

The original documents are located in Box 46, folder “6/4/76 S2498 Amendments to Small Business and Small Business Investment Acts (2)” of the White House Records Office: Legislation Case Files at the Gerald R. Ford Presidential Library.

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TO THE SENATE

I am returning today without my approval S. 2498, an omnibus bill which affects a number of Small Business Administration (SBA) programs.

Some provisions of this bill would improve the programs of the Small Business Administration, but several are incompatible with the goals of controlling the growing costs of Government and avoiding needless duplication of Federal programs.

Section 102 would authorize the Small Business Administration to guarantee leases entered into by small business to finance pollution control facilities. To finance these facilities, State or local public bodies would issue tax-exempt obligations secured by the SBA-guaranteed lease.

I am strongly opposed to the combination of a Federal guarantee and a tax-exempt security. Federal guarantees of tax-exempt bonds are not free. When a tax-exempt bond is issued, the U.S. Government gives up revenues that it would otherwise receive. This loss in revenue is a burden on all taxpayers. Furthermore, only part of the reduction in government revenues results in lower costs for small business. The larger part of the loss in revenue results in benefits to those who purchase the bonds. This expensive side effect does not contribute to the purpose of the guarantee, which is to help small business, not to help the purchasers of bonds.

Federal guarantees of tax-exempt obligations also create a security which is superior to all other tax-exempt securities issued by States and local governments, and add to the pressures on the municipal bond market. This would result in higher borrowing cost to States and local governments in financing their own schools, roads, hospitals, and other essential public facilities. Congress has recognized these problems by enacting at least twelve separate statutes to preclude guarantees of tax-exempt securities over the past five years.

I share the Congressional concern that small business needs Federal assistance to comply with pollution control requirements. But this is not the way to do it. A better method to provide small business with access to financing for pollution control facilities is through the Small Business Administration's water and air pollution control loan programs. Although these relatively new programs have been adequately funded in fiscal years 1976 and 1977, small business has not yet had the opportunity to fully use them. I am therefore directing the Small Business Administration to take prompt and vigorous action to insure that these loan programs are made fully accessible to the small business community by working with the Environmental Protection Agency to reduce the loan processing and certification time, clarifying and promoting the purpose of the program, and providing necessary technical assistance.

I am also requesting that the Environmental Protection Agency devote special attention to pollution regulations which the small business community believes excessively burdensome or inequitable. The EPA has already promulgated less stringent effluent guidelines for small plants in several industries including dairies, electroplating, leather, seafoods, textiles, meat processing and rendering.

Section 112 of this bill would make all small food and fiber producers, ranchers and raisers of livestock, aquaculturists and all other small farming and agriculture related industries eligible for financing and management assistance from the SBA. SBA does not now consider applications for financial assistance made by small agricultural concerns on the basis of the statutory prohibition against duplication by SBA of the work or activity of other departments or agencies of the Government. Section 112

establishes that this would no longer be the case.

I will not be a partner to the promulgation of overlapping and proliferating Federal programs.

The Department of Agriculture through the Farmers Home Administration (FmHA) has ample legal authority to extend financial assistance to small business enterprises. The changes to be made by section 112 would result in duplication of efforts, needless costs and senseless bureaucratic growth in the Federal Government. These changes would place SBA in direct competition with the FmHA, since SBA would be able to make loans to the same individuals eligible for FmHA loans. This direct competition of Federal agencies in the agricultural credit field would result in confusion because loans of each agency would have different terms, interest rates, and security requirements.

The legislative history of this proposal indicates that Congress was concerned with the difficulty of small agricultural enterprises obtaining loans from the Farmers Home Administration. Adequate credit assistance is normally available, however, from the Farm Credit Administration to meet the needs of farm partnerships, corporations and most other commercial farming enterprises.

Moreover, small agricultural enterprises can be better assisted through amendments to the Consolidated Farm and Rural Development Act which would:

- . provide Federal credit assistance for meeting pollution control requirements, and
- . double the loan limits for farm operating and ownership loans.

I urge the Congress to enact H.R. 10078 and S. 3114 which would make the required changes in the Consolidated Farm and Rural Development Act.

The final provision of the bill which I consider inadvisable is the statutory reassignment of duties for SBA's Office of Advocacy. The bill would require Presidential appointment with Senate confirmation of the Chief Counsel for Advocacy, expand the role of the Chief Counsel from small business counselor to a director of special studies of small and minority business and require the Counsel to transmit reports to the President and Congress which could not be reviewed by other Federal agencies prior to their transmittal.

This provision would generate confusion over the authority and responsibilities of SBA's Administrator and the Chief Counsel for Advocacy, place responsibilities in the Chief Counsel that are more appropriately conducted by other SBA offices at the direction of the Administrator, and bypass normal executive branch staff reviews which assist the President in carrying out his responsibilities. The proposed studies can be performed by SBA without this legislation and with whatever outside consulting and research assistance may be required.

I recognize that other provisions in this bill would benefit the small business community. Therefore, I am directing SBA to transmit legislation to the Congress as soon as possible which incorporates the needed authorities of S. 2498, together with other desirable amendments to SBA programs. I urge prompt consideration of this legislation by the Congress.

I believe that this legislation and the other actions I have described constitute a responsible and effective response to the needs of the small business community and avoid needless duplication of Federal programs and unwise financing provisions.

To the Senate:

I return herewith, without my approval, S. 2498, a bill "To amend the Small Business Act to transfer certain disaster relief functions of the Small Business Administration (SBA) to other Federal agencies, to establish a National Commission on Small Business in America, and for other purposes."

Section 112 of this bill would make all food and fiber producers, ranchers and raisers of livestock, aquaculturists and all other farming and agriculture related industries eligible for financial assistance from the SBA. At the present time, ordinarily SBA does not consider applications for financial assistance made by farmers on the basis of the statutory prohibition against duplication by SBA of the work or activity of other departments or agencies of the Government. Section 112 establishes that this is no longer to be the case.

The Department of Agriculture through the Farmers Home Administration (FmHA) has ample legal authority to extend financial assistance to farmers, ranchers and those engaged in the production of aquatic organisms under controlled or selected environments.

The changes to be made by section 112 would result in duplication of efforts on the part of the Federal Government. These changes would place SBA in direct competition with the FmHA since SBA would be able to make loans to the same individuals eligible for FmHA loans. This direct competition of Federal agencies in the agricultural credit field would result in confusion because loans of each agency would have different terms, interest rates, and security requirements. Experience has shown that agricultural loans to farmers who cannot obtain the credit they need from conventional lenders require detailed analysis and assistance to help assure success. The FmHA has personnel with the training and expertise to perform these functions.

The net result of section 112 would be contrary to the public interest because the cost of providing this additional service would be greater than the benefits which farmers would derive from such duplication of effort. Therefore, I have withheld my approval of this measure.

STATEMENT BY THE PRESIDENT

I am today signing S. 2498, an omnibus bill which affects a number of Small Business Administration (SBA) programs. I strongly favor many provisions of this bill which will immediately help small businesses. For example, increases in the maximum loan limit per borrower for certain SBA business loan programs are needed to compensate for the higher cost of capital plant and equipment.

While, on balance, I favor this bill, three parts of this legislation trouble me.

First, section 102 would authorize the SBA to guarantee small business leases of pollution control facilities from State or local public bodies. To finance these facilities, State or local authorities would issue tax-exempt obligations secured by the SBA-guaranteed lease.

I have consistently opposed the combination of a Federal guarantee and a tax-exempt security. And Congress over the past six years has also recognized this problem by enacting at least twelve separate statutes which preclude guarantees of tax-exempt securities. The combination of Federal guarantees with tax-exempt bonds increases the revenues loss to the U.S. Government while primarily benefiting the high-income purchasers of these bonds rather than small businesses.

In addition, the provision of a Federal guarantee of tax-exempt bonds creates a security which would be more attractive in the capital markets than direct obligations of the U.S. Treasury. Also, Federal guarantees of tax-exempt obligations add to the pressures on the municipal bond market by creating a security which is superior to all other tax-exempt securities issued by States and local governments. The result could be higher borrowing costs for States and local governmental units which must finance schools, roads, hospitals, and other essential public facilities.

I share the Congressional concern that small business needs Federal assistance to comply with pollution control requirements. But this is not the best way to do it. A better way to provide small business with access to financing for pollution control facilities is through the SBA's water and air pollution control loan programs. Although these relatively new programs have been adequately funded in fiscal years 1976 and 1977, small business has not yet had the opportunity to use them fully. I am therefore directing the SBA to take prompt and vigorous action to insure that these loan programs are made fully accessible to the small business community by working with the Environmental Protection Agency (EPA). They will work to reduce the loan processing and certification time, clarify and promote the purpose of the program, and to provide necessary technical assistance.

I am also requesting that the EPA devote special attention to pollution regulations which the small business community believes excessively burdensome or inequitable. The EPA has already promulgated less stringent effluent guidelines for small plants in several industries including dairies, electroplating, leather, seafoods, textiles, meat processing and rendering.

These actions should help to alleviate the adverse impact of pollution regulations on small business finances. I hope that the Congress will recognize that this problem can be corrected without resort to the extraordinary authorization of Federal guarantees for tax-exempt pollution control bonds. I urge the Congress to review this guarantee program promptly along with an examination of the growth of industrial revenue financing -- an issue which is of much concern to municipal finance experts.

My second concern is with Section 112, which makes all small agricultural enterprises eligible for financing and management assistance from the SBA. Despite widespread Congressional concern about overlapping and conflicting Federal programs, this new SBA program is quite similar to that of the Department of Agriculture. The Department of Agriculture, through the Farmers Home Administration, and the Farm Credit Administration have ample legal authority to extend financial assistance to small agricultural enterprises. I am directing the SBA and the Department of Agriculture to insure that the overlap inherent in their credit programs is minimized.

The legislative history of S. 2498 indicates that Congress is concerned with the difficulty which small agricultural enterprises often have in obtaining loans from the Farmers Home Administration. I share this concern. However, I believe that small agricultural enterprises can be assisted better through needed amendments to the Consolidated Farm and Rural Development Act which would:

- provide Federal credit assistance for meeting pollution control requirements and
- double the loan limits for farm operating and ownership loans.

I urge the Congress to enact H.R. 10078 and S. 3114 which would make these required changes in the Consolidated Farm and Rural Development Act and to reconsider the necessity for expanding SBA authority to finance small farms and ranches.

Finally, I question the provision of S. 2498 which requires Presidential appointment with Senate confirmation of the Chief Counsel for Advocacy, redirects the role of the Chief Counsel from small business advocate to that of director of special studies of small and minority business and requires the Counsel to transmit reports to the President and Congress without prior review by other Federal agencies.

With these reservations, I am signing S. 2498. While the Congress and I share a deep concern for the health of small business and small farms, this commitment should not result in unnecessary or inappropriate changes in SBA programs. Therefore, I ask the Congress to join with my Administration in reexamining the parts of S. 2498 which concern me and take appropriate action to correct the problems I have outlined.

A handwritten signature in cursive script, reading "Gerald R. Ford". The signature is written in black ink and is centered on the page.

~~TO THE SENATE~~

I am today signing S. 2498, an omnibus bill which affects a number of Small Business Administration (SBA) programs. I strongly favor many provisions of this bill which will immediately help small businesses. For example, increases in the maximum loan limit per borrower for certain SBA business loan programs are needed to compensate for the higher cost of capital plant and equipment.

While, on balance, I favor this bill, three parts of this legislation trouble me.

First, section 102 would authorize the SBA to guarantee small business leases of pollution control facilities from State or local public bodies. To finance these facilities, State or local authorities would issue tax-exempt obligations secured by the SBA-guaranteed lease.

I have consistently opposed the combination of a Federal guarantee and a tax-exempt security. And Congress over the past ~~five~~^{SIX} years has also recognized this problem by enacting at least twelve separate statutes which preclude guarantees of tax-exempt securities. The combination of Federal guarantees with tax-exempt bonds increases the revenues loss to the U.S. Government while primarily benefitting the high income purchasers of the these bonds rather than small businesses.

In addition, the provision of a Federal guarantee of tax-exempt

bonds creates a security which would be more attractive in the capital markets than direct obligations of the U.S. Treasury. ^(Also) ~~It~~, Federal guarantees of tax-exempt obligations ~~add~~ add to the pressures on the municipal bond market by creating a security which is superior to all other tax-exempt securities issued by States and local governments. The result could be higher borrowing costs for States and local governmental ~~units~~ ^(UNITS WHICH) ~~units~~ must finance schools, roads, hospitals, and other essential public facilities.

I share the Congressional concern that small business needs Federal assistance to comply with pollution control requirements. But this is not the best way to do it. A better way to provide small business with access to financing for pollution control facilities is through the SBA's water and air pollution control loan programs. Although these relatively new programs have been adequately funded in fiscal years 1976 and 1977, small business has not yet had the opportunity to use them fully. I am therefore directing the SBA to take prompt and vigorous action to insure that these loan programs are made fully accessible to the small business community by working with the Environmental Protection Agency (EPA). ^(THEY WILL WORK) ~~to~~ to reduce the loan processing and certification time, ~~to~~ clarify and promote the purpose of the program, and to provide necessary technical assistance.


I am also requesting that the EPA devote special attention to pollution regulations which the small business community believes excessively burdensome or inequitable. The EPA has already promulgated less stringent effluent guidelines for small plants in several industries including dairies, electroplating, leather, seafoods, textiles, meat processing and rendering.

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Continue ^{IT} OVER



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The legislative history of S. 2498 indicates that Congress is concerned with the difficulty which small agricultural enterprises often have in obtaining loans from the Farmers Home Administration. I share this concern. However, I believe that small agricultural enterprises can be better assisted through needed amendments to the Consolidated Farm and Rural Development Act which would:

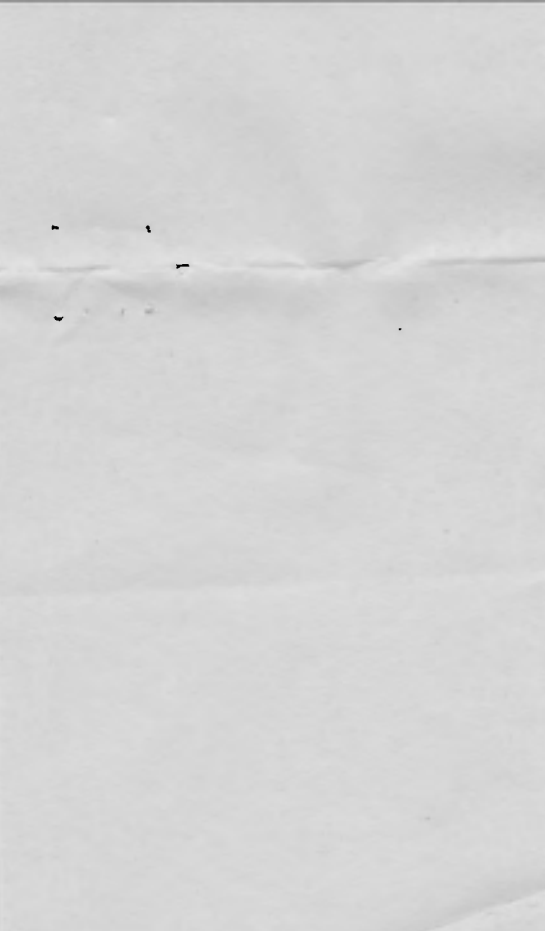
- provide Federal credit assistance for meeting pollution control requirements and
- double the loan limits for farm operating and ownership loans.

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Finally, I question the provision of S. 2498 which requires Presidential appointment with Senate confirmation of the Chief Counsel for Advocacy, redirects the role of the Chief Counsel from small business advocate to that of director of special studies of small and minority business and requires the Counsel to transmit reports to the President and Congress without prior review by other Federal agencies.

With these reservations, I am signing S. 2498. While the Congress and I share a deep concern for the health of small business and small farms, this commitment should not result in unnecessary or inappropriate changes in SBA programs. Therefore, I ask the Congress to join with my Administration in reexamining the parts of S. 2498 which concern me *and*

TAKE APPROPRIATE ACTION TO CORRECT THE PROBLEMS I HAVE OUTLINED.



incorporates the needed authorities of S. 2498, together with other desirable amendments to SBA programs. I urge prompt consideration of this proposed legislation by the Congress.

I believe that these legislative proposals and the other actions I have described constitute a reasonable and effective response to the needs of the small business community and small farmers and ranchers and yet avoid needless duplication of Federal programs and unwise financing provisions.

THE WHITE HOUSE,

TO THE UNITED STATES SENATE:

I am returning today without my approval S. 2498, an omnibus bill which affects a number of Small Business Administration (SBA) programs. However, I strongly favor many provisions of this bill which would help small businesses. Therefore, I am directing SBA to send immediately to Congress legislation which contains the desirable parts of S. 2498 and other improvements.

While some provisions of this bill would improve Small Business Administration programs, several others are incompatible with the goals of controlling the growth of government, avoiding needless duplication of Federal programs and protecting the operation of our capital markets. In particular, I am concerned about the extraordinary authorization of Federal guarantees for tax-exempt pollution control bonds and the extension of SBA financial assistance to small agricultural enterprises which are already aided by the Farmers Home Administration and other farm credit agencies.

