

SBA REAUTHORIZATION AND IMPROVEMENT ACT OF 2019

SECTION-BY-SECTION ANALYSIS

TITLE I – SMALL BUSINESS INVESTMENT

Subtitle A – Small Business Investment Companies

Sec. 101: Small Business Investment Company Requirements

- I. Amends Part A of title III of the Small Business Investment Act of 1958 (15 U.S.C. 681 et seq.)

Requires the SBA to issue the license number to the applicant fund within 10 days of approval, unless an applicant fund has not satisfied the regulatory requirements of SBA for paid-in capital. Once the applicant fund submits written documentation that the necessary capital has been received, the SBA is required to issue the license within five business days;

Allows applicants to request a written decision if their application is denied, allows amend their application and resubmit it within 30 days of an application denial from SBA, and requires the SBA to decide within 30 days of the applicant resubmitting the application;

Gives applicants the right to appeal the rejection of their application;

Requires applicant funds to have one member of the management team who has expertise in the industries they will be investing in. If expertise is lacking on the management team, SBA could accept an application contingent on an appropriate level of training for a member of the management team;

Allows SBA, after approval by the Agency Committee and before the final approval by the Administrator, to call the paid-in capital they have raised from investors; and

Outlines the fees that may be collected for licensing and operation of the program with considerations for the intent of the program and ensuring the program operates at zero subsidy.

Clarifies that the \$5 million minimum size for SBICs applies only to the amount of capital required at the time of licensure, and is not applicable during the wind-down of a fund.



Establishes the Innovation Debenture to provide patient capital for small businesses in advanced manufacturing industries to grow and invest in the United States.

Restricts eligibility to SBICs that invest solely in small businesses involved in advanced manufacturing industries.

Defines small business for this section as an entity that is not more than 300 percent larger than the size standards established for categorizing a business concern as a small business

Defines the eligibility standards for the advanced manufacturing industry using measures of R&D investment and STEM worker intensity by sector. This includes small businesses in 35 North American Industry Classification System (NAICS) codes, including industrial machinery, motor cars and vehicles, engines and turbines, communications equipment, aerospace products, agricultural machinery, and computers, among others.

Guarantees automatic inclusion in the criteria for small businesses which have received awards under SBIR, STTR, those engaged with Manufacturing USA, or those which have had a foreign investment or acquisition blocked by the Committee on Foreign Investment in the United States.

Requires the SBA to review which sectors fall into this category every four years using the established criteria.

Establishes a revenue-based repayment structure in which an Innovation Debenture is obligated to repay the leverage backed by the SBA through a 5 percent royalty fee, known as the Innovation Dividend, on revenues totaling 150 percent of the initial leverage.

In the instance where an Innovation Debenture terminates operations before the repayment is made in full, the obligation to repay is transferred to the small business entity that received the investment.

If a small business is the subject of an initial public offering or acquisition before its leverage is repaid, it is obligated to further pay Innovation Dividends until the Administration has recovered 300 percent of the initial investment.

Requires an Innovation Debenture to repay 50 percent of the original principal amount on an SBA guaranteed investment in an instance in which less than that amount has been repaid 15 years after the initial investment.

Enacts a penalty on small businesses who receive Innovation Debenture investment and subsequently move production offshore or who are acquired by a foreign buyers by requiring a 600 percent payment on the initial investment in such instances.

Requires the SBA to define instances of default or insolvency for the Innovation Debenture program in the same manner consistent with that of the rest of the SBIC program.

Requires that the SBA Administrator set a zero-subsidy fee rate, and removes limits on fee caps.

- II. Reason: The decline of productive capabilities in the United States threatens the nation's leadership in advanced industries and the ability to innovate in the future.¹ Broad firm-level decisions to outsource manufacturing from the United States have led to unintended consequences that imperil America's edge in technologies invented and once produced domestically.² This dynamic erodes both national security and economic prosperity.³

Advanced manufacturing presents numerous benefits to society and workers. Each advanced manufacturing job supports, on average, 2.6 additional domestic jobs.⁴ Advanced industry exhibits above-average levels of productivity, which are highly correlated to elevated wages, sustain deep supply chains that support additional jobs and productive networks. This sector represents the highest end of the traded sector, including key industries of national importance such as security, health, food sustainability, and transportation. It also builds and advances the skills of the nation's STEM workforce and is key to innovation as technology fuses R&D closer to the process of production.⁵

There are meaningful market failures in the current configuration of the American innovation and advanced manufacturing ecosystem and experts are increasingly

¹ Gary P. Pisano and Willy C. Shih, "Does America Really Need Manufacturing?" *Harvard Business Review*, March 2012 edition. <https://hbr.org/2012/03/does-america-really-need-manufacturing>.

² David Adler, "Financing Advanced Manufacturing: Why VCs Aren't the Answer," *American Affairs*, Summer 2019. <https://americanaffairsjournal.org/2019/05/financing-advanced-manufacturing-why-vcs-arent-the-answer/>.

³ *Ibid.*

⁴ Mark Muro, Jonathan Rothwell, Scott Andes, Kenan Fikri, and Siddharth Kulkarni, "America's Advanced Industries: What They Are, Where They Are, and Why They Matter," Brookings Institute, February 2015. https://www.brookings.edu/wp-content/uploads/2015/02/AdvancedIndustry_FinalFeb2lores-1.pdf.

⁵ *Ibid.*

sounding the alarm on the potential hollowing out of American productive capacity. “The United States’ core innovative competencies—world-class universities, entrepreneurial dynamism, and a strong venture capital system, among others—have not been enough to maintain its manufacturing market share in even the most high-tech industries.”⁶

National competitor states like China have a clear goal of dominating the consequential industries of the future.⁷ Because the policy consequences of these goals are to compete for these industries, the absence of countervailing supports and domestic development creates market failures.^{8,9,10}

The access-to-capital challenge facing innovative American firms with high-growth-potential firms is damaging to the United States. This finance gap is not adequately filled by private investment alone. It is in the vital national interest to address this gap through policy.

In the absence of a U.S. answer to such national efforts, individual American firms must compete not just against other firms, but against national systems in which government, industry, and infrastructure work together in “technology-based ecosystems.”¹¹ Creating an environment in which U.S. firms can compete globally while producing in the United States must be the subject of policy attention.¹² If policy fails to address this shortfall, the United States will continue to lose the capacity to produce now, and capacity to innovate in the future, to other nations.^{13,14}

⁶ Joseph Parilla, Jesus Leal Trujillo, and Alan Berube, “Skills and Innovation Strategies to Strengthen U.S. Manufacturing: Lessons from Germany,” Metropolitan Policy Program, Brookings Institution, 2015. <https://www.brookings.edu/wp-content/uploads/2016/06/LessonsFromGermany.pdf>.

⁷ “Made in China 2025 and the Future of American Industry,” Project for Strong Labor Markets and National Development, Chairman Marco Rubio, 2019. https://www.rubio.senate.gov/public/_cache/files/d1c6db46-1a68-481a-b96e-356c8100f1b7/3EDEC923DB439A8E884C6229A4C6003.02.12.19-final-sbc-project-mic2025-report.pdf.

⁸ David M. Hart, “The Future of Manufacturing: The United States Stirs,” *Innovations: Technology, Governance, Globalization*, MIT Press, vol. 7(3), July 2012. https://www.mitpressjournals.org/doi/pdf/10.1162/INOV_a_00137.

⁹ David M. Hart, Stephen J. Ezell, and Robert D. Atkinson, “Why America Needs A National Network for Manufacturing Innovation,” Information Technology & Innovation Foundation, December 2012.

¹⁰ Susan Helper, Timothy Krueger, and Howard Wial, “Why Does Manufacturing Matter? Which Manufacturing Matters? A Policy Framework,” Metropolitan Policy Program, Brookings Institution, 2012.

¹¹ Gregory Tassef, “Rationales and mechanisms for revitalizing US manufacturing R&D strategies,” National Institute of Standards and Technology, January 2010.

¹² Ensuring access to the “complementary assets” that scaling-up innovation requires must also be the subject of policy attention. See Henry Chesbrough, Julian Birkinshaw, and Morris Teubal, “Introduction to the research policy 20th anniversary special issue of the publication of ‘Profiting from Innovation’ by David J. Teece,” *Research Policy: Volume 35, Issue 8, October 2006*.

¹³ Grove 2010.

¹⁴ For a broader discussion on the critical intersection of government policy and financing innovation, see also for example: Robyn Klingler-Vidra, “Building the Venture Capital State,” *American Affairs*, Fall 2018; Robyn Klingler-Vidra, Martin Kenney, and Dan Breznitz, “Policies for financing entrepreneurship through venture capital: learning from the successes of Israel and Taiwan,” *International Journal of Innovative Research and Development*, 2016.

Making use of federal loan guarantees and investment to catalyze private sector activities that achieve important public policy goals is not a new practice. The SBIC program was created to fill an “institutional gap” in small business investment and continues to have a role to play, as a minor and decreasing share of venture capital funding flows to manufacturing sectors.¹⁵

Small advanced manufacturing firms face a debilitating lack of access to critical finance in the United States. Innovative firms engaged in complex, advanced manufacturing production require greater capital and more time than non-production firms.¹⁶ While such firms can often find financing for the earlier stages of their development, such as prototyping, when they reach the large-scale production and commercialization stage, they tend to face difficulty accessing financing.^{17,18}

Since innovation and production are so closely interwoven in advanced manufacturing, losing the ability to engage in advanced manufacturing production greatly threatens the ability to innovate and conduct high-level research and development.^{19,20,21} Offshoring production thus damages the American grip on technological superiority. “Without scaling, we don’t just lose jobs—we lose our hold on new technologies. Losing the ability to scale will ultimately damage our capacity to innovate.”²² Allowing this loss is not in the national interest.

There are current limitations of the SBIC program to fill institutional gaps. The SBIC program is, in many ways, a successful public-private program credited with helping to build the infrastructure upon which the American private venture capital (VC) industry formed.²³ Today, however, venture capital funding in the United States is highly concentrated by geography²⁴ and industry as the lion’s share of venture capital

¹⁵ “Entrepreneurship at a Glance,” 2017 edition. https://www.oecd-ilibrary.org/docserver/entrepreneur_aag-2017-en.pdf?expires=1552575486&id=id&accname=guest&checksum=E81F7803268706747EE5A79CF2851D02 (129)

¹⁶ Elisabeth Reynolds, Hiram Samel, and Joyce Lawrence, “Learning by Building: Complementary Assets and the Migration of Capabilities in U.S. Innovation Firms,” MIT Industrial Performance Center Working Paper, March 2013. <https://ipc.mit.edu/sites/default/files/2019-01/13-001.pdf>.

¹⁷ Ibid.

¹⁸ See also Josh Lerner, [The Architecture of Innovation: The Economics of Creative Organizations](#). *Harvard Business Review Press*, 2012.

¹⁹ Suzanne Berger, “Why Manufacturing Matters,” *MIT Technology Review*, July 2011. <https://www.technologyreview.com/s/424554/why-manufacturing-matters/>.

²⁰ Alder, “Financing Advanced Manufacturing,” *American Affairs*.

²¹ Muro, Rothwell, Andes, Fikri, and Kulkarni 2015.

²² Andy Grove, “How America Can Create Jobs,” *Bloomberg Businessweek*, 1 June 2010.

²³ Robyn Klingler-Vidra, “Building the Venture Capital State,” *American Affairs*, Fall 2018. <https://americanaffairsjournal.org/2018/08/building-the-venture-capital-state/#notes>.

²⁴ Richard Florida and Ian Hathaway, “How the Geography of Startups and Innovation Is Changing,” *Harvard Business Review*, November 2018. <https://hbr.org/2018/11/how-the-geography-of-startups-and-innovation-is-changing>.

flows to information and communication technology companies, while capital intensive, industrial sectors receive a relatively minor portion.²⁵

The relatively short window for expected returns, combined with the prioritization of low-risk high-reward investments skews funding towards digital technology and away from capital-intensive manufacturing sectors with longer profit horizons.²⁶

The proposed program draws upon the need for government to fill institutional gaps in manufacturing and repair what is widely regarded at the “industrial commons”²⁷ by addressing the decline in advanced manufacturing and the drought of investment in these industries.

The investment terms draw from the Israel Innovation Authority’s successful Incubator Incentive Program, which licenses consortia of venture capital firms partnered with academia and/or industry to invest in startups using government leverage.²⁸ Repayment to the SBA is structured as a royalty from revenues, to allow for a long-term outlook and protect the control and vision of entrepreneurs. In this way, government funds flow through private entities who make investments with skin in the game and provide patient capital to small businesses.

“Revenue-based finance is a particularly popular financing option for pre-cash flow startups that need a relatively small amount of capital to get off the ground. Rather than acquire ownership, the SBIC (and SBA) would make a return if and only if the company becomes revenue positive — at which point conventional SBA financing options start to look more attractive.”²⁹

The decline of productive capability in the United States threatens the nation’s leadership in advanced industries and ability to innovate in the future.³⁰ Broad firm level decisions to outsource manufacturing from the United States have led to unintended consequences that imperil America’s edge in technologies invented and

²⁵ Entrepreneurship at a Glance, 2017.

²⁶ Jonathan Gruber and Simon Johnson *Jump Starting America: How Breakthrough Science Can Revive Economic Growth and the American Dream*, PublicAffairs (New York, NY), 2019.

²⁷ Gary P. Pisano and Willy C. Shih, “Restoring American Competitiveness,” *Harvard Business Review*, August 2009. <https://hbr.org/2009/07/restoring-american-competitiveness>.

²⁸ Incubators Incentive Program, Israeli Innovation Authority. <https://innovationisrael.org.il/en/program/incubators-incentive-program>

²⁹ Struggling Regions Initiative, Niskanen Center. <https://www.strugglingregions.com/small-business>.

once produced domestically.³¹ This dynamic, erodes both national security and economic prosperity.³²

Sec. 321: Electronic Submissions

- I. This section requires SBA to accept electronic signatures for all documents submitted to the Agency related to the operations and requirements of the program.
- II. Reason: This change is intended to modernize processes at the SBA and allow for more efficient delivery and tracking of documentation submitted to SBA from participating funds.

Sec. 322: Reserve Fund

- I. Creates an SBIC Reserve Fund. The Fund will be credited with the annual variable fees charged to SBICs, of amount determined by the Administrator. The Administrator is directed to achieve a capital ratio of between .05 percent and 3 percent beginning in fiscal year 2022 and years beyond. The funds in the Fund will be available to repay any unmet debt obligations.

Clarifies the meaning of “tangible net worth” of a small business to the total assets of the applicant, other than the value of intangible assets, intellectual property, licenses, patents, trademarks, copyrights, and services marks, as well as any goodwill or franchises owned.

Clarifies that the SBIC license surrender and wind-down process will not inadvertently trigger the Volker rule investment exemption for bank limited partners when minimum investment levels may not be met.

Sets forth reporting requirements for SBA to make aggregate performance data available on a bimonthly basis that includes: the vintage year of SBIC investors, the type of investment (equity, debt, or equity and debt), as well as levered and non-levered funds.

- Requires SBA to amend regulations to ensure that SBA does the following:
- Approves or rejects requests such as overline requests (investments beyond those allowed in regulation for small businesses who need capital) for active funds within 30 days;

CHAIRMAN'S MARK

- Recognizes investment from universities, pension funds, and other state-chartered entities as regulatory capital;
- Approves or denies requests to surrender an SBIC license within 60 days if all SBA obligations have been satisfied, and if SBA denies the request, provides documentation to the SBIC outlining the requirements it needs to fulfill to satisfy the terms of the license surrender; and
- Allows an SBIC to impose a minimum prepayment size of no more than five percent of the outstanding principal.

Requires an annual report to highlight the 10 most common examination findings. Further, a year after enactment, SBA is required to submit a report to Congress outlining SBA's plan for the modernization of its information technology systems with respect to the SBIC program.

