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SMALL BUSINESS REAUTHORIZATION ACT OF 2000

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Mr. BOND, from the Committee on Small Business,
submitted the following

REPORT

[To accompany S. 3121]

The Committee on Small Business reported on original bill (S. 3121) to reauthorize programs to assist small business concerns, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the original bill do pass.

CONTENTS

I. INTRODUCTION

The Small Business Reauthorization Act of 2000 is a Committee bill to re-authorize most programs at the Small Business Administration (SBA) for Fiscal Years 2001, 2002, and 2003. In addition, the bill makes changes in several existing programs, incorporates two bills that have previously passed the Committee, and authorizes a national small business summit every four years. The Committee adopted an en bloc amendment by unanimous consent, and the bill was subsequently adopted by a unanimous vote of 18–0.

Starting in 1999, the Committee conducted a series of hearings, roundtable discussions, and forums to address key small business issues, the operations at the SBA, and most of the Agency's programs for small businesses. On February 5, 1999, the Committee conducted the first of ten Roundtable discussions it held in 1999 on

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key small business issues. The Roundtables were attended by Members of the Committee on Small Business and participants from the public who have special knowledge of the matters being discussed. The Roundtables gave the Committee the opportunity to explore in depth key issues and subjects of great interest to the small business community. The Small Business Reauthorization Act of 2000 has addressed issues that were highlighted in the Roundtable discussions.

The Small Business Reauthorization Act of 2000 includes the funding levels for the major credit and non-credit management assistance programs at the SBA. The details of the funding levels for the next three fiscal years are set out in chart form under the chapter, "II. Description of Bill, Title I:0 Reauthorization of Small Business Programs."

Three times over the past two decades, the Federal government has sponsored a national White House Conference on Small Business. The conferences have been viewed as successful attempts to highlight the priorities of the small business community. The Committee has received many recommendations from past conference participants to hold national small business conferences on a regular basis. Title II of the Acts includes the framework for the Quadrennial Small Business Summit Act. Following Chairman Bond's introduction of S. 1111, the "National Conference on Small Business Act," numerous members of the small business community and representatives of small business organizations met before the Committee in a Roundtable session to discuss the legislation. Title II reflects the recommendations and changes discussed at the Committee Roundtable.

In 1996, the Congress adopted the Small Business Regulatory Enforcement Fairness Act (SBREFA), which is designed to assist small business confronted with the tidal wave of regulatory hurdles at Federal agencies. After the Committee's Roundtable on Oversight of SBREFA on March 16, 1999, Senator Bond and Senator Kerry introduced "The Small Business Advocacy Review Panel Technical Amendments Act of 1999" (S. 1156). This bill was subsequently approved by the Committee on May 27 and passed the full Senate unanimously on September 28, 1999. Although it has been before the House Committee on Small Business and Ways and Means since last year, the House of Representatives has not brought the bill to the full House for a vote. Consequently, when this Committee marked up the Reauthorization Act of 2000, it included the Senate-passed S. 1156 as a separate title of the Act to spur action on the bill.

Similarly, the Committee conducted a Roundtable discussion on SBA's Office of Advocacy on April 21, 1999. A key issue before the Committee was the threat posed to the independence of the Office of Advocacy. Since 1993, the staff had been cut dramatically, and its research budget was stagnant. At the same time, Congress had imposed significant new responsibilities on the Office with its passage of SBREFA and amendments to the Regulatory Flexibility Act (RFA). Following reports about the dependence of the Office of Advocacy on the SBA Administrator for budget and staffing and the report from the General Accounting Office that senior Advocacy staff, although acceptable to the Chief counsel and not political appointees, can be hired noncompetitively, which has the potential for political influence, the Committee marked up and approved the "Independent Office of Advocacy Act of 1999" (S. 1346). This bill was passed unanimously by the Committee on July 15, 1999, and it was approved by the Senate on November 5, 1999, and has been pending before the House Small Business Committee. In order to generate new momentum to pass this important legislation before Congress adjourns in Fall 2000, the Committee agreed to include this bill as a separate title to the Act.

Since the Congress last enacted an omnibus re-authorization bill for the SBA in 1997, the economic climate and circumstances surrounding the SBA credit programs have changed. Consequently, the Committee has approved program changes to each credit program. Many are technical and minor and are discussed in the chapter of this report describing the contents of the bill and in the section-by-section chapter.

It is important to highlight some of the changes in the bill. For the first time, the Committee is approving a pre-payment penalty for 7(a) loans repaid during the first three years after origination. The maximum loan guarantee size for 7(a) and 504 loans is increased from $750,000 to $1,000,000. As a follow-up to the 1997 SBA re-authorization bill, the Committee has approved a provision authorizing the SBA to undertake an expanded check on the criminal histories of loan applicants through the FBI's National Crime Information Center computer system.

The Small Business Investment Companies' (SBIC's) Debenture Program reached a milestone by achieving a credit subsidy estimate of less than "0". In order to insure that the fees paid by the SBICs on guarantees issued by SBA in FY 2001 and subsequent years during which the SBIC program has a "0" credit subsidy rate, the Committee adopted a provision directing SBA to reduce the fees paid by SBICs by an amount necessary to insure the credit subsidy rate does not fall below zero.

The Microloan program has undergone some significant amendments approved by the Committee. In particular, the number of Microloan intermediaries is authorized to grow from 200 to 350 in FY 2003.

The Committee adopted unanimously an amendment offered by Senator Landrieu to extend the life of the National Women's Business Council for three years and to increase its annual authorization from $600,000 to $1,000,000.

Prior to the death of our colleague and fellow Committee Member, Senator Paul Coverdell, the Committee adopted a two year extension of the Drug Free Workplace Program, which had been a long standing priority for the senior Senator from Georgia.

The Committee also embarked on a new initiative to create a special presence on Indian Reservations for the Small Business Development Center program. The Committee approved, for the first time, the Native American Small Business Development Center (NASBDC) Network. It is the Committee's intention that this new program will provide a special, dedicated management assistance presence on or near Native American reservations that will be able to provide target management and technical assistance to one of the neediest segments of our population.

II. DESCRIPTION OF BILL

TITLE I: REAUTHORIZATION OF SMALL BUSINESS PROGRAMS

Title I of the bill authorizes appropriations for SBA's business loan programs and certain other SBA programs. Included among the loan programs are Section 7(a) Guaranteed Business Loans, 504 Development Company Loans, Microloans, Disaster Loans, and Small Business Investment Company Debentures and Participating Securities.

Funding for these SBA programs is detailed in the following chart. As indicated, the bill is a three year authorization. The Committee has carefully considered the Administration's funding request for each program as well as recommendations from small business owners, individual entrepreneurs, the lending community, and members of this Committee.

PROGRAM LEVELS FOR SBA REAUTHORIZATION BILL

[In millions of dollars unless otherwise noted]

Program	Current level FY00	FY01 budget request	SBA 3 year authorization request			Reauthorization bill		
			2001	2002	2003	2001	2002	2003
7(a) (in billions)	$9.8	11.5	$14.5	15	16	$14.5	$15	$16
504 (in billions)	3.5	3.75	5	5.25	5.5	4	4.5	5
SBIC:								
Debentures	800	500	1,000	1,200	1,400	1,500	2,500	3,000
Participating Securities	1,350	2,000	2,000	2,500	3,000	2,500	3,500	4,000
Microloan:								
Technical Assistance	23.2	45.0	59	80	100	45	60	70
Direct Loans	29	60	75	80	85	60	80	100
Guaranetted Loans	(1)	0	40	40	40	50	50	50
Delta	1,000	0	0	0	0	500	500	500
Surety Bond Guarantee:								
General Program	1,800	1,700	2,000	2,000	2,000	4,000	5,000	6,000
Preferred Program	....	....	....	....	....	(2)	(2)	(2)
SCORE	3.5	5.0	5.9	8	8.5	5	6	7
SBDC	84.5	85	95	95	95	125	125	125
HUBZone	2.0	5.0	6	6	6	7.5	7.5	7.5

[1] Carryover.
[2] 50% of total.

TITLE II: QUADRENNIAL SUMMIT ON SMALL BUSINESS

The Quadrennial Small Business Summit Act is a revision of S. 1111, the "National Conference on Small Business Act." Senator Christopher S. Bond introduced the latter bill in the Senate on May 24, 1999, and it is pending before this Committee. The Act will create a permanent, independent commission to carry on the work that the previous White House Conferences on Small Business have accomplished. The Commission will conduct national and state small business summit; delegates from every state will attend these summits. The Committee revised S. 1111 in response to guidance received from representatives of small businesses and organizers of prior conferences. The Committee received substantial input at its October 1999 Roundtable on S. 1111 (October Roundtable).

The Quadrennial Small Business Summit is designed to focus the nation's attention on small business in two ways. First, the Summit will highlight their successes in order to recognize their accomplishments and contributions to the economy. Second, the Summit will educate the nation about the obstacles small businesses face and will devise solutions to their problems. For example, the Summit will likely identify federal, state, and local laws or regulations that may be deterrents to starting a business or hindrances to their growth. The role of women and minorities as small business owners will be considered at the Quadrennial Summit as well. "Running for delegate, debating the issues, learning the process and systems within the Executive Branch and the Congress * * * helps [women small business owners] take their businesses to the next level," explained Terry Neese, a past National President of the National Association of Women Business Owners, at the October Roundtable.

Each summit will generate priorities for the small business community and recommendations on the implementation of these priorities. The solid attendance and overwhelming success of the prior conferences in implementing the recommendations demonstrate the need for continuing conferences. At least 90% of the 60 legislative and regulatory recommendations generated at the June 1995 White House conference have been fully or partially implemented. 20,000 small business owners attended 59 State Conferences, and 2,000 delegates represented them at six regional meetings that culminated in that National Conference.

For the past sixteen years, small businesses have been the fastest growing sector of the U.S. economy. When large businesses were restructuring and laying off significant numbers of workers, small businesses not only filled the gap, but their growth actually caused a net increase in new jobs. Today, small businesses employ over half of all workers in the United States and generate nearly 55% of the gross domestic product. Small businesses have played a vital role in the prosperous economy the U.S. has enjoyed for the past eight years.

Due to the significant role of small businesses in our economy, in both rural towns and inner cities, the Committee believes it is important that the Federal government sponsor a national summit every four years to highlight the successes of small businesses, to identify problems that may hinder their ability to start up and grow, and to focus national attention on those problems. Because most small businesses do not have the resources to retain full-time representatives to express their views to the Federal government, a national summit would provide the opportunity for small businesses to present their concerns to the executive and legislative branches. As Senator Christopher S. Bond noted at the October Roundtable:

> They, [the small businesses], are too busy running their businesses to devote much attention to educating government officials on what is going well, what is going poorly, and what needs improvement for the small business community. The National Conference will give small businesses an opportunity every four years to make its mark on Congress and the Executive Branch.

The Quadrennial Small Business Summit would be established under the provisions in Title II. The national Quadrennial Summit would occur every four years during the second year after a presidential election. Delegates from each state will attend, including the District of Columbia, the Commonwealth of Puerto Rico and the U.S. Virgin Islands. State Summits for the delegates in each state will be held prior to the Quadrennial Summit. The Committee authorizes $5 million to carry out each Quadrennial Summit.

SUMMIT PARTICIPANTS

Quadrennial Commission on Small Business

Title II would create an independent, bipartisan Quadrennial Commission on Small Business made up of eight appointed small business advocates and the Small Business Administration's Chief Counsel for Advocacy. At least eighteen months before the Quadrennial Summit on Small Business, the President will appoint four members to the commission, and the Majority and Minority Leaders of the Senate and the House of Representatives will each appoint one. Commissioners should be distinguished individuals with knowledge and experience in fields related to small business. The duties of the Quadrennial Commission are to conduct the Quadrennial and State Summits and to bring together individuals interested in issues affecting small businesses. The Quadrennial Commission will appoint an Advisory Committee of ten persons who were participants at the previous Quadrennial Small Business Summit, or for the initial Quadrennial Summit, persons who were participants in the last White House Conference on Small Business, to advise on rules and process of the Summits. The Chief Counsel will serve as a resource for the Quadrennial Commission by providing background information and other administrative materials.

State delegates

Delegates to the Quadrennial Summit must be owners or officers of small businesses. The Governors and U.S. Senators from each state will each name a delegate and alternate delegate from their respective states. U.S. Representatives will name a delegate and an alternate from their respective Congressional districts, and the President will name a delegate and an alternate from each state. The delegates will meet at meet once prior to the Quadrennial Summit, at their respective State Summits. However, states having a population of more than 10 million must meet at least twice prior to the Quadrennial Summit. At these Summits, delegates will work to identify issues of critical concern to small businesses. The state delegates may elect leadership, such as a delegation chairperson, and must also elect three delegates and three alternate delegates to the Quadrennial Summit. The Quadrennial Commission will serve as a resource to the state delegates by assisting with issue development and planning of State Summits.

TITLE III: SMALL BUSINESS INVOLVEMENT IN GOVERNMENT REGULATION

The Small Business Advocacy Review Panel Technical Amendments Act of 1999, which was originally introduced as S. 1156, clarifies and amends certain provisions of law enacted as part of the Small Business Regulatory Enforcement Fairness Act of 1996. The Act passed the Senate unanimously on September 28, 1999, and was referred to the Committees on Small Business and Ways and Means in the House of Representatives. The Committee decided to include the Act as a separate title in this legislation in order to spur action by the Congress on this very important bill.