Section 102 would authorize the SBA to guarantee small business leases of pollution control facilities from State or local public bodies. To finance these facilities, State or local authorities would issue tax-exempt obligations secured by the SBA-guaranteed lease.

I am strongly opposed to the combination of a Federal guarantee and a tax-exempt security. And Congress has also recognized this problem by enacting at least twelve separate statutes to preclude guarantees of tax-exempt securities over the past six years.

The combination of Federal guarantees with tax-exempt bonds increases the revenue loss to the U.S. Government while primarily benefitting the high income purchasers of these bonds rather than small businesses.

In addition, the provision of a Federal guarantee of tax-exempt bonds would create a security which would be more attractive in the capital markets than direct obligations of the U.S. Treasury. This would circumvent the intent of the Public Debt Act of 1941 which prohibits the Federal Government from issuing its own tax-exempt obligations.

Federal guarantees of tax-exempt obligations also add to the pressures on the municipal bond market by creating a security which is superior to all other tax-exempt securities issued by State and local governments. The result would be higher borrowing costs for State and local governments who must finance schools, roads, hospitals, and other essential public facilities.

I share the Congressional concern that small business needs Federal assistance to comply with pollution control requirements. But this is not the way to do it. A better way to provide small business with access to financing for pollution control facilities is through the SBA's water and air pollution control loan programs. Although these relatively new programs have been adequately funded in fiscal years 1976 and 1977, small business has not yet had the opportunity to use them fully. I am therefore directing the SBA to take prompt and vigorous action to insure that these loan programs are made fully accessible to the small business community by working with the Environmental Protection Agency (EPA) to reduce the loan processing and certification time, to clarify and promote the purpose of the program, and to provide necessary technical assistance.

I am also requesting that the EPA devote special attention to pollution regulations which the small business community believes excessively burdensome or inequitable. The EPA has already promulgated less

stringent effluent guidelines for small plants in several industries including dairies, electroplating, leather, seafoods, textiles, meat processing and rendering.

Section 112 of this bill would make all small food and fiber producers, ranchers and raisers of livestock, aquaculturists and all other small farming and agriculture related industries eligible for financing and management assistance from the SBA. At present, SBA does not consider applications for financial assistance made by small agricultural concerns because of a statutory prohibition against duplication by SBA of the activities of other departments or agencies of the Government. Section 112 establishes that this would no longer be the case.

I will not be a partner to the promulgation of overlapping and proliferating Federal programs.

The Department of Agriculture through the Farmers Home Administration (FmHA) has ample legal authority to extend financial assistance to small agricultural enterprises. In addition, adequate credit assistance is normally available from the Farm Credit Administration to meet the needs of farm partnerships, corporations and most other commercial farming enterprises. The changes to be made by S. 2498 would result in duplication of efforts, needless costs and senseless bureaucratic competition in the Federal Government. These changes would place SBA in direct competition with the FmHA and the other farm credit agencies. This Federal agency competition in the agricultural credit field would result in confusion because loans of each agency would have different terms, interest rates, and security requirements.

The legislative history of S. 2498 indicates that Congress is concerned with the difficulty which small agricultural enterprises often have in obtaining loans from the FmHA. I share this concern. However, rather

than expand SBA authority to address the valid farm financing problems, I believe that small agricultural enterprises can be better assisted through needed amendments to the Consolidated Farm and Rural Development Act which would:

- provide Federal credit assistance for meeting pollution control requirements and
- double the loan limits for farm operating and ownership loans.

I urge the Congress to enact H.R. 10078 and S. 3114 which would make these required changes in the Consolidated Farm and Rural Development Act.

The final provision of S. 2498 which I consider inadvisable is the statutory reassignment of duties for SBA's Office of Advocacy. The bill would require Presidential appointment with Senate confirmation of the Chief Counsel for Advocacy, redirect the role of the Chief Counsel from small business advocate to that of director of special studies of small and minority business and require the Counsel to transmit reports to the President and Congress without prior review by other Federal agencies.

This provision would generate conflicts between the respective authority and responsibilities of SBA's Administrator and its Chief Counsel for Advocacy, place responsibilities in the Chief Counsel that are more appropriately within the discretion of the Administrator, and bypass normal executive branch staff reviews which assist the President in carrying out his responsibilities.

I strongly support much of this bill since I recognize that many provisions in this bill would benefit the small business community. Therefore, I am directing SBA to transmit immediately to the Congress legislation which

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7:00 p.m.

Mr. R-

Rec'd from Paul Leach
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Presidential decision. Haven't
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TO THE SENATE

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While some provisions of this bill would improve Small Business Administration programs, several others are incompatible with the goals of controlling the growth of government, avoiding needless duplication of Federal programs and protecting the operation of our capital markets. In particular, I am concerned about the extraordinary authorization of Federal guarantees for tax-exempt pollution control bonds and the extension of SBA financial assistance to small agricultural enterprises which are already aided by the Farmers Home Administration and other farm credit agencies.

Section 102 would authorize the SBA to guarantee small business leases of pollution control facilities from State or local public bodies. To finance these facilities, State or local authorities would issue tax-exempt obligations secured by the SBA-guaranteed lease.

I am strongly opposed to the combination of a Federal guarantee and a tax-exempt security. And Congress has also recognized this problem by enacting at least twelve separate statutes to preclude guarantees of tax-exempt securities over the past five years.

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Federal guarantees of tax-exempt obligations also add to the pressures on the municipal bond market by creating a security which is superior to all other tax-exempt securities issued by States and local governments. The result would be higher borrowing costs for States and local governments who must finance schools, road, hospitals, and other essential public facilities.

I share the Congressional concern that small business needs Federal assistance to comply with pollution control requirements. But this is not the way to do it. A better way to provide small business with access to financing for pollution control facilities is through the SBA's water and air pollution control loan programs. Although these relatively new programs have been adequately funded in fiscal years 1976 and 1977, small business

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The legislative history of S. 2498 indicates that Congress is concerned with the difficulty which small agricultural enterprises often have in obtaining loans from the FmHA. I share this concern. However, rather than expand SBA authority to address the valid farm financing problems, I believe that small agricultural enterprises can be better assisted through needed amendments to the Consolidated Farm and Rural Development Act which would:

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I urge the Congress to enact H.R. 10078 and S. 3114 which would make these required changes in the Consolidated Farm and Rural Development Act.

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- double the loan limits for farm operating and ownership loans.

I urge the Congress to enact H.R. 10078 and S. 3114 which would make these required changes in the Consolidated Farm and Rural Development Act.

The final provision of S. 2498 which I consider inadvisable is the statutory reassignment of duties for SBA's Office of Advocacy. The bill would require Presidential appointment with Senate confirmation of the Chief Counsel for Advocacy, redirect the role of the Chief Counsel from small business advocate to that of director of special studies of small and minority business and require the Counsel to transmit reports to the President and Congress without prior review by other Federal agencies.

This provision would generate conflicts between the respective authority and responsibilities of SBA's Administrator and its Chief Counsel for Advocacy, place responsibilities in the Chief Counsel that are more appropriately within the discretion of the Administrator, and bypass normal executive branch staff reviews which assist the President in carrying out his responsibilities.

I strongly support much of this bill since I recognize that many provisions in this bill would benefit the small business community. Therefore, I am directing SBA to transmit immediately to the Congress legislation which incorporates

the needed authorities of S. 2498, together with other desirable amendments to SBA programs. I urge prompt consideration of this proposed legislation by the Congress.

I believe that these legislative proposals and the other actions I have described constitute a reasonable and effective response to the needs of the small business community and small farmers and ranchers and yet avoid needless duplication of Federal programs and unwise financing provisions.

94TH CONGRESS }
1st Session }

SENATE

{ REPORT
No. 94-420

THE SMALL BUSINESS AND SMALL
BUSINESS INVESTMENT ACT
AMENDMENTS OF 1975

REPORT

OF THE

COMMITTEE ON BANKING, HOUSING
AND URBAN AFFAIRS
UNITED STATES SENATE

TO ACCOMPANY

S. 2498



OCTOBER 8 (legislative day, SEPTEMBER 11), 1975.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

THE SMALL BUSINESS AND SMALL BUSINESS INVESTMENT ACT

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(II)

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1975

THE SMALL BUSINESS AND SMALL BUSINESS INVESTMENT ACT AMENDMENTS OF 1975

October 8 (legislative day, SEPTEMBER 11), 1975. Ordered to be printed

Mr. MORGAN, from the Committee on Banking, Housing and Urban Affairs, submitted the following

REPORT

[To accompany S. 2498]

The Committee on Banking, Housing and Urban Affairs, having considered the same, reports favorably a committee bill (S. 2498), and recommends that the bill do pass,

INTRODUCTION

HISTORY OF LEGISLATION

The Subcommittee on Small Business held hearings on S. 197, S. 545, S. 648, H.R. 4888, S. 1547, S. 1792, S. 1952 and S. 2104 on July 21, 22, and 23, 1975. Following the hearings, the Subcommittee met in open mark-up session on September 10 to consider all of these measures. Following that meeting, the Subcommittee recommended to the Committee a Committee bill incorporating many of the provisions in the bills under consideration. The Committee met in open mark-up session on October 1, 1975 and after consideration the Committee agreed by voice vote to report the bill.

PURPOSES OF THE BILL

The Committee bill, S. 2498, has four main focal points. First, it would establish within the Small Business Administration (SBA) an office of Export Development, to be headed by an Assistant Administrator, with adequate staff, to help provide, assist, encourage, and further the interests of small business in the export market. Second, the bill would provide an alternative and more economical means of helping small business enterprises to obtain the equipment

needed to meet government pollution control standards. Third, the bill would establish a National Commission on Small Business. The Commission would have the charge of making a comprehensive and coordinated study of all factors affecting small business, and to make a report to the President and Congress on its findings and legislative recommendations. And, fourth, the Committee bill would amend and perfect several provisions of the Small Business and Small Business Investment Acts to make these Acts more useful and viable into today's economy and market place.

All the provisions of the Committee bill are explained, by section, below.

TITLE I—EXPORT DEVELOPMENT

Section 101 of the bill establishes Title I as the "Small Business Export Development Act."

Section 102 of the bill would establish within the Small Business Administration an Office of Export Development. The bill provides that the office shall be headed by an Associate Administrator for Export Development. It is the intent of the legislation that he be compensated at Level V of the Executive Salary Schedule, that there shall be appointed a Deputy of that office, and that there shall also be appointed in the Washington, regional, and field offices of the Small Business Administration sufficient qualified professional, administrative, and clerical assistants to carry out a meaningful Export Development Program for Small Business.

The bill does not specify the number of employees in each category that would be needed to carry out such a program. The Committee believes such decisions should be and are properly left to the discretion of the Administrator of the Small Business Administration (SBA). The Committee does suggest that the Office of Export Development should have a large enough staff in Washington and in the regional and field offices of the SBA to carry out the program contemplated by Title I of the bill.

While the Committee does not wish to establish maximum or minimum limits on the number of employees that would be necessary to carry out the program, in order to estimate the approximate cost of Title I of the bill, the Committee used an estimate of 25 employees including professional, administrative, and clerical personnel, which would be divided among the SBA Washington, regional, and field offices. On that basis, it is estimated that the program envisioned by Title I of the bill would cost between \$500,000 and \$700,000.

The Committee believes there are numerous small businesses throughout the Nation that would and could participate in the export trade market. These businesses, however, do not have the expertise, financial resources, or the technical knowhow to enter the sophisticated export markets that are enjoyed by their counterpart, big business. Even when interested, small businesses are often discouraged when trying to enter into that market because of what seem to be obstacles that cannot be overcome because of lack of information or technical assistance at levels which are available to them. Small businesses often do not have the financial resources to survey or identify export markets in which they could participate.

While it is true that the Department of Commerce maintains programs to assist *all businesses* interested in developing their export activities, many small businesses are hesitant to seek or use the facilities of that office because they fear that the volume of export trade in which they can participate is not sufficiently large to attract the attention of that office. They are thus reluctant to pursue their opportunities with that office. Stated another way, many small businessmen view the Department of Commerce as a Federal agency for big business, and they therefore shy away from the Department.

The Committee was told by the Administrator of the SBA that the activities described in Title I of the bill have always been included among the general responsibilities of SBA's Office of Management Assistance. The Administrator further stated that the SBA has very little expertise or resources with which to expand its operation into the export field. Title I of the bill proposes to give to the SBA the expertise and resources to carry out a meaningful export development program for small business. Under the provisions of the bill, the Assistant Administrator would assist and counsel small business concerns which are interested in undertaking or expanding export activities by: (1) providing such technical assistance and advice as may be appropriate to such concerns to assist them in carrying out export activities; (2) surveying and identifying small businesses which possess undeveloped export potential and which are interested in joining with other small businesses in United States export associations; (3) obtaining operating and other business information from such small businesses, from export management concerns, export groups, and from any other person engaged in exporting in order to provide assistance and advice to such small businesses, export groups, or persons engaged in exporting, with respect to the identification of products which have export potential, the combination of products for efficient exportation, and the development of export markets; and (4) establishing and conducting programs for the development of technical, professional, and managerial skills necessary to the establishment and operation of associations and necessary to successful operations by persons engaged in export activities, and for the development of liaison between the Office, United States export associations, and international financial, investment, and marketing institutions.

In addition, the bill would authorize the Associate Administrator to obtain from any other department or agency of the Federal government such information as he deems necessary to assist small business participation in the export market. The general authority established by the bill intends that the Associate Administrator shall also assist small business concerns to find the financing needed for their export transactions. Pursuant to P.L. 93-646, there was established in the Export-Import Bank a Small Business Advisory Service under the direction of the Senior Vice President of the Bank. The Committee believes that the new Office of Export Development and the Small Business Advisory Service in the Ex-Im Bank, by working in very close liaison, can produce valuable assistance in helping small businesses find financial support for their export transactions with foreign importers.

The Committee believes the provision of Title I can be very beneficial to the small business exporter on a one-for-one basis with his foreign importer. It further believes the program envisioned by Title I could be very helpful to employment and the economy of the Nation in general, and to the balance of payments.

TRANSFER OF DISASTER RELIEF AUTHORITY

Section 103 of the bill would transfer certain disaster relief assistance programs presently under the administrative jurisdiction of the Small Business Administration to the Department of Housing and Urban Development. Under Section 7(b) of the Small Business Act, the Small Business Administration has the authority to grant loans to persons to restore property damaged as a result of a natural disaster. The Secretary of Agriculture has similar authority with respect to owners of farms under Title V of the Housing Act of 1947.

The problem which SBA faces under existing law is that when a disaster occurs, the SBA is unable to continue delivery of its ongoing programs due to the magnitude of resources and personnel required to administer the disaster relief program. Delays result in normal operations adversely affecting small businessmen, those whom the agency was established to assist.

Various recommendations attempted to rectify this situation by transferring all disaster authority not directly related to the small business sector to other agencies or departments. For example the Secretary of Commerce would have been granted authority to provide disaster relief to business concerns other than small business; the Secretary of Housing and Urban Development would have been granted authority to provide disaster relief to persons other than business concerns; and the Secretary of Agriculture would have been granted authority to provide disaster relief to owners of farms, in addition to the authority granted under Title V of the Housing Act of 1947.

The Committee believes that the excessive burden which SBA shoulders during times of disaster should be relieved. It was believed, however, that the restructuring of disaster relief, as proposed in earlier proposals would result in fragmentation of the Federal government's disaster relief efforts, increasing the cost of disaster relief and decreasing its effectiveness.

The Committee bill would transfer only certain disaster relief functions of the Small Business Administration to another Federal agency. It is well known that the homeowner portion of disaster relief accounts for the major segment of disaster loan applications and subsequent servicing requirements. It is this portion which requires the greatest number of additional personnel during times of disaster. Therefore, the Committee bill places all authority granted SBA with respect to disaster loans under Section 7(b) of the Small Business Act for the repair, rehabilitation, or replacement of real or personal property owned by individuals and families and not used for business purposes would be transferred to the Secretary of Housing and Urban Development.

FINANCING OF POLLUTION CONTROL EQUIPMENT

Section 104 authorizes appropriations of \$15 million for the Lease Guarantee Fund and establishes a program making it possible for small businesses to finance the leasing of pollution control equipment through the sale of tax-exempt industrial revenue bonds.

Through the Lease Guarantee Program, the Small Business Administration is authorized to guarantee the payment of small business rentals under leases of commercial and industrial property. The Administration fixes a uniform fee for its share of any guarantee, the amount determined in accordance with sound actuarial practices and procedures but not to exceed 2% percent of the minimum annual guaranteed rental payable. Section 104(a) of the bill would authorize an increase of \$15 million in appropriations for the current \$10 million Lease Guarantee Fund to meet the needs of pollution control equipment financing.

The purchase of pollution control equipment to comply with pollution abatement standards is particularly burdensome since it is a nonproductive investment. The narrowing time frame for complying with pollution abatement standards and the enormous cost of installing the mandated equipment is a major financial problem for American business. It creates a particular hardship for small businesses, which have limited capital resources and financing options. The Treasury, in recognition of the substantial financial impact of pollution control requirements, has amended its regulations to allow for unlimited issuance of tax-exempt industrial revenue bonds to finance pollution abatement facilities. While this type of financing is lawfully available to all businesses, only large corporations have been able to take full advantage of this opportunity.