Requires a report to Congress with a modernization plan for the information technology systems of the program.

Authorizes the SBIC program for five years at \$4 billion for FY 2020 and 2021, then \$4.5 billion for FY 2022-2024.

- II. Reason: Though the SBIC program is experiencing record-low defaults, the Reserve Fund for times when the economy is down and the program may experience more losses for the protection of the taxpayer. The clarification for the measurement of tangible net worth is meant to capture the intellectual property (IP) of small businesses and provide a more accurate measurement of the worth of the business. This section also clarifies the wind-down treatment of banks who are limited partners in the program to ensure their participation long-term.

The regulation changes and clarifications provide certainty and efficiency to the operation of the program for active funds, while the reporting requirements are meant to provide transparency to Congress, participants, and investors, while providing insight into the Agency's plans to modernize its systems to create efficiency in the program's operations.

The Small Business and Entrepreneurship Committee has historically been responsible for setting the authorization levels of the loan and investment programs. Since the Committee stopped extending the Small Business Act and Small Business Investment Act in 2011, the Appropriations Committee has set levels for the programs. It is the role of the authorizing Committee to set these levels. The \$4 billion for two years and \$4.5 billion for five years is reasonable, since the current

program is operating at under \$2 billion per year and the increase in the last three years provides additional room for increased use of the program.

Sec. 102: Timelines for Issuance of SBIC Licenses

- I. Amends Section 301(c) of the Small Business Investment Act of 1958 (15 USC 681(c))

Gives SBA specific timelines in which they must report on the status on SBIC applications (including all forms of delays, such as government shutdowns):

- 120 days for new SBIC applicants
- 45 days for repeat applicants and non-leveraged, non-bank applicants
- 25 days for bank-owned applicants

Requires the SBA to approve or disapprove of SBIC applications on time:

- 240 days for new SBIC applicants
- 90 days for repeat applicants and non-leveraged, non-bank applicants
- 45 days for bank-owned applicants

Requires SBIC applicants to pass an FBI background check within the last year

Defines the following terms:

- Bank-owned applicant
- Non-leveraged, non-bank applicant
- Repeat applicant

- II. Reason: The programmatic changes included in this section are intended to ensure the long-term stability of the program by providing consistency and certainty to the process for applicant funds, investors, and SBA.

Sec. 103: Investment in Small Business Investment Companies

- I. Amends Section 302(b) of the Small Business Investment Act of 1958 (15 USC 682(b))

Allows certain banks and savings associations to invest in small business investment companies up to 15 percent of surplus capital with appropriate Federal banking agency approval.

- II. Reason: Currently banks and savings associations are permitted to invest only five percent of surplus capital in small business investment companies. This change would

permit, with approval, these institutions to invest more in participant funds, thus increasing the potential of greater investment in small businesses.

Sec. 104: Manufacturing Debentures

- I. Amends Section 303 of the Small Business Investment Act of 1958 (15 USC 683)

Provides a discounted debenture that does not require an interest payment or annual charge for the first five years for small business investment companies who invest in manufacturing small businesses.

- II. Reason: The manufacturing sector generally requires more long-term and patient capital to scale and grow and these characteristics have dissuaded investment by the private sector. This provision is intended to provide the opportunity for further investment in manufacturing businesses that create jobs and support increased national competitiveness. It is distinct from the innovation debenture because it will be applicable to investments in all manufacturing firms and existing small business investment company partners.

Sec. 105: Additional Leverage for Manufacturers

- I. Amends Section 303(b)(2) of the Small Business Investment Act of 1958 (15 USC 683(b)(2))

Allows small business investment companies that invest in manufacturing businesses within certain parameters, like veterans, rural areas, women-owned, may exempt up to \$50 million in investment to these businesses from leverage limits.

- II. Reason: The manufacturing sector generally requires more long-term and patient capital to scale and grow and these characteristics have dissuaded investment by the private sector. This provision is intended to provide the opportunity for further investment in manufacturing businesses that create jobs and support increased national competitiveness. It is distinct from the innovation debenture because it will be applicable to investments in all manufacturing firms and existing small business investment company partners.

Sec. 106: Termination of New Markets Venture Capital Program and Renewable Fuel Capital Investment Program

- I. Amends Title III of the Small Business Investment Act of 1958 (15 USC 681 esq.)

This section modernizes the Act by eliminating outdated programs that are no longer operational or accepting new applications.

Subtitle B – Certified Development Companies

Sec. 111: Loan Guaranty Program

- I. Adds “workforce development” in the form of worked-based or work-integrated training” as an additional public policy goal to the permissible goals that can be used to justify making 504 loan. An example of this type of workforce development is an apprenticeship.

Increases the loan amount for manufacturing loans from \$5.5 million to \$10 million.

Provides authority for Accredited Lender Program (ALP) participants to unilaterally process a series of minor actions that they currently must get approved by SBA, which slows down the closing process. These actions are:

- Corrections to names or formation of any EPC, OC, Borrower, or Guarantor;
- Corrections to the Project Property address (Note: CDCs shall not exercise unilateral authority to change the Project Property);
- Corrections to the Interim Lender or Third Party Lender name;

Makes improvements to the closing process:

- Change the Third Party Lender or Interim Lender, provided that they are a federal or state regulated financial institution;
- Make a Guarantor a Co-Borrower or vice versa;
- Add a Guarantor;
- Reduce standby debt prior to loan closing as a result of regularly scheduled payments;
- Reduce project costs; and,
- Re-allocation of project costs in an amount equal to 10% of the allocated cost.

Allows SBA to determine the closing fees that may be included in the closing package and must revisit them periodically.

Allows the borrower to submit financial statements dating back 180 days and provides 45 days for the CDC to certify these statements after closing. Includes an Express Program for 504 that applies to loans \$500,000 and under. The program would streamline the loan process by allowing ALP lenders to process the same minor changes as listed above in the “closing” section, as well as the items below, as long as the borrower is current on their loan:

CHAIRMAN'S MARK

- Re-allocates project costs in an amount up to 10 percent of the allocated cost;
- Certifies that a refinanced loan is not increased in order to provide cash to the borrower;
- Permits a new party to assume responsibility for the loan as long as the existing borrower is not being released and remains the original guarantor;
- Allows the CDC to force place insurance coverage in the case a borrower has allowed insurance to lapse (likely in a default situation);
- Endorses insurance checks <\$100,000

II. Reason: Chairman Rubio is focused on creating dignified jobs for Americans, including opportunities for training for those jobs, and his legislative priorities reflect that focus. Workforce development, and ensuring that the workforce training workers receive correlates with the skill set employers need is in keeping with his priorities.

Chairman Rubio has released a number of reports this Congress examining the issue of creating jobs that sustain individuals and families and support our national competitiveness. The sustainability of long-term investment and jobs created in industries like manufacturing are the kinds of investments Chairman Rubio argues in favor of in his reports. Additionally, manufacturing needs (land, building, equipment) provide more collateral in the case of a default, which should reduce the risk of making these loans. The SBA has reported decreased defaults in the manufacturing sector. The President's FY 2020 budget also requests an increase in the ceiling for manufacturing loans.

The SBC hearing, "Reauthorization of SBA's Access to Capital Programs," provided testimony underscoring the arduous and complicated closing process for the 504 program. The intent of this change is to streamline the process by allowing CDC's who have proven track records – by virtue of their PCLP and ALP status – to process minor changes that do not substantively affect the content of the loan.

This fee has not been changed in over 20 years and is no longer in keeping with the true cost of closing a loan. Allowing SBA to determine the closing fee with periodic review will provide durability to the law while limiting the borrower's out-of-pocket costs, which will allow them to preserve more of their loan financing for working capital.

The current requirements are financial statements up to 120 days old, and certification after 30 days. The intent of this draft is to streamline and improve the closing process to speed up delivery of the product. However, in certain circumstances where a loan

may be delayed, providing some flexibility in final review is prudent to avoid further delays.

These changes will provide recourse for CDC's to engage SBA when they believe they have provided information and documentation to assuage concerns SBA may have about a loan. Transparency at the agency, and a means of addressing SBA decisions in the closing process is important to ensuring loans, and by extension borrowers, are given every opportunity to gain access to capital.

Loans in high default industries and high default franchises will not be permitted. SBA, along with the Office of Credit Risk Management (OCRM), will annually determine these industries and franchises.

The SBC hearing, "Reauthorization of SBA's Access to Capital Programs," provided testimony about the need to speed up delivery of the 504 program and make the program relevant to the needs of small business borrowers. Streamlining processes for smaller loans and allowing proven CDC's with higher scrutiny from SBA to process these loans more efficiently.

Sec. 511: Closing and Oversight

- I. Outlines the duties and responsibilities of the SBA District Counsel, who play an active role in the closing of 504 loans, but are only found in Standard Operating Procedure (SOP), as well as the oversight duties of the SBA.

Directs District Counsel to restrict their duties to exclude any participation in the closing process.

Designates that closing attorneys for the CDCs be responsible for the certification of closing documents and provides a timeline for CDCs who do not have a closing attorney to designate one.

Allows SBA to determine the continuing education requirements for closing attorneys.

Shifts file review responsibilities to the Office of Credit Risk Management (OCRM) and allows SBA to charge certified development companies a fee to cover the cost of oversight.

Clarifies the oversight duties of OCRM, as well as the enforcement actions they may take against a certified development company – these provisions are in line with the

oversight bill passed by Congress in 2018 that codified OCRM and provided enforcement parameters for the 7(a) Guaranty Loan Program.

Includes penalties for CDCs who submit required annual reports to SBA more than 30 days late.

Authorizes the program for five years with authorization levels of:

- FY 2020: \$8 billion
- FY 2021: \$8.5 billion
- FY 2022: \$9 billion
- FY 2023: \$9.5 billion
- FY 2024: \$10 billion

Requires the Administration to issue rules for the Express Program established in the draft, as well as section 511 outlining the responsibilities of the SBA District Counsel.

- II. Reason: This section is derived from conversations with stakeholders, and the hearing “Reauthorization of SBA’s Access to Capital Programs,” which centered on the complicated and lengthy closing process for a 504 loan. This section is intended to streamline that process and provide more efficient delivery of the 504 product while ensuring proper oversight by OCRM and long-term stability of the program. The intent of this language is a strong, streamlined program that SBA is properly overseeing for optimal success.

Sec. 112 Limitations on Leasing

- I. Amends Section 502(a)(5) of the Small Business Investment Act of 1958 (15 USC 695(a)(5))

Prohibits a small business concern from permanently leasing not more than 50 percent of a building it acquired, renovated or reconstructed and must use not less than 50 percent.

- II. Reason: This provision modernizes the statute that currently requires a small business to occupy at least 51 percent of the building it has acquired, which is not in keeping with current occupancy and leasing practices (i.e. 50/50 split use for businesses and housing).

Sec. 113 Certified Development Company Loans for Small Manufacturers

- I. Amends Section 502(a)(2)(A)(iii) of the Small Business Investment Act of 1958 (15 USC 696(2)(A)(iii))

Increases the manufacturing loan level from \$5.5 million to \$10 million. Provides decreased project costs for small manufacturers and increases the job creation or retention requirements for small manufacturers.

Adjusts building occupancy standards for manufacturers, as well as collateral requirements, and debt refinance parameters for small manufacturers.

- II. Reason: The manufacturing sector generally requires more long-term and patient capital to scale and grow and these characteristics have dissuaded investment by the private sector. This provision is intended to provide the opportunity for further investment in manufacturing businesses that create jobs and support increased national competitiveness.

Sec. 114 Startup Small Manufacturers; Assistance for Small Manufacturers

- I. Amends Title V of the Small Business Investment Act of 1958 (15USC 695 et seq.) to require Section 512, below.

Sec. 512 Assistance for Small Manufacturers

- I. Requires coordination with SBA District Offices to provide entrepreneurial development assistance and training to these manufacturing small businesses.
- II. Reason: The manufacturing sector generally requires more long-term and patient capital to scale and grow and these characteristics have dissuaded investment by the private sector. This provision is intended to provide the opportunity for further investment in manufacturing businesses that create jobs and support increased national competitiveness.

TITLE II – SMALL BUSINESS INNOVATION

Subtitle A – SBIR and STTR Programs

Sec. 201: Permanency of SBIR and STTR Programs

- I. The SBIR and STTR programs would be made permanent under this section instead of allowing the programs to expire at the end of Fiscal Year (FY) 2022.
- II. Reason: Since 1982 and 1992, respectively, these two programs have been reauthorized by Congress on numerous occasions. This has led to uncertainty for federal agencies and small businesses that participate in the program. As evidenced by the numerous extensions and favorable evaluations performed over the years, now

is the time to fulfill Senator Shaheen's long held goal of making these programs permanent.

Sec. 202: Allocation Increase

- I. Increases the percentage of federal agencies' research budgets that must be set aside for SBIR and STTR small businesses.

Raises SBIR allocation from 3.2 percent to 6.4 percent in Fiscal Year (FY) 2024.

Raises STTR allocation from 0.45 percent to 1 percent in FY 2024.

Clarifies that these funds must be spent, not planned to be spent.

- II. Reason: Both the SBIR and STTR programs have been incredibly successful over the 37 and 27 years that they have been in operation. An evaluation of the Navy's SBIR and STTR programs from 2000-2013 estimated that nearly \$2.3 billion in expenditures under the program led to \$14.2 billion in sales for small business participants. Increasing the allocation percentages for all covered agencies will increase small businesses' commercialization of their ideas and allow the federal government to benefit from these innovations.

Sec. 203: Accelerating Award Timelines Across Agencies

- I. Requires SBA, as part of its annual report to Congress on the SBIR and STTR programs, to include average and median amount of time it takes each participating agency to make a final decision on an application.

Requires each agency to create a program to streamline award decision making with a goal of 90 days in review between submission and final decision.

- II. Reason: Drawn out award times have been a frustrating issue that many applicants face when dealing with various agencies. In general, experiences can differ greatly from agency to agency, and in some cases small businesses have had to wait six to eight months to receive their award and begin working on projects. A pilot program to reduce wait times was setup at the Department of Defense last year. It is difficult for high-tech small businesses to have stable operations when there are these types of delays.

Sec. 204: Encouraging Venture Capital-Owned Program Participants

- I. Creates parity between federal agencies to partner with small businesses which may have the backing of other sources of capital such as venture capital funds or private equity.

- II. Reason: Chairman Rubio believes that small businesses should be able to grow through whatever financing structure helps them to grow at the fastest rate and lowest cost. Currently, only the National Institutes of Health, the Department of Energy, and the National Science Foundation are able to award 25 percent of award funds to small businesses owned by private equity companies. All other agencies required to participate in the program are currently allowed to award 15 percent of funds to these types of businesses. This section would help to broaden the pool of potential applicants and get more innovative technologies into the marketplace.

Sec. 205: Phase III Award Education

- I. Educates contract officers at each agency that participates in SBIR or STTR programs on the procedures for making sole-source contract awards to small businesses that are eligible to receive Phase III awards.
- II. Reason: It has often been unclear to program managers, prime contractors, and contracting officers when they are able to issue sole-source contracts to awardees. This confusion on contracting officers' part has led to hesitation and, on occasion, refusals to use these types of awards. Phase III awards are follow-on agreements in which small businesses that have received Phase I and Phase II awards are attempting to sell their products to the agency that invested in the original research. This provision will help to increase the use of Phase III awards.

Sec. 206: Improvements to the Commercialization Selection

- I. Reduces SBIR/STTR final decisions on proposals to 180 days (down from 1 year) for NIH and NSF.

Requires participating agencies to consider the likelihood of commercialization as part of peer review in addition to scientific and technical merit and feasibility, and requires at least one reviewer with commercialization expertise.

