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SMALL BUSINESS REAUTHORIZATION AND IMPROVEMENTS ACT OF 2006

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Ms. SNOWE, from the Committee on Small Business and Entrepreneurship, submitted the following

R E P O R T

[To accompany S. 3778]

On July 27, 2006, the Senate Committee on Small Business and Entrepreneurship unanimously reported the "Small Business Reauthorization and Improvements Act of 2006" (S. 3778), an original bill to provide for the reauthorization of programs administered by the Small Business Administration (SBA), and for other purposes. Having considered S. 3778, the Committee reports favorably thereon and recommends that the bill do pass.

I. INTRODUCTION

The Small Business Reauthorization and Improvements Act of 2006 (S. 3778) is a bill to reauthorize most programs at the Small Business Administration (SBA) for Fiscal Years 2007, 2008, and 2009. In addition to making significant improvements to the SBA's lending, procurement, and business development programs, the bill also authorizes several new pilot program initiatives.

This bipartisan bill was reported out of the Committee unanimously, by a vote of 18–0, and was introduced as an original bill by Chair Olympia J. Snowe on August 2, 2006. In accordance with Senate procedure, original bills reported from a Committee may only be introduced by one Senator. Members of the Committee wishing to cosponsor the bill include: Senators Kerry, Vitter, Landrieu, Cantwell, and Lieberman.

During markup of the bill, the Committee adopted by voice vote an amendment by Senator Bond and an amendment by Senator Coleman. The bill was subsequently adopted as amended by an unanimous vote of 18–0.

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The Small Business Reauthorization and Improvements Act of 2006 provides the opportunity to revitalize and renew the SBA in order to better reach out to the small business community, and meet the changing needs of the 21st century entrepreneur. Since the last reauthorization, the Committee has held a series of hearings, meetings and roundtables to analyze the SBA's programs and services in preparation to introduce new legislation that would reauthorize the SBA and build on the agency's success of helping small businesses to create jobs and drive America's economy.

Beginning in 2005, following Hurricanes Katrina and Rita, the Committee convened two hearings on SBA's disaster response. The first hearing, "The Impact of Hurricane Katrina on Small Businesses," held on September 22, 2005, focused on the impacts of the hurricanes on small businesses, and provided the Committee with the opportunity to: (1) receive a briefing on how the SBA had responded to the Hurricane; (2) analyze SBA's immediate and long-term response plans; (3) receive feed-back on Hurricane Katrina-related small business legislation, and (4) investigate how Congress and the SBA could better assist victims of the Gulf Coast hurricanes and displaced small businesses.

The Committee held a second disaster hearing, "Strengthening Hurricane Recovery Efforts for Small Businesses," on November 8, 2005. The Committee received an update on the SBA's response to the 2005 hurricanes, analyzed SBA's disaster response in the two months following the initial disaster hearing, investigated the SBA's long-term disaster response plans, and examined the Administration's policy regarding prime and subcontracting opportunities for small businesses. Witnesses at this hearing included representatives from the SBA, the U.S. Army Corps of Engineers, the U.S. Department of Homeland Security, the Government Accountability Office, and the Office of the Governor of Louisiana. These hearings provided insight into the immediate needs of affected small businesses. In addition, it also laid a foundation for the Committee's reauthorization efforts that pertain to the SBA's disaster response and preparedness.

On March 9, 2006, the Committee held a hearing to examine the SBA's budget and begin to analyze the SBA's proposed legislative package for reauthorization. SBA Administrator Hector Barreto provided testimony on the SBA's achievements and its budgetary and programmatic proposals for Fiscal Year 2007. The administration proposed a funding level of $624 million for the SBA, of which only $425 million will go to the SBA's core programs. This proposal continues an alarming trend of a decreasing SBA budget. Since 2001, the SBA's overall budget has been reduced by 37 percent. During the hearing, the Committee inspected the SBA's diminishing budget and funding proposals for essential programs, such as the Microloan, Small Business Development Center (SBDC), and Women's Business Center programs, as well as the Administration's proposal to impose administrative fees on the small business participants of programs authorized in Section 7(a) and Section 504 of the Small Business Act and Title III, regarding Small Business Investment Companies (SBIC), of the Small Business Investment Act.

On April 26, 2006, the Committee held a hearing on the "Reauthorization of SBA Financing and Economic Development Programs." The Committee addressed issues regarding the SBA's finance programs, which guaranteed over $24 billion in loans and venture capital for small businesses in 2005, the highest level of capital ever provided by the SBA. The Committee heard from lenders, small business stakeholders, and SBA representatives on the benefits of SBA's credit programs and evaluated reauthorization proposals to improve the broad range of finance programs that play a vital role in assisting America's entrepreneurs in obtaining operating and equity capital.

Additionally, the Committee solicited post hearing questions regarding the SBA's economic development programs, and non-credit programs including the SBDC, Women's Business Ownership and Veterans Business Development programs, the National Women's Business Council, and other entrepreneurial development programs administered by the SBA.

At another hearing, "Strengthening Participation of Small Businesses in Federal Contracting and Innovation Research Programs," on July 12, 2006, the Committee focused on procurement and government contracting issues, and the often insurmountable obstacles small businesses face when seeking to compete in the Federal marketplace for a share of the more than $200 billion in Federal contracts. The hearing examined the enforcement of the SBA's small business size and status standards, the President's Initiative Against Contract Bundling, the Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) programs, as well as the SBIR Rural Outreach Program and Federal & State Technology Partnership program (FAST). The Committee heard from a broad cross-section of small business stakeholders, as well as from SBA representatives who oversee these programs.

The Committee also reviewed the SBA's government contracting and business development programs, which include the SBA's Prime Contracting and Subcontracting Programs, the HUBZone Program, and the Small Disadvantaged Business Program. Stakeholders of these programs provided important insight and recommendations to the Committee.

The Committee also held a staff-led Regulatory Reform Roundtable on July 21, 2005, which served as a forum for small businesses, key stakeholders, and agency staff to address regulatory reform issues. Committee staff led a discussion of a number of targeted regulatory reform bills that have been introduced in the 109th Congress, including the Small Business Compliance Assistance Enhancement Act (S. 769), which would clarify the existing requirement under the Small Business Regulatory Enforcement Fairness Act (SBREFA) that Federal agencies produce small business compliance guides when they promulgate rules that would have a significant impact on a substantial number of small businesses. The Roundtable also addressed the National Small Business Regulatory Assistance Act (S. 1411), which would direct the SBA to establish a competitive, pilot program to provide regulatory compliance assistance to small businesses, through SBDCs. Taking into account many of the concerns raised at the staff-led Regulatory Reform Roundtable, the Committee included versions of these measures in the Small Business Reauthorization and Improvements Act of 2006.

On April 20, 2005, the Committee held a hearing, "Solving the Small Business Health Care Crisis: Alternatives for Lowering Costs and Covering the Uninsured." The Committee heard from several panels of distinguished witnesses, including Elaine L. Chao, Secretary, U.S. Department of Labor; and Hector V. Barreto, then the Administrator of the SBA. The hearing focused on finding solutions to the small business health insurance crisis, and providing small businesses with relief from escalating health care costs and few coverage options. The number one issue facing small business today is the affordability and accessibility of health insurance. There are now 46.6 million uninsured Americans, approximately 60 percent of whom work for a small business or are dependent on someone who does. In addition, fewer and fewer of our nation's smallest businesses are now offering health insurance as a workplace benefit. In 2005, the Kaiser Family Foundation reported that only 47 percent of our nation's smallest businesses, with less than 10 employees were able to offer health insurance as a workplace benefit. In stark contrast, health insurance is nearly universally provided by larger businesses with over 200 employees.

Based on the testimony presented at the hearing, the Committee has included a Health Insurance Title to the Small Business Reauthorization and Improvements Act of 2006, with provisions that would increase small business education and awareness to all health insurance coverage options in their geographic areas—with the intention of encouraging more of our nation's smallest businesses to offer health insurance to their employees.

Throughout the hearings and roundtables, the Committee's objectives have been to single out the SBA programs that are working well, identify the reasons for their superior performance, and then apply those principles to programs that are in need of improvement. The voluminous amount of information that the Committee has collected through the hearings and roundtable discussions held this year and in previous Congresses, as well as information received directly from small business stakeholders, has contributed greatly to achieving that goal and the results are reflected in the bill. The bill also reflects information obtained from numerous reviews undertaken at the Committee's request by the GAO and the SBA Inspector General.

The Committee believes that by providing reasonable authorization levels of appropriations, improving specific SBA programs, and introducing several new initiatives, the "Small Business Reauthorization and Improvements Act of 2006" provides a sound foundation for the agency to provide improved service to the nation's small businesses and entrepreneurs.

II. DESCRIPTION OF BILL

TITLE I—REAUTHORIZATION OF PROGRAMS

The bill reauthorizes the Small Business Administration (SBA) programs for Fiscal Years 2007, 2008, and 2009, and establishes maximum financing levels for those programs involving loans or investments.

The 7(a) loan program, the SBA's largest financing program, is reauthorized at levels of $18 billion for FY 2007, $19.5 billion for FY 2008, and $21 billion for FY 2009. This will allow the program to grow at a measured pace, and will be particularly necessary when the larger $3 million individual loans authorized by this bill are initiated.

The Microloan program is reauthorized at the level of $50 million in intermediary loans for each of FY 2007, FY 2008, and FY 2009. Microloan technical assistance grants are authorized at the level of $80 million for each of FY 2007, FY 2008, and FY 2009. Microloan direct loans are authorized at the level of $110 million for each of FY 2007, FY 2008, and FY 2009.

The Small Business Investment Companies (SBIC) participating security program is reauthorized at program levels of $500 million for FY 2007, $600 million for FY 2008, and $700 million for FY 2009. The SBIC debenture program is reauthorized at program levels of $4 billion for FY 2007, $4 billion for FY 2008, and $4 billion for FY 2009. The Local Development Business Loan program, formerly known as the 504 Loan Program and re-named in this bill, is reauthorized at levels of $8.5 billion for FY 2007, $9.5 billion for FY 2008, and $10.5 billion for FY 2009.

The New Markets Venture Capital (NMVC) program is reauthorized for Fiscal Years 2007, 2008, and 2009.

In addition, the bill includes an extension of the authorization for the assistance offered through Small Business Development Centers, which has been essential in the delivery of management and technical counseling and educational programs to prospective and existing small business owners. The bill also extends the current $5 million authorization for the Paul D. Coverdell Drug-Free Workplace Program through Fiscal Year 2009. The program has significantly assisted small businesses in removing drugs from the workplace.

Microloan program

The SBA's Microloan program offers loans of up to $35,000 and technical assistance to small businesses. Under the program, the SBA makes loans and grants to intermediaries, who then re-loan their loan funds to small businesses. The lending intermediaries also receive grants from the SBA to provide both pre-loan and post-loan technical assistance to the small businesses and entrepreneurs they serve.

The bill includes a reauthorization of the loan and technical assistance components of the SBA's Microloan program over the next three Fiscal Years to meet the demand for small loans and to continue serving populations with the least access to capital. The Committee expects that the Microloan program will demonstrate a continued contribution to business owners and employees who seek to establish or grow a small business, particularly in areas that have suffered from severe economic distress.

The bill includes several provisions that seek to expand access or reduce costs in the program. The bill amends the Small Business Act to provide Microloan intermediaries that have a microloan portfolio with an average loan size of not more than $10,000 the ability to receive a lower interest rate, compared to the normal rate extended by the SBA to intermediaries. Previously, the statute provided that an intermediary had to have an average loan size of not more than $7,500 to receive a reduced interest rate.

The bill also requires the SBA to develop a subsidy model for the Microloan program, to be used in the Fiscal Year 2008 budget, that accurately accounts for subsidy costs. Participants in the Microloan program have reported to the Committee that the current model is subject to unnecessary and unpredictable fluctuations and results in inaccurate subsidy rates for the program. For example, from FY 2002 to FY 2003 the rate jumped from 6.78 percent to 13.05 percent, and from FY 2005 to FY 2006 the rate dropped from 10.25 percent to 7.17 percent.

Loss rates, recoveries and fees are three of the most significant factors considered in the calculation of subsidy rates for most of the SBA's credit programs. Lower loss rates and higher recoveries should result in a low subsidy rate because the government is not covering losses from defaults. The SBA's microloan program has one of the best track records of all the agency's credit programs, with only two losses since the program made its first loan in 1992. It also has a loan-loss reserve component built into the program requiring each intermediary to set aside a certain percentage of its outstanding portfolio to cover losses should there be any. Yet, even with the low default rate and the loan loss reserve, the Microloan program has one of the highest subsidy rates when compared against other SBA credit programs.

However, unlike most SBA credit programs, Microloan intermediaries pay no fees to offset credit subsidy costs and they benefit from borrowing at a reduced interest rate. This interest subsidy is the single largest subsidy component of the Microloan program and is built into SBA's direct loans to the microloan intermediaries. Intermediaries pay an interest rate that is below SBA's cost of funds. For example, in 2006, a Microloan intermediary would borrow from SBA at 3.3 percent. However, SBA's cost of funds is 4.7 percent. Moreover, this gap exists for the life of the loan. In addition, intermediaries often request disbursement over several years which can add to subsidy costs in times of rising interest rates. SBA is mandated to lend to intermediaries at a reduced rate, but when interest rates are rising and borrowers delay disbursement the interest rate spread increases, thereby increasing subsidy costs.

The Committee expects that SBA will develop a model that reflects both the costs inherent in the program and the strong performance record of the Microloan program participants.

The bill also adds persons with disabilities as part of the target population being served by federal microenterprise programs. The Committee has received concerns from participants that although people with disabilities are not being excluded from microenterprise programs, neither are they being specifically targeted or explicitly mentioned as being eligible for receiving assistance. To date, there is no Microloan intermediary, PRIME grantee, or Women's Business Center which specifically includes individuals with disabilities. This situation is the result of an unintentional oversight, and not one of purposeful exclusion. This section would raise awareness among microenterprise programs and increase accessibility to such entrepreneurs, while not creating any new programs.

The provisions in this Title originated in the SBA Microenterprise Improvements Act (S. 138), introduced by Senator Kerry on January 24, 2005, and co-sponsored by Senators Bingaman and Lieberman. These provisions were also introduced by Senator

Kerry in the 107th Congress as part of the Microloan Program Improvement Act of 2001, cosponsored by Chair Snowe and Senators Bond, Wellstone, Cleland, Landrieu, Harkin, Levin, Lieberman, Bingaman, Enzi, Kohl, and Johnson. The provisions of this Act were later passed unanimously out of the Committee and the full Senate as part of the Small Business Administration 50th Anniversary Reauthorization Act of 2003, S. 1375, in the 108th Congress, but they were not adopted in a final SBA reauthorization bill.

TITLE II—NATIONAL PREFERRED LENDERS PROGRAM

The bill allows qualifying lenders to participate in the PLP Program on a nationwide basis after just one licensing process. Under current law, the most prolific lenders in the SBA's 7(a) loan program can participate in the "Preferred Lender Program" (PLP Program), which allows them to use their own processing facilities, therefore both increasing lenders' efficiency and reducing costs for the SBA. However, PLP lenders are required to apply for PLP status in each of the 71 SBA districts nationwide to obtain PLP status in that district. Moreover, they must re-apply each year in each district. This is extremely inefficient and wasteful, and creates enormous unnecessary administrative costs.

This provision would drastically reduce administrative costs and standardize the operation of the PLP program, eliminating the inefficiencies and cost of applying for PLP status in each district, and improving small businesses' access to capital. In addition, lender oversight can be accomplished more efficiently and effectively on a national basis. This provision was in S. 1375, the "Small Business Administration 50th Anniversary Reauthorization Act of 2003", introduced in the 108th Congress by Chair Snowe and Senator Kerry and was approved unanimously by the Senate in 2003.

The bill increases the maximum size of a 7(a) loan to $3 million from the current $2 million, and increases the maximum size of the accompanying guarantee to $2.25 million from the current $1.5 million. This would maintain the maximum current guarantee rate of 75 percent. With the escalating costs of real estate and new equipment, the Committee believes it is appropriate to respond to small businesses' financing needs by offering larger loans.

In the SBA's 504 Loan Program, loans may now be as large as $10 million (with $4 million guaranteed) for manufacturing projects, $5 million (with $2 million guaranteed) for loans that serve an enumerated public policy goal (such as rural development), and $3.75 million (with $1.5 million guaranteed) for all other "regular" 504 Program loans. Thus, the Committee believes that this increase in 7(a) Program loans to $3 million would make 7(a) loans closer in size to 504 Program loans, while still leaving 7(a) loans smaller than 504 Program loans.

The bill requires the SBA to implement an "alternative size standard," for the 7(a) program, in addition to the program's current standard. The alternative size standard for the 7(a) program would be similar to the standard for the 504 program, which considers a business's net worth and income.

The 7(a) program currently determines a small business's eligibility to receive a loan by reference to a complex multi-page chart that includes different size standards for every industry and focuses on the number of employees. The Committee believes this is cumbersome, especially for small lenders that do not make many 7(a) loans. In the 504 Program, however, lenders can use either the industry-specific standards or an "alternative size standard" that the SBA created, which simply says a small business is eligible for a loan if it has gross income of less than $7 million or net worth of less than $2 million.

The Committee believes that allowing 7(a) lenders to use this alternative standard, as an option to the industry-specific size standard, would both simplify the 7(a) lending process and provide small businesses with a streamlined procedure for determining loan eligibility. Therefore, this would conform the standards used by the 7(a) and 504 programs and would make the program far more accessible to small businesses and small lenders. This provision was included in S. 1375 during the 108th Congress, which was approved by the Senate in 2003.

The bill also creates an Office of Minority Small Business Development to increase the proportion of small business loans to minorities. The Committee is concerned that African Americans, Hispanics, Asians and women have received far fewer small business loans relative to their share of the population, and that there has been no statistically significant improvement since FY 2001. The Office of Minority Small Business Development at the SBA will be similar to offices devoted to business development of veterans and women and rural areas. In charge of the office will be the Associate Administrator for Minority Small Business and Capital Ownership Development, under a new title with expanded authority and an annual budget to carry out its mission. Currently, this position is limited to carrying out the policies and programs of the SBA's contracting programs under 7(j) and 8(a).

To ensure that minorities receive a greater share of loan dollars, venture capital investments, counseling, and contracting, this bill expands the Office's authority and duties to work with and monitor the outcomes for programs under Capital Access, Entrepreneurial Development, and Government Contracting. It also requires the head of the Office to work with SBA's partners, trade associations and business groups to identify more effective ways to market to minority business owners, and to work with the head of SBA's Field Operations to ensure that the SBA's district offices have the requisite staff and resources to market to minorities.

Section 205 includes an authorizing amendment to reduce participation fees for the 7(a) Loan Guarantee program when borrowers and lenders pay excessive fees or Congress appropriates funding. The Committee continues to hear concerns about the Administration shifting the cost to lenders, by imposing higher fees on them. The bill addresses these fee payments by requiring the SBA to lower fees if borrowers and lenders pay more than is necessary to cover the program costs or if the Congress appropriates money for the program and combined with fees there is excess funding to cover the cost of the program.

Under current law, as adopted through the small business reauthorization bill included in the FY 2005 Omnibus Appropriations Act, the Administrator was provided discretionary authority to adjust the ongoing fees paid by lenders and offset the cost of the program to zero, i.e., not need an appropriation. The Administrator was also given the authority to lower fees charged to borrowers if the subsidy cost becomes negative, i.e., the fees will actually take in more money to the government than it costs to operate the SBA's 7(a) loan program. Congress adopted an approach that the Administration, should the program undertake a fee reduction, should first consider reducing the fees paid by small business borrowers set forth in clauses (i)–(iii) of subsection 7(a)(18)(A). This bill rewrites the language to reduce the fees for both borrowers and lenders. In addition, if Congress were to appropriate funds to the 7(a) loan program, this provision would allow those funds to be applied towards reducing the fees. Currently, if the SBA received appropriations for the program, the money could not be used to reduce fees.

The provisions in this Title originated in the Small Business Lending Improvement Act (S. 1603), introduced by Chair Snowe in July 2005 and cosponsored by Senator Stevens and in the 7(a) Loan Program Reauthorization Act of 2006 (S. 2594), introduced by Senator Kerry in April 2006, and cosponsored by Senators Landrieu and Pryor.

TITLE III—SMALL BUSINESS INVESTMENT ACT OF 1958

SUBTITLE A—DEBENTURES AND SECURITIES

The bill reforms and enhances the Small Business Investment Companies (SBIC) program. This section creates a new SBIC program that would be a "zero-subsidy" program—with no Federal appropriations necessary—that would provide financing to small businesses. Additionally, the new program would prevent financial losses to the government by increasing its share of SBICs' profits.

The bill provides procedures for the continuation of existing SBICs affected by the current suspension in issuances of new financing by the SBA, including financing that had previously been promised to SBICs by the SBA.

The Committee believes there is a need for a program to facilitate equity capital to small businesses, particularly in rural areas and in industries passed over by traditional venture capital investments.

By creating a new type of equity security for the SBIC program, this provision is designed to guarantee the repayment of the redemption price (principal) and interest for a new type of "participating security" issued by a SBIC. This type of guarantee (of principal and interest for a security issued by an SBIC) currently exists in the two SBIC programs, and for those other two programs it was explicitly authorized in the Small Business Investment Act of 1958 (SBIA).

This bill authorizes the SBA to guarantee the repayment to an "interim funding provider" (an "IFP") of any funds lost by the IFP because of the default of an SBIC during the period after the IFP has advanced monies to the SBIC, and before the IFP has been repaid for those funds. This type of guarantee existed in the two other SBIC programs, but was not authorized by the SBIA. This provision rectifies that problem and brings the program into compliance with the Federal Credit Reform Act of 1990 (FCRA).

It authorizes the SBA to guarantee the payment of the redemption price and interest for a trust certificate issued by a trustee of a pool of PDs. This type of guarantee existed in the two prior SBIC programs, but was not authorized by the SBIA. Similar to the current Participating Securities and Debenture SBIC programs, the Participating Debenture program will raise funds by pooling the securities issued by SBICs (the PDs) into a pool and selling trust certificates that represent interests in that pool. Thus, this provision rectifies that problem and brings the new program more into compliance with the FCRA.

In order to reduce the net cost to zero, the bill permits the SBA to charge a fee for each of the guarantees authorized. This fee will be sufficient to reduce the net cost to the SBA of each guarantee to zero, as that term is defined under the Federal Credit Reform Act of 1990. For the two current SBIC programs, the SBIA only explicitly authorizes such a fee for the redemption price and interest guarantee (and did not authorize such a fee for the other two types of guarantees). This provision rectifies that problem and brings the program into compliance with the FCRA.

The obligations that each SBIC holds to repay the SBA will be identical, or "matched", in both size and timing to the obligations that the SBA holds to repay to the trust certificate holders that have purchased trust certificates in the pool that holds that particular SBICs' PDs.

For advancing funds to an SBIC in accordance with the SBIC's license agreement with the SBA, an IFP shall have the right to receive interest from the SBIC. The manner of calculating and collecting this interest is specified.

The aggregate unpaid principal balance of the PDs issued by a SBIC must not exceed 200 percent of that company's private capital. In other words, the maximum ratio of the SBA's outstanding investment in the SBIC, when compared to the private investors' investment, is two to one. This is identical to the other two SBIC programs.

The SBA may authorize a trust or pool acting on behalf of the SBA to purchase PDs from an SBIC. This practice occurs in the other two SBIC programs, but is not explicitly authorized by the SBIA. Thus, this provision brings this program more into compliance with the FCRA.

The principal balance of each PD will be payable in full not later than the tenth anniversary of the date of issuance of that PD. If a SBIC fails to make this payment they default immediately and are liquidated. This was not the case in the other two SBIC programs; thus, this provision brings this new program more into compliance with the FCRA.

Beginning on the date of issuance, interest on the principal balance outstanding of a PD shall accrue on a daily basis, and unpaid accrued interest shall compound every six months. There are no interest payments during the first five years of a PD. All unpaid interest on a PD accruing during the first five years will be due and payable in full out of gross receipts on the fifth anniversary. Interest accruing on a PD after the fifth anniversary will be due and payable semi-annually. Interest payments used to be contingent on a SBIC's profitability. This bill provides that the payments are due regardless of a SBIC's financial situation and if a payment is missed the SBA has the right to liquidate the SBIC. Thus, this bill brings this new program more into compliance with the FCRA.

In addition, the SBA is authorized to charge an additional fee, as necessary to reduce the cost of the program to zero, as that term is defined in the FCRA, but the fee is capped at 1.5 percent. This type of fee existed in the other two SBIC programs.

If a SBIC fails to pay any principal or interest on a PD when due, the SBA, in addition to any other remedies that it may have, can demand immediate repayment of the principal balance and all accrued interest on all outstanding PDs of that SBIC. This was not the case in the other two programs; thus, this provision brings the new program more into compliance with the FCRA. If a default occurs, the SBA has the right to charge a default rate of interest. Again, this is an improvement on the existing program. Finally, if a default occurs, the SBA may apply the SBIC's private collateral (its private investments) to pay any interest or principal that the SBIC owes the SBA. The Committee believes that this is a crucial improvement to the existing program.

In the event of a SBIC's liquidation, a PD will be senior in priority for all purposes to any equity interests (in other words, the SBA will have first priority to reimbursement). Also, the SBIC's private collateral may, at the option of the SBA, be applied to pay accrued interest and principal of outstanding PDs.

In the event of a default by a SBIC, a PD will be senior in priority for all purposes to any equity interests (in other words, the SBA will have first priority to reimbursement). Also, the SBIC's private collateral may, at the option of the SBA, be applied to pay accrued interest and principal of outstanding PDs. A SBIC commits to invest private equity in small businesses, to match the capital raised by its PDs. A SBIC in this program shall have no other debt other than financing obtained pursuant to this program.

Unless otherwise allowed by the SBA, a SBIC may use the proceeds of a PD issued by the company to pay the principal and interest due on outstanding PDs issued by that company, if the SBIC has outstanding private equity capital invested in an amount equal to that being refinanced.

Unless as otherwise provided, a SBIC's gross receipts shall be used first for the payment of accrued interest on PDs, and then for repayment of PD principal and private investments into the SBIC, and then for profit distributions. Gross Receipts means all cash received by a SBIC, including proceeds of the sale of securities, management or other fees, and cash representing return of invested capital, other than capital contributed by partners, the proceeds of the issuance of PDs, and money borrowed from other sources, if any. Marketable Securities that the company distributes in kind will be distributed as if they were Gross Receipts.

When a SBIC misses a payment, the SBA may choose not to liquidate the SBIC and the SBIC may continue to operate. In such a case, a SBIC must use Gross Receipts within 10 days after receipt to repay any outstanding past due interest and past due principal.

If a SBIC has no outstanding past due interest or principal, it must use Gross Receipts to prepay accrued interest. Such prepayment will be due not later than the end of the calendar quarter during which such Gross Receipts were received. Failure to prepay accrued interest will be deemed a Payment Default.

At such time as there is no unpaid, accrued interest, or past due principal outstanding on a SBIC's PDs, the SBIC may use Gross Receipts to prepay PD principal that is not past due. If any Gross Receipts remain, they may be paid to private investors to repay their investments. As long as there are any outstanding PDs, a SBIC may distribute Gross Receipts to its limited partners, but only if they distribute at least a pro-rata share simultaneously to the administration.

If Gross Receipts remain after the payment of all required payments, remaining funds can be used for profit distributions. When all PD principal and all private capital has been repaid in full, post-amortization payments may be made to the administration as follows: (i) 25 percent of their pro-rata share until private investors have received 100 percent of their principal; and (ii) thereafter, 50 percent of their pro-rata share.

The order of payments are: interest payments, principal payments, pre-payments, pre-amortization payments, and post-amortization payments. This provision provides for tax distributions that are required by law, as necessary.

No distribution may violate liquidity requirements or other restrictions imposed by the SBA's regulations or any State's law.

At any time a SBIC is in restricted operation or liquidation by reason of capital impairment or regulatory violation, the maturity date of the SBIC's PDs, including principal and accrued interest, is subject to acceleration at the option of the administration, and whether or not there has been such an acceleration, up to 100 percent of all Gross Receipts and unfunded private investor commitments may, at the option of the administration, be required to be distributed to the administration until all accrued interest and principal on the SBIC's PDs have been paid in full. No distributions will be made to limited partners when a SBIC is in restricted operations or liquidation due to capital impairment or regulatory violation.

The bill details the procedures and requirements that would apply if an SBIC provided a partial repayment to the SBA in the form of securities, rather than cash. It also details the schedule under which payments will be made to the SBA by a SBIC. Subject to SBA regulations and the permission of private investors, a SBIC may reinvest Gross Receipts back into small businesses. This section does not create any ownership interest for the SBA in any SBICs. Rather, the relationship is one of lender-borrower.