Bonds issued for large corporations have found broad acceptance among institutional investors because of their national recognition and established creditworthiness, as evidenced by credit ratings from Moody's and Standard and Poor. Moreover, the liquidity of the bonds afforded by the large size of the issues and wide identification of the corporate name enhance the attractiveness of these bonds to institutional investors. Small businesses, on the other hand, lacking these advantages, have been effectively eliminated from the long-term, tax-exempt bond market. There is no institutional investor support for small, unrated issues of local corporations, nor sufficient investment banking interest to develop business and arrange the financing.

Accordingly, small businesses have been forced either to discontinue operations or borrow at higher rates for shorter time periods. The drain on the cash flow of small businesses is therefore more burdensome. As a result, smaller firms are experiencing a disproportionate impairment of operating flexibility and creditworthiness. This inequality in obtaining pollution control financing has resulted in an ever-increasing economic gap between large and small businesses. Moreover, it could cause a further deterioration in the position of small businesses in the nation's industrial structure.

Under Section 104(b), commercial banks and investment dealers, functioning as originators of these financings, would identify those small businesses having difficulty in obtaining financing for their

pollution control expenditures. This identification would be done in cooperation with pollution control financing authorities, local enforcement agencies, trade associations, and local financial institutions. The originator would evaluate the creditworthiness of these small businesses for the purpose of screening out those firms which lack the resources necessary to meet the financial obligations of the program. Those firms not meeting the requirements of this first evaluation would be referred to other sources for financial assistance. The individual financial needs of those firms which meet the SBA's credit criteria, would be grouped together into a single bond issue. This grouping would be done on the basis of either a common geographical or industrial relationship.

After the small businesses had been grouped together, the originator would assist the firms in preparing and filing applications for the SBA's lease guarantee and for an initial resolution from the appropriate pollution control financing authority. Upon receipt of the lease guarantee and the initial resolution, the originator would coordinate the drafting and execution of the documents relating to the sale of the bonds.

With receipt of the final resolution authorizing the sale of the bonds by the pollution control authority, the originator would underwrite the bond issue and sell the bonds to prospective investors. The proceeds of the sale would be used by the pollution control authority or its agent to purchase and install the necessary pollution control equipment. This equipment would be leased to the small businesses whose lease payments would provide the funds to meet the principal of and interest on the authority's bonds. The ABS, under authority of this legislation, would insure the individual lease payments for a fee adequate to cover operating costs and projected losses.

Section 104 would enable small businesses to obtain the necessary long-term, low-cost financing because: 1) industrial revenue bonds have an established institutional market; 2) the SBA lease insurance would make the bonds investment-grade quality; 3) the tax-exempt status of the bond offerings reduces the interest cost; and 4) the longer term bond schedule provides for lower annual debt service payments.

The program benefits additionally from the fact that there is an infrastructure already in place for this type of financing which would assure the Federal government of proper utilization of funds and careful financial review. Moreover, there would be an absolute minimum outlay of Federal funds program should be self-supporting with minimum loss risk and involve maximum participation by the private sector. In addition, the program should require minimum outlay of Federal funds and use the Federal personnel.

SMALL BUSINESS INVESTMENT COMPANY LEVERAGE

Section 105 of the bill would increase the leverage for "regular" and "venture capital" small business investment companies. The Small Business Investment Act of 1958 provided for the organization of privately owned small business investment companies (SBIC's), chartered by States or by the SBA, licensed by the SBA, and capitalized by at least \$300,000, including \$150,000 lent by the SBA through purchase of subordinated debentures.

There are two types of small business investment companies: One is licensed to provide "equity capital" (commonly referred to as "regular" SBIC's) and the other to provide "venture capital." Both offer long-term loans and management consulting services to eligible small businesses. "Equity capital" means funds received by a small concern from a licensee as consideration for the issuance of the small firm's equity securities, which may be certificates of stock or debt instruments providing potential ownership rights or privileges. "Venture capital" means SBIC financing through purchase of common or preferred stock, any right to purchase such stock, or debentures or loans (whether or not convertible or having stock-purchase rights) which are subordinated to all borrowings of the small concern from other institutional lenders and which have no part amortized during the first three years.

In the case of regular or equity capital SBIC's, the Government is currently authorized to match the licensee's private funds on a 2 to 1 basis. In the case of venture capital SBIC's, the Government is authorized to match private funds above \$500,000 on a 3 to 1 basis.

A number of the most active SBIC's are finding that they are locked into loans and investments far longer than they had contemplated and; therefore, must curtail their new investment activity until their earlier situations become liquid.

It is apparent that the end of the new issues market, plus the curtailment of merger activity, has reduced the rate of turnover in SBIC portfolios. In addition, many SBIC's have been forced to convert amortizing loans into illiquid stock holdings when the portfolio company required additional outside financing, or when the company ran into trouble.

Furthermore, experienced SBIC's are finding themselves with solid and mature portfolio securities to a greater extent than in the early days of the program. These sound securities form a solid base for borrowing beyond the point originally authorized by the 1958 Act. Stated another way: the Federal Government will stand less chance of loss on its advances to SBIC's, despite higher leverage formulas, because mature portfolio securities now collateralize the Federal funding.

Section 105 would increase the leverage for regular or equity capital SBIC's to 3 to 1 and for venture capital SBIC's to 4 to 1. The leverage increase is also extended to 301(d) SBIC's investing in economically disadvantaged small businesses. It is expected that increased leverage for SBIC's will enable them to attain a higher rate of return on their private capital; and this, in turn, should attract additional private capital into the program. Of course, SBA would be given discretion in administering these proposed leverage increases, just as it now has the power to refuse the authorized leverage to SBIC's which exhibit questionable financial strength.

The amount of possible Government participation in the capitalization of SBIC's was increased in 1961, 1964, 1967, and 1972. Under current law, the Government is authorized to match an SBIC's private funds on a 2 to 1 basis up to a maximum of \$15 million in Government funds, which corresponds to \$7.5 million in private capital. It may match private funds on a 3 to 1 basis up to a maximum of \$20 million in Government funds, which corresponds to \$6.7 million

in private capital. Under present law, licensees are given no incentive to grow beyond private capital sizes of \$7.5 million in the case of regular SBIC's, or \$6.7 million in the case of venture capital SBIC's. Section 105 would eliminate the maximum leverage ceiling for all SBIC's in order to encourage a greater private capital commitment to the program and to increase the flow of dollars to qualified small businesses.

SMALL BUSINESS INVESTMENT COMPANY GUARANTEES

Section 106 of the bill would permit small business investment companies to guarantee up to 100 percent of the borrowings of small business concerns. The typical small business receiving SBIC assistance is a growing firm which has insufficient capital to support its debt structure. On occasion, the small business may require other types of financing than the equity capital or subordinated debt that an SBIC can provide directly. Other sources of financing may be hesitant to fill this need if the company is young or a new applicant. To overcome this problem, the SBIC may guarantee to a creditor up to 90 percent of a small business' monetary obligation. This alternative has two advantages in that it establishes a relationship between the small business and the commercial finance company which will be most advantageous to the former, and it reduces the number of dollars the SBIC must disburse. However, the solution is imperfect since banks and other types of creditors, both corporate and individual, are frequently reluctant to accept anything less than a 100 percent guarantee on loans to small concerns. Section 106, by authorizing the 100 percent guarantee, would encourage greater private participation in small business financing.

LICENSING OF NONCORPORATE SMALL BUSINESS INVESTMENT COMPANIES

Section 107 of the bill would permit small business investment companies to be unincorporated entities. Section 301(a) of the Small Business Investment Act now provides that an SBIC "shall be an incorporated body, organized and chartered under State law. . . ." Permitting SBIC's to be unincorporated entities would achieve "passthrough" treatment of earnings and profits without regard to Federal corporate tax law. Both profits and losses would be passed through to the partners of the entity, without the imposition of the Federal corporate income tax.

In implementing this section directed at encouraging the formation of new SBIC's, it is expected that SBA would design regulations to limit the liability of the partners in an unincorporated company and to protect the investment of Government funds.

REPEAL OF 50 PERCENT LIMITATION ON BANK INVESTMENT

Section 108 of the bill would permit banks to own 100 percent of the voting common stock of a Small Business Investment Company. In 1967, the Small Business Investment Act was amended to prohibit a bank from acquiring 50 percent or more of the voting equity securities

of an SBIC. The provision, which was initiated in the House, was provoked by concern over the "monopolistic potential" of commercial banks in the SBIC program, although there was no evidence of abuse.

The SBIC industry and SBA have been actively working to bring more private capital into the program. Although many banks have expressed interest in the program, it is frequently difficult to find compatible coinvestors with sufficient assets. A bank's exposure is limited by law to a maximum investment of 5 percent of capital and surplus. Allowing banks to control or wholly own a license would serve to encourage financial institutions which are interested in the sound development of the SBIC program and would increase the amount of capital available for small business investment.

LOANS FOR PLANT ACQUISITION

Section 109(a) of the bill would amend Section 502 of the Small Business Investment Act of 1958. Section 502 currently specifies that the Small Business Administration "may make loans for plant construction, conversion, or expansion including the acquisition of land to local development companies." By inserting the word "acquisition" after the word "plant," the SBA would have additional authority to provide for loans for plant acquisition irrespective of the necessity for conversion or modification as is presently required. This amendment recognizes the need to utilize existing resources in the form of idle plants of other industrial and commercial facilities.

Section 109(b) would amend the present language of Section 7(a)(4)(C) of the Small Business Investment Act to read as follows: "(C) no such loans including renewals and extensions thereof may be made for a period or periods exceeding ten years except that such portion of a loan made for the purpose of acquiring real property or constructing facilities may have a maturity of twenty years plus such additional period as is estimated may be required to complete such construction."

The effect of this amendment would be to permit the use of 7(a) business loan funds for the purpose of acquiring real property in addition to the authority for the construction of facilities which is now contained in Section 7(a)(4)(C). The term of the maturity in the case of acquisitions or construction is extended from 15 to 20 years which will aid in eliminating the creation of sham local development corporations organized for the purpose of obtaining long term financing for the acquisition and/or construction of real property.

Enactment of Section 109 should result in SBA loans of smaller amounts, thus increasing the number of businesses that could be assisted with the same dollars. Less money would be required for construction and the small business could use funds not required to repay construction costs to improve its operations and increase production. Individual communities would be benefited by the economic use of existing structures and the elimination of the need for uneconomic development and expanded public services.

ECONOMIC OPPORTUNITY LOAN LIMIT

Section 110 of the bill would increase the maximum amount of economic opportunity loans from \$50,000 to \$100,000. The Economic Opportunity Act of 1964 gave the Small Business Administration

special authority to make Economic Opportunity Loans (EOL) to low income firms and individuals and to firms which hired such persons. The purpose of these loans was stated in general terms: to assist in the establishment preservation and strengthening of small business concerns and improve the managerial skills employed in such enterprises. Common requirements of the EOL program and the regular business loan program include: (1) a reasonable assurance of repayment; (2) the requirement that funds must not be available on "reasonable" terms from other sources; and (3) the seeking of maximum participation of the private lending community in the program.

Legislation passed in 1966 transferred loan-making authority from the Director, Office of Economic Opportunity, to the Administrator of SBA. A 1967 amendment specified that special attention was to be given to small business concerns located in urban or rural areas with high proportions of unemployed or low-income individuals, or concerns owned by low-income individuals. In 1974, P.L. 93-386 transferred to the Small Business Act *en toto* the authority to provide financial assistance to socially or economically disadvantaged persons. This authorization intended to avoid any confusion should the Economic Opportunity Act expire.

The Economic Opportunity Act of 1964 established a loan ceiling of \$25,000 which was raised in 1972 to \$50,000. Section 110 would again raise that loan limit to \$100,000 in order to meet the greater needs caused by inflation.

LOCAL DEVELOPMENT COMPANY LOAN LIMIT

Section 111 of the bill would increase the maximum amount of local development company loans from \$350,000 to \$500,000. The Small Business Investment Act of 1958 presented a unique method of financing whereby no government funds were furnished directly to small business but were made available indirectly through the medium of State and local development companies. The local development program established in Title V of the Act works exclusively through a corporation made up of community residents and businessmen whose primary purpose is to improve the local economy.

To qualify for a local development company loan from the Small Business Administration, there must be an incorporated local development company comprised of at least 25 individuals, 75 percent being residents or businessmen in the community. The corporation can be funded in a number of ways, either by sale of stock or memberships, borrowing from members, or borrowing from a financial institution. To obtain a loan from SBA, the development corporation must put up the first 20 percent of the cost of the project. Such cost may involve acquisition of land, construction of buildings, or acquisition and installation of equipment.

In 1961, the local development loan company limit was raised from \$250,000 to \$350,000 for each identifiable small business concern which the development corporation desires to assist, and for which it can raise the initial 20 percent participation in total cost. Section 111 would raise that limit to \$500,000.

REGULAR BUSINESS LOAN LIMIT

Section 112 of the bill would increase the maximum amount of regular SBA loans from \$350,000 to \$500,000. The regular business loan program was included in the original Small Business Act of 1953. Congress provided that business loan assistance could be granted (1) directly by the SBA or (2) through either immediate or deferred participation with commercial lenders. The purposes of such loans are to include the financing of plant construction, conversion, and business expansion; purchase of equipment, facilities, machinery, and supplies; and to provide working capital to be used in the manufacture of articles, equipment, supplies, or materials for war, defense, and essential civilian production, or as might be necessary to insure a well-balanced national economy.

A loan ceiling of \$150,000 was initially established, to be raised to \$250,000 in 1955. In 1958, it was again raised to its present level of \$350,000, and Section 112 would raise that limit to \$500,000 to make allowance for the diminishing value of the dollar in the interim.

TITLE II—NATIONAL COMMISSION ON SMALL BUSINESS IN AMERICA

Section 201 cites Title II of the bill as the "National Commission on Small Business in America Act."

The purpose of the National Commission on Small Business in America would be to make a comprehensive study and furnish substantive legislative recommendations to the President and the Congress with respect to the economic environment of small business. The authority of the Commission would expire no later than two years after the date of enactment of this legislation, and such sums as would be reasonable are authorized to be appropriated.

The Commission would consist of 11 members appointed by the President: four individuals who are affiliated with small business concerns or who represent the interests of small business; three individuals who are affiliated with or represent financial institutions involved in the financing of business; three individuals who have expertise in tax, regulatory, legal, economic, or financial matters, at least one of whom is a member of the academic community; and one member from the public at large to be Chairman. Both the Chairman and the Executive Director would be appointed with the advice and consent of the Senate.

The Commission would be required to analyze the contribution small business has made to the American economy and make recommendations to perpetuate and even improve that contribution. It would examine the Federal subsidy and assistance programs, the effects of Federal regulation, the tax structure as it relates to small business, and the ability of financial institutions to meet small business credit needs. In the process, the Commission would consider the advisability of establishing universal criteria for defining a small business.

Any comparable efforts to assess the needs of small business in the economy are dispersed and uncoordinated. There has been no equally comprehensive study of the problems peculiar to the small business

community since the study undertaken over 20 years ago, which led to the development of the Small Business Act. The Commission is designed to focus the attention and efforts of one highly qualified group on the questions and problems which are currently being dealt with, if at all, in a diffused and uncoordinated manner. It is the Committee's view that a thorough review of the problems affecting more than 9 million small businesses and the Federal programs designed to help them is long overdue.

SECTION-BY-SECTION ANALYSIS OF BILL

SHORT TITLE

Section 101. Cites title I as the Small Business Export Development Act.

SMALL BUSINESS EXPORT DEVELOPMENT PROGRAM

Section 102(a). Amends Sec. 8 of the Small Business Act by adding a new subsection (f) (1) to establish an Office of Export Development in the SBA to provide information and assistance to small businesses which have an export potential.

Section 102(b). Amends Sec. 5316(11) of Title V, USC, to provide an additional Association Administrator position in the SBA.

TRANSFER OF DISASTER RELIEF AUTHORITY

Section 103. Transfers all functions and authority of SBA with respect to disaster loans under Sec. 7(b) of Small Business Act for repair, rehabilitation, or replacement of real or personal property (other than real or personal property owned by business concerns) to the Department of HUD.

POLLUTION CONTROL

Section 104(a). Amends Sec. 403 of Small Business Investment Act of 1958 to increase the funds available for the lease guarantee program from \$10 million to \$25 million.

(b). Add a new Sec. 404 to Part A of Title IV of the SBIC Act to establish a program to make it possible for small business to finance the leasing of pollution control equipment through the sale of tax-exempt industrial revenue bonds.

SMALL BUSINESS INVESTMENT COMPANY LEVERAGE

Section 105(a) (b) (c). Amends Sec. 303(b) (1) and (2) of the SBIC Act of 1958 to increase the amount which regular SBIC's may borrow from the government from 200 to 300 percent of private capital and to increase the amount "venture capital" SBIC's may borrow from government from 300 to 400 percent of private capital. Also extends leverage increase to 301(d) SBIC's and eliminates the maximum leverage ceilings for all SBIC's.

SMALL BUSINESS INVESTMENT COMPANY GUARANTEES

Section 106. Repeals the last sentences of Sec. 305(b) of the SBIC Act to permit SBIC's to guarantee 100 percent of the borrowings of small business concerns.