Title III focuses on Section 244 of the Small Business Regulatory Enforcement Fairness Act of 1996, which amended chapter 6 of title 5, United States Code (commonly known as the Regulatory Flexibility Act or SBREFA). As a result, each "covered agency" (which under current law are only OSHA and EPA) is required to convene a Small Business Advocacy Review Panel (panel) to receive advice and comments from small entities. Specifically, under Section 609(b), each covered agency is to convene a panel of Federal employees, representing the Office of Information and Regulatory Affairs within the Office of Management and Budget, the Chief Counsel of Advocacy of the Small Business Administration, and the covered agency promulgating the regulation. The Panel receives input from small entities prior to publishing an Initial Regulatory Flexibility Analysis for a proposed rule with a significant economic impact on a substantial number of small entities. Not later than 60 days after the panel is convened, it must produce a report containing comments from the small entities and the panel's own recommendations. The report is provided to the head of the covered agency, who reviews it and, where appropriate, modifies the proposed rule, initial regulatory analysis, or the decision on whether the rule significantly impacts small entities. The panel report then becomes a part of the rulemaking record.

In 1996, SBREFA expressly included the Internal Revenue Service (IRS) under the Regulatory Flexibility Act and directed it to conduct and publish Initial and Final Regulatory Analyses. However, the Treasury Department has interpreted the law essentially to exclude the Treasury Department and the IRS from being covered. Title III clarifies which interpretative rules involving the Internal Revenue Code would be subject to compliance with SBREFA and the Regulatory Flexibility Act. In addition, the IRS would be required under Title III to convene a Small Business Advocacy Review Panel for rules that would have a significant economic impact on a substantial number of small entities in the same way as OSHA and EPA have been doing since SBREFA went into effect. The Committee is confident that the IRS will be able to implement the panel process as required under the bill without jeopardizing tax administration, just as OSHA and EPA have been able to implement the process without sacrificing their policy objectives.

Specifically, Title III strikes the language in Section 603 of title 5 that included IRS interpretative rules under the Regulatory Flexibility Act, "but only to the extent that such interpretative rules impose on small entities a collection of information requirement." The Treasury Department has misconstrued this language in two ways. First, the Treasury Department determined that the Regulatory Flexibility Act does not apply unless the IRS imposes a requirement on small businesses to complete a new OMB-approved form. In so doing, the IRS has failed to consider the burdens imposed on small business taxpayers of complying with new IRS regulations. Second, in the limited circumstances where the IRS has acknowledged imposing a new reporting requirement, the Treasury Department has limited its analysis of the impact on small businesses to the burden imposed by any new tax form with which a taxpayer must comply, as opposed to the burden imposed by the new regulators requirement and the new form. As a result, the Treasury Department and the IRS have made Regulatory Flexibility Act compliance unnecessary and duplicative of compliance with the Paperwork Reduction Act. To address this problem, Title III revises the fifth sentence in Section 603 to read as follows:

> In the case of an interpretative rule involving the internal revenue laws of the United States, this chapter applies to interpretative rules (including proposed, temporary and final regulations) published in the Federal Register for codification in the Code of Federal Regulations.

The remaining provisions of the bill address the mechanics of convening a panel, the selection of the small entity representatives invited to submit advice and recommendations to the panel, and the publication of the panel reports.

This Title would lengthen, by 30 days, the time that small entity representatives, participating in the panel process, have to review the usually technical and voluminous materials to be considered during panel deliberation. The Committee is concerned that this task would be almost impossible for the average small businessperson who spends most of his or her time actually running a business. For those small business owners who would like to participate but do not have a great deal of time to review technical data, the bill requires OSHA, EPA and IRS to prepare detailed summaries of background data and information, if a small entity representative requests that they do so.

Title III would also allow a small entity representative to make an oral presentation to the panel. The Committee is aware that many small entity representatives expressed a desire to make oral presentations, and learned that this opportunity was not available. This legislation would make it clear that agencies are to provide this opportunity.

Many small entities have expressed their interest in reviewing the panel report before the rule is proposed. This Title would require the panel report, including any written comments submitted by the small entity representatives, to be printed in the Federal Register with the proposed rule, or as soon as practicable, but no later than 180 days after the date the head of the agency receives the report.

THE ROLE OF THE CHIEF COUNSEL FOR ADVOCACY IN PANEL SELECTIONS

The role of the Chief Counsel for Advocacy in the selection of small entities to serve on the panels is enhanced by specifying that the selections are to be made by the agency promulgating the regulation "in consultation" with the Chief Counsel. The original language of S. 1156 required that the Chief Counsel "concur" with the agency's selections. During its consideration of S. 1156 in July 1999, the Committee adopted Senator Wellstone's recommendation that the language be changed to "consultation with." The Committee realizes that it is the agency that convenes these panels and appoints the small entity representatives who will participate. The Committee wishes to emphasize the importance of consultation between covered agencies and the Chief Counsel for Advocacy on the selection of small entity representatives for a panel. The Committee intends for covered agencies to view the Chief Counsel as a resource for identifying small entity representatives and for covered agencies to accommodate reasonable suggestions from the Chief Counsel for panel participants.

DEFINITION OF A SMALL ENTITY REPRESENTATIVE

The bill also expands the definition of a small entity representative to make clear that an organization that "primarily represents the interests of one or more small entities" may participate in the Panels. "[W]hat we are being told by [an agency] * * * often is that trade association representatives cannot participate in the panels * * * well, small business * * * cannot send people to Washington on a regular basis," noted Robin Wiener, Executive Director of the Institute of Scrap Recycling Industries at the Committee's March 1999 Roundtable on Oversight of the Regulatory Flexibility Act and the Red Tape Reduction Act. Through another amendment offered by Senator Wellstone, this expansion was clarified to provide that only those organizations that "primarily" represent small businesses would qualify to participate in the panel process. This amendment addressed a concern that organizations that are dominated by large entities could have been considered small entity representatives under the original bill language. The Committee intends for organizations whose primary mission is the advocacy of individual small entities, or whose membership is restricted to individual small entities, to be included as possible small entity representatives. The Committee does not intend this to include organizations whose primary purpose is to advocate on behalf of businesses generally irrespective of size, organizations that advocate on behalf of members of a particular industry regardless of the size of those members, or those whose membership includes entities other than individual small entities. Individuals representing "primarily" small entities are also permitted to participate in the panel process.

The Committee's intention is to ensure that the small entities and small businesses that are affected by regulations from OSHA, EPA, and IRS have the opportunity to participate directly in the rulemaking process at the point when their views can have the most effect. In short, the bill is intended to continue and expand on the early success that this process has held for small businesses with EPA and OSHA. As Senator Wellstone said during the markup on March 21, 2000: "A SBREFA panel is the best opportunity, perhaps the only opportunity, for real world small business owners to directly influence the federal rule making process. Trade groups and business associations have ample access already. I believe my amendment will keep SBREFA process focused on small businesses, which is where it should be focused."

TITLE IV: OFFICE OF ADVOCACY OF THE SMALL BUSINESS ADMINISTRATION

The Independent Office of Advocacy Act (S. 1346) was approved by the Committee on July 15, 1999, and later passed unanimously by the Senate. Since that time, the bill has been pending before the House Committee on Small Business. The Independent Office of Advocacy Act provides for an effective, independent advocate for small business within the Federal government, unrestricted by the views or policies of the Small Business Administration (SBA/Agency) or any other agency. The bill is designed to make the Office of Advocacy and the Chief Counsel for Advocacy a full, independent advocate within the Executive Branch acting on behalf of the small business community. The Committee adopted this bill for a second time as Title IV of the Small Business Reauthorization Act of 2000 in order to spur action in the House of Representatives. The Committee believes it is a critical and necessary step if the Office of Advocacy is to improve its effective representation of small business interests.

Title IV will strengthen the Office of Advocacy's uniqueness within the Executive Branch. The Chief Counsel for Advocacy will continue to be a wide-ranging advocate, whose office will be funded by a separate appropriations account. This financial independence will increase the Chief Counsel's freedom to take positions contrary to the Administration's policies toward small business and to advocate change in government programs and attitudes as they impact small business.

The Title for the first time sets forth the statutory independence for the Office of Advocacy and provides the Office with separate financial resources, so that it can be a truly independent advocate for the small business community. The Office of Advocacy "[has] to be not only the watchdog, * * * but occasionally, when necessary, * * * a pit bull. And to be the pit bull, you have to be respected. You have to be feared. For prestige you need funding, you need the independence, and you need the research expertise," asserted one representative of small business at the Committee's April 1999 Roundtable on the Office of Advocacy (April Roundtable). In addition to the statement of the Office's independence, the bill provides for a separate authorization to fund the Office of Advocacy. As designed in this bill, its annual budget would be a separate account in the SBA budget, similar to the separate account for the Office of Inspector General. SBA is directed to provide appropriate and adequate office space at the SBA headquarters and its field office locations, together with equipment, office supplies, and communications facilities and services as are necessary to support the requirements of the Office of Advocacy.

Each appropriation request submitted by the Administration to the Congress would also provide for the number of full-time employees who would work within the Office of Advocacy. The Chief Counsel for Advocacy would not need the approval of the SBA Administrator to hire staff. The Title continues the practice of allowing the Chief Counsel to hire individuals critical to the mission of the Office of Advocacy without going through the normal competitive procedures directed by federal law and the Office of Personnel Management (OPM).

Section 404 sets forth in detail the functions of the Office of Advocacy as intended by the Congress. The Chief Counsel will manage the Office of Advocacy. The Chief Counsel will be appointed by the President from civilian life, with the advice and consent of the Senate and without regard to the person's political affiliation. To be eligible for the position, the nominee cannot have served in any position at SBA during the preceding five years of the appointment.

Because of the independent nature of the office, the Committee established the office so that the incumbent Chief Counsel would not feel that his or her job were in jeopardy by taking a position critical of or in opposition to an Administration initiative. To strengthen this position, the bill provides that the President must notify the Congress 30 days in advance before removing the Chief Counsel from office.

Seciton 404 sets forth the primary functions of the Office of Advocacy, which the Committee views as wide-ranging the comprehensive, as are the needs and problems confronting small businesses nationwide. "[T]he small business community, * * * truly want[s] to see, * * * the independence established so that we have that advocate, that voice, that clout that we can lean upon," commented Bennie Thayer, President of the National Association for the Self-Employed, at the April Roundtable. In setting forth the responsibilities of the Office of Advocacy, the Committee intends for the Office to serve as a focal point to receive complaints, criticisms and suggestions concerning the policies and programs of the federal government that affect small businesses.

The Committee believes that the authority enunciated in Section 404 is significant, and it included a specific subsection (g), "Information From Federal Agencies," to enable the Office and the Chief Counsel to carry out its responsibilities. Basically, the Committee directs each Federal agency to provide to the Chief Counsel all information that the Chief Counsel believes is necessary to carry out the responsibilities of the Office of Advocacy.

In addition, Section 404 spells out special powers that are conferred on the Chief Counsel. With respect to those individuals who are considered necessary to carry out the duties of the Office, the Chief Counsel may hire and terminate employment without regard for the civil service laws and regulations. This section is intended to include the regular staff of the office of Advocacy and such consultants and experts that the Chief Counsel may choose to hire on a temporary or intermittent basis. The hiring authority rests with the Chief Counsel. Nothing in the Act should be interpreted to require that the Chief Counsel obtain the approval, concurrence or review by the SBA Administrator or any other person within the Administration. The authority of the Chief Counsel to hire staff, consultants and experts will be limited by the personnel ceiling and the appropriations approved annually by the Congress.

The bill requires and authorizes the Chief Counsel to submit certain reports to the President and the Congress, including an annual report on the Regulatory Flexibility Act. The Committee believes strongly that the Office of Advocacy should continue to be independent and not submit reports nor publications for review by the Administration before they are released. In order for the Committee to carry out its responsibilities on behalf of the small business community, it is important that it receive regular reports from the Chief Counsel that have not been submitted to the Office of Management and Budget or any other Federal department or agency for editing and/or approval.

The bill authorizes such sums as are necessary to carry out the responsibilities of the Office of Advocacy. "[W]ithout a * * * separate independent budget * * * the office of Advocacy is in big trouble and is totally at the whim of the [SBA] administrator. Which means effectively it has no independence," observed Denny Dennis, Senior Research Fellow at the National Federation of Independent Business, at the April Roundtable. The amounts appropriated to the Office should remain available until spent and should not be constrained by fiscal year limitations. This subsection is intended to give the Chief Council the flexibility to respond to matters that come before the Office of Advocacy without the pressures of obligating funds, perhaps prematurely, prior to the end of a fiscal year.

Since there is a sitting Chief Council for Advocacy who has been reviewed and approved by the Committee and the full Senate, it is the intention of the Committee that the incumbent will continue to serve subject to the requirements of this bill, once enacted.

TITLE V: CREDIT PROGRAMS

SEC. 501 SECTION 7(A) PROGRAM

The committee has been concerned that the availability of smaller 7(a) guaranteed business loans has not been keeping pace with the demands of the small business community. In 1994, SBA initiated the LowDoc pilot loan program to make loans of $100,000 and less more readily available. In 1995, the Congress established a guarantee level of 80% for LowDoc loans. As requested in the Administration's 2001 Budget, during consideration of H.R. 2615 in the House of Representatives, the 80% guarantee was extended up to loans of $150,000. The Committed joins with the House action to increase the size of the LowDoc loans. In addition, the Committee agreed to increase the guaranteed percentage from 80% to 85% in anticipation that small business lenders will be more willing to focus on the smaller sized loans.

In 1988, the Congress acted to establish the maximum 7(a) loan guarantee amount at $750,000. In order to keep up with inflation, the Committee bill increases the maximum guaranteed amount to $1 million. Although a strict inflationary increase in the maximum guaranteed amount would be closer to $1.25 million, the Committee believes it is prudent to limit the increase to $1 million, which will leave sufficient resources in the program for smaller loans.