The bill provides that the SBIA will apply to participating securities obligated in Fiscal Years 2002, 2003, and 2004 by commitments issued by the Administrator but not as yet disbursed within 60 days prior to the expiration date of said commitments. Within the 60-day period immediately preceding the expiration date of any such commitment, the Administrator shall allow any small business investment company holding such a commitment to draw up to 100 percent of the remaining balance of the commitment.

The SBIC must be in compliance with existing regulation as of the date the funds are drawn, and must pay 0.5 percent of any such funds not reasonably required for investment purposes within 90 days of the draw to the Administrator in addition to all other fees that may be due and payable with respect to such draw.

The SBIC shall place all funds so drawn that are not reasonably required for use by the SBIC within 90 days of the date of the draw in an interest bearing account approved by the Administrator. The prior approval of the Administrator shall be required for any withdrawal from such account, which approval shall be granted or withheld in accordance with the same criteria as would normally apply to draws against commitments.

The Administrator's rights with respect to a SBIC that establishes an account hereunder and is subsequently found by the Administrator to no longer be in compliance with the regulations shall be governed by regulations existing at the time of such finding.

The provisions in this subtitle originated in the Small Business Investment and Growth Act (S. 1923), introduced by Chair Snowe in October 2005, and cosponsored by Senators Talent, Bond, Cochran, Coleman, Isakson, Thune, and Vitter.

SUBTITLE B—DEVELOPMENT COMPANIES

To more accurately reflect the purposes of the SBA's 504 Loan Program, the bill changes the program name to Local Development Business Loan Program (LDB Program). Materials already prepared using the name "504 Program" can continue to be used, so as to save money for the SBA and program participants.

The bill authorizes an $8 billion authority level for Fiscal Year 2007, and an $8.5 billion authority level for Fiscal Year 2008.

The bill provides that a CDC can elect to not foreclose or liquidate its own defaulted loans, and can instead contract with a third party for that third party to carry out the foreclosures and liquidations. CDCs can receive reimbursement from the SBA for foreclosure expenses that the SBA authorizes.

By allowing certain borrowers to contribute more equity (downpayments) if they choose, start-ups or those businesses using the proceeds for single purpose buildings could provide more than the required minimum amount of equity and could use their excess investment to reduce the amount of the private bank loan.

Businesses in communities that would qualify for a New Markets Tax Credit can qualify as "public policy goal" loans in LDB Program, and therefore can be made for larger sizes than "regular" LDB loans.

For the purposes of qualifying as public policy goal loan, this bill allows businesses to qualify as "minority owned" if a majority of the business's ownership interests belong to one or more individuals who are minorities. Currently, the SBA interprets this rule such that two or more minorities cannot aggregate their interests (for example, two out of three owners) to qualify the business as minority owned.

The maximum 504 and 7(a) loan eligibility provision permits a small business to obtain financing in the maximum amount permitted under the 504 program and also to obtain a 7(a) loan in the maximum amount permitted under that program.

The bill permits a borrower to refinance a limited amount, based upon a formula, of the business's pre-existing debt, if that debt is already secured by a mortgage on the property being expanded by the new loan.

Currently, banks participate in the 504 program by providing the first-lien mortgage to each borrower. These banks pay a one-time fee equal to 0.50 percent of the first lien mortgage. Banks currently pass all of this fee on to the Certified Development Companies (CDCs) and the borrowers. This bill specifies that the fee is paid directly to the SBA by the CDCs and the borrowers. The bill should not change the total amount paid in fees by the CDCs, borrowers, and banks, respectively. The purpose of the bill is to provide more clarity as to which entities pay which fees, rather than allowing banks to claim that they are responsible for a higher percentage of the fees than is actually the case (because currently banks pass this fee on to CDCs and borrowers).

The bill corrects a technical drafting error made in legislation enacted in 2004. That drafting error had inadvertently changed the meaning of the pre-existing Small Business Investment Act of 1958, which governs the 504 loan program. Additionally, the bill provides definitions of a "development company" and a "certified development company."

The repeal of the sunset on reserve requirements for Premier Certified Lenders would make permanent a temporary statute that would otherwise expire in the summer of 2006. This statute, enacted by Congress on a trial basis in 2004, allows CDCs qualified by the SBA as "Premier Certified Lenders" to amortize their reserve requirements and withdraw from the reserves the amount attributable to debentures as the debentures are re-paid. CDCs that choose to employ this new ability are thus able to make a greater number of loans in the program, rather than having needlessly large reserve accounts.

The current SBIA, which provides the legislative authority for the program, does not define a CDC; it is defined only in the SBA's regulations. This bill provides a number of criteria to identify the types of entities that can qualify as Certified Development Companies (CDCs) and thus participate in the LDB Program. The standards in this Act are consistent with current regulations. In addition, the bill also imposes ethical requirements on CDCs, their employees, and banks participating in the program. It provides minimum requirements for CDCs regarding members, boards of directors, staffing and management expertise, and use of proceeds. The bill details requirements CDC loan review committees must meet in order to ensure that CDCs pursue local development goals, and allows CDCs operating in multiple states to elect to maintain their accounting on an aggregate basis.

There has been a growing demand for 504 loans and many CDC operations have been expanding in response to this growth. Responding to concerns that the changes which have allowed CDCs to expand operations into multiple states have had a significant impact on the 504 program, the Committee included provisions to preserve the local economic development intent and mission of the program and to provide increased accountability.

The Committee deliberated approaches that would allow CDCs to meet the growing demand for 504 loans and also maintain the program's mission of local development. The discussion focused on keeping local representation on CDC boards and ensuring reinvestment in local projects to create jobs, a statutory mandate tied to each loan. This provision would give CDCs the ability to expand to nearby, underserved areas and contiguous states, thus addressing the increased need for 504 loans.

In order to further CDC expansion, program growth, and increased access to capital for small business, while requiring that local communities continue to be the main focus of the program, the bill requires that the 25 members of the CDC board be residents of the area of operations. It also allows an individual to serve on the Board of Directors of two or more CDCs (but not serve as an officer of multiple CDCs), and removes regulatory barriers that some CDCs have argued constrained their multi-state expansion.

The bill allows borrowers the option to include loan and debenture closing costs in their loans.

For the purposes of making the eligibility for a larger loan supporting a "public policy" goal, the SBA's definition of a "rural area" in the 504 program is amended to match the definition used by the Department of Agriculture. An area other than a city or town with a population greater than 50,000 inhabitants, or the urbanized area contiguous and adjacent to such a city or town, would qualify.

As part of implementing the changes contained in this subtitle, the SBA is authorized and directed to publish proposed regulations within 120 days of the date of enactment and to publish final regulations within an additional 120 days.

The provisions in this subtitle originated in the Local Development Loan Program Act (S. 2162), introduced by Chair Snowe in December 2005 and in the 504 Loan Program Modernization Act of 2006 (S. 2595), introduced by Senator Kerry in April 2006, and cosponsored by Senator Pryor.

New Markets Venture Capital

The bill reauthorizes the New Markets Venture Capital (NMVC) program for three years, through FY 2009 and makes several important technical changes designed to increase the effectiveness and efficiency. To this end, the definition of "low-income geographic area" used in the NMVC program (Small Business Investment Act Section 351 (2)) is amended to conform with the definition of a "low-income community" as defined by the New Markets Tax Credit program (NMTC), (Section 45D of the Internal Revenue Code of 1986). Many investors participate in both the NMVC and NMTC programs, and a uniform definition between the two programs will improve coordination between the two programs, where applicable. This change will allow NMVC companies to invest in businesses that benefit a low-income "targeted population," as provided by the NMTC statute, as well as businesses located in low-income census tracts. This flexibility to serve low income "targeted populations" is particularly important for NMVC companies operating in rural areas with dispersed populations and census tract data that does not reflect the pockets of poverty that exist.

The bill ensures that all existing NMVC companies can take advantage of the amended targeting for investments made with the capital they have already raised. The Committee encourages the SBA to work with the Community Development Financial Institutions Fund at the US Treasury Department to develop regulations in a timely manner to put these statutory changes in place and to ensure that the NMVC and the NMTC can work together to the greatest extent possible.

The bill also provides clarity regarding the amount of time that NMVC companies have to raise capital. The current statute provides NMVC companies up to two years to raise the matching private capital to participate in the program. In the past, the SBA has interpreted this to mean that it has the discretion to allow NMVC companies up to two years and has set the time limit for raising private capital at shorter lengths which some of the companies have found unreasonable. The bill clarifies the statutory language and sets a standard time of two years for conditionally approved NMVC companies to satisfy their requirements for final approval. Establishing the time standard at a full two years will provide NMVC companies more certainty in meeting their private-capital obligations as well as granting potential investors in aspiring NMVC companies a longer time-frame in which to evaluate the NMVC companies and assess the merits of an investment.

Finally, the bill calls upon the SBA to conduct a study and subsequent report on the availability of equity capital in low-income geographic areas. The Committee expects that such a study will look to both urban and rural communities and examine a range of business sectors in these communities that may lack access to equity and venture capital resources.

As of March 31, 2006, the six NMVC Companies currently licensed by the SBA had invested more than $26 million in 75 financings to over 39 small businesses to low income areas across the nation; leveraged $136 million in additional investments from other sources; provided more than $6 million in operational assistance to 163 companies; and created or maintained 1,626 jobs in low income communities.

By extending the NMVC program, SBA has the authority to establish additional NMVC Companies to expand the benefits of community development venture capital to low-income communities that need investments

The provisions in this Title originated in the 108th Congress when Senator Kerry proposed them for inclusion in S. 1375, the last SBA reauthorization bill adopted by the Senate. They were deliberated and adopted but not included in the final version that became law. In this Congress, Senator Kerry re-introduced the measures in July 2006 as the Securing Equity for the Economic Development of Low Income Areas Act of 2006 (S. 3680), cosponsored by Senators Bayh, Landrieu and Lieberman.

TITLE IV—DISASTER RESPONSE

The SBA faced enormous challenges in responding to Hurricanes Katrina and Rita in 2005. In some instances, disaster victims waited three months or more for loans to be processed. In an effort to aid the SBA, the Committee held two hearings, introduced legislation and made many non-legislative recommendations. Unfortunately, the SBA languished two months before taking action. In response, this bill arms the SBA with the essential tools to respond efficiently and effectively to disasters of all sizes, and remedy the problems that prevented or delayed the agency's front-line employees from working in the disaster zones during the 2005 Hurricane season.

In 2005 and 2006, Chair Snowe and Senator Kerry worked with Senators Vitter, Landrieu and Cornyn to draft legislation which provided the SBA with additional tools to respond to these unprecedented disasters. Additionally, the Committee worked with Leadership, and consulted closely with Senators Lott and Cochran, to develop a comprehensive package that would assist small businesses in rebuilding the entire Gulf region.

Immediately after Hurricane Katrina hit, Senators Kerry and Landrieu offered an amendment to the FY 2006 Commerce, Justice and Science appropriations bill to address the needs of Gulf Region small business and home owners. This amendment was adapted and a subsequent bipartisan amendment was offered by Chair Snowe which passed the Senate with a vote of 96–0. Although the entire Senate supported the amendment, it was stripped out of the bill in Conference. Consequently, on September 19, 2005, Chair Snowe introduced a stand alone bill, the Small Business, Homeowners, and Renters Disaster Relief Act of 2005 (S. 1724), which was identical to the amendment.

On September 30, 2005, Chair Snowe, and Senators Kerry, Landrieu and Vitter introduced the Small Business Hurricane Relief and Reconstruction Act of 2006 (S. 1807). Although this bill presented a bipartisan, comprehensive approach to hurricane relief, it stalled due to the Administration's opposition. Many of the tools offered in S. 1807 are reflected in the Committee reported bill. In addition, several provisions included in this subtitle to address problems faced by small businesses, originated from Chair Snowe and Senator Vitter's bill, the Small Business Partners in Reconstruction Act of 2006, (S. 2608), Senator Kerry's bill, the Small Business Disaster Loan Reauthorization and Improvements Act of 2006 (S. 3487), and Senator Landrieu's bill, the Small Business Disaster Recovery Assistance Improvements Act of 2006 (S. 3664).

SUBTITLE A—PRIVATE DISASTER LOANS

The bill creates a private disaster loan (PDL) program in which loans are made by private lenders who have applied for eligibility. Under the program, eligible businesses must be located in an area that was declared a disaster anytime in the last 24 months. The business will not have to show a nexus between its need for a loan, and the disaster that occurred.

The maximum loan size is set at $3 million. For businesses applying for PDLs of more than $250,000, collateral is required. Loans of less than $250,000 can be made without collateral, so long as the borrower otherwise qualifies and is approved by the bank. The maximum term of the loan is set at 25 years if collateral is involved and 15 years for uncollateralized loans.

The maximum guaranty of a PDL will be 85 percent, no matter the size of the loan. In addition, the SBA guaranty fee, which is 2 to 3.5 percent for regular 7(a) loans, will be zero. There will be a loan origination fee of 15 basis points per loan paid to lenders by the SBA using appropriated funds. The bill also provides that the size standard used to determine a PDL borrower's eligibility will be that which is currently used in the 7(a) program or that which is used in the 504 loan program.

The acceptable uses of the loan proceeds are the same as those applicable to current 7(a) and 7(b) loans. In addition, borrowers can also use the loan proceeds to acquire or develop real estate for the purpose of selling or renting it to someone else.

The bill authorizes the program to receive Federal appropriations, and such appropriations will be used to reduce the interest rate in the program by up to 3 percent. If sufficient appropriations are provided, the interest rates charged by banks will be subsidized so that they are reduced by 3 percent. If less appropriations are provided, the rates may only be reduced by 2 percent, 1.5 percent, zero, etc.

For documenting each loan, lenders would be allowed to use their own documents, subject to SBA approval, and applicants would be permitted to use an internet or electronic application process.

SUBTITLE B—DISASTER RELIEF AND RECONSTRUCTION

Under regulations normally in place, only homeowners, renters, and for-profit businesses can apply for Disaster Loans. The bill extends the eligibility to issue Disaster Loans to non-profit institutions which was provided after the terrorist attacks of September 11, 2001.

The bill increases the maximum size of an SBA disaster loan from $1.5 million per loan to $5 million per loan. This provision was also included by the Administration in its proposal to rebuild the Gulf Coast region.

Currently, when providing a disaster loan for uninsured damage suffered by a disaster victim, the SBA can increase the loan amount by up to 20 percent of the uninsured portion of the borrower's losses, so the borrower can invest in disaster mitigation technologies such as sea walls and storm shutters. The bill increases the amount that a borrower can borrow to spend on disaster mitigation. It would allow the SBA to increase the loan amount by 20 percent of the borrower's total losses, rather than just 20 percent of the uninsured portion. This provision was suggested by the Administration in its proposal to rebuild the Gulf Coast region.

After a disaster, the SBA usually provides additional staff and funding to assist only the SBA's Disaster Loans program. However, the SBDCs, a resource partner of the SBA, have played a critical role in providing additional assistance and counseling to the victims of a disaster area. To assist the SBDCs disaster recovery efforts, the bill authorizes the Administrator to waive the $100,000 maximum size for SBDC portability grants used for disaster response. In addition, SBDCs will be authorized to provide services to small businesses located outside the SBDC's own home state if the small business concerns are located in a disaster area. The Committee also believes that SBDCs should be allowed to operate at disaster recovery sites if permissible.

This bill also directs the SBA to create a contracting outreach program for small businesses located in—or having a significant presence in—designated disaster areas. Federal contracts and subcontracts can provide critical assistance to small businesses located in areas devastated by natural disasters in the form of solid business opportunities and prompt, steady pay. In addition, government procurement would open doors for many local small businesses to participate in the long-term reconstruction work necessary in these areas. While many small businesses would benefit from other forms of disaster assistance, many of them want to get back to work and into business as soon as possible. Technical assistance and outreach through the SBA, the Procurement Technical Assistance Centers, the Federal Offices of Small and Disadvantaged Business Utilizations, and other organizations could prove invaluable to these firms.

In its proposal to rebuild the Gulf Coast region, the Administration proposed to increase the maximum size of SBA surety bonds to $5 million, and provide the SBA with authority to increase the maximum size to $10 million. Small businesses vying for government contracts need an increase in bonds to handle larger projects for disaster relief.

Outreach alone will not ensure fair participation of small businesses in post-disaster reconstruction contracts. To promote jobs creation and development in a disaster region, the Federal government must set and follow definitive goals for small business participation. Small businesses, particularly those located in the disaster area and those that employ individuals in the affected areas, should receive their fair share of Federal contracting and subcontracting dollars. The bill establishes a 30 percent prime contracting goal and a 40 percent subcontracting goal on each agency's disaster-related reconstruction contracts. These goals are compatible with the Department of Homeland Security's and the Army Corps of Engineers' history of small business achievements.

Moreover, the bill protects the Small Business Reservation (SBR) for disaster-related contracts below the Simplified Acquisition Threshold (SAT). The SAT and the SBR are normally set at $100,000. The Federal Acquisition Streamlining Act allowed Federal agencies to use simplified procedures for all contracts below the SAT, but only if they attempt to place, or "reserve," these contracts to qualified small businesses. Many small businesses qualify for contracts under expedited procedures under the Small Business Act, which would help to move the reconstruction process forward. The SBR does not delay relief contracting. If no qualified small business is available to do the job, agencies can place the contract with any qualified supplier. This provision restores the parity between the SBR and the SAT any time the SAT is increased for disaster-related contracts. In addition, the legislation preserves requirements for small business subcontracting plans on large disaster contracts, while providing a grace period to conclude them.

In recent disaster reconstruction efforts, small contractors have been denied access to reconstruction dollars by paperwork and bureaucracy. Many of these contractors have been certified to do business under the federally-funded, Congressionally-established Disadvantaged Business Enterprise Program (DBE). In the Federal procurement system, a parallel Small Disadvantaged Business (SDB) Program exists. The bill ensures that capable small contractors enjoy full reciprocity between Federal and federally-funded contracting programs for small business concerns owned and controlled by socially and economically disadvantaged individuals.

The bill also directs the Administrators of the OFPP and the SBA to work with other Federal agencies to ensure creation of multiple-award contracts for disaster recovery which are set aside for small business concerns. In response to the Gulf Coast hurricanes, the GAO testified before the Committee last year that Federal agencies lacked adequate acquisition planning for disaster relief. In response, the bill ensures that the Federal Government establishes and maintains advance multiple award contracts with small business concerns of all categories on a nationwide and regional basis for the purpose of conducting and supporting Federal disaster recovery efforts. Additionally, the Administrator of the SBA would be required to submit to the respective Committees on Small Business and Entrepreneurship of the Senate and the House of Representatives a report describing the terms, conditions, and status of the contracts awarded during the preceding fiscal year.

The Committee believes it is necessary to strengthen the Small Business Act's existing priority for local small businesses which perform a substantial proportion of the production on those contracts and subcontracts within areas of concentrated unemployment or underemployment or within labor surplus areas. The bill designates disaster areas as areas eligible for this priority and authorizes Federal agencies to use contractual set-asides, incentives, and penalties to enhance participation of local small business concerns in disaster recovery contracts and subcontracts. Additionally, the bill authorizes set-asides to be performed in a targeted labor surplus area or substantial unemployment area.

The bill also terminates the application of the Small Business Competitiveness Demonstration (Comp Demo) program. The Comp Demo Program denies the protections of the Small Business Act like set-asides to small businesses involved in construction and specialty trade contracting, refuse systems and related services, landscaping, pest control, non-nuclear ship repair, and architectural and engineering services, including surveying and mapping. Historically, small businesses have been the backbone of these industries, and these industries are in heavy demand for disaster recovery efforts. The Comp Demo Program, ostensibly a test program, denies Federal agencies like the Department of Defense and nine other agencies the ability to do small business set-asides. Essentially, the Comp Demo Program reserves whole industries for big business.

Last year, at the request of the Department of Defense, Chair Snowe supported an amendment to the National Defense Authorization Act to terminate the Comp Demo Program. The Senate agreed that small businesses in all industries should receive the full protections of the Small Business Act, and unanimously voted to repeal this Program, but the House rejected it in conference. Chair Snowe again sponsored the same amendment earlier this year, and Senator Kerry co-sponsored it. Again, the Senate approved it unanimously as part of the National Defense Authorization Act, but the House rejected it in conference. In addition, earlier this year the Senate unanimously approved an amendment to the Emergency Supplemental Appropriations Act for the Global War on Terror and Hurricane Relief, sponsored by Senator Vitter and co-sponsored by Chair Snowe, Senator Kerry, Senator Landrieu, and Senator Lott to suspend the program for Hurricane Katrina and Rita reconstruction projects. Again, the House rejected this amendment in conference. Terminating this Program would go a long way towards restoring fair treatment for small businesses affected by disasters.

SUBTITLE C—DISASTER RESPONSE

The Federal response to the 2005 Gulf Coast hurricanes demonstrated on a national stage the need for a reformed system of disaster response. Victims were unable to access the capital necessary to keep their businesses open in the aftermath, and homeowners found the SBA's disaster loan application process burdensome and slow. Six months after Katrina touched down in New Orleans, 48 percent of all disaster loans remained unprocessed. A GAO Report 06–860, "Actions Needed to Provide More Timely Disaster Assistance," reported that as of May 27, 2006, the average length of time for the SBA to process a disaster loan had reached 74 days, well above the Agency's stated goal of 21 days. By all accounts, the SBA failed in its mission to respond quickly and effectively to victims' needs in the weeks and months following the hurricanes.

Title IV, Subtitle C, includes several provisions that originate in the Small Business Disaster Loan Reauthorization and Improvements Act of 2006, S. 3487 introduced by Senator Kerry, as well as S. 3664, the Small Business Disaster Recovery Assistance Improvements Act of 2006, introduced by Senator Landrieu.

The Committee recognizes the need to provide impacted businesses with immediate access to capital and technical assistance within the first 30 days following a disaster to ensure their full recovery.

The Committee is also concerned that SBA's Gulf Opportunity (GO) Loan program, which was initiated in November 2005 to expedite small business financing to impacted small businesses, only provided 222 GO Loans totaling $19 million in May 2006.

For major disasters, State-administered bridge loan programs can serve as an effective means of providing immediate capital to allow impacted businesses to make repairs, make payroll, and continue operations. The Committee is aware of the success of these state-administered programs, the problems the SBA faced in providing timely assistance to businesses impacted by the 2005 Hurricanes, as well as the necessity for SBA to have the ability to provide short-term assistance. As a result, the bill includes a provision from S. 3664 which requires that the SBA Administrator issue, within 90 days of passage of the bill, guidelines on an SBA-approved State bridge loan program for future disasters. Once the guidelines are issued, states may then submit their bridge loan programs for approval to receive the SBA guarantee assistance on bridge loans in the event of a disaster. This program encourages state preparedness, provides SBA with needed flexibility for major disasters, and would fast track immediate capital to businesses impacted by a major disaster.

The Committee also acknowledges that certain disasters impact businesses beyond the geographic reach of a declared disaster area. Businesses across the nation can be affected by a large-scale disaster that disrupts a region's economy. This was evident in the aftermath of the terrorist attacks of September 11, 2001, and was again an issue following the 2005 Gulf Coast hurricanes. As a result, Senator Kerry included a provision in S. 3487 to create a new presidential declaration of disaster—a Catastrophic National Disaster—which would be available to provide nationwide economic injury disaster loans to businesses outside of a disaster's geographic boundaries. This initiative was included in the Committee's reported bill.

Following the Gulf Coast Hurricanes, the SBA staff and volunteers found limited resources in terms of lodging in or around the disaster areas. The difficulty in sharing records between the IRS and SBA resulted in extended delays in the loan application process. Disaster assistance application periods differed from agency to agency, making the process of accessing assistance confusing and burdensome for victims.

This bill incorporates several proposals from S. 3487 that enable FEMA, SBA, and other responding agencies to coordinate efforts in the aftermath of a disaster. This bill establishes that FEMA and SBA application periods should be consistent whenever possible. SBA and FEMA should notify Congress ten days prior to the date of a deadline for assistance as to whether or not the deadline will be extended. The bill directs the Administrator to utilize radio, television, print and web-based outlets to communicate information regarding available assistance under declared disasters. FEMA and SBA are directed to enter into an agreement that ensures adequate lodging and transportation for SBA employees, contractors and volunteers during disaster response. The bill also directs SBA to develop a proactive marketing plan to make the public aware of potential disaster scenarios and what assistance is available through FEMA and SBA.

Effective disaster response requires a clear set of procedures to be followed. Inconsistencies in procedures can lead to ineffective governance and breakdowns in response. In the interest of ensuring that the SBA's regulations and procedures are consistent, the Committee directs the Administrator to conduct a study to determine whether the SBA's standard operating procedures are consistent with the agency's Federal regulations for administering the disaster loan program.

The Committee also recognizes that in the event of a large scale disaster, the SBA needs resources in order to effectively manage the volume of loan applications. The bill provides for the SBA to contract with private contractors to process disaster loans in the event of a large scale disaster. The SBA is also authorized to contract with loss verification professionals to conduct loss verification services. The Administrator is directed to work to the maximum extent practicable with the Commissioner of the Internal Revenue Service to ensure that all relevant tax records for disaster loan applicants are shared in an expedited manner. In addition, the SBA is directed to conduct a study of how the loan application process can be improved, including the viability of using alternative methods for assessing ability to repay a loan beyond a victim's credit rating. Too often, victims who otherwise would be eligible for an SBA loan are denied as a result of poor credit, however the process does not take into account the extraordinary circumstances under which the credit rating has gone down. The SBA's methods for assessing ability to repay should take these circumstances into account.

The Committee is concerned that the SBA did not have a proactive, comprehensive disaster response plan in place in August 2005. The Committee is aware that GAO will be issuing a report in the coming months that will assess the extent to which SBA has developed a comprehensive disaster response plan and how this could impact the SBA's ability to provide timely assistance to Gulf Coast hurricane victims. The Committee was pleased to learn that since May 2006, SBA has been developing a comprehensive disaster response plan and that the SBA provided a status report to the Committee on this plan on July 15, 2006. The Committee expects the SBA to build upon the lessons learned from responding to numerous hurricanes during the 2005 season to ensure that the agency is better prepared for future disasters.

The bill directs the SBA, no later than January 31, 2007, to submit to the Committee, along with the House Small Business Committee, the comprehensive disaster response plan of the Administration, along with a report detailing any updates or modifications made to the disaster response plan submitted July 14, 2006. This plan shall include a description of how the Administrator intends to utilize district office personnel, a description of the disaster scalability model, a description of how the agency-wide Disaster Oversight Council is structured, a description of how the Administrator plans to coordinate disaster response with state and local officials, recommendations on how the Administrator can better coordinate response efforts with the Departments of Commerce and Agriculture, any surge plans with respect to loan processing and loss verification, the Administrator's findings and recommendations based on a review of the SBA response to the 2005 Gulf Coast hurricanes, and a plan for how the Administration will provide accommodations and necessary resources for disaster assistance personnel.

In this report, the Committee also expects the SBA to provide information on how it plans to integrate and coordinate the response to a disaster with the technical assistance programs of the Administration, including the small business development centers. Furthermore, in light of the GAO's report titled Actions Needed to Provide More Timely Disaster Assistance (GAO–06–860), which details why the SBA struggled to provide timely assistance to homeowners affected by the Gulf Coast hurricanes, the Committee directs the SBA to detail how it plans to coordinate its efforts with the staff and resources of the Federal Housing Administration in the U.S. Department of Housing & Urban Development.

Also included in this bill are provisions that direct the SBA to provide monthly reports to the House and Senate Committees on Small Business detailing disaster loan activity for the previous month, as well as weekly accounting reports during times of Presidentially declared disasters. Twice during the Gulf Coast response efforts, the SBA nearly ran out of funding for loans, and twice Congress had to step in and ensure that disaster loans could continue to be processed and approved with sufficient funding. The SBA has a responsibility to inform its oversight committees in a timely manner of any circumstances that may prevent the agency from providing assistance to victims.

SUBTITLE D—ENERGY EMERGENCIES

This bill includes provisions which provide the SBA Administrator to make economic injury disaster loans of up to $1.5 million to small businesses that experience or are likely to experience economic injury as a result of a significant increase in the price of heating oil, natural gas, gasoline, propane, or kerosene. The bill defines a significant increase as an increase of more than 40 percent of the average price from the previous two years, taken over a period of ten days. The bill also authorizes the Secretary of Agriculture to make similar loans to small farms that are suffering similar economic injury. Both the Administrator and the Secretary are required to report to Congress on the effectiveness of the program.

The Energy Emergency Relief Act is a four-year pilot program that will allow small businesses and small farms to access the critical capital necessary to sustain abnormally high energy prices. In addition, loans may be used by borrowers to convert from the use of heating fuel to a reusable or renewable energy source. The Committee believes that energy economic injury disaster loans are necessary for the sustainability of small, energy dependent businesses and farms during periods of increased cost, and that this program will not only allow small businesses to remain open, but will encourage them to seek alternative energy sources and to reduce their dependence on conventional ones.