LICENSING OF NONCORPORATE SMALL BUSINESS INVESTMENT COMPANIES

Section 107 (a) and (b). Amends Sec. 301 (a) and (b) of the SBIC Act to permit SBIC's to be unincorporated entities.

REPEAL OF 50 PERCENT LIMITATION ON BANK INVESTMENT

Section 108. Amends Sec. 302(b) of the SBIC Act to permit banks to own 100 percent of an SBIC's voting common stock.

LOANS FOR PLANT REQUISITION

Section 109(a). Amends Sec. 502 of the SBIC Act to provide SBA loans to local development companies for the acquisition of existing plant facilities.

(b). Amends Sec. 7(a)(4)(c) of the Small Business Act to increase the maturity from 15 to 20 years on SBA loans for acquisition and construction of plant facilities.

ECONOMIC OPPORTUNITY LOANS

Section 110. Amends Sec. 7(i)(1) of the Small Business Act to increase the maximum amount of economic opportunity loans from \$50,000 to \$100,000.

LOCAL DEVELOPMENT COMPANY LOAN LIMIT

Section 111. Amends Sec. 502(3) of the SBIC Act to increase the maximum amount of local development company loans from \$350,000 to \$500,000.

REGULAR BUSINESS LOAN LIMIT

Section 112. Amends Sec. 7(a)(4)(A) of the Small Business Act to increase the maximum amount of regular SBA loans from \$350,000 to \$500,000.

TITLE II

NATIONAL COMMISSION ON SMALL BUSINESS IN AMERICA

SHORT TITLE

Section 201. Cites Title II as the "National Commission on Small Business in America Act."

Section 202-209. Establishes a National Commission on Small Business in America to make a comprehensive and coordinated study of all the factors affecting small businesses and to make reports and legislative recommendations to the Congress. Authorizes the President to appoint an eleven member Commission; 4 individuals affiliated with small business, 3 individuals affiliated with venture capital firms, SBIC's, commercial banks, investment banking firms, 3 individuals who have expertise in taxes, regulatory, legal and economic matters, at least one of whom is from the academic community, and one individual from the public at large. Requires the Commission Chairperson and Executive Director to be advised and consented upon by the Senate. Authorizes the employment of such staff as necessary and prescribes compensation for such Commission members and staff. Authorizes sum to be appropriated to carry out Commission's functions and duties.

CORDON RULE

(CHANGES IN EXISTING LAW)

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is printed in *italic*, existing law in which no change is proposed is shown in roman):

SMALL BUSINESS ACT

(15 U.S.C. 632 et. seq.—72 Stat. 384 et seq.)

* * * * *

SEC. 4 (a) * * * *

(1) * * *

(2) * * *

(3) * * *

(4) Except as provided in paragraph (5), (A) no loan under this subsection shall be made if the total amount outstanding and committed (by participation or otherwise) to the borrower from the revolving fund established by this Act would exceed ~~[\$350,000]~~ *\$500,000*; (B) the rate of interest for the Administration's share of any such loan shall be no more than 5½ per centum per annum; and ~~[(C) no such loan, including renewals or extensions thereof, may be made for a period or periods exceeding ten years except that such portion of a loan made for the purpose of constructing facilities may have a maturity of fifteen years plus such additional period as is estimated may be required to complete such construction.]~~ *(C) no such loans including renewals and extensions thereof may be made for a period or periods exceeding ten years except that such portion of a loan made for the purpose of acquiring real property or constructing facilities may have a maturity of twenty years plus such additional period as is estimated may be required to complete such construction.*

* * * * *

SEC. 7. (i) (1) The Administration also is empowered to make, participate (on an immediate basis) in, or guarantee loans, repayable in not more than fifteen years, to any small business concern, or to any qualified person seeking to establish such a concern, when it determines that such loans will further the policies established in section 2(b) of this Act, with particular emphasis on the preservation or establishment of small business concerns located in urban or rural areas with high proportions of unemployed or low-income individuals, or owned by low-income individuals: *Provided, however,* That no such loans shall be made, participated in, or guaranteed if the total of such Federal assistance to a single borrower outstanding at any one time would exceed ~~[\$50,000]~~ *\$100,000*. The Administration may defer payments

on the principal of such loans for a grace period and use such other methods as it deems necessary and appropriate to assure the successful establishment and operation of such concern. The Administration may, in its discretion, as a condition of such financial assistance, require that the borrower take steps to improve his management skills by participating in a management training program approved by the Administration: *Provided, however, That any management training program so approved must be of sufficient scope and duration to provide reasonable opportunity for the individuals served to develop entrepreneurial and managerial self-sufficiency.*

*Sec. 8. (a) * * **

(1) *There is hereby established in the Administration an office to be known as the Office of Export Development (hereinafter referred to as the "Office"). The Office shall be headed by an Associate Administrator for Export Development who shall be appointed by the Administrator.*

(2) *The Office shall assist and counsel small business concerns which are interested in undertaking or expanding export activities by—*

(A) *providing such technical assistance and advice as may be appropriate to such concerns to assist them in carrying out export activities;*

(B) *surveying and identifying small businesses which possess undeveloped export potential and which are interested in joining with other small businesses in United States export associations;*

(C) *obtaining operating and other business information from small businesses, from export management concerns, export groups, and from any other person engaged in exporting in order to provide assistance and advice to such small businesses, export groups, or persons engaged in exporting, with respect to the identification of products which have export potential, the combination of products for efficient exportation, and the development of export markets; and*

(D) *establishing and conducting programs for the development of technical, professional, and managerial skills necessary to the establishment and operation of associations and necessary to successful operations by persons engaged in export activities, and for the development of liaison between the Office, United States export associations, and international financial, investment, and marketing institutions.*

(3) *The Office may obtain from any other department or agency of the Federal Government such information as it may deem necessary to carry out its other functions under this section. Upon the request of the Office, each department or agency of the United States is authorized to furnish such information to the Office as may be requested, except to the extent that the provision of such information is prohibited by law. The provisions of section 1905 of title 18, United States Code, shall apply to the Office, and its officers and employees, with respect to any information described in such section.*

(4) *There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection.*

SMALL BUSINESS INVESTMENT ACT OF 1958

(15 USC 631 et seq., 75 Stat. 756 et seq.)

TITLE III—SMALL BUSINESS INVESTMENT COMPANIES

ORGANIZATION OF SMALL BUSINESS INVESTMENT COMPANIES

SEC. 301. (a) A small business investment company shall be an incorporated body, or a partnership, association, or other generally recognized business organization organized and chartered or otherwise existing under State law solely for the purpose of performing the functions and conducting the activities contemplated under this title, which has succession for a period of not less than thirty years unless sooner dissolved by its shareholders, partners, owners, or members and possesses the powers reasonably necessary to perform such functions and conduct such activities. The area in which the company is to conduct its operations, and the establishment of branch offices or agencies (if authorized by the articles of incorporation or by law), shall be subject to the approval of the Administration.

(b) The articles of incorporation (or the functionally equivalent or other similar documents specified by the Administration for other forms of business organizations (hereinafter referred to collectively as 'articles' or 'articles of incorporation')) of any small business investment company shall specify in general terms the objects for which the company is formed, the name assumed by such company, the area or areas in which its operations are to be carried on, the place where its principal office is to be located, and the amount and classes of its shares of capital stock. Such articles may contain any other provisions not inconsistent with this Act that the company may see fit to adopt for the regulation of its business and the conduct of its affairs. Such articles and any amendments thereto adopted from time to time shall be subject to the approval of the Administration.

*Sec. 302. (a) * * **

(b) Notwithstanding the provisions of section 6(a)(1) of the Bank Holding Company Act of 1956, shares of stock in small business investment companies shall be eligible for purchase by national banks, and shall be eligible for purchase by other member banks of the Federal Reserve System and nonmember insured banks to the extent permitted under applicable State law; except that in no event may any bank acquire shares in any small business investment company if, upon the making of that acquisition,

[(1) the aggregate amount of shares in small business investment companies then held by the bank would exceed 5 percent of its capital and surplus, or

(2) the bank would hold 50 percent or more of any class of equity securities issued by that investment company and having actual or potential voting rights.]

(c) The aggregate amount of shares in any such company or companies which may be owned or controlled by any stockholder, or by any group or class of stockholders, may be limited by the Administration.

*Sec. 303(a). * * **

(b). (1) The total amount of debentures purchased or guaranteed and outstanding at any one time from a company which does not qualify under the terms of paragraph (2) of this subsection, shall not exceed [200] 300 percent of the combined private paid-in capital and paid-in surplus of such company. [In no event shall the debentures of any such company purchased or guaranteed and outstanding under this paragraph exceed \$15,000,000.]

(2) The total amount of debentures which may be purchased or guaranteed and outstanding at any one time from a company not complying with section 301(d) of this Act, which has investments or legal commitments of 65 per centum or more of its total funds available for investment in small business concerns invested or committed in venture capital, and which has combined private paid-in capital and paid-in surplus of \$500,000 or more shall not exceed [300] 400 per centum of its combined private paid-in capital and paid-in surplus. [In no event shall the debentures of any such company purchased or guaranteed and outstanding under this paragraph exceed \$20,000,000.] Such additional purchases or guarantees which the Administration makes under this paragraph shall contain conditions to insure appropriate maintenance by the company receiving such assistance of the described ratio during the period in which debentures under this paragraph are outstanding.

(c) (1) * * *

The Administration may purchase or guarantee—

(2) debentures subordinated pursuant to subsection (b) of this section (other than securities purchased under paragraph (1) of this subsection (c)), provided—

(i) such debentures are issued for a term of not to exceed fifteen years;

(ii) the interest rate is determined pursuant to sections 303(b) and 317; and

(iii) the amount of debentures purchased or guaranteed and outstanding at any one time pursuant to this paragraph (2) from a company having combined private paid-in capital and paid-in surplus of less than \$500,000 shall not exceed [200] 300 per centum of its combined private paid-in capital and paid-in surplus less the amount of preferred securities outstanding under paragraph (1) of this subsection, nor from a company having combined private paid-in capital and paid-in surplus of \$500,000 or more, [300] 400 per centum of its combined private paid-in capital and paid-in surplus less the amount of such preferred securities.

(3) debentures purchased and outstanding pursuant to section 303(b) of this section may be retired simultaneously with the issuance of preferred securities to meet the requirements of subparagraph (2) (iii) of this subsection (c).

(4) the Administration may require, as a condition of the purchase or guarantee of any securities in excess of [200] 300 per centum of the combined private paid-in capital and paid-in surplus of a company, that the company maintains a percentage of its total funds available for investment in small business concerns invested or legally committed in venture capital (as defined in

subsection (b) of this section) determined by the Administration to be reasonable and appropriate.

SEC. 304. * * *

SEC. 305. (a) * * *

(b) Loans made under this section may be made directly or in cooperation with other lenders, incorporated or unincorporated, through agreements to participate on an immediate or deferred basis. [In agreements to participate in loans on a deferred basis under this subsection, the participation by the company shall not be in excess of 90 per centum of the balance of the loan outstanding at the time of disbursement.]

* * * * *

TITLE IV—GUARANTEES

PART A—LEASE GUARANTEES

SEC. 401. * * *

SEC. 402. * * *

FUND

SEC. 403. There is hereby created within the Treasury a separate fund for guarantees which shall be available to the Administrator without fiscal year limitations as a revolving fund for the purposes of this part. There are authorized to be appropriated to the fund from time to time such amounts not to exceed [10,000,000] \$25,000,000 to provide capital for the fund. All amounts received by the Administrator, including any moneys, property, or assets derived by him from his operations in connection with this part, shall be deposited in the fund. All expenses and payments pursuant to operations of the Administrator under this part shall be paid from the fund. From time to time, and at least at the close of each fiscal year, the Administrator shall pay from the fund into Treasury as miscellaneous receipts interest at a rate determined by the Secretary of the Treasury on the cumulative amount of appropriations available as capital to the fund, less the average undisbursed cash balance in the fund during the year. The rate of such interest shall be determined by the Secretary of the Treasury, and shall not be less than a rate determined by taking into consideration the average market yield during the month preceding each fiscal year on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturity of guarantees from the fund. Moneys in the fund not needed for the payment of current operating expenses or for the payment of claims arising under this part may be invested in bonds or other obligations of, or bonds or other obligations guaranteed as to principal and interest by, the United States; except that moneys provided as capital for the fund shall not be so invested.

POLLUTION CONTROL

SEC. 404. (a) For purposes of this section, the term—

(1) "pollution control facilities" means such property (both real and personal) as the Administration in its discretion determines is likely to help reduce, abate, or control air or water pollution or contamination by removing, altering, disposing, or storing

pollutants, contaminants, wastes, or heat, and such property (both real and personal) as the Administration determines will be used for the collection, storage, treatment, utilization, processing, or final disposal of solid waste.

(2) "qualified contract" means a lease, sublease, loan agreement, installment sales contract, or similar instrument, entered into between a small business concern and any person.

(b) Whenever the Administration determines that small business concerns are or are likely to be at an operational or financing disadvantage with other business concerns with respect to the planning, design, or installation of pollution control facilities, or the obtaining of private financing therefor (including financing by means of revenue bonds issued by States, political subdivisions thereof, or other public bodies), it may guarantee, upon such terms and conditions as the Administration may prescribe, either directly or in cooperation with a qualified surety company or other qualified company through a participation agreement with such company, the payment of rentals or other amounts due under qualified contracts, and any such guarantee shall be for the full amount of the payments due under such qualified contract. Any guarantee made by the Administration pursuant to this section shall be a full faith and credit obligation of the United States.

(c) The Administration shall fix a uniform fee which it deems reasonable and necessary for any guarantee issued under this section, to be payable at such time and under such conditions as may be determined by the Administration. Such fee shall be subject to periodic review in order that the lowest fee that experience under the program shows to be justified will be placed into effect. The Administration may also fix such uniform fees for the processing of applications for guarantees under this section as it determines are reasonable and necessary to pay administrative expenses incurred in connection therewith. The Administration may require that an amount, not to exceed one-fourth of the average annual payments for which a guarantee is issued under this section, be placed in escrow upon such terms and conditions as the Administration may prescribe.

(d) Any guarantee issued under this section may be assigned with the permission of the Administration by the person to whom payments under qualified contracts are due.

TITLE V—LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES

SEC. 501. * * *

SEC. 502. The Administration may, in addition to its authority under section 501, make loans for plant acquisition, construction, conversion or expansion, including the acquisition of land, to State and local development companies, and such loans may be made or effected either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis: Provided, however, That the foregoing powers shall be subject to the following restrictions and limitations:

(1) All loans made shall be so secured as reasonably to assure repayment. In agreements to participate in loans on a deferred

basis under this subsection, such participation by the Administration shall not be in excess of 90 per centum of the balance of the loan outstanding at the time of disbursement.

(2) The proceeds of any such loan shall be used solely by such borrower to assist an identifiable small-business concern and for a sound business purpose approved by the Administration.

(3) Loans made by the Administration under this section shall be limited to [\$350,000] \$500,000 for each such identifiable small-business concern.

(4) Any development company assisted under this section must meet criteria established by the Administration, including the extent of participation to be required or amount of paid-in capital to be used in each instance as is determined to be reasonable by the Administration.

(5) No loans, including extensions or renewals thereof, shall be made by the Administration for a period or periods exceeding twenty-five years plus such additional period as is estimated may be required to complete construction, conversion, or expansion, but the Administration may extend the maturity of or renew any loan made pursuant to this section beyond the period stated for additional periods, not to exceed ten years, if such extension or renewal will aid in the orderly liquidation of such loan. Any such loan shall bear interest at a rate fixed by the Administration.

TITLE 5—UNITED STATES CODE

* * * * *

SEC. 5316. Positions at Level V. Level V of the Executive Schedule applies to the following positions, for which the annual rate of basic pay is \$28,000:

(1)-(10) * * *

(11) Associate Administrators of the Small Business Administration [(3)] (4).

SMALL BUSINESS DEVELOPMENT ACT

NOVEMBER 26, 1975.—Ordered to be printed
(Filed under authority of the order of the Senate of NOVEMBER 20, 1975)

Mr. INOUE, from the Committee on Commerce, submitted the following

REPORT

[To accompany S. 2498]

The Committee on Commerce, to which was referred the bill (S. 2498) to amend the Small Business Act to provide assistance for small business export activities, to transfer certain disaster relief functions of the Small Business Administration to other Federal agencies, to establish a National Commission on Small Business in America, and for other purposes, having considered the same, reports favorably thereon with amendments and an amendment to the title and recommends that the bill do pass.

PURPOSE AND DESCRIPTION OF COMMITTEE ACTION

The committee proposes to amend S. 2498 by deleting sections 101 and 102, retitling title I and renumbering sections 103 through 112 as sections 101 through 110.

The amendments would remove all provisions concerning Small Business Administration (SBA) export assistance to small business from the current bill.

BACKGROUND

The bill was referred to the Committee on Commerce with instructions to report back not later than December 1, 1975.

Section 102 of the bill would amend section 8 of the Small Business Act by establishing an Office of Export Development within the Small Business Administration. The Office would be headed by an Assistant Administrator for Export Development and would have the broad responsibility for assisting small business concerns which are inter-

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ested in undertaking or expanding export activities. The program would specifically attempt to do the following: (1) provide export-related technical assistance; (2) survey and identify small businesses that possess underdeveloped export potential and that are interested in participating in joint export association activities; (3) obtain export related information from the private sector; and (4) conduct programs for the development of technical, professional, and managerial skills necessary for successful export activities.