The Committee bill also establishes a ceiling on the maximum loan size of $2 million. It has been reported to the Committee that the 7(a) guarantee has been used in conjunction with large loans in excess of $2 million. Under the Federal Credit Reform Act of 1991, appropriated subsidy dollars are used based on the gross amount of the loan. In these cases, the SBA loan guarantee is a relatively small portion of the loan, and the Committee has questioned whether these loans meet the "credit elsewhere" standard for 7(a) loans and whether this is a good use of appropriated subsidy dollars. Therefore, the Committee agrees with the House of Representatives and has approved a ceiling of $2 million for the gross amount of a 7(a) loan.

In an effort to reduce the size of the credit subsidy rate, in 1997 congress adopted a provision to reduce SBA's liability for accrued interest on 7(a) loans that are in default. Section 501 deletes this provision since the intended savings from this provision have failed to materialize.

For the past three years, the Committee has received reports about the increased number of early prepayments of large, long term SBA-guaranteed 7(a) loans. Previously, as the result of an increase in prepayments, the credit subsidy rate was adjusted upwards for Fiscal Year 1998. Subsequently, the number of prepayments continued to climb. In some cases, it has been reported to the Committee that some small businesses were using the 7(a) program for short term bridge financing, when the program is designed to help small businesses obtain long term credit at a reasonable interest rate. The effect of early prepayments is to reduce the availability of long term 7(a) loans to small businesses that cannot obtain credit elsewhere.

The prepayment penalty approved by the Committee would assess a fee to the borrower for early prepayment of any 7(a) loan with a term of 15 years or more. A penalty or fee will be assessed against any prepayment in excess of 25% of the outstanding amount of the loan during any of the first three years after disbursement. Five percent will be assessed in the first year, three percent in the second year, and one percent in the third year. If a prepayment in excess of 25% is made, the penalty will be assessed against the entire outstanding balance of the loan.

In 1995, Congress increased the guarantee fees charged to 7(a) borrowers in order to reduce the credit subsidy rate for the 7(a) program. The Committee agrees with provision, suggested by SBA and adopted by the House of Representatives, which simplifies the guarantee fee schedule. For loans totaling $150,000 or less, the guarantee fee would be two percent of the guarantee amount; for loans greater than $150,000 but less than $700,000, the fee would be three percent; and for loans of $700,000 or more, the guarantee fee would be three and ½ percent. In addition, the Committee approved a new provision designed to be an incentive for lenders to focus more on smaller loans. This provision allows a lender to retain 25% of the guarantee fee for loans of $150,000 or less.

In 1997, Congress approved a new provision for the 504 Certified Development Company program which allows borrowers to lease out 20% of the property being financed so long as the remaining 80% is occupied by the borrower. The Committee approved a similar provision for 7(a) borrowers. This new provision permits the property to be financed with a 7(a) loan 20 percent or less of the business space will be rented to tenants with the borrower occupying the remaining space.

In December 1999, the Inspector General cited the failure of the SBA to require criminal history background checks in its loan program to be one of ten most serious management challenges facing the Agency. Studies indicate that borrowers who do not disclose past criminal histories have higher rates of default on SBA loans than those who either disclose their records or have no criminal histories. Since SBA does not have statutory authority to perform routine background checks, the IG reports that losses on SBA loan programs are higher than necessary.

The Small Business Reauthorization Act of 1997 (P.L. 105–135) authorized, but did not mandate, that SBA undertake an expanded check on criminal histories of loan applicants. Absent a specific legislative requirement to check the applicants' criminal histories, the IG has informed the Committee the SBA will not be granted the access by the FBI to the National Crime Information Center which can check on the applicant's criminal history.

According to the SBA IG, verification of the criminal history of all business loan applicants would allow SBA to:

(1) Detect fraudulent loan applications early in the approval process;

(2) Reduce the Government's losses by preventing fraudulent loans from being disbursed; and

(3) Provide a heightened level of deterrence through increased enforcement actions.

The SBA IG reports there is no other effective, efficient method available to achieve these goals while allowing for the uninterrupted flow of the loan process. In response to the convincing case made by the SBA IG, the Committee included a provision directing SBA to conduct criminal background checks on all loan applicants through the FBI's National Crime Information Center computer system.

SEC. 502. SMALL BUSINESS INVESTMENT COMPANIES

The provisions adopted in Section 502 generally make some technical improvements to the operations of the SBIC Program. Under current law, national banks, member banks of the Federal Reserve, and nonmember insured banks as permitted by State law are allowed to invest in SBICs. The Committee approved a provision to allow any Federal savings association to make similar investments in SBICs.

The Committee also approved a provision to clarify the what is meant by the term "long-term" as found in Section 103 of the Small Business Investment Act. It is the Committee's understanding that the SBI has construed "long term" to mean a minimum of five years for all SBIC investments other than those made to "disadvantaged businesses," when "long term" is construed to mean four years. The Committee believes the Agency's interpretation of "long-term" to be overly restrictive. Under the Generally Accepted Accounting Principles (GAAP), the accounting principles that govern business commerce in the United States, the term "long-term" is defined as any period of time greater than one year. Therefore, the Committee has adopted a definition of "long-term" to be a period of time of not less than one year.

The President's FY 2001 budget request for SBA, as amended, included a "0" credit subsidy rate for the SBIC Debenture program. The Committee has been informed by SBA staff that the income generated by fees paid by the SBICs to SBA will actually exceed the amounts needed to fund the reserve account required under the Federal Credit Reform Act of 1990 (2 U.S.C. 661a). The Committee believes it is important that the SBICs should not be required to pay more in fees than is necessary to bring the credit subsidy rate to "0". Therefore, the Committee adopted a provision, similar to the one it adopted for the 504 Development Company Program in 1996, which directs the SBA to reduce the annual fee paid by the SBIC from 1 percent to the amount necessary to reduce the credit subsidy rate to "0". The new provision applies to the SBIC Debenture and Participating Securities programs.

The Committee approved a technical change that permits a qualifying SBIC to make a quarterly tax distribution any time during the applicable calendar quarter. Under current law, SBICs may make prioritized payment distributions, profit distributions, and other optional distributions on any date with prior SBA approval. Tax distributions, however, may only be made at the end of calendar year quarters. The SBIC community has informed the Committee that the practical impact of this restriction is that SBICs are forced to delay otherwise permitted interim distributions (including tax distributions) to the end of a quarter or split their distributions into two distributions. Postponing an entire distribution to the end of a quarter has negative cash flow and internal rate of return (IRR) implications. Consequently, most SBICs decide to split their distributions, making tax distributions at the end of the calendar quarter, while making all other distributions at any time during the quarter. Splitting distributions requires the preparation, submission, and SBA review of two sets of documents. The result is an inefficient use of time and resources by SBA and the SBICs.

SEC. 503. MICROLOAN PROGRAM

This section makes programmatic and technical changes to the Small Business Administration's microloan program to make it more flexible to meet credit needs, more accessible to micro entrepreneurs across the nation, and more streamlined for lenders to make loans and provide management assistance. The Committee is very supportive of this program and worked with industry and the SBA to develop these changes.

Congress created the microloan program as a pilot in 1991 (Public Law 102–140) to reach very small businesses that were not being served by traditional lenders of SBA's credit programs. Often minorities, women, and low-income individuals, these microentrepreneurs needed very little money to launch a business, but they could not get loans because they were considered unreliable or risky borrowers by traditional credit markets. Their often weak or non-existent credit histories or limited business experience caused traditional commercial lenders to shy away from making such loans. To fill this credit need, the Microloan program was designed to provide loans to non-profit intermediary lenders, who in turn provide fixed-rate loans of not more than $25,000, and on average, loans less than $10,000, to very small businesses. In addition, lending intermediaries receive an annual grant from the SBA to provide on-going technical assistance to small businesses. The technical assistance is fundamental to this program because it teaches microentrepreneurs how to manage a successful business, and running a successful business is key to loan repayment.

As industry experts and micro borrowers have testified numerous times, the link between financing and technical assistance is critical to the success of micro enterprise, in general, and the SBA microloan program, in particular. The low default rates of loans are evidence of the tremendous success of this program. Since the first microloan was made in 1992, the Federal government has had only one default in its loans to the intermediary loan providers. Equally impressive, the lending intermediaries have had losses of only three to five percent from small businesses, and the losses are fully covered by the mandatory loss reserve that each intermediary must maintain. Because of this successful track record, in 1997 the Congress voted to transform the Microloan program from a demonstration program to a permanent part of the array of SBA credit assistance programs.

There are currently 156 intermediaries and 19 non-lending technical assistance providers in the SBA Microloan Program. To date, the lending intermediaries have made 10,230 loans worth some $105 million. The SBA reports that for every microloan, 1.7 jobs are created. The average loan to a microentrepreneur is about $10,000, with interest rates averaging 11 percent and an average term of 39 months.

Microentrepreneurs range from the single mother on public assistance, who borrows a few hundred dollars to buy sewing equipment and supplies to start her own alterations shop, to a mechanic who borrows a few thousand dollars to buy tools to start a repair shop.

Across the country, microloans and technical assistance are working, assisting individuals with the tools to successfully start and manage their own businesses. The SBA's Massachusetts Small Business Person of the Year for 2000 more than proves that. Lowell Gray of Lynn, Massachusetts obtained a $25,000 SBA microloan when his business needed it most and turned a small software company into Shore.net—an Internet service provider—with 85 employees. He recently sold it for an astounding $43 million. In Kansas City, Missouri, the Center for Business Innovation (KC-CBI) is about to make its second loan to a microentrepreneur who was in poverty when she applied for her initial loan. Two years after her initial microloan, her revenues have gone from less than $20,000 to $90,000 per year, and she is ready to expand her business.

Since the microloan program was started in 1991, it has grown from 35 to 156 intermediaries. The market has also changed. Thus, as the Committee reviewed the program for reauthorization, it worked with trade associations representing microlenders, the Small Business Administration, and individual microlenders to craft legislation that would meet market needs and foster the success of the program.

Chief among those changes, in large part to reflect inflation, is increasing the maximum loan amount and average loan sizes. The maximum loan amount would increase from $25,000 to $35,000;

the average loan size for each intermediary's portfolio would increase from $10,000 to $15,000. For speciality lenders, those making smaller loans and receiving additional technical assistance to make them, this legislation would raise their average loan size from $7,500 to $10,000.

According to Mary Mathews of the Association for Enterprise Opportunity (AEO), who participated in a Committee Roundtable entitled "SBA's SBIC and Microloan Programs" on May 12, 1999, and represented the 500 members of AEO, Congress should raise the maximum loan size of $25,000 because it is not worth as much today as it was in 1991, when the amount was established. In fact, according to an economist at the SBA's Office of Advocacy, the value of $25,000 in 1991 is worth only $20,200 today. Said another way, if a borrower took out a $25,000 loan in 1991, and wanted to have the same purchasing power today as then, he or she would need to borrow $31,000. Separately, the National Association of SBA Microloan Intermediaries (NASMI) urged the Committee to increase the limit. The Committee concurs that the limits should be increased to $35,000 to accommodate inflation and market changes.

This section also makes the program more flexible. First, it eliminates the requirement that intermediaries make "short-term" loans. This change will allow intermediaries greater latitude in developing microloan products by offering their borrowers revolving lines of credit, such as for seasonal contract needs. Second, this bill broadens the eligibility criteria for intermediaries. Instead of requiring intermediaries to have one year of experience making microloans to startup, newly established or growing small businesses and providing technical assistance to its borrowers, this legislation would deem a prospective intermediary eligible if it has equivalent experience. Third, it raises the threshold for the comparable credit test from $15,000 to $20,000. Since 1991, intermediaries have been allowed to make loans greater than $15,000, and not for more than $35,000, only if the borrower demonstrated that it was unable to get comparable credit, at comparable rates, from another lender. Fourth, it eliminates the restriction on how much technical assistance funding an intermediary can use for preloan assistance. Currently, intermediaries are limited to using 25 percent of their technical assistance funds to assist prospective borrowers. This change endorses using the judgment of the lender to allocate technical assistance appropriately. Fifth, it increases the percentage of technical assistance grant funds that an intermediary can use for subcontracting technical assistance. Currently, intermediaries can only subcontract 25 percent, and this legislation would raise it to 35 percent.

Another program change this section makes addresses the need for more non-lending technical assistance providers (TA providers). Current law limits the number of TA providers to 25 nationally, with a maximum of one per state. In a 1996 Report to Congress, SBA provided data indicating that for every dollar granted under the non-lending technical assistance program, approximately five dollars were leveraged from the private sector. At the request of the Administration, this Committee agrees to increase the number of TA providers to 55 from 25 so that there can be one in each state and in the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, and American Samoa. In addition, again to reflect inflation and increased costs, the Committee is raising the maximum grant amount to each TA provider from $125,000 to $200,000.

On numerous occasions, from a microloan field hearing in Boston in 1998 to the Committee's microloan roundtable in 1999, industry has underscored the need to make the program more accessible to more borrowers across the country, whether they live in a rural or urban area. Right now, there are 156 intermediaries out of the 200 Congressionally authorized. Three states—Alaska, Louisiana and Wyoming—do not have any intermediaries, though they are working to find appropriate participants. While inadequate appropriations for technical assistance are partially to blame for the inability of the program to grow and add intermediaries, the industry groups, local economic development leaders and the SBA have asked Congress to expand the program. This bill not only increases the appropriation for direct mircoloans and technical assistance for each of the next three years to allow the program to expand, but it also takes a balanced approach to increasing the number of intermediaries authorized. Starting in FY2001, SBA would be authorized to fund 250 intermediaries, in FY2002 it could fund 300, and in FY2003 it could fund 350. This allows SBA to make this program available nationwide.