These provisions are from the Small Business and Farm Energy Emergency Relief Act S. 269, introduced by Senator Kerry in February of 2005. The bill has passed the Senate on two separate occasions, As S. 295 in the 107th Congress and as an amendment to the Energy Policy Act of 2005, although it was later dropped in conference. The proposal has received bipartisan support on both occasions.

TITLE V—VETERANS AND MEMBERS OF THE GUARD AND RESERVE

SUBTITLE A—VETERANS

Currently, the SBA's Office of Veteran's Business Development (OVBD), only receives approximately $750,000 per year. To address the unprecedented call ups, the bill increases funding to the SBA's OVBD in the amounts of $2 million for FY 2007, $2.1 million for FY 2008 and $2.2 million for FY 2009. These funds can be directed toward offering assistance to individual veteran entrepreneurs in need. Meeting veterans' need will benefit the economy in general, and the military's ability to retain quality military personnel. Additionally, veterans and service-disabled veterans will be able to extend any time limitation for any qualification, certification, or period of participation for the time in which the veteran was on active duty.

The bill extends the authority of the SBA's Advisory Committee for Veterans Business Affairs until FY 2009.

SUBTITLE B—GUARD AND RESERVE

Over the last five years, 550,000 military reserve troops have been called to serve on active duty by the Department of Defense. As a result of larger and more frequent call-ups, many small businesses have been forced to go without their owners and key personnel for months, and sometimes years. The impact has been devastating to these small firms, as the majority of non-government employed Guard and Reserve members are either self-employed or work for a small business. As a result, Senators Snowe and Craig introduced legislation to improve the Military Reservist Economic Injury Disaster Loan (MREIDL) program.

The bill raises the maximum military reservist loan amount to $2 million and allows the Administrator to offer loans up to $25,000 without requiring collateral from the Guard or Reserve

Member. The bill requires the SBA and the DoD to develop a joint website and printed materials providing information regarding this program and also requires banks and other lending institutions to refer the loan applicant to appropriate technical assistance programs offered by the SBA.

To address the needs of Guard and Reservists whose businesses are affected by call up, death, or significant injury, the SBA and Department of Defense are directed to conduct a study of the feasibility of creating a business mobilization and interruption insurance program.

In light of the unprecedented military reserve call-ups, Senator Kerry introduced a provision in the Strengthening America's Armed Forces and Military Families Bill of Rights (S. 460), that would award grants to military reservist small businesses that had suffered economically as a result of a reservist having been called to active duty. This provision, included in S. 3487 and now in this bipartisan bill, provides grants of up to $25,000 to businesses affected by the call-up to duty of employees who are reservists, provided the small business concern provides a business plan demonstrating viability for not less than three future years. The bill authorizes $3 million for the program for each of FY 2007–2009.

SUBTITLE C—VETERANS CORPORATION

In 1999, Congress passed P.L. 106–50, which created the National Veterans Business Development Corporation ("The Veterans Corporation" or "TVC") to provide assistance to veteran-owned small businesses to enable them to start-up and grow their businesses. The bill placed a specific emphasis on small businesses owned and controlled by service-disabled veterans. The TVC was chartered as a non-profit organization to provide small business training and entrepreneurial services to the nation's veterans, including service-disabled veterans through a national network of newly created community-based Veterans Business Resource Centers (VBRCs). Currently, only one of the TVC's four VBRCs is operating as envisioned by the legislation.

Since its creation, the TVC failed to accomplish the purposes for which it was created. While the TVC's purpose and mission are well-intentioned in practice, the Committee believes that the structure and purpose of the TVC needed a complete overhaul. As a result, Senators Kerry, Snowe, Talent, and Akaka crafted legislation to significantly alter TVC, and move it towards privatization.

The first step to improving the function of the TVC is to reaffirm and focus its purpose and mission on establishing a national network of information and assistance centers for use by veterans and the public and modifies the TVC Board to make Board members more accountable.

The appropriations for the TVC are authorized at $2 million for each fiscal year, 2007–2009. However, this section requires the TVC to collect matching funds equal to the amount of any grant issued by the SBA.

The ultimate goal is the privatization of the TVC. This bill moves the TVC toward this goal by reinforcing current law requiring TVC to develop a plan to become self-sustaining within six months from the date of enactment. To monitor its progress toward privatization, this bill requires a GAO report to ensure review and compliance.

TITLE VI—ENERGY LOANS FOR SMALL BUSINESS CONCERNS

To address adverse effects of the rising costs of energy have on small business, the bill makes SBA Express Loans available to small businesses who wish to use this expedited loan program. With qualified SBA lenders using their own forms and 36 hour decision time, this program will allow small businesses to access the much needed capital necessary for making energy efficiency improvements or purchasing a renewable energy system for their existing enterprise.

TITLE VII—HEALTH INSURANCE

The most pressing issue facing small business today is the rising cost of health insurance. Small businesses face a crisis when it comes to securing quality, affordable health insurance for their employees. Health insurance costs are skyrocketing, and small businesses are trapped in stagnant, dysfunctional state insurance markets that have little, if any, competition. In October 2005, the Government Accountability Office (GAO) released a report requested by Senators Snowe, Talent and Bond. This report highlighted a frightening consolidation in the state small group markets. Across the country, the five largest carriers in the small group market, when combined, represented three-quarters or more of the market in 26 of the 34 states surveyed, and they represented 90 percent or more in 12 of these states. In addition, the median market share of the largest small group carrier is now 43 percent as compared to 33 percent reported in 2002.

Further compounding matters, many small businesses do not possess the resources or personnel to navigate the complex health care landscape. The Committee supports efforts to increase small business awareness of health insurance options in their geographic areas. The bill establishes a four-year, pilot grant program to provide information, counseling, and educational materials to small businesses, through the well-established national framework of the SBDCs. The Committee believes that SBDCs provide an appropriate mechanism to disseminate information about health insurance options to small businesses. Recent research conducted by the non-partisan Healthcare Leadership Council found that with a short educational and counseling session, small businesses were up to 33 percent more likely to offer health insurance to their employees.

Specifically, the bill requires the SBA Administrator to establish the pilot, competitive grant program within 30 days of enactment. The program will make grants to SBDCs to provide information and educational materials regarding small business health insurance options. The grant amounts authorized under the program shall be not less than $150,000 per fiscal year, and not more than $300,000 per fiscal year.

The bill also requires each participating SBDC to submit a quarterly report to the Administrator and Chief Counsel for the SBA Office of Advocacy. Finally, the bill authorizes $5 million in appropriations for the first fiscal year beginning after the date of enactment, and $5 million in appropriations for each of the three subsequent fiscal years.

TITLE VIII—WOMEN'S SMALL BUSINESS OWNERSHIP PROGRAMS

During the Committee's reauthorization in 2003, the Committee identified that the SBA's programs had not evolved to meet the changing needs of women owned small businesses. Specifically, women business leaders expressed their frustration with the agency, the lack of results from agency programs and services for existing women business owners, the inactivity of the National Women's Business Council and Interagency Committee on Women's Business Enterprise, the limited opportunities for Federal government contracts for women, and the lack of connection with the "real world problems" facing women entrepreneurs on a day-to-day basis.

In response, Chair Snowe introduced the Women's Small Business Programs Improvement Act (S. 1154) and the Women's Business Centers Preservation Act of 2003 (S. 1247), cosponsored by Senator Kerry. Provisions from these bills were then incorporated into S. 1375, the Small Business Administration 50th Anniversary Reauthorization Act of 2003.

However, in Fiscal Year 2005, a revised version of SBA's reauthorization was inserted into Division K of H.R. 4818, the Consolidated Appropriations Act for 2005. While this version included the reauthorization of the regular women's business center program, it excluded the authorization for the women's business center sustainability pilot program. The pilot program was created in bipartisan legislation, the Women's Business Center Sustainability Act of 1999, sponsored by Senator Kerry and cosponsored by Chair Snowe. Since 2005, the pilot program has only been reauthorized on an annual basis through the Appropriations process, leaving the most experienced centers, in years five through ten, operating with the uncertainty of whether they would have an opportunity to continue to participate in the program.

To address these concerns and to meet the increasing demand for the program's services, in 2006, Chair Snowe along with Senator Kerry introduced the Women's Small Business Ownership Programs Act of 2006 (S. 3659). The provisions included in S. 3659 were incorporated and updated during the reauthorization process.

Small Business Administration Office of Women's Business Ownership

The bill provides authority for the SBA's Office of Women's Business Ownership to develop and make available new programs and services for established women owned businesses addressing issues in the areas of women in manufacturing, technology, professional services, retail and product sales, travel and tourism, international trade and Federal government procurement. The Committee expects that these new programs and services will be developed in consultation with the National Women's Business Council, the Interagency Committee on Women's Business Enterprise, and representatives of the women's business centers associations.

The bill also directs the SBA to conduct training for District Office Women Business Ownership Representatives (existing personnel who are responsible for marketing and outreach activities) and District Office Technical Representatives (existing personnel who are responsible for grant programmatic and financial oversight duties) as well as providing resources for the District Offices to carry out their responsibilities.

Women's Business Center Program

The Women's Business Center Program, established in 1988, provides long-term training and counseling to encourage small business ownership through more than 100 non-profit organizations. The Women's Business Center Program has been well received by recipient users and has become a unique resource for women entrepreneurs—proving to be of great benefit to the SBA in its quest to serve greater numbers of entrepreneurs. Therefore, the Committee has questioned the agency actions in support of opening new centers in new locations before stabilizing established centers through continued funding opportunities. The SBA has stated that after initial funding, the centers should be able to provide services independent of the grant program. However, since a requirement of the Women's Business Center program is to conduct outreach and long-term assistance to the under-served markets on a "no-fee" basis, it would be difficult for a center to become self-sufficient. The Committee supports the agency's positioning itself to first meet the obligations of renewal grant funding for productive centers before creating new centers.

Under the bill, beginning in Fiscal Year 2007, the Women's Business Centers program will operate on a permanent basis, replacing the Pilot Sustainability Grants Program. Existing Women's Business Centers will be eligible to submit proposals every three years as they graduate from existing grant awards. To avoid a repetition of unexpected and unannounced actions by the SBA in the future that may create a detrimental impact on the delivery of programs and services, the bill clearly sets forth the process and criteria that the agency must follow in administering the women's business center grant program. This process should include a review of SBA's evaluation criteria that centers must produce an annual 10 percent increase in client growth and SBA guaranty loans.

To improve this process, the bill directs the agency to streamline and reduce the reporting requirements and costs of the centers, recognizing the limited grant award and limited human resources within the centers. All of the eligible associations that represent Women's Business Centers (WBCs) will also have an opportunity to consult with the SBA Office of Women's Business Ownership for the purpose of developing training programs for centers and recommendations to improve the policies and procedures governing the operations and administration of the program.

National Women's Business Council

The National Women's Business Council was created by the Women's Business Ownership Act of 1988 to serve as an advisory body to the President, the Congress and the SBA. Its members came from the public and private sectors, and it was constituted to respond to criticism of the Interagency Committee's inactivity. By separating from the Interagency Committee, the Council was better able to focus on its advisory mission. The 1997 Small Business Reauthorization Act provided for improved reporting duties and Council appointments. The 2000 Small Business Reauthorization Act increased the annual authorized appropriation from $600,000 to $1 million to allow the Council to broaden its scope in research and reports, establish advisory councils, conduct conferences, and establish an interstate communication network.

To build upon the foundation previously established for the Council, the Committee incorporated the Council's requests to change its research formula and establishes a 30 percent allocation of appropriated funds for specific research. In addition, the bill provides the Council with the authority to create a clearinghouse on women's business ownership. At the Council's request, the bill enables the Council to establish working groups. The bill also provides the Council with the same cosponsorship authority as the SBA in order for it to expand research and program activities for women-owned small businesses.

To ensure the Council's continuity and independence, the bill clarifies membership representation. The Council has 15 members representing small businesses and small business organizations, with the Chairperson appointed by the President, six members representing women's business organizations, and the remaining eight members appointed by the SBA Administrator based upon recommendations of the Chair and Ranking Members of the Senate Committee on Small Business and Entrepreneurship and the House Committee on Small Business. Of these eight "party-affiliated" members, four are to come from the same political party as the President and four are not to be of the President's party.

In 2003, Senator Landrieu proposed an amendment, which was adopted by the Committee, to establish fairness in the appointment of Council members as a result of an imbalance in membership representation between the two political parties. This amendment calls for equal representation of the two political parties in the process of appointing members to fill vacant seats on the Council and requires the Administrator to report to Congress on vacancies that remain unfilled for more than 30 days. In 2006, as part of this bill, the Committee clarified the amendment to recognize a party balance for the eight "party-affiliated" members. The report must cite in detail the status of all vacancies, identifying the type of vacancies, the process the Council will follow, and the notice of any anticipated delays in filling the vacancies.

Interagency Committee on Women's Business Enterprise

In 1977, an interagency task force was formed and was subsequently renamed the Interagency Council in May 1979 by Executive Order 11213. In 1988, the Women's Business Ownership Act (Public Law 100–533) replaced the Interagency Council with a joint public-private sector National Women's Business Council. The SBA Reauthorization and Amendment Act of 1994 (Public Law 103–403) revised the Interagency Council's structure, returning all public-sector participants to comprise an expanded Interagency Committee on Women's Business Enterprise.

In 1994, by separating the private-sector Council from the public-sector Interagency Committee, it was intended that the Council would be the pro-active force to inspire action by the Interagency Committee. The 1997 Reauthorization Act incorporated a requirement that representatives on the Interagency Committee report directly to the head of their agency on the Interagency Committee's activities. There is no funding authorization provided under current law to support the activities on the Interagency Committee. Nor are there clear directives on the operations and interaction of the Federal agency and department representatives.

Currently, the Interagency Committee includes representatives from the U.S. Departments of Commerce, Defense, Education, Energy, Health & Human Services, Labor, Transportation, and Treasury, the SBA, General Services Administration, Office of Federal Procurement Policy, National Aeronautics and Science Administration, Environmental Protection Agency, the Federal Reserve, and the Executive Office of the President.

The Federal agencies and departments represented on the Interagency Committee allocate existing personnel and resources to support participation on the Interagency Committee. The Interagency Committee is required to submit an annual report to the President and Congress, through the SBA, but there is no record of the annual reports being prepared or forwarded to the President and Congress for the past three years. In addition, the President has not appointed a Chairperson to carry out the mission of the Interagency Committee, and therefore, the Interagency Committee is inactive.

To reactivate the Interagency Committee so that it can accomplish its intended mission, the bill directs the SBA Deputy Administrator to assume temporarily the responsibilities of the Interagency Committee Chair, if vacant, until the President makes an appointment. This action provides for the continuity of activities and avoid periods of inactivity. The bill also provides operational direction for the Interagency Committee by requiring that the Interagency Committee conduct three official meetings each year to plan upcoming Fiscal Year activities; track year-to-date agency contracting goals; and evaluate Fiscal Year progress and begin the report process.

The bill also establishes, as a subcommittee to the Interagency Committee, a policy advisory group consisting of representatives from the SBA, the Department of Commerce, the Department of Labor, the Department of Defense, the Department of the Treasury, two individuals and two organizations that are members of the National Women's Business Council. The Committee believes that the policy advisory group will return the Interagency Committee to a mix of public/private members to provide the support and direction so badly needed to revive the intent of the Interagency Committee.

TITLE IX—INTERNATIONAL TRADE

Exporters support over 12 million jobs and pay wages 18 percent higher than average. Ninety-seven percent of exporters are small businesses and account for almost $300 billion of yearly export sales—nearly one-third of total U.S. exports. Over the last decade the number of small businesses that export has increased by more than 250 percent. Exporting offers the opportunity for small businesses to retain and create jobs, position themselves for growth, enter new markets, expand their customer base, and add product and service lines.

The SBA plays an important role in this growth through United States Export Assistance Centers (USEACs), which provide small or medium sized businesses with local export assistance. In particular, USEACs provide lending and technical assistance and help small businesses in obtaining adequate export financing. The Committee is aware that, at a cost of less than $2 million per year, the current group of SBA International Finance Specialists has obtained bank financing for more than $10 billion in U.S. exports since 1999. The $10 billion in export sales financed by these specialists has helped to create over 140,000 new, high-paying U.S. jobs.

However, despite these figures, the Committee is concerned that this program is experiencing a record staffing low of 15 specialists nationwide as of July 10, 2006—down from a peak of 22 specialists in January 2000. These vacancies force the current group of finance specialists to cover more extensive territories, often with limited travel budgets, which negatively impacts U.S. export potential in high export markets. In order to expand and assist small businesses exporters, the bill expands the trade distribution network by ensuring SBA maintains a sufficient level of USEAC employees. The bill ensures that in filling USEAC positions, the SBA must first address existing positions that have been vacant since January 2003 before filling new positions.

The Committee believes it is essential that small exporters nationwide have access to export financing. The bill would improve the current statute that inadvertently has the maximum loan guaranty amount and maximum loan amount working at cross purposes. The FY04 Omnibus legislation raised the maximum SBA guarantee for International Trade Loans (ITLs) to $1.75 million; but kept the maximum gross loan amount limited to $2 million. As a result of these changes, and given that these loans receive a 75 percent SBA guarantee, lenders are currently limited to a single loan of $2 million which uses $1.5 million in guarantee. Also, to make full use of the maximum guarantee, the SBA must currently make a second loan to the borrower.

In order to update current legislation, the bill expands financing to small business exporters by increasing the maximum loan guarantee amount to $2.75 million and specifies that the loan cap is $3.67 million. The Committee expects that working capital to also be allowed as an eligible use for loan proceeds. The bill also makes International Trade Loan consistent with regular SBA 7(a) loans by allowing the same collateral and refinancing terms as with regular 7(a) loans.

This provision originated from S. 3663, the "Small Business International Trade Enhancements Act of 2006," introduced by Senator Landrieu on July 14, 2006 and co-sponsored by Senators Bayh, Kerry, and Pryor.

Finally, to improve the overall administration of the SBA's international trade loan programs, the bill designates one individual within the SBA as a trade financial specialist to oversee the ITL programs.

TITLE X—CONTRACT BUNDLING

Contract bundling is the consolidation of contracts in a manner that unduly restricts competition, and was originally prohibited under the Competition in Contracting Act (CICA) of 1984. The Small Business Reauthorization Act of 1997 supplemented CICA by defining the bundling of contract requirements as the consolidation of two or more procurement requirements for goods or services previously provided or performed (or suitable for performance) under separate, smaller contracts into a solicitation of offers for a single contract that is likely to be unsuitable for award to a small business concern. The requirement that at least a portion of the contract be "previously performed" by small firms allows Federal agencies to avoid bundling review by declaring large consolidations to be "new work." The statute allows the agency to bundle its requirements if the agency has performed sufficient market research and has justified the bundled action.

Generally, a bundled procurement will be found necessary and justified if the agency will derive measurably substantial benefits as a result of consolidating the requirements into one large contract. If the requirement involves "substantial bundling," where contract value exceeds specified thresholds ($2 million for most agencies, $5 million for the GSA, NASA, and DOE, and $7 million for the DoD), a contracting agency must conduct an internal analysis of the contract, submit a contract to the SBA Procurement Center Representatives for review, and take actions to maximize small business participation as subcontractors at various tiers under the contract.

Bundling or consolidation of Federal contracts tends to deprive small firms of business opportunities with the Federal government. The size of a contract, geographic spread of performance, or multiplicity of requirements can prevent small firms from capitalizing on their competitive advantages, including greater attention to customer service, superior rate of innovation, and lower general and administrative costs. In 2002, the White House Office of Federal Procurement Policy cited an estimate that small businesses lose over $30 for every $100 of bundled contracts. In addition, contract bundling drastically reduces the Federal government's supplier base, and, especially, the defense industrial base. According to the SBA Office of Advocacy, during the time period that contract bundling began to increase, the number of small business contractors receiving new contract awards dropped by over 50 percent, from 26,506 in FY 1991 to 11,651 in FY 2000.

In Report No. 105–62 on the 1997 SBA Reauthorization Act, this Committee stated, "often bundling results in contracts of a size or geographic dispersion that small businesses cannot compete for or obtain. As a result, the government can experience a dramatic reduction in the number of offerors. This practice, intended to reduce short term administrative costs, can result in a monopolistic environment with a few large businesses controlling the market supply." The fiscal case for reduction in consolidated contracts is strong. For instance, the SBA program to break up large contracts for competition (the Breakout Procurement Center Representatives Program), currently staffed by less than 10 people, saved the Federal government over $2.5 billion since 1985.

On March 19, 2002, the President directed Federal agencies to break up bundled contracts, which he defined simply as "huge contracts with massive requirements" that "tend to go to the same group of large, corporate bidders." The President further stated that the Contract Bundling Initiative serves the following goals: to "encourage competition as opposed to exclude competition; to make sure that the process is open; to make sure the process helps achieve a noble objective, which is more ownership in our country. And wherever possible, we're going to insist that we break down large federal contracts so that small business owners have got a fair shot at federal contracting."

In October 2002, the OMB Office of Federal Procurement Policy announced a 9-point initiative to implement the President's directive and reduce contract bundling by: (1) ensuring accountability of senior agency management for improving contracting opportunities for small business; (2) ensuring timely and accurate reporting of contract bundling information through the President's Management Council; (3) requiring contract bundling reviews for task and delivery orders under multiple award contract vehicles; (4) requiring agency review of proposed acquisitions above specified "substantial bundling" thresholds for unnecessary and unjustified contract bundling; (5) requiring identification of alternative acquisition strategies for the proposed bundling of contracts above specified thresholds and written justification when alternatives involving less bundling are not used; (6) mitigating the effects of contract bundling by strengthening compliance with subcontracting plans; (7) mitigating the effects of contract bundling by facilitating the development of small business teams and joint ventures; (8) identifying best practices for maximizing small business opportunities; and (9) dedicating agency OSDBUs to the President's Small Business Agenda.

Four years after the President's Anti-Bundling Initiative was announced, the SBA continues to fail to provide leadership, consistent execution, or accountability to the Initiative. For instance, to date, the SBA has not published a "best practices" guide on bundling as directed by the OMB in 2002. Reviews by the GAO and the SBA Inspector General found that many Federal agencies are confused about the statutory definition of bundling. According to a GAO report GAO–04–454, *Impact of Strategy to Mitigate Effects of Contract Bundling on Small Business is Uncertain*, agencies claim to be confused by the legal definition of bundling, and officials at two of four agencies contacted did not know they were mandated to report all potential bundlings. The SBA Inspector General's *Audit of the Contract Bundling Program*, No. 5–20, found that agencies and the SBA disagree on the definition of bundling, but that the SBA failed to review over 80 percent of contracts designated as bundled. This resulted in almost $400 million of potential lost opportunities for small businesses. Testimony during a recent hearing before the Committee indicated that Federal agencies do not practice unbundling of government contracts.

The Committee believes there is an urgent need for Federal agencies to follow SBA's guidance on bundling and to close the loopholes in the Federal agencies' interpretation of contract bundling. The Committee believes that the definition of bundling must be simplified in line with the President's definition and in line with the original meaning of the term as consolidation that is restrictive of competition. The requirement that the work must have been previously performed by small firms to be considered bundled is being removed.

The bill provides that agencies shall presumptively treat as bundled any contract which is at least three times the amount of the relevant substantial bundling threshold. Among other things, this presumption will trigger all related obligations to mitigate damage to small business concerns through other prime contracting or subcontracting opportunities.

The Committee believes that the recommendations of the GAO and the SBA Inspector General on contract bundling must be fully implemented. Specifically, the SBA must publish its best practices guide on reducing contract bundling, and better data on incidents and impact of bundling must be collected. The Committee also directs the SBA to conduct government-wide review of contract bundling policies and interpretations. The Committee expects that the review will be conducted in such a manner as to preserve the independence of the SBA Offices of Advocacy and Inspector General. To ensure such independence, the Administrator shall consult with the Offices of Advocacy and Inspector General The Committee also expects that a policy will be issued by the SBA tying performance evaluations and compensation of Federal managers to the Federal agencies' compliance with small business contracting and subcontracting obligations.

The SBA Procurement Center Representatives (PCRs) monitor Federal agency procurement activity to ensure that (1) appropriate steps are taken to provide contract awards to small businesses, (2) agencies meet their small business contracting goals, and (3) proposed contracts that could involve consolidated procurement requirements are identified and resolved. PCR responsibilities include: reviewing proposed acquisitions and recommending alternative procurement strategies; identifying qualified small business sources; conducting reviews of small business programs at Federal contracting activities to ensure compliance with small business policies; counseling small businesses; and sponsoring and participating in small business conferences and training.

The number of PCRs, however, has shrunk dramatically in the last 10 years. The Committee believes that the failure to maintain sufficient levels of PCRs diminishes the SBA's ability to carry out its statutory mandate. Reports prepared by the GAO disclose that the SBA is struggling to accomplish its mission and lacks the assurances that PCRs were reviewing proposed acquisition strategies to identify barriers to small business participation. The GAO also concluded the number of PCR-recommended small business set-asides has declined by more than half in the last ten years.

More importantly, the Committee recognizes that acquisition is a technical discipline that requires knowledge and experience to manage effectively; therefore, tasking these responsibilities to other SBA employees as a part-time function will not address insufficient staffing levels. The Committee believes that locating a PCR in the small business community and at buying activities across the country improves the ability of these individuals to advocate and effectively assist in the procurement of contracts for small business. The bill requires that the SBA allocate sufficient resources to provide for at least one PCR in each state, in addition to at least one PCR at each major procurement center. In determining the extent of program expansion, the Committee reviewed the current PCR staffing levels by state.

The bill further clarifies that these individuals shall be independent of, and have responsibilities distinct from, Breakout Procurement Center Representatives and Commercial Market Representatives. Many small businesses that still are not able to sell to the Federal government rely on these individuals to help them navigate through the complicated procurement processes.

The Committee believes that accurate data collection is essential in getting a handle on contract bundling by Federal agencies. However, the SBA in the past objected to implementing the bundling database required by law. Specifically, the SBA argued that the database could not be created because the law required it to contain existing information, and Federal agencies do not collect information on bundling. The bill provides an enhanced authority for the SBA to overcome any impediments it may have and proceed with the construction of the database.

TITLE XI—SUBCONTRACTING INTEGRITY

Small businesses receive over $45 billion in Federal subcontracts each year. Unfortunately, Committee oversight revealed that subcontracting practices have been plagued with overstatements. According to GAO Report 05–459, numerous large contractors have overstated their small business subcontracting achievements (some up to $30 million per contract per year) at one Federal agency alone. The Committee strongly believes that greater compliance and oversight must be implemented government-wide to the fullest extent possible.

In order to prevent misrepresentations in subcontracting, the bill provides that compliance of Federal prime contractors with small business subcontracting plans shall be evaluated as a percentage of obligated prime contract dollars, as well as a percentage of subcontracts awarded, as recommended by the GAO.

In addition to implementing GAO recommendations, the Committee largely readopted small business subcontracting provisions which were passed unanimously by the Senate in the 108th Congress. Small businesses previously testified before the Committee that prime contractors baited them by using them to create competitive subcontracting plans, helping the prime contractor win a contract, only to have the prime contractor switch and not follow through with its subcontracting plan commitments once the contract was awarded. If prime contractors are able to continue to submit data on their subcontracting efforts but are not held accountable for the accuracy of that data, they will be tempted to submit incomplete or misleading information.

As a result, the Committee believes more aggressive action is needed to increase the small business subcontracting share of Federal prime contracts. Therefore, the bill makes several changes to the Small Business Act that hold prime contractors responsible for the validity of subcontracting data and impose penalties for false certifications of past compliance with small business subcontracting.

The bill imposes penalties on prime contractors that falsify data in reports they file with Federal agencies. These penalties mirror current penalties for entities that misrepresent their status as a small business concern, a qualified HUBZone small business concern, a small business concern owned and controlled by socially and economically disadvantaged individuals, or a small business concern owned and controlled by women in order to obtain Federal contracts and subcontracts included in Section 8(d) of the Small Business Act, which are fines of not more than $500,000, imprisonment for not more than ten years, or both. The bill also authorizes contracting officers to withhold payment from a prime contractor until the prime contractor provides the agency with complete and accurate subcontracting reports.

To prevent prime contractors from taking advantage of small business subcontractors through bait-and-switch fraud, the bill requires large prime contractors to certify that they will use small business subcontractors in the amount and quality used in preparing their winning bid or proposal unless such firms no longer are in business or can no longer meet the quality, quantity or delivery date. The Committee expects that Federal agencies will use all appropriate legal and contractual remedies to deter, punish, and recover the proceeds of such fraud.