Expands the phase flexibility pilot program to all agencies, allowing up to 10 percent of total SBIR funds to be used for direct to Phase II awards and 15 percent for NIH.

Requires a report no later than 1 year after the date of enactment, and requires outstanding reports to be submitted by DoD and NIH if the phase flexibility pilot program is to continue beyond 2022.

Designates a Technology Commercialization Officer in each participating agency to help companies with commercialization, identify technologies ready to commercialize, and lead reporting on commercialization activities.

- II. Reason: One frustration consistently voiced by awardees is the long delays they experience in awaiting decisions from participating agencies, or on the disbursement of funds. It is very difficult to keep a small business operational while waiting on these funds. Reducing wait times are a concrete way to improve awardee experiences in the program.

Improving overall commercialization performance by giving priority to firms that have a better chance at commercializing their ideas. Participating agencies should be encouraged to consider small businesses that will be able scale up their invention. Commercialization metrics are being added to the list of factors considered and will not be ranked higher than others. Agencies should ensure that they are prioritizing small businesses aiming to commercialize. All awardees provide valuable research, but the program's intent is to help spur innovation which ideally means that a small business is able to sell their product on the open market.

In some cases small businesses have already advanced past the basic research level and could better assist participating agencies by performing Phase II research. Currently, this program is only carried out at the NIH, DoD, and Department of Education (ED). Expanding this program will allow for more high quality Phase II awardees and for more companies with commercialization potential to enter the program. The rate is raised at NIH to 15 percent because many companies in this area of research are more likely to have exceeded the Phase I qualifications before entering the program.

While Congress has heard generally positive remarks about all of the SBIR and STTR pilot programs no quantitative reports have been submitted. Terminating the phase flexibility program in FY 2022 is supposed to incentivize participating agencies and the SBA to gather and analyze the data they have on the program.

Because this section implements improved commercialization consideration and reporting on commercialization, it is important to have someone at each participating agency that is engaged in encouraging commercialization by program participants.

Sec. 207: Improvements to Technical and Business Assistance; Commercialization Impact Assessment; Patent Assistance

- I. Confirms that agencies shall authorize SBIR/STTR recipients to carry out commercialization activities, and adds the ability of companies to use funds internally for hiring new staff, augmenting staff, or directing staff to conduct or participate in training.

Clarifies that up to \$6,500 of a Phase I award and up to \$50,000 of a Phase II award will be available for commercialization activities. These amounts can also be in addition to the award as determined by the Agency head.

Cybersecurity assistance is included under the definition of Technical and Business Assistance (TABAs) services.

Stipulates that SBIR/STTR participating agencies shall allow SBIR/STTR recipients the option to participate in the Innovation-Corps (I-Corps) programs. Funding can come from I-Corps grants, SBIR/STTR TABAs, or from the participating team.

Directs the Administrator to coordinate with all agencies to develop a commercialization impact assessment report with data from each company, these metrics will include:

- Total sales
- Total outside investment from partnerships, joint ventures or other private sector funding sources
- Total number of technologies licensed
- Total acquisitions by other corporations
- Total new spin-out companies
- Total outside investment from venture capital or angel investments
- Total number of patents applications
- Total number of patents acquired
- Year of first Phase I award and total number of employees at time of award
- Total number of employees from preceding year
- Total revenue as of the date of the report from SBIR or STTR funding
- Total number and value of subsequent Phase II awards
- Total number and value of follow-on Phase III awards
- Non-SBIR/STTR federal awards and contract

- II. Directs Administrator to coordinate with United States Patent and Trademark Office (USPTO) to allocate not less than 5% or 500 Track One requests to SBIR and STTR recipients on a first come first serve basis and allows USPTO to waive the \$2,000 examination fee.

Directs the Administrator to coordinate with USPTO to allow SBIR and STTR firms to access one-time use of pro bono or low bono patent services with the following criteria:

- Between \$150k and \$5M gross income for Pro bono services

- Between \$5M and \$10M gross income for Low bono services
- Applicants not currently under an obligation to assign rights to another entity

Directs the Administrator to coordinate with USPTO to provide outreach for scam prevention services.

- III. Reason: Expanding the allowable uses of grant funds for commercialization activities will increase awardee's focus on commercialization. Currently, small businesses in the program are only able to use agency approved vendors for these types of activities. Allowing awardees to hire staff to carry out these types of services will allow for swifter commercialization and for awardees to hire staff that are familiar with commercializing their particular product. Small businesses are still able to use vendors.

Making sure that awardees are able to use funds for commercialization is important, but reasonable limits are needed to ensure that awardees are not hiring excessive numbers of commercialization staff. These ceilings are high enough to have an impact but not so high that research by the awardee is compromised.

Cybersecurity assistance was added to the TABA definition because of the high importance that cybersecurity holds for small businesses today. The innovative technologies produced by this program could be lost or stolen in just one cyberattack. SBIR and STTR awardees are no different than other small businesses, they are at a high risk of cyber-attack and could use help in protecting themselves.

The I-Corps program is used by several agencies to encourage university innovators to explore commercializing their ideas. Allowing SBIR and STTR awardees to take part in this program will enhance commercialization activities.

In making these changes to the commercialization aspects of the programs it is prudent to require reporting to determine the effectiveness of these changes. The measurements included in the bill will help to measure commercialization in a variety of ways.

To encourage more SBIR and STTR firms to patent their ideas, the SBA Administrator would coordinate with the head of the USPTO to set aside a number of expedited Track One requests and waive the examination fees. Awardees would also be able to access free and discounted legal services as this is often a barrier to filing patents that many small businesses face.

Subtitle B – FAST Program

Sec. 211. Federal and State Technology Partnership Program

- I. Defines “Underperforming State” as a state participating in the SBIR or STTR program that has been calculated by the Administrator to be one of 18 States receiving the fewest SBIR and STTR Phase I awards.

Directs SBA to prioritize applicants located in underperforming states. Allows for multiple applications from each state. Allows SBA to waive matching requirements for applicants in underperforming states. Allows SBA to provide additional assistance to applicants in underperforming states.

Includes STTR awards everywhere that SBIR awards is mentioned.

Adjusts the matching requirements for FAST Grants to 25 cents for the 18 states receiving the fewest SBIR and STTR Phase I Awards (currently 50 cents), to \$1 for the 16 states receiving the most SBIR and STTR Phase I Awards (no change), and to 50 cents for all other states (currently 75 cents).

Requires at least 12 awards be given every two years.

Allows the SBA to give awards up to \$500,000 over a two year period (currently \$125,000 for one year)

Requires unused FAST funds to be retained by the program for future FAST awards

Includes the following reporting requirements for award recipients:

- number of awards made under the SBIR or STTR program
- the number of applications submitted for the SBIR or STTR program
- the number of consulting hours spent
- the number of training events conducted
- any issues encountered in management and application of the FAST program

Requires the Administrator to publish a biennial report that includes:

- a description of the process used to ensure that underperforming States are given priority application status under the FAST program in the biennial report
- the proportion of awards provided to and cooperative agreements entered into with underperforming States; and

- a list of the States that were determined by the Administrator to be underperforming States, and a description of any changes in the list compared to previously submitted reports.

Makes technical and conforming changes.

Authorizes \$20 million for every two-year period (from \$10 million per one year)

Subtitle C – Investment and Innovation

Sec. 221. – Office of Investment; Office of Innovation and Technology

- I. Divides the Office of Investment and Innovation at SBA into two different offices: an Office of Investment, and an Office of Innovation and Technology.

Directs each Office to be led by an Associate Administrator.

Takes effect after 180 days, with a reporting requirement that 90 after enactment the Administrator submit a report to Congress detailing how the Agency is implementing this change.

- II. Reason: The Office of Investment and Innovation is currently comprised of what was separate offices that were merged. This section aims to create two offices, that will be similar in structure to way they were before the Office of Investment and Innovation was consolidated. This does not take effect until 180 days after enactment, to ensure SBA has time to separate and re-establish these offices in the appropriate amount of time.

Sec. 222. – Regional High-Growth Collaborative Pilot Program

- I. Defines Regional High-growth Collaborative Pilot Program, covered period and eligible entity.

Establishes a Pilot Program to provide specialized resources for small businesses in high-growth industries.

Outlines the two phases of the pilot program.

Phase I:

- High growth regional collaboratives will be established through a competitive process in which 1 eligible entity within each of the 10 SBA regions will receive \$300,000 in funding per year to operate a collaborative for two fiscal years.

CHAIRMAN'S MARK

- Each collaborative will provide access to resources, programs, capital, market research, SBIR/STTR application assistance, and training to assist small business concerns in technological industries.
- The SBA will evaluate the success of each collaborative over the two year period through the collection of established performance metrics.
- The collaborative that performance the best based on the collected metrics will be guaranteed an award in phase II of the pilot and will serve as the model for future collaboratives that will be established. SBA may also incorporate elements from other collaboratives into this model.

Phase II:

- The SBA will award funding to a total of 10 eligible entities, one per SBA region, to administer the collaborative model established in Phase I. With the exception of the winning collaborative from Phase I, all awards will be made on a competitive basis through an established application process.
 - SBA will provide each award recipient with \$500,000 per year on a renewable basis based on performance. The entity will be required to match 50% of the award.
 - The Administrator will submit an annual report to Congress on the performance of the program.
 - No later than one year after the expiration of the Pilot Program, GAO will submit a report to Congress analyzing the impact of the program and the effectiveness of the SBA's oversight.
- I. Reason: This pilot program is intended to provide small businesses operating in high-growth industries or within the SBIR/STTR communities with access to the resources they need to start and scale their business and commercialize their products. By utilizing a regional distribution of collaboratives, the program is intended to serve all areas throughout the United States by providing individuals with connections to exiting entrepreneurial and technical resources.

TITLE III – SMALL BUSINESS EXPORT

Subtitle A – Export Finance

Sec.301: Export Financing

- I. Eliminates the Export Working Capital Program, the International Trade Loan program, and the Export Express loan programs.

Removes the cap on use of loan proceeds to support exports.

- II. Reason: The Export Working Capital Program, the International Trade Loan program, and the Export Express loan programs have historically been underutilized, with a total of only 481 loans being made in fiscal year 2018. By eliminating the existing export loans and the cap on use of loan proceeds to support export activity, the SBA is able to instead offer new and efficient export specific loans that allow for greater usage by both lenders and borrowers.

Sec. 302: Office of International Trade

- I. Eliminates the requirement for SBA to designate a trade finance specialist within the administration and the requirement for export finance specialists within each export assistance center.

Establishes increased reporting requirements and performance metrics for the Office on International Trade.

- I. Reason: The modernized export loan products will be administered by the SBA's Office of Capital Access as opposed to the Office on International Trade, making it unnecessary for the Office on International Trade to continue to support a trade finance specialist or export finance specialists. In an effort to ensure that the SBA's Office of Capital Access has access to the necessary export and trade expertise, a requirement for continued consultation with the Office of International Trade is established. Additionally, by establishing increased reporting and performance metrics for the Office on International Trade, both Congress and the Administration will be better able to ensure that the office is meeting its established responsibilities.

Sec. 303: Export Finance and Innovation Growth Loans

- I. Defines "eligible small business concern," "indirect export," and "export finance loan."

Allows the SBA to guarantee Export Finance loans to small businesses and sets the maximum value of the export finance loan at \$10,000,000.

Allows the SBA to guarantee no more than 90 percent of a loan less than \$5,000,000, not more than 70 percent of a loan between \$5,000,000 and \$7,500,000, and not more than 60 percent of a loan between \$7,500,000 and \$10,000,000.

Specifies allowable uses of export finance loan funds, such as to acquire inventory for export or to be used to manufacture goods for export, to purchase goods or services for export, and to support an indirect export.

- Establishes that borrowers may utilize up to 40 percent of their export finance loan funds to support domestic sales.
- Outlines the documentation required to support indirect exports and does not allow the sale of the SBA guaranteed portion of the loan on the secondary market.
- Establishes a maximum loan maturity of 25 years and sets interest rates that match the 7(a) program for term loans.
- Requires the SBA to monitor the reasonableness of all lender offered rates.
- Requires lenders offering export finance loans to determine creditworthiness using the same criteria that was established under the Export Working Capital Program.
- Requires the SBA to develop a set of eligibility criteria for lender participation and provides a streamlined process for lenders who participate in the 7(a) Preferred Lenders Program to receive preferred status within the export program.
- Requires the SBA to promulgate a rule to publicly and consistently outline the administration of the program, while allowing the current export financing loan products to remain available for use until the aforementioned regulation is completed.
- II. Reason: This section allows for the establishment of a new SBA guaranteed export loan product that is tailored to meet the needs of the modern borrower. A tiered guarantee is included to allow the loan product to be able to simultaneously incentivize lenders to participate in the export finance loan program, while also limiting the risk to the SBA as loan values increase. Increased loan flexibility is achieved through allowing for a \$10,000,000 maximum loan, a variable period of maturity, and a percentage domestic allowable use of funds. Providing this flexibility, to both lenders and borrows, allows for the product to be more attractive to lenders, suit the needs of more small businesses, and ultimately allow for increase access to capital for our nations exporters.

Subsection (36): Innovation Growth Loans

- III. Establishes the Innovation Growth Loan product line for American advanced manufacturing firms which need financing to invest in capital-intensive production within the United States.

Loans must be used for the acquisition of US-based capital assets that will allow innovative firms to scale-up manufacturing activity. These loans address a real

market failure, which has led to the offshoring of American manufacturing capacity. Borrowers will be accountable for growth performance benchmarks.

Allows the SBA to guarantee innovation growth loans, beginning one year after enactment.

Sets the maximum value of innovation growth loans at \$50,000,000.

Allows the SBA to guarantee no more than 80 percent of an innovation growth loan.

Establishes use of funds rules that require at least 50 percent of innovation growth loan funds to be used for the acquisition of productive capital assets, which must be located within the United States.

Establishes that innovation growth loans must be released in tranching disbursements. No more than 60 percent of the total loan amount may be released in the first disbursement. Release of subsequent disbursements is conditional upon meeting growth benchmarks.

Establishes growth benchmarks which loan borrowers must meet in order to receive the full loan amount.

- Growth benchmark is tied to the amount borrowed
- Borrowers must achieve growth that is 15 percent of the loan amount, above and beyond their current average annual revenue, as averaged over the third, fourth, and fifth year following receipt of the initial loan disbursement.
 - For example, if borrowing firm has an average of \$10 million in revenue currently, and borrows \$20 million, they will be required to achieve an average annual revenue of \$13 million over the evaluation period. $0.15 * \$20,000,000 = \$3,000,000$. $\$3,000,000$ above and beyond the current average annual revenue of $\$10,000,000 = \$13,000,000$.
- Revenue from exports will be counted 1.5x for purposes of calculating achievement of this growth benchmark.
- A Performance Fee of 1 percent of the loan amount will be assessed on each loan, but deferred. If the growth benchmark is met, the fee is waived entirely. If the benchmark is not met, the fee is added to the principal owed, and then placed in a Loan Loss Reserve Fund as collected.
- Establishes a process through which promising firms can apply for an extension of the timeframe in which they have to meet the growth performance benchmarks.

Provides that, if a small business which has received an innovation growth loan grows and exceeds its small size standard, it may enjoy grandfathered “small business” status for contracting purposes for a period of four years.

Makes use of an alternative size standard of 3x the standard size standard for the advanced manufacturing businesses applying for an innovation growth loan.

Establishes a loan loss reserve fund for the Innovation Growth Loan product, into which collected performance fees will be deposited.

Defines “advanced manufacturing industry” for the purposes of determining eligibility for Innovation Growth Loans. Requires the list of eligible industries to be reevaluated every five years. Considers as eligible for an Innovation Growth Loan any business which has received SBIR/STTR funding, or which has a substantive engagement with a Manufacturing USA institute, or which has investment blocked by CFIUS.