Export activity in the United States has been concentrated primarily in large corporations. It has been estimated that only 4 percent of American business firms export. There are probably many more businesses which have the capacity to export or would like to expand the level of their current exports.

On November 13, 1967, the Small Business Administration and the Department of Commerce signed an agreement to cooperate on export promotion programs for small business. Under that agreement, which is still operative, the SBA provides basic export counseling services to small exporters and refers them to the Department of Commerce for continuing detailed, substantive marketing assistance.

The SBA and Commerce Department jointly sponsored a majority of the 96 export training programs conducted by the SBA in fiscal year 1975. A representative of the SBA sits on the President's Export Award Council, which is chaired by the Commerce Department. Finally, the SBA field offices use current Commerce Department publications to counsel small businesses interested in exporting.

The large majority of the firms participating in Commerce Department export promotion programs are small businesses. The Commerce Department estimates that only one of every four firms assisted by the Bureau of International Commerce is a big business. Commerce Department programs are already clearly oriented toward small and medium-sized businesses and new exporters. The hearings conducted by the Banking Committee did not reflect any complaints by small businessmen that the Commerce Department was too "big business" oriented or any suggestions that the Small Business Administration would be a more appropriate or more effective location for this function. Both agencies continue to support the 1967 agreement and oppose sections 101-102 of the subject bill.

Enactment of these sections would further require establishment of new facilities in the SBA which would duplicate existing Commerce Department programs. The Small Business Administration, in its comments to the Banking Committee, stated that it does not now have the expertise to conduct a full export program and that it believes this function is more properly performed by the Commerce Department.

Section 102 reflects, in part, legislation currently pending before the Commerce Committee. Section 102 utilizes terms which appear to require further definition since similar terms are used as words of art in S. 511, as introduced and referred to the Commerce Committee.

For the reasons stated herein, the committee believes that sections 101-102 should be deleted as proposed in its amendments.

TEXT OF S. 2498, AS REPORTED

A BILL

To amend the Small Business Act to transfer certain disaster relief functions of the Small Business Administration to other Federal agencies, to establish a National Commission on Small Business in America, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—SMALL BUSINESS DEVELOPMENT

TRANSFER OF DISASTER RELIEF AUTHORITY

SEC. 101. All authorities and functions of the Small Business Administration with respect to disaster loans under section 7(b) of the Small Business Act for the repair, rehabilitation, or replacement of real or personal property (other than real or personal property owned by business concerns) are transferred to the Secretary of Housing and Urban Development.

POLLUTION CONTROL

SEC. 102. (a) Section 403 of the Small Business Investment Act of 1958 is amended by striking out "\$10,000,000" and inserting in lieu thereof "\$25,000,000".

(b) Part A of title IV of such Act is amended by adding at the end thereof the following new section:

"POLLUTION CONTROL

"SEC. 404. (a) For purposes of this section, the term—

"(1) 'pollution control facilities' means such property (both real and personal) as the Administration in its discretion determines is likely to help reduce, abate, or control air or water pollution or contamination by removing, altering, disposing, or storing pollutants, contaminants, wastes, or heat, and such property (both real and personal) as the Administration determines will be used for the collection, storage, treatment, utilization, processing, or final disposal of solid waste.

"(2) 'qualified contract' means a lease, sublease, loan agreement, entered into between a small business concern and any person.

"(b) Whenever the Administration determines that small business concerns are or are likely to be at an operational or financing disadvantage with other business concerns with respect to the planning, design, or installation of pollution control facilities, or the obtaining of private financing thereof (including financing by means of revenue bonds issued by States, political subdivisions thereof, or other public bodies) it may guarantee, upon such terms and conditions as the Administration may prescribe, either directly or in cooperation with a qualified surety company or other qualified company through a

participation agreement with such company, the payment of rentals or other amounts due under qualified contracts, and any such guarantee shall be for the full amount of the payments due under such qualified contract. Any guarantee made by the Administration pursuant to this section shall be a full faith and credit obligation of the United States.

“(c) The Administration shall fix a uniform fee which it deems reasonable and necessary for any guarantee issued under this section, to be payable at such time and under such conditions as may be determined by the Administration. Such fee shall be subject to periodic review in order that the lowest fee that experience under the program shows to be justified will be placed into effect. The Administration may also fix such uniform fees for the processing of applications for guarantees under this section as it determines are reasonable and necessary to pay administrative expenses incurred in connection therewith. The Administration may require that an amount, not to exceed one-fourth of the average annual payments for which a guarantee is issued under this section, be placed in escrow upon such terms and conditions as the Administration may prescribe.

“(d) Any guarantee issued under this section may be assigned with the permission of the Administration by the person to whom the payments under qualified contracts are due.”

SMALL BUSINESS INVESTMENT COMPANY LEVERAGE

SEC. 103. (a) Section 303(b)(1) of the Small Business Investment Act of 1958 is amended:

- (1) by striking out “200” and inserting in lieu thereof “300”;
- and
- (2) by striking out the second sentence thereof.
- (b) Section 303(b)(2) of such Act is amended—
 - (1) by striking out “300” and inserting in lieu thereof “400”;
 - and
 - (2) by striking out the second sentence thereof.
- (c) Section 303(c) of such Act is amended—
 - (1) by striking out “300” in clause (2)(iii) and inserting in lieu thereof “400”; and
 - (2) by striking out “200” where it appears in clauses (2)(iii) and (4) and inserting in lieu thereof “300”.

SMALL BUSINESS INVESTMENT COMPANY GUARANTEES

SEC. 104. The last sentence of section 305(b) of the Small Business Investment Act of 1958 is repealed.

LICENSING OF NONCORPORATE SMALL BUSINESS INVESTMENT COMPANIES

SEC. 105. (a) Section 301(a) of the Small Business Investment Act of 1958 is amended—

- (1) by inserting after “incorporated body” a comma and the following: “or a partnership, association, or other generally recognized business organization”;
- (2) by inserting “or otherwise existing” after “chartered”;

(3) by inserting after “shareholders” a comma and the following: “partners, owners, or members,”; and

(4) by inserting “or by law” after “articles of incorporation”.

(b) Subsection (b) of such section is amended by inserting after the phrase “articles of incorporation” the first time it appears the following: “(or the functionally equivalent or other similar documents specified by the Administration for other forms of business organizations (hereinafter referred to collectively as ‘articles’ or ‘articles of incorporation’))”.

REPEAL OF 50 PERCENT LIMITATION ON BANK INVESTMENT

SEC. 106. Section 302(b) of the Small Business Investment Act of 1958 is amended by striking out all that follows “upon the making of that acquisition”, and inserting in lieu thereof the following: “the aggregate amount of shares in small business investment companies then held by the Bank would exceed 5 percent of its capital and surplus.”

LOANS FOR PLANT ACQUISITION

SEC. 107. (a) Section 502 of the Small Business Investment Act of 1958 is amended by inserting “acquisition,” after “plant”.

(b) Section 7(a)(4)(C) of the Small Business Act is amended to read as follows: “(C) no such loans including renewals and extensions thereof may be made for a period or periods exceeding ten years except that such portion of a loan made for the purpose of acquiring real property or constructing facilities may have a maturity of twenty years plus such additional period as is estimated may be required to complete such construction.”

ECONOMIC OPPORTUNITY LOAN LIMIT

SEC. 108. Section 7(i)(1) of the Small Business Act is amended by striking out “\$50,000” and inserting in lieu thereof “\$100,000”.

LOCAL DEVELOPMENT COMPANY LOAN LIMIT

SEC. 109. Section 502(3) of the Small Business Investment Act of 1958 is amended by striking out “\$350,000” and inserting in lieu thereof “\$500,000”.

REGULAR BUSINESS LOAN LIMIT

SEC. 110. Section 7(a)(4)(A) of the Small Business Act is amended by striking out “\$350,000” and inserting in lieu thereof “\$500,000”.

TITLE II—NATIONAL COMMISSION ON SMALL BUSINESS IN AMERICA

SHORT TITLE

SEC. 201. This title may be cited as the “National Commission on Small Business in America Act”.

FINDING AND PURPOSE

SEC. 202. (a) On the eve of the Bicentennial anniversary of the American Revolution, the Congress recognizes the enormous contribution which small business has made toward improving the economic well-being of all Americans for over two hundred years.

(b) The Congress also recognizes that small business has the potential for making an equally large or larger contribution toward improving economic well-being both at home and abroad in years ahead.

(c) To insure that small business continues to have the opportunity to realize its full potential, it is the purpose of this title to establish a National Commission on Small Business in America to make a study and furnish recommendations to the President and the Congress with respect to small business.

ESTABLISHMENT; MEMBERSHIP

SEC. 203. There is established the National Commission on Small Business in America (hereinafter referred to as the "Commission") which shall be an independent instrumentality of the United States. The Commission shall be composed of eleven members appointed by the President as follows:

(1) four individuals who are affiliated with small business concerns or who represent the interests of small business;

(2) three individuals who are affiliated with or who represent venture capital firms, small business investment companies, commercial banks, insurance companies, investment banking firms, or other comparable financial institutions involved in the financing of business;

(3) three individuals who have expertise in tax, regulatory, legal, economic, or financial matters, at least one of whom is a member of the academic community; and

(4) one individual from the public at large who shall be appointed by and with the advice and consent of the Senate and who shall be the Chairman of the Commission.

In addition, the Administrator of the Small Business Administration and the Director of the Office of Minority Business Enterprise shall be advisory members of the Commission, without a vote in any determination or decision of the Commission.

FUNCTIONS

SEC. 204. The functions of the Commission shall be—

(1) to examine the role of small business in the American economy and the contribution which small business can make in improving competition, encouraging economic and social mobility for all citizens, restraining inflation, spurring production, expanding employment opportunities, increasing productivity, promoting exports, stimulating innovation and entrepreneurship, and providing an avenue through which new and untested products and services can be brought to the marketplace;

(2) to assess the effectiveness of existing Federal subsidy and assistance programs for small businesses and the desirability of reducing the emphasis on such existing programs and increasing the emphasis on general assistance programs designed to benefit all small businesses;

(3) to measure the direct costs and other effects of government regulation on small businesses; and make legislative and nonlegislative proposals for eliminating excessive or unnecessary regulation of small businesses;

(4) to determine the impact of the tax structure on small businesses and make legislative and other proposals for altering the tax structure to enable all small businesses to realize their potential for contributing to the improvement of the Nation's economic well-being;

(5) to study the ability of financial markets and institutions to meet small business credit needs and determine the impact of government demands for credit on small businesses;

(6) to recommend specific measures for creating an environment in which all businesses will have the opportunity to compete effectively and expand to their full potential, and to ascertain the common reasons, if any, for small business successes and failures; and

(7) to determine the desirability of developing a set of rational, objective criteria to be used to define small business, and to develop such criteria, if appropriate.

STAFF AND POWERS

SEC. 205. Subject to such rules and regulations as it may adopt, the Commission may—

(1) appoint, by and with the advice and consent of the Senate, and fix the compensation of an Executive Director at the rate provided for GS-18 of the General Schedule under section 5332 of title 5, United States Code, and such additional staff personnel as is deemed necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51, and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates but at rates not in excess of the lowest rate for GS-15 of the General Schedule;

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code; and

(3) hold hearings and sit and act at such times and places, as it may deem advisable.

ASSISTANCE OF GOVERNMENT AGENCIES

SEC. 206. Each department, agency, and instrumentality of the Federal Government is authorized and directed to furnish to the Commission such reports and other information as the Commission deems necessary to carry out its functions under this Act.

COMPENSATION

SEC. 207. (a) A member of the Commission who is an officer or employee of the United States shall serve as a member of the Commission without additional compensation, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of his duties as a member of the Commission.

(b) A member of the Commission who is not otherwise an officer or employee of the United States shall be compensated at a rate equal to the per diem equivalent of the rate for GS-18 of the General Schedule for each day he is engaged in the performance of his duties as a member of the Commission, and shall also be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of his duties as a member of the Commission.

REPORTS

SEC. 208. The Commission may from time to time prepare and publish such reports as it deems appropriate. Not later than two years after the date of enactment of this title, the Commission shall transmit to the Congress and the President a full report containing its findings and specific recommendations with respect to each of the functions referred to in section 203, including specific legislative proposals and recommendations for administration or other action. Upon the submission of its final report, the Commission shall cease to exist.

AUTHORIZATION

SEC. 209. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this title. Any sums so appropriated shall remain available until expended.

AGENCY COMMENTS

GENERAL COUNSEL OF THE
DEPARTMENT OF COMMERCE,
Washington, D.C., November 18, 1975.

HON. WARREN G. MAGNUSON,
*Chairman, Committee on Commerce,
U.S. Senate,
Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your request for the views of this Department on S. 2498, a bill to amend the Small Business Act to provide assistance for small business export activities, to transfer certain disaster relief functions of the Small Business Administration to other Federal agencies, to establish a National Commission on Small Business in America, and for other purposes.

Title I, section 102 of S. 2498 would amend section 8 of the Small Business Act by establishing an Office of Export Development within the Small Business Administration. The Office would assist small business concerns which are interested in undertaking or expanding export activities, and would be directed to (1) provide export-related

technical assistance, (2) survey and identify small businesses that possess underdeveloped export potential and are interested in participating in joint export association activities, (3) obtain export-related information from the private sector in order to identify products with export potential and for the development of export markets, and (4) conduct programs for the development of technical, professional, and managerial skills necessary for successful export activities.

Although the Department of Commerce supports the general goal of increasing the participation of small business concerns in exports from the United States, it opposes the enactment of title I, section 102 of S. 2498 in that the functions proposed for the Export Development Office would constitute an unnecessary duplication of many of the activities and programs of this Department's Office of Export Development in the Bureau of International Commerce (BIC). For example, such services as counseling small business concerns interested in exporting, providing technical assistance, and surveying and identifying firms having export potential are now part of BIC's export promotion programs.

Although BIC's programs are open to firms of all sizes, a great percentage of the users and beneficiaries of such programs are in fact, small and medium sized companies. For example, in fiscal year 1974, slightly over 75 percent of the U.S. firms which participated in the Bureau's overseas trade promotion programs, trade centers, trade fairs, and trade missions were in this category, and these firms received approximately 65 percent of all sales leads generated by such activities. It is estimated that only one out of every four firms served by BIC is really big business (i.e., over \$50 million annual sales), and it is probable that the large majority of firms using BIC services are within the standard definition of small business in that they have less than 500 employees. The Bureau employs a variety of techniques designed to make small and medium sized firms aware of the potential for sales overseas and the services available to assist them. In fiscal year 1975, it undertook, through the Advertising Council, a national campaign which involved placing a series of advertisements in a wide variety of business publications. These ads focused on the theme that exports increased sales and jobs. BIC also directs an E and E Star Award program which affords recognition of an individual firm's efforts to increase its exports. Additionally, BIC maintains an extensive publication program to alert firms to the value of exporting and to provide them with valuable information ranging from the very general on how to export, to the specifics of the export market for particular commodities in markets throughout the world. These publications are particularly useful to small and medium sized firms. The Bureau's seminar program provides an opportunity for U.S. firms to obtain up-to-date information of foreign markets rich in export potential. During early fiscal year 1975, our series of nine seminars on "Doing Business in the Near East and North Africa" attracted over 2,000 participants. Many of these participating firms were small or medium sized.

BIC also has a variety of information and other assistance programs which are of benefit to small- and medium-sized firms in expanding their export efforts. Among these are counseling services; a data bank

which contains information on the identity and product lines of potential customers abroad; reports which provide data on individual foreign firms (WTDR's); a program which assists U.S. firms in finding agents or distributors abroad (ADS), and a computerized system for rapid dissemination of export trade leads (TOP). In addition to these services, BIC conducts market research in a variety of product/market areas, the results of which are made available to businesses of all sizes.

Since the provisions of sections 103 through 112 of title I of S. 2498 would not significantly affect programs administered by this Department, we defer to the views of other Federal agencies more directly concerned with those sections of the bill.

The Department opposes title II of S. 2498, which would establish a National Commission on Small Business in America, as unnecessary and costly legislation which would basically serve to increase the number of Government study commissions.

We have been advised by the Office of Management and Budget that there would be no objection to the submission of our report to the Congress from the standpoint of the administration's program.

Sincerely,

RICHARD E. HULL
(For General Counsel).

U.S. SMALL BUSINESS ADMINISTRATION,
Washington, D.C., July 28, 1975.

HON. WILLIAM PROXMIRE,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S.
Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Small Business Administration with respect to S. 1952, a bill to amend the Small Business Act to provide assistance for small business export activities, to transfer certain disaster relief functions of the Small Business Administration to other Federal agencies, and for other purposes. The following comments on S. 1952 are structured on a sequential, section-by-section analysis.