The bill also requires the SBA to share subcontracting compliance review data with Federal contracting officers and to update a national centralized government-wide database with prime contractor past performance specifically related to subcontracting plan compliance. The Committee intends for Federal contracting officers to use this data to provide prime contractors with an incentive to increase small business subcontracting opportunities. The bill includes amendments to Section 8(d), which provide for the consideration of proposed small business participation as subcontractors and suppliers as part of the process of selecting among competing offerors for any contract award that includes significant opportunity for subcontracting. In addition, the bill calls for recognition of a prime contractor's past performance in supporting small business subcontracting participation in other Federal contracts.

The bill also includes a provision that directs the SBA to develop and implement a pilot initiative to test the feasibility of allowing direct payments to subcontractors.

Finally, in an effort to incentivize greater compliance with small business subcontracting obligations, the bill authorizes a compliance pilot program to permit contractual incentives for companies that exceed their goals and also provide for assessments of funds from large contractors that fail to meet their subcontracting obligations. These assessments will be used to fund mentor-protégé assistance to small business subcontractors, and may be counted for purposes of subcontracting credit.

TITLE XII—SMALL BUSINESS PROCUREMENT PROGRAMS IMPROVEMENT

Since its inception, the HUBZone program has facilitated over half a billion dollars in private-sector investment by small businesses into economically distressed areas and HUBZone firms employ over 124,000 HUBZone residents. The bill reauthorizes up to $10 million a year for the next six years for the SBA HUBZone Office to conduct HUBZone certifications.

The Committee is concerned that the HUBZone program still fails to reach all the needy areas. In general, areas can qualify for the HUBZone program either as rural or urban HUBZones. To qualify as an urban HUBZone, an area must be a low-income census tract in a metropolitan statistical area—basically, a large town where over 20 percent of the county resides. Also, an entire rural county can qualify if certain income or unemployment requirements (income less than 80 percent of statewide income or unemployment higher than 140 percent of state or national unemployment rate, whichever is less) are met. Under existing rules, some rural areas in a county may be excluded from qualification even though their unemployment was high or income was low. To correct this inequity, the bill expands the classification of HUBZone eligibility to include any village, city, town, and economic development area governed by a public authority, district, or other unit of local government that is located in a suburban county and that meets income or unemployment qualifications.

The Federal government continues to fall short on its goals for contracting with service-disabled veterans. Testimony before the Committee established that contracting officers continue to refuse to exercise the sole-source authority for service-disabled veterans. The bill strengthens this authority by making sole-source awards to service-disabled veteran-owned small firms mandatory instead of permissive. This puts disabled veterans on par with other small business programs that have sole-source authority. In addition, the Committee provided for a temporary waiver of the ban on sole-source awards to service-disabled veterans if two or more small firms owned by disabled veterans may be available to compete. This so-called "rule of two" does not apply to the 8(a) program, and this inapplicability proved to be a useful tool in promoting contracts with small disadvantaged businesses.

The 8(a) contracting program exists to aid socially and economically disadvantaged businesses achieve competitiveness. One of the methods of evaluating whether a business is economically disadvantaged is through a net worth threshold, which places a ceiling on the net worth of a participating business owner. Currently, if a business owner's personal net worth exceeds $250,000, the business is denied 8(a) certification. Further, if a business owner's net worth exceeds $750,000 while certified as an 8(a) business, the business is graduated from the program. The Committee believes that a net worth threshold is a valuable factor in the process of evaluating a disadvantaged business. However, the threshold should not unduly prejudice successful business owners. The current levels of $250,000 and $750,000 were established more than seventeen years ago and are restricting access to legitimately disadvantaged businesses as a result of not being adjusted for inflation. This bill instructs the SBA to make annual inflationary adjustments to the net worth threshold so that legitimately disadvantaged businesses are not wrongfully denied access to the 8(a) program.

Both the Congress and the Administration have expressed concern about the continued disparity between the number of women-owned small businesses in the economy and the extent of the Federal government's contracting with women-owned firms. The Federal Acquisition Streamlining Act of 1994 established a government-wide goal for participation by women-owned small businesses in procurement contracts of not less than five percent of the total value of all prime and subcontract awards for each year. Federal agency progress towards increasing contracting for women-owned small businesses has been slow, and the goal has never been reached.

In 2000, Congress passed legislation to allow for certain small business procurement set-asides for women-owned businesses. The legislation required the promulgation of regulations to help implement these new set-asides. The legislation, however, conditioned the regulations on a study to be conducted by the SBA to identify the disparate treatment of women in various procurement industries. This study would then serve as the basis for the regulations governing set-asides for women-owned small businesses. The Committee understands that a Federal court recently found that the SBA delayed the implementation of this program. In order to achieve the original goal of improving contracting opportunities for women-owned small businesses, the bill directs the SBA to implement the program within 90 days.

The bill also reauthorizes the BusinessLINC program, which awards grants to businesses that enter into agreements to expand business-to-business relationships between small businesses and government agencies or large businesses. Grants are also available for entities that provide a database of companies interested in mentor-protégé programs or community-based, statewide or local business development programs.

TITLE XIII—ACQUISITION PROCESS

The bill improves collection of acquisition-related data on contract bundling, and provides for government-wide training on small business matters. The bill also implements the recommendation of the White House Acquisition Advisory Panel to authorize small business set-asides in multiple award, multi-agency contracting vehicles in order to correct the very mixed record of small business participation in such contracts. These contract types were intended to reduce administrative costs of contracting by reducing both the number of businesses and the types of terms and conditions which had to be competed for each task or delivery order. Under such a contract, the government negotiates an up-front agreement on future price discounts and delivery terms, but no actual work is performed or paid for until task and delivery orders are issued. Small business have been having trouble securing business through the multiple-award contracts. For example, within the General Services Administration ("GSA") Federal Supply Schedules ("FSS" or "Schedules"), small businesses represented about 80 percent of Schedule holders, but only 36.8 percent of Schedule sales dollars in FY 2004.

The Small Business Act and the Federal Acquisition Regulation require Federal agencies to set contracts aside for small businesses if there is a reasonable expectation that two or more small businesses would submit bids at reasonable prices, but these general set-aside requirements have been interpreted not to apply to multiple-award contracts. Authorizing small business set-asides in multiple-award contracts provides unambiguous direction to contracting officers.

For many years, the Federal government has failed its procurement goals with regards to women, service-disabled veterans, and HUBZone firms. The bill implements a recommendation of the White House Acquisition Advisory Panel to give priority in small business set-asides to those groups for which the relevant agency failed its small business contracting goals.

In addition, the bill requires advance plans on small business spending in the agencies' budgets and directs the SBA Administrator to report to Congress annually on small business participation in overseas government contracts.

TITLE XIV—SMALL BUSINESS SIZE AND STATUS INTEGRITY

In June 2006, the SBA announced that the Federal government met or exceeded its statutory 23 percent small business prime contracting goal for the third year in a row. Specifically, the SBA claimed that small firms received $79.6 billion in Federal contracts. However, reports from the GAO and the SBA Office of Advocacy, and testimony by the SBA Inspector General before the Committee, indicate that these numbers are misleading because many large corporations have been classified as small businesses for contracting purposes. Since FY 2003, billions of dollars of contracts have been improperly coded as awarded to small companies. Hearings before the Committee established that fraud, regulatory loopholes and delays, and poor training in small business laws and regulations contribute to the problem.

Recently, the SBA IG and the Department of Justice achieved a $1 million settlement with a large corporation that advertised itself as a small business for 10 years. However, the SBA Inspector General testified that prosecutions of companies that misrepresent their small business size and status have been rare. Under current law, the government has difficulty proving loss when the fraud was in the inducement to receive a contract and not in performance of the contract. The Inspector General testified that such cases still involve both the societal loss and the programmatic loss to the Federal government. To solve this problem, the bill creates an irrebuttable statutory presumption that small business size or status fraud constitutes a loss to the government of contracting dollars diverted to large firms on a dollar-for-dollar basis. The Committee intends that this presumption shall be applied in all manner of criminal, civil, administrative, contractual, common law, or other actions which the United States government may take to redress such fraud and misrepresentation.

In *CMS Information Services, Inc.* (2002), the GAO confirmed that Federal agencies may properly require certification of small business size at the time of submission of quotations on procurements reserved for small business concerns. With regard to task orders on interagency or government-wide multiple award contracts like Federal Supplies Schedules at issue in that case, this legislation codifies the CMS decision by requiring certification on task orders. The SBA reached a similar conclusion in *Size Appeal of SETA Corporation and Federal Emergency Management Agency,* SBA No. SIZ–4477 (2002). The Committee realizes that unforeseen situations may arise, and intends for the SBA to fully exercise its discretion. With regard to task orders on interagency multiple-award contracts, the Committee intends that the SBA, in consultation with relevant Federal agencies, would develop policies on appropriate certification requirements which would take into account and balance the varying features of such contracts, the impact of potential "ramp-offs" on small business contracting opportunities at the affected agencies, and the need for integrity and adequate disclosure of the actual small business participation. With regard to multiple-award contracts used for intra-agency purposes only, the Committee similarly expects the SBA to exercise its discretion. The Committee expects that the SBA's discretion will be consistent with the existing legal principle that company size is determined at the time of award based on the company's initial offer, while ensuring that reporting on small business participation shall accurately reflect all cases where a contract previously awarded to a small business concern or a small business concern itself have been novated to an other than small business concern through merger, acquisition, divestiture, or otherwise.

Further building on the CMS decision, the bill provides that submissions of bids on small business set-asides, registration as a small business on a procurement database, or inducements to Federal agencies to take small business credit for award of a contract, grant, or another funding instrument shall be deemed certifications of small business size and status. In addition, the bill requires paper-based certifications by signature of responsible officials. The SBA is given authority to promulgate "safe harbor" regulations to provide protections from liability in cases where the relevant business concern did not intentionally misrepresent its size or status.

The SBA Inspector General testified before the Committee that annual certification of small business size or status is the most effective measure of ensuring integrity of small business contracts. The Committee agrees with this view. The Committee notes that the SBA has made its own proposal for an annual small business certification, but has failed to implement the regulation. The bill provides for annual certifications of small business size and status and that small business size or status shall be determined, as part of a company's responsibility, at the time of the award of a contract.

The SBA Inspector General testified before the Committee that the SBA should be given the authority to suspend or debar large contracts which claim to be small businesses. The bill enacts the Inspector General's recommendation.

To root out waste, fraud, and non-compliance with procurement laws, the Federal procurement system relies on private bidders to bring bid protests against the improper awards of government contracts. Protests brought at the GAO or the U.S. Court of Federal Claims usually result in stays of contracts awarded or to be awarded. Committee oversight indicates that large businesses often receive small business contracts because Federal agencies simply do not respect SBA decisions on whether a company is large or small. For instance, in *Planned Systems International, Inc.* (2004), the GAO found that Federal agencies do not have to wait longer than 10 days for the SBA to rule on protests that contracts reserved for small business concerns are given to large businesses. As a result, a Federal agency awarded a small business contract to a large business notwithstanding the SBA's determination that the business was not a qualified small business. Under current law, protests to the GAO on any grounds may be stayed for 100 days, but protests challenging small business size misrepresentations may not be delayed beyond 10 days. The bill would remedy this problem. The Committee believes that the SBA must be able to decide small business size or status challenges to contracts in the same manner and on the same terms that protests are decided by the GAO under the Competition in Contracting Act.

The SBA Inspector General testified before the Committee that Federal officials often lack training in small business laws and regulations. The bill directs development of such training courses, and also mandates a policy on prosecutions of small business size and status fraud.

Reports and testimony from the SBA Inspector General and the GAO indicate that small business sole-source contracting authorities are vulnerable to "fronting" or the exploitation of small businesses by large subcontractors, which can rob small business prime contractors of the work to which small businesses are entitled and required to perform as prime contractors under the Small Business Act and applicable regulations. The bill authorizes challenges of small business size and status in sole-source contracting awards.

To ensure that Federal contracting officials are aware of the small business size and status of companies which hold multiple-awards contracts, the bill requires holders of such contracts to submit an annual certification statement to the government. The Committee is troubled to learn that a multi-billion dollar corporation and its large business predecessor were able to pass themselves off as small businesses on a GSA schedule for approximately 10 years.

Under current procurement rules, a contracting officer designates a primary industry category for each contract, and the bidding firm must qualify as small under the size standard for that industry category to be given the contract as a small business. Examples of SBA general size standards include the following:

(1) Manufacturing: maximum number of employees may range from 500 to 1500, depending on the type of product manufactured;

(2) Wholesaling: maximum number of employees may range from 100 to 500 depending on the particular product being provided;

(3) Services: annual receipts may not exceed $2.5 to $21.5 million, depending on the particular service being provided;

(4) Retailing: annual receipts may not exceed $5.0 to $21.0 million, depending on the particular product being provided;

(5) General and heavy construction: general construction annual receipts may not exceed $13.5 to $17 million, depending on the type of construction;

(6) Special trade construction: annual receipts may not exceed $7 million;

(7) Agriculture: annual receipts may not exceed $0.5 to $9.0 million, depending on the agricultural product; and

(8) Small innovative companies participating in the Small Business Innovation Research and the Small Business Technology Transfer Programs: maximum number of employees may not exceed 500.

Over the last several years, the SBA has considered reforming and simplifying its size standards, including the creation of tier-based standards. Under the tier-based approach, the SBA would establish an overall cap of employees or revenues per industry category, as appropriate, and then establish caps at lower tiers. Contracting officers would set-aside smaller contracts for lower-tier small firms, so that the very small firms can grow and become "bigger small businesses" that can better compete against its peers and large corporations. Precedent for this approach exists with the Very Small Business Program, operated by the SBA on a limited, pilot basis. Lower-tier small firms could bid on contracts suitable for upper-tier small firms, but not vice versa. The bill authorizes development of tiered size standards. The Committee recognizes that a great deal of time and effort has been spent exploring the feasability of this proposal as well as alternative proposals for addressing size standards. For this reason, the Committee is authorizing the development of tier-based size standards and leaving to the SBA's discretion the decision on whether to develop or implement them.

Currently, the SBA does not calculate the employee size of a small firm based on full-time equivalents (FTEs). As a result, companies are penalized for hiring part-time help because they may be in danger of exceeding their small business size. The bill directs the SBA to use full-time employee equivalents in computing size standards.

TITLE XV—SMALL BUSINESS INNOVATION RESEARCH (SBIR) AND SMALL BUSINESS TECHNOLOGY TRANSFER (STTR) PROGRAMS

Under the SBIR program, federal agencies having annual external research and development budgets of more than $100 million must reserve 2.5 percent of the agency's research and development funds for award to small businesses. The SBA has encouraged innovation by overseeing government-wide policy for the SBIR program since the program was enacted by Congress in 1982. In the 24-year history of the program, small hi-tech firms have submitted more than 250,000 proposals, which have resulted in over 60,000 awards worth more than $21 billion. Approximately one-third of initial Phase I SBIR projects (which explore the technical merits of an innovation) convert to Phase II (which develop commercialization and manufacturing of the innovation).

Annual SBIR Phase I and II spending amounts to about $1.8 billion a year. The SBIR program cycle is divided into three phases. Under Phase I, small firms receive competitive grants or contracts to develop new technologies. Competitive Phase II grants or contracts are awarded to develop the commercial potential of the new technology or product. These awards help small firms to establish a successful reputation for their technologies and to survive the so-called "Valley of Death" in their business cycle when the private investors alone are unwilling to assume all the risk. In Phase III, SBIR firms are expected to commercialize the resulting product or process, but with no further SBIR funding.

Under the companion STTR program, agencies with an annual external research and development budget of more than $1 billion must reserve 0.3 percent of their funds for award to collaborative efforts between small businesses and non-profit research institutions, generally universities or state technology programs. The STTR Program awards about $92 million annually to small business-research institution partnerships. The goal of the STTR program is to take research and move it from the lab or a university to the market through the help of small businesses. The program is structured similarly to the SBIR program.

SBA Office of Technology; National Advisory Board; Annual National Small Business Innovation and Technology Transfer Plan.

Efforts to strengthen American competitiveness through small businesses begin with the SBA's Office of Technology, which administers and monitors the implementation of both the SBIR and the STTR programs government-wide. As these programs have grown, the responsibilities of the Office have increased, such as to monitor government-wide compliance with the SBA's SBIR and STTR Policy Directives, to carry out the Federal and State Assistance program and the Rural Outreach program, and to carry out the President's Executive Order 13329, *Encouraging Innovation in Manufacturing*. At the same time, the budget and staff for this Office have decreased. More specifically, since FY 1991, the programs have more than doubled, growing from $500 million to about $2 billion a year, yet, the budget for the Office of Technology has been cut by more than half. According to the SBA's "Historical Summary, Office of Technology," in 1991, the Office of Technology had a budget of $907,000 and 10 positions. In 2003, the Office of Technology had a budget of $280,520 and 5 positions. This is the most recent information available from the SBA.

The Committee has raised this issue with the agency on numerous occasions over the years, in budget and confirmation hearings and in letters, yet there has been no improvement in the resources or stature for this office. Consequently, there has been inadequate oversight of participating agencies to meet their 2.5 percent requirement and other compliance violations that have put at risk significant SBIR dollars. For example, at the Missile Defense Agency, at risk was $75 million in FY 2002 and $93 million in FY 2003, and at the Air Force in FY 2005, at risk was $175 million. Congress intervened and made sure the agencies awarded all the funds for SBIR awards instead of diverting the funds to other programs. The Committee urges the agency to request that OMB and the Administration support requests which are reasonable for the Office of Technology to successfully operate. As another example, the SBA's FY 2003 annual reports on both programs reported two different Department of Defense extramural budgets for research and development (one budget in one report exceeding the same budget in another report by about $3 billion), and despite that significant discrepancy the SBA found that the Department of Defense and other agencies complied with the programs' requirements. To address this, the bill directs the GAO to conduct periodic fiscal and management audits of the program.

The bill requires the Assistant Administrator for Technology to be a Presidential appointee. Without a mandate from the President, the Assistant Administrator's ability to provide oversight and enforcement of the SBIR and STTR Policy Directives across the Federal acquisition community would be impaired. Since the passage of the Services Acquisition Reform Act of 2003, the Chief Acquisition Officers in Federal agencies are required to be senior Presidential appointees. This bill restores the parity between the stature of the Chief Acquisition Officers and the Assistant Administrator for Technology who is responsible for oversight of their compliance with the SBIR and the STTR program requirements.

The Committee believes that Congressional small business committees must be consulted concerning appointments to head that Office, in the same manner that relevant Congressional committees have been consulted regarding appointments to the White House Acquisition Advisory Panel, and that the SBA must provide Congress with a budget for that office. To provide continuous improvements in the administration of these programs, the Committee believes that a National Small Business Innovation and Technology Transfer Advisory Board must be appointed from individuals with relevant experience to advise the Office.

The Committee also directs the SBA to prepare and submit to the Congress a national plan on small business innovation research and technology transfer. The SBA is already required to publish annual government-wide reports on SBIR and STTR, but only at the end of each fiscal year. The SBA's report is based on the annual statutory reports of participating agencies. However, advance planning and technology road-mapping is needed by Federal agencies to ensure better planning and utilization of small hi-tech firms in Federal innovation development. Many SBIR/STTR technologies can have applications across multiple agencies, especially at commercialization. According to the SBA data, in FY 2004, two out of 11 SBIR agencies (NASA and the Department of Homeland Security) underfunded SBIR technologies. In FY 2004, the Federal government shortchanged small business-university partnerships in the STTR Program by $20 million. The Committee expects the plan to be composed of annual SBIR/STTR plans and forecasts of SBIR and STTR topics and acquisition opportunities by each participating Federal agency and an overall plan by the SBA. The plan will address participation of small hi-tech firms and small business-university partnerships in Federal R&D, as well as commercialization of SBIR and STTR innovations.

Data from the National Science Foundation's annual *Science & Engineering Indicators* reveal that small businesses consistently receive less than five percent of Federal R&D dollars. This exclusion of small businesses has wasted valuable Federal R&D dollars. To unleash American innovation, Congress must support the innovative potential of small firms as evidenced by the following facts:

- small firms represent 40 percent of highly innovative firms (with 15 or more patents);
- small firms produce 13 to 14 times more patents per employee than large firms;
- small firms' share of U.S. patents equals small firms' share of U.S. manufacturing employment, 41 percent;
- small firms' patents are on average twice as technically important as large firm patents (2 to 1 ratio of the top one percent of the most cited patents);
- small firm innovation is twice as closely linked to scientific research as large firm innovation on average, and so substantially more high-tech or leading edge;
- small firm innovation is more extensively linked to outside technology while large firms build more of their own technology;
- small firm innovators are more dependent on local technology.

Source: SBA Office of Advocacy

To stimulate America's most innovative sector of the economy and to remedy the problem of exclusion of small businesses from Federal R&D, the bill permanently reauthorizes these worthy programs. The Committee also believes that it is time to double both the SBIR and the STTR programs, as reflected in the bill and originated in S. 2111, the Small Business Growth Initiative Act of 2005, introduced on December 15, 2005, by Senator Evan Bayh. Before this Committee on June 21, 2006, Senator David Vitter also called for an increase of the SBIR program to five percent (doubling the program). Such an increase will also benefit the universities, the laboratories, and the research institutions which partner with small businesses. To ensure smooth administration, the SBIR and STTR increases are spread over five years.

Small business innovators must not only receive a greater share of Federal funds, but also SBIR and STTR awards they receive must reflect economic and programmatic realities. Current law directs the SBA to adjust the size of SBIR and STTR awards for inflation every five years, but the SBA has not done so. For instance, the SBIR Phase II awards size has not been increased since 1992. Phase II awards size for the STTR program, which was created after the SBIR program, has not been increased since 2001. The Committee is attempting to correct this deficiency by raising the award sizes for inflation from $100,000 to $150,000 in Phase I and $750,000 to $1,250,000 for Phase II in both programs. The bill also addresses the problem of "jumbo" awards which routinely exceed legislative guidelines. For example, the GAO conducted a review of the program, (GAO–06–565, "Small Business Innovation Research: Information on Awards Made by NIH and DoD in Fiscal Years 2001 through 2004"), and found that NIH had made a Phase I award of $1.7 million and a Phase II award of $6.5 million. Small businesses, particularly those in rural states, have complained to the Committee for years that jumbo awards hurt them because they reduce the number of grants and awards that can be given out. In the case of a Phase I for $1.7 million, that eliminates the possibility of 16 awards of $100,000. In the case of Phase II for $6.5 million, that eliminates the possibility of almost seven awards of $750,000. To address this issue, the bill prohibits Federal agencies from making an award more than 50 percent higher than the guidelines established in this Act, which is a cap of $225,000 for Phase I awards and $1,875,000 for Phase II awards.

The bill also provides for portability of awards between different Federal agencies and between the two SBIR and STTR programs by permitting eligible small business concerns to qualify for post-Phase I awards at another agency or through the other program. These measures ensure that small innovative businesses receive the full opportunities for participation in Federal R&D and the nation receives the full benefits of small business innovations. Today, R&D efforts to meet national priorities are conducted across Federal agencies: for instance, the Departments of Energy and Agriculture work together on renewable energy research, and biodefense research is pursued by the Departments of Defense, Homeland Security, and Health and Human Services. At the same time, research project needs may require changes in relationships between the small business and its research institution partner. This legislation introduces much-needed flexibility into the SBIR and the STTR programs.

The Federal government spends over $50 billion a year of R&D contracts, and billions more on contracts for goods and services which utilize innovative technologies. As a result, Federal procurement spending can act as a strong force in stimulating small business innovation. Public authorities and officials in the European Union, the United Kingdom, Sweden, and other countries have proposed a three percent pro-innovation set-aside for their small and medium enterprises (SMEs). To retain global competitive leadership, the Committee believes that the United States must adopt its own three percent pro-innovation technology insertion goal for Phase III SBIR and STTR awards in all Federal contracts for research, development, testing, and evaluation. This goal, as created in the bill, could amount to approximately $1.5 billion a year in Phase III awards, to be met either through prime contracts or subcontracts. Because this is a technology insertion goal, a contract or subcontract with any eligible Phase III awardee would qualify towards this goal.

The bill addresses relevant SBIR and STTR intellectual property protections. To attract small businesses for participation in Federal R&D, the SBIR and the STTR programs guarantee data rights protections to small business innovators. Unfortunately, the scope of these protections has been misconstrued by the U.S. Court of Federal Claims in the case of *Night Vision* v. *United States.* The Court mistakenly relied on the Federal Acquisition Regulation to exclude prototypes from statutory data rights protections, even though the Small Business Act clearly and unambiguously provides that prototypes are within the scope of research and development activities which are part of SBIR and STTR. The bill overrules the *Night Vision* case and reasserts protections for prototypes as consistent with current law under the Small Business Act, providing that SBIR and STTR research and development activities include improvement, development and design of prototypes. In addition, this section also ensures that SBIR and STTR data rights are protected from disclosure and reverse engineering as trade secrets under applicable laws such as the Federal Trade Secrets Act, that data rights protections extend to the technical data developed at private expense but used in the development, testing, or evaluation of SBIR or STTR technologies, and that data rights protections apply to all Federal contracts, subcontracts, and mentor-protégé agreements.

The Committee further believes that the Court of Federal Claims disregarded the special acquisition preference intended by the Congress for Phase III awards by effectively placing upon the small businesses the burden of proof that a Phase III award would be practicable. The Committee believes that any questions of capacity of small business concerns to perform as Phase III awardees should be established by the relevant agency on the record through the SBA's Certificate of Competency determination process. The bill codifies and clarifies the existing special acquisition preference. In addition, this provision contains requirements for advance review of contract solicitations on topics which duplicate SBIR or STTR awards so that taxpayer money invested in SBIR and STTR projects is not wasted and time, particularly on sensitive projects of health, defense and energy, is not lost duplicating the work. To avoid and reduce duplication, relevant Federal officials shall consult the SBA's Tech-Net database prior to issuing the solicitation.

Mentor-protégé programs have been considered by the industry to be an effective mechanism of promoting participation in Federal contracts by SBIR and STTR firms. However, the Committee is concerned that poor oversight of mentor-protégé agreements may compromise data rights protections. The bill clarifies the applicability of SBIR and STTR data rights protections to mentor-protégé agreements with SBIR and STTR firms.

In 2002, the SBA proposed and subsequently implemented a requirement that SBIR firms seeking to subcontract with Federal laboratories and research and development centers obtain a waiver from the SBA to enter into such subcontracts. Such subcontracts are typically concluded through cooperative research and development agreements (CRADAs). As a result, small firms which plan to utilize world-class technical facilities or research capabilities of Federal labs may be denied a waiver even after receiving their SBIR awards. The Committee believes that greater cooperation between small businesses and Federal labs is a worthy goal, though agencies and departments cannot demand that a small business work with a Federal lab in order to win the project. For that reason, the bill permits small businesses to subcontract portions of the work on SBIR and STTR awards to Federal labs and R&D centers without having to seek a waiver from the SBA, as the SBA currently requires. Small businesses receiving SBIR and STTR awards where a portion of the work is subcontracted to Federal labs and R&D centers shall not perform a smaller percentage of work than is required by the SBIR and the STTR Policy Directives. At the same time, the Committee acknowledges that the SBA waiver process was instituted in response to attempts by Federal agencies to recapture SBIR funds through the CRADA subcontracting process regardless of scientific merit. Consequently, Federal agencies shall not require small businesses to subcontract with Federal labs and R&D centers as a condition of receiving SBIR or STTR awards, and the SBA shall ensure that no such requirements whatsoever are imposed. SBIR and STTR awards shall be based strictly on merit, and participation of Federal labs and R&D centers in SBIR and STTR research shall be considered only to the extent that it strengthens the merits of the proposals.

During the 108th Congress, Chair Snowe sponsored and Senator Kerry cosponsored Senate Amendment 2531, creating the SBIR Commercialization Pilot Program (CPP) at the Department of Defense, which incorporated relevant amendments offered by both Senators to S. 1042, the FY 2006 Defense Authorization bill. Chair Snowe offered Senate Amendments 1536 and 1537, and Senator Kerry offered Senate Amendments 1594 and 1504. The CPP authorized incentives for prime contractors and provided assistance to SBIR firms in order to facilitate Phase III awards at the prime contract and the subcontract level. Examples of appropriate incentives are provided in the May 17, 2006 guidance letter from Chair Snowe, Senator Kerry, and House Small Business Chairman Donald Manzullo to the Undersecretary of Defense Kenneth Krieg and in the White Paper of the Small Business Technology Council, *Incentives and Technology Transition: Improving Commercialization* *of SBIR Technologies in Major Defense Acquisition Program* (Robert-Allen Baker, May 2006). This bill extends this program to other top contracting agencies.

To promote effective enforcement of the SBIR and STTR Policy Directives, Section 1537 requires the SBA to notify Congress of its appeals or other actions to enforce the Policy Directives. Likewise, the Committee expects that the SBA Administrator will be promptly informed concerning any case or controversy surrounding the SBIR or the STTR program. The Committee believes that SBA must always be presented an opportunity to defend its programs in legal proceedings. Unfortunately, in the *Night Vision* case, the position of an Air Force contracting officer on the application of the SBIR Policy Directive was advanced as position of the United States.