Lastly, as Congress expands the program and increases the number of lending intermediaries around the country, we want to make sure that new intermediaries have the benefits of lessons learned by other more experienced lending intermediaries. Because the micorlending industry is still very young, there are few sources of conventional training available to prospective and new intermediaries. According to the National Association of SBA Microloan Intermediaries, experienced SBA microlenders are called upon frequently to assist new intermediaries in addressing issues with their loan fund, from financial management and marketing to targeting loan funds effectively to a population or business sector. While these experienced intermediaries do their best to respond to the needs of their colleagues, they currently lack the resources to respond effectively and efficiently to the growing needs of the field. This section addresses that need and includes an amendment offered by Senator Snowe, and agreed to by unanimous consent, to establish a peer-to-peer mentoring program for SBA intermediaries and organizations seeking to become microlending intermediaries. Specifically, SBA would be allowed to use up to $1 million of annual appropriations for technical assistance grants to subcontract with one or more national trade associations of SBA microlending intermediaries to provide peer-to-peer mentoring. The Committee strongly supports this concept, because it will help make the program available nationwide. While maintaining its high quality and low loss rates.

SEC. 504. SMALL BUSINESS LENDING COMPANY FEES

The SBA initiated in FY 1999 an annual examination of each Small Business Lending Company (SBLC). SBA has currently licensed 14 SBLCs to make loans under the 7(a) guaranteed business loan program. Each SBLC is approved to originate 7(a) loans under SBA's Preferred Lenders Program. In order to help defray the cost of conducting the annual examinations, the Committee approved a provision that requires each SBLC to reimburse SBA for the cost of the annual examination. SBA is directed to use the fees paid by the SBLCs to pay for the cost of the examinations and other oversight expenses.

SEC. 505. SURETY BONDS

The SBA recommended to the Committee that it increases the maximum size of surety bond that can be guaranteed by SBA from $1.25 million to $2 million. In April 1986, the Congress approved an increase in the maximum size from $1 million to $1.25 million. In the intervening 14 years, inflation has eroded the effectiveness of this limit on the guarantee size. Therefore, the Committee adopted the recommendation to increase the surety limit up to $2 million for each individual contract. In addition, the Committee approved an extension of the Preferred Surety Bond Program through September 30, 2003.

SEC. 506. DEVELOPMENT COMPANY DEBENTURES

At the request of the SBA, the Committee approved a technical amendment clarifying the minimum interest rate to be charged on 504 debentures that are guaranteed by the Federal government.

TITLE VI: HUBZONE PROGRAM

The HUBZone program aims to direct portions of Federal contracting dollars into areas of the country that in the past have been out of the economic mainstream. HUBZone areas, which include qualified census tracts, poor rural counties, and Indian reservations, often are relatively out-of-the-way places that the stream of commerce passes by, and thus tend to be in low or moderate income areas. These areas can also include certain rural communities and tend generally, to be low-traffic areas that do not have a reliable customer base to support business development. As a result, business has been reluctant to move into these areas. It simply has not been profitable, without a customer base to keep them operating.

The HUBZone Act seeks to overcome this problem by making it possible for the Federal government to become a customer for small businesses that locate in HUBZones. While a small business works to establish its regular customer base, a Federal contract can help it stabilize its revenues and remain profitable. This gives small business a chance to get a foothold and provides jobs to these areas. New business and new jobs mean new life and hope for these communities.

Since the HUBZone Act was adopted in the Small Business Reauthorization Act of 1997, the Small Business Administration has been implementing the program. On March 22, 1999, SBA began accepting applications from interested firms. Experience to date has revealed several difficulties with implementation, which the Committee has sought to rectify in this legislation.

Subtitle A—HUBZones in Native America Act

One such problem was an unintended consequence of wording in the 1997 legislation that inadvertently excluded Indian Tribal enterprises and Alaska Native Corporations from participation. The definition of "HUBZone small business concern" specified that eligible small businesses must be 100% owned and controlled by U.S. citizens. This provision sought to insure that HUBZone benefits, financed by the American taxpayer, should be available only for U.S. beneficiaries.

However, since citizens are "born or naturalized" under the fourteenth Amendment, ownership by citizens implies ownership by individual flesh-and-blood human beings. Corporate owners and Tribal government owners are not "born or naturalized" in the usual meanings of those terms. Thus, the Small Business Administration found that it had no authority to certify small businesses owned wholly or partly by Alaska Native Corporations and Tribal governments.

Since Native American communities were always intended to benefit from HUBZone opportunities, the Committee has included language to make such firms eligible. On many reservations, particularly the isolated ones, the only investment resources available are the Tribal governments. Excluding those governments from investing in their own reservations means, in practical terms, excluding those reservations from the HUBZone program entirely. Similarly, Alaska Native Corporations have corporate resources that are necessary to make real investments in rural Alaska and to provide jobs to Alaska Natives who currently have no hope of getting them.

The Committee was guided by three broad principles in crafting this legislation. First, no firm should be made eligible solely by virtue of who it is. For example, Alaska Native Corporations will not be eligible solely because they are Alaska Native Corporations. Instead, Alaska Native Corporations and Indian Tribal enterprises should be eligible only if they agree to advance the goals of the HUBZone program: job creation and economic development in the areas that need it most.

Second, the Committee sought to make the HUBZone program conform to existing Native American policy. The Committee is aware of controversy over whether to change Alaska Native policy so that Alaska Natives exercise governmental jurisdiction over their lands, just like Tribes in the Lower 48 States do on both their reservations and trust lands. However, that issue is outside this Committee's jurisdiction. The Alaska Native Claims Settlement Act (ANCSA) of 1971 deliberately refrained from creating Alaska Native jurisdictions in Alaska, and this Committee's legislation is intended to conform to existing practice in ANCSA.

The third principle underlying this bill is that Alaska Natives and Indian Tribes should participate on as even a playing field as possible. Exact equivalence is not possible because the Federal relationship with Alaska Natives differs significantly from the relationship with Indian Tribes, and also because Alaska is a very different State from the Lower 48. However, ANCSA provided that Alaska Natives should be eligible to participate in Federal Indian programs "on the same basis as other Native Americans."

Subtitle B—Other HUBZone provisions

Subtitle B contains several technical changes to clarify interpretive issues concerning the original HUBZone Act, as well as new language to correct an unforeseen situation regarding procurement of commodities. This subtitle also includes new language to reiterate more explicitly the Committee's position on the relationship of the HUBZone program to other contracting programs. Ffinally, subtitle B makes a further amendment to the categories of eligible HUBZone firms, to include the HUBZone program as one of the tools Community Development Corporations can use in rebuilding their communities and neighborhoods.

The Committee's bill includes a technical correction to the definition of "qualified census tract." It also makes two major substantive changes to the definition of "qualified nonmetropolitan county."

First, the definition is clarified to ensure that nonmetropolitan counties in the HUBZone program are those that were considered to be such as of the time of the last decennial (10 year) census. The HUBZone program relies on census tracts selected in metropolitan areas based on the last census, so that a metropolitan county—in order to have such census tracts—must have been considered metropolitan at that time. A nonmetropolitan county may be eligible as a HUBZone based on income data collected during the census or on unemployment data produced annually by the Bureau of Labor Statistics.

During the ten-year period between each census, some counties become so integrated into the commercial activities of a metropolitan area that they are moved from the nonmetropolitan category to the metropolitan category. Such counties would become ineligible for HUBZone participation. They would not have been metropolitan counties at the time of the last census, so no qualified census tracts would have been selected there. They would also no longer be nonmetropolitan counties, so the income and unemployment tests available to such counties would no longer apply. Thus, counties that change from nonmetropolitan to metropolitan, in the period between each census, would become ineligible until the next census is taken. The Committee corrects this problem by freezing, for HUBZone purposes, the categories of metropolitan and nonmetropolitan counties as they stood at the time of the last census.

The second major change to the definition of "qualified nonmetropolitan county" is the addition of a grandfathering clause. Because of Labor Statistics (BLS) issues new county-level unemployment data annually, nonmetropolitan counties may shift into and out of eligibility on a yearly basis. The Committee believes that this type of movement is too fluid for a program that should be stable in its first few years. Companies will be confused about the merits of the program if firms lose and gain eligibility from year to year. A company will not want to invest in such a county only to have it suddenly become ineligible, due to new BLS data, before the company has even had the opportunity to recoup its investment by participating in the HUBZone program.

The Committee legislation seeks to stabilize this situation by looking at the unemployment picture over a three-year period for nonmetropolitan counties. It also provides that companies in such a county will have a one-year period to pursue HUBZone opportunities and wrap up its activities under the program, after such a county becomes ineligible due to new BLS data. A similar one-year period is provided for changes that may result due to enactment of this legislation.

Commodities procurement

In 1999, the Committee became aware of potential implementation problems in HUBZone procurements of certain commodities, particularly food-aid commodities purchased by the Department of Agriculture (USDA), that could lead to unintended and anti-competitive results. Because bids for commodities generally tend to fall within a narrow range of prices, the 10% price evaluation preference that currently exists could be overwhelmingly decisive. In such purchases, a handful of HUBZone firms could secure significant portions of these markets. This, in turn, could prompt other vendors to abandon these markets, thus reducing USDA's vendor base and reducing competition. These are results that would be contrary to the goals set forth in § 2 of the Small Business Act. The Committee notes that this may not be as true for processed commodities as for raw commodities, since processing introduces other variables that could increase the range of costs and, therefore, the range of bids.

To prevent irreparable harm to USDA's vendor base until the matter could be addressed more comprehensively in this legislation, Chairman Bond sponsored a proviso in the Fiscal 2000 Agriculture Appropriations Act. As adopted in the conference report, § 751 of that Act limited the price evaluation preference to 5% for up to half of the total dollar value of each commodity in a particular tender (solicitation). It also prohibited contract awards to a HUBZone firm that would be of such magnitude as to require the firm to subcontract to purchase the commodity being procured, since such a scenario would simply allow these firms to purchase commodities from subcontractors and in turn sell them to the Government at inflated prices.

The legislation reported by this Committee seeks to address this issue on a more permanent basis. The Committee is aware that USDA relies upon a complex computer program to evaluate commodities bids, and thus the Committee seeks to set a long-term policy that will not require frequent and expensive changes to this software. Although the Committee legislation reduces the level of HUBZone program incentives that otherwise would be available under the HUBZone Act, this bill still seeks to ensure substantial awards to HUBZone concerns, while protecting existing incentives available to other types of small business concerns. The Committee intends that these incentives help commodities procurements contribute their fair share toward achieving the Government-wide goal of 23% of prime contract dollars to small business concerns, but without the anti-competitive effects of awarding overwhelming shares of the market to HUBZone firms.

Relationship to other contracting preferences

In 1997, when this Committee considered legislation to create the HUBZone program, the prospective impact of that program on existing small business programs was a very controversial issue. This Committee was then, and is now committed to advancing the interests of all types of small businesses, and accordingly sought to ensure that the HUBZone program would not compete with other contracting incentives, particularly the 8(a) program. As we stated in our report on the legislation:

> It should be noted that the HUBZone Program is not designed to compete with SBA's 8(a) Program. One of the amendments adopted by the Committed during its markup of this legislation places a HUBZone small business concern at the same level of contracting preferences as an 8(a) small business concern. The bill, as amended, gives the procuring agency's contracting officer the flexibility to decide whether to target a specific procurement requirement for the HUBZone Program or the 8(a) Program. Small Business Reauthorization Act of 1997, Senate Report 10–62, at 26.

The Committee is concerned that SBA has misinterpreted the intent of the committee and has created, through regulatory means, an order of precedence that places the 8(a) program ahead of the HUBZone program in all cases. In February 25, 2000, correspondence to the Chairman, the Administrator stated that this was necessary to protect the 8(a) program, and she noted that protecting the 8(a) program had been a condition of her endorsement of the HUBZone legislation in 1997.

The Committee shares the Administrator's commitment to protecting the 8(a) program and understands the concerns of the minority contracting community. For this reason, the Committee adopted language in 1997 to allow contracting officers the flexibility to decide which program is appropriate for a prospective opportunity. The Committee not only pledged to protect the 8(a) program but also incorporated that pledge into specific legislation to give force to that commitment.

It is the strong belief of the Committee that contracting officers are ideally situated to carry out this mandate. Contracting officers are the ones who carry out the various procurement goals and track their progress as the year proceeds. If a contracting officer discovers that his or her purchasing center or procurement office, as well as the agency overall, is falling behind on its share of the 5% SBD goal (of which 8(a) is a part), he or she must have the flexibility to place new contracting opportunities in the 8(a) program to ensure the goal is met. Likewise, if the contracting officer discovers that his or her agency is falling behind on the HUBZone goal, he or she needs the flexibility provided by law to award new contracting opportunities through the HUBZone program.

The Committee believes it is inappropriate for SBA to deviate from an approach that was stated in our Committee report and reflected in the statutory language adopted by both Houses of Congress and signed by the President. To create an order of precedence that places either 8(a) or the HUBZone program ahead of the other is to limit the discretion of the contracting officer as provided by law. The Committee believes the real threat to 8(a) and to the HUBZone program, as well as to other small business contracting initiatives, comes from contract bundling and acquisition streamlining.

Accordingly, the Committee has included language to explicitly state that 8(a) and the HUBZone program are on a level playing field in terms of contracting preference. The Committee does not consider this to be a change in the law, but merely a restatement of existing law.

