under this clause for fiscal*
 7 *year 2013 or any fiscal year*
 8 *thereafter.”; and*

9 (2) *in paragraph (4)(B)—*

10 (A) *by striking “As a condition” and all*
 11 *that follows through “the Administration shall*
 12 *require” and inserting the following:*

13 “(i) *IN GENERAL.*—*Subject to clause*
 14 *(ii), as a condition of a grant made under*
 15 *subparagraph (A), the Administrator shall*
 16 *require”; and*

17 (B) *by adding at the end the following:*

18 “(ii) *WAIVER OF NON-FEDERAL*
 19 *SHARE.—*

20 “(I) *IN GENERAL.*—*Upon request*
 21 *by an intermediary, and in accordance*
 22 *with this clause, the Administrator*
 23 *may waive, in whole or in part, the re-*
 24 *quirement to obtain non-Federal funds*
 25 *under clause (i) for a fiscal year. The*

1 *Administrator may waive the require-*
 2 *ment to obtain non-Federal funds*
 3 *under this clause for successive fiscal*
 4 *years.*

5 “(II) *CONSIDERATIONS.—In de-*
 6 *termining whether to waive the re-*
 7 *quirement to obtain non-Federal funds*
 8 *under this clause, the Administrator*
 9 *shall consider—*

10 *“(aa) the economic condi-*
 11 *tions affecting the intermediary;*

12 *“(bb) the impact a waiver*
 13 *under this clause would have on*
 14 *the credibility of the microloan*
 15 *program under this subsection;*

16 *“(cc) the demonstrated abil-*
 17 *ity of the intermediary to raise*
 18 *non-Federal funds; and*

19 *“(dd) the performance of the*
 20 *intermediary.*

21 “(III) *LIMITATIONS.—*

22 *“(aa) IN GENERAL.—The Ad-*
 23 *ministrator may not waive the re-*
 24 *quirement to obtain non-Federal*
 25 *funds under this clause if grant-*

1 *ing the waiver would undermine*
 2 *the credibility of the microloan*
 3 *program under this subsection.*

4 “(bb) *SUNSET.—The Admin-*
 5 *istrator may not waive the re-*
 6 *quirement to obtain non-Federal*
 7 *funds under this clause for fiscal*
 8 *year 2013 or any fiscal year*
 9 *thereafter.”.*

10 (b) *WOMEN’S BUSINESS CENTER PROGRAM.—Section*
 11 *29(c) of the Small Business Act (15 U.S.C. 656(c)) is*
 12 *amended—*

13 (1) *in paragraph (1), by striking “As a condi-*
 14 *tion” and inserting “Subject to paragraph (5), as a*
 15 *condition”; and*

16 (2) *by adding at the end the following:*

17 “(5) *WAIVER OF NON-FEDERAL SHARE RELATING*
 18 *TO TECHNICAL ASSISTANCE AND COUNSELING.—*

19 “(A) *IN GENERAL.—Upon request by a re-*
 20 *cipient organization, and in accordance with*
 21 *this paragraph, the Administrator may waive,*
 22 *in whole or in part, the requirement to obtain*
 23 *non-Federal funds under this subsection for the*
 24 *technical assistance and counseling activities of*
 25 *the recipient organization carried out using fi-*

1 *nancial assistance under this section for a fiscal*
 2 *year. The Administrator may waive the require-*
 3 *ment to obtain non-Federal funds under this*
 4 *paragraph for successive fiscal years.*

5 “(B) *CONSIDERATIONS.—In determining*
 6 *whether to waive the requirement to obtain non-*
 7 *Federal funds under this paragraph, the Admin-*
 8 *istrator shall consider—*

9 “(i) *the economic conditions affecting*
 10 *the recipient organization;*

11 “(ii) *the impact a waiver under this*
 12 *clause would have on the credibility of the*
 13 *women’s business center program under this*
 14 *section;*

15 “(iii) *the demonstrated ability of the*
 16 *recipient organization to raise non-Federal*
 17 *funds; and*

18 “(iv) *the performance of the recipient*
 19 *organization.*

20 “(C) *LIMITATIONS.—*

21 “(i) *IN GENERAL.—The Administrator*
 22 *may not waive the requirement to obtain*
 23 *non-Federal funds under this paragraph if*
 24 *granting the waiver would undermine the*

1 *credibility of the women’s business center*
 2 *program under this section.*

3 “(ii) *SUNSET.—The Administrator*
 4 *may not waive the requirement to obtain*
 5 *non-Federal funds under this paragraph for*
 6 *fiscal year 2013 or any fiscal year there-*
 7 *after.”.*

8 (c) *PROSPECTIVE REPEALS.—Effective October 1,*
 9 *2012, the Small Business Act (15 U.S.C. 631 et seq.) is*
 10 *amended—*

11 (1) *in section 7(m) (15 U.S.C. 636(m))—*

12 (A) *in paragraph (3)(B)—*

13 (i) *by striking “INTERMEDIARY CON-*
 14 *TRIBUTION.—” and all that follows through*
 15 *“Subject to clause (ii), as” and inserting*
 16 *“INTERMEDIARY CONTRIBUTION.—As”; and*

17 (ii) *by striking clause (ii); and*

18 (B) *in paragraph (4)(B)—*

19 (i) *by striking “CONTRIBUTION.—”*
 20 *and all that follows through “Subject to*
 21 *clause (ii), as” and inserting “CONTRIBU-*
 22 *TION.—As”; and*

23 (ii) *by striking clause (ii); and*

24 (2) *in section 29(c) (15 U.S.C. 656(c))—*

1 (A) in paragraph (1), by striking “Subject
2 to paragraph (5), as” and inserting “As”; and
3 (B) by striking paragraph (5).

4 **SEC. 1402. GRANTS FOR SBDCS.**

5 (a) *IN GENERAL.*—The Administrator may make
6 grants to small business development centers under section
7 21 of the Small Business Act (15 U.S.C. 648) to provide
8 targeted technical assistance to small business concerns
9 seeking access to capital or credit, Federal procurement op-
10 portunities, energy efficiency audits to reduce energy bills,
11 opportunities to export products or provide services to for-
12 eign customers, adopting, making innovations in, and
13 using broadband technologies, or other assistance.

14 (b) *ALLOCATION.*—

15 (1) *IN GENERAL.*—Subject to paragraph (2), and
16 notwithstanding the requirements of section
17 21(a)(4)(C)(iii) of the Small Business Act (15 U.S.C.
18 648(a)(4)(C)(iii)), the amount appropriated to carry
19 out this section shall be allocated under the formula
20 under section 21(a)(4)(C)(i) of that Act.

21 (2) *MINIMUM FUNDING.*—The amount made
22 available under this section to each State shall be not
23 less than \$325,000.

1 (3) *TYPES OF USES.*—*Of the total amount of the*
2 *grants awarded by the Administrator under this sec-*
3 *tion—*

4 (A) *not less than 80 percent shall be used*
5 *for counseling of small business concerns; and*

6 (B) *not more than 20 percent may be used*
7 *for classes or seminars.*

8 (c) *NO NON-FEDERAL SHARE REQUIRED.*—*Notwith-*
9 *standing section 21(a)(4)(A) of the Small Business Act (15*
10 *U.S.C. 648(a)(4)(A)), the recipient of a grant made under*
11 *this section shall not be required to provide non-Federal*
12 *matching funds.*

13 (d) *DISTRIBUTION.*—*Not later than 30 days after the*
14 *date on which amounts are appropriated to carry out this*
15 *section, the Administrator shall disburse the total amount*
16 *appropriated.*

17 (e) *AUTHORIZATION OF APPROPRIATIONS.*—*There is*
18 *authorized to be appropriated to the Administrator*
19 *\$50,000,000 to carry out this section.*

***Subtitle E—Disaster Loan
Improvement***

***SEC. 1501. AQUACULTURE BUSINESS DISASTER ASSIST-
ANCE.***

*Section 3 of the Small Business Act (15 U.S.C. 632),
as amended by section 1343, is amended by adding at the
end the following:*

*“(z) AQUACULTURE BUSINESS DISASTER ASSIST-
ANCE.—Subject to section 18(a) and notwithstanding sec-
tion 18(b)(1), the Administrator may provide disaster as-
sistance under section 7(b)(2) to aquaculture enterprises
that are small businesses.”.*

***Subtitle F—Small Business
Regulatory Relief***

***SEC. 1601. REQUIREMENTS PROVIDING FOR MORE DE-
TAILED ANALYSES.***

*Section 604(a) of title 5, United States Code, is
amended—*

(1) in paragraph (1), by striking “succinct”;

*(2) in paragraph (2), by striking “summary”
each place it appears and inserting “statement”;*

*(3) by redesignating paragraphs (3), (4), and (5)
as paragraphs (4), (5), and (6), respectively; and*

*(4) by inserting after paragraph (2) the fol-
lowing:*

1 “(3) the response of the agency to any comments
 2 filed by the Chief Counsel for Advocacy of the Small
 3 Business Administration in response to the proposed
 4 rule, and a detailed statement of any change made to
 5 the proposed rule in the final rule as a result of the
 6 comments;”.

7 **SEC. 1602. OFFICE OF ADVOCACY.**

8 (a) *IN GENERAL.*—Section 203 of Public Law 94–305
 9 (15 U.S.C. 634c) is amended—

10 (1) in paragraph (4), by striking “and” at the
 11 end;

12 (2) in paragraph (5), by striking the period and
 13 inserting “; and”; and

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

15 “(6) carry out the responsibilities of the Office of
 16 Advocacy under chapter 6 of title 5, United States
 17 Code.”.

18 (b) *BUDGETARY LINE ITEM AND AUTHORIZATION OF*
 19 *APPROPRIATIONS.*—Title II of Public Law 94–305 (15
 20 U.S.C. 634a et seq.) is amended by striking section 207 and
 21 inserting the following:

22 **“SEC. 207. BUDGETARY LINE ITEM AND AUTHORIZATION OF**
 23 **APPROPRIATIONS.**

24 “(a) *APPROPRIATION REQUESTS.*—Each budget of the
 25 United States Government submitted by the President

1 *under section 1105 of title 31, United States Code, shall*
 2 *include a separate statement of the amount of appropria-*
 3 *tions requested for the Office of Advocacy of the Small Busi-*
 4 *ness Administration, which shall be designated in a sepa-*
 5 *rate account in the General Fund of the Treasury.*

6 “(b) *ADMINISTRATIVE OPERATIONS.—The Adminis-*
 7 *trator of the Small Business Administration shall provide*
 8 *the Office of Advocacy with appropriate and adequate office*
 9 *space at central and field office locations, together with such*
 10 *equipment, operating budget, and communications facilities*
 11 *and services as may be necessary, and shall provide nec-*
 12 *essary maintenance services for such offices and the equip-*
 13 *ment and facilities located in such offices.*

14 “(c) *AUTHORIZATION OF APPROPRIATIONS.—There are*
 15 *authorized to be appropriated such sums as are necessary*
 16 *to carry out this title. Any amount appropriated under this*
 17 *subsection shall remain available, without fiscal year limi-*
 18 *tation, until expended.”.*

19 ***Subtitle G—Appropriations*** 20 ***Provisions***

21 ***SEC. 1701. SALARIES AND EXPENSES.***

22 (a) *APPROPRIATION.—There is appropriated, out of*
 23 *any money in the Treasury not otherwise appropriated, for*
 24 *the fiscal year ending September 30, 2010, \$150,000,000,*
 25 *to remain available until September 30, 2012, for an addi-*

1 *tional amount for the appropriations account appropriated*
 2 *under the heading “SALARIES AND EXPENSES” under the*
 3 *heading “SMALL BUSINESS ADMINISTRATION”, of which—*

4 (1) *\$50,000,000 is for grants to small business*
 5 *development centers authorized under section 1402;*

6 (2) *\$1,000,000 is for the costs of administering*
 7 *grants authorized under section 1402;*

8 (3) *\$30,000,000 is for grants to States for fiscal*
 9 *year 2011 to carry out export programs that assist*
 10 *small business concerns authorized under section*
 11 *1207;*

12 (4) *\$30,000,000 is for grants to States for fiscal*
 13 *year 2012 to carry out export programs that assist*
 14 *small business concerns authorized under section*
 15 *1207;*

16 (5) *\$2,500,000 is for the costs of administering*
 17 *grants authorized under section 1207;*

18 (6) *\$5,000,000 is for grants for fiscal year 2011*
 19 *under the Small Business Teaming Pilot Program*
 20 *under section 1314; and*

21 (7) *\$5,000,000 is for grants for fiscal year 2012*
 22 *under the Small Business Teaming Pilot Program*
 23 *under section 1314.*

24 (b) *REPORT.—Not later than 60 days after the date*
 25 *of enactment of this Act, the Administrator shall submit*

1 *to the Committee on Appropriations of the Senate and the*
 2 *Committee on Appropriations of the House of Representa-*
 3 *tives a detailed expenditure plan for using the funds pro-*
 4 *vided under subsection (a).*

5 **SEC. 1702. BUSINESS LOANS PROGRAM ACCOUNT.**

6 (a) *IN GENERAL.*—*There is appropriated, out of any*
 7 *money in the Treasury not otherwise appropriated, for the*
 8 *fiscal year ending September 30, 2010, for an additional*
 9 *amount for the appropriations account appropriated under*
 10 *the heading “BUSINESS LOANS PROGRAM ACCOUNT” under*
 11 *the heading “SMALL BUSINESS ADMINISTRATION”—*

12 (1) *\$8,000,000, to remain available until Sep-*
 13 *tember 30, 2012, for fiscal year 2011 for the cost of*
 14 *direct loans authorized under section 7(l) of the Small*
 15 *Business Act, as added by section 1131 of this title,*
 16 *including the cost of modifying the loans;*

17 (2) *\$8,000,000, to remain available until Sep-*
 18 *tember 30, 2012, for fiscal year 2012 for the cost of*
 19 *direct loans authorized under section 7(l) of the Small*
 20 *Business Act, as added by section 1131 of this title,*
 21 *including the cost of modifying the loans;*

22 (3) *\$6,500,000, to remain available until Sep-*
 23 *tember 30, 2012, for administrative expenses to carry*
 24 *out the direct loan program authorized under section*
 25 *7(l) of the Small Business Act, as added by section*

1 *1131 of this title, which may be transferred to and*
 2 *merged with the appropriations account appropriated*
 3 *under the heading “SALARIES AND EXPENSES” under*
 4 *the heading “SMALL BUSINESS ADMINISTRATION”;*
 5 *and*

6 *(4) \$15,000,000, to remain available until Sep-*
 7 *tember 30, 2011, for the cost of guaranteed loans as*
 8 *authorized under section 7(a) of the Small Business*
 9 *Act, including the cost of modifying the loans.*

10 *(b) DEFINITION.—In this section, the term “cost” has*
 11 *the meaning given that term in section 502 of the Congres-*
 12 *sional Budget Act of 1974.*

13 **SEC. 1703. COMMUNITY DEVELOPMENT FINANCIAL INSTI-**
 14 **TUTIONS FUND PROGRAM ACCOUNT.**

15 *There is appropriated, out of any money in the Treas-*
 16 *ury not otherwise appropriated, for the fiscal year ending*
 17 *September 30, 2010, for an additional amount for the ap-*
 18 *propriations account appropriated under the heading*
 19 *“COMMUNITY DEVELOPMENT FINANCIAL INSTITUTIONS*
 20 *FUND PROGRAM ACCOUNT” under the heading “DEPART-*
 21 *MENT OF THE TREASURY”, \$13,500,000, to remain*
 22 *available until September 30, 2012, for the costs of admin-*
 23 *istering guarantees for bonds and notes as authorized under*
 24 *section 114A of the Riegle Community Development and*

1 *Regulatory Improvement Act of 1994, as added by section*
 2 *1134 of this Act.*

3 **SEC. 1704. SMALL BUSINESS LOAN GUARANTEE ENHANCE-**
 4 **MENT EXTENSIONS.**

5 (a) *EXTENSION OF PROGRAMS.*—

6 (1) *IN GENERAL.*—*There is appropriated, out of*
 7 *any funds in the Treasury not otherwise appro-*
 8 *priated, for an additional amount for “Small Busi-*
 9 *ness Administration—Business Loans Program Ac-*
 10 *count”, \$505,000,000, to remain available through*
 11 *December 31, 2010, for the cost of—*

12 (A) *fee reductions and eliminations under*
 13 *section 501 of division A of the American Recov-*
 14 *ery and Reinvestment Act of 2009 (Public Law*
 15 *111–5; 123 Stat. 151), as amended by this Act;*
 16 *and*

17 (B) *loan guarantees under section 502 of di-*
 18 *vision A of the American Recovery and Reinvest-*
 19 *ment Act of 2009 (Public Law 111–5; 123 Stat.*
 20 *152), as amended by this Act.*

21 (2) *COST.*—*For purposes of this subsection, the*
 22 *term “cost” has the same meaning as in section 502*
 23 *of the Congressional Budget Act of 1974 (2 U.S.C.*
 24 *661a).*

1 (b) *ADMINISTRATIVE EXPENSES.*—*There is appro-*
 2 *priated for an additional amount, out of any funds in the*
 3 *Treasury not otherwise appropriated, for administrative ex-*
 4 *penses to carry out sections 501 and 502 of division A of*
 5 *the American Recovery and Reinvestment Act of 2009 (Pub-*
 6 *lic Law 111–5), \$5,000,000, to remain available until ex-*
 7 *pended, which may be transferred and merged with the ap-*
 8 *propriation for “Small Business Administration—Salaries*
 9 *and Expenses”.*

10 ***TITLE II—TAX PROVISIONS***

11 ***SEC. 2001. SHORT TITLE.***

12 *This title may be cited as the “Creating Small Busi-*
 13 *ness Jobs Act of 2010”.*

14 ***Subtitle A—Small Business Relief***

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

16 ***SEC. 2011. TEMPORARY EXCLUSION OF 100 PERCENT OF*** 17 ***GAIN ON CERTAIN SMALL BUSINESS STOCK.***

18 (a) *IN GENERAL.*—*Subsection (a) of section 1202 of*
 19 *the Internal Revenue Code of 1986 is amended by adding*
 20 *at the end the following new paragraph:*

21 “(4) *100 PERCENT EXCLUSION FOR STOCK AC-*
 22 *QUIRED DURING CERTAIN PERIODS IN 2010.*—*In the*
 23 *case of qualified small business stock acquired after*
 24 *the date of the enactment of the Creating Small Busi-*
 25 *ness Jobs Act of 2010 and before January 1, 2011—*

1 “(A) paragraph (1) shall be applied by sub-
2 stituting ‘100 percent’ for ‘50 percent’,

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

4 “(C) paragraph (7) of section 57(a) shall
5 not apply.”.

6 (b) *CONFORMING AMENDMENT.*—Paragraph (3) of sec-
7 tion 1202(a) of the Internal Revenue Code of 1986 is
8 amended—

9 (1) by inserting “CERTAIN PERIODS IN” before
10 “2010” in the heading, and

11 (2) by striking “before January 1, 2011” and in-
12 serting “on or before the date of the enactment of the
13 Creating Small Business Jobs Act of 2010”.

14 (c) *EFFECTIVE DATE.*—The amendments made by this
15 section shall apply to stock acquired after the date of the
16 enactment of this Act.

17 **SEC. 2012. GENERAL BUSINESS CREDITS OF ELIGIBLE**
18 **SMALL BUSINESSES FOR 2010 CARRIED BACK**
19 **5 YEARS.**

20 (a) *IN GENERAL.*—Section 39(a) of the Internal Rev-
21 enue Code of 1986 is amended by adding at the end the
22 following new paragraph:

23 “(4) *5-YEAR CARRYBACK FOR ELIGIBLE SMALL*
24 *BUSINESS CREDITS.*—

“(A) *IN GENERAL.*—Notwithstanding subsection (d), in the case of eligible small business credits determined in the first taxable year of the taxpayer beginning in 2010—

“(i) paragraph (1) shall be applied by substituting ‘each of the 5 taxable years’ for ‘the taxable year’ in subparagraph (A) thereof, and

“(ii) paragraph (2) shall be applied—

“(I) by substituting ‘25 taxable years’ for ‘21 taxable years’ in subparagraph (A) thereof, and

“(II) by substituting ‘24 taxable years’ for ‘20 taxable years’ in subparagraph (B) thereof.