In the 2000 SBIR Reauthorization Act, Congress created the FAST program to strengthen the technological competitiveness of small business concerns in all 50 states. At that time, Congress also extended the SBIR Rural Outreach Grant Program ("ROP"), which provides certain states, with relatively low participation in the SBIR and STTR programs, an opportunity to receive grants to support statewide efforts to increase their participation levels in the programs. The Administration did not request funding for the SBIR FAST and Rural Outreach programs in the President's budget requests for fiscal years 2005, 2006, and 2007. In FY 2004, the Administration requested funding of $3 million for the FAST program and $500,000 for the Rural Outreach Grant Program; the FY 2004 appropriations provided $2 million for FAST and $250,000 for the Rural Outreach Grant program. Although the Administration made the same funding request the previous year (FY 2003), the programs were unfunded in FY 2003 appropriations. Instead, the SBA was given authority to fund the program but, according to the SBA Inspector General's Office, chose not to do so. During FY 2002 and FY 2001, the FAST program was funded at $2.7 million and $3 million, respectively.

The FAST and the ROP programs serve an important purpose, specifically, to bring into the SBIR and the STTR programs small businesses and state technology research organizations from states with historically low participation in federal small business R&D and technology contracting. In fact, the SBA testified before the House Small Business Committee in May 2003 that "[p]articipating agencies in the SBIR and STTR Programs have reported a significant increase in the number of proposals received for their current solicitations, which we believe is attributable to outreach and training provided by FAST and Rural Outreach grant recipients." While the SBA's stated desire to consolidate FAST and ROP development services into its District Offices to increase effectiveness and efficiency is legitimate, the SBA simply has not made the case that its District Offices are better suited to provide FAST and ROP development services with the focus on the needs of individual states to the exclusion of other states in their districts. Section 1541 reauthorizes these two important programs and increases authorized funding for the FAST program from $2 million to $5 million.

Since 2000, the SBIR program has been subject to a Congressionally-mandated evaluation by the National Academies of Sciences (NAS). To date, the Academies have published several books on the subject of SBIR and submitted extensive testimony to the Committee on July 12, 2006. The testimony and publications from the Academies confirm the value of the SBIR program and the need to continue it. This section extends the authorization for the Academies' study for one year and provides additional subjects which the Academies should research and address. There were concerns raised that extending the NAS's authority for one year would delay the release of the current study, which is expected in early 2007 and which is important to reauthorization deliberations of the program, as well as concerns that the extension and expansion would be construed as a mandate from Congress on the participating agencies to pay more money for the study. This provision is not intended to create a mandate on Federal agencies which fund SBIR and STTR studies to provide more funding to the NAS beyond the $5 million they have already disbursed. The provision requires good faith negotiation between the Academies and the agencies and gives the NAS authority to explore complementary issues. Consequently, additional research shall be subject to availability of funds.

In response to questions during a Committee hearing on July 12, 2006, Dr. Charles Wessner of the National Academies testified that efforts to promote greater funding of Phase II technologies would be valuable. Section 1543 of the bill authorizes a pilot program to address this issue.

Additionally, the Committee believes that the innovative potential of small businesses must be harnessed to address the energy challenges faced by our country. The bill includes provisions modeled after the President's Executive Order 13329, *Encouraging Innovation in Manufacturing*, to give priority in SBIR and STTR awards to energy efficiency and renewable energy topics.

This bill addresses participation in the SBIR program of companies majority owned by venture capital firms. Firms with venture capital investment have always been allowed to participate in the program, as long as they met the regulatory size standard and affiliation rules for a small business. However, a case brought before the SBA's Office of Hearings and Appeals (OHA) in 2001 highlighted that there is, or has been, some ambiguity about these standards, mostly over what it means to be owned by an "individual," and whether small businesses owned and controlled by venture capital firms can participate. Before that time, the SBA had never formally ruled on the meaning of the term "individual," but when the question was brought before it, the SBA OHA ruled in 2001, 2002, and 2003, that "individual" means humans and not corporations or entities.

Since the SBIR program's creation in 1982, small business regulatory size and affiliation rules for the SBIR program have required firms to be for-profit and at least 51 percent owned and controlled by "individuals" who are U.S. citizens or resident aliens, and the company must have fewer than 500 employees, including affiliates as a protection against parent companies using smaller subsidiaries to participate in the program. In January 2005, the SBA expanded eligibility by changing the rule regarding subsidiaries so that a subsidiary could be owned up to 100 percent by a parent company, including a venture capital firm, as long as the parent company itself was owned and controlled by individuals. While that change helped some small firms that were majority owned by venture capital firms to meet eligibility and participate in the program, the Committee received complaints that the definition still excluded many small biotechnology firms that had attracted venture capital investments. Consequently, there was an effort to change the definition so that a company with multiple venture capital investors with more than 51 percent ownership and control of a company could participate in the SBIR program.

Proponents of changing the regulations and rules as interpreted by the SBA argued that these standards were particularly harmful to biotechnology firms that needed hundreds of millions of dollars and as many as 15 years to commercialize a therapy or treatment, requiring them to seek venture funding and relinquish ownership and control of the firm. Even with significant venture capital investments, if these firms had other promising research they wanted to conduct that was too early stage to attract new venture funding, the venture funding they had could not be used for a new project. Thus, they needed SBIR grants to conduct new research. The proponents also argued that firms majority owned by venture firms had always participated in the program, that the SBA suddenly changed the definition and rules which have been in effect for 20 years, that funding to venture firms had diminished since the SBA made its ruling, and that excluding them was hurting the biotechnology industry and the development of important therapies.

Opponents argued that the SBIR grants and awards of $100,000 and $750,000, or even "jumbo awards," were created to serve as seed funding for firms that had not yet attracted venture capital, not firms that had tens or even hundreds of millions in venture capital. They argued that such firms should not be eligible to compete for the 2.5 percent of Federal funds designated for small businesses and instead should compete for the other 97 percent of Federal research and development funds. Nevertheless, the opponents were in support of creating a separate funding source at the NIH for these mid-sized biotech firms. They argued that the SBIR regulatory size standards and affiliation rules as interpreted by the SBA had always existed, but that firms self-certified and the SBA and departments and agencies with SBIR programs were not aware that ineligible firms were participating until a company was challenged in 2001. They argued that SBA's ruling had not led to a decrease in SBIR grants to companies with venture capital funding, and they disagreed that the ruling that excluded some biotech firms was hurting the development of important therapies since the research had not stopped, (it was simply going to other biotech firms) ones deemed to be a small business, and the quality of research was the same or better after the SBA's OHA rulings. Opponents point to a GAO SBIR Report: "Small Business Innovation Research: Innovation on Awards Made by NIH and DoD in Fiscal Years 2001 through 2004," GAO–06–565 discussed below, to support their views.

Because no data existed on the impact of SBA's ruling, or the extent to which firms with venture capital participated and commercialized SBIR projects, Senators Kerry and Kennedy along with Senators Snowe and Enzi requested that the GAO undertake a review of awards at the NIH and DoD, the agencies that account for the largest share of SBIR awards out of the 11 that participate, and try to identify the extent to which venture capital plays in the program and the impact of the ruling on firms with venture capital and the SBIR program. Since the GAO could not determine which firms were majority owned by venture capital firms, the report results were inconclusive on the questions of participation by such firms in the SBIR program. However, the GAO could determine which ones had venture investment, and the results showed, that the SBIR grants to firms with venture investment actually increased, from 14 percent to 21 percent, rather than decreased, after the ruling.

The bill includes an amendment proposed by Senator Bond to allow concerning the participation of small firms which are majority-owned by venture capital in the SBIR program. It authorizes any participating agency, upon submitting a written determination to the Congressional small business committees, to permit Venture Capital SBIR Investment Companies (small businesses which are majority-owned by venture capital firms and qualify under the terms of this program) to compete for SBIR awards at such agency. The determination must demonstrate that using the authority will lead to additional venture funding of small business innovations, substantially contribute to the mission of the funding agency, or otherwise fulfill the capital needs of small business concerns for additional funding. The provision limits majority venture-owned firms to a maximum 25 percent of SBIR funds at the relevant agency. This figure represents a cap on the amount that can be awarded and is not an authorization for a set-aside for Venture Capital SBIR Investment Companies. Although the legislation says that the head of each participating agency may "direct" not more than that amount toward this purpose, the use of the word "direct" should not be interpreted as a set-aside. This distinction is important because, as Senator Kerry noted at the markup, the legislation says that the head of each participating agency may "direct" not more than that amount toward this purpose, and there was concern that the use of the word "direct" would be wrongly interpreted as a set-aside, reducing to 75 percent the Federal research and development funds for the other small technology firms, including firms with venture capital funding that are not majority owned.

The Bond amendment derives its 25 percentage cap on SBIR awards to qualified majority venture-owned small U.S. firms from the 21 percent participation rate by venture-backed firms in the NIH SBIR Program during 2003 and 2004, as found by the GAO. As noted above, the GAO was unable to determine the extent of SBIR participation by majority venture-owned firms. However, opponents contend that the percentages do not correspond because the 25 percent cap is for companies majority owned by venture firms and the 21 percent should have excluded majority owned firms, because it was derived from data captured after the SBA's rulings and it is assumed the agencies were following SBA's OHA rulings.

Another void identified during this process was data. The participating agencies are not required to, and therefore do not have, information about the extent to which firms are owned and controlled by venture capital firms. To try and address this, the bill requires that SBIR venture capital portfolio companies register with the

SBA. This requirement is similar to the Small Business Investment Company (SBIC) registration requirement.

Finally, the amendment requires that both the venture companies which own the small firms and the small firms which are venture portfolio companies be United States companies. The bill also requires that the SBA small business affiliation rules are satisfied, which means that the SBIR applicant together with its venture capital company parent and all affiliated companies must have less than 500 employees.

It is the Committee's intent that the increase in the program level and the Venture Capital SBIR Investment Company program be adopted and enacted together as contained in the bill. The doubling of the SBIR and the STTR programs phased in over five years, would provide more than $1.5 billion in new funding opportunities to non-venture-backed small businesses, which proponents contend will hold harmless the firms that are not majority owned by venture capital firms.

Further, the bill includes an amendment proposed by Senator Coleman during mark-up which creates new program that provides for up to $10,000 a year in grants to SBIR firms in order to encourage them to hire science, technology, engineering, and mathematics students.

TITLE XVI—NATUVE AMERICAN SMALL BUSINESS DEVELOPMENT

Created by Executive Order, the SBA's Office of Native American Affairs began operations in FY 2003 to implement the agency outreach program for Native American communities on or near Tribal lands. The bill codifies the Office of Native American Affairs, and outlines the qualifications and responsibilities of the Office and its head. Additionally, the section establishes a program that provides financial assistance (grants, without a matching requirement, contracts, or cooperative agreements) to tribal governments, tribal colleges, Native Hawaiian organizations, and Alaska Native corporations to create Native American business centers. These centers shall conduct five year projects that offer culturally tailored business development assistance. A Native American business center may enter into a contract or cooperative agreement with a Federal department or agency to provide specific assistance to Native American and other under-served small business concerns located on or near tribal lands, to the extent that such contract or cooperative agreement is consistent with the terms of any federal assistance received by the Native American business center. This program would be authorized at $5 million per year for Fiscal Years 2006 through 2010.

The bill establishes two Native American small business development pilot programs. First, the Native American Development Grant Pilot Program awards Native American development grants to provide culturally tailored business development training and related services to Native Americans and Native American small business concerns. The grants may be awarded to (i) any small business development center, or (ii) any private, nonprofit organization that has members of an Indian tribe comprising a majority of its board of directors, is a Native Hawaiian organization; or an Alaska Native corporation. The program would be authorized at $1 million per year for Fiscal Years 2006 through 2009.

Second, the American Indian Tribal Assistance Center Grant Pilot Program awards not less than three American Indian Tribal Assistance Center grants to establish joint projects to provide culturally tailored business development assistance to prospective and current owners of small business concerns located on or near tribal lands. The program would be authorized at $1,000,000 per year for Fiscal Years 2006 through 2009.

The Native American small business development programs contained in S. 3778, incorporate language from the Native American Small Business Development Act (S. 1907), introduced by Senator Johnson and cosponsored by Senators Kerry, Pryor, Cantwell, Akaka, Stabenow, Boxer, Dorgan, Inouye, Murray, Smith and Enzi, and an amendment sponsored by Senators Thune and Enzi.

TITLE XVII—SMALL BUSINESS REGULATORY ASSISTANCE

The Committee continues to strongly advocate for a targeted regulatory reform agenda that would reduce the burdens that Federal regulations bear on small businesses. Small businesses are absolutely essential to the health of the U.S. economy and any future growth, especially in a globally competitive world, will be dependent on the success of the small business and entrepreneurial sector of the economy. We need to assist the nation's 25 million small businesses by stimulating innovation and creativity, lowering the costs of starting and operating a business, and providing the tools and resources that small businesses need to grow and expand, create new jobs, and drive America's economy. Small business entrepreneurs are risk takers who persevere through good times and tough times and are currently producing over 50 percent of our Gross Domestic Product and creating approximately three-quarters of all new jobs.

Unfortunately, over the past twenty years, the number and complexity of Federal regulations have multiplied at an alarming rate. These regulations present a much greater burden on small businesses than larger businesses. A recent report prepared for the SBA's Office of Advocacy found that in 2004, the per-employee cost of federal regulations for firms with fewer than 20 employees was $7,647. That number is 44.8 percent higher than the $5,282 per-employee cost faced by businesses with 500 or more workers.

At the same time, small business owners have found it increasingly difficult to meet their regulatory obligations while trying to successfully operate their businesses. In many cases, small business owners do not learn about their failure to comply with a regulation until it is too late and an inspector or auditor walks through the door. The Committee believes that small business owners need additional compliance assistance tools and resources to both understand and comply with complex regulatory actions. To that end, Senator Kerry also introduced the National Small Business Regulatory Assistance Act, S. 1411, cosponsored by Chair Snowe.

The bill establishes a pilot project for SBDCs to expand their small business regulatory compliance assistance programs. The title capitalizes on the current SBDC structure, which provides management and technical assistance counseling and educational programs to small business owners across the country. Currently, there are over 1,100 SBDC service locations in every state and territory.

The bill also establishes a four-year pilot program to provide resources to SBDCs so they may provide free regulatory compliance assistance and counseling to small business owners. Section 1703 would require the SBA to provide matching grants to SBDC programs in two states in each of the SBA's 10 regions. The grants would be more than $150,000, but less than $300,000 and shall be consistent with the matching requirement under current law. The bill also authorizes $5 million in appropriations for the first fiscal year beginning after the date of enactment, and $5 million in appropriations for each of the three subsequent fiscal years.

The bill also requires the SBDCs to use the grants to provide: access to information and resources, including current Federal and State non-punitive compliance and technical assistance programs; conduct training and educational activities; and offer confidential, free-of-charge, one-on-one, in-depth counseling to small business owners regarding compliance with Federal regulations.

SBDCs participating in the pilot program would be required to submit a quarterly report, and the SBA would have responsibility for evaluating the pilot program and making recommendations on the extension of the program to other SBDCs. Finally, the SBA would promulgate final regulations to carry out the pilot program within 180 days of passage.

Small businesses and entrepreneurs are some of the world's greatest innovators and visionaries. They transform our lives at lightning speed and are a critical component of our nation's economic health and stability. It is critical to think forward and equip America's small businesses with the knowledge and tools to confront the challenges of tomorrow so that they can create jobs and continue to strengthen our economy. The Small Business Regulatory Assistance Title of the Small Business Reauthorization and Improvements Act of 2006 will significantly help to reduce the regulatory burdens on small businesses.

TITLE XVIII—SMALL BUSINESS INTERMEDIARY LENDING PILOT PROGRAM

This bill authorizes a new three-year pilot program in which the SBA may make loans to local non-profit lending intermediaries, and the intermediaries can then re-loan the funds to small businesses. The program seeks to address the capital needs of start-up and expanding small businesses that require flexible capital but may not be eligible for private or public venture capital. The pilot program is aimed at businesses that desire larger loans than can be provided under the SBA's Microloan program and that, for a variety of reasons, including lack of sufficient collateral, are unable to secure the credit with practicable terms through conventional lenders, even with the assistance of the 7(a) or 504 loan programs.

Through this pilot program, the SBA is authorized to make one percent, 20-year loans, on a competitive basis, to up to 20 non-profit lending intermediaries around the country, with a maximum amount of $1 million per loan. Intermediaries will not pay any fees or provide any collateral for their loans. Each 20-year loan will capitalize a revolving loan fund through which the intermediary will make loans of between $35,000 and $200,000 to small businesses. These subordinated-debt loans will be more flexible in collateral and general underwriting requirements than the SBA's other lending programs. In addition, intermediaries will assist their borrowers in leveraging the SBA funds to obtain additional capital from other sources. The pilot will test the impact of this program on job creation in rural and urban areas, especially among underemployed individuals.

Unlike the SBA Microloan Program, the intermediaries will receive no technical assistance grants. All administrative costs or technical support provided to small business borrowers will be covered by the interest-rate spread between the lending intermediary's one percent loan from the SBA and the interest rate on loans made to the small business borrowers, the rate for which will be set by the intermediary.

This program design has been utilized successfully in a similar program at the U.S. Department of Agriculture (USDA) that has provided loans to non-profit lending intermediaries since 1985. Under that program, no intermediaries have defaulted on their loans from the USDA, which are made at one percent and have terms of 30 years, and only two percent of intermediaries are currently delinquent on their loans. Unlike the USDA's program, which is limited to rural areas, the pilot will serve both urban and rural regions.

This pilot is designed to reach small businesses that 7(a) lenders will not reach due to the perceived higher risk of these businesses. Many states are fortunate to have a healthy network of community based, non-profit intermediary lenders that are experienced and successful in meeting the needs of small businesses. This pilot program will give them additional tools to stimulate the economy by creating jobs, including jobs for low income individuals—and by facilitating new lending and investing in businesses.

This section incorporates Senator Levin's bill, The Small Business Intermediary Lending Pilot Program Act of 2005, S. 416. This pilot was also included as part of the Small Business Administration 50th Anniversary Reauthorization Act of 2003, S. 1375, but was not included in the final reauthorization bill signed into law.

TITLE XIX—OTHER PROVISIONS

Compliance assistance

Over the past twenty years, the Federal Register, which chronicles administrative actions—including proposed and final agency rulemakings—has almost doubled in size. According to the SBA's Office of Advocacy, individuals and businesses spend more than $840 billion a year to comply with Federal regulations. The impact of Federal regulations is far more onerous and expensive on small businesses than larger businesses. If the Federal government promulgates a rulemaking, it must take precautions to ensure that the impact to small businesses by the rulemaking is properly assessed. Federal agencies should fully comply with the letter and intent of the Small Business Regulatory Enforcement Fairness Act (SBREFA), which the Senate unanimously passed in 1996. We must never forget the consequences of all potential governmental actions on the small businesses and entrepreneurs who are America's job creators and innovators.

To ensure that Federal agencies fully comply with existing SBREFA requirements and to provide small businesses with additional regulatory compliance tools, in April 2005, Chair Snowe introduced the Small Business Compliance Assistance Enhancement Act (S. 769). This bipartisan bill, which has been cosponsored by Senator Kerry would clarify existing requirements under Federal law so that agencies publish useful regulatory compliance guides for small businesses. Enacted in 1996, SBREFA purported to make the Regulatory Flexibility Act (RFA) more effective in curtailing the impact of regulations on small businesses. One of the most important provisions of SBREFA compels agencies to produce compliance assistance materials to help small businesses satisfy the requirements of agency regulations.

Unfortunately, Federal agencies have failed to achieve this requirement. In December 2001, the GAO issued a report (GAO–02–172) on federal agency compliance with Section 212 of SBREFA. Section 212 directs agencies to publish small entity compliance guides for those rules that require a Final Regulatory Flexibility Analysis (FRFA) under the Regulatory Flexibility Act (RFA). The intent is for small businesses to have easy access to detailed instructions that assist them in complying with complicated regulations. The GAO report concluded that agencies do a poor job of complying with the requirements of Section 212 of SBREFA, or ignore it entirely. The GAO found, among other things, that Section 212 does not appear to have had much of an impact in the agencies and years that we examined, and its implementation has varied across the agencies. The GAO also found that SBREFA's language is unclear in some places about what is actually required under Section 212.

Consequently, small businesses have been forced to figure out on their own how to comply with these regulations. This makes compliance that much more difficult to achieve, and therefore reduces the effectiveness of the regulations. That is why the Committee included in this bill, to close those loopholes, and to make it clear that Congress was serious when it instructed Federal agencies to produce quality compliance assistance materials to help small businesses understand how to deal with regulations.

Clarifying the requirements of Section 212 of SBREFA will provide targeted, significant, and immediate relief to small businesses across the country. The Committee has included a version of the Small Business Compliance Assistance Enhancement Act as Title XIX of the Small Business Reauthorization and Improvements Act of 2006.

The bill is drawn directly from existing GAO recommendations and is intended only to clarify an already existing requirement under SBREFA. It is not intended to impose any new rules and regulations on small businesses. Similarly, the compliance guides produced by the agencies will produce will be suggestions about how to satisfy a regulation's requirements, and will not impose further requirements or additional enforcement measures. Nor does this bill, in any way, interfere or undercut agencies' ability to enforce their regulations to the full extent they currently enjoy. Bad actors must be brought to justice, but if the only trigger for compliance is the mere threat of enforcement, then agencies will never achieve the goals at which their regulations are directed.

The bill clarifies existing requirements under SBREFA that agencies publish small business compliance guides to help small businesses understand how to comply with complicated Federal regulations. This section would ensure that Federal agencies produce these small business compliance guides when the agencies promulgate rules that would have a significant impact on a substantial number of small businesses.

Closely tracking the GAO's recommendations, the Committee has included in reforms to SBREFA that would achieve the following:

First, clarification of how a small business compliance guide shall be designated. Section 212 currently requires that agencies must "designate" the publications prepared under the section as small entity compliance guides. However, the form in which those designations should occur is not clear. Consistent use of the phrase "Small Entity Compliance Guide" in the title could make it easier for small entities to locate the guides that the agencies develop, particularly when using on-line searching methods—a technology that was not in wide use when SBREFA was passed in 1996. Thus, agencies would be directed to publish guides entitled "Small Entity Compliance Guide."

Second, clarification of how a guide shall be published. Section 212 currently states that agencies "shall publish" the guides, but does not indicate where or how they should be published. At least one agency has published the guides as part of the preamble to the subject rule, thereby requiring affected small entities to read the complex Federal Register to obtain the guides. The bill directs agencies at a minimum, to make their compliance guides available through their websites in an easily accessible way. In addition, agencies would be directed to forward their compliance guides to known industry contacts such as small businesses or associations with small business members that will be affected by the regulation. Section 212 already allows agencies to work with industry representatives such as associations in developing these guides, which should give agencies solid contacts for distribution of the guides.

Third, clarification of when a guide shall be published. Section 212 also does not indicate by when the compliance guides are to be published. Therefore, even if an agency is required to produce a compliance guide, it can claim that it has not violated the publishing requirement because there is no clear deadline. The bill would instruct them to publish the compliance guides simultaneously with, or as soon as possible after, the final rule is published, provided that the guides must be published no later than the effective date of the rule's compliance requirements.

Finally, clarification of the term "compliance requirements." The term "compliance requirements" also needs to be clarified. At a minimum, compliance requirements must identify what small businesses must do to satisfy the requirements and how they will know that they have met those requirements. This could include a description of the procedures a small business might use to meet the requirements. For example, if, as is the case with many OSHA and EPA regulations, testing is required, the agency should explain how that testing might be conducted. The section clarifies that this procedural description would be merely suggestive—an agency would not be able to enforce this procedure if a small business was able to satisfy the requirements through a different approach. Also, these procedures should not be additional requirements related to the rule.

The Committee believes that the bill addresses a longstanding problem small businesses have faced in their attempts to comply with agency regulations. It would be a "good government" type of measure that would ultimately yield more compliance from small businesses who are oftentimes too small to be subject to enforcement. If an agency cannot explain to a small business how to comply with their regulation, the agency should reconsider how that regulation is written. The bill should have virtually no Federal budget impact other than agency staff time to produce these guides.

Appointment of officials

This provision requires the SBA to appoint the following officials of the Administration with the advice and consent of the Senate: the General Counsel; the Associate Deputy Administrator for Capital Access; the Associate Deputy Administrator for Management and Administration; the Associate Deputy Administrator for Entrepreneurial Development; the Associate Deputy Administrator for Government Contracting and Business Development; and, the Associate Administrator for Disaster Assistance.

Second-stage pilot program

At the request of Senator Allen on behalf of Senator Santorum, this amendment establishes a three-year pilot program to: (1) identify second-stage small business concerns that have the capacity for significant business growth and job creation; (2) facilitate business growth and job creation through the development of peer learning opportunities; (3) utilize the network of SBDCs to expand access to peer learning opportunities; and (4) assist businesses owned by minority individuals, service-disabled veterans, and women.

The bill requires that no later than 60 days after regulations are established, the Administrator will select two eligible entities from 10 regions around the country. A grant given to an eligible entity will not be less than $50,000 and the money is to be used for identifying second-stage small business concerns in the service delivery areas of the entity and for establishing peer learning opportunities. The grant will also be matched from sources other than the Federal Government that is equal to the grant, or (1) in the case of a community college, historically Black college, Hispanic serving institution, or other minority institution, 50 percent of the grant; (2) not less than 50 percent cash; (3) not more than 50 percent comprised of indirect costs and in-kind contributions; and (4) does not include indirect costs or contributions from any Federal program.

The bill requires that each entity receiving a grant shall submit to the Administrator, in electronic form, a quarterly report on the program. The Administrator will submit to the President and Congress, no later than November 1st of each year, a report evaluating the pilot program for the previous year. No later than three years after the establishment of the pilot program, the Comptroller General of the U.S. shall evaluate the program and transmit to Congress and the Administrator a report containing the results. The bill authorizes $1.5 million per Fiscal Year 2007 through 2009.

PRIME reauthorization

The Program for Investment in Microentrepreneurs (PRIME) was created in 1999 when the PRIME Act was incorporated and amended in the Gramm-Leach-Bliley Act as part of the U.S. Department of the Treasury's Community Development Financial Institutions Program. At that time, the conferees chose to have the program administered by the SBA. However, the statutory provisions were never moved to the Small Business Act.

The bill reauthorizes PRIME and transfers the statutory language for PRIME to the Small Business Act. PRIME is a program to provide grants to intermediaries that use the funds to: (1) train other intermediaries to develop microenterprise training and services programs; (2) research microenterprise practices; or (3) provide training and technical assistance to disadvantaged entrepreneurs. This section adds a data collection provision and reauthorizes the program at $15 million for Fiscal Years 2007, 2008 and 2009.

The provisions in this bill originated in the SBA Microenterprise Improvements Act (S. 138), introduced by Senator Kerry in January 2005 and cosponsored by Senators Bingaman and Lieberman. They were included in S. 1375 as passed by the Senate but were not included in the final small business reauthorization bill signed into law.

Child care lending

Recognizing the critical need for child care in the United States, the bill includes a pilot program to allow small non-profit child-care providers to participate in the 504 program.

This three-year pilot program is the product of work on this issue in both the 107th and 108th Congress. During a Committee roundtable on May 1, 2003, the Committee heard from participants in the child-care industry regarding the shortage of affordable child care in the United States. This shortage continues to be an issue with an estimated six million children left at home on a regular basis, according to the Census Bureau. This three-year pilot program responds to that shortage by enabling lenders to make 504 loans to qualifying non-profit child-care providers. Currently, 504 loans can be made to for-profit child-care providers. The pilot program will be available through Fiscal Year 2009.

While neither the SBA nor its specific loan programs are designed to serve non-profit entities, the Committee believes that non-profit child-care providers warrant special consideration because the industry is unique and the shortage is so severe in many states. In addition, in order to qualify for certain types of Federal assistance for low income families, such as meal assistance, a child-care provider may be required to organize as a non-profit, rather than a for-profit, entity, which can have a negative impact on the entity's ability to obtain necessary capital. Whereas most service industries are made up of for-profit businesses, in many states a significant portion of child care is delivered through non-profits, and in the neediest communities non-profits are often the only child-care providers. The Committee recognizes that entrepreneurs and employees, particularly women, cite a lack of child care for their children as a substantial obstacle to their ability to be more actively involved in the small business sector of the economy.

The Committee notes that permitting non-profit child-care providers to participate in the 504 program is not completely unprecedented. The SBA's microloan program has permitted loans to be made to non-profit child-care providers since 1997, and the SBA's disaster loan program makes loans to non-profits, such as religious entities.