Section 2 of the bill, entitled "The Small Business Export Development Program," amends section 8 of the Small Business Act by establishing an Office of Export Development to be headed by a separate Associate Administrator for Export Development. The Office is designed to assist and counsel all small businesses interested in developing their export activities by providing technical assistance and advice, by surveying and identifying small businesses which possess undeveloped export potential and by obtaining operating and other business information from all facets of the industry in order to develop a more effective small business export trade. The amendment proposes the establishment of programs which will assist small businesses to develop or improve the skills required in exporting and provides authority for the Small Business Administration to obtain from any other department or agency of the Federal Government all necessary information which would enable it to develop a more successful Office for Export Development.

Since the Department of Commerce already maintains programs which are available to assist all businesses interested in developing

their export activities, we see no reason to establish a small business export development program or to create the position of Associate Administrator for Export Development. The activities described in the bill have always been included among the general responsibilities of SBA's Office of Management Assistance.

We are continuing to work with the U.S. Department of Commerce within the framework of the agreement signed by the two agencies on November 13, 1967. For example, we have jointly sponsored a majority of the 96 export training programs conducted by SBA during fiscal year 1975. We continue to receive export trade information and publications from the Commerce Department which are used by SBA's Central Office and field staff to counsel current and potential small business exporters. A representative of SBA is a member of the President's Export Award Committee, chaired by the Department of Commerce. SBA provides basic export counseling services to small exporters and refers them to the Department of Commerce for continuing in-depth, substantive assistance.

The agency will continue to provide assistance in this area, primarily through our volunteer counseling and training programs, and we will continue to direct small businesses to the other sources of Federal assistance. We do not hold ourselves out as having the expertise to conduct a full export program. This function is more properly performed by the Commerce Department.

Section 3 entitled "Eximbank Credit for Small Business," amends section 7(a) of the Export-Import Bank Act of 1945 by providing that not less than \$5 million in loans, guarantees, or insurances shall be provided to finance exports by small business concerns. While the temptation is great to endorse any proposal which will provide additional resources to small business, we believe that SBA has sufficient funds to meet the financial needs of small exporters.

Section 4, "Transfer of Disaster Relief Authority," would, in section 4(1), amend section 7(b) of the Small Business Act to transfer any SBA authority or function which relates to disaster loans to business concerns other than small-business concerns to the Secretary of Commerce. Section 4(2) of the proposed bill would transfer any SBA authority or function which relates to disaster loans to persons other than business concerns to the Secretary of Housing and Urban Development. Any such authority or function with respect to such loans (A) in the areas subject to the authority of the Secretary of Agriculture under title V of the Housing Act of 1949, or (B) to owners of farms, is transferred to the Secretary of Agriculture. SBA would maintain the authority to administer disaster loans to small business concerns.

We are opposed to this section. The SBA has supported legislation which would consolidate responsibility authority and accountability for all disaster programs in one agency. S. 1952 would in contrast add two new agencies—Commerce and HUD—to the two agencies already responsible for disaster loan activities—SBA (business loans) and the Department of Agriculture (farm loans). This would further fragment and complicate responsibility for Federal disaster assistance.

In light of the Committee's interest, the Administration will be studying alternatives for improving the coordination of disaster loan

programs, including consideration of the need for any statutory changes. We will be participating in this review.

Section 5, "Pollution Control," incorporates H.R. 16279, 93d Congress, second session, with a minor deletion and H.R. 78 of the present session of Congress.

Section 5 would authorize SBA to guarantee, either directly or in cooperation with a qualified surety company or other qualified company through a participation agreement with such company, the full payment of rentals or other amounts (e.g., purchase price) due under "qualified contracts," where SBA determines that small business concerns are, or are likely to be, at an operating or financing disadvantage with other business concerns with respect to the planning, design or installation of "pollution control facilities," or the obtaining of private financing therefor.

Section 5 further provides that SBA shall fix a uniform fee which it deems reasonable and necessary for any guarantee issued, to be payable at such time and under such conditions as may be determined by SBA. The fee would be subject to periodic review in order that the lowest fee that experience of the program showed to be justified would be placed in effect. SBA would also be permitted a uniform fee for processing applications. Further, SBA may require that an amount, not to exceed one-fourth of the average annual payments for which a guarantee is issued, be placed in escrow upon such terms and conditions as SBA may prescribe.

Acting in our role as the small business advocate, we are obliged to point out the favorable views on section 5 of a concerned segment of the small business community.

Forty-eight States have enacted legislation to accommodate pollution control financing through the issuance of industrial revenue bonds (IRB's) which are tax exempt as to interest received by the holders of the bonds. Considerable use has been made of this type of financing by large corporations and utilities. The total of such financings in 1974 was estimated at \$1.65 billion. A small segment of the business community has expressed a need for this type of financing. The present State and local government legislation providing industrial revenue bond financing do not exclude participation by small business. In fact, the State of Illinois Industrial Pollution Control Financing Authority has a fiscal year 1976 bonding authorization of \$250 million, of which \$75 million is specifically allocated to finance pollution control facilities for small business.

However, small businesses lack both market and credit recognition, which effectively bars them from obtaining tax-exempt pollution control bonds in the central marketplace. This increases the competitive disadvantage under which small business operates by putting the large, well-known firm in a position to receive low-interest, long-term financing, while the small operator is restricted to short-term bank loans and higher interest rates. Thus, the affected segment of the small business community favorably views section 5 as a method to provide needed financing to small firms that is presently unavailable to them.

The administration has consistently maintained a Federal credit policy which opposes the Federal guarantee or support of tax-exempt

financing. The administration policy on this method of financing is firm for the following reasons:

First, the subsidy provided by the guarantee of tax-exempt financing is highly inefficient and costly for Federal, State and local governments. Federal taxes on interest income are forgone when tax-exempt bonds are used instead of taxable securities. State and local taxes are forgone because of the exemption of such bonds from many of the States' income, personal property, and certain other property taxes. These lost tax revenues exceed the benefits to the borrowers obtained through lower interest rates on tax-exempt borrowing; the difference represents subsidies to the high-income investors who are clearly unintended beneficiaries.

Second, this type of financing would contribute to the erosion of the value of tax exemption for State and local governments. Federal guarantees, as proposed under section 5, will make these issues preferred to any other issues using tax-exempt financing. Failure to constrain such use of the guarantee may threaten the structure of the tax-exempt market. For example, an increased supply of Federal guaranteed tax-exempt bonds would certainly increase the borrowing costs to issuers of traditional nonguaranteed State and local bonds which are essential to finance basic public works and schools. Congress has shared this concern with this type of financing, as is evidenced by the recent passage of at least 12 statutes to preclude such guarantees of tax-exempt financing.

The administration is opposed to legislation which would authorize the guarantee of tax-exempt financing for private purposes. The administration has held to this policy in at least eight new programs in the last 5 years, and the policy is being implemented administratively in agency programs where the issues have been raised. It is suggested that both the Congress and the administration should explore other less costly and more efficient ways to provide pollution control financing to small businesses.

Section 6 through 9 of S. 1952, which contain the SBIC portion of the bill, attempts to carry out several objectives which SBA supports. However, we feel that there is a need for other changes in the SBIC authorities. It is recommended that the Congress defer action on these changes until we have had an opportunity to propose some specific changes.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the administration's program.

Sincerely,

THOMAS S. KLEPPE,
Administrator.

SMALL BUSINESS ACT AND SMALL BUSINESS
INVESTMENT ACT

MAY 10, 1976.—Ordered to be printed

Mr. SMITH of Iowa, from the committee of conference,
submitted the following

CONFERENCE REPORT

[To accompany S. 2498]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2498) to amend the Small Business Act to transfer certain disaster relief functions of the Small Business Administration to other Federal agencies, to establish a National Commission on Small Business in America, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

TITLE I—SMALL BUSINESS DEVELOPMENT

TRANSFER OF DISASTER RELIEF AUTHORITY

SEC. 101. The President shall undertake a comprehensive review of all Federal disaster loan authorities and shall make a report to the Congress, not later than December 1, 1976, containing such recommendations and legislative proposals, including possible consolidation of Federal disaster loan authorities, as may be demonstrated to be necessary and appropriate to assure the most effective and efficient delivery of disaster relief. Such study shall give particular emphasis to alleviating any extraordinary burden the management of Federal disaster loan programs may impose on an agency.

POLLUTION CONTROL

SEC. 102. Part A of title IV of the Small Business Investment Act of 1958 is amended by adding at the end thereof the following new sections:

"SEC. 404. (a) For purposes of this section, the term—

"(1) 'pollution control facilities' means such property (both real and personal) as the Administration in its discretion determines is likely to help prevent, reduce, abate, or control noise, air or water pollution or contamination by removing, altering, disposing or storing pollutants, contaminants, wastes, or heat, and such property (both real and personal) as the Administration determines will be used for the collection, storage, treatment, utilization, processing, or final disposal of solid or liquid waste.

"(2) 'person' includes corporations, companies, associations, firms, partnerships, societies, joint stock companies, States, territories, and possessions of the United States, or subdivisions of any of the foregoing, and the District of Columbia, as well as individuals.

"(3) 'qualified contract' means a lease, sublease, loan agreement, installment sales contract, or similar instrument, entered into between a small business concern and any person.

"(b) The Administration may, whenever it determines that small business concerns are or are likely to be at an operational or financing disadvantage with other business concerns with respect to the planning, design, or installation of pollution control facilities, or the obtaining of financing therefor (including financing by means of revenue bonds issued by States, political subdivisions thereof, or other public bodies), guarantee the payment of rentals or other amounts due under qualified contracts. Any such guarantee may be made or effected either directly or in cooperation with any qualified surety company or other qualified company through a participation agreement with such company. The foregoing powers shall be subject, however, to the following restrictions and limitations:

"(1) Notwithstanding any other law, rule, or regulation or fiscal policy to the contrary, the guarantee authorized in the case of pollution control facilities or property proceeds from industrial revenue bonds which provide the holders interest which is exempt from Federal income tax.

"(2) Any such guarantee shall be for the full amount of the payments due under such qualified contract and shall be a full faith and credit obligation of the United States.

"(3) No guarantee shall be issued by the Administration unless the Administration determines that there exists a reasonable expectation that the small business concern in behalf of which the guarantee is issued will perform the covenants and conditions of the qualified contract.

"(c) The Administration shall fix a uniform annual fee for any guarantee issued under this section which shall be payable at such time and under such conditions as may be prescribed by the Administrator. The fee shall be set at an amount which the Administration deems reasonable and necessary and shall be subject to periodic review in order that the lowest fee that experience under the program shows

to be justified will be placed into effect. In no case shall such amount exceed 3½ per centum per annum of the minimum annual guaranteed rental payable under any qualified contract guaranteed under this section. The Administration may also fix such uniform fees for the processing of applications for guarantees under this section as the Administrator determines are reasonable and necessary to pay the administrative expenses that are incurred in connection therewith.

"(d) In connection with the guarantee of rentals under any qualified contract pursuant to authority conferred by this section, the Administrator may require, in order to minimize the financial risk assumed under such guarantee—

"(1) that the lessee pay an amount, not to exceed one-fourth of the average annual payments for which a guarantee is issued under this section, which shall be held in escrow and shall be available (A) to meet rental charges accruing in any month for which the lessee is in default, or (B) if no default occurs during the term of the qualified contract, for application (with accrued interest) toward final payments of rental charges under the qualified contract;

"(2) that upon occurrence of a default under the qualified contract, the lessor shall, as a condition precedent to enforcing any claim under the qualified contract guarantee, utilize the entire period, for which there are funds available in escrow for payment of rentals, in reasonable diligent efforts to eliminate or minimize losses, by releasing the property covered by the qualified contract to another qualified lessee, and no claim shall be made or paid under the guarantee until such effort has been made and such escrow funds have been exhausted;

"(3) that any guarantor of the qualified contract will become a successor of the lessor for the purpose of collecting from a lessee in default rentals which are in arrears and with respect to which the lessor has received payment under a guarantee made pursuant to this section; and

"(4) such other provisions, not inconsistent with the purposes of this section as the Administrator may in his discretion require.

"(e) Any guarantee issued under this section may be assigned with the permission of the Administration by the person to whom the payments under qualified contracts are due.

"(f) Section 402 shall apply to the administration of this section.

"SEC. 405. There is hereby created within the Treasury a separate fund for guarantees which shall be available to the Administrator without fiscal year limitations as a revolving fund for the purposes of section 404. There are authorized to be appropriated to the fund from time to time such amounts not to exceed \$15,000,000 to provide capital for the fund. All amounts received by the Administrator, including any moneys, property, or assets derived by him from his operations in connection with section 404 shall be deposited in the fund. All expenses and payments pursuant to operations of the Administrator under section 404 shall be paid from the fund. From time to time, and at least at the close of each fiscal year, the Administrator shall pay from the fund into Treasury as miscellaneous receipts interest at a rate determined by the Secretary of the Treasury on the cumulative amount of appropriations available as capital to the fund, less the

average undisbursed cash balance in the fund during the year. The rate of such interest shall be determined by the Secretary of the Treasury, and shall not be less than a rate determined by taking into consideration the average market yield during the month preceding each fiscal year on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturity of guarantees from the fund. Moneys in the fund not needed for the payment of current operating expenses or for the payment of claims arising under section 404 may be invested in bonds or other obligations of, or bonds or other obligations guaranteed as to principal and interest by, the United States; except that moneys provided as capital for the fund shall not be so invested."

SEC. 103. Section 403 of the Small Business Investment Act of 1958 (15 U.S.C. 694) is amended by striking out "this part" wherever it appears therein and by inserting in lieu thereof "section 401".

SMALL BUSINESS INVESTMENT COMPANY LEVERAGE

SEC. 104. (a) Section 303(b)(1) of the Small Business Investment Act of 1958 is amended—

(1) by striking out "300" and inserting in lieu thereof "400"; and

(2) by striking out "\$15,000,000" and inserting in lieu thereof "\$35,000,000".

(b) Section 303(b)(2) of such Act is amended—

(1) by striking out "300" and inserting in lieu thereof "400"; and

(2) by striking out "\$20,000,000" and inserting in lieu thereof "\$35,000,000"; and

(c) Section 303(c) of such Act is amended—

(1) by striking out "300" in clause (2)(iii) and inserting in lieu thereof "400";

(2) by striking out "200" where it appears in clauses (2)(iii) and (4) and inserting in lieu thereof "300".

SMALL BUSINESS INVESTMENT COMPANY GUARANTEES

SEC. 105. The last sentence of section 305(b) of the Small Business Investment Act of 1958 is repealed.

LICENSING OF NONCORPORATE SMALL BUSINESS INVESTMENT COMPANIES

SEC. 106. (a) Section 103 of the Small Business Investment Act of 1958 is amended by striking out "and" at the end of clause (6) and inserting in lieu thereof a semicolon, by striking out the period at the end of clause 7 and inserting in lieu thereof a semicolon "and", and by adding at the end the following:

"(8) the term 'articles' means articles of incorporation for an incorporated body and means the functional equivalent or other similar documents specified by the Administrator for other business entities."

(b) Section 301(a) of such Act is amended—

(1) by striking the comma and inserting "or a limited partnership" after "incorporated body";

(2) by inserting "or otherwise existing" after "chartered";

(3) by inserting "or partners" after "shareholders"; and

(4) by striking the words "of incorporation".

(c) Section 301(b) of such Act is amended by striking the words "of incorporation".

(d) Section 301(c) of such Act is amended by striking the words "of incorporation" wherever they appear therein.

(e) Section 302(a) of such Act is amended by striking the words "of incorporation".

(f) Section 312 of such Act is amended—

(1) by inserting "or partners" after "shareholders"; and

(2) by striking "or shareholders" wherever it appears therein and by inserting "shareholder, or partner".

REPEAL OF 50 PERCENT LIMITATION ON BANK INVESTMENT

SEC. 107. Section 302(b) of the Small Business Investment Act of 1958 is amended by striking out all that follows "upon the making of that acquisition", and inserting in lieu thereof the following: "the aggregate amount of shares in small business investment companies then held by the bank would exceed 5 percent of its capital and surplus."

LOANS FOR PLANT ACQUISITION

SEC. 108. (a) Section 502 of the Small Business Investment Act of 1958 is amended by inserting "acquisition," after "plant".

(b) Section 7(a)(4)(C) of the Small Business Act is amended to read as follows: "(C) no such loans including renewals and extensions thereof may be made for a period or periods exceeding ten years, except that such portion of a loan made for the purpose of acquiring real property or constructing facilities may have a maturity of twenty years plus such additional period as is estimated may be required to complete such construction."

ECONOMIC OPPORTUNITY LOAN LIMIT

SEC. 109. Section 7(i) of the Small Business Act is amended by striking from paragraphs (1) and (3) thereof the figure "\$50,000" and inserting in lieu thereof the figure "\$100,000".

DEVELOPMENT COMPANY LOAN LIMIT

SEC. 110. Section 502(3) of the Small Business Investment Act of 1958 is amended by striking out "\$350,000" and inserting in lieu thereof "\$500,000".

REGULAR BUSINESS LOAN LIMIT

SEC. 111. Section 7(a)(4)(A) of the Small Business Act is amended by striking out "\$350,000" and by inserting in lieu thereof "\$500,000: Provided, that no such loan made or effected either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate basis shall exceed \$350,000".