“(B) *ELIGIBLE SMALL BUSINESS CREDITS.*—For purposes of this subsection, the term ‘eligible small business credits’ has the meaning given such term by section 38(c)(5)(B).”.

(b) *CONFORMING AMENDMENT.*—Section 39(a)(3)(A) of the Internal Revenue Code of 1986 is amended by inserting “or the eligible small business credits” after “credit”).

(c) *EFFECTIVE DATE.*—The amendments made by this section shall apply to credits determined in taxable years beginning after December 31, 2009.

1 **SEC. 2013. GENERAL BUSINESS CREDITS OF ELIGIBLE**
 2 **SMALL BUSINESSES IN 2010 NOT SUBJECT TO**
 3 **ALTERNATIVE MINIMUM TAX.**

4 (a) *IN GENERAL.*—Section 38(c) of the Internal Rev-
 5 enue Code of 1986 is amended by redesignating paragraph
 6 (5) as paragraph (6) and by inserting after paragraph (4)
 7 the following new paragraph:

8 “(5) *SPECIAL RULES FOR ELIGIBLE SMALL BUSI-*
 9 *NESS CREDITS IN 2010.*—

10 “(A) *IN GENERAL.*—In the case of eligible
 11 small business credits determined in taxable
 12 years beginning in 2010—

13 “(i) *this section and section 39 shall be*
 14 *applied separately with respect to such*
 15 *credits, and*

16 “(ii) *in applying paragraph (1) to*
 17 *such credits—*

18 “(I) *the tentative minimum tax*
 19 *shall be treated as being zero, and*

20 “(II) *the limitation under para-*
 21 *graph (1) (as modified by subclause*
 22 *(I)) shall be reduced by the credit al-*
 23 *lowed under subsection (a) for the tax-*
 24 *able year (other than the eligible small*
 25 *business credits).*

“(B) *ELIGIBLE SMALL BUSINESS CREDITS.*—For purposes of this subsection, the term ‘eligible small business credits’ means the sum of the credits listed in subsection (b) which are determined for the taxable year with respect to an eligible small business. Such credits shall not be taken into account under paragraph (2), (3), or (4).

“(C) *ELIGIBLE SMALL BUSINESS.*—For purposes of this subsection, the term ‘eligible small business’ means, with respect to any taxable year—

“(i) a corporation the stock of which is not publicly traded,

“(ii) a partnership, or

“(iii) a sole proprietorship, if the average annual gross receipts of such corporation, partnership, or sole proprietorship for the 3-taxable-year period preceding such taxable year does not exceed \$50,000,000. For purposes of applying the test under the preceding sentence, rules similar to the rules of paragraphs (2) and (3) of section 448(c) shall apply.

“(D) *TREATMENT OF PARTNERS AND S CORPORATION SHAREHOLDERS.*—Credits determined

1 *with respect to a partnership or S corporation*
 2 *shall not be treated as eligible small business*
 3 *credits by any partner or shareholder unless such*
 4 *partner or shareholder meets the gross receipts*
 5 *test under subparagraph (C) for the taxable year*
 6 *in which such credits are treated as current year*
 7 *business credits.”.*

8 (b) *TECHNICAL AMENDMENT.*—Section 55(e)(5) of the
 9 *Internal Revenue Code of 1986 is amended by striking*
 10 *“38(c)(3)(B)” and inserting “38(c)(6)(B)”.*

11 (c) *CONFORMING AMENDMENTS.*—

12 (1) *Subclause (II) of section 38(c)(2)(A)(ii) of*
 13 *the Internal Revenue Code of 1986 is amended by in-*
 14 *serting “the eligible small business credits,” after “the*
 15 *New York Liberty Zone business employee credit,”.*

16 (2) *Subclause (II) of section 38(c)(3)(A)(ii) of*
 17 *such Code is amended by inserting “, the eligible*
 18 *small business credits,” after “the New York Liberty*
 19 *Zone business employee credit”.*

20 (3) *Subclause (II) of section 38(c)(4)(A)(ii) of*
 21 *such Code is amended by inserting “the eligible small*
 22 *business credits and” before “the specified credits”.*

23 (d) *EFFECTIVE DATE.*—The amendments made by
 24 *subsection (a) shall apply to credits determined in taxable*

1 *years beginning after December 31, 2009, and to carrybacks*
 2 *of such credits.*

3 **SEC. 2014. TEMPORARY REDUCTION IN RECOGNITION PE-**
 4 **RIOD FOR BUILT-IN GAINS TAX.**

5 (a) *IN GENERAL.*—Subparagraph (B) of section
 6 1374(d)(7) of the Internal Revenue Code of 1986 is amended
 7 to read as follows:

8 “(B) *SPECIAL RULES FOR 2009, 2010, AND*
 9 *2011.*—No tax shall be imposed on the net recog-
 10 nized built-in gain of an S corporation—

11 “(i) *in the case of any taxable year be-*
 12 *ginning in 2009 or 2010, if the 7th taxable*
 13 *year in the recognition period preceded such*
 14 *taxable year, or*

15 “(ii) *in the case of any taxable year*
 16 *beginning in 2011, if the 5th year in the*
 17 *recognition period preceded such taxable*
 18 *year.*

19 *The preceding sentence shall be applied sepa-*
 20 *rately with respect to any asset to which para-*
 21 *graph (8) applies.”.*

22 (b) *EFFECTIVE DATE.*—The amendment made by this
 23 section shall apply to taxable years beginning after Decem-
 24 ber 31, 2010.

PART II—ENCOURAGING INVESTMENT

**SEC. 2021. INCREASED EXPENSING LIMITATIONS FOR 2010
AND 2011; CERTAIN REAL PROPERTY TREAT-
ED AS SECTION 179 PROPERTY.**

(a) *INCREASED LIMITATIONS.*—Subsection (b) of section 179 of the Internal Revenue Code of 1986 is amended—

(1) by striking “shall not exceed” and all that follows in paragraph (1) and inserting “shall not exceed—

“(A) \$250,000 in the case of taxable years beginning after 2007 and before 2010,

“(B) \$500,000 in the case of taxable years beginning in 2010 or 2011, and

“(C) \$25,000 in the case of taxable years beginning after 2011.”, and

(2) by striking “exceeds” and all that follows in paragraph (2) and inserting “exceeds—

“(A) \$800,000 in the case of taxable years beginning after 2007 and before 2010,

“(B) \$2,000,000 in the case of taxable years beginning in 2010 or 2011, and

“(C) \$200,000 in the case of taxable years beginning after 2011.”.

(b) *INCLUSION OF CERTAIN REAL PROPERTY.*—Section 179 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

1 “(f) *SPECIAL RULES FOR QUALIFIED REAL PROP-*
2 *ERTY.*—

3 “(1) *IN GENERAL.*—If a taxpayer elects the ap-
4 *plication of this subsection for any taxable year be-*
5 *ginning in 2010 or 2011, the term ‘section 179 prop-*
6 *erty’ shall include any qualified real property which*
7 *is—*

8 “(A) *of a character subject to an allowance*
9 *for depreciation,*

10 “(B) *acquired by purchase for use in the ac-*
11 *tive conduct of a trade or business, and*

12 “(C) *not described in the last sentence of*
13 *subsection (d)(1).*

14 “(2) *QUALIFIED REAL PROPERTY.*—For purposes
15 *of this subsection, the term ‘qualified real property’*
16 *means—*

17 “(A) *qualified leasehold improvement prop-*
18 *erty described in section 168(e)(6),*

19 “(B) *qualified restaurant property described*
20 *in section 168(e)(7) (without regard to the dates*
21 *specified in subparagraph (A)(i) thereof), and*

22 “(C) *qualified retail improvement property*
23 *described in section 168(e)(8) (without regard to*
24 *subparagraph (E) thereof).*

1 “(3) *LIMITATION.*—For purposes of applying the
 2 *limitation under subsection (b)(1)(B), not more than*
 3 *\$250,000 of the aggregate cost which is taken into ac-*
 4 *count under subsection (a) for any taxable year may*
 5 *be attributable to qualified real property.*

6 “(4) *CARRYOVER LIMITATION.*—

7 “(A) *IN GENERAL.*—Notwithstanding sub-
 8 *section (b)(3)(B), no amount attributable to*
 9 *qualified real property may be carried over to a*
 10 *taxable year beginning after 2011.*

11 “(B) *TREATMENT OF DISALLOWED*
 12 *AMOUNTS.*—Except as provided in subparagraph
 13 *(C), to the extent that any amount is not allowed*
 14 *to be carried over to a taxable year beginning*
 15 *after 2011 by reason of subparagraph (A), this*
 16 *title shall be applied as if no election under this*
 17 *section had been made with respect to such*
 18 *amount.*

19 “(C) *AMOUNTS CARRIED OVER FROM 2010.*—
 20 *If subparagraph (B) applies to any amount (or*
 21 *portion of an amount) which is carried over*
 22 *from a taxable year other than the taxpayer’s*
 23 *last taxable year beginning in 2011, such*
 24 *amount (or portion of an amount) shall be treat-*
 25 *ed for purposes of this title as attributable to*

property placed in service on the first day of the taxpayer's last taxable year beginning in 2011.

“(D) *ALLOCATION OF AMOUNTS.*—For purposes of applying this paragraph and subsection (b)(3)(B) to any taxable year, the amount which is disallowed under subsection (b)(3)(A) for such taxable year which is attributed to qualified real property shall be the amount which bears the same ratio to the total amount so disallowed as—

“(i) the aggregate amount attributable to qualified real property placed in service during such taxable year, increased by the portion of any amount carried over to such taxable year from a prior taxable year which is attributable to such property, bears to

“(ii) the total amount of section 179 property placed in service during such taxable year, increased by the aggregate amount carried over to such taxable year from any prior taxable year.

For purposes of the preceding sentence, only section 179 property with respect to which an election was made under subsection (c)(1) (deter-

1 mined without regard to subparagraph (B) of
2 this paragraph) shall be taken into account.”.

3 (c) *REVOCABILITY OF ELECTION*.—Paragraph (2) of
4 section 179(c) of the Internal Revenue Code of 1986 is
5 amended by striking “2011” and inserting “2012”.

6 (d) *COMPUTER SOFTWARE TREATED AS 179 PROP-*
7 *ERTY*.—Clause (ii) of section 179(d)(1)(A) is amended by
8 striking “2011” and inserting “2012”.

9 (e) *EFFECTIVE DATES*.—

10 (1) *IN GENERAL*.—Except as provided in para-
11 graph (2), the amendments made by this section shall
12 apply to property placed in service after December
13 31, 2009, in taxable years beginning after such date.

14 (2) *EXTENSIONS*.—The amendments made by
15 subsections (c) and (d) shall apply to taxable years
16 beginning after December 31, 2010.

17 **SEC. 2022. ADDITIONAL FIRST-YEAR DEPRECIATION FOR 50**
18 **PERCENT OF THE BASIS OF CERTAIN QUALI-**
19 **FIED PROPERTY.**

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

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

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

1 (b) *CONFORMING AMENDMENTS.*—

2 (1) *The heading for subsection (k) of section 168*
 3 *of the Internal Revenue Code of 1986 is amended by*
 4 *striking “JANUARY 1, 2010” and inserting “JANUARY*
 5 *1, 2011”.*

6 (2) *The heading for clause (ii) of section*
 7 *168(k)(2)(B) of such Code is amended by striking*
 8 *“PRE-JANUARY 1, 2010” and inserting “PRE-JANUARY*
 9 *1, 2011”.*

10 (3) *Subparagraph (D) of section 168(k)(4) of*
 11 *such Code is amended by striking “and” at the end*
 12 *of clause (ii), by striking the period at the end of*
 13 *clause (iii) and inserting a comma, and by adding at*
 14 *the end the following new clauses:*

15 “(iv) ‘January 1, 2011’ shall be sub-
 16 stituted for ‘January 1, 2012’ in subpara-
 17 graph (A)(iv) thereof, and

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

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

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

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

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

15 (a) *IN GENERAL.*—Section 460(c) of the Internal Rev-
16 enue Code of 1986 is amended by adding at the end the
17 following new paragraph:

18 “(6) *SPECIAL RULE FOR ALLOCATION OF BONUS*
19 *DEPRECIATION WITH RESPECT TO CERTAIN PROP-*
20 *ERTY.*—

† HR 5297 EAS

1 cated to the contract as if subsection (k) of sec-
2 tion 168 had not been enacted.

3 “(B) *QUALIFIED PROPERTY*.—For purposes
4 of this paragraph, the term ‘qualified property’
5 means property described in section 168(k)(2)
6 which—

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

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

13 (b) *EFFECTIVE DATE*.—The amendment made by this
14 section shall apply to property placed in service after De-
15 cember 31, 2009.

16 **PART III—PROMOTING ENTREPRENEURSHIP**

17 **SEC. 2031. INCREASE IN AMOUNT ALLOWED AS DEDUCTION** 18 **FOR START-UP EXPENDITURES IN 2010.**

19 (a) *START-UP EXPENDITURES*.—Subsection (b) of sec-
20 tion 195 of the Internal Revenue Code of 1986 is amended
21 by adding at the end the following new paragraph:

22 “(3) *SPECIAL RULE FOR TAXABLE YEARS BEGIN-*
23 *NING IN 2010*.—In the case of a taxable year beginning
24 in 2010, paragraph (1)(A)(ii) shall be applied—

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

3 “(B) by substituting ‘\$60,000’ for
4 ‘\$50,000’.”.

5 (b) *EFFECTIVE DATE.*—The amendment made by this
6 section shall apply to amounts paid or incurred in taxable
7 years beginning after December 31, 2009.

8 **SEC. 2032. AUTHORIZATION OF APPROPRIATIONS FOR THE**
9 **UNITED STATES TRADE REPRESENTATIVE TO**
10 **DEVELOP MARKET ACCESS OPPORTUNITIES**
11 **FOR UNITED STATES SMALL- AND MEDIUM-**
12 **SIZED BUSINESSES AND TO ENFORCE TRADE**
13 **AGREEMENTS.**

14 (a) *IN GENERAL.*—There are authorized to be appro-
15 priated to the Office of the United States Trade Representa-
16 tive \$5,230,000, to remain available until expended, for—

17 (1) analyzing and developing opportunities for
18 businesses in the United States to access the markets
19 of foreign countries; and

20 (2) enforcing trade agreements to which the
21 United States is a party.

22 (b) *REQUIREMENTS.*—In obligating and expending the
23 funds authorized to be appropriated under subsection (a),
24 the United States Trade Representative shall—

1 (1) give preference to those initiatives that the
 2 United States Trade Representative determines will
 3 create or sustain the greatest number of jobs in the
 4 United States or result in the greatest benefit to the
 5 economy of the United States; and

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

8 (A) accessing the markets of foreign coun-
 9 tries; and

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

12 **PART IV—PROMOTING SMALL BUSINESS**

13 **FAIRNESS**

14 **SEC. 2041. LIMITATION ON PENALTY FOR FAILURE TO DIS-** 15 **CLOSE REPORTABLE TRANSACTIONS BASED** 16 **ON RESULTING TAX BENEFITS.**

17 (a) *IN GENERAL.*—Subsection (b) of section 6707A of
 18 the Internal Revenue Code of 1986 is amended to read as
 19 follows:

20 “(b) *AMOUNT OF PENALTY.*—

21 “(1) *IN GENERAL.*—Except as otherwise provided
 22 in this subsection, the amount of the penalty under
 23 subsection (a) with respect to any reportable trans-
 24 action shall be 75 percent of the decrease in tax shown
 25 on the return as a result of such transaction (or

1 *which would have resulted from such transaction if*
 2 *such transaction were respected for Federal tax pur-*
 3 *poses).*

4 “(2) *MAXIMUM PENALTY.*—*The amount of the*
 5 *penalty under subsection (a) with respect to any re-*
 6 *portable transaction shall not exceed—*

7 “(A) *in the case of a listed transaction,*
 8 *\$200,000 (\$100,000 in the case of a natural per-*
 9 *son), or*

10 “(B) *in the case of any other reportable*
 11 *transaction, \$50,000 (\$10,000 in the case of a*
 12 *natural person).*

13 “(3) *MINIMUM PENALTY.*—*The amount of the*
 14 *penalty under subsection (a) with respect to any*
 15 *transaction shall not be less than \$10,000 (\$5,000 in*
 16 *the case of a natural person).’’.*

17 “(b) *EFFECTIVE DATE.*—*The amendment made by this*
 18 *section shall apply to penalties assessed after December 31,*
 19 *2006.*

20 **SEC. 2042. DEDUCTION FOR HEALTH INSURANCE COSTS IN**
 21 **COMPUTING SELF-EMPLOYMENT TAXES IN**
 22 **2010.**

23 “(a) *IN GENERAL.*—*Paragraph (4) of section 162(l) of*
 24 *the Internal Revenue Code of 1986 is amended by inserting*

1 “for taxable years beginning before January 1, 2010, or
2 after December 31, 2010” before the period.

3 (b) *EFFECTIVE DATE.*—The amendments made by this
4 section shall apply to taxable years beginning after Decem-
5 ber 31, 2009.

6 **SEC. 2043. REMOVAL OF CELLULAR TELEPHONES AND SIMI-**
7 **LAR TELECOMMUNICATIONS EQUIPMENT**
8 **FROM LISTED PROPERTY.**

9 (a) *IN GENERAL.*—Subparagraph (A) of section
10 280F(d)(4) of the Internal Revenue Code of 1986 (defining
11 listed property) is amended by adding “‘and’” at the end
12 of clause (iv), by striking clause (v), and by redesignating
13 clause (vi) as clause (v).

14 (b) *EFFECTIVE DATE.*—The amendment made by this
15 section shall apply to taxable years beginning after Decem-
16 ber 31, 2009.

17 **Subtitle B—Revenue Provisions**

18 **PART I—REDUCING THE TAX GAP**

19 **SEC. 2101. INFORMATION REPORTING FOR RENTAL PROP-**
20 **ERTY EXPENSE PAYMENTS.**

21 (a) *IN GENERAL.*—Section 6041 of the Internal Rev-
22 enue Code of 1986, as amended by section 9006 of the Pa-
23 tient Protection and Affordable Care Act, is amended by
24 redesignating subsections (h) and (i) as subsections (i) and

1 *(j), respectively, and by inserting after subsection (g) the*
 2 *following new subsection:*

3 “(h) *TREATMENT OF RENTAL PROPERTY EXPENSE*
 4 *PAYMENTS.*—

5 “(1) *IN GENERAL.*—Solely for purposes of sub-
 6 section (a) and except as provided in paragraph (2),
 7 a person receiving rental income from real estate shall
 8 be considered to be engaged in a trade or business of
 9 renting property.