Prohibits lenders offering innovation growth loans from selling the SBA guaranteed portion of the loan on the secondary market.

Establishes a maximum loan maturity of 25 years and an interest rate that matches the 7(a) program for term loans.

Requires the product line to operate at a zero subsidy rate to the taxpayer. Clarifies that SBA may charge guarantee and annual fees as necessary in order to ensure that the innovation growth loan product operates at a zero subsidy.

Offers fee discounts to firms operating in designated HUBZone areas.

Requires SBA to implement an outreach program to prospective borrowers, particularly within underserved communities.

Asserts that lenders offering innovation growth loans shall determine creditworthiness using the same criteria that was established to offer the Export Working Capital Program.

Requires the SBA to develop a set of eligibility criteria for lender participation and provides a streamlined process for lenders who participate in the 7(a) Preferred Lenders Program to participate in an expedited process to receive preferred status within the export program.

Established a National Small Business Innovation Working Group, which will offer expertise to SBA as it stands up the Innovation Growth Loan product line; offer ongoing evaluation and recommendations to SBA and Congress for program improvement; and offer evaluation and recommendations to SBA on applications for extensions of the timeframe in which a borrower must meet the Growth Benchmarks.

Establishes a separate authorization level from the traditional 7(a) loan program for both the Export Finance Loans and Innovation Growth Loans, authorization SBA to make no more than the following amount in guarantees:

- In FY 2020, \$3,000,000,000
- In FY 2021, \$5,000,000,000
- In FY 2022, \$10,000,000,000
- In FY 2023, \$15,000,000,000
- In FY 2024, \$15,000,000,000

IV. Reason:

Overview. Allowing American productive capacity in advanced industries to erode damages American economic health, technological and industrial leadership, and innovative edge.³³ When products initially innovated in the United States are produced and manufactured elsewhere, American competitiveness is harmed, which has negative implications for both national and economic security.³⁴

Numerous studies describe the positive benefits for the nation from advanced manufacturing activity as being meaningfully greater than the positive returns enjoyed by the firms themselves, suggesting a strong public interest in catalyzing and supporting such activity.³⁵ Advanced manufacturing activity has strong demonstrated positive effects on job creation, wages, skill development, and future innovation.³⁶

³³ Gary P. Pisano and Willy C. Shih, “Does America Really Need Manufacturing?” *Harvard Business Review*, March 2012 edition. <https://hbr.org/2012/03/does-america-really-need-manufacturing>.

³⁴ David Adler, “Financing Advanced Manufacturing: Why VCs Aren’t the Answer,” *American Affairs*, Summer 2019. <https://americanaffairsjournal.org/2019/05/financing-advanced-manufacturing-why-vc-arent-the-answer/>.

³⁵ For an excellent overview of the literature on this topic, see Robert D. Atkinson, “Think Like an Enterprise: Why Nations Need Comprehensive Productivity Strategies,” Information Technology & Innovation Foundation, May 2016. For classic studies on this question, see for example: J. Tewksbury, M. Crandall, and W. Crane, “Measuring the Societal Benefits of Innovation,” *Science* 209, no. 4457, 1980, <http://www.sciencemag.org/content/209/4457/658>; and Edwin Mansfield, “Social Returns from R&D: Findings, Methods and Limitations,” *Research Technology Management*, Nov/Dec 1991.

³⁶ Mark Muro, Jonathan Rothwell, Scott Andes, Kenan Fikri, and Siddharth Kulkarni, “America’s Advanced Industries: What They Are, Where They Are, and Why They Matter,” Brookings Institute, February 2015. https://www.brookings.edu/wp-content/uploads/2015/02/AdvancedIndustry_FinalFeb2lores-1.pdf.

CHAIRMAN'S MARK

The deindustrialization of the United States is directly linked to the decline of numerous urban, suburban, and rural communities throughout the United States.³⁷ Rural manufacturing communities throughout the industrial Midwest and Southeast, as well as many inner city communities have been devastated.³⁸ Communities of color have suffered acute and ongoing harm due to the loss of manufacturing jobs in the United States.³⁹

Advanced manufacturing firms seeking to scale-up from initial innovation to commercial-scale production often face challenges accessing financing to undertake larger-scale production within the United States.⁴⁰

This lack of financing availability leads many innovative firms to move production and capital asset investment overseas. Competitor nations deliberately prioritize access to capital for firms in this position.⁴¹ This results in the hollowing-out of productive capacity in the United States, as firms whose early-stage innovation took place in the U.S. relocate the actual production of their products abroad.⁴² Given the critical importance of advanced manufacturing to national health, there is no reason to believe that this offshoring will align with the best interests of the United States.⁴³

The U.S. is not the only nation facing a strategically critical financing gap for advanced manufacturing firms at this stage of their growth. Competitor nations have identified that only cooperative efforts between the public and private sectors can

³⁷ Joel S. Yudken, Thomas Croft, and Andrew Stettner, "Revitalizing America's Manufacturing Communities," The Century Foundation, 17 October 2017. <https://tcf.org/content/report/revitalizing-americas-manufacturing-communities/>.

³⁸ Benjamin Austin, Edward Glaeser, and Lawrence Summers, "Jobs for the Heartland: Place-Based Policies in 21st-Century America," Brookings Papers on Economic Activity, Spring 2018. <https://www.nber.org/papers/w24548>. Sarah A. Low, "Rural Manufacturing Survival and Its Role in the Rural Economy," United States Department of Agriculture, 25 October 2017. <https://www.ers.usda.gov/amber-waves/2017/october/rural-manufacturing-survival-and-its-role-in-the-rural-economy/>. Andrew Stettner, Joel S. Yudken, and Michael McCormack, "Why Manufacturing Jobs Are Worth Saving," New Century Foundation, 13 June 2017. <https://tcf.org/content/report/manufacturing-jobs-worth-saving/>. Andrew Stettner, Joel S. Yudken, and Michael McCormack, "Why Manufacturing Jobs Are Worth Saving," New Century Foundation, 13 June 2017. <https://tcf.org/content/report/manufacturing-jobs-worth-saving/>. Mark E. Schweitzer, "Manufacturing Employment Losses and the Economic Performance of the Industrial Heartland," Federal Reserve Bank of Cleveland, June 2017. <https://www.clevelandfed.org/en/newsroom-and-events/publications/working-papers/2017-working-papers/wp-1712-economic-performance-of-the-industrial-heartland.aspx>.

³⁹ Teresa L. Cordova, Matthew D. Wilson, and Andrew Stettner, "Revitalizing Manufacturing and Expanding Opportunities for Chicago's Black and Latino Communities," The Century Foundation & the Great Cities Institute (UIC), 6 June 2016; Teresa L. Cordova and Matthew D. Wilson, "Abandoned in their Neighborhoods: Youth Joblessness amidst the Flight of Industry and Opportunity," Great Cities Institute (UIC), January 2017; Mathew D. Wilson and Teresa L. Cordova, "Industrial Restructuring and the Continuing Impact on Youth Unemployment in Illinois," Great Cities Institute (UIC), May 2018. Gerald D. Taylor, "Unmade in America: Industrial Flight and the Decline of Black Communities," Alliance for American Manufacturing, 2016.

⁴⁰ See also Josh Lerner, [*The Architecture of Innovation: The Economics of Creative Organizations*](#). *Harvard Business Review Press, 2012*.

⁴¹ Reynolds, Samel, and Lawrence 2013.

⁴² Id.

⁴³ Morris Teubal and Gil Avnimelech, "Foreign Acquisitions and R&D Leverage in High Tech Industries of Peripheral Economies: Lessons and Policy Issues from the Israeli Experiences," *International Journal of Technology Management*, January 2003.

CHAIRMAN'S MARK

adequately address the gap in financing for innovative high-growth firms. High-growth firms in the U.K. have faced the same financing challenges as those in the U.S. To address this problem, the U.K. government has pursued a plan to co-invest in critical sectors alongside the private sector via an Investment Fund at the British Business Bank.⁴⁴ Israel has sought to guide commercial banks to lend into the gap for advanced manufacturing firms seeking to scale up, by providing guarantees for the loans. This approach ensures the state does not pick winners within those industries, allowing the private sector to make the critical decisions. This mechanism has proved a robust way to finance innovative firms scaling-up in country.⁴⁵

The lack of capital access to facilitate scaling-up harms not only the current availability of good production-related jobs, but the future health of the U.S. economy. Small innovative firms that have the capacity to quickly scale-up are an essential component of the “innovation ecosystem” on which national success critically depends.⁴⁶ Since moving production overseas also tends to require relocating critical personnel with the necessary expertise abroad, the United States loses not just the productive capacity of that particular which could have remained in-country, but also over time weakens its own “industrial commons” – the collective “know-how” on which a vibrant innovation ecosystem depends.⁴⁷ The erosion of American capacity to scale-up innovative advanced manufacturing firms not only threatens jobs now, but threatens America’s overall capacity to innovate in the future.⁴⁸

The venture capital sector is critical to the innovation ecosystem, but its model and timeframes are not well-suited to this financing gap facing advanced manufacturing firms who seek to scale up production in the United States.⁴⁹ Traditional VC alone cannot fill this funding gap, requiring new solutions for advanced manufacturing firms caught in the “valley of death” in which larger investments and more patience are required to bring capital-intensive production to scale.⁵⁰

⁴⁴ See “Financing growth in innovative firms: consultation,” HM Treasury, August 2017.

⁴⁵ Adler 2019.

⁴⁶ Robert D. Atkinson and Michael Lind, “National Developmentalism: From Forgotten Tradition to New Consensus,” *American Affairs*, 20 May 2019. <https://americanaffairsjournal.org/2019/05/national-developmentalism-from-forgotten-tradition-to-new-consensus/>.

⁴⁷ Reynolds, Samel, and Lawrence 2013. See also Gary P. Pisano and Willy C. Shih, [Producing Prosperity: Why America Needs a Manufacturing Renaissance](#), *Harvard Business Review Press*, 2012.

⁴⁸ Andy Grove, “How America Can Create Jobs,” *Bloomberg Businessweek*, 1 June 2010.

⁴⁹ David Adler, “Financing Advanced Manufacturing: Why VCs Aren’t the Answer,” *American Affairs*, Summer 2019. For an extended discussion of the ways in which venture capital trends away from investing in complex technologies with higher initial costs and slower results, see Michael Ewens, Ramana Nanda, and Mathew Rhodes-Kropf, “Cost of Experimentation and the Evolution of Venture Capital,” *Harvard Business School Working Paper 15-070*, March 2017.

⁵⁰ Julius Krein, “Taking Stock of Venture Capital,” *The American Conservative*, 27 May 2019. For an industry-specific case study of the challenges venture capital faces funding new technological innovation, see Shikhar Ghosh and Ramana Nanda, “Venture Capital Investment in the Clean Energy Sector,” *Harvard Business School Working Paper*, 2010. Gruber and Johnson 2019.

It is critical that policymakers address this market failure to ensure that advanced manufacturing firms can access the capital they need to scale-up and produce in the United States. This is especially true in light of the Chinese government's efforts to control the most valuable high-growth industries of the 21st century.⁵¹

Growth Benchmarks. Strengthening the U.S. innovation and advanced manufacturing ecosystem requires directing investment to high-growth activities.⁵² This requires measuring growth and ensuring public policy directs itself accordingly. Supporting innovation is necessarily experimental – not every venture will succeed. There must be a mechanism to clearly define success and prevent the entrenchment of unsuccessful ventures, and to promote successful ones.⁵³ The examples of other nations, for example the “Asian miracle” economies of Taiwan, Japan, Hon Kong, and South Korea, indicate clearly that holding firms accountable for performance when they benefit from public policy is critical to building and sustaining a strong advanced manufacturing base.⁵⁴ The SBA must therefore measure performance beyond simply gauging risk.⁵⁵ It is also important that, where appropriate, borrowers have the opportunity to apply for extensions of the timeframe in which they have to meet these growth standards. Innovative technological progress is itself a process of ongoing learning—scaling up in these fields is not only a matter of inventing a new product and then producing, but of learning *how* to produce it. SBA must insist on strong accountability, demand performance discipline, and expect results. It must also recognize that some promising technological innovations will take longer than others to satisfy these high standards.

The National Small Business Innovation Working Group. It is critical that the SBA recognize that effective innovation policy must allow for and invite ongoing learning and improvement. The kind of “dynamic governance arrangements that sustain

⁵¹ “Made in China 2025 and the Future of American Industry,” Project for Strong Labor Markets and National Development, Chairman Marco Rubio, 2019. https://www.rubio.senate.gov/public/_cache/files/d1c6db46-1a68-481a-b96e-356c8100f1b7/3EDECA923DB439A8E884C6229A4C6003.02.12.19-final-sbc-project-mic2025-report.pdf. David M. Hart, “The Future of Manufacturing: The United States Stirs,” *Innovations: Technology, Governance, Globalization*, MIT Press, vol. 7(3), July 2012. https://www.mitpressjournals.org/doi/pdf/10.1162/INOV_a_00137. David M. Hart, Stephen J. Ezell, and Robert D. Atkinson, “Why America Needs A National Network for Manufacturing Innovation,” Information Technology & Innovation Foundation, December 2012. Susan Helper, Timothy Krueger, and Howard Wial, “Why Does Manufacturing Matter? Which Manufacturing Matters? A Policy Framework,” Metropolitan Policy Program, Brookings Institution, 2012.

⁵² Dani Rodrik, “Industrial Policy for the 21st Century,” John F. Kennedy School of Government, Harvard University, September 2004. <https://drodrik.scholar.harvard.edu/files/dani-rodrik/files/industrial-policy-twenty-first-century.pdf>

⁵³ Id.

⁵⁴ Reda Cherif and Fuad Hasanov, “The Return of the Policy that Shall Not be Named: Principles of Industrial Policy,” IMF Working Paper WP/19/74, March 2019.

⁵⁵ “Bring the Small Business Administration into the 21st century,” Struggling Regions Initiative, Niskanen Center, 2019. <https://www.strugglingregions.com/small-business>

public-private collaborations under conditions of uncertainty and learning” must embrace “ongoing review and revision of objectives, instruments, and benchmarks.”⁵⁶

Export orientation. High-performance in global markets is widely-recognized as a strong indicator of overall competitiveness.⁵⁷ The beneficial spillovers of export activity are also strong, for example, wages have been linked positively to export growth.⁵⁸ The market signals offered by the international market serve as a critical source of accountability for performance.⁵⁹ The competition faced in the export market ensures naturally “weeds out” firms who do not merit public policy support.⁶⁰ Nations who have successfully developed strong advanced manufacturing bases demonstrate a consistent commitment to a strong export orientation.^{61, 62} (This insight has also been an important part of the American tradition for the country’s whole history.⁶³)

Tranched Disbursement. Releasing innovation growth loans in tranches ensures that accountability for growth performance is a built-in feature of the loan product.

Grandfathered small-size provision. It is important that small businesses that participate in this product do not face a perverse incentive to *not* grow in order to maintain their small business contracting status.

Alternative size standard. The SBA’s existing size standards are overly prescriptive for identifying high-potential small and medium-sized enterprises in these industries. SBA and its lending partners are already well-equipped to identify small business in these sectors. Furthermore, the growth of American advanced manufacturing strengthens the entire domestic supply chain—the robustness of which is itself an essential element of American innovative capacity—and benefits numerous small business.

⁵⁶ Dani Rodrik and Charles Sabel, “Building a Good Jobs Economy,” Working Paper Preliminary Draft, Harvard University, April 2019. <https://drodrik.scholar.harvard.edu/publications/building-good-jobs-economy>.

⁵⁷ Rodrik 2004.

⁵⁸ Avraham Ebenstein, Ann Harrison, Margaret McMilln, and Shannon Phillips, “Estimating the Impact of Trade and Offshoring on American Workers Using the Current Population Surveys,” The Review of Economics and Statistics, October 2014.