The Committee has also included language to ratify SBA's regulations to place first priority on firms eligible for both the 8(a) and HUBZone programs. If a firm qualifies for both programs, and a contract is awarded instead to a firm that qualifies for only one program, the firm that qualifies for both has arguably been denied the advantages of one of the programs to which it is statutorily entitled. The Committee strongly concurs with SBA's position on HUBZone 8(a) concerns and gives it statutory force through this legislation.

Community development corporations

For reasons similar to the problems preventing HUBZone program participation by Indian Tribal enterprises and Alaska Native Corporations, small businesses owned by Community Development Corporations were also inadvertently made ineligible by the original HUBZone Act language. The Committee has included language to correct this problem. As with Tribal enterprises and Alaska Native Corporations, addressed in Subtitle A of this Title, Community Development Corporations are not made automatically eligible. These firms must agree to advance the job-creation goals of the HUBZone program. Specifically, as other businesses must do, these enterprises must maintain their principal office in a HUBZone and employ 35% of their workforce from one or more HUBZones.

The Committee has also included technical corrections to §§ 8(d)(4)(D) and 3(p)(5)(C) of the Small Business Act.

TITLE VIII: NATIONAL WOMEN'S BUSINESS COUNCIL REAUTHORIZATION

Senator Landrieu offered an amendment, which was unanimously adopted by the Committee, to re-authorize the National Women's Business Council for three years, from FY 2001 to 2003, and to increase the annual appropriation from $600,000 to $1 million. The increase in funding will allow the Council to: support new and ongoing research; produce and distribute reports and recommendations prepared by the Council; and create an infrastructure to assist states in developing women's business advisory councils, coordinate summits and establish an interstate communication network.

The increase will also be used to assist Federal agencies meet the procurement goal for women-owned businesses established by Congress in 1994 under section 15(g) of the Small Business Act. By law, Federal agencies must strive to award women-owned small businesses at least 5 percent of the total amount of Federal prime contract dollars. The Committee feels strongly that Federal agencies should meet the five-percent goal, and it supports the Council's plan to expand its efforts to increase the percentage of prime contracts that go to women-owned businesses. Based on current data, women are not receiving awards proportionate to their presence in the economy. For example, women-owned businesses make up 38 percent of all small businesses,[1] yet women-owned businesses re-

[1] Research from the National Foundation for Women Business Owners (NFWBO) Women-Owned Businesses, Top 9 Million in 1999 (1999), Economic clout increases as employment, revenues grow.

ceived only 2.42 percent of the $189 billion in Federal prime contracts in FY1999.[2]

According to the National Foundation for Women Business Owners, over the past decade the number of women-owned businesses in this country has grown by 103 percent to an established 9.1 million firms. They generate almost $3.6 trillion in sales annually and employ more than 27.5 million workers. With the impact of women-owned businesses on our economy increasing at an unprecedented rate, Congress relies on the Council to serve as its eyes and ears as it anticipates the needs of this burgeoning entrepreneurial sector. Since it was established in 1988, the Council, which is bi-partisan, has provided important unbiased advice and counsel to Congress.

This bill allows the Council to continue to perform its duties at the level it has done so far, as well as expand its activities to support initiatives that are creating the infrastructure for women's entrepreneurship at the state and local level.

TITLE VIII: MISCELLANEOUS PROVISIONS

SEC. 801. NATIVE AMERICAN SMALL BUSINESS DEVELOPMENT CENTERS

Accompanying the FY 2001 budget request was an SBA request to establish Native American Small Business Development Center (NASBDC) Network. The purpose of the request is to stimulate the economies of Native American reservations through the creation and expansion of small business ownership. The NASBDC would be modeled after SBA's Small Business Development Center (SBDC) Program, and funding would be provided from a separate line item.

As a group, the nearly 2 million Native Americans are among the poorest in the United States. Unemployment averages 45% among Native Americans who live on or near reservations. The poverty rate is more than three times the national average, and the median household income is less than two-thirds the national average. Many Native American households lack such basic necessities as telephones, electricity, running water and indoor plumbing. The reservations and surrounding communities are overwhelmingly rural and geographically isolated. The more than 555 Federally recognized Tribes are extraordinarily diverse in language, culture, land base and natural resources.

The Committee believes that small business ownership is one of the most important economic development tools for Native Americans. The NASBDC Network is needed because a strong small business management and technical assistance base needs to be established to help Native Americans take advantage of the benefits stemming from small business ownership. In the past, SBA has been hampered by the lack of culturally appropriate vehicles to deliver this type of service. Frequently, SBA has been confronted by barriers, such as the vast distances and widely dispersed reservations populations that have hampered its ability to deliver its programs.

[2] Federal Procurement Data System, Reporting on Annual Procurement Preference Goaling Achievements—Part II.

The NASBDC Network would not duplicate the SBDC Program. Rather, it will complement the successful SBDC model. Under the Committee's bill, SBA would be authorized to fund one Native American business or economic development organization or a tribal organization which will distribute funds to service centers. The service centers will provide business management and technical assistance in a cost-effective and culturally tailored manner. All service centers will be located on or near Native American reservations. The creation of this culturally appropriate and site-specific device creates the bridge to bring SBA and SBA-sponsored services to Native American communities. The Committee believes the NASBDC has the potential to stimulate reservation economies through the creation and expansion of small businesses.

SEC. 802. COSPONSORSHIP

As a means of leveraging the scarce resources at SBA, the Agency engages in a variety of cosponsorships with public and private sector organizations. Current statutory language refers only to training as a permitted cosponsored activity with for-profits entities. SBA defines training as being limited to narrower topics of interest to relatively small numbers of business owners or those in certain types of businesses. There are, however, broader business-related topics, such as the effective use of technology, e-commerce, exporting/importing, about which all small businesses should be informed and educated.

The SBA has recommended that the terms "information and education" be added to the types of assistance that can be provided to small businesses. SBA believes this change will give it the flexibility in the types of assistance that can be provided to small businesses. The Committee agreed with the SBA's recommendation, concluding that while traditional training in these areas may also be offered, the need to reach broader audiences with timely, updated information and education is vital to the success of the largest number of small businesses.

SEC. 803. FRAUD AND FALSE STATEMENTS

This section would ensure that a false statement made to the SBA, in connection with an SBIC activity, would have the same penalty as making a false statement to an SBIC. 18 U.S.C. 1014 does not mention SBA; however, it makes it a crime to make a false statement or report to an SBIC. This technical change would make it clear that it would be a criminal violation of 18 U.S.C. 1014 to make a false statement to SBA in connection with SBIC activity, with more severe penalties under this section than are granted under 15 U.S.C. 645(a) or 18 U.S.C. 1001, which are criminal statutes used for false statements made in most SBA assistance programs. The Committee believes the greater penalties under this section are more appropriately imposed for the greater loss often occasioned when the SBA and the public suffer a loss under the SBIC program. Additionally, this amendment would enable the courts to assess civil penalties for such violations pursuant to 12 U.S.C. 1833a(c)(1).

SEC. 804. FINANCIAL INSTITUTION CIVIL PENALTIES

This technical amendment seeks to insure that individuals who make false statements to SBICs and/or SBA are subject to the civil penalties set forth under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), 12 U.S.C. 1833a, which permits the imposition of monetary fines for violations, or conspiracies to violate, certain criminal statutes, including 18 U.S.C. 1001. For purposes of FIRREA, 18 U.S.C. 1001 must involve a false statement made to a Federally insured financial institution, or, if Section 804 becomes law, to a Federal lending agency or a Federal guarantor, including SBA.

SEC. 805. VERY SMALL BUSINESS PROGRAM

This section would extend the Very Small Business Program pilot. The pilot program is targeted at firms seeking to do business with the Federal government with 15 or fewer employees and with less than $1 million in annual receipts. To date, SBA has had insufficient experience and data to evaluate the program, which SBA failed to implement until March 4, 1999, more than four years after Congress enacted the program. The Committee anticipates that new reporting requirements set forth in the Federal Procurement Data System will provide SBA with sufficient data to evaluate the program over the next three years.

SEC. 806. SDB

The Federal Acquisition Streamlining Act of 1994 (P.L. 103–355; 15 U.S.C. 644 note) establishes procurement procedures to help small business concerns owned and controlled by socially and economically disadvantaged individuals to meet certain Federal procurement goals. The procurement procedures are scheduled to terminate on September 30, 2000. The Committee approved an extension of the program for three years, through September 30, 2003.

SEC. 807. SUBCONTRACTING PREFERENCE FOR VETERANS

This section would clarify that service-disabled veterans are on the same preference level as small disadvantaged businesses (SBDs) and women-owned small businesses for Federal contracting opportunities. When the Congress enacted the Veterans Entrepreneurship and Small Business Development Act (P.L. 106–50), it was not absolutely clear that the contracting preferences were to apply specifically to service-disabled veterans. The Committee intends for this section to clear up any misunderstandings that might remain.

SEC. 808. SIZE STANDARDS

Section 808 establishes a new size standard of 200 employees for fresh fruit and vegetable packing houses. The SBA currently classifies fresh fruit and vegetable packing houses as being primarily engaged in the wholesale distribution of fresh fruits and vegetables (Standard Industrial Classification (SIC) code 5148), which has a 100-employee size standard. This standard can be increased to 125 employees when it applies to a labor surplus area. Senator Dianne Feinstein of California brought this matter to the attention of the Committee. She explained that the fresh fruit and vegetable packing houses are labor intensive businesses, which use a substantial numbers of employees during the harvest seasons, and they are not similar to warehouse distribution businesses. The Committee agreed with Senator Feinstein's request for help and approved a the new size standard.

SEC. 809. DRUG-FREE WORKPLACE PROGRAM

In 1998, the Congress enacted the Drug-Free Workplace Demonstrate Program under the leadership of Senator Paul Coverdell of Georgia. The purpose of the program is to provide financial and technical assistance to small business concerns seeking to establish a drug-free workplace program. The law authorized $10 million in FY 1999 and 2000. Section 809 extends the Drug-Free Workplace Program for FY 2001 and 2002 and authorizes $10 million for the two year period.

III. COMMITTEE VOTE

In compliance with rule XXVI(7)(b) of the Standing Rules of the Senate, the following votes were recorded on March 21, 2000.

A motion by Senator Bond to adopt the amendment offered by Senator Landrieu to extend the authorization of the National Women's Business Council for Fiscal Years 2001, 2002, and 2003 passed by a unanimous voice vote.

A motion by Senator Kerry to adopt the amendment offered by Senator Snowe to provide peer-to-peer assistance under the Microloan program passed by a unanimous voice vote.

A motion by Senator Bond to adopt the Small Business Reauthorization Act of 2000 as amended, to re-authorize the programs of the Small Business Administration, and for other purposes, was approved by a unanimous 18-0 recorded vote, with the following Senators voting in the affirmative: Bond, Kerry, Burns, Coverdell, Bennett, Snowe, Enzi, Fitzgerald, Crapo, Voinovich, Abraham, Levin, Harkin, Lieberman, Wellstone, Cleland, Landrieu, and Edwards.

IV. COST ESTIMATE

In compliance with rule XXVI(11)(a)(1) of the Standing Rules of the Senate, the Committee estimates the cost of the legislation will be equal to the amounts discussed in the following letter from the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 25, 2000.

Hon. CHRISTOPHER S. BOND,
Chairman, Committee on Small Business,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for the Small Business Reauthorization Act of 2000.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Mark Hadley and

Megan Carroll (for federal costs), and Shelley Finlayson (for the state and local impact).

Sincerely,

STEVEN LIEBERMAN
(For Dan L. Crippen, Director).

Enclosure.

Small Business Reauthorization Act of 2000

Summary: The bill would authorize appropriations for fiscal years 2001 through 2003 for the Small business Administration (SBA) and would make a number of changes to SBA loan programs and programs that involve preferences for government contracting.

Assuming appropriation of the necessary amounts, CBO estimates that implementing this legislation would cost about $3.7 billion over the 2001–2005 period. Of this total, about $600 million is from amounts specifically authorized in the bill for SBA programs—primarily for administrative expenses. The remaining $3.1 billion would be primarily for the subsidy costs of SBA loan programs.

These costs include $227 million over the 2001–2005 period for agencies other than SBA to carry out programs that would be reauthorized by the bill. Implementing the changes to the HUBZone program contained in the bill would also increase costs to other federal agencies, by several million dollars a year, but we cannot estimate the impact of those changes.

CBO estimates that enacting the bill also would result in an increase in direct spending of $28 million in fiscal year 2000 for the cost of modifying loan guarantees. Because the bill would affect direct spending, pay-as-you-go procedures would apply.

The legislation contains an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA), but CBO estimates that states would incur no cost to comply with this mandate. Thus, the threshold established by the act ($55 million in 2000, adjusted annually for inflation) would not be exceeded. In general, the bill would benefit state, local, and tribal governments, and any costs to such governments would be incurred voluntarily. The bill contains no new private-sector mandates as defined in UMRA.

Major Provisions: Title I would establish the maximum amounts of small business loans to be made by SBA in 2001, 2002, and 2003. It also would authorize appropriations for the Service Corps of Retired Executives (SCORE), technical assistance grants to recipients of microloans, and certain activities of the Small Business Development Centers (SBDCs). Title I would authorize such sums as may be necessary for the disaster loan program and for administrative expenses necessary to carry out the Small Business Act and the Small Business Investment Act.

Title III would require the Internal Revenue Service (IRS) to convene panels, prior to publishing regulations (including interpretive rules), to analyze the potential impact of those regulations on small businesses.

Title IV would authorize the appropriation of such sums as may be necessary for the Office of Advocacy within SBA.