10 “(2) *EXCEPTIONS.*—Paragraph (1) shall not
 11 apply to—

12 “(A) any individual, including any indi-
 13 vidual who is an active member of the uniformed
 14 services or an employee of the intelligence com-
 15 munity (as defined in section 121(d)(9)(C)(iv)),
 16 if substantially all rental income is derived from
 17 renting the principal residence (within the
 18 meaning of section 121) of such individual on a
 19 temporary basis,

20 “(B) any individual who receives rental in-
 21 come of not more than the minimal amount, as
 22 determined under regulations prescribed by the
 23 Secretary, and

24 “(C) any other individual for whom the re-
 25 quirements of this section would cause hardship,

1 *as determined under regulations prescribed by*
 2 *the Secretary.”.*

3 **(b) EFFECTIVE DATE.**—*The amendments made by sub-*
 4 *section (a) shall apply to payments made after December*
 5 *31, 2010.*

6 **SEC. 2102. INCREASE IN INFORMATION RETURN PEN-**
 7 **ALTIES.**

8 **(a) FAILURE TO FILE CORRECT INFORMATION RE-**
 9 **URNS.**—

10 **(1) IN GENERAL.**—*Subsections (a)(1), (b)(1)(A),*
 11 *and (b)(2)(A) of section 6721 of the Internal Revenue*
 12 *Code of 1986 are each amended by striking “\$50”*
 13 *and inserting “\$100”.*

14 **(2) AGGREGATE ANNUAL LIMITATION.**—*Sub-*
 15 *sections (a)(1), (d)(1)(A), and (e)(3)(A) of section*
 16 *6721 of such Code are each amended by striking*
 17 *“\$250,000” and inserting “\$1,500,000”.*

18 **(b) REDUCTION WHERE CORRECTION WITHIN 30**
 19 **DAYS.**—

20 **(1) IN GENERAL.**—*Subparagraph (A) of section*
 21 *6721(b)(1) of the Internal Revenue Code of 1986 is*
 22 *amended by striking “\$15” and inserting “\$30”.*

23 **(2) AGGREGATE ANNUAL LIMITATION.**—*Sub-*
 24 *sections (b)(1)(B) and (d)(1)(B) of section 6721 of*

1 *such Code are each amended by striking “\$75,000”*
 2 *and inserting “\$250,000”.*

3 *(c) REDUCTION WHERE CORRECTION ON OR BEFORE*
 4 *AUGUST 1.—*

5 *(1) IN GENERAL.—Subparagraph (A) of section*
 6 *6721(b)(2) of the Internal Revenue Code of 1986 is*
 7 *amended by striking “\$30” and inserting “\$60”.*

8 *(2) AGGREGATE ANNUAL LIMITATION.—Sub-*
 9 *sections (b)(2)(B) and (d)(1)(C) of section 6721 of*
 10 *such Code are each amended by striking “\$150,000”*
 11 *and inserting “\$500,000”.*

12 *(d) AGGREGATE ANNUAL LIMITATIONS FOR PERSONS*
 13 *WITH GROSS RECEIPTS OF NOT MORE THAN \$5,000,000.—*

14 *(1) IN GENERAL.—Paragraph (1) of section*
 15 *6721(d) of the Internal Revenue Code of 1986 is*
 16 *amended—*

17 *(A) by striking “\$100,000” in subpara-*
 18 *graph (A) and inserting “\$500,000”,*

19 *(B) by striking “\$25,000” in subparagraph*
 20 *(B) and inserting “\$75,000”, and*

21 *(C) by striking “\$50,000” in subparagraph*
 22 *(C) and inserting “\$200,000”.*

23 *(2) TECHNICAL AMENDMENT.—Paragraph (1) of*
 24 *section 6721(d) of such Code is amended by striking*

1 *“such taxable year” and inserting “such calendar*
 2 *year”.*

3 *(e) PENALTY IN CASE OF INTENTIONAL DISREGARD.—*
 4 *Paragraph (2) of section 6721(e) of the Internal Revenue*
 5 *Code of 1986 is amended by striking “\$100” and inserting*
 6 *“\$250”.*

7 *(f) ADJUSTMENT FOR INFLATION.—Section 6721 of the*
 8 *Internal Revenue Code of 1986 is amended by adding at*
 9 *the end the following new subsection:*

10 *“(f) ADJUSTMENT FOR INFLATION.—*

11 *“(1) IN GENERAL.—For each fifth calendar year*
 12 *beginning after 2012, each of the dollar amounts*
 13 *under subsections (a), (b), (d) (other than paragraph*
 14 *(2)(A) thereof), and (e) shall be increased by such dol-*
 15 *lar amount multiplied by the cost-of-living adjust-*
 16 *ment determined under section 1(f)(3) determined by*
 17 *substituting ‘calendar year 2011’ for ‘calendar year*
 18 *1992’ in subparagraph (B) thereof.*

19 *“(2) ROUNDING.—If any amount adjusted under*
 20 *paragraph (1)—*

21 *“(A) is not less than \$75,000 and is not a*
 22 *multiple of \$500, such amount shall be rounded*
 23 *to the next lowest multiple of \$500, and*

1 “(B) is not described in subparagraph (A)
 2 and is not a multiple of \$10, such amount shall
 3 be rounded to the next lowest multiple of \$10.”.

4 (g) *FAILURE TO FURNISH CORRECT PAYEE STATE-*
 5 *MENTS.*—Section 6722 of the Internal Revenue Code of 1986
 6 is amended to read as follows:

7 **“SEC. 6722. FAILURE TO FURNISH CORRECT PAYEE STATE-**
 8 **MENTS.**

9 “(a) *IMPOSITION OF PENALTY.*—

10 “(1) *GENERAL RULE.*—In the case of each failure
 11 described in paragraph (2) by any person with re-
 12 spect to a payee statement, such person shall pay a
 13 penalty of \$100 for each statement with respect to
 14 which such a failure occurs, but the total amount im-
 15 posed on such person for all such failures during any
 16 calendar year shall not exceed \$1,500,000.

17 “(2) *FAILURES SUBJECT TO PENALTY.*—For pur-
 18 poses of paragraph (1), the failures described in this
 19 paragraph are—

20 “(A) any failure to furnish a payee state-
 21 ment on or before the date prescribed therefor to
 22 the person to whom such statement is required to
 23 be furnished, and

1 “(B) any failure to include all of the infor-
 2 mation required to be shown on a payee state-
 3 ment or the inclusion of incorrect information.

4 “(b) *REDUCTION WHERE CORRECTION IN SPECIFIED*
 5 *PERIOD.*—

6 “(1) *CORRECTION WITHIN 30 DAYS.*—If any fail-
 7 ure described in subsection (a)(2) is corrected on or
 8 before the day 30 days after the required filing date—

9 “(A) the penalty imposed by subsection (a)
 10 shall be \$30 in lieu of \$100, and

11 “(B) the total amount imposed on the per-
 12 son for all such failures during any calendar
 13 year which are so corrected shall not exceed
 14 \$250,000.

15 “(2) *FAILURES CORRECTED ON OR BEFORE AU-*
 16 *GUST 1.*—If any failure described in subsection (a)(2)
 17 is corrected after the 30th day referred to in para-
 18 graph (1) but on or before August 1 of the calendar
 19 year in which the required filing date occurs—

20 “(A) the penalty imposed by subsection (a)
 21 shall be \$60 in lieu of \$100, and

22 “(B) the total amount imposed on the per-
 23 son for all such failures during the calendar year
 24 which are so corrected shall not exceed \$500,000.

25 “(c) *EXCEPTION FOR DE MINIMIS FAILURES.*—

1 “(1) *IN GENERAL.*—If—

2 “(A) *a payee statement is furnished to the*
3 *person to whom such statement is required to be*
4 *furnished,*

5 “(B) *there is a failure described in sub-*
6 *section (a)(2)(B) (determined after the applica-*
7 *tion of section 6724(a)) with respect to such*
8 *statement, and*

9 “(C) *such failure is corrected on or before*
10 *August 1 of the calendar year in which the re-*
11 *quired filing date occurs,*

12 *for purposes of this section, such statement shall be*
13 *treated as having been furnished with all of the cor-*
14 *rect required information.*

15 “(2) *LIMITATION.*—*The number of payee state-*
16 *ments to which paragraph (1) applies for any cal-*
17 *endar year shall not exceed the greater of—*

18 “(A) *10, or*

19 “(B) *one-half of 1 percent of the total num-*
20 *ber of payee statements required to be filed by*
21 *the person during the calendar year.*

22 “(d) *LOWER LIMITATIONS FOR PERSONS WITH GROSS*
23 *RECEIPTS OF NOT MORE THAN \$5,000,000.—*

24 “(1) *IN GENERAL.*—*If any person meets the gross*
25 *receipts test of paragraph (2) with respect to any cal-*

1 *endar year, with respect to failures during such cal-*
 2 *endar year—*

3 “(A) subsection (a)(1) shall be applied by
 4 substituting ‘\$500,000’ for ‘\$1,500,000’,

5 “(B) subsection (b)(1)(B) shall be applied
 6 by substituting ‘\$75,000’ for ‘\$250,000’, and

7 “(C) subsection (b)(2)(B) shall be applied
 8 by substituting ‘\$200,000’ for ‘\$500,000’.

9 “(2) *GROSS RECEIPTS TEST.*—A person meets
 10 *the gross receipts test of this paragraph if such person*
 11 *meets the gross receipts test of section 6721(d)(2).*

12 “(e) *PENALTY IN CASE OF INTENTIONAL DIS-*
 13 *REGARD.*—If 1 or more failures to which subsection (a) ap-
 14 plies are due to intentional disregard of the requirement
 15 to furnish a payee statement (or the correct information
 16 reporting requirement), then, with respect to each such fail-
 17 ure—

18 “(1) subsections (b), (c), and (d) shall not apply,

19 “(2) the penalty imposed under subsection (a)(1)
 20 shall be \$250, or, if greater—

21 “(A) in the case of a payee statement other
 22 than a statement required under section 6045(b),
 23 6041A(e) (in respect of a return required under
 24 section 6041A(b)), 6050H(d), 6050J(e),
 25 6050K(b), or 6050L(c), 10 percent of the aggre-

1 *gate amount of the items required to be reported*
2 *correctly, or*

3 *“(B) in the case of a payee statement re-*
4 *quired under section 6045(b), 6050K(b), or*
5 *6050L(c), 5 percent of the aggregate amount of*
6 *the items required to be reported correctly, and*
7 *“(3) in the case of any penalty determined under*
8 *paragraph (2)—*

9 *“(A) the \$1,500,000 limitation under sub-*
10 *section (a) shall not apply, and*

11 *“(B) such penalty shall not be taken into*
12 *account in applying such limitation to penalties*
13 *not determined under paragraph (2).*

14 *“(f) ADJUSTMENT FOR INFLATION.—*

15 *“(1) IN GENERAL.—For each fifth calendar year*
16 *beginning after 2012, each of the dollar amounts*
17 *under subsections (a), (b), (d)(1), and (e) shall be in-*
18 *creased by such dollar amount multiplied by the cost-*
19 *of-living adjustment determined under section 1(f)(3)*
20 *determined by substituting ‘calendar year 2011’ for*
21 *‘calendar year 1992’ in subparagraph (B) thereof.*

22 *“(2) ROUNDING.—If any amount adjusted under*
23 *paragraph (1)—*

1 “(A) is not less than \$75,000 and is not a
 2 multiple of \$500, such amount shall be rounded
 3 to the next lowest multiple of \$500, and

4 “(B) is not described in subparagraph (A)
 5 and is not a multiple of \$10, such amount shall
 6 be rounded to the next lowest multiple of \$10.”.

7 (h) *EFFECTIVE DATE.*—The amendments made by this
 8 section shall apply with respect to information returns re-
 9 quired to be filed on or after January 1, 2011.

10 **SEC. 2103. REPORT ON TAX SHELTER PENALTIES AND CER-**
 11 **TAIN OTHER ENFORCEMENT ACTIONS.**

12 (a) *IN GENERAL.*—The Commissioner of Internal Rev-
 13 enue, in consultation with the Secretary of the Treasury,
 14 shall submit to the Committee on Ways and Means of the
 15 House of Representatives and the Committee on Finance
 16 of the Senate an annual report on the penalties assessed
 17 by the Internal Revenue Service during the preceding year
 18 under each of the following provisions of the Internal Rev-
 19 enue Code of 1986:

20 (1) Section 6662A (relating to accuracy-related
 21 penalty on understatements with respect to reportable
 22 transactions).

23 (2) Section 6700(a) (relating to promoting abu-
 24 sive tax shelters).

1 (3) *Section 6707 (relating to failure to furnish*
2 *information regarding reportable transactions).*

3 (4) *Section 6707A (relating to failure to include*
4 *reportable transaction information with return).*

5 (5) *Section 6708 (relating to failure to maintain*
6 *lists of advisees with respect to reportable trans-*
7 *actions).*

8 (b) *ADDITIONAL INFORMATION.—The report required*
9 *under subsection (a) shall also include information on the*
10 *following with respect to each year:*

11 (1) *Any action taken under section 330(b) of*
12 *title 31, United States Code, with respect to any re-*
13 *portable transaction (as defined in section 6707A(c)*
14 *of the Internal Revenue Code of 1986).*

15 (2) *Any extension of the time for assessment of*
16 *tax enforced, or assessment of any amount under such*
17 *an extension, under paragraph (10) of section 6501(c)*
18 *of the Internal Revenue Code of 1986.*

19 (c) *DATE OF REPORT.—The first report required*
20 *under subsection (a) shall be submitted not later than De-*
21 *cember 31, 2010.*

1 **SEC. 2104. APPLICATION OF CONTINUOUS LEVY TO TAX LI-**
 2 **ABILITIES OF CERTAIN FEDERAL CONTRAC-**
 3 **TORS.**

4 (a) *IN GENERAL.*—Subsection (f) of section 6330 of the
 5 Internal Revenue Code of 1986 is amended by striking “or”
 6 at the end of paragraph (2), by inserting “or” at the end
 7 of paragraph (3), and by inserting after paragraph (3) the
 8 following new paragraph:

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

11 (b) *FEDERAL CONTRACTOR LEVY.*—Subsection (h) of
 12 section 6330 of the Internal Revenue Code of 1986 is
 13 amended—

14 (1) by striking all that precedes “any levy in
 15 connection with the collection” and inserting the fol-
 16 lowing:

17 “(h) *DEFINITIONS RELATED TO EXCEPTIONS.*—For
 18 purposes of subsection (f)—

19 “(1) *DISQUALIFIED EMPLOYMENT TAX LEVY.*—A
 20 disqualified employment tax levy is”; and

21 (2) by adding at the end the following new para-
 22 graph:

23 “(2) *FEDERAL CONTRACTOR LEVY.*—A Federal
 24 contractor levy is any levy if the person whose prop-
 25 erty is subject to the levy (or any predecessor thereof)
 26 is a Federal contractor.”.

1 (c) *CONFORMING AMENDMENT.*—*The heading of sub-*
 2 *section (f) of section 6330 of the Internal Revenue Code of*
 3 *1986 is amended by striking “JEOPARDY AND STATE RE-*
 4 *FUND COLLECTION” and inserting “EXCEPTIONS”.*

5 (d) *EFFECTIVE DATE.*—*The amendments made by this*
 6 *section shall apply to levies issued after the date of the en-*
 7 *actment of this Act.*

8 **PART II—PROMOTING RETIREMENT**

9 **PREPARATION**

10 **SEC. 2111. PARTICIPANTS IN GOVERNMENT SECTION 457**

11 **PLANS ALLOWED TO TREAT ELECTIVE DEFER-**

12 **ROLS AS ROTH CONTRIBUTIONS.**

13 (a) *IN GENERAL.*—*Section 402A(e)(1) of the Internal*
 14 *Revenue Code of 1986 is amended by striking “and” at the*
 15 *end of subparagraph (A), by striking the period at the end*
 16 *of subparagraph (B) and inserting “, and”, and by adding*
 17 *at the end the following:*

18 “(C) *an eligible deferred compensation plan*
 19 *(as defined in section 457(b)) of an eligible em-*
 20 *ployer described in section 457(e)(1)(A).”.*

21 (b) *ELECTIVE DEFERRALS.*—*Section 402A(e)(2) of the*
 22 *Internal Revenue Code of 1986 is amended to read as fol-*
 23 *lows:*

24 “(2) *ELECTIVE DEFERRAL.*—*The term ‘elective*
 25 *deferral’ means—*

1 “(A) any elective deferral described in sub-
 2 paragraph (A) or (C) of section 402(g)(3), and
 3 “(B) any elective deferral of compensation
 4 by an individual under an eligible deferred com-
 5 pensation plan (as defined in section 457(b)) of
 6 an eligible employer described in section
 7 457(e)(1)(A).”.

8 (c) *EFFECTIVE DATE.*—The amendments made by this
 9 section shall apply to taxable years beginning after Decem-
 10 ber 31, 2010.

11 **SEC. 2112. ROLLOVERS FROM ELECTIVE DEFERRAL PLANS**
 12 **TO DESIGNATED ROTH ACCOUNTS.**

13 (a) *IN GENERAL.*—Section 402A(c) of the Internal
 14 Revenue Code of 1986 is amended by adding at the end
 15 the following new paragraph:

16 “(4) *TAXABLE ROLLOVERS TO DESIGNATED ROTH*
 17 *ACCOUNTS.*—

18 “(A) *IN GENERAL.*—Notwithstanding sec-
 19 tions 402(c), 403(b)(8), and 457(e)(16), in the
 20 case of any distribution to which this paragraph
 21 applies—

22 “(i) there shall be included in gross in-
 23 come any amount which would be includible
 24 were it not part of a qualified rollover con-
 25 tribution,

1 “(ii) section 72(t) shall not apply, and
 2 “(iii) unless the taxpayer elects not to
 3 have this clause apply, any amount re-
 4 quired to be included in gross income for
 5 any taxable year beginning in 2010 by rea-
 6 son of this paragraph shall be so included
 7 ratably over the 2-taxable-year period be-
 8 ginning with the first taxable year begin-
 9 ning in 2011.

10 Any election under clause (iii) for any distribu-
 11 tions during a taxable year may not be changed
 12 after the due date for such taxable year.

13 “(B) DISTRIBUTIONS TO WHICH PARA-
 14 GRAPH APPLIES.—In the case of an applicable
 15 retirement plan which includes a qualified Roth
 16 contribution program, this paragraph shall
 17 apply to a distribution from such plan other
 18 than from a designated Roth account which is
 19 contributed in a qualified rollover contribution
 20 (within the meaning of section 408A(e)) to the
 21 designated Roth account maintained under such
 22 plan for the benefit of the individual to whom
 23 the distribution is made.

24 “(C) COORDINATION WITH LIMIT.—Any dis-
 25 tribution to which this paragraph applies shall

1 not be taken into account for purposes of para-
2 graph (1).

3 “(D) *OTHER RULES.*—The rules of subpara-
4 graphs (D), (E), and (F) of section 408A(d)(3)
5 (as in effect for taxable years beginning after
6 2009) shall apply for purposes of this para-
7 graph.”.

8 (b) *EFFECTIVE DATE.*—The amendments made by this
9 section shall apply to distributions after the date of the en-
10 actment of this Act.

11 **SEC. 2113. SPECIAL RULES FOR ANNUITIES RECEIVED**
12 **FROM ONLY A PORTION OF A CONTRACT.**

13 (a) *IN GENERAL.*—Subsection (a) of section 72 of the
14 Internal Revenue Code of 1986 is amended to read as fol-
15 lows:

16 “(a) *GENERAL RULES FOR ANNUITIES.*—

17 “(1) *INCOME INCLUSION.*—Except as otherwise
18 provided in this chapter, gross income includes any
19 amount received as an annuity (whether for a period
20 certain or during one or more lives) under an annu-
21 ity, endowment, or life insurance contract.

22 “(2) *PARTIAL ANNUITIZATION.*—If any amount
23 is received as an annuity for a period of 10 years or
24 more or during one or more lives under any portion

1 of an annuity, endowment, or life insurance con-
 2 tract—

3 “(A) such portion shall be treated as a sepa-
 4 rate contract for purposes of this section,

5 “(B) for purposes of applying subsections
 6 (b), (c), and (e), the investment in the contract
 7 shall be allocated pro rata between each portion
 8 of the contract from which amounts are received
 9 as an annuity and the portion of the contract
 10 from which amounts are not received as an an-
 11 nuity, and

12 “(C) a separate annuity starting date under
 13 subsection (c)(4) shall be determined with respect
 14 to each portion of the contract from which
 15 amounts are received as an annuity.”.

16 (b) *EFFECTIVE DATE.*—The amendment made by this
 17 section shall apply to amounts received in taxable years be-
 18 ginning after December 31, 2010.

19 **PART III—CLOSING UNINTENDED LOOPHOLES**

20 **SEC. 2121. CRUDE TALL OIL INELIGIBLE FOR CELLULOSIC** 21 **BIOFUEL PRODUCER CREDIT.**

22 (a) *IN GENERAL.*—Clause (iii) of section 40(b)(6)(E)
 23 of the Internal Revenue Code of 1986, as added by the
 24 Health Care and Education Reconciliation Act of 2010, is
 25 amended—

1 (1) by striking “or” at the end of subclause (I),
 2 (2) by striking the period at the end of subclause
 3 (II) and inserting “, or”,

4 (3) by adding at the end the following new sub-
 5 clause:

6 “(III) such fuel has an acid num-
 7 ber greater than 25.”, and

8 (4) by striking “UNPROCESSED” in the heading
 9 and inserting “CERTAIN”.