⁵⁹ Cherif and Hasanov 2019.

⁶⁰ Joe Studwell, *How Asia Works: Success and Failure in the World’s Most Dynamic Region*, Grove Press (New York, NY), 2013.

⁶¹ Id.

⁶² Cherif and Hasanov 2019.

⁶³ See for example Malachy Postlethwayt’s *The Universal Dictionary of Trade and Commerce* (1757). Postlethwayt influenced Alexander Hamilton’s views on the importance of industry perhaps more than any other thinker; Postlethwayt strongly recommended an orientation towards exportation as the wisest policy a nation could adopt.

Maximum Loan Amount. This loan amount squarely addresses the gap in access to capital for advanced firms who seek to move to commercial scale. MIT has identified this “inflection band” of funding as usually falling between \$15 million and \$40 million in 2013, sometimes higher.⁶⁴ U.S. venture capital does not typically fund this stages at these levels. For those American firms that succeed in finding funding in this band, the source is often the national investment funds of other economies.⁶⁵

Allowable use rules. The high cost of capital investment required to bring innovations to commercial scale within the United States is the threshold challenge that drives many growing firms to offshore their production.⁶⁶ Any SBA product designed to address this problem—that is, to finance capital investment—must ensure the loan proceeds are used for the intended purpose. All SBA loans are subject to the allowable use rules.⁶⁷ The strong positive spillovers for society from capital investment have long been understood.⁶⁸ In fact, the societal benefits from investment in new equipment may in fact be greater than the positive benefits realized by the investing firm.⁶⁹ Innovation is a critical driver of economic growth, and capital investment (especially in equipment) is the primary means by which innovation diffuses through an economy.⁷⁰ Equipment investment has about four times the strong, positive effect on growth as non-equipment investment (which also is positively related to growth).⁷¹

Loan Loss Reserve Fund. While advanced manufacturing generally presents a low risk profile due to lower rates of default relative to other industries, and due to the presence of capital assets which can be recovered in the case of defaults, nonetheless is it prudent to build into the structure of the program a loss reserve fund to mitigate risk to the taxpayer.

⁶⁴ Reynolds, Samel, and Lawrence.

⁶⁵ Id.

⁶⁶ For excellent full-length discussions of the positive effects of capital investment, especially in equipment, see: Robert Atkinson, “Effective Corporate Tax Reform in the Global Innovation Economy,” Information Technology & Innovation Foundation, July 2009; Robert D. Atkinson, “Think Like an Enterprise: Why Nations Need Comprehensive Productivity Strategies,” Information Technology & Innovation Foundation, May 2016.

⁶⁷ “Use of Proceeds in SBA Loan Programs: Ways Borrowers Can Use The Money,” SBA.gov, U.S. Small Business Administration, 2012.

https://www.sba.gov/sites/default/files/Use%20of%20Proceeds%20in%20SBA%20Loan%20Programs_0.pdf

⁶⁸ J. Bradford de Long and Lawrence H. Summers, “Equipment Investment and Economic Growth: How Strong Is the Nexus?” Brookings Papers on Economic Activity 23, Brookings Institution, 1992. https://www.brookings.edu/wp-content/uploads/1992/06/1992b_bpea_delong_summers_abel.pdf

⁶⁹ See also: Lorin Hitt and Prasanna Tambe, “Measuring Spillovers from Information Technology Investments,” International Conference on Information Systems (ICIS), December 2006.

⁷⁰ Luke A. Stewart and Robert D. Atkinson, “The Greater Stagnation: The Decline in Capital Investment is the Real Threat to U.S. Economic Growth,” Information Technology & Innovation Foundation, October 2013.

⁷¹ Xavier Sala-i-Martin, “15 Years of New Growth Economics: What Have We Learnt?” (Speech, Fifth Annual Conference of the Central Bank of Chile: The Challenges of Economic Growth, Santiago, Chile, November 29–30, 2001), as cited in Stewart and Atkinson 2013.

Prohibition on Secondary Market Sales. Lenders interested in offering loans of this size and type should be able and willing to undertake these loans without relying on the secondary market.

Eligibility inclusions. Linking the SBIR/STTR program and Manufacturing USA to the Innovation Growth Loan product is a common-sense method of connecting and streamlining the effort of the SBA to catalyze innovation.

Reduced Fees for Loans that Support Activity in HUBZones. As discussed above, the deindustrialization of the United States is directly responsible for the job loss, community decline, and social challenges in numerous communities throughout the United States.⁷² Incentivizing the positive economic activity which the Innovation Growth Loan will generate to be located in distressed communities has great potential to uplift and strengthen communities harmed by the decline of manufacturing.

Outreach Program. It is important to proactively make prospective recipients of Innovation Growth Loans, particularly minority-owned, women-owned, and veteran-owned firms, aware of the product and familiar with its opportunities and requirements.

Separate Authorization and Zero-Subsidy Requirement. A separate authorization allows these products to be offered without utilizing resources intended for other programs. Ramping up the authorized amount over time allows a period of growth and learning as both lenders and borrowers become familiar with the Export Finance and Innovation Growth products. Requiring that this product operate at a zero-subsidy rate protects the taxpayer.

Sec. 304: Consultation

- I. Establishes a requirement for the Office of Capital Access to consult with the Office of International Trade regarding the export financing products.
- II. Reason: The Office of International Trade has expertise in trade and exporting that will be beneficial to the administration of the export financing loan products.

Subtitle B – State Trade Expansion Program

Sec. 311: State Trade and Expansion Program

- I. Requires the SBA to maintain a consistent and reasonable timeframe for STEP program applications.

⁷² Joel S. Yudken, Thomas Croft, and Andrew Stettner 2017.

Requires the SBA to announce STEP funding opportunities within 45 days after an appropriation and requires that applicants have no less than 60 days to complete the application and no less than 30 days to make any SBA-mandated changes to their application.

Requires the SBA to prioritize applicants who propose a program that promotes trade to veteran-owned small businesses, socially and economically disadvantaged small businesses, women-owned small businesses, and rural small businesses.

Requires the SBA to publish the criteria or calculations used to determine STEP grants offered to applicants.

Lowers the maximum grant made to the top 10 states with small business concerns from 40 percent to 30 percent of the total appropriation.

Prohibits grant recipients from allowing any individual small business concern from participate in STEP funded activities for more than 1 fiscal year.

Allows grant recipients to reprogram funds with SBA notification, but not approval.

Implements a formula funding process for STEP grants after the total appropriation reaches \$40 million and outlines the formula specifics, including minimum and maximum funding levels.

Expands what must be included in the SBA's annual report to include details on the process of reprogramming funds, a description of any efforts the SBA made to reduce the administrative burden of the program, clarification of the definition and expectations related to return on investment, and a description of programmatic best practices.

Extends the program authorization through 2024.

- II. Reason: This implements consistent timelines and transparency requirements to remedy concerns related to inconsistencies with the STEP application timeline and confusion as to how SBA currently determines grant value. Additionally, by lowering the percentage of the overall appropriation that the states with the highest number of small businesses are able to receive, this text ensures that a sufficient percentage of the grant is being used to support states who currently lack export resources. This section also limits the timeframe in which small businesses are able to participate in STEP funded activities to provide a higher number of small firms

access to export enhancing opportunities. Finally, by allowing grant recipients to reprogram grant funds without SBA approval, this text greatly lessens the administrative burden of the program.

Implementing a formula funding process allows states to anticipate the value of their grant from year to year to ensure that states are able to appropriately plan export activities.

Centralizing STEP data into the SBA's annual report allows for increased program transparency to both participating states and Congress. Additionally, requiring SBA to disclose what efforts they have made to reduce the administrative burden of the program better holds the agency accountable for those efforts, while allowing Congress an increased level of oversight.

Sec. 312: Elimination of International Marketing Program Advisory Board

- I. Eliminates the International Marketing Program Advisory Board.
- II. Reason: Modernizes the programs authorization timeframe, while eliminating a underutilized and antiquated advisory board.

TITLE IV – SMALL BUSINESS CYBERSECURITY

Sec. 401: CyberSecurity Awareness Reporting

- I. Clarifies that the SBA is obligated to deliver its annual cybersecurity report to committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives.

Requires that the SBA deliver the first cybersecurity report no later than 180 days after enactment of the bill and another report every year afterwards, and states report requirements as: assessment of the SBA's cybersecurity, strategy to increase cybersecurity, account of any systems manufactured by a company in the People's Republic of China, and any cyber-related incident within the preceding two years.

Requires the SBA to immediately notify the Senate and House Committees on Small Business when it experiences a cyber incident, and to submit a report summarizing the damage within 30 days.

- II. Reason: Cybersecurity is important for all federal agencies, but the security of the Small Business Administration (SBA) is of particular concern to small businesses, lenders, development companies, and other members of the public who house their personal information on the SBA's systems. Chinese hacking groups are increasingly

targeting federal agencies and related entities as they seek trade secrets and national security information. Chinese-manufactured products are also cause for concern, since equipment, such as security cameras, may be exploited by outside hackers to spy on the American government, businesses, and individuals.

Each agency is required to abide by the Federal Information Security Management Act (FISMA, P.L. 113-283). FISMA requires agencies to report “major information security incidents” and data breaches to Congress as they occur and annually. FISMA also requires that agencies report on the adequacy and effectiveness of the information security policies and procedures. Since there is not an explicit requirement that the SBA report on its cybersecurity preparedness or breaches to the Small Business Committees, we have not received this information.

The Office of Inspector General (OIG) at the SBA has consistently questioned the strength of the SBA’s IT. The OIG has scored “IT Leadership” as orange (making little progress) or red (making no progress). In the 2018 report “The Most Serious Management and Performance Challenges Facing SBA,” IT issues were finally moved to the yellow category, meaning that six items have made progress but still require action. The OIG strongly recommended that the SBA continue to improve IT controls to address operational risks, such as cyber attacks. In December of 2018, the SBA received a grade of “B+,” on its biannual Federal IT Acquisition Reform Act (FITARA) scorecard – the highest score that any agency received. However, the SBA still received grades of “D” in transparency and risk management, and an “F” for cyber.

Sec. 402: Duties of Small Business Development Center Counselors

- I. Defines terms for a “Cyber Strategy Training Program” for small business development centers (SBDCs), including “cyber strategy” and “lead small business development center.”

Mandates that the Administrator establish a program to designate employees of lead SBDCs as certified to provide cyber strategy assistance to small businesses.

Requires the lesser of 5 employees or 10 percent of the total number of employees at a lead SBDC to be certified in providing cyber strategy assistance.

Allows the SBA to reimburse lead SBDCs for costs relating to the certification for employees regarding cyber assistance, not to exceed \$350,000 in any fiscal year.

- II. Reason: Small businesses constitute more than 99 percent of all businesses in America. As such, they form a huge part of the nation’s infrastructure. When small

businesses remain unaware of cyber vulnerabilities and unprepared to handle threats, they leave their businesses open to attacks and they jeopardize national security. Only about 14 percent of small businesses are confident in their ability to mitigate cyber risks, and yet small businesses have become increasingly susceptible to cyber-attacks, hackers, and phishing expeditions. Symantec's 2018 report found that nearly 55 percent of small businesses (1 to 250 employees) were victims of spear-phishing attacks in 2017, up 30 percent from 2015.

SBDCs provide free marketing, financing and other business-related consulting to local entrepreneurs, each funded in part by SBA-administered grants. SBDCs are known in their communities, have existing relationships to support small businesses, and are utilized every day. Using these centers to train small businesses on one of the biggest threats that they face will provide greater outreach for vital cyber training materials.

This certification model is based on an existing program that certifies the same percentage of SBDC counselors in trade/export assistance, which has been easily feasible for SBDC counselors to obtain and helpful for small businesses. Cybersecurity touches businesses of all sizes and types, and should be a priority for the SBDC conferences and for the SBA.

Sec. 403: Small Business Administration Activities to Bolster Small Business Development Centers Cybersecurity Support Functions

- I. Directs the SBA to develop a cybersecurity clearinghouse that consolidates federal government cybersecurity information specifically for small business assistance.

Expands the allowable use of current SBA grant funding for SBDCs to include providing consulting to small businesses on cybersecurity management, training, and technical strategies.

Sec. 404: Department of Homeland Security Activities to Bolster Small Business Development Center Cybersecurity Support Functions

- I. Directs the Department of Homeland Security (DHS) to develop cybersecurity training materials, online trainings, and to provide one-on-one training for SBDC employees who counsel small businesses on cybersecurity strategy.
- II. Reason: The FY17 National Defense Authorization Act (P.L. 114-328) required DHS and SBA to develop a Small Business Development Center Cyber Strategy, which was published on March 15, 2019. The idea of having the SBA house materials that DHS develops utilizes the materials developed in the strategy and assures that small businesses have updated information on the ever-changing threats from bad cyber

actors. Having the DHS provide direct one-on-one training to SBDC counselors will help them understand and pass on more advanced cyber assistance, such as the

Sec. 405: Cyber Resources Study

- I. Directs the SBA Administrator to conduct an external independent study to examine which cybersecurity resources are available to small businesses.

Requires the SBA to make a variety of the best resources, as determined by the study, available on its website.

- II. Reason: Small businesses are typically unprepared to face cyber threats, lacking dedicated IT resources or personnel trained in cybersecurity, making them more likely to fall for a phishing scheme. The costs of resources to prevent and manage cyber attacks is incredibly costly for small businesses. The Global Cyber Alliance has an easy-to-use checklist for securing small businesses that includes various free software and technology services for small business owners at no cost. The GCA's toolkit has already gained a positive reputation with agencies such as the National Institute for Standards and Technology (NIST), which has adopted these services. Capterra offers software based on industry to address specific needs that a small business may have. The Cyber Readiness Institute optimizes its free resources, developed by senior executives from global companies, to be used by small and medium-sized businesses.

There are many available resources but the SBA has not yet vetted and hosted any of these, nor developed its own cyber tools for small businesses. On April 10, 2019, Chairman Rubio and Ranking Member Cardin wrote a letter to the SBA Administrator asking that the agency consider more advanced cyber resources for small businesses. The Committee has not received a response.

Sec. 406: Data Breaches

- I. Requires small businesses to be informed, within 30 days, if their nonpublic personal data has been breached, and prohibits, within 180 days following a breach, credit bureaus from charging small businesses for a credit report.
- II. Reason: Various state laws and the Fair Cred Reporting Act protections business credit is excluded from the statutory definition of "consumers" and thus, while small business's nonpublic information was subject to the breach, the changes did not apply to small businesses that use credit.

TITLE V – SMALL BUSINESS LENDING

Subtitle A – 7(a) Loan Program

Sec. 501: Limitation for Certain Business Loans

- I. Authorizes program levels for the 7(a) Loan Guaranty Program for fiscal years 2021-2024:
 - FY 2021: \$27 billion
 - FY 2022: \$28 billion
 - FY 2023: \$29 billion
 - FY 2024: \$30 billion

Sec 502: 7(A) Community Advantage Loan Program

- I. Establishes the purpose of the Community Advantage Loan program.

Defines the mission lenders that will participate in the program, including certified development companies, nonprofit and other eligible intermediaries, and Community Development Financial Institutions (CDFIs).

Defines underserved markets to include low- to moderate-income communities, HUBZones, communities that have been designated as empowerment zones, enterprise communities, promise zones, opportunity zones, rural areas, startups and new businesses, socially and economically disadvantaged individuals, women, veterans, and service-disabled veterans.

Provides program levels for Community Advantage by capping the program at not more than 10 percent of the total number of loans guaranteed by the 7(a) program.

Outlines the number of lenders who may participate in the program for a five year period of time at 150 for FY 2020 and 2021, 175 lenders in FY 2022 and 2023, and the possibility of 200 lenders in FY 2024.

Lenders who have been participants in the program prior to enactment of the legislation will be grandfathered into the program being established.