Title V would make a number of changes in SBA's credit programs. It would:

• establish prepayment penalties and authorize SBA to guarantee a higher percentage of certain general business loans,

• require SBA to reduce the annual fee paid by borrowers under two Small Business Investment Company (SBIC) programs if the subsidy cost of those programs would otherwise be less than zero, and

• require small business lending companies to pay the costs of examinations by SBA.

Title VI would expand the HUBZones program to allow more businesses and communities within Indian reservations or in Alaska to participate in the program.

Title VII would extend the provisions of the Federal Acquisition Streamlining Act of 1994 that provide federal contracting preferences to qualified small disadvantaged businesses, and would authorize SBA to conduct criminal background checks on borrowers or lenders.

Estimated cost to the Federal Government: The estimated budgetary impact of implementing the bill's provisions is shown in Table 1. CBO estimates that the bill would result in outlays of $3.7 billion over the 2001–2005 period; nearly all of that amount is for SBA spending that is subject to appropriation. The estimated outlays do not include additional costs for expanding the HUBZones program, which could total several million dollars a year. CBO has insufficient information on how this provision would be implemented to estimate these costs. The costs of this legislation fall within budget functions 370 (housing and commerce credit) and 450 (community and regional development).

TABLE 1.—ESTIMATED BUDGETARY EFFECTS OF THE SMALL BUSINESS REAUTHORIZATION ACT OF 2000

	By fiscal year, in millions of dollars—					
	2000	2001	2002	2003	2004	2005
SPENDING SUBJECT TO APPROPRIATION						
Small Business Administration:						
SBA Spending Under Current Law:						
Estimated Authorization Level [1]	861	0	0	0	0	0
Estimated Outlays	865	298	70	24	0	0
Changes to SBA Spending:						
Estimated Authorization Level	0	1,131	1,207	1,253	11	12
Estimated Outlays	0	736	1,096	1,202	414	74
SBA Spending Under the Bill:						
Estimated Authorization Level	861	1,131	1,207	1,253	11	12
Estimated Outlays	865	1,034	1,166	1,226	414	74
Other Agencies:						
Estimated Authorization Level [2]	0	48	49	51	52	53
Estimated Outlays	0	30	40	47	51	52
Total Additional Spending Under the Bill						
Estimated Authorization Level	0	1,179	1,256	1,304	63	65
Estimated Outlays	0	766	1,136	1,249	465	126
CHANGES IN DIRECT SPENDING						
Estimated Budget Authority	28	0	0	0	0	0
Estimated Outlays	28	0	0	0	0	0

[1] The 2000 level is the amount appropriated for SBA for that year.

[2] In addition to the amounts shown in the table, CBO expects that Title VI (HUBZones program) would impose costs on agencies other than the SBA but we cannot estimate those costs.

Basis of estimate: For this estimate, CBO assumes that the bill will be enacted by the end of fiscal year 2000 and that the necessary amounts will be appropriated by the start of each fiscal year. Outlay estimates are based on historical spending rates for existing or similar programs.

Spending subject to appropriation

Most of the bill's budgetary effects would come from reauthorizing existing SBA programs and would consist primarily of the subsidy costs of direct and guaranteed loans. Provisions of the bill unrelated to SBA—primarily those affecting government procurement—also would add to the cost of implementing the legislation.

Small Business Administration. The bill would reauthorize all of the programs of SBA through 2003. In addition, the bill would provide separate authority for the Office of Advocacy and for existing programs to assist businesses owned by Native Americans. Based on information from SBA and historical spending patterns for the agency, CBO estimates that these authorizations, if funded, would result in outlays of about $3.5 billion (including about $2.2 billion for loan programs) over the 2001–2005 period.

Loan Programs. The bill would authorize SBA to guarantee loans and make direct loans to businesses totaling about $23 billion in 2001, $26 billion in 2002, and $28.6 billion in 2003. It would authorize the agency to make an indefinite amount of disaster loans over the 2001–2003 period. Table 2 shows the loan levels authorized by the bill for SBA's guaranteed and direct business loans and CBO's estimate of the amounts of disaster loans, as well as the estimated subsidy cost and administrative expenses for those loans.

The Federal Credit Reform Act of 1990 requires appropriation of the subsidy costs and administrative costs for operating credit programs. (The subsidy cost is the estimated long-term cost to the government of a direct loan or loan guarantee, calculated on a net present value basis, excluding administrative costs.) The bill does not provide an explicit authorization for either the subsidy or administrative costs for the guaranteed, direct, or disaster loans.

The estimated subsidy rate for the different types of business loans and loan guarantees offered by SBA ranges from zero to about 9 percent. Most are 2 percent or less and the average is 1.1. percent, based on the past performance of these loans. Based on historical data for these loan programs and incorporating program changes required by this bill, CBO estimates that the subsidy costs for the authorized levels of guaranteed and direct business loans would be $264 million in 2001, $298 million in 2002, and $326 million in 2003. Based on recent administrative costs for SBA's loan programs, CBO estimates that the administrative costs for the business loan programs would be about $134 million in fiscal year 2001, $138 million in fiscal year 2002, and $142 million in fiscal year 2003.

TABLE 2.—ESTIMATED SBA LOAN LEVELS, SUBSIDY COSTS, AND ADMINISTRATIVE COSTS

	By fiscal year, in millions of dollars—				
	2001	2002	2003	2004	2005
Authorized Loan Levels					
Guaranteed and Direct Business Loans	23,110	26,130	28,650	0	0

TABLE 2.—ESTIMATED SBA LOAN LEVELS, SUBSIDY COSTS, AND ADMINISTRATIVE COSTS—Continued

	By fiscal year, in millions of dollars—				
	2001	2002	2003	2004	2005
Disaster Loans	871	885	900	0	0
Loan Subsidy Costs					
Guaranteed and Direct Business Loans:					
Estimated Authorization Level	264	298	326	0	0
Estimated Outlays	170	270	303	103	6
Disaster Loans:					
Estimated Authorization Level	174	177	180	0	0
Estimated Outlays	87	158	178	90	18
Loan Administration Costs					
Guaranteed and Direct Business Loans:					
Estimated Authorization Level	134	138	142	0	0
Estimated Outlays	134	138	142	0	0
Disaster Loans:					
Estimated Authorization Level	141	145	150	0	0
Estimated Outlays	141	145	150	0	0

Assuming that demand for SBA's disaster loans over the next three years will be at the average historical rate for the past six years, adjusted for inflation, CBO projects that SBA would make disaster loans totaling about $871 million in 2001, $885 million in 2002, and $900 million in 2003 and that administrative costs for the disaster loan program would be about $141 million in 2001, $145 million in 2002, and $150 million in 2003. The estimated subsidy rate for disaster loans is about 20 percent based on the historical performance of these loans.

Non-Credit Programs. The bill would provide specific authorizations of appropriations for SBDCs, SCORE, technical assistance for recipients of SBA microloan, quadrennial small business summits, the women's business council, the drug-free workplace program, and various programs to benefit businesses owned by Native Americans. CBO estimates that outlays from these authorizations would total $592 million over the next five years.

Examination fees. Section 505 would require small business lending companies to pay the costs of any examination by SBA. Based on the amount SBA currently spends to examine small business lending companies, CBO estimates this provision would increase collections, which are an offset to discretionary spending, by $1 million annually over the 2001–2005 period.

Background Checks. Section 706 would authorize SBA to conduct criminal background checks on borrowers or lenders participating in SBA's loan programs using the National Crime Information Center computer system at the Federal Bureau of Investigation (FBI). The FBI charges $24 for each check. Based on information from SBA, we expect the agency would pursue about 25,000 background checks in 2001. CBO estimates implementing this section would cost $0.6 million in that year. As SBA raises the number of background checks, annual costs would rise gradually to about $3 million by 2005.

Other Programs. In addition, the bill would authorize such sums as may be necessary to cover SBA's costs of carrying out the Small Business Act and the Small Business Investment Company Act. CBO estimates that the general administrative costs to carry out these acts would be $223 million in fiscal year 2001, $231 million in fiscal year 2002, and $241 million in fiscal year 2003, assuming appropriation of the necessary amounts. (The estimate of general administrative costs excludes the program-specific administrative expenses for business and disaster loans.) Finally, the bill would authorize the appropriation of such sums as may be necessary for the Office of Advocacy within SBA. Based on information from SBA, CBO estimates that the office will spend $6 million to $7 million annually.

Price Preferences. Title VII would extend the provisions of the Federal Acquisition Streamlining Act of 1994 that provide federal contracting preferences to qualified small disadvantaged businesses. Under the price preferences provision, small disadvantaged businesses may be deemed the lowest bidder for certain federal contracts if their price is not more than 10 percent greater than the lowest bidder. Small disadvantaged businesses received federal contracts worth about $6 billion in 1999. Based on the experience of a similar program within the Department of Defense, CBO expects the total value of contracts awarded using price preferences would be about $1.2 billion each year over the 2001–2005 period, and the preference would add an average of about three percent to the cost of the contracts. CBO estimates this provision would cost about $150 million over the 2001–2005 period.

HUBZones Program. Title VI would expand the HUBZones program, which provides federal contracting set-asides and preferences to qualified small businesses located in certain economically distressed, urban and rural communities. Title VI would allow more businesses and communities within Indian reservations and Alaska to participate in the program and could cost several million dollars a year. CBO cannot estimate how much those changes may increase spending, however, because we do not know how many more communities would participate in the program or what administrative resources would be required to carry it out.

Regulatory Review Panels. Title III would require the IRS to convene panels to analyze the potential impact of regulations on small businesses prior to publication. We expect that the bill would apply to about 50 IRS regulations each year. Based on this number of regulations and the experiences of similar panels at the Environmental Protection Agency and the Occupational Safety and Health Administration, CBO estimates that implementing Title III would cost the IRS about $13 million in 2001 and similar amounts in subsequent years. Annual costs would rise gradually to about $16 million by 2005.

Direct spending

Title V would modify the expected cost of the guarantees SBA has provided for existing loans. According to OMB's Circular A–11, Preparation and Submission of Budget Estimates: "If the modification is mandated in legislation, the legislation itself provides the budget authority to incur the subsidy cost obligation (whether explicitly stated or not)." As a result, CBO estimates that the bill would increase direct spending by a total of $28 million in the year of enactment through changes in SBIC programs and SBA's general business program.

Small Business Investment Companies. Through two SBIC programs, SBA guarantees 10-year loans made to venture capital firms. To offset the subsidy cost of those guarantees, SBA charges venture capital firms that participate in the program a fee of 1 percent of the loan amount each year, resulting in receipts of about $50 million a year. Section 503 would require SBA to reduce the 1 percent fee if the subsidy cost of those programs would otherwise be less than zero.

For fiscal year 2000, the Administration estimates that the subsidy rate is 1.8 percent for one of the SBIC programs and zero for the other. If, in the future, SBA determines the subsidy cost of either of these loan guarantees to be less than zero (that is, a "negative subsidy"), section 503 would require the agency to reduce the fees. CBO estimates that there is about a 15 percent chance that the subsidy rate for these programs could be less than zero, so enacting this provision would cost $50 million by eliminating the possibility for a negative subsidy for the guarantees that are outstanding under these programs. This cost represents the present value of fees that could be eliminated by the bill and the likelihood that the fees would have to be reduced. Such fees would otherwise be collected annually over the remaining term of the loan guarantees.

General Business Guarantees. Section 501 would establish penalties for the prepayment of guaranteed loans during the first three years that the loans are outstanding. In addition section 501 would eliminate a provision of law that allows SBA to pay interest on guaranteed general business loans that have defaulted at a rate 1 percent less than the borrower's interest rate between the time of default and the time SBA purchases the loan. Section 508 would allow SBA to guarantee up to 85 percent of the balance of a loan if the balance is not more than $150,000. Section 508 also would simplify and reduce fees SBA charges under the general business guarantee program. CBO estimates that these provisions would result in no net change in the subsidy associated with new loans, because the increased cost from lowering the guarantee fees would be offset by the new prepayment penalties.

Borrowers of existing loans have already paid the guarantee fee but would be subject to prepayment penalties under section 501. Based on information from SBA, we anticipate that about $33 billion of loans approved since 1997 will be outstanding near the end of fiscal year 2000. We estimate that borrowers would prepay about $1.3 billion within three years of receiving their loans, and that prepayment penalties would reduce the subsidy costs of existing general business guarantees by about $22 million.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. CBO estimates the bill would increase direct spending by $28 million in the year of enactment because it would modify the subsidy costs of existing loans and loan guarantees.

	By fiscal year, in millions of dollars—										
	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Changes in outlays	28	0	0	0	0	0	0	0	0	0	0
Changes in receipts	0	0	0	0	0	0	0	0	0	0	0

Estimated impact on state, local, and tribal governments: The legislation contains an intergovernmental mandate as defined in UMRA because it would preempt state statute of limitations laws as they relate to certain enforcement actions brought by SBA under the Small Business Investment Act of 1958. This mandate would impose no costs on state, local, or tribal governments because it is narrow and because it would not require states to take any action.

The bill also would authorize appropriations for SBA's programs for fiscal years 2001 through 2003, some of which would directly benefit state, local, and tribal governments. For example, the bill would expand the HUBZones program to target assistance to Native American and tribally-owned small businesses. In addition, the Small Business Development Center program provides funds to state and local governments, public and private institutions of higher education, and state-chartered development corporations to establish and operate small business development centers. Any costs associated with providing matching funds to participate in SBA programs are voluntary and expected to be minimal.

Estimated impact on the private sector: This bill would impose no new private-sector mandates as defined in UMRA.

Estimate prepared by: Federal Costs: Mark Hadley and Megan Carroll. Impact on State, Local, and Tribal Governments: Shelley Finlayson. Impact on the Private Sector: Patrice Gordon.