10 (b) *EFFECTIVE DATE.*—The amendments made by this
 11 section shall apply to fuels sold or used on or after January
 12 1, 2010.

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

14 (a) *AMOUNTS SOURCED WITHIN THE UNITED*
 15 *STATES.*—Subsection (a) of section 861 of the Internal Rev-
 16 enue Code of 1986 is amended by adding at the end the
 17 following new paragraph:

18 “(9) *GUARANTEES.*—Amounts received, directly
 19 or indirectly, from—

20 “(A) a noncorporate resident or domestic
 21 corporation for the provision of a guarantee of
 22 any indebtedness of such resident or corporation,
 23 or

24 “(B) any foreign person for the provision of
 25 a guarantee of any indebtedness of such person,

1 *if such amount is connected with income which*
 2 *is effectively connected (or treated as effectively*
 3 *connected) with the conduct of a trade or busi-*
 4 *ness in the United States.”.*

5 (b) *AMOUNTS SOURCED WITHOUT THE UNITED*
 6 *STATES.*—*Subsection (a) of section 862 of the Internal Rev-*
 7 *enue Code of 1986 is amended by striking “and” at the*
 8 *end of paragraph (7), by striking the period at the end of*
 9 *paragraph (8) and inserting “; and”, and by adding at*
 10 *the end the following new paragraph:*

11 “(9) *amounts received, directly or indirectly,*
 12 *from a foreign person for the provision of a guarantee*
 13 *of indebtedness of such person other than amounts*
 14 *which are derived from sources within the United*
 15 *States as provided in section 861(a)(9).”.*

16 (c) *CONFORMING AMENDMENT.*—*Clause (ii) of section*
 17 *864(c)(4)(B) of the Internal Revenue Code of 1986 is*
 18 *amended by striking “dividends or interest” and inserting*
 19 *“dividends, interest, or amounts received for the provision*
 20 *of guarantees of indebtedness”.*

21 (d) *EFFECTIVE DATE.*—*The amendments made by this*
 22 *section shall apply to guarantees issued after the date of*
 23 *the enactment of this Act.*

1 **PART IV—TIME FOR PAYMENT OF CORPORATE**
 2 **ESTIMATED TAXES**

3 **SEC. 2131. TIME FOR PAYMENT OF CORPORATE ESTIMATED**
 4 **TAXES.**

5 *The percentage under paragraph (2) of section 561 of*
 6 *the Hiring Incentives to Restore Employment Act in effect*
 7 *on the date of the enactment of this Act is increased by*
 8 *36 percentage points.*

9 **TITLE III—STATE SMALL**
 10 **BUSINESS CREDIT INITIATIVE**

11 **SEC. 3001. SHORT TITLE.**

12 *This title may be cited as the “State Small Business*
 13 *Credit Initiative Act of 2010”.*

14 **SEC. 3002. DEFINITIONS.**

15 *In this title, the following definitions shall apply:*

16 (1) *APPROPRIATE COMMITTEES OF CONGRESS.—*

17 *The term “appropriate committees of Congress”*
 18 *means—*

19 (A) *the Committee on Small Business and*
 20 *Entrepreneurship, the Committee on Agriculture,*
 21 *Nutrition, and Forestry, the Committee on*
 22 *Banking, Housing, and Urban Affairs, the Com-*
 23 *mittee on Finance, the Committee on the Budget,*
 24 *and the Committee on Appropriations of the*
 25 *Senate; and*

1 (B) *the Committee on Small Business, the*
 2 *Committee on Agriculture, the Committee on Fi-*
 3 *nancial Services, the Committee on Ways and*
 4 *Means, the Committee on the Budget, and the*
 5 *Committee on Appropriations of the House of*
 6 *Representatives.*

7 (2) *APPROPRIATE FEDERAL BANKING AGENCY.*—

8 *The term “appropriate Federal banking agency”—*

9 (A) *has the same meaning as in section 3(q)*
 10 *of the Federal Deposit Insurance Act (12 U.S.C.*
 11 *1813(q)); and*

12 (B) *includes the National Credit Union Ad-*
 13 *ministration Board in the case of any credit*
 14 *union the deposits of which are insured in ac-*
 15 *cordance with the Federal Credit Union Act.*

16 (3) *ENROLLED LOAN.*—*The term “enrolled loan”*
 17 *means a loan made by a financial institution lender*
 18 *that is enrolled by a participating State in an ap-*
 19 *proved State capital access program in accordance*
 20 *with this title.*

21 (4) *FEDERAL CONTRIBUTION.*—*The term “Fed-*
 22 *eral contribution” means the portion of the contribu-*
 23 *tion made by a participating State to, or for the ac-*
 24 *count of, an approved State program that is made*

1 *with Federal funds allocated to the State by the Sec-*
 2 *retary under section 3003.*

3 (5) *FINANCIAL INSTITUTION.*—*The term “finan-*
 4 *cial institution” means any insured depository insti-*
 5 *tution, insured credit union, or community develop-*
 6 *ment financial institution, as those terms are each de-*
 7 *finied in section 103 of the Riegle Community Devel-*
 8 *opment and Regulatory Improvement Act of 1994 (12*
 9 *U.S.C. 4702).*

10 (6) *PARTICIPATING STATE.*—*The term “partici-*
 11 *pating State” means any State that has been ap-*
 12 *proved for participation in the Program under sec-*
 13 *tion 3004.*

14 (7) *PROGRAM.*—*The term “Program” means the*
 15 *State Small Business Credit Initiative established*
 16 *under this title.*

17 (8) *QUALIFYING LOAN OR SWAP FUNDING FACIL-*
 18 *ITY.*—*The term “qualifying loan or swap funding fa-*
 19 *cility” means a contractual arrangement between a*
 20 *participating State and a private financial entity*
 21 *under which—*

22 (A) *the participating State delivers funds to*
 23 *the entity as collateral;*

24 (B) *the entity provides funding from the ar-*
 25 *rangement back to the participating State; and*

1 (C) *the full amount of resulting funding*
 2 *from the arrangement, less any fees and other*
 3 *costs of the arrangement, is contributed to, or for*
 4 *the account of, an approved State program.*

5 (9) *RESERVE FUND.—The term “reserve fund”*
 6 *means a fund, established by a participating State,*
 7 *dedicated to a particular financial institution lender,*
 8 *for the purposes of—*

9 (A) *depositing all required premium*
 10 *charges paid by the financial institution lender*
 11 *and by each borrower receiving a loan under an*
 12 *approved State program from that financial in-*
 13 *stitution lender;*

14 (B) *depositing contributions made by the*
 15 *participating State, including State contribu-*
 16 *tions made with Federal contributions; and*

17 (C) *covering losses on enrolled loans by dis-*
 18 *bursing accumulated funds.*

19 (10) *STATE.—The term “State” means—*

20 (A) *a State of the United States;*

21 (B) *the District of Columbia, the Common-*
 22 *wealth of Puerto Rico, the Commonwealth of*
 23 *Northern Mariana Islands, Guam, American*
 24 *Samoa, and the United States Virgin Islands;*

1 (C) *when designated by a State of the*
 2 *United States, a political subdivision of that*
 3 *State that the Secretary determines has the ca-*
 4 *capacity to participate in the Program; and*

5 (D) *under the circumstances described in*
 6 *section 3004(d), a municipality of a State of the*
 7 *United States to which the Secretary has given*
 8 *a special permission under section 3004(d).*

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

12 (A) *uses public resources to promote private*
 13 *access to credit; and*

14 (B) *meets the eligibility criteria in section*
 15 *3005(c).*

16 (12) *STATE OTHER CREDIT SUPPORT PRO-*
 17 *GRAM.—The term “State other credit support pro-*
 18 *gram”—*

19 (A) *means a program of a State that—*

20 (i) *uses public resources to promote*
 21 *private access to credit;*

22 (ii) *is not a State capital access pro-*
 23 *gram; and*

24 (iii) *meets the eligibility criteria in*
 25 *section 3006(c); and*

1 (B) includes, collateral support programs,
 2 loan participation programs, State-run venture
 3 capital fund programs, and credit guarantee
 4 programs.

5 (13) *STATE PROGRAM*.—The term “State pro-
 6 gram” means a State capital access program or a
 7 State other credit support program.

8 (14) *SECRETARY*.—The term “Secretary” means
 9 the Secretary of the Treasury.

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

11 (a) *PROGRAM ESTABLISHED; PURPOSE*.—There is es-
 12 tablished the State Small Business Credit Initiative, to be
 13 administered by the Secretary. Under the Program, the Sec-
 14 retary shall allocate Federal funds to participating States
 15 and make the allocated funds available to the participating
 16 States as provided in this section for the uses described in
 17 this section.

18 (b) *ALLOCATION FORMULA*.—

19 (1) *IN GENERAL*.—Not later than 30 days after
 20 the date of enactment of this Act, the Secretary shall
 21 allocate Federal funds to participating States so that
 22 each State is eligible to receive an amount equal to
 23 the average of the respective amounts that the State—

24 (A) would receive under the 2009 allocation,
 25 as determined under paragraph (2); and

1 (B) *would receive under the 2010 allocation,*
 2 *as determined under paragraph (3).*

3 (2) *2009 ALLOCATION FORMULA.—*

4 (A) *IN GENERAL.—The Secretary shall de-*
 5 *termine the 2009 allocation by allocating Fed-*
 6 *eral funds among the States in the proportion*
 7 *that each such State’s 2008 State employment*
 8 *decline bears to the aggregate of the 2008 State*
 9 *employment declines for all States.*

10 (B) *MINIMUM ALLOCATION.—The Secretary*
 11 *shall adjust the allocations under subparagraph*
 12 *(A) for each State to the extent necessary to en-*
 13 *sure that no State receives less than 0.9 percent*
 14 *of the Federal funds.*

15 (C) *2008 STATE EMPLOYMENT DECLINE DE-*
 16 *FINED.—In this paragraph and with respect to*
 17 *a State, the term “2008 State employment de-*
 18 *cline” means the excess (if any) of—*

19 (i) *the number of individuals employed*
 20 *in such State determined for December*
 21 *2007; over*

22 (ii) *the number of individuals em-*
 23 *ployed in such State determined for Decem-*
 24 *ber 2008.*

25 (3) *2010 ALLOCATION FORMULA.—*

1 (A) *IN GENERAL.*—*The Secretary shall de-*
 2 *termine the 2010 allocation by allocating Fed-*
 3 *eral funds among the States in the proportion*
 4 *that each such State’s 2009 unemployment num-*
 5 *ber bears to the aggregate of the 2009 unemploy-*
 6 *ment numbers for all of the States.*

7 (B) *MINIMUM ALLOCATION.*—*The Secretary*
 8 *shall adjust the allocations under subparagraph*
 9 *(A) for each State to the extent necessary to en-*
 10 *sure that no State receives less than 0.9 percent*
 11 *of the Federal funds.*

12 (C) *2009 UNEMPLOYMENT NUMBER DE-*
 13 *FINED.*—*In this paragraph and with respect to*
 14 *a State, the term “2009 unemployment number”*
 15 *means the number of individuals within such*
 16 *State who were determined to be unemployed by*
 17 *the Bureau of Labor Statistics for December*
 18 *2009.*

19 (c) *AVAILABILITY OF ALLOCATED AMOUNT.*—*The*
 20 *amount allocated by the Secretary to each participating*
 21 *State under subsection (b) shall be made available to the*
 22 *State as follows:*

23 (1) *ALLOCATED AMOUNT GENERALLY TO BE*
 24 *AVAILABLE TO STATE IN ONE-THIRDS.*—

25 (A) *IN GENERAL.*—*The Secretary shall—*

1 (i) apportion the participating State's
2 allocated amount into thirds;

3 (ii) transfer to the participating State
4 the first $\frac{1}{3}$ when the Secretary approves the
5 State for participation under section 3004;
6 and

7 (iii) transfer to the participating State
8 each successive $\frac{1}{3}$ when the State has cer-
9 tified to the Secretary that it has expended,
10 transferred, or obligated 80 percent of the
11 last transferred $\frac{1}{3}$ for Federal contributions
12 to, or for the account of, State programs.

13 (B) *AUTHORITY TO WITHHOLD PENDING*
14 *AUDIT.*—The Secretary may withhold the trans-
15 fer of any successive $\frac{1}{3}$ pending results of a fi-
16 nancial audit.

17 (C) *INSPECTOR GENERAL AUDITS.*—

18 (i) *IN GENERAL.*—The Inspector Gen-
19 eral of the Department of the Treasury shall
20 carry out an audit of the participating
21 State's use of allocated Federal funds trans-
22 ferred to the State.

23 (ii) *RECOUPMENT OF MISUSED TRANS-*
24 *FERRED FUNDS REQUIRED.*—The allocation
25 agreement between the Secretary and the

1 *participating State shall provide that the*
 2 *Secretary shall recoup any allocated Fed-*
 3 *eral funds transferred to the participating*
 4 *State if the results of the an audit include*
 5 *a finding that there was an intentional or*
 6 *reckless misuse of transferred funds by the*
 7 *State.*

8 *(iii) PENALTY FOR MISSTATEMENT.—*
 9 *Any participating State that is found to*
 10 *have intentionally misstated any report*
 11 *issued to the Secretary under the Program*
 12 *shall be ineligible to receive any additional*
 13 *funds under the Program. Funds that had*
 14 *been allocated or that would otherwise have*
 15 *been allocated to such participating State*
 16 *shall be paid into the general fund of the*
 17 *Treasury for reduction of the public debt.*

18 *(iv) MUNICIPALITIES.—In this sub-*
 19 *paragraph, the term “participating State”*
 20 *shall include a municipality given special*
 21 *permission to participate in the Program,*
 22 *under section 3004(d).*

23 *(D) EXCEPTION.—The Secretary may, in*
 24 *the Secretary’s discretion, transfer the full*
 25 *amount of the participating State’s allocated*

1 *amount to the State in a single transfer if the*
 2 *participating State applies to the Secretary for*
 3 *approval to use the full amount of the allocation*
 4 *as collateral for a qualifying loan or swap fund-*
 5 *ing facility.*

6 (2) *TRANSFERRED AMOUNTS.—Each amount*
 7 *transferred to a participating State under this section*
 8 *shall remain available to the State until used by the*
 9 *State as permitted under paragraph (3).*

10 (3) *USE OF TRANSFERRED FUNDS.—Each par-*
 11 *ticipating State may use funds transferred to it*
 12 *under this section only—*

13 (A) *for making Federal contributions to, or*
 14 *for the account of, an approved State program;*

15 (B) *as collateral for a qualifying loan or*
 16 *swap funding facility;*

17 (C) *in the case of the first $\frac{1}{3}$ transferred,*
 18 *for paying administrative costs incurred by the*
 19 *State in implementing an approved State pro-*
 20 *gram in an amount not to exceed 5 percent of*
 21 *that first $\frac{1}{3}$; or*

22 (D) *in the case of each successive $\frac{1}{3}$ trans-*
 23 *ferred, for paying administrative costs incurred*
 24 *by the State in implementing an approved State*

1 program in an amount not to exceed 3 percent
2 of that successive $\frac{1}{3}$.

3 (4) *TERMINATION OF AVAILABILITY OF AMOUNTS*
4 *NOT TRANSFERRED WITHIN 2 YEARS OF PARTICIPA-*
5 *TION.*—Any portion of a participating State’s allo-
6 cated amount that has not been transferred to the
7 State under this section by the end of the 2-year pe-
8 riod beginning on the date that the Secretary ap-
9 proves the State for participation may be deemed by
10 the Secretary to be no longer allocated to the State
11 and no longer available to the State and shall be re-
12 turned to the General Fund of the Treasury.

13 (5) *TRANSFERRED AMOUNTS NOT ASSISTANCE.*—
14 The amounts transferred to a participating State
15 under this section shall not be considered assistance
16 for purposes of subtitle V of title 31, United States
17 Code.

18 (6) *DEFINITIONS.*—In this section—

19 (A) the term “allocated amount” means the
20 total amount of Federal funds allocated by the
21 Secretary under subsection (b) to the partici-
22 pating State; and

23 (B) the term “ $\frac{1}{3}$ ” means—

24 (i) in the case of the first $\frac{1}{3}$ and sec-
25 ond $\frac{1}{3}$, an amount equal to 33 percent of

1 a participating State's allocated amount;
 2 and
 3 (ii) in the case of the last $\frac{1}{3}$, an
 4 amount equal to 34 percent of a partici-
 5 pating State's allocated amount.

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

7 (a) *APPLICATION.*—Any State may apply to the Sec-
 8 retary for approval to be a participating State under the
 9 Program and to be eligible for an allocation of Federal
 10 funds under the Program.

11 (b) *GENERAL APPROVAL CRITERIA.*—The Secretary
 12 shall approve a State to be a participating State, if—

13 (1) a specific department, agency, or political
 14 subdivision of the State has been designated to imple-
 15 ment a State program and participate in the Pro-
 16 gram;

17 (2) all legal actions necessary to enable such des-
 18 ignated department, agency, or political subdivision
 19 to implement a State program and participate in the
 20 Program have been accomplished;

21 (3) the State has filed an application with the
 22 Secretary for approval of a State capital access pro-
 23 gram under section 3005 or approval as a State other
 24 credit support program under section 3006, in each

1 *case within the time period provided in the respective*
2 *section; and*

3 *(4) the State and the Secretary have executed an*
4 *allocation agreement that—*

5 *(A) conforms to the requirements of this*
6 *title;*

7 *(B) ensures that the State program complies*
8 *with such national standards as are established*
9 *by the Secretary under section 3009(a)(2);*

10 *(C) sets forth internal control, compliance,*
11 *and reporting requirements as established by the*
12 *Secretary, and such other terms and conditions*
13 *necessary to carry out the purposes of this title,*
14 *including an agreement by the State to allow the*
15 *Secretary to audit State programs;*

16 *(D) requires that the State program be fully*
17 *positioned, within 90 days of the State's execu-*
18 *tion of the allocation agreement with the Sec-*
19 *retary, to act on providing the kind of credit*
20 *support that the State program was established*
21 *to provide; and*

22 *(E) includes an agreement by the State to*
23 *deliver to the Secretary, and update annually, a*
24 *schedule describing how the State intends to ap-*

1 *portion among its State programs the Federal*
 2 *funds allocated to the State.*

3 (c) *CONTRACTUAL ARRANGEMENTS FOR IMPLEMENTA-*
 4 *TION OF STATE PROGRAMS.*—*A State may be approved to*
 5 *be a participating State, and be eligible for an allocation*
 6 *of Federal funds under the Program, if the State has con-*
 7 *tractual arrangements for the implementation and admin-*
 8 *istration of its State program with—*

9 (1) *an existing, approved State program admin-*
 10 *istered by another State; or*

11 (2) *an authorized agent of, or entity supervised*
 12 *by, the State, including for-profit and not-for-profit*
 13 *entities.*

14 (d) *SPECIAL PERMISSION.*—

15 (1) *CIRCUMSTANCES WHEN A MUNICIPALITY MAY*
 16 *APPLY DIRECTLY.*—*If a State does not, within 60*
 17 *days after the date of enactment of this Act, file with*
 18 *the Secretary a notice of its intent to apply for ap-*
 19 *proval by the Secretary of a State program or within*
 20 *9 months after the date of enactment of this Act, file*
 21 *with the Secretary a complete application for ap-*
 22 *proval of a State program, the Secretary may grant*
 23 *to municipalities of that State a special permission*
 24 *that will allow them to apply directly to the Sec-*

1 *retary without the State for approval to be partici-*
 2 *pating municipalities.*

3 (2) *TIMING REQUIREMENTS APPLICABLE TO MU-*
 4 *NICIPALITIES APPLYING DIRECTLY.*—*To qualify for*
 5 *the special permission, a municipality of a State*
 6 *shall be required, within 12 months after the date of*
 7 *enactment of this Act, to file with the Secretary a*
 8 *complete application for approval by the Secretary of*
 9 *a State program.*