Lenders in the program are required to make 60 percent of loans to underserved markets as defined.

The loan cap for the program will be \$250,000 with flexibility for the SBA to increase the cap to, at most, \$350,000 on a loan-by-loan basis. If SBA chooses to exceed the cap, they are required to notify the lender within two days.

Requires SBA to provide an opportunity for comment of 180 days if interest rates will be raised or modified.

Requires SBA to provide technical assistance and training to lenders participating in the program.

Requires SBA to promulgate a regulation on the program to include requirements for lenders in the program, performance metrics for first time participants that they must meet to continue participating in the program, a determination of the credit score under which SBA will be required to underwrite the loan, and the establishment of rules for the loan loss reserve fund.

Require weekly reports and an annual report to Congress.

Requires a Government Accountability Office report in year three to assess the performance of the program and the extent to which it fulfills its requirements.

Establishes a working group to include Community Advantage lenders and SBA to establish metrics of success and development recommendations for the management of the program.

This program will sunset on September 30, 2024.

- II. Reason: This program will provide financing targeted financing to small business borrowers in underserved markets and require SBA to promulgate rules and conduct a working group to interface with lenders to provide these loans to determine the appropriate level of risk.

Sec. 503: Fee Waiver Exceptions for Small-Dollar and Veteran Express Loans

- I. Amends Section 7(a) of the Small Business Act (15 USC 636(a))

Provides fee relief for small dollar, veterans, and other loans when funds are appropriated.

- II. Reason: If funds are appropriated to cover the cost of the program, this section provides clarity to SBA for how they should distribute fee relief to small dollar business borrowers.

Sec. 504: Assistance for Small Manufacturers

- I. Amends Section 7(a)(2) of the Small Business Act (15 USC 636(a)(2))

Provides a higher guarantee of 90 percent to small businesses who are manufacturers, while also providing fee relief for these small business borrowers and requires coordination with SBA District Offices to provide entrepreneurial development assistance and training to these small businesses.

- II. Reason: The manufacturing sector generally requires more long-term and patient capital to scale and grow and these characteristics have dissuaded investment by the private sector. This provision is intended to provide the opportunity for further investment in manufacturing businesses that create jobs and support increased national competitiveness.

Subtitle B – Microloan Program

Sec. 511: Microloan Program

- I. Eliminates references to the microloan program as a pilot program and references to the welfare-to-work microloan initiative.

Allows intermediaries to have up to \$7 million in aggregate liabilities but no more than \$3 million per year. The aggregate liability ceiling would be increased by \$1 million from the current \$6 million ceiling. The \$3 million figure is an increase of \$500,000 from the ceiling of \$2.5 million.

Enables intermediaries to receive larger technical assistance grants that are valued at 25 percent to 30 percent of each intermediary's outstanding loan balance if the SBA determines that it can provide a grant to each intermediary valued at 25 percent of an intermediary's outstanding balance.

Sets aside 10 percent of technical assistance grant funds and directs that grants from these funds go to intermediaries with rural service areas in the first six months of a fiscal year. This section is meant to ensure that rural areas are served since the bill also repeals the 1/55th rule.

SBA would be required to promulgate a rule one year after enactment that sets a ceiling on fees and out-of-pocket costs that can be charged to microborrowers. The rule would be periodically updated.

Allow for borrowers to refinance high interest private loans.

Eliminates the 1/55th rule. This rule limits all grant and loan funds to \$800,000 or 1/55th of the accounts' total funds in the first six months of a fiscal year.

Requires the SBA to include in its annual report on the program a section on the equitable distribution of funds to intermediaries across the country.

Eliminates the deferred participation loan pilot program and a reporting requirement on the welfare-to-work microloan initiative.

Prohibits microborrowers from being forced to purchase goods and services from intermediary associates or close relatives to obtain a microloan.

Enacts annual reporting requirements of SBA to Congress and the public. On March 31, 2020, and every year after, the SBA will be required to report to the authorizing Committees and make public on their website a report that includes, among other things, data on underserved borrowers, rural borrowers, average interest and fee rates, default rates, number of refinancing loans, and the average amount of technical assistance disbursed per loan. Microborrowers will not be identifiable in this report.

Authorization levels for the program from FY 2020 through FY 2024 will be authorized at \$62 million for technical assistance grants and \$84 million in direct loans. This is double the current authorization levels.

- II. Reason: This section makes several changes to the microloan program that will help the program run more smoothly, encourage rural participation, increase participation, and implement more robust oversight.

The welfare-to-work initiative was authorized in 1997 and allowed for broadened uses of technical assistance grants to pay for microborrowers' childcare and transportation costs. The program has never been implemented by SBA and never received an appropriation. This is part of a broader cleanup of code that also includes eliminating outdated references to the program as a pilot program.

To increase participation in the program raising the lending ceilings are necessary to ensure that intermediaries are able to make more loans under the higher authorization levels. The increases are not dramatic but do allow for growth. Including the annual ceiling in statute also allows for another mechanism to control growth in the program and ensure that an increase in lending by intermediaries is done in a prudent manner.

Technical assistance grants, which are used to provide marketing, management, assistance, and outreach to microborrowers are increased by 5 percent if enough funds are available to distribute grants valued at 25 percent of each intermediaries outstanding loan balance. This will ensure that enough technical assistance funds are

available and that intermediaries would get a proportion of its lending. Grant sizes to intermediaries would be increased if that condition is met. It would also simplify the way in which technical assistance grants are distributed.

As part of our efforts to increase oversight of the program and bring it in line with other SBA programs a section directing SBA to promulgate a rule to set a ceiling on microborrower fees was included. This will allow for flexibility on the part of the Administration but also make sure that borrowers and lenders have input in the rulemaking process.

One concern of some intermediaries was a lack of clarity on whether they were allowed to refinance privately made loans. Allowing intermediaries to refinance private loans with poor terms and conditions is intended to help small businesses that are struggling with previous loans if the intermediary can safely restructure their debt.

Throughout the reauthorization process, both SBA and lending intermediaries expressed their dissatisfaction with the ineffectiveness of the so-called “1/55th Rule.” This rule was implemented in 1999 to ensure that intermediaries in less populated states were able to have a chance at receiving technical assistance grants and microloan funds. Currently, this rule limits all grant and loan funds given to intermediaries to \$800,000 or 1/55th of the accounts’ total funds in the first six months of each fiscal year. This has led to cases in which funds sit idle at SBA for half of the year.

To ensure that there is equitable distribution of funds across regions it is necessary to require that SBA assess its performance in this area and include it in the annual report to Congress.

As part of the broader code cleanup the deferred participation pilot program is eliminated. This program has not disbursed a loan since FY 2003 and is not needed in a direct lending program.

Ensuring that microborrowers are always treated fairly in the lending process is important. To encourage good governance in the program provisions prohibiting conflicts of interest among lending intermediary staff and their immediate families is included. This would prohibit microloan intermediary staff or close relatives from selling microborrowers products that are necessary to close on their loan. The definitions for “associate” and “close relative” are the same as the definitions found in the current Standard Operating Procedure [52 00 B, p. 10](#).

Unlike other programs at SBA, the SBA is not required to submit an annual report to Congress. It is imperative for Congress and the public to have full knowledge of how government programs are being carried out. Much of the information to be included in the report is already submitted to, and analyzed by, SBA. This information is not widely distributed. This section would require it to be submitted to Congress and made available on SBA's website so that everyone is able to review the report.

To increase participation in the program increased authorization levels are necessary. Currently there about 140 lending intermediaries in the program even though the statutory cap is 300. Doubling the current appropriation level for the program will leave ample room for the program to grow and for new intermediaries to begin participation.

Subtitle C – Elimination of Programs

Sec. 521: Lending Program Eliminations

- I. Eliminates Defense Economic Transition Loans, Loans for Energy Efficient Technologies, Increased Veteran Participation Program loans, each of which are either out dated or replaced.

TITLE VI –ENTREPRENEURIAL DEVELOPMENT

Subtitle A – Entrepreneurial Development Program

Sec. 601: Entrepreneurial Development Network Program

- I. Establishes a national Entrepreneurial Development Network comprised of all Small Business Development Centers, Women's Business Centers, and Veteran's Business Outreach Centers within a given state or region.

Each state or regional network of resource partners (Small Business Development Centers, Women's Business Centers, and Veteran's Business Outreach Centers) are required to meet semiannually; enter into a cooperative agreement; and effectively share content, coordinate resources, and refer clients.

Requires the SBA to provide each state or regional network with the technology needed to fulfill their established responsibility, facility the network cooperative agreement process, and produce an annual report to congress on network performance.

Outlines that not later than 1 year following enactment, GAO must complete a report on the entrepreneurial development network program.

- II. Reason: This network approach preserves the individual entrepreneurial development programs and their operation, while ensuring increased access to program specific resources throughout the United States.

Sec. 602: Small Business Development Center Program Reauthorization

- I. Reauthorizes Small Business Development Centers to provide management assistance and access to business analysis, in addition to assisting small business to solve problems.

Requires the Small Business Development Centers to participate in the Entrepreneurial Development Network.

Includes several technical amendments, including amending the Small Business Development Centers minimum funding level language, the portable assistance language, and the privacy requirement language.

Eliminates the National Small Business Development Center Advisory Board.

Establishes a requirement for SBA to produce an annual report on the Small Business Development Center program.

Authorizes Small Business Development Centers to be appropriated \$140,000,000 each fiscal year through FY 2024.

Reason: This section authorizes the Small Business Development Center through FY2024 and outlines minor programmatic and administrative changes.

Sec. 603: Veteran's Business Outreach Center Program Reauthorization

- I. Authorizes Veteran's Business Outreach Centers to provide financial, management, marketing, transition, contracting, and export assistance through online and in-person workshops, seminars, and individual counseling.

Requires Veteran's Business Centers to operate in certain locations and hire specific staff.

Requires the Veteran's Business Outreach Centers to participate in the Entrepreneurial Development Network.

Outlines the role of the Associate Administrator for the Office of Veteran's Business Development in managing the program.

Establishes a requirement for SBA to produce an annual report on the Veteran's Small Business Outreach Center program.

Authorizes Veteran's Business Outreach Centers and the Boots to Business program to be appropriated at \$15,000,000 for each fiscal year through 2024.

- II. Reason: This section outlines the responsibilities of Veteran's Business Outreach Center program. This is the first full authorization of this programs and is intended to allow veterans access to entrepreneurial training both in their military transition and otherwise.

Sec. 604: Women's Business Center Program Reauthorization

- I. Reauthorizes Women's Business Centers to provide financial, management, and marketing assistance and coordinate and conduct research into issues affecting women-owned small businesses.

Requires Women's Business Centers to operate in certain locations and hire specific staff.

Establishes an accreditation process for the Women's Business Center program.

Requires the Women's Business Centers to participate in the Entrepreneurial Development Network.

Establishes a women's mentorship pilot program, which Women's Business Centers can receive additional grant to operate.

Allows Women's Business Centers to form an association.

Establishes a requirement for SBA to produce an annual report on the Women's Business Center program.

Authorizes Women's Business Centers to be appropriated at \$22,500,000 in each fiscal year through FY 2024.

- II. Reason: This section reauthorizes the Women's Business Center program. Changes were included related to Women's Business Center locations and staffing, which were included to reflect and preserve current program operations. Additionally, a women's mentorship pilot program was included to allow centers the ability to receive

additional grant funds to support increased mentorship opportunities for female entrepreneurs.

Sec. 605: Entrepreneurial Development Programs at Historically Black Colleges or Universities

- I. Defines the terms “Administration”, “Administrator”, “historically Black college or university”, and “institution of higher education.”

Institutes an annual reporting requirement for the SBA to outline the number of entrepreneurial development resource partners partnering with HBCUs, the existing strategic alliance memorandums, and the plan by which the SBA intends to ensure compliance with Executive Order 13779.

Requires SBA to submit a report to congress the number and scope of SBA programs offered at HBCUs compared to other institutions of higher education.

Requires the Administration to actively promote and conduct outreach to HBCUs on SBA programs, employment opportunities, and strategic alliance memorandums.

- II. Reason: It is the responsibility of the SBA to ensure individuals have access to its small business resources, including the HBCU communities. Additionally, by instituting reporting requirements, the Administration will be better able to recognize areas where areas of increased partnerships and policies are necessary.

Sec. 606: Use of Authorized Entrepreneurial Development Programs

- I. Directs SBA to complete annual reports on any program that is appropriated and administered but not explicitly authorized in the Small Business Act or the Small Business Investment Act.

Elimination of Business Learning Investment Networking and Collaboration Program and the Small Business Development Center Drug Free Workplace Assistance.

- II. Reason: By ensuring that SBA completes annual reports on all administered programs only administers Congressional authorized programs, Congress is better able to ensure an appropriate level of programmatic and financial oversight.

Sec. 607: Other Veterans' Programs

- I. Authorizes the Boots to Business Program to provide exposure, introduction, and in-depth training to transitioning members of the military and their families.

- Establishes that the Boots to Business Program must consist of multiple components, including a brief entrepreneurship presentation, self-guided online programming, in-person classroom instruction, and in-debt online coursework.
- Requires the completion of an annual report on the effectiveness, usage, and performance of the Boots to Business program.
- Directs SBA to coordinate with the Department of Defense and Department of Veterans Affairs with regard to the Boots to Business program.
- Requires the completion of a GAO report on access to credit for veterans.
- Directs SBA to establish guidelines to improve the Veteran Peer-to-Peer Networks.
- Outlines the creation of a one-stop online tool to direct veterans to the appropriate resource within the SBA catalog of programs.
- II. Reason: This section outlines the responsibilities of the Boots to Business program. This is the first full authorization of this program and is intended to provide entrepreneurial training and counseling to transitioning military members and their families. This program fulfills the entrepreneur training track of the Department of Defense's Transition Assistance Program.

Sec. 608: National Women's Business Council

- I. Relocates the National Women's Business Council language to be housed in the Small Business Act.

Removes references to the defunct Interagency Committee.

Updates council language to establish that in the event that no Chairperson has been named, an interim Chairperson will be chosen from the existing members of the council and must be of the President's party.

Modernizes the text to require that the 8 National Women's Business Council members who represent small businesses will be chosen by the Chair and Ranking Members of the Senate and House Small Business Committees in a manner that ensures geographic dispersion throughout the United States.

Requires that the position of the executive director be renewed on an annual basis.

- II. Reason: Modernizing the National Women's Business Council text will allow for a more cohesive and operational council, while minimizing operational delays during Administration transition.

Sec. 609: Service Corps of Retired Executives

- I. Establishes a requirement for GAO and the SBA Office of Inspector General to complete reports on the oversight and administration of the Service Corps of Retired Executives program.
- II. Reason: Allows for oversight of the Service Corps of Retired Executives program to ensure effective operation and financial management following unsatisfactory outcomes uncovered in a recent audit.

Sec. 610: Assistance for Small Manufacturers

- I. Requires the Administrator to ensure that entrepreneurial development resource partners are able to offer technical and managerial advice to small manufactures.
- II. Reason: This reauthorization bill has a number of provisions related to small manufacturing based businesses, this provision is designed to ensure that those firms have access to entrepreneurial development resources.

Subtitle B – Pilot Program for Formerly Incarcerated Individuals

Sec. 621: Findings

- I. According to the:
 - Department of Justice, over 600,000 people per year are released from prison. Of those, almost 77 percent will reoffend in 5 years.
 - Brookings Institution, an estimated 48.5 percent of these returning citizens will remain unemployed or earn a negligible income within a year post-incarceration.
 - Florida State Institute for Justice Research and Development, formerly incarcerated individuals have reduced earnings of 25 percent.
 - Self-employment and entrepreneurship can provide economic stability for those who are otherwise locked out of the labor market.
- II. Reason: This section was included to provide the impetus for the program and to demonstrate the problems faced by formerly incarcerated individuals. Statistics on the hardships that these individuals have in finding work helps to show that business training is a viable option to helping more formerly incarcerated individuals support themselves. This outcome will, in turn, help to reduce recidivism.