Estimate approved by: Robert A. Sunshine, Assistant Director for Budget Analysis.

V. EVALUATION OF REGULATORY IMPACT

In compliance with rule XXVI(11)(b) of the Standing Rules of the Senate, it is the opinion of the Committee that no significant additional regulatory impact will be incurred in carrying out the provisions of this legislation. There will be no additional impact on the personal privacy of companies or individuals who utilize the services provided.

VI. SECTION-BY-SECTION ANALYSIS

TITLE I: AUTHORIZATIONS

See the table with the program levels included in Part II of this report.

TITLE II: QUADRENNIAL SMALL BUSINESS SUMMIT

Section 202. Definitions

This section defines key words and terms included in the title.

Section 203. National And State summits on Small Business

This section states that a national Quadrennial Summit on Small Business will occur every four years during the second year after a presidential election. Prior to the Quadrennial Summit, there will be State Summits for the delegates in each state.

Section 204. Purposes of quadrennial summits

This section sets forth the reasons for having a Quadrennial Summit on Small Business.

Section 205. Summit participants

Subsection (a) directs the Quadrennial Commission to conduct Quadrennial and State Summits to bring together individuals interested in issues affecting small businesses.

Subsection (b) sets forth the procedures for selecting delegates to the State and Quadrennial Summits. A delegate must be an owner or officer of a small business. The Governors and U.S. Senators will each appoint a delegate and alternative delegate from their respective states. U.S. Representatives will each appoint a delegate and alternate from their respective congressional districts, and the President will appoint a delegate and alternate from each state. The delegates will be able to conduct meetings and will attend a State Summit in their respective states before the Quadrennial Summit is held.

Subsection (c) describes the role of SBA's Chief Counsel for Advocacy with respect to the Summit.

Subsection (d) explains that the delegates will be responsible for their own expenses and will not be reimbursed from appropriated funds.

Subsection (e) directs the Quadrennial Commission to appoint an Advisory Committee of 10 persons who were participants at the last preceding Quadrennial Summit.

Subsection (f) states that all State and Quadrennial Summits will be open to the public and no fee greater than $15 can be charged to people who wish to attend a summit.

Section 206. Quadrennial Commission on Small Business

Subsection (a) authorizes the establishment of a Quadrennial Commission on Small Business.

Subsection (b) defines the membership of the Quadrennial Commission, which numbers nine in total. It will include the SBA Chief Counsel for Advocacy, 4 members appointed by the President, 2 members from the Senate (1 majority, 1 minority), and 2 members from the House of Representatives (1 majority, 1 minority). The appointments will be made 18 months before the opening date of the Quadrennial Summit and will expire six months after the Quadrennial Summit has concluded.

Subsection (c) sets forth the election of a Chairperson.

Subsection (d) permits the Quadrennial Commission to enter into contracts with public agencies, private organizations, academic institutions, and independent, nonpartisan organizations to carry out the State and Quadrennial Summits.

Subsection (e) directs the Quadrennial Summit to consult with the Office of Advocacy at SBA, Congress, and Federal agencies in carrying out the State and Quadrennial Summits.

Subsection (f) requires that the Quadrennial Commission submit a report to the Chairperson and Ranking minority Members of the Senate and House Committees on Small Business within 6 months after the conclusion of the Quadrennial Summit.

Subsection (g) establishes a quorum of 4 members of the Quadrennial Commission for purposes of transacting business.

Subsection (h) requires the Quadrennial Commission to hold its first meeting within 20 days after the appointment of all members and at least every 30 days thereafter.

Subsection (i) states that vacancies on the Quadrennial Commission will be filled in the same manner as the original appointments were made.

Subsection (j) authorizes the Quadrennial Commission to hire an Executive Director and the staff necessary to conduct the State and Quadrennial Summits.

Subsection (k) authorizes the Quadrennial Commission to reimburse its members for travel expenses, including per diem.

Section 207. Authorization of appropriations; availability of funds

This section authorizes $5 million to cover all expenses incurred under this Title. It states that funds from SBA may not support the Quadrennial Summit unless specifically earmarked for that purpose.

TITLE III: SMALL BUSINESS INVOLVEMENT IN GOVERNMENT REGULATION

Section 302. Findings and purposes

This section sets forth Congressional findings on the impact of regulations on small businesses and the early successes of the Small Business Regulatory Enforcement Fairness Act.

Section 303. Ensuring full analysis of potential impacts on small entities of rules proposed by certain agencies

This section clarifies the process for selection of the small entity representatives and the timing of the panel's activities. Small entity representatives affected by the draft proposal are to be identified by the covered agency in consultation with the Chief Counsel for Advocacy. The number of days provided for this process is extended from 15 to 30 days. Small entity representatives may request the opportunity to present their comments orally. The panel is to be convened not earlier than 30 days after the covered agency transmits information to the identified small entity representatives. Once the Panel has convened, it has up to 60 days to review the small business comments and to report to the head of the covered agency. The panel report is to be printed in the Federal Register within 180 days after the date the agency head receives the report or as part of the publication of the notice of proposed rule making, whichever is earlier.

Section 304. Definitions

This section expands the definition of a "covered agency" to include the Internal Revenue Service. Currently, only EPA and OSHA are included. The definition of a "small entity representative" eligible to participate on a Panel is also specified as a small entity, or an individual or organization that "primarily represents the interests of 1 or more small entities."

Section 305. Collection of information requirement

This section deletes language that limited the scope of IRS interpretative rules covered by The Regulatory Flexibility Act. It amends Section 601 to strike the definitions for "collection of information" and "recordkeeping." Also, the section amends the fifth sentence in Section 603(a) to read:

In the case of an interpretative rule involving the internal revenue laws of the United States, this chapter applies to interpretative rules (including proposed, temporary and final regulations) published in the Federal Register for codification in the Code of Federal Regulations.

Section 306. Effective date

This section provides that the Act will be effective 90 days after the date of enactment.

TITLE IV. INDEPENDENT OFFICE OF ADVOCACY

Section 402. Findings

This section describes the need for an effective, independent advocate for small business within the Federal government that is not restricted by the views or polices of the Small Business Administration (SBA/Agency) or any other agency. This section also sets forth the important role the Office of Advocacy plays in providing research, information and its expertise on small business matters to the Congress and the Executive Branch.

Section 403. Purposes

Subsection 1 states that the purpose of the Act is to ensure that the Office of Advocacy has the statutory independence and adequate financial resources to be an advocate for small businesses.

Subsection 2 requires the Office of Advocacy to keep the Senate and House Small Business Committees and the SBA Administrator informed on matters of importance to small businesses.

Subsection 3 provides that there will be a separate authorization for the Office of Advocacy.

Subsection 4 states that the Office of Advocacy will continue to monitor Agency compliance with the Regulatory Flexibility Act and will report annually to the Congress. Subsection 5 states that the purpose of the Act is to enhance the role of the Office of Advocacy in the panel review process.

Section 404. Office of Advocacy

Subsection (a) sets forth a new Section 32 of the Small Business Act (15 U.S.C. 631, et seq.) describing the Office of Advocacy.

Subsection (a) of Section 32 of the Small Business Act defines the terms "Chief Counsel" and "Office" as used in Section 32. Subsection (a) sets forth a new Section 32 of the Small Business Act (15 U.S.C. 631, et seq.) describing the Office of Advocacy.

Subsection (b) of Section 32 establishes within SBA the Office of Advocacy and designates the Chief Counsel for Advocacy to manage the Office. This subsection sets forth the restrictions on who may be nominated by the President to serve as Chief Counsel. Subsection (b) also requires SBA to submit a separate budget request each year for the Office of Advocacy.

Subsection (c) of Section 32 describes the primary functions of the Office of Advocacy.

(1) The Office shall examine the role played by small business within the U.S. economy;

(2) Directs the Office to assess the effectiveness of Federal subsidy and assistance programs;

(3) The Office is directed to measure the direct costs of regulation on small business;

(4) Determine the impact of the U.S. tax system on small businesses;

(5) Study the ability of the private sector to meet the credit needs of small business and determine the impact of government demands for credit on small businesses;

(6) Determine the availability of credit and management assistance to small businesses;

(7) Evaluate the efforts of Federal agencies and the private sector to help minority-owned and women-owned small businesses;

(8) Make recommendations to help in the development and strengthening of minority and women-owned small businesses;

(9) Directs the Office of Advocacy to make recommendations to help small businesses expand to their full potential and to assess any common reasons for small businesses' successes and failures;

(10) Assess the benefits of developing a set of criteria to be used to define small businesses;

(11) Make recommendations to correct issues and regulations harmful to small business;

Subsection (d) of Section 32 describes additional functions of the Office of Advocacy. It will serve as a focal point for receipt of complaints, criticisms and suggestions concerning the policies and programs of the Federal government that affect small businesses. The Office will counsel small businesses on how to resolve their difficulties with the Federal government. The Office will represent the interests and views of small businesses before other Federal agencies, and it will encourage both private and public entities to disseminate information about services and programs for small businesses. Lastly, Subsection (d) directs the Office of Advocacy to carry out its responsibilities under the Regulatory Flexibility Act.

Subsection (e) of Section 32 outlines the staff and powers of the Office of Advocacy. The Chief Counsel has the authority to hire staff for the Office of Advocacy and is exempt from the standard civil service laws governing competitive hiring.

Subsection (f) of Section 32 directs SBA to provide the Office of Advocacy with adequate office space in the headquarters and field offices. SBA shall also provide equipment, office supplies, and communications facilities and services as are necessary.

Subsection (g) of Section 32 allows the Chief Counsel to obtain from each Federal agency such information as needed to carry out the responsibilities of the Office of Advocacy.

Subsection (h) of Section 32 directs the Chief Counsel to submit an annual report on Agency compliance with the requirements of the Regulatory Flexibility Act. Further, the Chief Counsel can prepare and submit to the President and Congress such reports as he or she deems necessary. Consistent with current practice, in no case shall a report from the Office of Advocacy be submitted in advance to OMB for approval or Administration clearance.

Subsection (i) of Section authorizes to be appropriated such sums as are necessary for the Office of Advocacy.

A new Subsection (c) permits the incumbent Chief Counsel for Advocacy to continue to serve in that position after date of enactment of this Act in accordance with the requirements of Section 32 of the Small Business Act.

TITLE V. CREDIT PROGRAMS

Section 501. Section 7(a) program

Subsection (a) increases the guarantee percentage on loans of $150,000 or less to 85%. The 80% guarantee level currently extends only to loans of $100,000 or less. The purpose of this change is to encourage banks to increase the availability of small loans.

Subsection (b) increases the maximum guarantee amount to $1 million from $750,000. The maximum gross loan amount is capped at $2 million. The largest loan would be one of $2 million which would be eligible for a guarantee of 50%. The maximum size loan with a 75% guarantee would be $1.33 million.

Subsection (c) removes the provision added in 1996 that reduced the SBA's liability for accrued interest on a loan in default.

Subsection (d) will permit a lender to assess a fee to the borrower for early prepayment of any loan with a term of 15 years or greater. Early prepayment is defined as any voluntary prepayment.

Section 502. Small Business investment companies

Subsection (a) of Section 502 would permit any Federal Savings Association to make investments directly in Small Business Investment Companies (SBICs).

Subsection (c) would amend the Small Business Investment Act of 1958 to establish a statute of limitations for SBC liquidations that is consistent with the laws governing FDIC and RTC bank liquidations.

Subsection (d) would permit the SBA to suspend or remove officer, directors, employees, agents, or other participants in the management or conduct of an SBIC who are involved in violations of the Small Business Investment Act of 1958.

Subsection (e) defines "long term" when used in connection with equity capital or loan funds invested in small businesses to be a period of one year or more.

In addition, subsection (e) provides that when the credit subsidy rate for the SBIC Debenture or Participation Securities program falls below zero, the one percent annual fee paid by the SBIC on the outstanding Debenture or Participating Security will be reduced by such an amount so that the credit subsidy rate is zero. SBA is not authorized to collect fees that cause the credit subsidy rate to fall below zero.

Subsection (e) would permit qualifying SBICs to make a quarterly tax distribution at any time during the applicable calendar quarter. Under current law, tax distribution may be made only at the end of calendar quarters.

Section 503. Microloan program

Subsection (a)(1) increase the maximum loan amount from $25,000 to $35,000.

Subsection (a)(2) raises the average loan size from $7,500 to $10,000 for speciality micro lenders, who make smaller loans and receive additional technical assistance to make them. This is consistent with increasing the maximum loan amount.

Subsection (a)(3) eliminates the requirement that intermediaries make “short-term” loans. This change will allow intermediaries greater latitude in developing microloan products by offering their borrowers revolving lines of credit, such as for seasonal contract needs.

Subsection (a)(4) broadens the eligibility criteria for intermediaries. Instead of requiring intermediaries to have one year of experience making microloans to startup, newly established or growing small businesses and providing technical assistance to its borrowers, this legislation would deem a prospective intermediary eligible if it has “equivalent” experience.

Subsection (a)(5) raises the threshold for the comparable credit test from $15,000 to $20,000.

Subsection (a)(6) eliminates the restriction on how much technical assistance funding an intermediary can use for pre-loan assistance. Currently, intermediaries are limited to using 25 percent of their funds to assist prospective borrowers. This change allows an intermediary to allocate as much technical assistance as appropriate.

This subsection also increase the percentage of technical assistance grant funds that an intermediary can use to subcontract out technical assistance. Currently, intermediaries can only subcontract 25 percent, and this legislation would raise this limit to 35 percent.