10 (3) *NOTICES OF INTENT AND APPLICATIONS*
 11 *FROM MORE THAN 1 MUNICIPALITY.*—*A municipality*
 12 *of a State may combine with 1 or more other munici-*
 13 *palities of that State to file a joint notice of intent*
 14 *to file and a joint application.*

15 (4) *APPROVAL CRITERIA.*—*The general approval*
 16 *criteria in paragraphs (2) and (4) shall apply.*

17 (5) *ALLOCATION TO MUNICIPALITIES.*—

18 (A) *IF MORE THAN 3.*—*If more than 3 mu-*
 19 *nicipalities, or combination of municipalities as*
 20 *provided in paragraph (3), of a State apply for*
 21 *approval by the Secretary to be participating*
 22 *municipalities under this subsection, and the ap-*
 23 *plications meet the approval criteria in para-*
 24 *graph (4), the Secretary shall allocate Federal*

1 *funds to the 3 municipalities with the largest*
 2 *populations.*

3 (B) *IF 3 OR FEWER.—If 3 or fewer munici-*
 4 *palities, or combination of municipalities as*
 5 *provided in paragraph (3), of a State apply for*
 6 *approval by the Secretary to be participating*
 7 *municipalities under this subsection, and the ap-*
 8 *plications meet the approval criteria in para-*
 9 *graph (4), the Secretary shall allocate Federal*
 10 *funds to each applicant municipality or com-*
 11 *bination of municipalities.*

12 (6) *APPORTIONMENT OF ALLOCATED AMOUNT*
 13 *AMONG PARTICIPATING MUNICIPALITIES.—If the Sec-*
 14 *retary approves municipalities to be participating*
 15 *municipalities under this subsection, the Secretary*
 16 *shall apportion the full amount of the Federal funds*
 17 *that are allocated to that State to municipalities that*
 18 *are approved under this subsection in amounts pro-*
 19 *portionate to the population of those municipalities,*
 20 *based on the most recent available decennial census.*

21 (7) *APPROVING STATE PROGRAMS FOR MUNICI-*
 22 *PALITIES.—If the Secretary approves municipalities*
 23 *to be participating municipalities under this sub-*
 24 *section, the Secretary shall take into account the ad-*
 25 *ditional considerations in section 3006(d) in making*

1 *the determination under section 3005 or 3006 that the*
 2 *State program or programs to be implemented by the*
 3 *participating municipalities, including a State cap-*
 4 *ital access program, is eligible for Federal contribu-*
 5 *tions to, or for the account of, the State program.*

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

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

13 *(b) APPROVAL.—The Secretary shall approve such*
 14 *State capital access program as eligible for Federal con-*
 15 *tributions to the reserve fund if—*

16 *(1) within 60 days after the date of enactment*
 17 *of this Act, the State has filed with the Secretary a*
 18 *notice of intent to apply for approval by the Sec-*
 19 *retary of a State capital access program;*

20 *(2) within 9 months after the date of enactment*
 21 *of this Act, the State has filed with the Secretary a*
 22 *complete application for approval by the Secretary of*
 23 *a capital access program;*

24 *(3) the State satisfies the requirements of sub-*
 25 *sections (a) and (b) of section 3004; and*

1 (4) *the State capital access program meets the*
 2 *eligibility criteria in subsection (c).*

3 (c) *ELIGIBILITY CRITERIA FOR STATE CAPITAL AC-*
 4 *CESS PROGRAMS.—For a State capital access program to*
 5 *be approved under this section, that program shall be re-*
 6 *quired to be a program of the State that—*

7 (1) *provides portfolio insurance for business*
 8 *loans based on a separate loan-loss reserve fund for*
 9 *each financial institution;*

10 (2) *requires insurance premiums to be paid by*
 11 *the financial institution lenders and by the business*
 12 *borrowers to the reserve fund to have their loans en-*
 13 *rolled in the reserve fund;*

14 (3) *provides for contributions to be made by the*
 15 *State to the reserve fund in amounts at least equal to*
 16 *the sum of the amount of the insurance premium*
 17 *charges paid by the borrower and the financial insti-*
 18 *tution to the reserve fund for any newly enrolled loan;*
 19 *and*

20 (4) *provides its portfolio insurance solely for*
 21 *loans that meet both the following requirements:*

22 (A) *The borrower has 500 employees or less*
 23 *at the time that the loan is enrolled in the Pro-*
 24 *gram.*

1 (B) *The loan amount does not exceed*
 2 \$5,000,000.

3 (d) *FEDERAL CONTRIBUTIONS TO APPROVED STATE*
 4 *CAPITAL ACCESS PROGRAMS.*—*A State capital access pro-*
 5 *gram approved under this section will be eligible for receiv-*
 6 *ing Federal contributions to the reserve fund in an amount*
 7 *equal to the sum of the amount of the insurance premium*
 8 *charges paid by the borrowers and by the financial institu-*
 9 *tion to the reserve fund for loans that meet the requirements*
 10 *in subsection (c)(4). A participating State may use the Fed-*
 11 *eral contribution to make its contribution to the reserve*
 12 *fund of an approved State capital access program.*

13 (e) *MINIMUM PROGRAM REQUIREMENTS FOR STATE*
 14 *CAPITAL ACCESS PROGRAMS.*—*The Secretary shall, by reg-*
 15 *ulation or other guidance, prescribe Program requirements*
 16 *that meet the following minimum requirements:*

17 (1) *EXPERIENCE AND CAPACITY.*—*The partici-*
 18 *parting State shall determine for each financial insti-*
 19 *tution that participates in the State capital access*
 20 *program, after consultation with the appropriate Fed-*
 21 *eral banking agency or, in the case of a financial in-*
 22 *stitution that is a nondepository community develop-*
 23 *ment financial institution, the Community Develop-*
 24 *ment Financial Institution Fund, that the financial*
 25 *institution has sufficient commercial lending experi-*

1 *ence and financial and managerial capacity to par-*
2 *ticipate in the approved State capital access program.*
3 *The determination by the State shall not be review-*
4 *able by the Secretary.*

5 (2) *INVESTMENT AUTHORITY.*—Subject to appli-
6 *cable State law, the participating State may invest,*
7 *or cause to be invested, funds held in a reserve fund*
8 *by establishing a deposit account at the financial in-*
9 *stitution lender in the name of the participating*
10 *State. In the event that funds in the reserve fund are*
11 *not deposited in such an account, such funds shall be*
12 *invested in a form that the participating State deter-*
13 *mines is safe and liquid.*

14 (3) *LOAN TERMS AND CONDITIONS TO BE DETER-*
15 *MINED BY AGREEMENT.*—A loan to be filed for enroll-
16 *ment in an approved State capital access program*
17 *may be made with such interest rate, fees, and other*
18 *terms and conditions, and the loan may be enrolled*
19 *in the approved State capital access program and*
20 *claims may be filed and paid, as agreed upon by the*
21 *financial institution lender and the borrower, con-*
22 *sistent with applicable law.*

23 (4) *LENDER CAPITAL AT-RISK.*—A loan to be
24 *filed for enrollment in the State capital access pro-*
25 *gram shall require the financial institution lender to*

1 *have a meaningful amount of its own capital re-*
 2 *sources at risk in the loan.*

3 (5) *PREMIUM CHARGES MINIMUM AND MAXIMUM*
 4 *AMOUNTS.—The insurance premium charges payable*
 5 *to the reserve fund by the borrower and the financial*
 6 *institution lender shall be prescribed by the financial*
 7 *institution lender, within minimum and maximum*
 8 *limits that require that the sum of the insurance pre-*
 9 *mium charges paid in connection with a loan by the*
 10 *borrower and the financial institution lender may not*
 11 *be less than 2 percent nor more than 7 percent of the*
 12 *amount of the loan enrolled in the approved State*
 13 *capital access program.*

14 (6) *STATE CONTRIBUTIONS.—In enrolling a loan*
 15 *in an approved State capital access program, the*
 16 *participating State may make a contribution to the*
 17 *reserve fund to supplement Federal contributions*
 18 *made under this Program.*

19 (7) *LOAN PURPOSE.—*

20 (A) *PARTICULAR LOAN PURPOSE REQUIRE-*
 21 *MENTS AND PROHIBITIONS.—In connection with*
 22 *the filing of a loan for enrollment in an ap-*
 23 *proved State capital access program, the finan-*
 24 *cial institution lender—*

1 (i) *shall obtain an assurance from each*
2 *borrower that—*

3 (I) *the proceeds of the loan will be*
4 *used for a business purpose;*

5 (II) *the loan will not be used to*
6 *finance such business activities as the*
7 *Secretary, by regulation, may pro-*
8 *scribe as prohibited loan purposes for*
9 *enrollment in an approved State cap-*
10 *ital access program; and*

11 (III) *the borrower is not—*

12 (aa) *an executive officer, di-*
13 *rector, or principal shareholder of*
14 *the financial institution lender;*

15 (bb) *a member of the imme-*
16 *diante family of an executive offi-*
17 *cer, director, or principal share-*
18 *holder of the financial institution*
19 *lender; or*

20 (cc) *a related interest of any*
21 *such executive officer, director,*
22 *principal shareholder, or member*
23 *of the immediate family;*

24 (ii) *shall provide assurances to the*
25 *participating State that the loan has not*

1 *been made in order to place under the pro-*
2 *tection of the approved State capital access*
3 *program prior debt that is not covered*
4 *under the approved State capital access*
5 *program and that is or was owed by the*
6 *borrower to the financial institution lender*
7 *or to an affiliate of the financial institution*
8 *lender;*

9 *(iii) shall not allow the enrollment of*
10 *a loan to a borrower that is a refinancing*
11 *of a loan previously made to that borrower*
12 *by the financial institution lender or an af-*
13 *iliate of the financial institution lender;*
14 *and*

15 *(iv) may include additional restric-*
16 *tions on the eligibility of loans or borrowers*
17 *that are not inconsistent with the provisions*
18 *and purposes of this title, including compli-*
19 *ance with all applicable Federal and State*
20 *laws, regulations, ordinances, and Executive*
21 *orders.*

22 *(B) DEFINITIONS.—In this paragraph, the*
23 *terms “executive officer”, “director”, “principal*
24 *shareholder”, “immediate family”, and “related*
25 *interest” refer to the same relationship to a fi-*

1 nancial institution lender as the relationship de-
 2 scribed in part 215 of title 12 of the Code of Fed-
 3 eral Regulations, or any successor to such part.

4 (8) *CAPITAL ACCESS FOR SMALL BUSINESSES IN*
 5 *UNDERSERVED COMMUNITIES.*—At the time that a
 6 State applies to the Secretary to have the State cap-
 7 ital access program approved as eligible for Federal
 8 contributions, the State shall deliver to the Secretary
 9 a report stating how the State plans to use the Fed-
 10 eral contributions to the reserve fund to provide access
 11 to capital for small businesses in low- and moderate-
 12 income, minority, and other underserved commu-
 13 nities, including women- and minority-owned small
 14 businesses.

15 **SEC. 3006. APPROVING COLLATERAL SUPPORT AND OTHER**
 16 **INNOVATIVE CREDIT ACCESS AND GUAR-**
 17 **ANTEE INITIATIVES FOR SMALL BUSINESSES**
 18 **AND MANUFACTURERS.**

19 (a) *APPLICATION.*—A participating State that estab-
 20 lishes a new, or has an existing, credit support program
 21 that meets the eligibility criteria in subsection (c) may
 22 apply to the Secretary to have the State other credit support
 23 program approved as eligible for Federal contributions to,
 24 or for the account of, the State program.

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

4 (1) *the Secretary determines that the State satis-*
 5 *fies the requirements of paragraphs (1) through (3) of*
 6 *section 3005(b);*

7 (2) *the Secretary determines that the State other*
 8 *credit support program meets the eligibility criteria*
 9 *in subsection (c);*

10 (3) *the Secretary determines the State other cred-*
 11 *it support program to be eligible based on the addi-*
 12 *tional considerations in subsection (d); and*

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

16 (c) *ELIGIBILITY CRITERIA FOR STATE OTHER CREDIT*
 17 *SUPPORT PROGRAMS.*—*For a State other credit support*
 18 *program to be approved under this section, that program*
 19 *shall be required to be a program of the State that—*

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

23 (2) *can demonstrate a reasonable expectation*
 24 *that, when considered with all other State programs*
 25 *of the State, such State programs together have the*

1 *ability to use amounts of new Federal contributions*
2 *to, or for the account of, all such programs in the*
3 *State to cause and result in amounts of new small*
4 *business lending at least 10 times the new Federal*
5 *contribution amount;*

6 *(3) for those State other credit support programs*
7 *that provide their credit support through 1 or more*
8 *financial institution lenders, requires the financial*
9 *institution lenders to have a meaningful amount of*
10 *their own capital resources at risk in their small*
11 *business lending; and*

12 *(4) uses Federal funds allocated under this title*
13 *to extend credit support that—*

14 *(A) targets an average borrower size of 500*
15 *employees or less;*

16 *(B) does not extend credit support to bor-*
17 *rowers that have more than 750 employees;*

18 *(C) targets support towards loans with an*
19 *average principal amount of \$5,000,000 or less;*
20 *and*

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

23 *(d) ADDITIONAL CONSIDERATIONS.—In making a de-*
24 *termination that a State other credit support program is*
25 *eligible for Federal contributions to, or for the account of,*

1 *the State program, the Secretary shall take into account*
2 *the following additional considerations:*

3 (1) *The anticipated benefits to the State, its*
4 *businesses, and its residents to be derived from the*
5 *Federal contributions to, or for the account of, the ap-*
6 *proved State other credit support program, including*
7 *the extent to which resulting small business lending*
8 *will expand economic opportunities.*

9 (2) *The operational capacity, skills, and experi-*
10 *ence of the management team of the State other credit*
11 *support program.*

12 (3) *The capacity of the State other credit support*
13 *program to manage increases in the volume of its*
14 *small business lending.*

15 (4) *The internal accounting and administrative*
16 *controls systems of the State other credit support pro-*
17 *gram, and the extent to which they can provide rea-*
18 *sonable assurance that funds of the State program are*
19 *safeguarded against waste, loss, unauthorized use, or*
20 *misappropriation.*

21 (5) *The soundness of the program design and im-*
22 *plementation plan of the State other credit support*
23 *program.*

24 (e) *FEDERAL CONTRIBUTIONS TO APPROVED STATE*
25 *OTHER CREDIT SUPPORT PROGRAMS.—A State other credit*

1 *support program approved under this section will be eligi-*
 2 *ble for receiving Federal contributions to, or for the account*
 3 *of, the State program in an amount consistent with the*
 4 *schedule describing the apportionment of allocated Federal*
 5 *funds among State programs delivered by the State to the*
 6 *Secretary under the allocation agreement.*

7 (f) *MINIMUM PROGRAM REQUIREMENTS FOR STATE*
 8 *OTHER CREDIT SUPPORT PROGRAMS.—*

9 (1) *FUND TO PRESCRIBE.—The Secretary shall,*
 10 *by regulation or other guidance, prescribe Program*
 11 *requirements for approved State other credit support*
 12 *programs.*

13 (2) *CONSIDERATIONS FOR FUND.—In prescribing*
 14 *minimum Program requirements for approved State*
 15 *other credit support programs, the Secretary shall*
 16 *take into consideration, to the extent the Secretary de-*
 17 *termines applicable and appropriate, the minimum*
 18 *Program requirements for approved State capital ac-*
 19 *cess programs in section 3005(e).*

20 **SEC. 3007. REPORTS.**

21 (a) *QUARTERLY USE-OF-FUNDS REPORT.—*

22 (1) *IN GENERAL.—Not later than 30 days after*
 23 *the beginning of each calendar quarter, beginning*
 24 *after the first full calendar quarter to occur after the*
 25 *date the Secretary approves a State for participation,*

1 *the participating State shall submit to the Secretary*
2 *a report on the use of Federal funding by the partici-*
3 *parting State during the previous calendar quarter.*

4 (2) *REPORT CONTENTS.—Each report under this*
5 *subsection shall—*

6 (A) *indicate the total amount of Federal*
7 *funding used by the participating State; and*

8 (B) *include a certification by the partici-*
9 *pating State that—*

10 (i) *the information provided in accord-*
11 *ance with subparagraph (A) is accurate;*

12 (ii) *funds continue to be available and*
13 *legally committed to contributions by the*
14 *State to, or for the account of, approved*
15 *State programs, less any amount that has*
16 *been contributed by the State to, or for the*
17 *account of, approved State programs subse-*
18 *quent to the State being approved for par-*
19 *ticipation in the Program; and*

20 (iii) *the participating State is imple-*
21 *menting its approved State program or pro-*
22 *grams in accordance with this title and reg-*
23 *ulations issued under section 3010.*

24 (b) *ANNUAL REPORT.—Not later than March 31 of*
25 *each year, beginning March 31, 2011, each participating*

1 *State shall submit to the Secretary an annual report that*
2 *shall include the following information:*

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

7 (2) *The total amount of such new loans.*

8 (3) *Breakdowns by industry type, loan size, an-*
9 *nual sales, and number of employees of the borrowers*
10 *that received such new loans.*

11 (4) *The zip code of each borrower that received*
12 *such a new loan.*

13 (5) *Such other data as the Secretary, in the Sec-*
14 *retary's sole discretion, may require to carry out the*
15 *purposes of the Program.*

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

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

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

3 (a) *REMEDIES.*—

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

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

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

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

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

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

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

22 (b) *DEALLOCATED AMOUNTS TO BE REALLOCATED.*—
 23 *If, after 13 months, any portion of the amount of Federal*
 24 *funds allocated to a participating State is deemed by the*
 25 *Secretary to be no longer allocated to the State after actions*
 26 *taken by the Secretary under subsection (a)(1), the Sec-*

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

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

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

8 (1) *consult with the Administrator of the Small*
 9 *Business Administration and the appropriate Federal*
 10 *banking agencies on the administration of the Pro-*
 11 *gram;*

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

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

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

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

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

1 *cluding to pay reasonable costs of administering the Pro-*
 2 *gram.*

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

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

13 **SEC. 3010. REGULATIONS.**

14 *The Secretary, in consultation with the Administrator*
 15 *of the Small Business Administration, shall issue such regu-*
 16 *lations and other guidance as the Secretary determines nec-*
 17 *essary or appropriate to implement this title including to*
 18 *define terms, to establish compliance and reporting require-*
 19 *ments, and such other terms and conditions necessary to*
 20 *carry out the purposes of this title.*

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

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

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

5 (c) *REQUIRED CERTIFICATION.*—

6 (1) *FINANCIAL INSTITUTIONS CERTIFICATION.*—
7 *With respect to funds received by a participating*
8 *State under the Program, any financial institution*
9 *that receives a loan, a loan guarantee, or other finan-*
10 *cial assistance using such funds after the date of the*
11 *enactment of this Act shall certify that such institu-*
12 *tion is in compliance with the requirements of section*
13 *103.121 of title 31, Code of Federal Regulations, a*
14 *regulation that, at a minimum, requires financial in-*
15 *stitutions, as that term is defined in section 5312*
16 *(a)(2) and (c)(1)(A) of title 31, United States Code,*
17 *to implement reasonable procedures to verify the iden-*
18 *tity of any person seeking to open an account, to the*
19 *extent reasonable and practicable, maintain records of*
20 *the information used to verify the person's identity,*
21 *and determine whether the person appears on any*
22 *lists of known or suspected terrorists or terrorist orga-*
23 *nizations provided to the financial institution by any*
24 *government agency.*

1 (2) *SEX OFFENSE CERTIFICATION.*—*With respect*
2 *to funds received by a participating State under the*
3 *Program, any private entity that receives a loan, a*
4 *loan guarantee, or other financial assistance using*
5 *such funds after the date of the enactment of this Act*
6 *shall certify to the participating State that the prin-*
7 *cipals of such entity have not been convicted of a sex*
8 *offense against a minor (as such terms are defined in*
9 *section 111 of the Sex Offender Registration and Noti-*
10 *fication Act (42 U.S.C. 16911)).*

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

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

5 **SEC. 4101. PURPOSE.**

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

11 **SEC. 4102. DEFINITIONS.**

12 *For purposes of this subtitle:*

13 (1) *APPROPRIATE COMMITTEES OF CONGRESS.—*

14 *The term “appropriate committees of Congress”*
 15 *means—*

16 (A) *the Committee on Small Business and*
 17 *Entrepreneurship, the Committee on Agriculture,*
 18 *Nutrition, and Forestry, the Committee on*
 19 *Banking, Housing, and Urban Affairs, the Com-*
 20 *mittee on Finance, the Committee on the Budget,*
 21 *and the Committee on Appropriations of the*
 22 *Senate; and*

23 (B) *the Committee on Small Business, the*
 24 *Committee on Agriculture, the Committee on Fi-*
 25 *nancial Services, the Committee on Ways and*

1 *Means, the Committee on the Budget, and the*
 2 *Committee on Appropriations of the House of*
 3 *Representatives.*

4 (2) *APPROPRIATE FEDERAL BANKING AGENCY.*—
 5 *The term “appropriate Federal banking agency” has*
 6 *the meaning given such term under section 3(q) of the*
 7 *Federal Deposit Insurance Act (12 U.S.C. 1813(q)).*

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

12 (4) *CALL REPORT.*—*The term “call report”*
 13 *means—*

14 (A) *reports of Condition and Income sub-*
 15 *mitted to the Office of the Comptroller of the*
 16 *Currency, the Board of Governors of the Federal*
 17 *Reserve System, and the Federal Deposit Insur-*
 18 *ance Corporation;*

19 (B) *the Office of Thrift Supervision Thrift*
 20 *Financial Report;*

21 (C) *any report that is designated by the Of-*
 22 *fice of the Comptroller of the Currency, the*
 23 *Board of Governors of the Federal Reserve Sys-*
 24 *tem, the Federal Deposit Insurance Corporation,*
 25 *or the Office of Thrift Supervision, as applicable,*

as a successor to any report referred to in subparagraph (A) or (B);

(D) reports of Condition and Income as designated through guidance developed by the Secretary, in consultation with the Director of the Community Development Financial Institutions Fund; and

(E) with respect to an eligible institution for which no report exists that is described under subparagraph (A), (B), (C), or (D), such other report or set of information as the Secretary, in consultation with the Administrator of the Small Business Administration, may prescribe.