Sec. 622: Establishment of Pilot Program

- I. Requires the Small Business Administration (SBA) Administrator (“Administrator”) to establish the pilot not later than 6 months after the date of the enactment of the Act.

Requires the Administrator to award multiple grants to eligible organizations during each fiscal year of the pilot’s existence and to ensure geographic diversity in allocating those grants. Grants must be \$100,000 at minimum but can be no more than \$500,000.

Permits organizations to form partnerships for the purposes of the application and for conducting entrepreneurial development programming.

Requires applicants to demonstrate their ability to provide entrepreneurial development programs, interact with formerly incarcerated individuals, and provide a comprehensive plan for the use of the grant.

Permits the Administrator may give priority to applications that include a commitment from a non-Federal funding source, are tailored to local economies and markets, or demonstrate the ability or a plan to provide entrepreneurial development services concurrent with employment or job training services.

Creates a matching requirement that organizations must contribute 25 percent of the amount of the grant, obtained solely from non-Federal sources. This match can be cash, direct funding, or in-kind.

Sets forth a grant reporting requirement for recipients, and requires the Administrator to provide the appropriate congressional committees with an annual report that includes characteristics of participants, retention rates, and participants’ progress and experiences in the program. In addition, not later than 1 year after the termination of the program, the Comptroller General will submit to the House and Senate Small Business Committees a report on the pilot program, including its effectiveness and an evaluation of the SBA’s oversight of it.

Authorizes such sums as are necessary to carry out the pilot program, and terminates the pilot program 5 years after the date of enactment of the Act.

- II. Reason: This timeline was provided to ensure that SBA begins implementing the program quickly, especially since the program ends in 5 years.

In this program it is important to make sure that grants are dispersed across the country to make sure that grants are not made to just a small number of organizations.

The grant operating levels were set to ensure that not just one or two large organizations received large grants. In SBA's 2016-2017 Aspire Challenge, grants valued at \$75,000 were made and \$100,000 seemed like a reasonable floor that was similar to previous SBA efforts.

Allowing grantees to partner with other organizations with different expertise will allow for organizations to provide referrals and assist each other with marketing and services.

The requirements included in the application process are meant to ensure that potential grantees have worked with formerly incarcerated individuals and can carry out business training programs.

Giving priority to applications with a commitment from non-Federal funding sources will help to encourage applications from organizations with experience in the issues.

This matching requirement helps to ensure that organizations have a stake in the management of the grant. It will also help SBA stretch the program funds further.

It is difficult for Congress to make deliberative and informed decisions without data. Reporting is imperative for any government program, but it is even more necessary when evaluating pilot programs. The annual reports from SBA and the overall report from the Government Accountability Office will help provide Congress needed data and evaluations. The specific reporting requirements were included to make sure that the program is serving its target population and that specific program outcomes are being measured.

Authorizing appropriations will allow appropriators and the SBA the discretion to set program levels at what they believe is appropriate.

A term of 5 years should be a long enough period to gather data and note any problems with implementation or effectiveness.

TITLE VII – GOVERNMENT CONTRACTING

Sec. 701: Contracting Certification

- I. Creates a centralized certification office at the SBA for small businesses wishing to participate in prime contracting programs (Socially and Economically Disadvantaged Business Development Program (8(a)), Women-Owned Small Business Program, Service-Disabled Veteran-Owned Small Business Program, and Historically Underutilized Business Zone Program (HUBZone)).

- II. Reason: This will streamline the varying certification processes for programs that confuse small businesses and lead to contracting officers second-guessing decisions to make awards to some groups. By having the SBA certify all four groups for participation in the contracting programs, there will be a simple, one-stop process for small businesses and lend them the legitimacy they need for contracting officers to trust their credentials enough to make them awards.

Sec. 702: Cost Recovery for Contract Certification and Training

- I. Institutes a cost-recovery mechanism of \$300 per business seeking certification that funds the contracting certification office.
- II. Reason: A fee for certification gives the SBA the resources is needed to perform the intensive process of ensuring that businesses meet the qualifications for participation in the contracting programs. This small fee should be reasonable for all of those seeking access to the contracts set-aside for small businesses. Any excess will be used to increase the training for small businesses.

Sec. 703: Contract Cap Amounts and Sole Source Award Authority

- I. Sets contract award caps at \$8 million generally and at \$10 million for manufacturing contracts.
- II. Reason: The new contract award caps corrects disparities in the manufacturing contracting amounts for women-owned and service-disabled veteran-owned small businesses, which are currently at only \$6.5 million while other groups are \$7 million.

It also raises the caps for awards available to all contracting programs, which have been stagnant for decades, to a more appropriate level for today's markets and allows businesses access to more meaningful awards that will allow them to grow.

Sec. 704: Elimination of the Inclusion of Option Years in the Award Price for Contracts

- I. Eliminates the cap on contract awards with the option to continue for additional years.
- II. Reason: This gives small businesses the chance to bid on contracts that are within the contract cap limits, but which are listed as having the option to continue for additional years. Currently, small businesses are not able to bid on government contracts that are listed at an amount within the small business set-aside range if the contract has the ability to be renewed for additional years. Allowing small businesses to bid on these manageably-sized awards gives them a chance at growth with the potential for multiple years of revenue from one bid.

Sec. 705: Size Standard Issuance and Review Periods

- I. Requires the SBA to issue any new methodologies used to calculate size standards by issuing a regulation. Expands the time for considering a businesses' size to five years for average of gross receipts and for average number of employees.

- II. Reason: Currently, the SBA issues the size standards for each industry by promulgating a proposed rule, giving notice, and soliciting comments. However, the baseline methodology used to determine each industry's size is not issued by notice-and-comment rulemaking, only with a simple white paper that explains what has happened. By requiring the SBA to give notice of its proposed size standard methodology, small businesses and economic experts would have the opportunity to comment and suggest edits before the methods are used to determine sizes.

Businesses in most types of industries are measured as "small" or not based on the average gross receipts for a three-year period. The Runway Extension Act, P.L. 115-324, required the SBA to consider receipts over a five-year period instead, to give businesses longer to grow out of the small size that gives them access to set-aside contracts and growth opportunities. The SBA has yet to implement this change.

This section would also increase the size standard length of determination for those industries measured based on annual average employees, which are currently based on just one year. Industries that are determined by number of employees, manufacturing and R&D, need more time to get ready to bid on contracts and to set up their businesses to perform on awards won. By using a five-year standard for all industries this would create parity, reduce confusion, and promote growth.

Sec. 706: SBA Representation on the FAR Council

- I. Adds the SBA as a member of the Federal Acquisition Regulatory (FAR) Council.

- II. Reason: The FAR Council promulgates regulations used for government-wide procurement policy. Currently, the council only consists of the Administrator for Federal Procurement Policy, the Secretary of Defense, the Administrator of NASA, and the Administrator of the General Services Administration. The SBA is not a part of this council, despite its mandates to be involved with federal procurement by setting small business contract goals, measuring agency performance with small business contracting, and certifying and training small businesses for federal procurement. By allowing the SBA Administrator to participate in the FAR Council's meetings, it could coordinate its processes with the government-wide plans, and make sure that small business policies are heard and understood by the rest of the agencies.

Sec. 707: Industries Underrepresented by Women

- I. Requires the SBA to commission an independent external study to determine which industries are underrepresented by women 180 days after enactment, and every five years thereafter.

- II. Reason: Currently, small businesses in the Women-Owned Small Business (WOSB) contracting program are only eligible to compete for set-aside contracts in those industries where the SBA has determined that women are underrepresented. These industries constitute about 60 percent of the total set of industry NAICS codes. If a small business qualifies as an Economically Disadvantaged Woman-Owned Small Business (EDWOSB), they are eligible to compete for set-aside contracts in about 20 more industries. The initial study that determined which industries are underrepresented by women was subject to some criticisms. By updating this study, we can learn where women-owned firms may now be more prevalent and where industries should be working to use more women-owned contracting firms, ensuring that WOSB and EDWOSB businesses bid on the contracts where women are truly underrepresented.

Sec. 708: Modifying Unconditional Ownership Requirement for Women-Owned and Minority-Owned Small Business Concerns

- I. Allows women-owned and minority-owned firms to accept venture capital and equity investments that would constitute more than 50 percent of the ownership of a firm and still maintain ownership and control of the business for purposes of WOSB or 8(a) contracting program certifications, so long as the venture capital or equity firm is also woman or minority-owned.

- II. Reason: Currently, women-owned and minority-owned businesses must have 51 percent ownership and control over their firms in order to be certified for participation in the WOSB and 8(a) contracting programs. This often forces women and minorities to choose between accepting investments to grow their business and staying small in order to compete for set-aside contracts. This provision will clarify that “ownership” does not change with an investment from a woman-owned or minority-owned equity investment to the business. This will allow women and minority-owned businesses to grow and compete for contracts, and will encourage venture capital and equity firms to be owned by women and minorities.

Sec. 709: Prompt Payments of Small Business Contractors

- I. Requires agencies to pay small business contractors for work performed within 15 days of performance.

Requires prime contractors to pay small business subcontractors for work performed within 15 days of work performed.

- II. Reason: When agencies lag in paying small business for work on contracts, small businesses often lack the capital needed to finish the job. In the 115th Congress, Senators Cardin and Enzi introduced *S. 2893* to requirement prompt payment to contractors for work done on contracts issued by the Department of Defense. This provision builds on that idea to require prompt payment on contracts government-wide.

Sec. 710: Opportunity Zones as HUBZones

- I. Expands the definition of “Historically Underutilized Business Zones” (HUBZones) to include Opportunity Zones.
- II. Reason: Opportunity Zones are tax incentives to encourage those with capital gains to invest in low-income and undercapitalized communities. The Tax Cuts and Jobs Act created this program, which works to restore the economies in distressed U.S. census tracts, as nominated by governors, as well as Native American lands. Adding small businesses within Opportunity Zones to the list of those businesses that that may compete for set-aside contracts will go farther to help revitalize these areas.

Sec. 711: Mentor-Protégé Joint Venture Clarity

- I. Directs the SBA to issue regulations clarifying how “control” and “majority of work” are determined for joint ventures formed under the Mentor Protégé program.
- II. Reason: The recently created Mentor Protégé program at the SBA can give small businesses the wisdom, encouragement, and resources of a big business in establishing a joint venture that helps the small business learn the ropes of contracting. Under this program, the small business must maintain control of the joint venture and must perform the majority of the work. However, small businesses and regional SBA offices have had trouble understanding how the SBA is defining “control” and “majority of work,” leading to inconsistent decisions and missing out on contracts without a good reason. Clarifying how the SBA is going to look at control and workload will help small businesses know how to form and operate their joint ventures so that they do not have to choose between partnering with mentor businesses and being eligible for set-aside small business contracts.

Sec. 712: Procurement Scorecard Improvements

- I. Requires SBA to report for each agency its goal achievement including the number, dollar amount, and distribution of subcontracts awarded to small businesses each year.
- II. Reason: subcontracting is an especially important line of work for small businesses, as the federal government transitions towards consolidated purchasing. By making sure that each agency’s goal achievement is reported along with its prime contracting goal achievements in order for the Committee to monitor trends and know how best to help small businesses with procurement opportunities.

Sec. 713: Office of Small and Disadvantaged Business Utilization Improvements

- I. Requires the offices of small and disadvantaged business utilization (“OSDBUs”) to assist contracting officers with subcontracting compliance and developing remedial plans.
- II. Reason: The OSDBUs are dedicated offices at certain agencies that help small businesses search and compete for contract opportunities within that agency. The OSDBUs are important for holding informational trainings and outreach events for both small businesses and agency contracting officers. As subcontracting becomes a more prominent avenue for small businesses to enter the world of federal procurement, it is important that agencies know how to comply with subcontracting requirements.

Prime contractors are required to submit a plan for each contract that outlines their plans to use small businesses for a percentage of their subcontracting work. It has been difficult to track compliance with prime contractors’ submission of the subcontracting plans or their compliance with plans they have submitted. Having the OSDBUs train contracting officers on requirements for the subcontracting plans could help ensure that this requirement is followed and could mean to more opportunities for small businesses through subcontracting work.

Sec. 714: Industrial Capabilities Report

- I. Directs the SBA to set up a working group with the Department of Defense in order to establish an expedited process for issuing contracts in industries that the DoD identifies as at risk in its annual Industrial Capabilities Report.
- II. Reason: The Department of Defense’s first annual “Industrial Capabilities” report was released in May 2019, which provided Congress with a list of industries that need to be bolstered in order to strengthen the manufacturing and defense industrial base. Executive Order 13806 required the DoD to assess ways to strengthen the defense industrial base and supply chain resiliency in the United States. The report provides summaries on sectors that the U.S. needs to be secure and internationally competitive, which this working group could use to figure out ways to target these industries for streamlined contracting.

TITLE VIII – DISASTER LOAN PROGRAMS

Subtitle A – Allocation of Funds to Resource Partners

Sec. 801: Additional Awards for Disaster Recovery

- I. Authorizes the allocation of 3 to 5 percent of administrative disaster funds to resource partners during declared disasters.

Allocates 3 to 5 percent of administrative disaster funds for resource partners if Congress passes an emergency supplemental disaster appropriations bill that allocates funding for the Small Business Administration.

Reverts unused funds back to the Administration at the end of the fiscal year.

- II. Reason: This additional funding will help resource partners to provide counseling, training, and related services to promote long-term resiliency following disasters. Often, Small Business Development Centers are the first on the ground to assist survivors when disaster strikes.

Subtitle B – Elimination of Programs

Sec. 811: Disaster Loan Program Eliminations

- I. Eliminates the Pre-Disaster Mitigation Program, and the Express Recovery Opportunity Loan Program, The Private Disaster Loan Program, and the Immediate Disaster Loan Program.
- II. Reason: The Pre-Disaster Mitigation Pilot Program is a loan program created in 1999 to assist people by guaranteeing loans that can only be used to make property improvements that could lessen the impact of future natural disasters. The last time the program received an appropriation was in FY 2006. Disaster loans may however be increased under current law at the request of the borrower at the time it is obligated to cover qualified mitigation enhancements.

Express Recovery Opportunity Loan Program was created in 2015 a part of the RISE After Disaster Act. According to the OIG in FY 2017 SBA studied this program and found it to be duplicative of its current SBA Express Loan Program. The higher guarantee rate also made SBA more susceptible to defaults. This particular provision was never implemented by the SBA, and the Administration claimed they were unable to locate private lenders who were willing or interested in participating in the program. SBA recommended repealing this in its most recent budget justification.

The Private Disaster Loan Program was authorized in 2008 as a way to encourage private lenders to enter the disaster lending market. This was supposed to serve as a long-term financing tool for small businesses in need of disaster relief and designed as an alternative to SBA direct loans. Ultimately, there was not enough interest from the banking community in this program. SBA also recommend repealing this program in their most recent budget justification.

The Immediate Disaster Loan Program was authorized in 2008 and designed to provide small businesses with an SBA guaranteed bridge loan of up to \$25,000 from private lenders. This program received appropriations for several years but the balance was cancelled in FY 2018 because of low utilization. SBA recommended eliminating the program in its most recent budget justification.

TITLE IX – REGULATORY REFORM

Sec. 901: Amendments to the Regulatory Flexibility Act

RFA Sec. 601

- I. Amends the *Regulatory Flexibility Act* (RFA), Section 601, by cleaning up several definitions by linking to the original sources for “rule,” “collection of information,” “record collection,” and “small entity compliance guide.”

Clarifies what the contents should be for small entity compliance guides, requires agencies to publish these guides, and makes clear that these guides are not generally subject to judicial review.