FARMING AND AGRICULTURE RELATED INDUSTRIES

SEC. 112. (a) Section 2 of the Small Business Act (15 U.S.C. 631) is amended by redesignating subsections (b) and (c) as (c) and (d), respectively, and by inserting immediately after subsection (a) the following new subsection:

"(b) It is the declared policy of the Congress that the Government, through the Small Business Administration, should aid and assist small business concerns which are engaged in the production of food and fiber, ranching, and raising of livestock, aquaculture, and all other farming and agricultural related industries; and the financial assistance programs authorized by this Act are also to be used to assist such concerns."

(b) The first sentence of section 3 of the Small Business Act (15 U.S.C. 632) is amended by inserting after "concern" the following: "including but not limited to enterprises that are engaged in the business of production of food and fiber, ranching and raising of livestock, aquaculture, and all other farming and agricultural related industries."

(c) Section 7(a)(1) of the Small Business Act (15 U.S.C. 636 (a)(1)) is amended by inserting "from non-Federal sources" immediately before the period at the end thereof.

(d) Section 7(b)(4) of the Small Business Act (15 U.S.C. 636 (b)(4)) is amended by striking out the proviso.

(e) Section 18 of the Small Business Act (15 U.S.C. 647) is amended by inserting after "Federal Government" the following: "except to those enterprises engaged in the production of food and fiber, ranching, and raising of livestock, aquaculture, and all other farming and agricultural related industries."

INCREASE AUTHORIZED CAPITAL OF SURETY BOND GUARANTEES

SEC. 113. Section 412 of the Small Business Investment Act of 1958 is amended by striking out "\$35,000,000" and inserting in lieu thereof "\$56,500,000".

INTEREST RATE

SEC. 114. Section 7(b) of the Small Business Act (15 U.S.C. 636 (b)) is amended by striking from the first paragraph following paragraph (8) of such section 7(b) the following: "Notwithstanding the provisions of any other law, and except as otherwise provided in this subsection, the interest rate on the Administration's share of any loan made under this subsection shall not exceed 3 per centum per annum, except that in the case of a loan made pursuant to paragraph (3), (5), (6), (7), or (8), the rate of interest on the Administration's share of such loan shall not be more than the higher of (A) $2\frac{3}{4}$ per centum per annum; or (B) the average annual interest rate on all interest-bearing obligations of the United States then forming a part of the public debt as computed at the end of the fiscal year next preceding the date of the loan and adjusted to the nearest one-eighth of 1 per centum plus one-quarter of 1 per centum per annum.", and inserting in lieu thereof the following: "Notwithstanding the provisions of any

other law, the interest rate on the Administration's share of any loan made under subsection (b) shall not exceed the average annual interest rate on all interest-bearing obligations of the United States then forming a part of the public debt as computed at the end of the fiscal year next preceding the date of the loan and adjusted to the nearest one-eighth of 1 per centum plus one-quarter of 1 per centum: Provided, however, That the interest rate for loans made under paragraphs (1) and (2) hereof shall not exceed the rate of interest which is in effect at the time of the occurrence of the disaster."

TITLE II—STUDY OF SMALL BUSINESS

ESTABLISHMENT

SEC. 201. There is established within the Small Business Administration an Office of Advocacy. The management of the Office shall be vested in a Chief Counsel for Advocacy who shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.

STUDY

SEC. 202. The primary functions of the Office of Advocacy shall be to—

(1) examine the role of small business in the American economy and the contribution which small business can make in improving competition, encouraging economic and social mobility for all citizens, restraining inflation, spurring production, expanding employment opportunities, increasing productivity, promoting exports, stimulating innovation and entrepreneurship, and providing an avenue through which new and untested products and services can be brought to the marketplace;

(2) assess the effectiveness of existing Federal subsidy and assistance programs for small business and the desirability of reducing the emphasis on such existing programs and increasing the emphasis on general assistance programs designed to benefit all small businesses;

(3) measure the direct costs and other effects of government regulation on small businesses; and make legislative and non-legislative proposals for eliminating excessive or unnecessary regulations of small businesses;

(4) determine the impact of the tax structure on small businesses and make legislative and other proposals for altering the tax structure to enable all small businesses to realize their potential for contributing to the improvement of the Nation's economic well-being;

(5) study the ability of financial markets and institutions to meet small business credit needs and determine the impact of government demands for credit on small businesses;

(6) determine financial resource availability and to recommend methods for delivery of financial assistance to minority enterprises, including methods for securing equity capital, for generat-

ing markets for goods and services, for providing effective business education, more effective management and technical assistance, and training, and for assistance in complying with Federal, State and local law;

(7) evaluate the efforts of Federal agencies, business and industry to assist minority enterprises;

(8) make such other recommendations as may be appropriate to assist the development and strengthening of minority and other small business enterprises;

(9) recommend specific measures for creating an environment in which all businesses will have the opportunity to compete effectively and expand to their full potential, and to ascertain the common reasons, if any, for small business successes and failures; and

(10) determine the desirability of developing a set of rational, objective criteria to be used to define small business, and to develop such criteria, if appropriate.

DUTIES

SEC. 203. The Office of Advocacy shall also perform the following duties on a continuing basis:

(1) serve as a focal point for the receipt of complaints, criticisms, and suggestions concerning the policies and activities of the Administration and any other Federal agency which affects small businesses;

(2) counsel small businesses on how to resolve questions and problems concerning the relationship of the small business to the Federal Government;

(3) develop proposals for changes in the policies and activities of any agency of the Federal Government which will better fulfill the purposes of the Small Business Act and communicate such purposes to the appropriate Federal agencies;

(4) represent the views and interests of small businesses before other Federal agencies whose policies and activities may affect small business; and

(5) enlist the cooperation and assistance of public and private agencies, businesses, and other organizations in disseminating information about the programs and services provided by the Federal Government which are of benefit to small businesses, and information on how small businesses can participate in or make use of such programs and services.

STAFF AND POWERS

SEC. 204. In carrying out the provisions of section 202, after consultation with and subject to the approval of the Administrator, the Chief Counsel for Advocacy may—

(1) employ and fix the compensation of such additional staff personnel as is deemed necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51, and sub-

chapter III of chapter 53 of such title relating to classification and General Schedule pay rates but at rates not in excess of the lowest rate for GS-15 of the General Schedule;

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code;

(3) consult with experts and authorities in the fields of small business investment, venture capital, investment and commercial banking and other comparable financial institutions involved in the financing of business, and with individuals with regulatory, legal, economic, or financial expertise, including members of the academic community, and individuals who generally represent the public interest.

(4) utilize the services of the National Advisory Council established pursuant to the provisions of section 8(b)(13) of the Small Business Act and in accordance with the provisions of such statute, also appoint such other advisory boards or committees as is reasonably appropriate and necessary to carry out the provisions of this title; and

(5) hold hearings and sit and act at such times and places as he may deem advisable.

ASSISTANCE OF GOVERNMENT AGENCIES

SEC. 205. Each department, agency, and instrumentality of the Federal Government is authorized and directed to furnish to the Chief Counsel for Advocacy such reports and other information as he deems necessary to carry out his functions under this title.

REPORTS

SEC. 206. The Chief Counsel may from time to time prepare and publish such reports as he deems appropriate. Not later than one year after the date of enactment of this title, he shall transmit to the Congress, the President and the Administration, a full report containing his findings and specific recommendations with respect to each of the functions referred to in section 204, including specific legislative proposals and recommendations for administration or other action. Not later than 6 months after the date of enactment of this title, he shall prepare and transmit a preliminary report on his activities. The reports shall not be submitted to the Office of Management and Budget or to any other Federal agency or executive department for any purpose prior to transmittal to the Congress and the President.

AUTHORIZATION

SEC. 207. There are authorized to be appropriated not to exceed \$1,000,000 to carry out the provisions of this title. Any sums so appropriated shall remain available until expended.

TECHNICAL AMENDMENT

SEC. 208. Section 5(e) of the Small Business Act is hereby repealed. And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the title of the bill, and agree to the same.

NEAL SMITH,
BOB BERGLAND,
HENRY GONZALEZ,
JIM HANLEY,
GUS YATRON,
JOHN BRECKINRIDGE,
WILLIAM L. HUNGATE,
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Managers on the Part of the House.

ROBERT MORGAN,
JOHN SPARKMAN,
THOMAS J. MCINTYRE,
JOHN TOWER,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 2498) to amend the Small Business Act and the Small Business Investment Act, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, and the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

(1) STUDY OF DISASTER RELIEF AUTHORITY

The Senate bill provides for the President to undertake a comprehensive review of all Federal disaster loan authorities and make a report to Congress, not later than April 30, 1976. The report is to contain such recommendations and legislative proposals, including possible consolidation of Federal disaster loan authorities, as may be demonstrated as necessary and appropriate to assure the most effective and efficient delivery of disaster relief.

The study shall give particular emphasis to alleviating any extraordinary burden the management of Federal disaster loan programs may impose on an agency.

The House bill does not contain any comparable provision.

The Conference substitute adopts the Senate provision but extends the date by which the report shall be submitted to December 1, 1976.

(2) FINANCING OF POLLUTION CONTROL FACILITIES

The Senate bill expands SBA's existing lease guarantee program to make it possible for small business to finance the leasing of pollution control equipment through the use of tax exempt industrial revenue bonds as authorized by the Internal Revenue Code. The bill authorizes an additional \$15 million as capital for the program which would be self-sustaining through the collection of a lease guarantee fee.

The House amendment establishes a similar new financing method but does so by setting up a separate program which would not be a part of SBA's existing real estate lease guarantee program. The House amendment also authorizes the guarantee of other qualified

contracts, such as a conditional sales contract, and expressly provides that the guarantee may be issued when the property is acquired through proceeds from the sale of industrial revenue bonds which provide the holders interest which is exempt from federal income tax. The House amendment also limits the guarantee fee to a maximum of 3.5% of the annual rental or payments on the equipment and establishes a new fund in the Treasury, with \$15 million initial capital, and provides additional restrictions on the operation of the program which corresponds with the restrictions on SBA's existing real estate lease guarantee program.

The conference substitute adopts the House amendment but includes a Senate provision which authorizes the SBA guarantee only if the small business would not be able to obtain financing through the use of industrial revenue bonds unless such an SBA guarantee of the lease on the property was given.

(3) SMALL BUSINESS INVESTMENT COMPANY LEVERAGE

The Senate bill increases the amount of financial assistance small business investment companies (SBIC's) may obtain from the Government from 200 to 300 percent of the SBIC's private capital. It also increases the amount of financial assistance which venture capital SBIC's (i.e., those SBIC's which provide at least 65 percent of the financing which they make available to small businesses in the form of venture capital rather than loans) may obtain from the Government from 300 to 400 percent of the SBIC's private capital. It also extends these leverage increases to Minority Enterprise Small Business Investment Companies (i.e., those SBIC's which provide assistance solely to small business concerns which are owned by persons who are hampered because of social or economic disadvantages) and eliminates the maximum leverage ceilings for all SBIC's.

The House bill does not contain any comparable provision.

The Conference substitute adopts the Senate provision but establishes a maximum leverage ceiling for an SBIC of \$35 million.

(4) SMALL BUSINESS INVESTMENT COMPANY GUARANTEES

The Senate bill increases an SBIC's ability to guarantee a small business' monetary obligations from 90 percent of the total obligation to 100 percent.

The House amendment does not contain any comparable provision. The Conference substitute adopts the Senate provision.

(5) LICENSING OF NONCORPORATE SMALL BUSINESS INVESTMENT COMPANIES

The Senate bill authorizes unincorporated entities to be licensed by SBA as small business investment companies.

The House amendment does not contain any comparable provision.

The Conference substitute authorizes limited partnerships with a corporate general partner to be licensed by SBA as small business investment companies.

(6) REPEAL OF PERCENTAGE LIMITATION ON BANK INVESTMENT IN SBIC'S

The Senate bill increases the amount of SBIC voting common stock that a bank may own from 49 percent to 100 percent.

The House amendment does not contain any comparable provision. The Conference substitute adopts the Senate provision.

(7) LOANS FOR PLANT ACQUISITION

The Senate bill authorizes SBA to make loans to state and local development companies for the acquisition of existing plant facilities. It also extends the term of maturity of a regular business loan which is used for acquisition or construction from 15 to 20 years, plus such additional time as is necessary for construction.

The House amendment does not contain any comparable provision. The Conference substitute adopts the Senate provision.

(8) ECONOMIC OPPORTUNITY LOAN LIMIT

The Senate bill increases the maximum amount of an economic opportunity loan from \$50,000 to \$100,000 per borrower.

The House amendment does not contain any comparable provision.

The Conference substitute adopts the Senate provision but also requires an equitable distribution of such loans between the urban and rural areas.

(9) DEVELOPMENT COMPANY LOAN LIMIT

The Senate bill increases the maximum amount of financial assistance to a state or local development company from \$350,000 to \$500,000.

The House amendment does not contain any comparable provision.

The Conference substitute adopts the Senate provision.

In raising the maximum amount of local development company loans from \$350,000 to \$500,000 the Conferees are recognizing the impact of inflation upon loans since the original figure was adopted. However, it is the primary purpose of SBA loan programs to supply financing to small businesses which could not otherwise obtain financing, and the Conferees intend that SBA shall continue to primarily make loans below \$100,000 and that although statutory provision should be made for those few situations where an applicant needs up to \$500,000, loans of that size should be regarded as an exceptional situation and not a general practice.

(10) REGULAR BUSINESS LOAN LIMIT

The Senate bill increases the maximum amount of regular business loans from \$350,000 to \$500,000 per borrower.

The House amendment does not contain any comparable provision.

The Conference substitute increases the maximum amount of a regular business loan which is made by a financial institution and guaranteed by SBA from \$350,000 to \$500,000 per borrower but retains the present limit of \$350,000 for direct loans and immediate participation loans (i.e., those loans made partly by a financial institution and partly by SBA).

In raising the maximum amount of regular business loans from \$350,000 to \$500,000, the Conferees are recognizing the impact of inflation upon loans since the original figure was adopted. However, it is the primary purpose of SBA loan programs to supply financing to small businesses which could not otherwise obtain financing. The Conferees intend that SBA shall continue to primarily make loans below \$100,000 and that although statutory provision should be made for those few situations where an applicant needs up to \$500,000, loans of that size should be regarded as an exceptional situation and not a general practice.

(11) FARMING AND AGRICULTURE RELATED INDUSTRIES

The Senate bill makes it clear that it is the policy of Congress that the Small Business Administration shall provide management and financial assistance to agricultural enterprises which are small business concerns, providing financial assistance is not otherwise available on reasonable terms from non-Federal sources. It also excludes agricultural enterprises from a provision in the Small Business Act which states that SBA shall not duplicate the work or activity of any other agency of the United States.

The House amendment contains an identical provision which was accepted by the Conference substitute.

At the present time, SBA does not consider applications for financial assistance made by farmers. This position is taken by the Agency on the basis of the statutory prohibition against duplication by SBA of other federal programs. While Section 112(b) of the bill establishes that this is no longer to be the case, the Conference Committee wishes to make clear the intent of this provision.

Under no circumstances is the bill to be construed so as to permit the Department of Agriculture to diminish its efforts to meet the needs of small farmers for credit or other assistance. In fact, the Committee is hopeful that USDA will more aggressively pursue programs that serve small farmers. By doing so, the Department could eliminate much of the need for assistance from SBA.

Individuals who are applicants for the amounts within the maximum provided by Farmers Home Administration and who would be eligible to use FmHA should do so; however, if satisfactory financial assistance is not available due to lack of FmHA funding or for any other reason, such small businesses shall not be excluded from assistance by SBA on the excuse that they are agricultural enterprises.

(12) SURETY BOND PROVISIONS

The Senate bill expresses the intent that in the event a surety company defaults on its payment to an obligee due to insolvency or any other reason, the Small Business Administration shall pay to the obligee whatever sum would otherwise have been payable to the surety. It also authorizes an additional \$21.5 million to be appropriated for the Surety Bond Guarantees Fund.

The House amendment does not contain any comparable provision.

The Conference substitute adopts that part of the Senate provision which authorizes an additional \$21.5 million to be appropriated for the Surety Bond Guarantees Fund.

(13) STUDY OF SMALL BUSINESS

The Senate bill creates a National Commission on Small Business in America, to be composed of 11 members appointed by the President. It is directed to submit a report and legislative recommendations to the President and Congress no later than two years after the enactment of the title. The bill authorizes the appropriation of such sums as would be necessary. The Commission's study is to include legislative and nonlegislative proposals on the following subjects:

- (1) The past, present, and potential contributions of small business to the well-being of the economy;
- (2) The effectiveness and desirability of existing federal subsidy and assistance programs for small business;
- (3) The costs and other effects of government regulation on small business;
- (4) The impact of the tax structure on small business;
- (5) The ability of financial markets and institutions to meet small business credit needs and the impact of government demands for credit on small business;
- (6) The qualities necessary in an environment in which small business can compete and expand to full potential; and
- (7) The desirability of developing a set of criteria to define small businesses.

The House bill does not contain any comparable provision.

The Conference substitute adopts the Senate provision but gives the responsibility for the small business study to the Chief Counsel for Advocacy of the Small Business Administration instead of to a commission. In consequence, section 5(e) of the Small Business Act defining the Advocate's duties is revised to make the advocate role initially secondary to that of director of the small business study. According to the new language, the Advocate is to be appointed from civilian life by the President, by and with the advice and consent of the Senate.