(5) *CDCI*.—The term “*CDCI*” means the Community Development Capital Initiative created by the Secretary under the Troubled Asset Relief Program established by the Emergency Economic Stabilization Act of 2008.

(6) *CDCI INVESTMENT*.—The term “*CDCI investment*” means, with respect to any eligible institution, the principal amount of any investment made by the Secretary in such eligible institution under the *CDCI* that has not been repaid.

(7) *CDFI; COMMUNITY DEVELOPMENT FINANCIAL INSTITUTION*.—The terms “*CDFI*” and “community

1 *development financial institution” have the meaning*
 2 *given the term “community development financial in-*
 3 *stitution” under the Riegle Community Development*
 4 *and Regulatory Improvement Act of 1994.*

5 (8) *CDLF; COMMUNITY DEVELOPMENT LOAN*
 6 *FUND.—The terms “CDLF” and “community devel-*
 7 *opment loan fund” mean any entity that—*

8 (A) *is certified by the Department of the*
 9 *Treasury as a community development financial*
 10 *institution loan fund;*

11 (B) *is exempt from taxation under the In-*
 12 *ternal Revenue Code of 1986; and*

13 (C) *had assets less than or equal to*
 14 *\$10,000,000,000 as of the end of the fourth quar-*
 15 *ter of calendar year 2009.*

16 (9) *CPP.—The term “CPP” means the Capital*
 17 *Purchase Program created by the Secretary under the*
 18 *Troubled Asset Relief Program established by the*
 19 *Emergency Economic Stabilization Act of 2008.*

20 (10) *CPP INVESTMENT.—The term “CPP invest-*
 21 *ment” means, with respect to any eligible institution,*
 22 *the principal amount of any investment made by the*
 23 *Secretary in such eligible institution under the CPP*
 24 *that has not been repaid.*

1 (11) *ELIGIBLE INSTITUTION*.—The term “eligible
2 institution” means—

3 (A) *any insured depository institution,*
4 *which—*

5 (i) *is not controlled by a bank holding*
6 *company or savings and loan holding com-*
7 *pany that is also an eligible institution;*

8 (ii) *has total assets of equal to or less*
9 *than \$10,000,000,000, as reported in the*
10 *call report of the insured depository institu-*
11 *tion as of the end of the fourth quarter of*
12 *calendar year 2009; and*

13 (iii) *is not directly or indirectly con-*
14 *trolled by any company or other entity that*
15 *has total consolidated assets of more than*
16 *\$10,000,000,000, as so reported;*

17 (B) *any bank holding company which has*
18 *total consolidated assets of equal to or less than*
19 *\$10,000,000,000, as reported in the call report of*
20 *the bank holding company as of the end of the*
21 *fourth quarter of calendar year 2009;*

22 (C) *any savings and loan holding company*
23 *which has total consolidated assets of equal to or*
24 *less than \$10,000,000,000, as reported in the call*
25 *report of the savings and loan holding company*

1 *as of the end of the fourth quarter of calendar*
2 *year 2009; and*

3 *(D) any community development financial*
4 *institution loan fund which has total assets of*
5 *equal to or less than \$10,000,000,000, as re-*
6 *ported in audited financial statements for the*
7 *fiscal year of the community development finan-*
8 *cial institution loan fund that ends in calendar*
9 *year 2009.*

10 *(12) FUND.—The term “Fund” means the Small*
11 *Business Lending Fund established under section*
12 *4103(a)(1).*

13 *(13) INSURED DEPOSITORY INSTITUTION.—The*
14 *term “insured depository institution” has the mean-*
15 *ing given such term under section 3(c)(2) of the Fed-*
16 *eral Deposit Insurance Act (12 U.S.C. 1813(c)(2)).*

17 *(14) MINORITY-OWNED AND WOMEN-OWNED*
18 *BUSINESS.—The terms “minority-owned business”*
19 *and “women-owned business” shall have the meaning*
20 *given the terms “minority-owned business” and*
21 *“women’s business”, respectively, under section*
22 *21A(r)(4) of the Federal Home Loan Bank Act (12*
23 *U.S.C. 1441A(r)(4)).*

1 (15) *PROGRAM*.—The term “Program” means the
2 *Small Business Lending Fund Program* authorized
3 under section 4103(a)(2).

4 (16) *SAVINGS AND LOAN HOLDING COMPANY*.—
5 The term “savings and loan holding company” has
6 the meaning given such term under section
7 10(a)(1)(D) of the *Home Owners’ Loan Act* (12
8 U.S.C. 1467a(a)(1)(D)).

9 (17) *SECRETARY*.—The term “Secretary” means
10 the Secretary of the Treasury.

11 (18) *SMALL BUSINESS LENDING*.—

12 (A) *IN GENERAL*.—The term “small busi-
13 ness lending” means lending, as defined by and
14 reported in an eligible institutions’ quarterly call
15 report, where each loan comprising such lending
16 is one of the following types:

17 (i) *Commercial and industrial loans.*

18 (ii) *Owner-occupied nonfarm, nonresi-*
19 *dential real estate loans.*

20 (iii) *Loans to finance agricultural pro-*
21 *duction and other loans to farmers.*

22 (iv) *Loans secured by farmland.*

23 (B) *EXCLUSION*.—No loan that has an
24 original amount greater than \$10,000,000 or
25 that goes to a business with more than

1 \$50,000,000 in revenues shall be included in the
2 measure.

3 (C) *TREATMENT OF HOLDING COMPANIES.—*

4 *In the case of eligible institutions that are bank*
5 *holding companies or savings and loan holding*
6 *companies having one or more insured deposi-*
7 *tory institution subsidiaries, small business lend-*
8 *ing shall be measured based on the combined*
9 *small business lending reported in the call report*
10 *of the insured depository institution subsidiaries.*

11 (19) *VETERAN-OWNED BUSINESS.—*

12 (A) *The term “veteran-owned business”*
13 *means a business—*

14 (i) *more than 50 percent of the owner-*
15 *ship or control of which is held by 1 or*
16 *more veterans;*

17 (ii) *more than 50 percent of the net*
18 *profit or loss of which accrues to 1 or more*
19 *veterans; and*

20 (iii) *a significant percentage of senior*
21 *management positions of which are held by*
22 *veterans.*

23 (B) *For purposes of this paragraph, the*
24 *term “veteran” has the meaning given such term*
25 *in section 101(2) of title 38, United States Code.*

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

2 (a) *FUND AND PROGRAM.*—

3 (1) *FUND ESTABLISHED.*—*There is established in*
4 *the Treasury of the United States a fund to be known*
5 *as the “Small Business Lending Fund”, which shall*
6 *be administered by the Secretary.*

7 (2) *PROGRAMS AUTHORIZED.*—*The Secretary is*
8 *authorized to establish the Small Business Lending*
9 *Fund Program for using the Fund consistent with*
10 *this subtitle.*

11 (b) *USE OF FUND.*—

12 (1) *IN GENERAL.*—*Subject to paragraph (2), the*
13 *Fund shall be available to the Secretary, without fur-*
14 *ther appropriation or fiscal year limitation, for the*
15 *costs of purchases (including commitments to pur-*
16 *chase), and modifications of such purchases, of pre-*
17 *ferred stock and other financial instruments from eli-*
18 *gible institutions on such terms and conditions as are*
19 *determined by the Secretary in accordance with this*
20 *subtitle. For purposes of this paragraph and with re-*
21 *spect to an eligible institution, the term “other finan-*
22 *cial instruments” shall include only debt instruments*
23 *for which such eligible institution is fully liable or eq-*
24 *uity equivalent capital of the eligible institution.*
25 *Such debt instruments may be subordinated to the*
26 *claims of other creditors of the eligible institution.*

1 (2) *MAXIMUM PURCHASE LIMIT.*—*The aggregate*
2 *amount of purchases (and commitments to purchase)*
3 *made pursuant to paragraph (1) may not exceed*
4 *\$30,000,000,000.*

5 (3) *PROCEEDS USED TO PAY DOWN PUBLIC*
6 *DEBT.*—*All funds received by the Secretary in connec-*
7 *tion with purchases made pursuant to paragraph (1),*
8 *including interest payments, dividend payments, and*
9 *proceeds from the sale of any financial instrument,*
10 *shall be paid into the general fund of the Treasury for*
11 *reduction of the public debt.*

12 (4) *LIMITATION ON PURCHASES FROM CDLFS.*—

13 (A) *IN GENERAL.*—*Not more than 1 percent*
14 *of the maximum purchase limit of the Program,*
15 *pursuant to paragraph (2), may be used to make*
16 *purchases from community development loan*
17 *funds.*

18 (B) *ELIGIBILITY STANDARDS.*—*The Sec-*
19 *retary, in consultation with the Community De-*
20 *velopment Financial Institutions Fund, shall de-*
21 *velop eligibility criteria to determine the finan-*
22 *cial ability of a CDLF to participate in the Pro-*
23 *gram and repay the investment. Such criteria*
24 *shall include the following:*

1 (i) *Ratio of net assets to total assets is*
 2 *at least 20 percent.*

3 (ii) *Ratio of loan loss reserves to loans*
 4 *and leases 90 days or more delinquent (in-*
 5 *cluding loans sold with full recourse) is at*
 6 *least 30 percent.*

7 (iii) *Positive net income measured on*
 8 *a 3-year rolling average.*

9 (iv) *Operating liquidity ratio of at*
 10 *least 1.0 for the 4 most recent quarters and*
 11 *for one or both of the two preceding years.*

12 (v) *Ratio of loans and leases 90 days*
 13 *or more delinquent (including loans sold*
 14 *with full recourse) to total equity plus loan*
 15 *loss reserves is less than 40 percent.*

16 (C) *REQUIREMENT TO SUBMIT AUDITED FI-*
 17 *NANCIAL STATEMENTS.—CDLFs participating in*
 18 *the Program shall submit audited financial*
 19 *statements to the Secretary, have a clean audit*
 20 *opinion, and have at least 3 years of operating*
 21 *experience.*

22 (c) *CREDITS TO THE FUND.—There shall be credited*
 23 *to the Fund amounts made available pursuant to section*
 24 *4108, to the extent provided by appropriations Acts.*

25 (d) *TERMS.—*

1 (1) *APPLICATION.*—

2 (A) *INSTITUTIONS WITH ASSETS OF*
3 *\$1,000,000,000 OR LESS.—Eligible institutions*
4 *having total assets equal to or less than*
5 *\$1,000,000,000, as reported in a call report as of*
6 *the end of the fourth quarter of calendar year*
7 *2009, may apply to receive a capital investment*
8 *from the Fund in an amount not exceeding 5*
9 *percent of risk-weighted assets, as reported in the*
10 *call report immediately preceding the date of ap-*
11 *plication, less the amount of any CDCI invest-*
12 *ment and any CPP investment.*

13 (B) *INSTITUTIONS WITH ASSETS OF MORE*
14 *THAN \$1,000,000,000 AND LESS THAN OR EQUAL TO*
15 *\$10,000,000,000.—Eligible institutions having total*
16 *assets of more than \$1,000,000,000 but less than*
17 *\$10,000,000,000, as of the end of the fourth quar-*
18 *ter of calendar year 2009, may apply to receive*
19 *a capital investment from the Fund in an*
20 *amount not exceeding 3 percent of risk-weighted*
21 *assets, as reported in the call report immediately*
22 *preceding the date of application, less the*
23 *amount of any CDCI investment and any CPP*
24 *investment.*

(C) *TREATMENT OF HOLDING COMPANIES.*—

In the case of an eligible institution that is a bank holding company or a savings and loan holding company having one or more insured depository institution subsidiaries, total assets shall be measured based on the combined total assets reported in the call report of the insured depository institution subsidiaries as of the end of the fourth quarter of calendar year 2009 and risk-weighted assets shall be measured based on the combined risk-weighted assets of the insured depository institution subsidiaries as reported in the call report immediately preceding the date of application.

(D) *TREATMENT OF APPLICANTS THAT ARE INSTITUTIONS CONTROLLED BY HOLDING COMPANIES.*—*If an eligible institution that applies to receive a capital investment under the Program is under the control of a bank holding company or a savings and loan holding company, then the Secretary may use the Fund to purchase preferred stock or other financial instruments from the top-tier bank holding company or savings and loan holding company of such eligible institution, as applicable. For purposes of this sub-*

1 paragraph, the term “control” with respect to a
2 bank holding company shall have the same
3 meaning as in section 2(a)(2) of the Bank Hold-
4 ing Company Act of 1956 (12 U.S.C.
5 1841(2)(a)(2)). For purposes of this subpara-
6 graph, the term “control” with respect to a sav-
7 ings and loan holding company shall have the
8 same meaning as in 10(a)(2) of the Home Own-
9 ers’ Loan Act (12 U.S.C. 1467a(a)(2)).

10 (E) REQUIREMENT TO PROVIDE A SMALL
11 BUSINESS LENDING PLAN.—At the time that an
12 applicant submits an application to the Sec-
13 retary for a capital investment under the Pro-
14 gram, the applicant shall deliver to the appro-
15 priate Federal banking agency, and, for appli-
16 cants that are State-chartered banks, to the ap-
17 propriate State banking regulator, a small busi-
18 ness lending plan describing how the applicant’s
19 business strategy and operating goals will allow
20 it to address the needs of small businesses in the
21 areas it serves, as well as a plan to provide lin-
22 guistically and culturally appropriate outreach,
23 where appropriate. In the case of eligible institu-
24 tions that are community development loan
25 funds, this plan shall be submitted to the Sec-

retary. This plan shall be confidential supervisory information.

(F) *TREATMENT OF APPLICANTS THAT ARE COMMUNITY DEVELOPMENT LOAN FUNDS.*—Eligible institutions that are community development loan funds may apply to receive a capital investment from the Fund in an amount not exceeding 5 percent of total assets, as reported in the audited financial statements for the fiscal year of the eligible institution that ends in calendar year 2009.

(2) *CONSULTATION WITH REGULATORS.*—For each eligible institution that applies to receive a capital investment under the Program, the Secretary shall—

(A) *consult with the appropriate Federal banking agency or, in the case of an eligible institution that is a nondepository community development financial institution, the Community Development Financial Institution Fund, for the eligible institution, to determine whether the eligible institution may receive such capital investment;*

(B) *in the case of an eligible institution that is a State-chartered bank, consider any*

1 *views received from the State banking regulator*
2 *of the State of the eligible institution regarding*
3 *the financial condition of the eligible institution;*
4 *and*

5 *(C) in the case of a community development*
6 *financial institution loan fund, consult with the*
7 *Community Development Financial Institution*
8 *Fund.*

9 *(3) CONSIDERATION OF MATCHED PRIVATE IN-*
10 *VESTMENTS.—*

11 *(A) IN GENERAL.—For an eligible institu-*
12 *tion that applies to receive a capital investment*
13 *under the Program, if the entity to be consulted*
14 *under paragraph (2) would not otherwise rec-*
15 *ommend the eligible institution to receive the*
16 *capital investment, the Secretary, in consulta-*
17 *tion with the entity to be so consulted, may con-*
18 *sider whether the entity to be consulted would*
19 *recommend the eligible institution to receive a*
20 *capital investment based on the financial condi-*
21 *tion of the institution if the conditions in sub-*
22 *paragraph (B) are satisfied.*

23 *(B) CONDITIONS.—The conditions referred*
24 *to in subparagraph (A) are as follows:*

(i) *CAPITAL SOURCES.*—*The eligible institution shall receive capital both under the Program and from private, nongovernment investors.*

(ii) *AMOUNT OF CAPITAL.*—*The amount of capital to be received under the Program shall not exceed 3 percent of risk-weighted assets, as reported in the call report immediately preceding the date of application, less the amount of any CDCI investment and any CPP investment.*

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

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

(II) subordinate to the capital investment made by the Secretary under the Program.

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

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

1 (i) such institution is on the *FDIC*
 2 *problem bank list*; or

3 (ii) such institution has been removed
 4 from the *FDIC problem bank list* for less
 5 than 90 days.

6 (B) *CONSTRUCTION*.—Nothing in subpara-
 7 graph (A) shall be construed as limiting the dis-
 8 cretion of the Secretary to deny the application
 9 of an eligible institution that is not on the *FDIC*
 10 *problem bank list*.

11 (C) *FDIC PROBLEM BANK LIST DEFINED*.—
 12 For purposes of this paragraph, the term “*FDIC*
 13 *problem bank list*” means the list of depository
 14 institutions having a current rating of 4 or 5
 15 under the *Uniform Financial Institutions Rat-*
 16 *ing System*, or such other list designated by the
 17 *Federal Deposit Insurance Corporation*.

18 (5) *INCENTIVES TO LEND*.—

19 (A) *REQUIREMENTS ON PREFERRED STOCK*
 20 *AND OTHER FINANCIAL INSTRUMENTS*.—Any pre-
 21 ferred stock or other financial instrument issued
 22 to Treasury by an eligible institution receiving
 23 a capital investment under the Program shall
 24 provide that—

1 (i) *the rate at which dividends or in-*
2 *terest are payable shall be 5 percent per*
3 *annum initially;*

4 (ii) *within the first 2 years after the*
5 *date of the capital investment under the*
6 *Program, the rate may be adjusted based on*
7 *the amount of an eligible institution's small*
8 *business lending. Changes in the amount of*
9 *small business lending shall be measured*
10 *against the average amount of small busi-*
11 *ness lending reported by the eligible institu-*
12 *tion in its call reports for the 4 full quar-*
13 *ters immediately preceding the date of en-*
14 *actment of this Act, minus adjustments*
15 *from each quarterly balance in respect of—*

16 (I) *net loan charge offs with re-*
17 *spect to small business lending; and*

18 (II) *gains realized by the eligible*
19 *institution resulting from mergers, ac-*
20 *quisitions or purchases of loans after*
21 *origination and syndication; which ad-*
22 *justments shall be determined in ac-*
23 *cordance with guidance promulgated*
24 *by the Secretary; and*

1 (iii) during any calendar quarter dur-
2 ing the initial 2-year period referred to in
3 clause (ii), an institution's rate shall be ad-
4 justed to reflect the following schedule, based
5 on that institution's change in the amount
6 of small business lending relative to the
7 baseline—

8 (I) if the amount of small business
9 lending has increased by less than 2.5
10 percent, the dividend or interest rate
11 shall be 5 percent;

12 (II) if the amount of small busi-
13 ness lending has increased by 2.5 per-
14 cent or greater, but by less than 5.0
15 percent, the dividend or interest rate
16 shall be 4 percent;

17 (III) if the amount of small busi-
18 ness lending has increased by 5.0 per-
19 cent or greater, but by less than 7.5
20 percent, the dividend or interest rate
21 shall be 3 percent;

22 (IV) if the amount of small busi-
23 ness lending has increased by 7.5 per-
24 cent or greater, and but by less than

1 10.0 percent, the dividend or interest
2 rate shall be 2 percent; or

3 (V) if the amount of small busi-
4 ness lending has increased by 10 per-
5 cent or greater, the dividend or interest
6 rate shall be 1 percent.