Requires agencies to give the Office of Advocacy 30 days’ notice before publishing regulatory flexibility agendas in the Federal Register.

- II. Reason: This section is designed to help agencies comply with the RFA. Regulators are subject to many different acts, regulations, and internal guidance when trying to issue new rules. As the RFA has evolved, many of its definitions became outdated and requirements of the RFA became spread out among RFA, the Small Business Act, the Dodd-Frank Act, and the Small Business Regulatory Enforcement Fairness Act (SBREFA). By cleaning up the RFA and putting its requirements in one place, compliance will be easier for agencies.

RFA Sec. 602

- I. Modernizes outdated terms in Section 602 of the RFA (“telephone number” changed to “contact information”) and cleans up definitions.

Requires agencies to give the Office of Advocacy 30 days-notice before publishing regulatory flexibility analyses in the *Federal Register*.

- II. Reason: The Office of Advocacy provides confidential assistance to agencies who ask questions about their Initial and Final Regulatory Flexibility Analysis (IRFAs and FIRFAs) before they make them available to the public. This assistance can help agencies spot things they may have missed, get data for more robust analyses, and consider alternative regulatory schemes. By requiring that agencies give the Office of Advocacy 30 days to look at their analyses, the Office would have more time to provide this assistance.

RFA Sec. 603

- I. Clarifies the requirements of RFA analyses by asking agencies to list the problem that the action intends to address, a statement of the proposed rule, a description of the

classes of small entities that will be subject to a proposed rule, skills that regulated parties will need to achieve compliance, and and different requirements for small verses large entities.

- II. Reason: The FCC has argued repeatedly and incorrectly that the RFA does not require agencies to attempt to quantify the economic impact of its proposed rules on regulated small entities, because that requirement is not explicitly listed in section 603(b).

Section 607 directs as follows: “In complying with the provisions of sections 603 and 604 of this title, an agency may provide either a quantifiable or numerical description of the effects of a proposed rule or alternatives to the proposed rule, or more general descriptive statements if quantification is not practicable or reliable.” Section 603(a) directs agencies to “describe the impact of the proposed rule on small entities.” These changes would harmonize sections 607, 603(a) and 603 (b), providing clarity regarding the required elements of an IRFA.

RFA Sec. 604

- I. Makes technical corections, such as the spelling of “interpretive” and missing comas.

Moves the requirements for small entity compliance guides from the Small Business Regulatory Enforcement and Fairness Act to the RFA.

- II. Reason: This makes overdue corrections to the RFA and moves all requirements for agencies to one spot for easier compliance.

RFA Sec. 605(a)

- I. Requires agencies to try to present their regulatory flexibility analyses in a manner reasonably calculated to inform the public about the likely impacts of the rule.

- II. Reason: This provision reminds agencies about the purpose of the RFA, which is to inform small businesses about the impact of new regulations. This is a simple provision that forces agencies to answer an easy but important question: can a small business look at this proposed rule and understand how it might be affected?

RFA Sec. 605(b)

- I. Allows the Office of Advocacy to write a letter questioning an agency’s certification that a proposed rule would not have a significant impact on a substantial number of small entities, and asking the agency to reconsider.

Requires the agency to publish in the Federal Register receipt of this letter from the Office of Advocacy, to allow for public comment, and to publish its review and reconsideration.

Permits Judicial review of agency compliance with this section.

- II. Reason: The easiest way around fulfilling the requirements of the RFA is for an agency to self-certify that its proposed rule would not have a significant impact on small businesses, as the Environmental Protection Agency did with the Waters of the U.S. (“WOTUS”) rule. Some agencies may make this certification in error, not understanding the RFA, but some use this to purposefully avoid following the law. This section, taken from *The Prove It Act* (S. 1339 Ernst, Sinema) gives agencies another chance to get it right by having the Office of Advocacy call out the instances where RFA analysis is needed and letting the agency redo its works. To ensure that the agency complies with the process of rechecking its work, whether or not an agency performs the steps of the reconsideration process is judicially reviewable.

RFA Sec. 607

- I. Requires an agency to provide quantifiable or numerical description for the effects of a proposed rule and for the regulatory alternatives to the rule in RFA analyses.
- II. Reason: Currently, it is permissive (“may”) for agencies to provide data to show their work when describing what the effects of a rule will be on the regulated entities. This provision would require that agencies use some type of quantifiable description when performing RFA analyses. While this seems like an obvious thing to do when considering the cost of a rule or its regulatory alternatives, many agencies simply state that a rule will not have a significant impact without using any real data. This does not require any certain information of agencies, but it does require that they list something quantifiable.

RFA Sec. 609

- I. Modernizes definitions (“computer networks” to “electronically”) and makes technical corrections. Asks agencies to work with the Office of Advocacy when forming small entity review panels.

Adds the Department of Labor (DOL), the Internal Revenue Service (IRS), the Department of the Interior (DOI), and the SBA to the list of “covered” agencies for purposes of holding panels with small entity representatives for proposed rules that are determined to have a “significant impact on a substantial number of small entities.”

Strikes the Occupational Safety and Health Administration (OSHA) from the list of covered agencies, since the full DOL is now listed.

Clarifies that rules issued jointly by the Environmental Protection Agency (EPA) with other agencies are still subject to the small business advocacy review panels.

Requires agencies to allow small entity representatives (SERs) to participate electronically in panels with agency regulators for the proposed rules that the agency determined would have a significant impact on a substantial number of small entities.

- II. Reason: Currently, when the EPA, OSHA at DOL, and the Consumer Financial Protection Bureau (CFPB) issue proposed rules that those agencies believe would have a significant impact on a substantial number of small entities, then those agencies must convene a panel with agency regulators and small entities. The IRS and the Fish & Wildlife Service (FWS) at DOI have categorically refused to follow the RFA, stating that they are excluded based on the types of rules that they issue. The SBA, the very agency that exists to serve small businesses, has also failed to perform any RFA analyses when promulgating recent regulations such as the Express Loan/Affiliation Rule. Since agency compliance with the RFA generally increases when agencies are required to hold these panels, hopefully adding these agencies to the list of those that are covered will give small businesses a voice in the rulemaking process earlier, before agencies commit to a regulatory plan.

Conversations with agency regulators and members of the small business community are vital for ensuring that rules are written with small business compliance in mind and for getting expertise from the regulated community. By allowing small businesses to participate electronically, agencies will get input from businesses across the country – not just those who are close to Washington, D.C. or those who are able to leave their businesses for travel. This text comes from a bill that Senators Collins and Shaheen introduced.

RFA Sec. 610

- I. Requires earlier retrospective review for existing regulations (5 years after enactment, rather than 10).

Requires that agencies submit a plan for reviewing existing regulations by detailing how they will conduct outreach to include small businesses and by considering several factors regarding the rule: need, complaints received, complexity, overlap with other rules, contribution to the cumulative economic impact on small entities, length of time since last evaluated, and what factors have changed.

- II. Reason: Regulators have good intentions when issuing new rules, but often times rules will linger, even when no longer effective or needed, and add to the cumulative burden on small businesses by overlapping with new regulatory schemes or by not serving a present purpose. Requiring agencies to go back and look at rules they have issued will shine a light on which areas may need alterations, strengthening, or repeal.

RFA Sec. 611

- I. Makes technical and conforming changes.

RFA Sec. 612(a)

- I. Requires the Office of Advocacy to notify heads of agencies about the requirements of the RFA and to conduct trainings on compliance with that act.

The Office of Advocacy conducts trainings for agencies on how to follow the RFA, however this is not mandatory. These trainings are vital for explaining how to use data to show how a rule will affect different industries and different business sizes, and what the alternative regulatory options there may be. Codifying this requirement for trainings will ensure that future generations of regulators will also be taught about performing RFA analyses and will give them access to new tools that the Office of Advocacy may create, such as a current website prototype that fills in data as regulators answer RFA questions.

Requires the Office of Advocacy to notify heads of agencies about the requirements of the RFA and to conduct trainings on compliance with that act.

Clarifies the meaning of several terms by referencing the definitions in the RFA.

- II. Reason: The Office of Advocacy conducts trainings for agencies on how to follow the RFA, however this is not mandatory. These trainings are vital for explaining how to use data to show how a rule will affect different industries and different business sizes, and what the alternative regulatory options there may be. Codifying this requirement for trainings will ensure that future generations of regulators will also be taught about performing RFA analyses and will give them access to new tools that the Office of Advocacy may create, such as a current website prototype that fills in data as regulators answer RFA questions.

The easiest way around fulfilling the requirements of the RFA is for an agency to self-certify that its proposed rule would not have a significant impact on small businesses, as the Environmental Protection Agency did with the Waters of the U.S. (“WOTUS”) rule. Some agencies may make this certification in error, not understanding the RFA, but some use this to purposefully avoid following the law.

This section, taken from *The Prove It Act* (S. 1339 Ernst, Sinema) gives agencies another chance to get it right by having the Office of Advocacy call out the instances where RFA analysis is needed and letting the agency redo its works. To ensure that the agency complies with the process of rechecking its work, whether or not an agency performs the steps of the reconsideration process is judicially reviewable.

This ensures that when an agency reads either the RFA or the Small Business Regulatory Enforcement Fairness Act (SBREFA), they will have the same understanding of the terms that they are working with such as “agency,” “small business,” “small organization,” “small entity,” and others. Agencies have many analytical and reporting requirements; understanding what the RFA and SBREFA mean should not add to that burden.

Sec. 902: Retrospective Review Plan for New Regulations

- I. Requires that federal agencies publish retrospective review plans for new major rules. Requires that the agency publish the completed review of the rule not later than 180 days after the agency completes an assessment. Makes exemptions for timely response to an emergency or to comply with a statutorily imposed deadline, allows for extended deadlines with an agency justification, and limits judicial review to only whether an agency published or completed the required assessment.
- II. Reason: Taken from *The SMART Act* (S. 1420 Sinema, Lankford), requires each regulation to have a plan for future review to ensure that it actually accomplishes what its purpose. The agency would include in its review plan the metrics that it will later use to measure the success of the rule. This “prospective-retrospective review” idea received bipartisan support in the 115th and 116th Congresses, as well as among former Administrators of the Office of Information and Regulatory Affairs (OIRA) Sally Katzen (1993-1998) and Susan Dudley (2007-2009).

Sec. 903: Changes to the Office of Advocacy

(a)(1)-(2)

- I. Clarifies that the Office of Advocacy is not within the larger SBA and changes the name to “Office of Advocacy for Small Businesses.”

Makes wording corrections (“complete” vs. “compete” and “serviced-disabled” vs. “service-disabled”).

- II. The Office of Advocacy is independent of the SBA, managed by its own Senate-confirmed head, having its own budget, and not being subject to the presidential administration. Clarifying that the Office is not another program office within the SBA will help assert its political and budgetary independence, as well as to eliminate confusion within government about the Office’s structure and purpose.

(b)-(c)

- I. Makes conforming amendments for the Office's new name.

TITLE X – GENERAL PROVISIONS

Subtitle A – SBA Technology Improvement and Modernization

Sec.1001: Cyber Resources Study

- I. Requires SBA to conduct an independent external study to see how new technologies (such an internet/mobile app, AI, software, and other programs) can benefit and enhance SBA's Office of Disaster Assistance's response to disasters.

Requires the SBA to evaluate the cost of implementing these technologies and report on the results to the Committee.

- II. Reason: A study like this would help the SBA figure out ways to potentially utilize technology, such as a mobile app, to enhance the ODA's response to disasters on the ground.

Sec. 1002: Study Regarding the Use of New Technology by the Office of Disaster Assistance

- I. Requires the SBA to conduct an independent external study to see how new technologies (artificial intelligence, blockchain, mobile programs, and other items) can benefit the SBA's service of small businesses.

Requires the SBA to to evaluate the cost of implementing these technologies and report on the results to the Committee.

- II. Reason: the technology at the SBA has been slow to develop and slow to serve small businesses, entrepreneurs, and victims of disasters. A study would help the SBA to figure out what techniques, software, and technologies are needed to provide better service and to make the taxpayers' dollar go farther.

Sec. 1003. Gifts and Co-Sponsorship of Events

- I. Public Law 108-447 provided the SBA Administrator the authority, with certain restrictions, to accept gifts and enter into cosponsorships.
- II. The authority sunset on October 1, 2006. Since that time the authority has been authorized in appropriations acts. The purpose of this section is to codify the authorization authority.

Sec. 1004: Small Business Lending Practices

- I. The Small Business Lending Fairness Act codifies the Federal Trade Commission's time-tested prohibition on the use of confessions of judgment, and expands the protection to small businesses. This legislation creates parity in federal law for small business borrowers and reduces the risks of entrepreneurship.
- Adds section 140B to the Truth in Lending Act to prohibit the use of confessions of judgment in small business credit or debt products, including merchant cash advances.
 - Defines applicable credit and debt obligations addresses the fact that courts have ruled differently on whether some of the products intended to be covered are debt or credit –the proposed descriptions in the bill will avoid inappropriately impacting ongoing litigation. There is also an exception for real estate transactions under Louisiana's unique legal code, where confessions of judgment are a common feature of real estate contracts.
 - Clarifies that TILA's blanket clause exempting credit and debt products for business purposes from TILA protections, that the exemption does not apply to credit or debt products for business purposes under the new section.
 - Defines debt as it is defined in the bankruptcy code.
 - Addresses another technical issue relating to TILA's applicability to debt. Under TILA, creditors are defined as persons who extend credit, but not debt. The enforcement provisions for violations of TILA will now apply to debt described in section 140B by replacing the term "creditor" with the term "person."
- II. Reason: "Confessions of judgment" allow predatory lenders to seize the assets of small businesses who have no chance to defend themselves. The contract provisions require borrowers to give up their rights in court before obtaining a loan. This allows lenders to collect borrowers' assets unopposed and with no warning, merely by claiming a borrower is delinquent. By exploiting gaps in state laws, creditors can seize a small business's property even if the borrower's own state has banned the practice. All before a borrower is even aware of the situation.

The Reagan Administration's Federal Trade Commission (FTC) banned the use of confessions of judgment in consumer contexts, but small business borrowers are still exposed. That loophole has allowed fly-by-night creditors to devastate small business around the country. According to a [Bloomberg investigation](#), tens of thousands of small business owners have had their bank accounts frozen and assets seized with no notice, even though many of them had never missed a payment. And while there were only fourteen cases involving confessions of judgment before 2014, there are now

thousands every quarter. This flaw in the debt collection process against small businesses further encourages small business owners to use personal lines of credit, putting their financial livelihoods at risk.

Sec. 1005 – Affiliation for Certain Franchises

- I. Provides a special rule relating to franchises in the temporary employee services industry that will disregard whether the franchisor finances the payroll and whether the temporary staffing personnel are treated as employees or independent contractors.

Sec. 1006: Additional Provisions Relating to Small Manufacturers

- I. Allows SBA to partner with the National Institute of Standards and Technology (NIST) and their Manufacturing Extension Partnership Program to assist out reach to small manufacturers, and provide them with training and guidance for the purposes of obtaining SBAs loan and investment products. This provision also requires a report to the Senate and House Small Business Committees about any activity carried out as a result of this provision.

- II. Reason: The manufacturing sector generally requires more long-term and patient capital to scale and grow and these characteristics have dissuaded investment by the private sector. This provision is intended to provide the opportunity for further investment in manufacturing businesses that create jobs and support increased national competitiveness.

Sec. 1007: Elimination of Programs

Repeals:

- (1) Small Business Manufacturing Task Force;
- (2) Paul D Coverdell Drug-Free Workplace Program;
- (3) National Small Business Tree Planting Program;
- (4) Central European Development Commission;
- (5) Office of Rural Affairs;
- (6) Small Business Energy Efficiency Program;
- (7) Commercial Lease Guarantee; and
- (8) Pollution Facility Lease Guarantee.