The Committee stresses, however, that it does not intend to expand the SBA's loan programs to other types of non-profit entities in the future. The fundamental purpose of the SBA is to foster profitable small businesses and the entrepreneurs who start them. In order to ensure that this pilot program does not impede the ability of for-profit businesses to access capital through the 504 loan program, the bill limits the pilot program to seven percent of the number of 504 loans guaranteed in any year. Currently, less than 2 percent of 504 loans are made to for-profit child-care providers.

Moreover, the Committee recognizes that in some circumstances, 504 loans to certain non-profit child-care providers could be based on collateral that may be difficult for the lender to access. In light of that potential, the bill requires that the collateral provided for a loan be owned directly by the child-care provider. The loan also must be personally guaranteed, and the borrower must have sufficient cash flow from its normal operations to both make its loan payments and pay for customary operating expenses. Furthermore, the bill directs the GAO to provide to Congress a comprehensive report analyzing the pilot program, as the program nears the end of its three-year pilot period.

The section incorporates the provisions of the Child Care Lending Pilot Act of 2006 (S. 2646), which Senator Kerry introduced on April 25, 2006 and was included in the Small Business Administration 50th Anniversary Reauthorization Act of 2003, S. 1375 but was not included in the final small business reauthorization bill signed into law.

Study on the impact of Low-Doc program

Requested by Senator Coleman, this section provides that not later than three months after the date of enactment of this Act, the Administrator shall undertake a study on the elimination of the Low Doc Program. The study shall examine: (1) the effectiveness of the Low Doc program on rural communities; (2) the effect of the program's elimination on rural lending; and (3) the overall accessible and effectiveness of rural lending for rural communities.

The Administrator must submit to the Senate Committee on Small Business and Entrepreneurship and the House Committee on Small Business a report containing the results of the study and recommendations for program improvement.

Enforcement Ombudsman

At the request of Senator Burns, this section assists small businesses with bringing cases or complaints, formal or informal, before federal regulatory boards and agencies, including, but not limited to, the Surface Transportation Board, the Environmental Protection Agency, the Occupational Health and Safety Administration, and the Federal Communications Commission.

Minority Entrepreneurship and Innovation Pilot Program of 2006

This section was based on legislation introduced by Senator Kerry, the Minority Entrepreneurship and Innovation Pilot Program of 2006, (S. 2586), in April 2006, and cosponsored by Senator Lieberman. Modeled after a program launched by the Kauffman Foundation, the goal of this section is to target minority students who are pursuing careers in highly skilled fields such as engineering, manufacturing, science and technology, and guide them towards entrepreneurship as a career option. Minority-owned businesses already participate in a wide variety of industries, but are disproportionately represented in traditionally low-growth and low-opportunity service sectors. Promoting entrepreneurial education to undergraduate students at colleges and universities expands the pool of potential business owners to technology, financial services, legal services, and other "non-traditional" areas in which the overall development of minority firms has been slow. Growing the size and capacity of existing minority firms and promoting entrepreneurship among minority students already committed to higher education will have a direct relationship on the employment rate, income levels and wealth creation of minorities throughout the nation.

Beyond offering business courses, this program is intended to transform the way colleges and universities prepare students for success by making entrepreneurship education available across campuses that serve large minority populations. The goal is to enable any student, regardless of field of study, to access entrepreneurial training and to involve faculty and students from a variety of academic disciplines.

Specifically, the bill directs the Administrator of the SBA to make grants to Historically Black Colleges and Universities, Tribal Colleges, and Hispanic serving institutions, or to any entity formed by a combination of such institutions: (1) to assist in establishing a campus-wide entrepreneurship curriculum for undergraduate or graduate studies; and (2) for the placement of SBDCs on the physical campus of the institution. The bill requires an institution of higher education receiving a grant to: (1) develop a curriculum that includes training in various skill sets needed by successful entrepreneurs, including business management and marketing, financial management and accounting, market analysis and competitive analysis and innovation and strategic planning; and (2) open a SBDC to provide business counseling, training and referrals to small businesses in the local community surrounding the campus. The SBDC is intended to foster a culture of entrepreneurship on the campus by bringing together the local small business community and the academic community, the faculty and students. Recognizing the economic challenges faced by many of these campuses serving minority communities, the institutions are not required to provide matching funds for the establishment of the SBDC.

The bill authorizes the pilot program for two fiscal years, to provide grants of $500,000 per fiscal year for institutions of higher education, and it authorizes appropriations of $10 million for each of FY 2007 and 2008.

The bill also includes protections to ensure that the funds are not diverted to other campus expenses or budgets not directly related to implementation of the Minority Entrepreneurship and Innovation program.

Office of Native American Affairs pilot program

To identify and implement Native American economic development opportunities available from the Federal Government and private enterprise, the SBA's Office of Native American Affairs is directed to develop and publish a self-assessment tool for Indian tribes that will allow such tribes to evaluate and implement best practices for economic development, and provide assistance to Indian tribes, through the Inter-Agency Working Group.

Institutions of higher education

The bill requires SBDC grantees that are institutions of higher education to be accredited and grandfathers any SBDC grantee institution of higher education that is not yet accredited but is seeking accreditation.

III. COMMITTEE VOTE

In compliance with rule XXVI(7)(b) of the Standing Rules of the Senate, the following votes were recorded on July 27, 2006.

A motion by Senator Snowe to adopt the following two amendments which each passed by voice vote:

(1) Senator Coleman's amendment to establish a five-year SBIR–STEM workforce development grant pilot program to encourage small businesses to provide short-term opportunities for those college students who major in the fields of science, technology, engineering and math. Specifically, the proposal would provide SBIR grantees with a 10 percent bonus grant (i.e. 10 percent of either Phase I or Phase II grant) with a total award maximum of up to $10,000 per year that provide opportunities such as internships for STEM students.

(2) Senator Bond's amendment caps awards to majority venture-owned companies at 25 percent of SBIR funds at participating agencies. The amendment also preserves the 500 employee cap and preserves U.S. ownership of SBIR applicant firms.

A motion by the Chair to adopt the Small Business Reauthorization and Improvements Act of 2006 as amended, to reauthorize 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: Snowe, Kerry, Bond, Burns, Allen, Coleman, Thune, Isakson, Vitter, Enzi, Cornyn, Levin, Harkin, Lieberman, Landrieu, Cantwell, Bayh, Pryor.

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.

NOVEMBER 15, 2006.

Hon. OLYMPIA J. SNOWE,
Chair, Committee on Small Business and Entrepreneurship
U.S. Senate, Washington, DC.

DEAR MADAM CHAIR: The Congressional Budget Office has prepared the enclosed cost estimate for S. 3778, the Small Business Reauthorization and Improvements Act of 2006.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Susan Willie.

Sincerely,

DONALD B. MARRON,
Acting Director.

Enclosure.

Summary: S. 3778 would authorize funding over the 2007–2009 period for operations of the Small Business Administration (SBA) and would make a number of amendments to SBA loan programs, programs that support entrepreneurship, and programs that support preferences for small business in government contracting.

Assuming appropriation of the necessary amounts, CBO estimates that implementing S. 3778 would cost about $5.1 billion over the 2007–2011 period. About $2.8 billion of this amount is the estimated subsidy and administrative cost of continuing SBA credit programs, and about $2.1 billion would be for SBA's noncredit programs and activities. The remaining amount, about $0.2 billion, is the estimated cost of governmentwide efforts to provide small business contracts with the federal government and amendments to an emergency loan program administered by the Department of Agriculture (USDA). By making certain expiring funds available to be spent, CBO estimates that enacting this bill would increase direct spending by $915 million over the 2007–2016 period. Enacting the bill would have no significant effect on revenues.

S. 3778 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Major Provisions: Major provisions of S. 3778 include:

2. Title I would set the maximum amounts of small business loans that could be guaranteed by SBA for fiscal years 2007 through 2009, authorize appropriation of funds for the Service Corps of Retired Executives (SCORE) program, the Paul Coverdell drug-free workplace program, the Office of Veterans Business Development, the small business development center program, and grants under the New Markets Venture Capital program and the microloan program. This title also would authorize the appropriation of such sums as may be necessary for fiscal years 2007 through 2009 for salaries and expenses of the SBA, the disaster loan program, and expenses related to the Small Business Investment Act.

4. Title III would establish a new Small Business Investment Company (SBIC) program, the participating debentures program, to replace the participating securities program. Title III also would amend the terms of participation for loans made in prior years under the participating securities program, and would amend the loss-reserve requirement under the Premier Certified Lenders Program.

6. Title IV would authorize five new loan and loan guarantee programs that would benefit small businesses, agricultural producers, and states adversely affected by disasters. In addition, the bill would broaden the existing disaster loan program by extending economic injury loans to nonprofits, increasing some loan limits, and changing the formula for calculating mitigation loans. The bill also would authorize grants of up to $25,000 to businesses adversely affected by the call-up of employees who are reservists.

8. Titles V, VII, VIII, XVI, and XVII would authorize the appropriation of funds for various programs to support entrepreneurship including the Office of Veterans Business Development, the Women's Small Business Development Program and the Women's National Small Business Council, and the BusinessLINC program. This title also would authorize the appropriation of funds for pilot programs to distribute health insurance information to small businesses, support Native American small business development, and help small businesses comply with federal regulations.

10. Titles X, XI, XII, XIII, and XIV would make changes to programs that give preference to small businesses in government contracting.

12. Titles XVII and XIX would create a pilot program to make mid-sized loans through intermediaries and another pilot program that would allow certified development companies to make loans to nonprofit child care centers.

The remaining titles of the bill would have no significant effect on the budget.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 3778 is shown in Table 1. The costs of this legislation fall primarily within budget function 350 (agriculture), 450 (community and regional development) and 370 (commerce and housing credit).

TABLE 1.—CHANGES IN SPENDING SUBJECT TO APPROPRIATION AND DIRECT SPENDING

	By fiscal year, in millions of dollars—				
	2007	2008	2009	2010	2011
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Changes to SBA Spending:					
Estimated Authorization Level	1,304	1,354	1,391	643	666
Estimated Outlays	648	1,048	1,273	1,101	871
Changes to Federal Procurement Spending:					
Estimated Authorization Level	32	32	32	30	30
Estimated Outlays	22	29	31	31	31
Changes to USDA Emergency Loans:					
Estimated Authorization Level	3	3	3	3	0
Estimated Outlays	2	3	3	3	1
Total Changes to Spending Under S. 3778:					
Estimated Authorization Level	1,339	1,389	1,426	676	696
Estimated Outlays	672	1,080	1,307	1,135	903
CHANGES IN DIRECT SPENDING					
Estimated Budget Authority	90	825	0	0	0
Estimated Outlays	80	750	85	0	0

NOTE: SBA = Small Business Administration; USDA = Department of Agriculture.

Basis of estimate: For this estimate, CBO assumes that the bill will be enacted early in 2007 and that the necessary amounts will be appropriated near the start of each year. Outlay estimates are based on historical spending patterns for existing or similar programs. CBO estimates that implementing S. 3778 would result in discretionary outlays of $5.1 billion over the 2007–2011 period, assuming appropriation of the necessary amounts. CBO estimates that enacting the bill also would increase direct spending by $915 million over the 2007–2016 period. Enacting the bill would have no significant effect on revenues.

Spending subject to appropriation

S. 3778 would authorize SBA to continue its direct loan and loan guarantee programs as well as grants to small businesses for fiscal years 2007 through 2009. Based on information from SBA and historical spending patterns for the agency's programs, CBO estimates that implementing those provisions would cost $4.9 billion (including about $2.8 billion for loan program subsidies and administrative costs) over the 2007–2011 period, assuming appropriation of the necessary amounts (see table 2). The bill also would authorize changes in programs outside of SBA; CBO estimates that those provisions would cost about $0.2 billion over the 2007–2011 period.

Almost three-quarters of the discretionary spending authorized by this bill for credit programs would be for disaster-related loan programs. In 2006, the Congress appropriated about $1.7 billion to SBA to make disaster loans following the 2005 Gulf Coast hurricanes. CBO expects that the future demand for disaster loans will be lower than that experienced following the Gulf Coast hurricanes, and instead will likely be similar to the historical demand for those loans over the 2001–2005 period. Thus, the estimated annual cost of implementing S. 3778 is less than what SBA spent in 2006.

For nondisaster programs, the bill would authorize SBA to guarantee loans and to make direct loans to businesses with a total loan value up to $32 billion in 2007, $34 billion in 2008, and $37 billion in 2009. By comparison, the authorized loan level for 2006 is about $28 billion and the agency funded direct and guaranteed loans worth about $20 billion in that year. S. 3778 also would authorize the agency to offer new types of direct loans and loan guarantees to small businesses, agricultural producers, and states that have been adversely affected by disasters. Table 3 shows the loan levels that would be authorized by the bill, the estimated subsidy and administrative costs for those loans, as well as the cost of amendments to SBA grant programs and other activities authorized by the bill.

TABLE 2.—CHANGES IN SBA SPENDING SUBJECT TO APPROPRIATION UNDER S. 3778

	By fiscal year, in millions of dollars—					
	2006	2007	2008	2009	2010	2011
SPENDING SUBJECT TO APPROPRIATION						
SBA Spending Under Current Law:						
Budget Authority[1]	1,628	0	0	0	0	0
Estimated Outlays	929	1,114	543	119	7	0
Proposed Changes:						
SBA Loan Programs:						
Estimated Authorization Level	0	721	751	785	353	376
Estimated Outlays	0	440	678	757	562	403
Noncredit Programs:						
Estimated Authorization Level	0	583	603	606	290	290
Estimated Outlays	0	208	370	516	539	468

TABLE 2.—CHANGES IN SBA SPENDING SUBJECT TO APPROPRIATION UNDER S. 3778—Continued

	By fiscal year, in millions of dollars—					
	2006	2007	2008	2009	2010	2011
Total, Changes to SBA Spending:						
Estimated Authorization Level	0	1,304	1,354	1,391	643	666
Estimated Outlays	0	648	1,048	1,273	1,101	871
SBA Spending Under S. 3778:						
Estimated Authorization Level	1,628	1,304	1,354	1,391	643	666
Estimated Outlays	929	1,762	1,591	1,392	1,108	871

[1] The 2006 level is the amount appropriated for that year; a full year appropriation for SBA has not yet been provided.

The Federal Credit Reform Act (FCRA) of 1990 requires an appropriation of subsidy costs and administrative costs associated with loan guarantees and direct loan program operations. The subsidy cost is the estimated long-term cost to the government of a direct loan or a loan guarantee, calculated on a net-present-value basis, excluding administrative costs. Administrative costs, recorded on a cash basis, include activities related to making, servicing, and liquidating loans, as well as overseeing the performance of lenders.

The bill does not specify an explicit authorization for either the subsidy or the administrative costs for SBA's guaranteed, direct, or disaster loans; CBO estimated these amounts using historical information about the operation of those programs. We assume that administrative activities related to existing loans would continue to be authorized beyond the 2007–2009 period for which new loans would be authorized.

TABLE 3.—ESTIMATED LOAN LEVELS, SUBSIDY, ADMINISTRATIVE, AND OTHER NONCREDIT COSTS UNDER S. 3778

	By fiscal year, in millions of dollars—				
	2007	2008	2009	2010	2011
Authorized Loan Levels					
Disaster Loans [1]	1,578	1,648	1,708	28	0
Guaranteed and Direct Business Loans	31,817	34,417	37,017	0	0
Loan Subsidy Costs					
Disaster Loans: [1]					
Estimated Authorization Level	366	386	410	3	0
Estimated Outlays	185	340	396	204	40
Guaranteed and Direct Business Loans:					
Estimated Authorization Level	44	44	44	0	0
Estimated Outlays	23	42	42	20	1
Loan Administration Costs					
Disaster Loans:					
Estimated Authorization Level	186	194	202	218	239
Estimated Outlays	143	179	194	210	229
Guaranteed and Direct Business Loans:					
Estimated Authorization Level	128	130	132	135	137
Estimated Outlays	91	120	128	131	134
SBA Noncredit Programs					
Estimated Authorization Level	583	603	606	290	290
Estimated Outlays	208	370	516	539	468
Procurement and Contracting Preferences					
Estimated Authorization Level	32	32	32	30	30
Estimated Outlays	22	29	31	31	31

[1] Includes USDA emergency producer loans.

Disaster Loan and Grant Programs. S. 3778 would authorize five new direct loan or loan guarantee programs that would benefit small businesses, agricultural producers, and states adversely affected by disasters. It also would reauthorize and modify the current disaster loan program for businesses and homeowners. Assuming appropriation of the necessary funds, CBO estimates that implementing these provisions would cost about $2.1 billion over the 2007–2011 period.

Reauthorization of and Amendments to the Disaster Loan Program. S. 3778 would reauthorize the disaster loan program through 2009. In addition, the bill would broaden the disaster loan program by making economic injury loans available to nonprofit organizations, increasing some loan limits, and changing the formula for calculating loan amounts for loans to mitigate damages from natural disasters.

For this estimate, CBO expects that demand for SBA's disaster loans would be similar to the average historical rate of demand over the 2001–2005 period—excluding the large volume of loans (in 2006) following the unusually severe 2005 Gulf Coast hurricanes. We estimate that demand for disaster loans would increase from the historical average by about 10 percent because of the provisions in the bill that broaden the scope of the existing disaster loan program. CBO estimates that SBA would make disaster loans worth $875 million a year over the 2007–2009 period. Over the 2001–2005 period, annual loan volume for the disaster loan program has ranged from about $650 million to over $1 billion.

The Administration estimates that the subsidy rate for disaster loans is about 15 percent, based on the historical performance of those loans. CBO has adopted that rate for estimating subsidy costs under the regular disaster loan program. Assuming appropriation of the necessary amounts, CBO estimates that reauthorizing this program would cost about $395 million over the 2007–2011 period for loan subsidy costs. In addition, CBO estimates that it would cost about $510 million over the 2007–2011 period to administer the disaster loan program and service the loans.

New Disaster Loan Guarantee Program. Section 401 would establish a new loan guarantee program for small businesses located in an area impacted by a disaster. Under the proposal, a small business could apply directly to a private lender for a disaster loan instead of applying to the SBA, as under current law. Loan proceeds could be used for any authorized use under SBA's 7(a) program or the existing disaster loan program as well as to acquire and develop real estate for the purpose of selling or renting it. The loan limit on individual loans would be $3 million and the federal government would guarantee up to 85 percent of the loan. In addition, the federal government would pay a fee to the lenders for each loan originated under this program and could reduce the interest rate offered by private lenders by up to 3 percent.

Due to the uncertainty of when or where a disaster might strike, it is difficult to estimate demand for this new program. The terms of this new disaster loan guarantee program would be more favorable than those of the current 7(a) program, making it attractive to 7(a) borrowers who suffer a disaster. This new program would not have borrower-lender fees, and the interest rate would likely be lower than the 7(a) program due to the interest subsidy from SBA.

Based on information from SBA, CBO estimates that the subsidy rate for this new loan guarantee could range from 12 percent to 36 percent depending on the level of interest rate subsidy provided to the lenders. For this estimate, we assume that most of the demand for this private disaster loan program would come from current 7(a) borrowers who wish to refinance their current debt into this new program.

CBO expects that approximately 1 percent of the balance of outstanding 7(a) loan guarantees would reside within a declared disaster area and would refinance their loans under this new loan guarantee program each year. Depending on the location and severity of future disasters, the number of 7(a) borrowers that use the new program to refinance loans could vary significantly from year to year. Based on information from SBA, CBO estimates that the cumulative loan balance for the 7(a) program was about $55 billion at the end of 2006. CBO expects that the cumulative loan balance would continue to increase about 10 percent annually. We estimate that under this new loan program, lenders would make approximately $600 million in new loans in 2007 and $2.0 billion over the 2007–2011 period. CBO assumes that the SBA would guarantee 85 percent (the maximum guarantee level authorized) of those loans and would subsidize the interest rate at the maximum allowable level under the bill. Assuming appropriation of the necessary funds, CBO estimates that implementing this new loan guarantee program would cost about $110 million in 2007 and about $715 million over the 2007–2011 period. Also, CBO estimates that additional discretionary outlays for administrative costs would cost about $405 million over the 2007–2011 period.

New Disaster Loan Program for States. Section 452 would authorize the SBA to guarantee loans to states that have been adversely affected by a disaster. The legislation would authorize the SBA to develop regulations for this new loan program including appropriate uses of funds, loan terms, and loan processing fees. Currently, local governments may apply to the Federal Emergency Management Agency (FEMA) for loans if they have suffered a substantial loss of tax and other revenue following a disaster. Prior to the Gulf Coast hurricanes of 2005, demand for this program was very low. Following the catastrophic effects of the 2005 Gulf Coast hurricanes, the Congress authorized FEMA to provide up to $1 billion in loans to local governments.

For this estimate, CBO assumes that demand for this new loan guarantee program would occur following rare catastrophic events. Although CBO cannot predict the timing and severity of future disasters, we expect that this program would have a negligible cost over the next five years.

Catastrophe Loan Program. Under this bill, if a major disaster causes a significant amount of damage, the President could deem the event to be a catastrophe. If that designation were invoked, the SBA would be able to offer economic injury loans to small businesses nationwide that were adversely impacted by the catastrophe. The terms of this loan program would be identical to the terms of the economic injury loan program under current law. CBO cannot estimate the additional cost of this new loan program because CBO cannot predict the timing and severity of future disasters, nor whether the President might declare them to be catastrophic disasters. Over the next five years, however, we expect that program would have a negligible cost.

Energy Emergency Loan Program to Nonfarm Businesses. Section 472 would authorize the SBA to provide loans up to $1.5 million to small businesses that have suffered substantial economic injury as the result of a significant increase in the price of heating fuel since October 2004. Small businesses could use loan proceeds to convert heating systems from heating fuel to renewable or alternative energy sources.

The average size of an economic injury loan in the existing disaster loan program over the 2003–2005 period was about $75,000. The SBA has distributed an average of 1,300 economic injury loans over the 2003–2005 period. CBO estimates that demand for the energy emergency loan program would increase the number of economic injury loans by 40 percent. In addition, CBO assumes that loans made to cover operating costs associated with higher energy costs would be more risky than economic injury loans made under the regular disaster loan program. Therefore, CBO expects that subsidy costs associated with this program would be higher. The existing disaster loan program has a subsidy rate of 15 percent. Based on information from SBA, CBO estimates that such loans would have a subsidy rate of 20 percent. CBO estimates that implementing this loan program would cost $45 million in subsidy costs over the 2007–2011 period and about $40 million over the same period to service and administer those new loans.

Agricultural Producer Emergency Loans. Section 473 would amend a credit program administered by the Farm Service Agency of the USDA. The bill would expand eligibility for the emergency loan program to allow loans to producers with losses resulting from increased energy costs. The provisions expanding loan eligibility would expire four years after enactment. CBO estimates the proposed legislation would increase the volume of loans under the USDA program by about 40 percent and cost about $12 million over the 2007–2011 period, assuming appropriation of the necessary amounts.

Grants to Small Businesses. Section 453 would authorize SBA to provide up to $25,000 to small businesses with 10 or fewer employees that are adversely affected by the call-up of employees who are military reservists. The SBA currently provides economic injury loans to businesses with military reservists on the payroll. Over the 2002–2006 period, the SBA approved an average of about 50 such loans a year. CBO expects that demand for this grant program would also be low. For this estimate, CBO assumes that approximately 50 small businesses a year would receive grants under this new program. Assuming appropriation of the necessary funds, CBO estimates that implementing this provision would cost about $1 million a year.

Development and Implementation of Major Disaster Response Plan. Section 457 would authorize the SBA to amend and update its disaster response plan to include major and catastrophic disasters. Based on information from SBA, CBO estimates that implementing this provision would cost $1 million in 2007.

Guaranteed and Direct Business Loan Programs. S. 3778 would authorize direct loans and loan guarantees under SBA's business loan programs known as the 7(a), microloan, certified development company, and New Markets Venture Capital (NMVC) programs.

14. Under the 7(a) program, SBA provides limited guarantees on loans made by certain lending institutions to small businesses.

16. Under the certified development company program (also known as section 504 loans), SBA provides guarantees on debentures issued by certified development companies to provide funding to small businesses for major fixed assets such as land, structures, machinery, and equipment.

18. The microloan program provides direct loans to nonprofit lenders which then offer loans to small businesses just starting up, whose capital needs are too small to qualify for the 7(a) program.

20. The NMVC program provides guarantees on debentures issued by companies authorized by SBA to invest in small businesses located in low income areas.

The estimated subsidy rates for the different types of business loans and loan guarantees offered by SBA currently range from zero for 7(a) and section 504 programs to about 17 percent for the NMVC program. Incorporating program amendments in the bill and using historical demand and default rates for those loan programs, CBO estimates that the subsidy costs for the authorized levels of guaranteed and direct business loans would be $23 million in 2007 and about $128 million over the 2007–2011 period.

As specified in FCRA, subsidy rates do not reflect the administrative costs to service loan programs. CBO estimates that the administrative costs for the business loan programs authorized in the bill would be $91 million in fiscal year 2007 and $604 million over the 2007–2011 period, adjusted annually for anticipated inflation.

SBIC Participating Debenture Program. Through two programs—participating securities and debentures—SBA has provided funding to privately owned companies that provide venture capital to small businesses, known as small business investment companies (SBICs). SBICs are licensed by SBA and use a combination of financing from SBA and the private sector to provide capital to qualified small businesses.

Section 301 would establish a new SBIC program [1]—the participating debentures program—to replace the participating securities program, which ceased providing financing to SBICs in 2004. Under the new program, SBICs would issue participating debentures to SBA representing a pledge of interest payments and a balloon payment of principal at the end of the 10-year term of the debenture. Unlike the existing participating securities program, an SBIC would be considered to be in default under the new program if it failed to make required payments of principal and interest on participating debentures. The bill would authorize SBA to impose various fees on borrowers to reduce the program's subsidy cost to zero.

The participating debentures program would include a profit component similar to that of the participating securities program. Before an SBIC would be able to make profit distributions, it would be required to fully repay all principal and interest due on its participating debentures. After full repayment of the participating de-

[1] Congressional Budget Office, letter to the Honorable Judd Gregg (October 17, 2005).

bentures, SBICs would be required to use gross receipts received to make profit distributions to both SBA and private investors.

CBO recognizes the risk associated with these investments and assumes that profit distributions received would be similar to returns on a federally owned investment portfolio. In estimating such returns on risky investments, CBO's practice is to adjust the rate of return to account for that risk. CBO used the Treasury interest rate (the standard proxy for the return on a risk-free investment) to estimate the cash flow from profits that would be available for distribution.

Before incorporating fees, CBO estimates that the subsidy rate for loans under this program would be between 15 percent and 20 percent. That means, for example, if SBA were to make $100 million in participating debenture loans, it would need to collect fees over the loan term with a total net present value of between $15 million and $20 million to fully offset the estimated cost of loans under the program. The estimated subsidy rate results from costs to SBA for net losses of principal and interest due to defaults. The estimate incorporates a 40 percent rate of default and a 35 percent rate of recoveries on those defaults as well as a risk-adjusted profit component. Those assumptions are based on SBA's experience with the participating securities program, which is similar to the new participating debentures program.

Historically, SBA has charged fees to SBICs at various points in the financing process: one-time fees are levied at the time SBA makes a funding commitment to an SBIC and again when the SBIC draws down committed funds; an annual fee is charged on outstanding loan balances as well. S. 3778 would authorize SBA to charge guarantee fees to institutions that provide financing to SBA for the program. CBO expects that SBA will develop a fee schedule that will meet the bill's requirement that the participating debenture program operate at a zero subsidy rate. Accordingly, CBO estimates that implementing the participating debenture program would have no net cost.

Small Business Intermediary Lending Pilot Program. Section 1803 would authorize a three-year program to provide up to $20 million in direct loans ranging in size from $35,000 to $200,000 to nonprofit lenders over the 2007–2009 period. The Small Business Intermediary Lending Pilot Program would be established to make direct loans to nonprofit intermediaries which would, in turn, make loans to eligible small businesses. The program, modeled after the microloan program, would feature a 20–year loan term, an interest rate of 1 percent, and a two-year grace period. Based on information from SBA, CBO estimates that the subsidy rate for the program would be around 37 percent, largely due to the difference between the rate that SBA would borrow funds and the rate SBA would charge the borrowers. We estimate that the subsidy cost for the authorized loan amounts would be about $7 million over the 2007–2011 period.

SBA's Noncredit Programs. S. 3778 would authorize appropriations for several SBA programs that provide technical support and training to qualified small businesses, the salaries and expenses of the SBA and the disaster loan program, as well as expenses related to the Small Business Investment Act. Based on information from SBA, implementing these noncredit provisions of S. 3778 would cost $208 million in 2007 and about $2.1 billion over the 2007–2011 period, assuming appropriation of the necessary amounts.