7 (B) BASIS OF INITIAL RATE.—The initial
8 dividend or interest rate shall be based on call
9 report data published in the quarter immediately
10 preceding the date of the capital investment
11 under the Program.

12 (C) TIMING OF RATE ADJUSTMENTS.—Any
13 rate adjustment shall occur in the calendar quar-
14 ter following the publication of call report data,
15 such that the rate based on call report data from
16 any one calendar quarter, which is published in
17 the first following calendar quarter, shall be ad-
18 justed in that first following calendar quarter
19 and payable in the second following quarter.

20 (D) RATE FOLLOWING INITIAL 2-YEAR PE-
21 RIOD.—Generally, the rate based on call report
22 data from the eighth calendar quarter after the
23 date of the capital investment under the Pro-
24 gram shall be payable until the expiration of the
25 4¹/₂-year period that begins on the date of the in-

vestment. In the case where the amount of small business lending has remained the same or decreased relative to the institution's baseline in the eighth quarter after the date of the capital investment under the Program, the rate shall be 7 percent until the expiration of the 4½-year period that begins on the date of the investment.

(E) *RATE FOLLOWING INITIAL 4½-YEAR PERIOD.*—The dividend or interest rate paid on any preferred stock or other financial instrument issued by an eligible institution that receives a capital investment under the Program shall increase to 9 percent at the end of the 4½-year period that begins on the date of the capital investment under the Program.

(F) *LIMITATION ON RATE REDUCTIONS WITH RESPECT TO CERTAIN AMOUNT.*—The reduction in the dividend or interest rate payable to Treasury by any eligible institution shall be limited such that the rate reduction shall not apply to a dollar amount of the investment made by Treasury that is greater than the dollar amount increase in the amount of small business lending realized under this program. The Secretary may issue guidelines that will apply to

1 *new capital investments limiting the amount of*
2 *capital available to eligible institutions con-*
3 *sistent with this limitation.*

4 (G) *RATE ADJUSTMENTS FOR S CORPORA-*
5 *TION.—Before making a capital investment in*
6 *an eligible institution that is an S corporation*
7 *or a corporation organized on a mutual basis,*
8 *the Secretary may adjust the dividend or interest*
9 *rate on the financial instrument to be issued to*
10 *the Secretary, from the dividend or interest rate*
11 *that would apply under subparagraphs (A)*
12 *through (F), to take into account any differential*
13 *tax treatment of securities issued by such eligible*
14 *institution. For purpose of this subparagraph,*
15 *the term “S corporation” has the same meaning*
16 *as in section 1361(a) of the Internal Revenue*
17 *Code of 1986.*

18 (H) *REPAYMENT DEADLINE.—The capital*
19 *investment received by an eligible institution*
20 *under the Program shall be evidenced by pre-*
21 *ferred stock or other financial instrument that—*

22 (i) *includes, as a term and condition,*
23 *that the capital investment will—*

24 (I) *be repaid not later than the*
25 *end of the 10-year period beginning on*

1 *the date of the capital investment*
 2 *under the Program; or*

3 *(II) at the end of such 10-year pe-*
 4 *riod, be subject to such additional*
 5 *terms as the Secretary shall prescribe,*
 6 *which shall include a requirement that*
 7 *the stock or instrument shall carry the*
 8 *highest dividend or interest rate pay-*
 9 *able; and*

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

20 *(I) REQUIREMENTS ON FINANCIAL INSTRU-*
 21 *MENTS ISSUED BY A COMMUNITY DEVELOPMENT*
 22 *FINANCIAL INSTITUTION LOAN FUND.—Any eq-*
 23 *uity equivalent capital issued to the Treasury by*
 24 *a community development loan fund receiving a*
 25 *capital investment under the Program shall pro-*

1 *vide that the rate at which interest is payable*
 2 *shall be 2 percent per annum for 8 years. After*
 3 *8 years, the rate at which interest is payable*
 4 *shall be 9 percent.*

5 (6) *ADDITIONAL INCENTIVES TO REPAY.—The*
 6 *Secretary may, by regulation or guidance issued*
 7 *under section 4104(9), establish repayment incentives*
 8 *in addition to the incentive in paragraph (5)(E) that*
 9 *will apply to new capital investments in a manner*
 10 *that the Secretary determines to be consistent with the*
 11 *purposes of this subtitle.*

12 (7) *CAPITAL PURCHASE PROGRAM REFINANCE.—*

13 (A) *IN GENERAL.—The Secretary shall, in a*
 14 *manner that the Secretary determines to be con-*
 15 *sistent with the purposes of this subtitle, issue*
 16 *regulations and other guidance to permit eligible*
 17 *institutions to refinance securities issued to*
 18 *Treasury under the CDCI and the CPP for secu-*
 19 *rities to be issued under the Program.*

20 (B) *PROHIBITION ON PARTICIPATION BY*
 21 *NON-PAYING CPP PARTICIPANTS.—Subparagraph*
 22 (A) *shall not apply to any eligible institution*
 23 *that has missed more than one dividend pay-*
 24 *ment due under the CPP. For purposes of this*
 25 *subparagraph, a CPP dividend payment that is*

1 *submitted within 60 days of the due date of such*
2 *payment shall not be considered a missed divi-*
3 *dend payment.*

4 (8) *OUTREACH TO MINORITIES, WOMEN, AND*
5 *VETERANS.—The Secretary shall require eligible insti-*
6 *tutions receiving capital investments under the Pro-*
7 *gram to provide linguistically and culturally appro-*
8 *priate outreach and advertising in the applicant pool*
9 *describing the availability and application process of*
10 *receiving loans from the eligible institution that are*
11 *made possible by the Program through the use of*
12 *print, radio, television or electronic media outlets*
13 *which target organizations, trade associations, and*
14 *individuals that—*

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

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

19 (C) *represent or work with or are veterans.*

20 (9) *ADDITIONAL TERMS.—The Secretary may, by*
21 *regulation or guidance issued under section 4104(9),*
22 *make modifications that will apply to new capital in-*
23 *vestments in order to manage risks associated with*
24 *the administration of the Fund in a manner con-*
25 *sistent with the purposes of this subtitle.*

1 (10) *MINIMUM UNDERWRITING STANDARDS.*—*The*
 2 *appropriate Federal banking agency for an eligible*
 3 *institution that receives funds under the Program*
 4 *shall within 60 days issue guidance regarding pru-*
 5 *dent underwriting standards that must be used for*
 6 *loans made by the eligible institution using such*
 7 *funds.*

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

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

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

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

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

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

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

13 (5) Subject to section 4103(b)(3), the Secretary
14 may manage any assets purchased under this subtitle,
15 including revenues and portfolio risks therefrom.

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

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

1 *administration and execution of the authorities pro-*
2 *vided under this subtitle.*

3 *(8) The Secretary may establish and use vehicles,*
4 *subject to supervision by the Secretary, to purchase,*
5 *hold, and sell preferred stock or other financial in-*
6 *struments and issue obligations.*

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

12 **SEC. 4105. CONSIDERATIONS.**

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

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

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

23 *(3) protecting and increasing American jobs;*

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

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

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

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

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

14 (9) *providing funding to eligible institutions*
 15 *that serve small businesses directly affected by the dis-*
 16 *charge of oil arising from the explosion on and sink-*
 17 *ing of the mobile offshore drilling unit Deepwater Ho-*
 18 *rizon and small businesses in communities that have*
 19 *suffered negative economic effects as a result of that*
 20 *discharge with particular consideration to States*
 21 *along the coast of the Gulf of Mexico.*

22 **SEC. 4106. REPORTS.**

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

1 (1) *within 7 days of the end of each month com-*
2 *mencing with the first month in which transactions*
3 *are made under the Program, a written report de-*
4 *scribing all of the transactions made during the re-*
5 *porting period pursuant to the authorities granted*
6 *under this subtitle;*

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

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

20 **SEC. 4107. OVERSIGHT AND AUDITS.**

21 (a) *INSPECTOR GENERAL OVERSIGHT.*—*The Inspector*
22 *General of the Department of the Treasury shall conduct,*
23 *supervise, and coordinate audits and investigations of the*
24 *Program through the Office of Small Business Lending*
25 *Fund Program Oversight established under subsection (b).*

1 **(b) OFFICE OF SMALL BUSINESS LENDING FUND PRO-**
2 **GRAM OVERSIGHT.**—

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

8 **(2) LEADERSHIP.**—*The Inspector General shall*
9 *appoint a Special Deputy Inspector General for*
10 *SBLF Program Oversight to lead the Office, with*
11 *commensurate staff, who shall report directly to the*
12 *Inspector General and who shall be responsible for the*
13 *performance of all auditing and investigative activi-*
14 *ties relating to the Program.*

15 **(3) REPORTING.**—

16 **(A) IN GENERAL.**—*The Inspector General*
17 *shall issue a report no less than two times a year*
18 *to the Congress and the Secretary devoted to the*
19 *oversight provided by the Office, including any*
20 *recommendations for improvements to the Pro-*
21 *gram.*

22 **(B) RECOMMENDATIONS.**—*With respect to*
23 *any deficiencies identified in a report under sub-*
24 *paragraph (A), the Secretary shall either—*

1 (i) take actions to address such defi-
2 ciencies; or

3 (ii) certify to the appropriate commit-
4 tees of Congress that no action is necessary
5 or appropriate.

6 (4) *COORDINATION.*—The Inspector General, in
7 maximizing the effectiveness of the Office, shall work
8 with other Offices of Inspector General, as appro-
9 priate, to minimize duplication of effort and ensure
10 comprehensive oversight of the Program.

11 (5) *TERMINATION.*—The Office shall terminate at
12 the end of the 6-month period beginning on the date
13 on which all capital investments are repaid under the
14 Program or the date on which the Secretary deter-
15 mines that any remaining capital investments will
16 not be repaid.

17 (6) *DEFINITIONS.*—For purposes of this sub-
18 section:

19 (A) *OFFICE.*—The term “Office” means the
20 Office of Small Business Lending Fund Program
21 Oversight established under paragraph (1).

22 (B) *INSPECTOR GENERAL.*—The term “In-
23 spectator General” means the Inspector General of
24 the Department of the Treasury.

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

5 (d) *REQUIRED CERTIFICATIONS.*—

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

21 (2) *LOAN RECIPIENTS.*—*With respect to funds*
22 *received by an eligible institution under the Program,*
23 *any business receiving a loan from the eligible insti-*
24 *tution using such funds after the date of the enact-*
25 *ment of this Act shall certify to such eligible institu-*

1 *tion that the principals of such business have not been*
 2 *convicted of a sex offense against a minor (as such*
 3 *terms are defined in section 111 of the Sex Offender*
 4 *Registration and Notification Act (42 U.S.C. 16911)).*

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

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

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

20 *(b) FUNDS MADE AVAILABLE.—There are hereby ap-*
 21 *propriated, out of funds in the Treasury not otherwise ap-*
 22 *propriated, such sums as may be necessary to pay the costs*
 23 *of \$30,000,000,000 of capital investments in eligible institu-*
 24 *tions, including the costs of modifying such investments,*

1 *and reasonable costs of administering the program of mak-*
 2 *ing, holding, managing, and selling the capital investments.*

3 **SEC. 4109. TERMINATION AND CONTINUATION OF AUTHORI-**
 4 **TIES.**

5 (a) *TERMINATION OF INVESTMENT AUTHORITY.—The*
 6 *authority to make capital investments in eligible institu-*
 7 *tions, including commitments to purchase preferred stock*
 8 *or other instruments, provided under this subtitle shall ter-*
 9 *minate 1 year after the date of enactment of this Act.*

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

13 **SEC. 4110. PRESERVATION OF AUTHORITY.**

14 *Nothing in this subtitle may be construed to limit the*
 15 *authority of the Secretary under any other provision of law.*

16 **SEC. 4111. ASSURANCES.**

17 (a) *SMALL BUSINESS LENDING FUND SEPARATE*
 18 *FROM TARP.—The Small Business Lending Fund Pro-*
 19 *gram is established as separate and distinct from the Trou-*
 20 *bled Asset Relief Program established by the Emergency*
 21 *Economic Stabilization Act of 2008. An institution shall*
 22 *not, by virtue of a capital investment under the Small Busi-*
 23 *ness Lending Fund Program, be considered a recipient of*
 24 *the Troubled Asset Relief Program.*

1 (b) *CHANGE IN LAW.*—If, after a capital investment
 2 has been made in an eligible institution under the Program,
 3 there is a change in law that modifies the terms of the in-
 4 vestment or program in a materially adverse respect for the
 5 eligible institution, the eligible institution may, after con-
 6 sultation with the appropriate Federal banking agency for
 7 the eligible institution, repay the investment without im-
 8 pediment.

9 **SEC. 4112. STUDY AND REPORT WITH RESPECT TO WOMEN-**
 10 **OWNED, VETERAN-OWNED, AND MINORITY-**
 11 **OWNED BUSINESSES.**

12 (a) *STUDY.*—The Secretary shall conduct a study of
 13 the impact of the Program on women-owned businesses, vet-
 14 eran-owned businesses, and minority-owned businesses.

15 (b) *REPORT.*—Not later than one year after the date
 16 of enactment of this Act, the Secretary shall submit to Con-
 17 gress a report on the results of the study conducted pursuant
 18 to subsection (a). To the extent possible, the Secretary shall
 19 disaggregate the results of such study by ethnic group and
 20 gender.

21 (c) *INFORMATION PROVIDED TO THE SECRETARY.*—
 22 Eligible institutions that participate in the Program shall
 23 provide the Secretary with such information as the Sec-
 24 retary may require to carry out the study required by this
 25 section.

1 **SEC. 4113. SENSE OF CONGRESS.**

2 *It is the sense of Congress that the Federal Deposit In-*
 3 *surance Corporation and other bank regulators are sending*
 4 *mixed messages to banks regarding regulatory capital re-*
 5 *quirements and lending standards, which is a contributing*
 6 *cause of decreased small business lending and increased reg-*
 7 *ulatory uncertainty at community banks.*

8 ***Subtitle B—Other Provisions***

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

10 **INITIATIVES**

11 **SEC. 4221. SHORT TITLE.**

12 *This part may be cited as the “Export Promotion Act*
 13 *of 2010”.*

14 **SEC. 4222. GLOBAL BUSINESS DEVELOPMENT AND PRO-**
 15 **MOTION ACTIVITIES OF THE DEPARTMENT OF**
 16 **COMMERCE.**

17 *(a) INCREASE IN EMPLOYEES WITH RESPONSIBILITY*
 18 *FOR GLOBAL BUSINESS DEVELOPMENT AND PROMOTION*
 19 *ACTIVITIES.—*

20 *(1) IN GENERAL.—During the 24-month period*
 21 *beginning on the date of the enactment of this Act, the*
 22 *Secretary of Commerce shall increase the number of*
 23 *full-time departmental employees whose primary re-*
 24 *sponsibilities involve promoting or facilitating par-*
 25 *ticipation by United States businesses in the global*
 26 *marketplace and facilitating the entry into, or expan-*

1 *sion of, such participation by United States busi-*
 2 *nesses. In carrying out this subsection, the Secretary*
 3 *shall ensure that—*

4 *(A) the cohort of such employees is increased*
 5 *by not less than 80 persons; and*

6 *(B) a substantial portion of the increased*
 7 *cohort is stationed outside the United States.*

8 *(2) ENHANCED FOCUS ON UNITED STATES*
 9 *SMALL- AND MEDIUM-SIZED BUSINESSES.—In car-*
 10 *rying out this subsection, the Secretary shall take*
 11 *such action as may be necessary to ensure that the ac-*
 12 *tivities of the Department of Commerce relating to*
 13 *promoting and facilitating participation by United*
 14 *States businesses in the global marketplace include*
 15 *promoting and facilitating such participation by*
 16 *small and medium-sized businesses in the United*
 17 *States.*

18 *(3) AUTHORIZATION OF APPROPRIATIONS.—*
 19 *There are authorized to be appropriated to the Sec-*
 20 *retary for each of the fiscal years 2011 and 2012 such*
 21 *sums as may be necessary to carry out this section.*

22 *(b) ADDITIONAL FUNDING FOR GLOBAL BUSINESS DE-*
 23 *VELOPMENT AND PROMOTION ACTIVITIES OF THE DEPART-*
 24 *MENT OF COMMERCE.—*

1 (1) *IN GENERAL.*—*There are authorized to be ap-*
 2 *propriated to the Secretary of Commerce for the pe-*
 3 *riod beginning on the date of the enactment of this*
 4 *Act and ending 18 months thereafter, \$30,000,000 to*
 5 *promote or facilitate participation by United States*
 6 *businesses in the global marketplace and facilitating*
 7 *the entry into, or expansion of, such participation by*
 8 *United States businesses.*

9 (2) *REQUIREMENTS.*—*In obligating and expend-*
 10 *ing the funds authorized to be appropriated by para-*
 11 *graph (1), the Secretary of Commerce shall give pref-*
 12 *erence to activities that—*

13 (A) *assist small- and medium-sized busi-*
 14 *nesses in the United States; and*

15 (B) *the Secretary determines will create or*
 16 *sustain the greatest number of jobs in the United*
 17 *States and obtain the maximum return on in-*
 18 *vestment.*

19 **SEC. 4223. ADDITIONAL FUNDING TO IMPROVE ACCESS TO**
 20 **GLOBAL MARKETS FOR RURAL BUSINESSES.**

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

1 (b) *REQUIREMENTS.*—*In obligating and expending the*
 2 *funds authorized to be appropriated by subsection (a), the*
 3 *Secretary of Commerce shall give preference to activities*
 4 *that—*

5 (1) *assist small- and medium-sized businesses in*
 6 *the United States; and*

7 (2) *the Secretary determines will create or sus-*
 8 *tain the greatest number of jobs in the United States*
 9 *and obtain the maximum return on investment.*

10 **SEC. 4224. ADDITIONAL FUNDING FOR THE EXPORTECH**
 11 **PROGRAM.**

12 (a) *IN GENERAL.*—*There are authorized to be appro-*
 13 *priated to the Secretary of Commerce \$11,000,000 for the*
 14 *period beginning on the date of the enactment of this Act*
 15 *and ending 18 months thereafter, to expand ExporTech, a*
 16 *joint program of the Hollings Manufacturing Partnership*
 17 *Program and the Export Assistance Centers of the Depart-*
 18 *ment of Commerce.*

19 (b) *REQUIREMENTS.*—*In obligating and expending the*
 20 *funds authorized to be appropriated by subsection (a), the*
 21 *Secretary of Commerce shall give preference to activities*
 22 *that—*

23 (1) *assist small- and medium-sized businesses in*
 24 *the United States; and*

1 (2) *the Secretary determines will create or sus-*
 2 *tain the greatest number of jobs in the United States*
 3 *and obtain the maximum return on investment.*

4 **SEC. 4225. ADDITIONAL FUNDING FOR THE MARKET DEVEL-**
 5 **OPMENT COOPERATOR PROGRAM OF THE DE-**
 6 **PARTMENT OF COMMERCE.**

7 (a) *IN GENERAL.*—*There are authorized to be appro-*
 8 *priated to the Secretary of Commerce for the period begin-*
 9 *ning on the date of the enactment of this Act and ending*
 10 *18 months thereafter, \$15,000,000 for the Manufacturing*
 11 *and Services unit of the International Trade Administra-*
 12 *tion—*