Subsection (a)(7) increases the number of non-lending TA providers from 25 to 55 so that there can be one in each state and in the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, and American Samoa. This subsection also raises the maximum annual grant amount to each non-lending TA provider from $125,000 to $200,000 to reflect inflation and increased costs.

Subsection (a)(8) increase the average loan size for each intermediary’s portfolio from $10,000 to $15,000.

Subsection (a)(9) increases the number of intermediaries authorized to 250 in FY2001, to 300 in FY2002, and to 350 in FY2003. The increases are designed to allow SBA to make this program available nationwide.

Subsection (a)(10) establishes a peer-to-peer mentoring program for SBA intermediaries and organizations seeking to become microlender intermediaries. Specifically, SBA would be allowed to use up to $1 million of annual appropriation for technical assistance grants to subcontract with one or more national trade associations of SBA microlender intermediaries to provide peer-to-peer mentoring.

Sec. 504. Small Business Lending Company fees

This section directs Small Business Lending Companies (SBLCs), which are non-banking lending institutions that are licensed and regulated by the SBA, to pay the full of the annual examination performed by SBA and each SBLC. When the SBLC pays the money to SBA, it can be spent by SBA to offset the cost of the examination and to perform other program oversight.

Sec. 505. Surety bonds

This section increases from $1,250,000 to $2,000,000 the maximum contract amount that can be guaranteed under the Surety

Bond Guarantee Program. It also extends the sunset date for the Preferred Surety Bond Guarantee Program to September 30, 2003.

Sec. 506. Development Company debentures

This section clarifies that the minimum interest rate for 504 debentures must be acceptable to the Secretary of the Treasury.

TITLE VI. HUBZONE PROGRAM

Subtitle A—HUBZones in Native America

Section 1. Short title

Subtitle A of the bill is dubbed the “HUBZones in Native America Act of 2000.” This short-title emphasizes the geography-based nature of the HUBZone program, directing contracting opportunities to the areas that need economic development assistance.

Section 602. HUBZone Small Business concern

The bill amends the definition of “HUBZone small business concern” to include small businesses owned by one or more U.S.. citizens (current law), Alaska Native Corporations and their subsidiaries, joint ventures, and partnerships, as defined under the Alaska Native Claims Settlement Act (ANCSA) of 1971, and small businesses owned by one or more Indian Tribal governments. Some Tribal governments have also created companies to do their business for them, so they can waive sovereign immunity against those companies without waiving it against the Tribe itself. Small businesses owned by these companies would also be eligible.

Section 603. Qualified HUBZone Small Business concern

Subsection (a) amends the definition of “qualified HUBZone small business concern” to indicate what each of the “HUBZone small business concerns” must do in order to advance the goals of the program and be qualified. Each type of firm added to the definition of “HUBZone small business concerns” has a corresponding obligation imposed on it to be “qualified.” They have to maintain some kind of nexus to a HUBZone to participate.

Small businesses in general must have a principal office in a HUBZone designated area, and 35% of their employees must reside in a HUBZone. Alaska Native Corporations and their subsidiaries would need to meet at least one of the following criteria: (a) maintain a principal office in an Alaska HUBZone; (b) engage at least 35% of the employees working on a contract awarded through the HUBZone program to perform their work in an Alaska HUBZone; or (c) hire at least 35% of their workforce from Alaska HUBZone residents or from an Alaska Native Village. Tribal enterprises would be required to have 35% of their employees performing a HUBZone contract either reside within an Indian reservation or within any HUBZone adjoining a reservation. This allows Tribal enterprises to use a place-of-performance standard similar to Alaska Native Corporations. However, it is slightly more restrictive than the rule that applies to small businesses in general, whose employees may come from any HUBZone to meet the 35% threshold. Since Tribal enterprises are government-owned entities (owned wholly or partly by Tribal governments), this provision limits their scope to the reservations governed by their respective owners.

Subsection (b) of this section is the "HUBZone Pilot Program for Sparsely Populated Areas." This subsection attempts to address concerns that small businesses in Alaska, like Alaska Native Corporations, are likely to face insurmountable practical problems that prevent their participation in the HUBZone program even if they are eligible on paper. Population patterns and lack of infrastructure make it unlikely that Alaska small businesses will be able to meet the regular requirements of a principal office in a HUBZone and 35% of their employees resident in a HUBZone. Thus, the bill includes a three-year pilot program extending to Alaska small businesses the same participation standards that would apply to Alaska native Corporations. it also makes sense administratively for all of Alaska to have the same set of basic rules for all program participants.

However, since this does represent a relaxing of the current HUBZone criteria, the pilot program has a cap in order to prevent abuse. If the share of small business contract dollars awarded to Alaska were to double its current level, as a percentage of the small business dollars awarded to the nation as a whole, the pilot would shut down for the next fiscal year. The Committee believes that if Alaska's share were to double during the course of the pilot program, that would indicate the rules had been relaxed too much.

Finally, subsection (c) is a technical correction directing the SBA Administrator to put certified firms onto the List of Qualified Small Business Concerns. Current law requires the Administrator to certify firms and also to maintain a list of firms, but does not direct that firms be placed onto the list once their eligibility has been certified.

Section 604. Other definitions

The Committee appreciates the counsel of the Committee on Indian Affairs in designing the definition of "Indian reservation," which refers generally to the definition of "Indian country" at 18 U.S.C. § 1151, with exceptions. Since reservation and trust areas are deemed Hub Zones without any explicit test of economic need, a Tribe could otherwise purchase a plot of land in a prosperous area, have it placed into trust status, and have it deemed a HUBZone. Using scarce economic development resources like the HUBZone program, on areas that are already developing without such assistance, is not the highest and best use of those limited resources. The Committee intends to direct HUBZone benefits away from such areas and toward areas of greater need. However, this definition would still allow Tribes to continue current practices of trying to acquire lots, within their reservations, to eliminate the "checkerboard" pattern of reservations that have plots within them not owned by the Tribe.

The definition of "Indian reservation" provides a special rule for Oklahoma, which was all reservation at one time. If all of Oklahoma were to be deemed a HUBZone, the program benefits would flow to businesses in their current locations, without requiring job creation in distressed areas of Oklahoma. To avoid this problem, the definition focuses the HUBZone program on Oklahoma lands currently in trust or eligible for trust status under existing regulation.

Subtitle B—Other HUBZone Provisions

Section 611. Definitions

Subsection (a) corrects the reference in the definition of "qualified census tract," to refer to Internal Revenue Code section 42(d)(5)(C)(ii).

Subsection (b) clarifies the definition of "qualified nonmetropolitan county" to provide that counties will be deemed metropolitan or nonmetropolitan according to their classification at the time of the last decennial census. It also stabilizes the selection of qualified nonmetropolitan counties according to their unemployment numbers, by looking at three years of data rather than one year. Finally, this subsection grandfathers for a one-year period those firms located in areas that become ineligible under the program due to changes in their economic statistics or to the changes adopted in this legislation.

Section 612. Eligible contracts

This provision limits the application of the HUBZone price evaluation preference for purchases of commodities. It intends to protect existing small business set-asides and programs used in commodity purchases. However, the provision also seeks to use the HUBZone price evaluation preference to ensure that commodities contracts contribute their fair share toward achievement of the Government-wide goal of 23% of prime contract dollars to small business concerns, by ensuring substantial HUBZone firm participation where possible.

This section also includes language to ratify SBA's existing regulations awarding priority to contractors that are eligible for both 8(a) and the HUBZone program. This practice tends to encourage use of both programs. The language prohibits any rulemaking, either by SBA or in the FAR, to create an automatic preference for firms eligible only for one of the two programs, to keep the programs from competing with each other. The Committee does not view this latter prohibition as a new policy, but merely as a restatement of the Committee's intentions as expressed during consideration of the HUBZone Act in 1997.

Section 613. Correction of HUBZone reference

In adopting the HUBZone Act in 1997, the Congress made a series of technical and conforming changes to the Small Business Act, to ensure that various provisions applicable to several small business programs were also made applicable to the HUBZone program. (See § 603 of the Small Business Reauthorization Act of 1997, 111 Stat. 2592 at 2631.) This section makes a comparable change that was inadvertently omitted in the 1997 legislation.

Section 614. Community development

This provision further amends the definitions of "HUBZone small business concern" and "qualified HUBZone small business concern," as amended by sections 602 and 603 of this legislation, to allow Community Development Corporations to participate in the

HUBZone program. Participating firms will be required to maintain a principal office in a HUBZone and to hire 35% of their employees from HUBZones.

Section 615. Reference correction

This is a technical correction. During adoption of the HUBZone Act in 1997, subclauses (IV) and (V) were redesignated as items (aa) and (bb) attached to subclause (III) of section 3(p)(5)(A)(i). This provision makes subparagraph (C) conform to this change.

TITLE VII. NATIONAL WOMEN'S BUSINESS COUNCIL REAUTHORIZATION

Section 702: Duties of the Council

Subsection 9a) specifies the duties of the National Women's Business Council. In addition to its duties under existing law, the bill directs the Council, among other things, to provide advice and counsel to the President and Congress on economic matters important to women business owners, promote implementation of policy agenda, initiatives and recommendations issued at the 1998 National Women's Economic Forum, assist Federal agencies in meeting the 5% women's procurement goal under the Small Business Act, and support new and ongoing research.

Subsection (b) concerns the Council's interaction with the Interagency Committee on Women's Business Enterprise. It does not amend existing law.

Subsection (c) concerns Council meetings. It does not amend existing law.

Subsection (d) sets out the deadline, contents and recipients of the Council's recommendations and reports.

Subsection (e) permits the Administrator to submit separate views or recommendations along with the Council's recommendations or reports.

Section 703: Membership of the Council

This section removes the expired deadlines for the President to appoint Council members that provided guidance when the Council was first established. Those guidelines are now obsolete.

Section 704: Repeal of procurement project; State and local economic networks

This section removes the expired project procurement requirements authorized by P.L. 105–135 to study Federal contracting to women-owned businesses. The reports have already been completed and submitted to Congress and the President ("Statistical Study on Federal Government Contracting: Women-Owned Business," published in 1998, and "Best Practices Guide: Contracting with Women, published in 1999.) This subsection also directs the Council to work with government officials and business leaders to develop the infrastructure for women's business enterprise.

Section 705: Studies, other research, and issue initiatives

Subsection (a) sets out the Council's authority and permissible purposes to conduct studies, research and initiatives.

Subsection (b) sets out the contract authority for the studies, research and initiatives.

Section 706: Authorization of appropriations

This section authorizes an appropriation increase from $600,000 to $1 million to carry out this section for each FY 2001–2003. $550,000 shall be available to carry out Sections 4 and 5. The Council must review and approve its operating budget before it obligates or expends any funds authorized under this section.

TITLE VIII. MISCELLANEOUS PROVISIONS

Section 801. Native American Small Business Development Centers

This section establishes the Native American Small Business Development Center (NASBDC) Network. Subsection (a) defines the terms used in this section.

Subsection (b) authorizes the SBA to establish the NASBDC Network and a Tribal Electronic Commerce Small Business Resource Center and sets forth the purpose of the Network.

Subsection (c) explains that the services that are to be provided by the NASBDC Network include management and technical assistance, electronic commerce information, and other services normally provided by the regular Small Business Development Center program.

Subsection (d) sets forth the matching requirement in order for a NASBDC to receive a contract, grant or cooperative agreement. With limited exception, the NASBDC must obtain one non-Federal dollar for each four Federal dollars in the first and second years of the term of the assistance, one non-Federal dollar for each three Federal dollars in the third and fourth years, and one non-Federal dollar for each Federal dollar in the fifth and succeeding years.

Subsection (e) authorizes $3,000,000 for FY 2001 and each subsequent fiscal year. In addition, $500,000 is authorized in FY 2001 and each subsequent fiscal year to fund the establishment and implementation of one Resource Center.

Section 802. Cosponsorship

This section is primarily a technical re-wording of the existing cosponsorship authority at the SBA. The section adds the terms "information and education" to the types of assistance that can be provided to small businesses, which will give SBA more flexibility in the types of assistance it can provide to small businesses.

Section 803. Fraud and false statements

This section would ensure that a false statement made to the SBA, in connection with an SBIC activity, would carry the same penalty as making a false statement to an SBIC.

Section 804. Financial institution civil penalties

This section would ensure that individuals who make false statements to an SBIC or the SBA are subject to civil penalties set forth under the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA).

Section 805. Very Small Business Program

This section would extend the sunset date for the Very Small Business Program to September 30, 2003.

Section 806. SDB

This section would extend until September 30, 2005, the Federal procurement procedures to help obtain the contracting goals for small business concerns owned and controlled by socially and economically disadvantage individuals.

Section 807. Subcontracting preference for veterans

This section would establish that service-disabled veterans are on the same preference level as Small Disadvantaged Businesses (SDBs), women-owned small businesses, and HUBZone concerns for Federal contracting opportunities.

Section 808. Size standards

Subsection (a) would replace the reference to the Standard Industrial Classification (SIC) industry classification system with the new North American Industry Classification System (NAICS).

Subsection (b) would increase the agricultural size standard to $750,000 from $500,000.

Subsection (c) would create a new size standard of 200 employees for fresh fruit and vegetable packing houses.

Subsection (d) would require an agency that wishes to prescribe a different size standard to publish its intent as part of a proposed rule. Currently, the agency must first seek public comment through an Advanced Notice of Proposed Rulemaking before publishing a proposed rule. This subsection would eliminate the need to first seek public comment through an Advanced Notice of Proposed Rulemaking.

Section 809. Drug-Free Workplace Program

This section would extend the small business Drug-Free Workplace Program for fiscal years 2001 and 2002.

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