CBO estimates that $775 million of that cost over the 2007–2011 period would be for programs including the SCORE program, the small business development company program, the Paul Coverdell drug-free workplace program, women's small business programs as well as veterans and Native American business development programs. Technical assistance grants under the microloan program and the New Markets Venture Capital program would also be included in this cost.

The bill also would create several new pilot programs including initiatives to provide health insurance information to small businesses, help small businesses comply with federal regulations, and promote entrepreneurship in minority communities. CBO estimates costs for those programs would total $87 million over the 2007–2011 period.

Salaries and expenses for SBA employees, other than those involved in the administration of direct loans and loan guarantees, make up the balance of the cost. CBO estimates the cost for grant administration, advocacy, and entrepreneurial programs—as well as programs to support preferences for small businesses in government contracting—would be about $1.2 billion over the 2007–2011 period. We assume that these costs will continue beyond the period in which loans would be authorized under this bill, adjusted annually for inflation.

Procurement and Contracting Preferences for Small Businesses. S. 3778 would make changes to a number of programs designed to increase the participation of small businesses in government procurement and contracting activities. Assuming appropriation of the necessary amounts, CBO estimates these provisions would cost about $22 million in 2007 and $144 million over the 2007–2011 period.

Specifically, section 1002 would require additional staff to be placed in each major federal procurement center and in certain states to help small businesses obtain federal contracts. This provision would cost $9 million in 2007 and $60 million over the 2007–2011 period. Section 1201 would authorize appropriations for the HUBZone program which provides preferences in federal government contracts for small businesses operating in economically distressed communities. The bill specifically authorizes the appropriation of $10 million annually for this program. And finally, the bill would require SBA and the Office of Management and Budget to expand administrative oversight and reporting requirements related to contract bundling, the practice of combining two or more contracts into a single agreement. CBO estimates these new oversight and reporting requirements would cost about $6 million annually over the 2007–2011 period.

Direct spending

Section 302 of the bill would require SBA to disburse certain funds committed to SBICs under the participating securities program under new terms and conditions. Under this provision, SBICs would have 60 days prior to the expiration date of the commitment to request the funds to be paid out by SBA. This new authority to request funds would apply to commitments made by SBA in 2002, 2003, and 2004; therefore, disbursements would occur through fiscal year 2009.

Through the participating securities program, SBA provided funding to privately owned and operated SBICs to make venture capital investments in qualified small businesses. SBICs would be required to share any profits earned from those investments with SBA.

Under the program, SBA issued a commitment to provide federal funds to an SBIC after analyzing the fiscal stability of the SBIC, including its ability to repay any funds received from SBA. The commitments were limited to a term of five years. During that time, an SBIC, after demonstrating an appropriate business need approved by SBA, could draw against the commitment, using the funds to invest in small business ventures or for operating liquidity. At the end of the five-year period, the funding commitments under this program expire and any unused amounts cease to be available to the SBICs. Section 302 would allow SBICs, in the 60-day period before the commitment would expire, to request payment of all committed funds without demonstrating a business need. Based on information from SBA, we estimate that about $1 billion in committed funds would be available to SBICs under this provision; we expect about 90 percent of the funds available would be requested by SBICs.

Prior to March 2005, the Administration treated the participating securities program as a credit program under FCRA, so costs for the loan guarantees were recorded on a net-present-value basis. The Administration no longer treats the participating securities program as a credit program, however, and now considers the program to be an equity investment in the operation of an SBIC. Because S. 3778 would authorize disbursement of committed-but-undrawn funds after the participating securities program was determined to be an equity investment rather than a loan guarantee, the full amount of the funds drawn (rather than the present value) would be charged to the program as direct spending on a cash basis. Based on information from SBA, CBO estimates the cost of this measure would be $80 million in 2007 and $915 million over the 2007–2011 period.

Intergovernmental and private-sector impact: S. 3778 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Estimate prepared by: Federal costs: Susan Willie, Julie Middleton, Matthew Pickford, and Greg Hitz. Impact on State, local, and tribal governments: Sarah Puro. Impact on the private sector: Craig Cammarata.

Estimate approved by: Peter H. Fontaine, Deputy 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.

In fact, the Committee believes that the Small Business Reauthorization and Improvements Act of 2006 will significantly reduce the economic impacts of regulations on individuals, consumers, and small businesses across the country. For example, the Compliance Assistance Title improves a landmark small business law, the Small Business Regulatory Enforcement Fairness Act (SBREFA)—which originally intended to aid small businesses in understanding and complying with federal regulations. SBREFA requires that Federal agencies publish a small business compliance assistance guide when the agencies promulgate rules that will have a significant impact on a substantial number of small businesses. Unfortunately, Federal agencies have done a poor job of meeting a basic requirement of SBREFA over the years. The end result is small businesses have been forced to figure out how to comply with these regulations on their own, wasting time and creating confusion that SBREFA was supposed to help prevent. In many instances, small business owners do not learn about their failure to comply with a regulation until it is too late and an inspector or auditor walks through the door. Small business owners need additional compliance assistance tools and resources to both understand and comply with complex regulatory actions. The Committee believes that the Compliance Assistance Title would close loopholes in the original law that the Government Accountability Office (GAO) has identified as allowing federal agencies to either ignore or poorly fulfill their duties to provide small businesses compliance assistance. This Title would clarifies existing requirements under SBREFA, which passed the Senate unanimously in 1996—providing much-needed, targeted regulatory relief for small businesses.

Title XVII, entitled “National Small Business Regulatory Assistance,” establishes a four-year pilot program to provide resources to SBDCs so they may provide free regulatory compliance assistance and counseling to small business owners. The bill capitalizes on the current SBDC structure, which provides management and technical assistance counseling and educational programs to small business owners. The Committee believes that this Title helps small businesses comply with complex Federal regulations that have multiplied at an alarming rate over the past 20 years. These regulations have a much more significant impact on small businesses than larger businesses.

The bill includes several other provisions that would ease the economic and regulatory burden on small businesses. Section 601 makes 7(a) express loans available to qualifying small businesses that wish to purchase renewable energy systems or make energy efficiency improvements to their existing businesses. As opposed to having to participate in the traditional 7(a) program, this provision enables small business to use the SBA Express program. Under this program, qualified lenders use their own forms and procedures and they are not required to take collateral for loans up to $25,000. Lenders may use their existing collateral policy for loans over $25,000 up to $150,000. In addition, Section 331 removes regulatory barriers that have constrained multi-state expansion for Certified Development Companies (CDCs).

Finally, Section 430 provides paperwork relief for small businesses by promoting reciprocity between the Disadvantaged Business Enterprise Program and the Small Disadvantaged Business Program.

VI. SECTION-BY-SECTION ANALYSIS

TITLE I—REAUTHORIZATION OF PROGRAMS

Sec. 101. Reauthorization of programs in the Small Business Act

Sec. 102. Other reauthorizations

Sec. 103. Change in average smaller loan size in Microloan program

Microloan intermediaries can receive additional technical assistance grants from the SBA for making microloans with smaller average loan sizes. To conform to past statutory changes, this section increases the micro qualifying average loan size for these grants from $7,500 to $10,000.

Sec. 104. Subsidy rate model in Microloan program

Requires the SBA to develop an improved subsidy rate model to determine the cost of microloans.

Sec. 105. Inclusion of individuals with disabilities in "purposes" of Microloan program

Requires making loans to individuals with disabilities as one of the statutorily enumerated "purposes" of the microloan program. It does not change the implementation of the program.

TITLE II—NATIONAL PREFERRED LENDERS PROGRAM

Sec. 201. National Preferred Lenders Program

Requires the SBA to issue regulations regarding a National Preferred Lenders Program under which lenders could participate in the SBA's Preferred Lenders Program on a nationwide basis after satisfying just one licensing process.

Sec. 202. Maximum loan amount

Increases the maximum size of a 7(a) loan to $3 million (from the current $2 million), and increases the maximum size of the accompanying guarantee to $2.25 million (from the current $1.5 million). This would maintain the maximum current guarantee rate of 75 percent.

Sec. 203. Alternative size standard

Requires the SBA to implement an alternative size standard for the 7(a) program that considers a small business's net worth and income, and brings the 7(a) program into conformity with the 504 Program.

Sec. 204. Minority small business development

Creates an Office of Minority Business Development at the SBA, headed by the Associate Administrator for Minority Small Business and Capital Ownership Development, under a new title with expanded authority and an annual budget to carry out its mission. This provision expands the Office's authority and duties to work with and monitor the outcomes for programs under the SBA's Capital Access, Entrepreneurial Development, and Government Contracting programs. It also requires the head of the Office to work with SBA's partners, trade associations and business groups to identify more effective ways to market to minority business owners, and to work with the head of Field Operations to ensure that district offices have staff and resources to market to minorities. This provision authorizes $5 million for each Fiscal Years 2007, 2008, and 2009.

Sec. 205. Lowering of fees

Revises current statute so that, if the SBA receives appropriations for the 7(a) program, or more fee revenue in the program than anticipated, those funds can be used to reduce fees on program participants, both borrower and lenders.

TITLE III—SMALL BUSINESS INVESTMENT ACT OF 1958

SUBTITLE A—DEBENTURES AND SECURITIES

Sec. 301. Participating Debenture Companies

The provision reforms and enhances the Small Business Investment Companies (SBIC) program. This section creates a new SBIC program that would be a "zero-subsidy" program with no Federal appropriations necessary that would provide financing to small businesses. Additionally, the new program would mitigate financial losses to the government by increasing its share of SBIC's profits.

Sec. 302. Participating securities

This section provides procedures for the continuation of existing SBICs affected by the current suspension in issuances of new financing by the SBA, including financing that had previously been promised to SBICs by the SBA.

SUBTITLE B—DEVELOPMENT COMPANIES

Sec. 321. Development company loan programs

Provides that the 504 Loan Program will be known as the Local Development Business Loan Program (LDB Program).

Sec. 322. Loan liquidations

Provides that a Certified Development Company (CDC) can elect to not foreclose or liquidate its own defaulted loans, and can instead contract with a third party for that third party to carry out the foreclosures and liquidations. CDCs can receive reimbursement from the SBA for foreclosure expenses that the SBA authorizes.

Sec. 323. Additional equity injections

Allows certain borrowers to contribute more equity (down-payments) if they choose.

Sec. 324. Businesses in low-income areas

Provides that loans to businesses in communities that would qualify for a New Markets Tax Credit can qualify as "public policy goal" loans in LDB Program, and therefore can be made for larger sizes than "regular" LDB loans.

Sec. 325. Combination of certain goals

Allows businesses to qualify as "minority owned" for purposes of qualifying as a public policy goal loan if a majority of the business's ownership interests belong to one or more individuals who are minorities.

Sec. 326. Maximum 504 and 7(a) loan eligibility

Permits a small business to obtain financing in the maximum amount permitted under the 504 program and also to obtain a 7(a) loan in the maximum amount permitted under that program.

Sec. 327. Refinancing under the Local Development Business Loan Program

Permits a borrower to refinance a limited amount, based on a formula, of the business's pre-existing debt, if that debt is already secured by a mortgage on the property being expanded by the new loan.

Sec. 328. Technical correction

Corrects a technical drafting error made in legislation enacted in 2004.

Sec. 329. Definitions for the Small Business Act of 1958

Provides definitions of a "development company" and a "certified development company."

Sec. 330. Repeal of sunset on reserve requirements for premier certified lenders

This provision would make permanent a temporary statute, otherwise set to expire in the summer of 2006, that allows CDCs qualified by the SBA as "Premier Certified Lenders" to amortize their reserve requirements and withdraw from the reserves the amount attributable to debentures as the debentures are repaid.

Sec. 331. Certified Development Companies

This section provides criteria to identify the types of entities that can qualify as certified development companies (CDCs) and thus participate in the LDB Program, and removes regulatory barriers that have constrained CDC multi-state expansion.

The provision also imposes ethical requirements on CDCs, their employees, and banks participating in the program. This section also provides minimum requirements for CDCs regarding members, boards of directors, staffing and management expertise, and use of proceeds. The section details requirements CDC loan review committees must meet in order to ensure that CDCs pursue local development goals, and allows CDCs operating in multiple states to elect to maintain their accounting on an aggregate basis. This section also allows CDC Board Members to assist other CDCs by serving on another CDC Board.

Sec. 332. Conforming amendments

Sec. 333. Closing costs

Provides borrowers with the option to include loan and debenture closing costs in their loans.

Sec. 334. Definition of rural

Conforms the SBA's definition of a "rural area" in the 504 program, for the purposes of eligibility for a larger loan supporting a "public policy" goal, to the definition used by the Department of Agriculture.

Sec. 335. Regulations and effective date

Authorizes and directs the SBA to publish proposed regulations to implement this Act within 120 days of the date of enactment and to publish final regulations within an additional 120 days.

Sec. 336. Low-income geographic areas in New Markets Venture Capital (NMVC) program

Replaces the New Markets Venture Capital (NMVC) program's statutory definition of "Low-Income Geographic Area" with the definition of "Low-Income Community" as provided in the New Markets Tax Credit statute, to conform the two programs.

Sec. 337. Limitation on time for final approval of NMVC companies

Establishes a limitation of two years for final approval of companies.

TITLE IV—DISASTER RESPONSE

SUBTITLE A—PRIVATE DISASTER LOANS

Sec. 401. Private Disaster Loans

This section establishes a Private Disaster Loan (PDL) program that allows for PDLs to be made to disaster victims by private banks, which would have to apply to the SBA for eligibility. The SBA will provide an 85 percent guarantee for the loans.

Sec. 402. Technical and conforming amendments

SUBTITLE B—DISASTER RELIEF AND RECONSTRUCTION

Sec. 421. Definition of disaster area

Defines "disaster area," and other terms.

Sec. 422. Disaster loans to non-profits

Allows non-profit institutions to apply for Disaster Loans under Section 7(b). Under existing regulations, only homeowners, renters, and for-profit businesses can normally apply for Disaster Loans.

Sec. 423. Disaster loan amounts

Increases the maximum size of an SBA disaster loan from $1.5 million per loan to $5 million per loan. Sets the maximum amount to $450,000 for home loans and $90,000 for personal property loans. It allows disaster victims to borrow additional amounts (20 percent of the uninsured portion) to be spent on mitigation projects to reduce the damage caused by future disasters.

Sec. 424. Small Business Development Center (SBDC) portability grants

Authorizes the Administrator to waive the $100,000 maximum size for SBDC portability grants for disaster areas. All grants provided to SBDCs require a one-to-one match except for $1 million which is available for non-matching portability grants for special projects up to $100,000.

Sec. 425. Assistance to out-of-state businesses

Authorizes an SBDC to provide services to small businesses located outside the SBDC's own home state if the small business concerns are located in a disaster area. In addition, this section permits SBDCs to operate in disaster recovery sites if permissible.

Sec. 426. Outreach programs

Directs the SBA and the Directors of Small and Disadvantaged Business Utilization to create a contracting outreach program for small businesses located in a disaster area.

Sec. 427. Small business bonding threshold

Increases the maximum size of SBA surety bonds to $5 million for bonds issued for disaster recovery, and provides the SBA with authority to increase the maximum size to $10 million.

Sec. 428. Small business participation

Promotes job creation and development through small business set-asides on reconstruction contracts.

Sec. 429. Emergency procurement authority

Protects the Small Business Reservation (SBR) for disaster-related contracts below the Simplified Acquisition Threshold (SAT) and restores the parity between the SBR and the SAT any time the SAT is increased for disaster-related contracts.

Sec. 430. Paperwork reciprocity for small disaster contractors

Reduces paperwork by promoting reciprocity between the Disadvantaged Business Enterprise Program and the Small Disadvantaged Business Program.

Sec. 431. Small business multiple-award disaster contracts

This provision directs the Administrators of the Office of Federal Procurement Policy (OFPP) and the SBA to work with other Federal agencies to ensure creation of multiple-award contracts for disaster recovery which are set aside for small business concerns.

Sec. 432. Contracting priority for local small businesses in high-unemployment areas

Strengthens the Small Business Act's existing priority for local small businesses "which shall perform a substantial proportion of the production on those contracts and subcontracts within areas of concentrated unemployment or underemployment or within labor surplus areas." The provision designates disaster areas as areas eligible for this priority and authorizes Federal agencies to use contractual set-asides, incentives, and penalties to enhance participation of local small business concerns in disaster recovery contracts and subcontracts. In addition, this provision authorizes set-asides to be performed in a targeted labor surplus area or substantial unemployment area. This provision ensures that disaster contracts which meet the dollar thresholds for small business subcontracting plans actually contain small business subcontracting plans, and allows a grace period of 30 days to conclude an acceptable plan.

Sec. 433. Termination of program

This provides for the termination of the Small Business Competitiveness Demonstration program.

Sec. 434. Increasing collateral requirements

Under current law, the SBA may not disburse disaster loans of more than $10,000 without requiring collateral. The provision increases that level to $12,000.

SUBTITLE C—DISASTER RESPONSE

Sec. 451. Definitions

Sec. 452. State bridge loan guarantee

Requires the SBA to issue guidelines for an SBA-approved state bridge loan program for future disasters. Once the guidelines are issued, states may then submit their bridge loan programs for approval to receive SBA guarantee assistance on bridge loans in the event of a disaster.

Sec. 453. Catastrophic national disaster declaration for nationwide Economic Injury Disaster Loans (EIDLs)

Creates a presidential declaration of "Catastrophic National Disaster," to be declared when an event causes significant adverse economic conditions outside of the geographic reach of the disaster area. This declaration triggers nationwide economic injury disaster loans for any small business that can demonstrate being adversely affected by the disaster for which the declaration is made.

Sec. 454. Public awareness of disaster declaration and application periods

Directs Federal Emergency Management Agency (FEMA) and the SBA to coordinate assistance application period start and end dates to the maximum extent possible. Also requires the SBA and FEMA to notify congressional oversight committees as to whether or not a deadline for assistance will be extended not later than ten days before the date of the deadline. In addition, this section directs SBA to create a proactive marketing plan to make the public aware of disaster response services.

Sec. 455. Consistency between Administration regulations and standard operating procedures

Directs the SBA to undertake a study to determine whether Administration standard operating procedures are consistent with regulations with respect to the disaster loan program.

Sec. 456. Processing disaster loans

Authorizes the SBA to enter into agreements with qualified private contractors to process disaster loans. It also requires SBA to provide Congress with a report on how the disaster loan application process can be improved, including alternative methods for assessing an applicant's ability to repay that consider factors other than credit score, as well as methods to expedite loan processing and verification for sources vital to the rebuilding effort.

Sec. 457. Development and implementation of Major Disaster Response Plan

Directs the SBA to update its hurricane response plan to address all future disasters and to develop simulation exercises that demonstrate the viability of the plan.

Sec. 458. Congressional oversight

Requires the SBA to provide monthly, and when necessary daily, reports detailing activity and funding levels for the disaster loan program, and to report three months in advance of any funding run-out date for the disaster loan program. Also, this section requires the SBA to report on the number of small business contracts awarded during declared disasters.

SUBTITLE D—ENERGY EMERGENCIES

Sec. 471. Findings

Sec. 472. Small business energy emergency disaster loan program

Authorizes the SBA to make disaster loans to assist small businesses that have suffered or are likely to suffer substantial economic injury as the result of a significant increase in the price of heating oil, natural gas, propane, or kerosene, and prohibits such loans from being made if the total amount outstanding and committed to the borrower would exceed $1.5 million, unless the borrower is a major source of employment in its surrounding area.

Sec. 473. Agricultural producer emergency loans

Authorizes the Secretary of Agriculture to make loans to farm operations that qualify as a small business and that have or are likely to suffer substantial economic injury on or after October 1, 2004, as the result of a significant increase in energy costs in connection with an energy emergency declared by the President or the Secretary.

Sec. 474. Guidelines and rulemaking

Must occur within 30 days of enactment.

Sec. 475. Reports

Must be submitted to Congress within 12 months of enactment.

TITLE V—VETERANS AND MEMBERS OF THE GUARD AND RESERVE

Sec. 501. Definitions

SUBTITLE A—VETERANS

Sec. 521. Findings

Sec. 522. Increased funding for the Office of Veterans Business Development

Authorizes increased appropriations for the SBA's Office of Veteran Business Development to $2 million for Fiscal Year 2006, $2.1 million for Fiscal Year 2007 and $2.2 million for Fiscal Year 2008.

Sec. 523. Extension of Advisory Committee on Veterans Business Affairs

Permanently extends the authority and duties of the SBA's Advisory Committee on Veterans Business Affairs.

Sec. 524. Relief from time limitations for Veteran-Owned Small Businesses

Amends the Small Business Act by allowing small businesses owned by veterans and service-disabled veterans to extend their SBA program participation time limitations by the duration of their owners' active duty service after September 11, 2001.

SUBTITLE B—GUARD AND RESERVE

Sec. 541. Guard and reserve loans

Raises the maximum military reservist loan amount to $2 million, and allows the Administrator to offer loans up to $25,000 without requiring collateral from the Guard or Reserve Member. The provision requires the SBA and the Department of Defense (DoD) to develop a joint website and printed materials providing information regarding this program. This section also requires banks and other lending institutions to refer the loan applicant to appropriate technical assistance programs offered by the SBA.

Sec. 542. Study of insurance program for members of the Guard and Reserve

Provides that within six months of enactment, the SBA and the DoD shall jointly study the Guard and Reserve loan programs.

Sec. 543. Grant assistance for Military Reservists' small business concerns

Provides for grants of up to $25,000 to businesses affected by the call-up to duty of employees who are reservists. It authorizes $3 million for the program for each of FY 2007 through FY 2009.

SUBTITLE C—VETERANS CORPORATION

Sec. 561. Purposes of the Corporation

Establishes the purposes of the National Veterans Business Development Corporation, also know as "The Veterans Corporation" or "TVC".

Sec. 562. Management of the Corporation

The VC shall be run by a board consisting of nine members. These board members shall be appointed by the President based on recommendations given by the Senate and Senate Committees on Small Business and Entrepreneurship and Veterans Affairs. Board members are prohibited from recommending any individual for another position on the board, and their term is limited to four years.

Sec. 563. Timing of transfer of Advisory Committee duties

On October 1, 2009, the TVC shall assume the duties, responsibilities, and authority of the SBA's Advisory Committee on Veterans Affairs.

Sec. 564. Authorization of appropriations

Authorizes appropriations for TVC of $2 million for each Fiscal Year 2007 through 2009.

Sec. 565. Privatization

Requires that the TVC must establish a plan to raise private funds and become self-sustaining within six months from the date of enactment.

TITLE VI—ENERGY LOANS FOR SMALL BUSINESS CONCERNS

Sec. 601. Express loans for renewable energy and energy efficiency

This title makes 7(a) Program Express Loans available to qualifying small businesses that wish to purchase renewable energy systems or make energy efficiency improvements to their existing businesses.

TITLE VII—HEALTH INSURANCE

Sec. 701. Purpose

Establishes a four-year pilot, competitive grant program to provide information, counseling, and educational materials, through Small Business Development Centers (SBDCs), to small businesses regarding all health insurance options, including coverage options within local insurance markets.

Sec. 702. Definitions

Sec. 703. Small Business Health Insurance information pilot program

Provides that, within 30 days of enactment, the SBA Administrator shall establish a pilot, competitive grant program to make grants to SBDCs to provide information and educational materials regarding small business health insurance options. The grant amounts authorized under this section shall be not less than $150,000 per fiscal year, and not more than $300,000 per fiscal year.

Sec. 704. Reports

Requires each participating SBDC to submit a quarterly report to the Administrator and Chief Counsel for the SBA Office of Advocacy.

Sec. 705. Authorization of appropriation

Authorizes $5 million to be appropriated for the first fiscal year beginning after the date of enactment and authorizes $5 million to be appropriated for each of the three fiscal years following the fiscal year.

TITLE VIII—WOMEN'S SMALL BUSINESS OWNERSHIP PROGRAMS

Sec. 801. Office of Women's Business Ownership

Amends the Small Business Act by directing the SBA Office of Women's Business Ownership (OWBO) to develop new programs and services for established women-owned businesses.

In addition, this provision requires the Office of Women's Business Ownership to consult with the associations representing the Women's Business Centers, the National Women's Business Council, and the Interagency Committee on Women's Business Enterprise. This section also requires that training be provided for SBA District Office personnel responsible for carrying out Agency programs. Finally, this provision requires the Administration to improve the women's business center grant process and the programmatic and financial oversight process.

Sec. 802. Women's Business Center Program

This section replaces a five-year grant program and pilot Sustainability Program with a permanent grant program that can be renewed at three-year intervals. This section requires that an organization must represent not less than 30 percent of the women's business centers participating in the SBA's Women's Business Center Program. This provision also authorizes that the SBA may grant four-year initial grants and three-year renewal grants of not more than $150,000 per year. Provides a one-year extension for sustainability grants scheduled to expire not later than June 30, 2007.

Authorizes $500,000 for supplemental sustainability grants to women's business centers with a limitation of $125,000 in grant funding for the grant period beginning on July 1, 2006 and ending on June 30, 2007. The Fiscal Year authorizations include: Fiscal Year 2007 ($16.5 million); Fiscal Year 2008 ($17 million); Fiscal Year 2009 ($17.5 million). Recognizes the existence and activities of associations of women's business centers as defined in Section 312(a).

Sec. 803. National Women's Business Council

Provides the National Women's Business Council cosponsorship authority. Clarifies membership representation on the Council. Establishes Committees under the direction of the chairperson on Manufacturing, Technology, Professional Services, Travel, Tourism, Product and Retail Sales, International Trade, and Federal Procurement and Contracting.

Provides authority for the Council to serve as a clearinghouse for information on small business owned and controlled by women. Changes the Council's research allocation from $550,000 to 30 percent of appropriated funds.

Sec. 804. Interagency Committee on Women's Business Enterprise

Provides an acting chairperson for the Interagency Committee on Women's Business Enterprise.

Establishes a Policy Advisory Group to assist the chairperson in developing policies and programs, and defines the composition of the Policy Advisory Group.

Creates subcommittees, establishes duties, and states activities of the Interagency Committee.

Sec. 805. Preserving the independence of the National Women's Business Council

Requires an equal number of members appointed to serve on the Council represent each of the two major political parties. This also requires that if a vacancy is not filled, or if there exists an imbalance of party-affiliated members on the Council, in a 30-day period, a report must be submitted to the Senate Committee on Small Business and Entrepreneurship and House Committees on Small Business and Entrepreneurship.

TITLE IX—INTERNATIONAL TRADE

Sec. 901. Small Business Administration Associate Administrator for International Trade

This provision establishes an Associate Administrator for International Trade.

Sec. 902. Office of International Trade

This section expands the trade distribution network to include the United States Export Assistance Centers (USEACs). This section also designates one individual within the Administration as a trade financial specialist to oversee the international loan programs. In addition, this section ensures that all smaller exporters nationwide will continue to have access to export financing. This provision establishes a floor of International Finance Specialists at the level the SBA had in January 2003.

Sec. 903. International Trade Loans (ITL)

This provision increases the maximum loan guarantee amount to $2.75 million and specifies that the loan cap for ITLs is $3.67 million, as well as sets out that working capital is an eligible use for loan proceeds. The bill also makes ITLs consistent with regular SBA 7(a) loans in terms of allowing the same collateral and refinancing terms as with regular 7(a) loans.

TITLE X—CONTRACT BUNDLING

Sec. 1001. Presidential policy

This section states that it is the policy of Congress that each Federal agency shall endeavor to promote competition and small business procurement opportunities by unbundling government contracts in accordance with the Presidential policy on contract bundling.

The provision also redefines the term “bundling of contract requirements,” to mean a use of solicitation for a single contract or a multiple award contract to satisfy two or more requirements of any Federal agency for goods or services that restricts competition or limits the number of suppliers by being likely unsuitable for award to a small business concern due to the diversity, size, or specialized nature of the elements of the performance specified; the aggregate dollar value of the anticipated award; the geographical dispersion of the contract performance sites; unduly restrictive contract requirements or other procurement strategy or factor which impedes participation of responsible small businesses as prime contractors; or any combination of the described factors.

Sec. 1002. Leadership and oversight

In addition to submitting an annual report on all incidents of bundling to the Administrator as may be required by law, this provision requires the head of each Federal agency to submit an annual report on all incidents of bundling to the Office of Federal procurement Policy. The provision also requires the Administrator of the Small Business Administration to promptly review and annually report to Congress information on any discrepancies between reporting on bundled contracts from Federal agencies to the Small Business Administration, the Office of Federal Procurement Policy, and the Federal Procurement Data System.

In addition, the provision mandates implementation of recommendations of the GAO Report 04–454 concerning collection of contract bundling data. The provision also requires the SBA review of government-wide anti-bundling policies, directs the SBA to publish a guide on best practices to reduce bundling, develop Federal personnel policies concerning compliance with small business contracting laws and the President's Initiative Against Contract Bundling.