13 (1) *to establish public-private partnerships under*
 14 *the Market Development Cooperator Program of the*
 15 *International Trade Administration; and*

16 (2) *to underwrite a portion of the start-up costs*
 17 *for new projects carried out under that Program to*
 18 *strengthen the competitiveness and market share of*
 19 *United States industry, not to exceed, for each such*
 20 *project, the lesser of—*

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

23 (B) *\$500,000.*

24 (b) *REQUIREMENTS.*—*In obligating and expending the*
 25 *funds authorized to be appropriated by subsection (a), the*

1 *Secretary of Commerce shall give preference to activities*
 2 *that—*

3 (1) *assist small- and medium-sized businesses in*
 4 *the United States; and*

5 (2) *the Secretary determines will create or sus-*
 6 *tain the greatest number of jobs in the United States*
 7 *and obtain the maximum return on investment.*

8 **SEC. 4226. HOLLINGS MANUFACTURING PARTNERSHIP PRO-**
 9 **GRAM; TECHNOLOGY INNOVATION PROGRAM.**

10 (a) *HOLLINGS MANUFACTURING PARTNERSHIP PRO-*
 11 *GRAM.—Section 25(f) of the National Institute of Standards*
 12 *and Technology Act (15 U.S.C. 278k(f)) is amended by add-*
 13 *ing at the end the following:*

14 “(7) *GLOBAL MARKETPLACE PROJECTS.—In*
 15 *making awards under this subsection, the Director, in*
 16 *consultation with the Manufacturing Extension Part-*
 17 *nership Advisory Board and the Secretary of Com-*
 18 *merce, may—*

19 “(A) *take into consideration whether an ap-*
 20 *plication has significant potential for enhancing*
 21 *the competitiveness of small and medium-sized*
 22 *United States manufacturers in the global mar-*
 23 *ketplace; and*

24 “(B) *give a preference to applications for*
 25 *such projects to the extent the Director deems ap-*

1 *appropriate, taking into account the broader pur-*
 2 *poses of this subsection.”.*

3 **(b) TECHNOLOGY INNOVATION PROGRAM.**—*In award-*
 4 *ing grants, cooperative agreements, or contracts under sec-*
 5 *tion 28 of the National Institute of Standards and Tech-*
 6 *nology Act (15 U.S.C. 278n), in addition to the award cri-*
 7 *teria set forth in subsection (c) of that section, the Director*
 8 *of the National Institute of Standards and Technology may*
 9 *take into consideration whether an application has signifi-*
 10 *cant potential for enhancing the competitiveness of small-*
 11 *and medium-sized businesses in the United States in the*
 12 *global marketplace. The Director shall consult with the*
 13 *Technology Innovation Program Advisory Board and the*
 14 *Secretary of Commerce in implementing this subsection.*

15 **SEC. 4227. SENSE OF THE SENATE CONCERNING FEDERAL**
 16 **COLLABORATION WITH STATES ON EXPORT**
 17 **PROMOTION ISSUES.**

18 *It is the sense of the Senate that the Secretary of Com-*
 19 *merce should enhance Federal collaboration with the States*
 20 *on export promotion issues by—*

21 *(1) providing the necessary training to the staff*
 22 *at State international trade agencies to enable them*
 23 *to assist the United States and Foreign Commercial*
 24 *Service (established by section 2301 of the Export En-*
 25 *hancement Act of 1988 (15 U.S.C. 4721)) in pro-*

1 *viding counseling and other export services to busi-*
 2 *nesses in their communities; and*

3 *(2) entering into agreements with State inter-*
 4 *national trade agencies for those agencies to deliver*
 5 *export promotion services in their local communities*
 6 *in order to extend the outreach of United States and*
 7 *Foreign Commercial Service programs.*

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

9 *Not later than 90 days after the date of the enactment*
 10 *of this Act, the Secretary of Commerce, in consultation with*
 11 *the United States Trade Representative and other appro-*
 12 *priate entities, shall report to Congress on the tariff and*
 13 *nontariff barriers imposed by Colombia, the Republic of*
 14 *Korea, and Panama with respect to exports of articles from*
 15 *the United States, including articles exported or produced*
 16 *by small- and medium-sized businesses in the United*
 17 *States.*

18 **PART II—MEDICARE FRAUD**

19 **SEC. 4241. USE OF PREDICTIVE MODELING AND OTHER**
 20 **ANALYTICS TECHNOLOGIES TO IDENTIFY**
 21 **AND PREVENT WASTE, FRAUD, AND ABUSE IN**
 22 **THE MEDICARE FEE-FOR-SERVICE PROGRAM.**

23 *(a) USE IN THE MEDICARE FEE-FOR-SERVICE PRO-*
 24 *GRAM.—The Secretary shall use predictive modeling and*
 25 *other analytics technologies (in this section referred to as*

1 “predictive analytics technologies”) to identify improper
 2 claims for reimbursement and to prevent the payment of
 3 such claims under the Medicare fee-for-service program.

4 (b) *PREDICTIVE ANALYTICS TECHNOLOGIES REQUIRE-*
 5 *MENTS.*—*The predictive analytics technologies used by the*
 6 *Secretary shall—*

7 (1) *capture Medicare provider and Medicare ben-*
 8 *eficiary activities across the Medicare fee-for-service*
 9 *program to provide a comprehensive view across all*
 10 *providers, beneficiaries, and geographies within such*
 11 *program in order to—*

12 (A) *identify and analyze Medicare provider*
 13 *networks, provider billing patterns, and bene-*
 14 *ficiary utilization patterns; and*

15 (B) *identify and detect any such patterns*
 16 *and networks that represent a high risk of fraud-*
 17 *ulent activity;*

18 (2) *be integrated into the existing Medicare fee-*
 19 *for-service program claims flow with minimal effort*
 20 *and maximum efficiency;*

21 (3) *be able to—*

22 (A) *analyze large data sets for unusual or*
 23 *suspicious patterns or anomalies or contain*
 24 *other factors that are linked to the occurrence of*
 25 *waste, fraud, or abuse;*

1 (B) undertake such analysis before payment
2 is made; and

3 (C) prioritize such identified transactions
4 for additional review before payment is made in
5 terms of the likelihood of potential waste, fraud,
6 and abuse to more efficiently utilize investigative
7 resources;

8 (4) capture outcome information on adjudicated
9 claims for reimbursement to allow for refinement and
10 enhancement of the predictive analytics technologies
11 on the basis of such outcome information, including
12 post-payment information about the eventual status of
13 a claim; and

14 (5) prevent the payment of claims for reimburse-
15 ment that have been identified as potentially wasteful,
16 fraudulent, or abusive until such time as the claims
17 have been verified as valid.

18 (c) *IMPLEMENTATION REQUIREMENTS.*—

19 (1) *REQUEST FOR PROPOSALS.*—Not later than
20 January 1, 2011, the Secretary shall issue a request
21 for proposals to carry out this section during the first
22 year of implementation. To the extent the Secretary
23 determines appropriate—

24 (A) the initial request for proposals may in-
25 clude subsequent implementation years; and

1 (B) the Secretary may issue additional re-
2 quests for proposals with respect to subsequent
3 implementation years.

4 (2) *FIRST IMPLEMENTATION YEAR.*—The initial
5 request for proposals issued under paragraph (1) shall
6 require the contractors selected to commence using
7 predictive analytics technologies on July 1, 2011, in
8 the 10 States identified by the Secretary as having
9 the highest risk of waste, fraud, or abuse in the Medi-
10 care fee-for-service program.

11 (3) *SECOND IMPLEMENTATION YEAR.*—Based on
12 the results of the report and recommendation required
13 under subsection (e)(1)(B), the Secretary shall expand
14 the use of predictive analytics technologies on October
15 1, 2012, to apply to an additional 10 States identi-
16 fied by the Secretary as having the highest risk of
17 waste, fraud, or abuse in the Medicare fee-for-service
18 program, after the States identified under paragraph
19 (2).

20 (4) *THIRD IMPLEMENTATION YEAR.*—Based on
21 the results of the report and recommendation required
22 under subsection (e)(2), the Secretary shall expand
23 the use of predictive analytics technologies on Janu-
24 ary 1, 2014, to apply to the Medicare fee-for-service

1 *program in any State not identified under paragraph*
2 *(2) or (3) and the commonwealths and territories.*

3 (5) *FOURTH IMPLEMENTATION YEAR.—Based on*
4 *the results of the report and recommendation required*
5 *under subsection (e)(3), the Secretary shall expand*
6 *the use of predictive analytics technologies, beginning*
7 *April 1, 2015, to apply to Medicaid and CHIP. To*
8 *the extent the Secretary determines appropriate, such*
9 *expansion may be made on a phased-in basis.*

10 (6) *OPTION FOR REFINEMENT AND EVALUA-*
11 *TION.—If, with respect to the first, second, or third*
12 *implementation year, the Inspector General of the De-*
13 *partment of Health and Human Services certifies as*
14 *part of the report required under subsection (e) for*
15 *that year no or only nominal actual savings to the*
16 *Medicare fee-for-service program, the Secretary may*
17 *impose a moratorium, not to exceed 12 months, on the*
18 *expansion of the use of predictive analytics tech-*
19 *nologies under this section for the succeeding year in*
20 *order to refine the use of predictive analytics tech-*
21 *nologies to achieve more than nominal savings before*
22 *further expansion. If a moratorium is imposed in ac-*
23 *cordance with this paragraph, the implementation*
24 *dates applicable for the succeeding year or years shall*

1 *be adjusted to reflect the length of the moratorium pe-*
 2 *riod.*

3 *(d) CONTRACTOR SELECTION, QUALIFICATIONS, AND*
 4 *DATA ACCESS REQUIREMENTS.—*

5 *(1) SELECTION.—*

6 *(A) IN GENERAL.—The Secretary shall se-*
 7 *lect contractors to carry out this section using*
 8 *competitive procedures as provided for in the*
 9 *Federal Acquisition Regulation.*

10 *(B) NUMBER OF CONTRACTORS.—The Sec-*
 11 *retary shall select at least 2 contractors to carry*
 12 *out this section with respect to any year.*

13 *(2) QUALIFICATIONS.—*

14 *(A) IN GENERAL.—The Secretary shall enter*
 15 *into a contract under this section with an entity*
 16 *only if the entity—*

17 *(i) has leadership and staff who—*

18 *(I) have the appropriate clinical*
 19 *knowledge of, and experience with, the*
 20 *payment rules and regulations under*
 21 *the Medicare fee-for-service program;*
 22 *and*

23 *(II) have direct management expe-*
 24 *rience and proficiency utilizing pre-*
 25 *dictive analytics technologies necessary*

1 to carry out the requirements under
2 subsection (b); or

3 (ii) has a contract, or will enter into
4 a contract, with another entity that has
5 leadership and staff meeting the criteria de-
6 scribed in clause (i).

7 (B) *CONFLICT OF INTEREST.*—The Sec-
8 retary may only enter into a contract under this
9 section with an entity to the extent that the enti-
10 ty complies with such conflict of interest stand-
11 ards as are generally applicable to Federal ac-
12 quisition and procurement.

13 (3) *DATA ACCESS.*—The Secretary shall provide
14 entities with a contract under this section with ap-
15 propriate access to data necessary for the entity to use
16 predictive analytics technologies in accordance with
17 the contract.

18 (e) *REPORTING REQUIREMENTS.*—

19 (1) *FIRST IMPLEMENTATION YEAR REPORT.*—Not
20 later than 3 months after the completion of the first
21 implementation year under this section, the Secretary
22 shall submit to the appropriate committees of Con-
23 gress and make available to the public a report that
24 includes the following:

1 (A) *A description of the implementation of*
2 *the use of predictive analytics technologies dur-*
3 *ing the year.*

4 (B) *A certification of the Inspector General*
5 *of the Department of Health and Human Serv-*
6 *ices that—*

7 (i) *specifies the actual and projected*
8 *savings to the Medicare fee-for-service pro-*
9 *gram as a result of the use of predictive*
10 *analytics technologies, including estimates*
11 *of the amounts of such savings with respect*
12 *to both improper payments recovered and*
13 *improper payments avoided;*

14 (ii) *the actual and projected savings to*
15 *the Medicare fee-for-service program as a re-*
16 *sult of such use of predictive analytics tech-*
17 *nologies relative to the return on investment*
18 *for the use of such technologies and in com-*
19 *parison to other strategies or technologies*
20 *used to prevent and detect fraud, waste, and*
21 *abuse in the Medicare fee-for-service pro-*
22 *gram; and*

23 (iii) *includes recommendations regard-*
24 *ing—*

1 (I) *whether the Secretary should*
2 *continue to use predictive analytics*
3 *technologies;*

4 (II) *whether the use of such tech-*
5 *nologies should be expanded in accord-*
6 *ance with the requirements of sub-*
7 *section (c); and*

8 (III) *any modifications or refine-*
9 *ments that should be made to increase*
10 *the amount of actual or projected sav-*
11 *ings or mitigate any adverse impact*
12 *on Medicare beneficiaries or providers.*

13 (C) *An analysis of the extent to which the*
14 *use of predictive analytics technologies success-*
15 *fully prevented and detected waste, fraud, or*
16 *abuse in the Medicare fee-for-service program.*

17 (D) *A review of whether the predictive ana-*
18 *lytics technologies affected access to, or the qual-*
19 *ity of, items and services furnished to Medicare*
20 *beneficiaries.*

21 (E) *A review of what effect, if any, the use*
22 *of predictive analytics technologies had on Medi-*
23 *care providers.*

24 (F) *Any other items determined appropriate*
25 *by the Secretary.*

1 (2) *SECOND YEAR IMPLEMENTATION REPORT.*—

2 *Not later than 3 months after the completion of the*
 3 *second implementation year under this section, the*
 4 *Secretary shall submit to the appropriate committees*
 5 *of Congress and make available to the public a report*
 6 *that includes, with respect to such year, the items re-*
 7 *quired under paragraph (1) as well as any other ad-*
 8 *ditional items determined appropriate by the Sec-*
 9 *retary with respect to the report for such year.*

10 (3) *THIRD YEAR IMPLEMENTATION REPORT.*—

11 *Not later than 3 months after the completion of the*
 12 *third implementation year under this section, the Sec-*
 13 *retary shall submit to the appropriate committees of*
 14 *Congress, and make available to the public, a report*
 15 *that includes with respect to such year, the items re-*
 16 *quired under paragraph (1), as well as any other ad-*
 17 *ditional items determined appropriate by the Sec-*
 18 *retary with respect to the report for such year, and*
 19 *the following:*

20 (A) *An analysis of the cost-effectiveness and*
 21 *feasibility of expanding the use of predictive*
 22 *analytics technologies to Medicaid and CHIP.*

23 (B) *An analysis of the effect, if any, the ap-*
 24 *plication of predictive analytics technologies to*

1 *claims under Medicaid and CHIP would have on*
2 *States and the commonwealths and territories.*

3 *(C) Recommendations regarding the extent*
4 *to which technical assistance may be necessary to*
5 *expand the application of predictive analytics*
6 *technologies to claims under Medicaid and*
7 *CHIP, and the type of any such assistance.*

8 *(f) INDEPENDENT EVALUATION AND REPORT.—*

9 *(1) EVALUATION.—Upon completion of the first*
10 *year in which predictive analytics technologies are*
11 *used with respect to claims under Medicaid and*
12 *CHIP, the Secretary shall, by grant, contract, or*
13 *interagency agreement, conduct an independent eval-*
14 *uation of the use of predictive analytics technologies*
15 *under the Medicare fee-for-service program and Med-*
16 *icaid and CHIP. The evaluation shall include an*
17 *analysis with respect to each such program of the*
18 *items required for the third year implementation re-*
19 *port under subsection (e)(3).*

20 *(2) REPORT.—Not later than 18 months after the*
21 *evaluation required under paragraph (1) is initiated,*
22 *the Secretary shall submit a report to Congress on the*
23 *evaluation that shall include the results of the evalua-*
24 *tion, the Secretary's response to such results and, to*
25 *the extent the Secretary determines appropriate, rec-*

1 ommendations for legislation or administrative ac-
2 tions.

3 (g) *WAIVER AUTHORITY.*—*The Secretary may waive*
4 *such provisions of titles XI, XVIII, XIX, and XXI of the*
5 *Social Security Act, including applicable prompt payment*
6 *requirements under titles XVIII and XIX of such Act, as*
7 *the Secretary determines to be appropriate to carry out this*
8 *section.*

9 (h) *FUNDING.*—

10 (1) *APPROPRIATION.*—*Out of any funds in the*
11 *Treasury not otherwise appropriated, there is appro-*
12 *priated to the Secretary to carry out this section,*
13 *\$100,000,000 for the period beginning January 1,*
14 *2011, to remain available until expended.*

15 (2) *RESERVATIONS.*—

16 (A) *INDEPENDENT EVALUATION.*—*The Sec-*
17 *retary shall reserve not more than 5 percent of*
18 *the funds appropriated under paragraph (1) for*
19 *purposes of conducting the independent evalua-*
20 *tion required under subsection (f).*

21 (B) *APPLICATION TO MEDICAID AND*
22 *CHIP.*—*The Secretary shall reserve such portion*
23 *of the funds appropriated under paragraph (1)*
24 *as the Secretary determines appropriate for pur-*
25 *poses of providing assistance to States for ad-*

1 *ministrative expenses in the event of the expan-*
 2 *sion of predictive analytics technologies to claims*
 3 *under Medicaid and CHIP.*

4 (i) *DEFINITIONS.—In this section:*

5 (1) *COMMONWEALTHS AND TERRITORIES.—The*
 6 *term “commonwealth and territories” includes the*
 7 *Commonwealth of Puerto Rico, the Virgin Islands,*
 8 *Guam, American Samoa, the Commonwealth of the*
 9 *Northern Mariana Islands, and any other territory or*
 10 *possession of the United States in which the Medicare*
 11 *fee-for-service program, Medicaid, or CHIP operates.*

12 (2) *CHIP.—The term “CHIP” means the Chil-*
 13 *dren’s Health Insurance Program established under*
 14 *title XXI of the Social Security Act (42 U.S.C.*
 15 *1397aa et seq.).*

16 (3) *MEDICAID.—The term “Medicaid” means the*
 17 *program to provide grants to States for medical as-*
 18 *sistance programs established under title XIX of the*
 19 *Social Security Act (42 U.S.C. 1396 et seq.).*

20 (4) *MEDICARE BENEFICIARY.—The term “Medi-*
 21 *care beneficiary” means an individual enrolled in the*
 22 *Medicare fee-for-service program.*

23 (5) *MEDICARE FEE-FOR-SERVICE PROGRAM.—*
 24 *The term “Medicare fee-for-service program” means*
 25 *the original medicare fee-for-service program under*

1 *parts A and B of title XVIII of the Social Security*
 2 *Act (42 U.S.C. 1395 et seq.).*

3 (6) *MEDICARE PROVIDER.*—*The term “Medicare*
 4 *provider” means a provider of services (as defined in*
 5 *subsection (u) of section 1861 of the Social Security*
 6 *Act (42 U.S.C. 1395x)) and a supplier (as defined in*
 7 *subsection (d) of such section).*

8 (7) *SECRETARY.*—*The term “Secretary” means*
 9 *the Secretary of Health and Human Services, acting*
 10 *through the Administrator of the Centers for Medicare*
 11 *& Medicaid Services.*

12 (8) *STATE.*—*The term “State” means each of the*
 13 *50 States and the District of Columbia.*

14 **TITLE V—BUDGETARY** 15 **PROVISIONS**

16 **SEC. 5001. DETERMINATION OF BUDGETARY EFFECTS.**

17 *The budgetary effects of this Act, for the purpose of*
 18 *complying with the Statutory Pay-As-You-Go-Act of 2010,*
 19 *shall be determined by reference to the latest statement titled*
 20 *“Budgetary Effects of PAYGO Legislation” for this Act,*
 21 *submitted for printing in the Congressional Record by the*
 22 *Chairman of the Senate Budget Committee, provided that*

- 1 *such statement has been submitted prior to the vote on pas-*
- 2 *sage.*

Attest:

Secretary.

11TH CONGRESS
2D Session

H.R. 5297

AMENDMENT