The provision further directs the SBA to implement the recommendations of the SBA Inspector General's Audit of the Contract Bundling Program No. 5–20. The provision requires additional assignments of SBA Procurement Center Representatives (PCRs) and Commercial Market Representatives (CMRs), and clarifies PCR authority.

Sec. 1003. Removal of impediments to contract bundling database implementation

This section removes impediments to completion of the contract bundling database authorized in existing law by directing Federal agencies to provide to the SBA any relevant procurement information as may be required to implement the provisions of this section, and shall perform at the request of the Administrator.

TITLE XI—SUBCONTRACTING INTEGRITY

Sec. 1101. GAO Recommendations on subcontracting misrepresentations

This section is designed to prevent misrepresentations in subcontracting by implementing government-wide the Comptroller General's recommendations on subcontracting integrity. Specifically, compliance of Federal prime contractors with small business subcontracting plans shall be evaluated as a percentage of obligated prime contract dollars, as well as a percentage of subcontracts awarded. Further, not later than 180 days from the date of enactment of this Act, the head of each Federal agency shall issue a policy on small business subcontracting compliance.

Sec. 1102. Small business subcontracting bait and switch fraud

This section imposes criminal penalties on bidders that falsely certify to the government that they will acquire articles, equipment, supplies, services, or materials, or obtain the performance of construction work, from small business concerns in the amount and quality used in preparing the bid or proposal, unless such small business concerns are no longer in business or can no longer meet the quality, quantity, or delivery date.

Sec. 1103. Evaluating subcontractor participation

This section states that a report submitted by the prime contractor to determine the attainment of a subcontract utilization goal under any subcontracting plan entered into with a Federal agency under this subsection shall contain the name and signature of the president or chief executive officer of the contractor, certifying that the subcontracting data provided in the report are accurate and complete. Evaluation results shall be included in a national centralized government wide database.

Each Federal agency having contracting authority shall ensure that the terms of each contract for goods and services includes a provision allowing the contracting officer of an agency to withhold an appropriate amount of payment with respect to a contract (depending on the size of the contract) until the date of receipt of complete, accurate, and timely subcontracting reports.

Sec. 1104. Pilot program on direct payments to subcontractors

This section states that the failure of a civilian agency prime contractor to make a timely payment, as determined by the contract with the subcontractor, to a subcontractor that is a small business concern shall be a material breach of the contract with the Federal agency. Before making a determination the contracting officer shall consider all reasonable issues regarding the circumstances surrounding the failure to make the timely payment.

Not later than 30 days after the date on which a material breach under subparagraph (A) is determined by the contracting officer, the Federal agency may withhold any amounts due and owing the subcontractor from payments due to the prime contractor and pay such amounts directly to the subcontractor. This pilot shall be in effect until September 30, 2009.

Sec. 1105. Pilot program

This section states that each Federal agency on the President's Management Council or any successor council is authorized through September 30, 2009, to operate a pilot program to assess funds from prime contractors for failure to comply with small business subcontracting plans and require these prime contractors to become mentors to small business concerns and to spend such funds on mentor-protégé; assistance to small business concerns.

The assessment under the terms of this program shall be determined in relation to the dollar amount by which the prime contractor failed its small business subcontracting goals. The prime contractor shall expend the assessments under the terms of this program on mentor-protégé; assistance to small business concerns, as provided by a mentor-protégé; agreement approved by the relevant Federal agency.

In addition, each Federal agency shall submit an annual report to the House and Senate Committees on Small Business and Entrepreneurship containing a detailed description of the pilot program.

TITLE XII—SMALL BUSINESS PROCUREMENT PROGRAMS IMPROVEMENT

Sec. 1201. Definitions

SUBTITLE A—HUBZONE PROGRAM

Sec. 1211. HUBZone reauthorization

This section reauthorizes the HUBZone program through Fiscal Year 2012.

Sec. 1212. Equity for suburban HUBZONE

This section creates a qualified suburban HUBZone area to mean any village, city, town, or other unit of local government which is located in an urban county, provided that such unit of local government meets income or unemployment requirements applicable to rural counties.

SUBTITLE B—SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS PROGRAM

Sec. 1221. Certification

This section directs the Administrator of the Small Business Administration to make regulations to provide for certifications of service-disabled veteran-owned small business concerns. The SBA Administrator is authorized to accept Federal, state and local government certifications as well as certifications from responsible national certifying entities, provided that the SBA Administrator specifies appropriate safeguards by regulation.

Sec. 1222. Temporary waiver

This section provides a temporary waiver for "the rule of two" in sole-source contracts awarded to service-disabled veteran-owned small businesses until September 30, 2009. The waiver would enable contracting officials to award a sole-source contract to service-disabled veteran-owned firms even if there are other service-disabled veteran owned firms available. This provision would give service-disabled veterans the same rights currently available to 8(a) firms. The provision is a temporary waiver to enable the Federal government to improve its service-disabled veteran goal achievements.

Sec. 1223. Transition period for surviving spouses or permanent caregivers

This section allows the surviving spouse of a service disabled veteran to retain the service-disabled veteran-owned designation for the businesses up to 10 years following the death of the service-disabled veteran.

Sec. 1224. Contracting authority

This section shall make the sole-source authority for service-disabled veteran mandatory instead of permissive.

SUBTITLE C—WOMEN-OWNED SMALL BUSINESS PROGRAM

Sec. 1231. Implementation deadline

This section stipulates that no later than 90 days from the date of enactment of this Act, the Administrator shall implement the existing Women-Owned Small Business Federal Contract Assistance Program.

Sec. 1232. Certification

This section directs the Administrator of the SBA to make regulations to provide for certifications of women-owned small business concerns. The SBA Administrator is authorized to accept Federal, state and local government certifications as well as certifications from responsible national certifying entities, provided that the SBA Administrator specifies appropriate safeguards by regulation.

SUBTITLE D—SMALL DISADVANTAGED BUSINESS PROGRAM

Sec. 1241. Certification

This section directs the Administrator of the SBA to make regulations to provide for certifications of small disadvantaged business concerns. The SBA Administrator is authorized to accept Federal, state and local government certifications as well as certifications from responsible national certifying entities, provided that the SBA Administrator specifies appropriate safeguards by regulation.

Sec. 1242. Net worth threshold

This provision directs the SBA to adjust the net worth thresholds for 8(a) program participants. Currently the threshold excludes business owners with more than $250,000 in personal assets, and graduates 8(a) participants with more than $750,000 in personal assets. These thresholds have not been adjusted since 1989.

SUBTITLE E—BUSINESSLINC PROGRAM

Sec. 1251. BusinessLINC program

A provision to extend the SBA authority to issue grants to private, public, and non-profit entities in order to expand business-to-business relationships between large and small businesses. Grants are also available for entities that provide a database of companies interested in mentor-protégé programs or community based, statewide or local business development programs.

TITLE XIII—ACQUISITION PROCESS

Sec. 1301. Procurement improvements

This provision builds on the recommendations of the White House Acquisition Advisory Panel Small Business Working Group and the GAO contained in Report 04–454 by requiring that, within 7 days of agencies bundling or consolidating contracts they are required to report in the Federal government procurement data system: (1) the number of contracts that displaced small businesses because of bundling or consolidation; (2) the number of small businesses able to bid on all or part of the new bundled contracts; and (3) the estimated cost savings to be achieved as a result of the bundled contracts.

Further, the provision requires government-wide courses on small business contracting, subcontracting and the role of the small business specialist within the acquisition team.

Sec. 1302. Reservation of prime contracts for award to small business

This provision builds on the recommendations of the White House Acquisition Advisory Panel Small Business Working Group. Within 180 days of enactment, each agency head will be required to establish for their agency contracting criteria that: (1) set aside part of multiple awards contracts for small businesses; (2) set aside multiple awards contracts for subcategories of small businesses; and (3) to reserve 1 or more contracts for small businesses and subcategories of small businesses for multiple full and open awards.

Sec. 1303. GAO study of reporting systems

Under this provision, the Comptroller of the United States shall study the availability, accuracy and timeliness of data in the SBA Pro-Net database or any successor thereof, the Federal Procurement Data System, and the Subcontracting Reporting System, as recommended by the White House Acquisition Advisory Panel's Small Business Working Group.

Sec. 1304. Meeting small business goals

Under this provision, before setting aside contracts for small businesses, contracting officers should first consider those small business subcategories for which the agency failed its goals the most during the preceding year.

Sec. 1305. Micro-purchase guidelines

Within 180 days the SBA shall issue guidelines for the use of purchase cards to measure the participation of small business in government micro purchases. These guidelines shall be consistent with existing national policy on small business participation in micro purchases credit purchases.

Sec. 1306. Reporting on overseas contracts

This provision requires the SBA to submit an annual report to Congress concerning the portion of Federal contracts awarded for performance overseas which have gone to small business.

Sec. 1307. Agency accountability

Each agency is required to identify a percentage of their procurement budget to be awarded to small businesses, and must include this information in the agency's strategic plan and annual budget submission. Each agency will also include if they fulfill their budget goals and if they do not meet the goals a justification for the shortfall.

Further, each contracting officer is required to communicate to their subordinates the importance of meeting small business goals and employees will be assessed annually on their help in fulfilling agency small business goals.

TITLE XIV—SMALL BUSINESS SIZE AND STATUS INTEGRITY

Sec. 1401. Policy and presumptions

The provision contains an irrebuttable presumption of a dollar-for-dollar loss to the United States in any contract, subcontract, cooperative agreement, cooperative R&D agreement, or grant reserved for small business concerns which is obtained by misrepresentation of small business size or status.

The provision also establishes that submissions of bids or proposals on contracts, agreements, or grants reserved for small business, or registrations in Federal databases to be considered as a small business concern, constitutes an affirmative certification of small business size or status.

Finally, the provision requires that every contract or grant solicitation contain a place for certification of small business size or status by a high-level corporate official of the contractor. The provision allows the SBA Administrator to issue "safe harbor" regulations to protect contractors from liability for unintentional errors and technical glitches.

Sec. 1402. Annual certification

This provision requires annual certification of small business size or status on the SBA's Pro-Net database or any successor database.

The provision also clarified the timing of determination of small business size and status. Small business size or status shall be determined at the time of award of a Federal contract, subcontract, or other funding instrument. For interagency multiple-award contracts, small business size and status will be determined at the time of the award of the contract and also at the time of the award of each task or delivery order reserved for a small business.

Sec. 1403. SBA suspensions and debarments authority

This provision gives the SBA the authority to suspend or debar contractors that violate small business laws and regulations.

Sec. 1404. Meaningful protests of small business size and status

This provision prevents Federal agencies from awarding small business set-aside contracts to large businesses if another company protests the award.

This provision gives the SBA the very same authority to hear and decide protests within 100 days as the GAO currently possesses. Automatic stays on contract awards will be imposed in SBA protests. The SBA will be able to recommend appropriate contractual relief, including termination. Under this authority, protests may be overridden by the agency of they are in the best interest of the United States or if urgent and compelling circumstances require. The provision also authorizes protective orders, express options for decisions, and recommendations to reimburse protest costs.

The SBA is required to report to Congress all instances when Federal agencies have not followed its recommendations concerning the challenged contract. This section does not in any way prohibit the SBA to establish or maintain supplementary protest processes using existing standards and authorities. The SBA is authorized to use this protest authority in non-procurement programs as well.

Sec. 1405. Training for contracting and enforcement personnel

This provision directs the SBA, together with other agencies, to develop training on small business size standards. The provision also directs the SBA IG and heads of other agencies to issue a policy on prosecutions of size standards or status fraud.

Sec. 1406. Protests of sole-source awards

This provision authorizes small business concerns with standing as an interested party to challenge small business size or status of companies receiving sole-source awards under the Small Business Act.

Sec. 1407. Small business size and status for purpose of multiple-award contracts

This provision requires small businesses holding multiple-award contracts to annually certify their small business size or status. This requirement shall be interpreted in concert with other size and status certification provisions in this legislation.

Sec. 1408. Size standards development

This provision authorizes the SBA Administrator to establish two or more tiers within an overall small business size standard cap for the purpose of facilitating the growth and development of small business concerns as well as facilitating peer-based competition among small business concerns for Federal contracts and subcontracts. In establishing tier-based size standards, the Administrator shall take into account national and international industry conditions, including the size of industry leaders, the trends in the sizes of Federal government contracts and subcontracts. The Administrator shall establish dollar-based thresholds within each industrial category for contracts and subcontract suitable for reservation solely to small business concerns within lower tier or tiers in that industrial category.

Sec. 1409. Full-time employee equivalents

This provision requires the SBA to use full-time employee equivalents in computing the number of employees for purposes of size determinations.

TITLE XV—SMALL BUSINESS INNOVATION RESEARCH AND SMALL BUSINESS TECHNOLOGY TRANSFER PROGRAMS (SBIR/STTR)

Sec. 1501. Definitions

This provision restates applicable definitions from the Small Business Act.

Sec. 1502. Congressional findings and policy

The provision states Congressional findings and policy on promoting effectiveness in Federal research and development efforts and removing barriers to participation of small business concerns, as well as of partnerships between small business concerns and universities or other research institutions, in Federal R&D programs.

SUBTITLE A—SMALL BUSINESS INNOVATION LEADERSHIP

Sec. 1511. Status of the SBA Office of Technology; National Advisory Board; Transfer Plan

This provision requires the SBA to maintain an Office of Technology (headed by an Assistant Administrator appointed in consultation with Congressional Small Business Committees) to administer SBIR and STTR; to submit a separate line-item budget, staffing, and performance information for this Office as part of the Administration's annual budget request to Congress; to appoint a National SBIR/STTR Advisory Board, and to submit to the Congressional small business committees an annual national plan containing a forecast of SBIR and STTR opportunities.

SUBTITLE B—FAIR ACCESS TO FEDERAL INNOVATIONS INVESTMENTS

Sec. 1521. Accuracy in funding base calculations; Comptroller General's audits

This provision requires the GAO to perform periodic fiscal and management audits of the SBIR and STTR programs.

Sec. 1522. SBIR cap increase

This provision increases the SBIR set-aside cap from 2.5 percent to not less than 5 percent in Fiscal Year 2011 and thereafter.

Sec. 1523. STTR cap increase

This provision increases the STTR set-aside cap from 0.3 percent to 0.6 percent for Fiscal Year 2011 and thereafter.

Sec. 1524. Adjustments in SBIR/STTR award levels

This provision adjusts for inflation the size of SBIR and STTR awards from $100,000 for Phase I and $750,000 for Phase II to $150,000 and $1,250,000 respectively.

This provision also requires the SBA to make annual adjustments of the awards size for inflation. The provision also prohibits any agency from issuing an SBIR or an STTR award if the size of the award exceeds the award guidelines established in this Section by more than 50 percent.

This provision also allows SBIR and STTR applicants to receive awards for subsequent SBIR or STTR phases at another agency. The provision also allows small business concerns which received SBIR or STTR awards to receive awards for subsequent phases at either STTR or SBIR program, respectively.

Sec. 1525. Majority-venture investments in SBIR firms

This provision allows Federal agencies to apply for the authority to permit Venture Capital SBIR Investment Companies to compete for not more than 25 percent of the agency's SBIR funds (as part of the increase in the SBIR set-aside). The provision also establishes qualification requirements for and companies.

SUBTITLE C—ACQUISITION OF SMALL BUSINESS INNOVATIONS

Sec. 1531. National SBIR/STTR technology insertion goal; Reporting requirements

This provision establishes, beginning with 2007, a established a government-wide goal for insertion of SBIR and STTR technologies through Phase III awards of not less than 3 percent of total value of Federal prime contracts for research, development, testing and evaluation, to be met through either prime contracts or subcontracts. The provision contains reporting requirements.

Sec. 1532. Intellectual property protections for small business innovations

This provision reinforces data rights protections for SBIR and STTR awards. It clarifies that prototypes are subject to the data rights protections. The provision clarifies that SBIR data rights have trade secret status, and provides that data developed by small businesses with private funds qualify for data rights protections if they are used in SBIR or STTR awards. The provision also clarifies that SBIR/STTR data rights protections apply to any contracts or subcontracts developed with Federal funds or intended for use by the Federal government, and any mentor-protégé agreements.

Sec. 1533. SBIR/STTR special acquisition preference

The provision codifies the language from the SBIR/STTR Policy Directives confirming the intent of Congress to establish a special acquisition preference for SBIR and STTR Phase III awards. The provision clarifies that preference for contracts concerning research developed with SBIR or STTR funds should go to developers and holders of SBIR and STTR technologies to the greatest extent practicable, unless the agency is able to demonstrate on record that such an award is impracticable. The provision also requires Federal agencies to submit any bids or proposals for award of contracts on any topic duplicating the agency's prior SBIR or STTR awards to the SBA for review and possible appeal at least 30 days prior to the solicitation.

Sec. 1534. SBIR/STTR Mentor-Protégé Programs

This section authorizes mentor-protégé programs for SBIR/STTR firms in Federal agencies. The terms of mentor-protégé; agreements generally match the terms established at the Department of Defense. The provision authorizes contractual incentives for mentor firms, and imposes data rights protections for the benefit of protégé firms.

Sec. 1535. Subcontracting with Federal laboratories and research and development centers

This provision reduces the burden on cooperation between SBIR/STTR firms and Federal laboratories. Currently, small businesses which would like to subcontract a portion of the work to Federal labs have to seek a waiver from the SBA. This provision would ensure that such subcontracting is generally permitted without the requirement for waiver, but subject to appropriate protections ensuring the Federal agencies are not requiring SBIR or STTR firms to subcontract work to Federal labs.

Sec. 1536. Innovation Commercialization Pilot Programs

This provision authorizes Innovation Commercialization Pilot Programs to encourage Phase III awards at the major contracting agencies which participate in the SBIR and the STTR program. The provision includes authorization of incentives to prime contractors for inserting SBIR technologies. A small portion of SBIR/STTR funds (not more than 1 percent) will be made available for administration and outreach efforts related to the programs.

Sec. 1537. Enforcement

This provision ensures that the SBA is notified any time the SBIR or STTR policy directives are challenged in court. In addition, the provision requires the SBA to report to Congress on actions taken to enforce SBIR and STTR policy directive.

SUBTITLE D—TECHNICAL AND FINANCIAL ASSISTANCE FOR SMALL BUSINESS INNOVATION

Sec. 1541. Reauthorization and enhancement of state, local, and rural innovation assistance programs

This provision reauthorizes the Federal and State Program (FAST) Program and the Rural Outreach Program, and increases the authorization to $5 million from $2 million.

Sec. 1542. Continued evaluation by the National Academies of Sciences

This provision reauthorizes the current SBIR study by the National Academies of Sciences until the end of 2009. It also directs the Academies to study state and international innovation development policies, as well as desirability and feasibility of establishing a public, Federally-backed secondary capital market mechanism to fund securities representing investments in highly promising small innovative companies, and barriers to greater commercialization of small business innovations. The provision does not impose a mandate on any Federal agency to fund the studies of additional SBIR topics. Rather, it requires good-faith negotiations between the Academies and the agencies which fund the Academies' SBIR review efforts to ensure that such additional SBIR topics would be studied subject to availability of funds under the existing agreement.

Sec. 1543. Phase II innovation development challenge pilot program

This provision authorizes a Phase II Challenge Program suggested by the National Academy of Sciences during the hearing before the Small Business Committee. This program authorizes Federal agencies to grant Phase II awards up to 2 times the regular size (up to $2.5 million) to support advanced development of small business technologies which are facing high manufacturing or regulatory costs. As a condition of the awards, matching private or Federal non-SBIR funds are required.

Sec. 1544. Encouraging innovation in energy efficiency

Under this provision, the Administrator shall consult with other agencies and departments to ensure that small businesses that participate in or conduct energy efficiency and renewable energy research are given high priority under the SBIR and STTR programs.

Sec. 1545. SBIR-STEM workforce development pilot-program

This provision establishes a five-year workforce development grant pilot program to match up innovative small businesses with college students studying science, technology, engineering and math. The proposal would provide SBIR grantees with a 10 percent bonus grant, for either Phase I or Phase II SBIR grants, with a total maximum award of $10,000 per year for small businesses that provide opportunities to these students.

SUBTITLE E—IMPLEMENTATION

Sec. 1551. Conforming amendments to the SBIR and the STTR policy directives.

This provision requires conforming amendments to the SBA SBIR and STTR Policy directives within 180 days to implement the provisions of this Act.

TITLE XVI—NATIVE AMERICAN SMALL BUSINESS DEVELOPMENT PROGRAM

Sec. 1601. Short title

Sec. 1602. Native American Small Business development program

This section provides financial assistance to tribal governments, tribal colleges, Native Hawaiian organizations, and Alaska Native corporations to create Native American business centers. These centers shall conduct five-year projects that offer culturally tailored business development assistance. This program would be authorized at $5 million per year for Fiscal Years 2006 through 2010.

Sec. 1603. Pilot programs

Native American Development Grant Program This section awards Native American development grants to provide culturally tailored business development training and related services to Native Americans and Native American small business concerns. The grants may be awarded to (i) any small business development center; or (ii) any private, nonprofit organization that has members of an Indian tribe comprising a majority of its board of directors; is a Native Hawaiian organization; or is an Alaska Native corporation. The program would be authorized at $1 million per year for Fiscal Years 2006 through 2009.

American Indian Tribal Assistance Center Grant Pilot Program This section awards not less than three American Indian Tribal Assistance Center grants to establish joint projects to provide culturally tailored business development assistance to prospective and current owners of small business concerns located on or near tribal lands. The program would be $1 million per year for Fiscal Years 2006 through 2009.

TITLE XVII—NATIONAL SMALL BUSINESS REGULATORY ASSISTANCE

Sec. 1701. Title

Sec. 1702. Purpose

Establishes a four-year pilot program to provide resources to Small Business Development Centers (SBDC) so they may provide free regulatory compliance assistance and counseling to small business owners.

Sec. 1703. Small business regulatory assistance pilot program.

This section requires the Small Business Administration (SBA) to provide matching grants to the Small Business Development Center (SBDC) programs of two states in each of the SBA's 10 regions. The grants shall be more than $150,000, but less than $300,000 and shall be consistent with the matching requirement under current law.

Grant Purpose SBDCs are required to use the grants to provide: access to information and resources, including current Federal and State non-punitive compliance and technical assistance programs; conduct training and educational activities; and offer confidential, free-of-charge, one-on-one, in-depth counseling to the owners and operators of small business concerns regarding compliance with Federal and State regulations derived from Federal law.

SBDCs participating in the pilot program would be required to submit a quarterly report, and the SBA would have responsibility for evaluating the pilot program and making recommendations on the extension of the program to other SBDCs.

Sec. 1704. Rulemaking

The SBA must promulgate final regulations to carry out the pilot program within 180 days of passage.

TITLE XVIII—INTERMEDIARY LENDING PILOT PROGRAM

Sec. 1801. Short title

The short title for this subtitle is the "Small Business Intermediary Lending Pilot Program Act of 2003."

Sec. 1802. Findings

This section provides findings for the pilot program detailed in the following section.

Sec. 1803. Small business intermediary lending pilot program

This section creates a new pilot program for the SBA to provide long-term loans to intermediaries, which would then re-loan these funds to small businesses in loan amounts of between $35,000 and $200,000. This pilot program is intended to assist small businesses that need loans larger than those available through the Microloan program but, due to a lack of conventional collateral, are unable to secure credit through conventional lenders, even with the assistance of SBA's 7(a) Loan Guarantee program. The pilot is also intended to create employment opportunities for low-income individuals. This section requires the SBA to provide reports about the pilot program to the Committee and the House Committee on Small Business.

TITLE XIX—OTHER PROVISIONS

Sec. 1901. Compliance assistance

This provision would facilitate the compliance of small businesses with Federal regulations that directly impact their productivity.

This provision would: Clarify the SBREFA requirement that agencies produce small entity compliance guides. Ensure that these compliance guides provide adequate and useful compliance assistance materials to help small businesses meet the compliance obligations imposed by regulations. Require that agencies "designate" the publications prepared under the section as "small entity compliance guides." Clarify that compliance guides should be published simultaneously with, or as soon as possible after, the final rule is published, or no later than the rule's effective date. Clarify the phrase "compliance requirements." In addition this provision, requires that agencies annually report to Congress about their compliance with the Act's requirements.

Sec. 1902. Appointment of officials

This provision requires the SBA to appoint the following officials of the Administration with the advice and consent of the Senate: the General Counsel; the Associate Deputy Administrator for Capital Access; the Associate Deputy Administrator for Capital Access; the Associate Deputy Administrator for Management and Administration; the Associate Deputy Administrator for Entrepreneurial Development; the Associate Deputy Administrator for Government Contracting and Business Development; and, the Associate Administrator for Disaster Assistance.

Sec. 1903. Second-stage pilot program

This amendment establishes a three-year pilot program to: (1) identify second stage small business concerns that have the capacity for significant business growth and job creation; (2) facilitate business growth and job creation through the development of peer learning opportunities; (3) utilize the network of SBDCs to expand access to peer learning opportunities; and, (4) assist businesses owned by minority individuals, service-disabled veterans, and women.

No later than 60 days after regulations are established, the Administrator will select two eligible entities from 10 regions around the country. A grant given to an eligible entity will not be less than $50,000 and the money is to be used for identifying second stage small business concerns in the service delivery areas of the entity and for establishing peer learning opportunities. The grant will also be matched from sources other than the Federal Government that is equal to the grant, or (1) in the case of a community college, historically Black college, Hispanic serving institution, or other minority institution, 50 percent of the grant; (2) not less than 50 percent cash; (3) not more than 50 percent comprised of indirect costs and in-kind contributions; and, (4), does not include indirect costs or contributions from any Federal Program.

Each entity that receives a grant shall submit to the Administrator, in electronic form, a quarterly report on the program. The Administrator will submit to the President and Congress, no later than November 1st of each year, a report evaluating the pilot program for the previous year. No later than three years after the establishment of the pilot program, the Comptroller General of the U.S. shall evaluate the program and transmit to Congress and the Administrator a report containing the results. The pilot program will terminate on September 30, 2009 and authorizes $1.5 million per FY 2007–2009.

Sec. 1904. PRIME reauthorization

This provision reauthorizes the Program for Investment in Microentrepreneurs ("PRIME"), and transfers the statutory language for PRIME to the Small Business Act. PRIME is a program to provide grants to intermediaries that use the funds to: (1) train other intermediaries to develop microenterprise training and services programs; (2) research microenterprise practices; or, (3) provide training and technical assistance to disadvantaged entrepreneurs. This section adds a data collection provision and reauthorizes the program at $15 million for Fiscal Years 2007, 2008 and 2009.

Sec. 1905. Child Care lending

This provision allows loans to be made in the SBA's 504 program to assist nonprofit child care businesses. Prohibits more than seven percent of the total number of 504 program loans in any fiscal year from being awarded under such program.

Sec. 1906. Study on the impact of Low-Doc program

Not later than three months after the date of enactment of this Act, the Administrator shall undertake a study on the elimination of the Low Doc Program. The study shall examine: the effectiveness of the Low Doc program on rural communities; the effect of the program's elimination on rural lending; and the overall accessible and effectiveness of rural lending for rural communities.

The Administrator must submit to the Senate Committee on Small Business and Entrepreneurship and the House Committee on Small Business a report containing the results of the study and recommendations for program improvement.

Sec. 1907. Enforcement ombudsman

This section assists small businesses with bringing cases or complaints, formal or informal, before federal regulatory boards and agencies, including, but not limited to, the Surface Transportation Board, the Environmental Protection Agency, Occupational Health and Safety Administration, and the Federal Communications Commission.

Sec. 1908. Minority entrepreneurship and innovation pilot program of 2006

This provision directs the Administrator of the Small Business Administration to make grants to Historically Black Colleges and Universities, Tribal Colleges, and Hispanic serving institutions, or to any entity formed by a combination of such institutions: (1) to assist in establishing an entrepreneurship curriculum for undergraduate or graduate studies; and (2) for the placement of small business development centers or a small business incubator on the physical campus of the institution.

Requires an institution of higher education receiving a grant to: (1) develop a curriculum that includes training in various skill sets needed by successful entrepreneurs; and (2) open a small business development center.

Authorizes this pilot program for two fiscal years, and authorizes grants of up to $500,000 per fiscal year for any one institution of higher education. In addition, there is authorized to be appropriated $10 million each FY 2007 and 2008.

Sec. 1909. Office of Native American Affairs pilot program

This section authorizes a two-year pilot program for the Office of Native American Affairs to develop and publish a self-assessment tool for evaluation and implementation of best practices for economic development for Indian tribes. The provision includes a reporting requirement on the effectiveness of the self-assessment tool. It also authorizes assistance in identifying economic development opportunities to Indian tribes through the Inter-Agency Working group, which is comprised of key federal agencies. The provision does not include nor require authorization of appropriations.

Sec. 1910. Institutions of higher education

This provision requires SBDC grantees that are institutions of higher education to be accredited and grandfathers any SBDC grantee institution of higher education that is not yet accredited but is seeking accreditation.

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