Upon enactment of the legislation, the Advocate's primary responsibility is to complete the small business study. Upon completion of that study, his concentration is to shift to the role of small business advocate as defined in the original section 5(e) language.

In addition to the requirements in the Senate bill, the Advocate is also directed to study the role of minority business in the economy and to offer proposals and legislative recommendations for its betterment. Under the amendment, the Advocate is also directed to use the services of the National Advisory Council established pursuant to the provisions of section 8(b) (13) of the Small Business Act.

The conferees reduced the amount of time allowed for the study to one year and limited the appropriation to one million dollars. The conference substitute also directs the Advocate to deliver the final study to the Congress, the President and the Administration at the same time. The study is not to be submitted to the Office of Management and Budget or any other body prior to its transmittal to the Congress and the President.

(14) NATURAL DISASTER LOAN INTEREST RATES

The House amendment establishes in the Small Business Act, with a narrow exception, a uniform interest rate on the Small Business

Administration's share of any disaster loan. The exception permits disaster loans covering physical damage caused by natural disasters, economic injury caused by natural disasters, and product disasters to be made at an interest rate which does not exceed the rate of interest, according to the standard cost of money formula, in effect at the time of the occurrence of the disaster.

The Senate bill does not contain any comparable provision.

The Conference substitute adopts the House provision.

NEAL SMITH,
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Managers on the Part of the House.

ROBERT MORGAN,
JOHN SPARKMAN,
THOMAS J. MCINTYRE,
JOHN TOWER,

Managers on the Part of the Senate.



Ninety-fourth Congress of the United States of America

AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the nineteenth day of January,
one thousand nine hundred and seventy-six*

An Act

To amend the Small Business Act and Small Business Investment Act of 1958 to provide additional assistance under such Acts, to create a pollution control financing program for small business, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—SMALL BUSINESS DEVELOPMENT

TRANSFER OF DISASTER RELIEF AUTHORITY

SEC. 101. The President shall undertake a comprehensive review of all Federal disaster loan authorities and shall make a report to the Congress, not later than December 1, 1976, containing such recommendations and legislative proposals, including possible consolidation of Federal disaster loan authorities, as may be demonstrated to be necessary and appropriate to assure the most effective and efficient delivery of disaster relief. Such study shall give particular emphasis to alleviating any extraordinary burden the management of Federal disaster loan programs may impose on an agency.

POLLUTION CONTROL

SEC. 102. Part A of title IV of the Small Business Investment Act of 1958 is amended by adding at the end thereof the following new sections:

“SEC. 404. (a) For purposes of this section, the term—

“(1) ‘pollution control facilities’ means such property (both real and personal) as the Administration in its discretion determines is likely to help prevent, reduce, abate, or control noise, air or water pollution or contamination by removing, altering, disposing or storing pollutants, contaminants, wastes, or heat, and such property (both real and personal) as the Administration determines will be used for the collection, storage, treatment, utilization, processing, or final disposal of solid or liquid waste.

“(2) ‘person’ includes corporations, companies, associations, firms, partnerships, societies, joint stock companies, States, territories, and possessions of the United States, or subdivisions of any of the foregoing, and the District of Columbia, as well as individuals.

“(3) ‘qualified contract’ means a lease, sublease, loan agreement, installment sales contract, or similar instrument, entered into between a small business concern and any person.

“(b) The Administration may, whenever it determines that small business concerns are or are likely to be at an operational or financing disadvantage with other business concerns with respect to the planning, design, or installation of pollution control facilities, or the obtaining of financing therefor (including financing by means of revenue bonds issued by States, political subdivisions thereof, or other public bodies), guarantee the payment of rentals or other amounts due under qualified

contracts. Any such guarantee may be made or effected either directly or in cooperation with any qualified surety company or other qualified company through a participation agreement with such company. The foregoing powers shall be subject, however, to the following restrictions and limitations:

“(1) Notwithstanding any other law, rule, or regulation or fiscal policy to the contrary, the guarantee authorized in the case of pollution control facilities or property may be issued when such property is acquired by the use of proceeds from industrial revenue bonds which provide the holders interest which is exempt from Federal income tax.

“(2) Any such guarantee shall be for the full amount of the payments due under such qualified contract and shall be a full faith and credit obligation of the United States.

“(3) No guarantee shall be issued by the Administration unless the Administration determines that there exists a reasonable expectation that the small business concern in behalf of which the guarantee is issued will perform the covenants and conditions of the qualified contract.

“(c) The Administration shall fix a uniform annual fee for any guarantee issued under this section which shall be payable at such time and under such conditions as may be prescribed by the Administrator. The fee shall be set at an amount which the Administration deems reasonable and necessary and shall be subject to periodic review in order that the lowest fee that experience under the program shows to be justified will be placed into effect. In no case shall such amount exceed $3\frac{1}{2}$ per centum per annum of the minimum annual guaranteed rental payable under any qualified contract guaranteed under this section. The Administration may also fix such uniform fees for the processing of applications for guarantees under this section as the Administrator determines are reasonable and necessary to pay the administrative expenses that are incurred in connection therewith.

“(d) In connection with the guarantee of rentals under any qualified contract pursuant to authority conferred by this section, the Administrator may require, in order to minimize the financial risk assumed under such guarantee—

“(1) that the lessee pay an amount, not to exceed one-fourth of the average annual payments for which a guarantee is issued under this section, which shall be held in escrow and shall be available (A) to meet rental charges accruing in any month for which the lessee is in default, or (B) if no default occurs during the term of the qualified contract, for application (with accrued interest) toward final payments of rental charges under the qualified contract;

“(2) that upon occurrence of a default under the qualified contract, the lessor shall, as a condition precedent to enforcing any claim under the qualified contract guarantee, utilize the entire period, for which there are funds available in escrow for payment of rentals, in reasonable diligent efforts to eliminate or minimize losses, by releasing the property covered by the qualified contract to another qualified lessee, and no claim shall be made or paid under the guarantee until such effort has been made and such escrow funds have been exhausted;

“(3) that any guarantor of the qualified contract will become a successor of the lessor for the purpose of collecting from a lessee in default rentals which are in arrears and with respect to which the lessor has received payment under a guarantee made pursuant to this section; and

“(4) such other provisions, not inconsistent with the purposes of this section as the Administrator may in his discretion require.

“(e) Any guarantee issued under this section may be assigned with the permission of the Administration by the person to whom the payments under qualified contracts are due.

“(f) Section 402 shall apply to the administration of this section.

“Sec. 405. There is hereby created within the Treasury a separate fund for guarantees which shall be available to the Administrator without fiscal year limitations as a revolving fund for the purposes of section 404. There are authorized to be appropriated to the fund from time to time such amounts not to exceed \$15,000,000 to provide capital for the fund. All amounts received by the Administrator, including any moneys, property, or assets derived by him from his operations in connection with section 404 shall be deposited in the fund. All expenses and payments pursuant to operations of the Administrator under section 404 shall be paid from the fund. From time to time, and at least at the close of each fiscal year, the Administrator shall pay from the fund into the Treasury as miscellaneous receipts interest at a rate determined by the Secretary of the Treasury on the cumulative amount of appropriations available as capital to the fund, less the average undisbursed cash balance in the fund during the year. The rate of such interest shall be determined by the Secretary of the Treasury, and shall not be less than a rate determined by taking into consideration the average market yield during the month preceding each fiscal year on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturity of guarantees from the fund. Moneys in the fund not needed for the payment of current operating expenses or for the payment of claims arising under section 404 may be invested in bonds or other obligations of, or bonds or other obligations guaranteed as to principal and interest by, the United States; except that moneys provided as capital for the fund shall not be so invested.”

SEC. 103. Section 403 of the Small Business Investment Act of 1958 (15 U.S.C. 694) is amended by striking out “this part” wherever it appears therein and by inserting in lieu thereof “section 401”.

SMALL BUSINESS INVESTMENT COMPANY LEVERAGE

SEC. 104. (a) Section 303(b)(1) of the Small Business Investment Act of 1958 is amended—

(1) by striking out “200” and inserting in lieu thereof “300”;

and

(2) by striking out “\$15,000,000” and inserting in lieu thereof “\$35,000,000”.

(b) Section 303(b)(2) of such Act is amended—

(1) by striking out “300” and inserting in lieu thereof “400”;

and

(2) by striking out “\$20,000,000” and inserting in lieu thereof “\$35,000,000”.

(c) Section 303(c) of such Act is amended—

(1) by striking out “300” in clause (2)(iii) and inserting in lieu thereof “400”; and

(2) by striking out “200” where it appears in clauses (2)(iii) and (4) and inserting in lieu thereof “300”.

SMALL BUSINESS INVESTMENT COMPANY GUARANTEES

SEC. 105. The last sentence of section 305(b) of the Small Business Investment Act of 1958 is repealed.

LICENSING OF NONCORPORATE SMALL BUSINESS INVESTMENT COMPANIES

SEC. 106. (a) Section 103 of the Small Business Investment Act of 1958 is amended by striking out "and" at the end of clause (6) and inserting in lieu thereof a semicolon, by striking out the period at the end of clause (7) and inserting in lieu thereof a semicolon and "and", and by adding at the end the following:

"(8) the term 'articles' means articles of incorporation for an incorporated body and means the functional equivalent or other similar documents specified by the Administrator for other business entities."

(b) Section 301(a) of such Act is amended—

(1) by striking the comma and inserting "or a limited partnership" after "incorporated body";

(2) by inserting "or otherwise existing" after "chartered";

(3) by inserting "or partners" after "shareholders"; and

(4) by striking the words "of incorporation".

(c) Section 301(b) of such Act is amended by striking the words "of incorporation".

(d) Section 301(c) of such Act is amended by striking the words "of incorporation" wherever they appear therein.

(e) Section 302(a) of such Act is amended by striking the words "of incorporation".

(f) Section 312 of such Act is amended—

(1) by inserting "or partners" after "shareholders"; and

(2) by striking "or shareholders" wherever it appears therein and by inserting "shareholder, or partner".

REPEAL OF 50 PERCENT LIMITATION ON BANK INVESTMENT

SEC. 107. Section 302(b) of the Small Business Investment Act of 1958 is amended by striking out all that follows "upon the making of that acquisition", and inserting in lieu thereof the following: "the aggregate amount of shares in small business investment companies then held by the bank would exceed 5 percent of its capital surplus."

LOANS FOR PLANT ACQUISITION

SEC. 108. (a) Section 502 of the Small Business Investment Act of 1958 is amended by inserting "acquisition," after "plant".

(b) Section 7(a)(4)(C) of the Small Business Act is amended to read as follows: "(C) no such loans including renewals and extensions thereof may be made for a period or periods exceeding ten years, except that such portion of a loan made for the purpose of acquiring real property or constructing facilities may have a maturity of twenty years plus such additional period as is estimated may be required to complete such construction."

ECONOMIC OPPORTUNITY LOAN LIMIT

SEC. 109. Section 7(i) of the Small Business Act is amended by striking from paragraphs (1) and (3) thereof the figure "\$50,000" and inserting in lieu thereof the figure "\$100,000".

DEVELOPMENT COMPANY LOAN LIMIT

SEC. 110. Section 502(3) of the Small Business Investment Act of 1958 is amended by striking out "\$350,000" and inserting in lieu thereof "\$500,000".

REGULAR BUSINESS LOAN LIMIT

SEC. 111. Section 7(a)(4)(A) of the Small Business Act is amended by striking out "\$350,000" and by inserting in lieu thereof "\$500,000: *Provided*, That no such loan made or effected either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate basis shall exceed \$350,000".

FARMING AND AGRICULTURE RELATED INDUSTRIES

SEC. 112. (a) Section 2 of the Small Business Act (15 U.S.C. 631) is amended by redesignating subsections (b) and (c) as (c) and (d), respectively, and by inserting immediately after subsection (a) the following new subsection:

"(b) It is the declared policy of the Congress that the Government, through the Small Business Administration, should aid and assist small business concerns which are engaged in the production of food and fiber, ranching, and raising of livestock, aquaculture, and all other farming and agricultural related industries; and the financial assistance programs authorized by this Act are also to be used to assist such concerns."

(b) The first sentence of section 3 of the Small Business Act (15 U.S.C. 632) is amended by inserting after "concern" the following: "including but not limited to enterprises that are engaged in the business of production of food and fiber, ranching and raising of livestock, aquaculture, and all other farming and agricultural related industries,".

(c) Section 7(a)(1) of the Small Business Act (15 U.S.C. 636(a)(1)) is amended by inserting "from non-Federal sources" immediately before the period at the end thereof.

(d) Section 7(b)(4) of the Small Business Act (15 U.S.C. 636(b)(4)) is amended by striking out the proviso.

(e) Section 18 of the Small Business Act (15 U.S.C. 647) is amended by inserting after "Federal Government" the following: ", except to those enterprises engaged in the production of food and fiber, ranching, and raising of livestock, aquaculture, and all other farming and agricultural related industries,".

INCREASE AUTHORIZED CAPITAL OF SURETY BOND GUARANTEES

SEC. 113. Section 412 of the Small Business Investment Act of 1958 is amended by striking out "\$35,000,000" and inserting in lieu thereof "\$56,500,000".

INTEREST RATE

SEC. 114. Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by striking from the first paragraph following paragraph (8) of such section 7(b) the following: "Notwithstanding the provisions of any other law, and except as otherwise provided in this subsection, the interest rate on the Administration's share of any loan

made under this subsection shall not exceed 3 per centum per annum, except that in the case of a loan made pursuant to paragraph (3), (5), (6), (7), or (8), the rate of interest on the Administration's share of such loan shall not be more than the higher of (A) $2\frac{3}{4}$ per centum per annum; or (B) the average annual interest rate on all interest-bearing obligations of the United States then forming a part of the public debt as computed at the end of the fiscal year next preceding the date of the loan and adjusted to the nearest one-eighth of 1 per centum plus one-quarter of 1 per centum per annum.", and inserting in lieu thereof the following: "Notwithstanding the provisions of any other law, the interest rate on the Administration's share of any loan made under subsection (b) shall not exceed the average annual interest rate on all interest-bearing obligations of the United States then forming a part of the public debt as computed at the end of the fiscal year next preceding the date of the loan and adjusted to the nearest one-eighth of 1 per centum plus one-quarter of 1 per centum: *Provided, however,* That the interest rate for loans made under paragraphs (1) and (2) hereof shall not exceed the rate of interest which is in effect at the time of the occurrence of the disaster."

TITLE II—STUDY OF SMALL BUSINESS

ESTABLISHMENT

SEC. 201. There is established within the Small Business Administration an Office of Advocacy. The management of the Office shall be vested in a Chief Counsel for Advocacy who shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.

STUDY

SEC. 202. The primary functions of the Office of Advocacy shall be to—

(1) examine the role of small business in the American economy and the contribution which small business can make in improving competition, encouraging economic and social mobility for all citizens, restraining inflation, spurring production, expanding employment opportunities, increasing productivity, promoting exports, stimulating innovation and entrepreneurship, and providing an avenue through which new and untested products and services can be brought to the marketplace;

(2) assess the effectiveness of existing Federal subsidy and assistance programs for small business and the desirability of reducing the emphasis on such existing programs and increasing the emphasis on general assistance programs designed to benefit all small businesses;

(3) measure the direct costs and other effects of government regulation on small businesses; and make legislative and non-legislative proposals for eliminating excessive or unnecessary regulations of small businesses;

(4) determine the impact of the tax structure on small businesses and make legislative and other proposals for altering the tax structure to enable all small businesses to realize their potential for contributing to the improvement of the Nation's economic well-being;

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(5) study the ability of financial markets and institutions to meet small business credit needs and determine the impact of government demands for credit on small businesses;

(6) determine financial resource availability and to recommend methods for delivery of financial assistance to minority enterprises, including methods for securing equity capital, for generating markets for goods and services, for providing effective business education, more effective management and technical assistance, and training, and for assistance in complying with Federal, State, and local law;

(7) evaluate the efforts of Federal agencies, business and industry to assist minority enterprises;

(8) make such other recommendations as may be appropriate to assist the development and strengthening of minority and other small business enterprises;

(9) recommend specific measures for creating an environment in which all businesses will have the opportunity to complete effectively and expand to their full potential, and to ascertain the common reasons, if any, for small business successes and failures; and

(10) determine the desirability of developing a set of rational, objective criteria to be used to define small business, and to develop such criteria, if appropriate.

DUTIES

SEC. 203. The Office of Advocacy shall also perform the following duties on a continuing basis:

(1) serve as a focal point for the receipt of complaints, criticisms, and suggestions concerning the policies and activities of the Administration and any other Federal agency which affects small businesses;

(2) counsel small businesses on how to resolve questions and problems concerning the relationship of the small business to the Federal Government;

(3) develop proposals for changes in the policies and activities of any agency of the Federal Government which will better fulfill the purposes of the Small Business Act and communicate such proposals to the appropriate Federal agencies;

(4) represent the views and interests of small businesses before other Federal agencies whose policies and activities may affect small business; and

(5) enlist the cooperation and assistance of public and private agencies, businesses, and other organizations in disseminating information about the programs and services provided by the Federal Government which are of benefit to small businesses, and information on how small businesses can participate in or make use of such programs and services.

STAFF AND POWERS

SEC. 204. In carrying out the provisions of section 202, after consultation with and subject to the approval of the Administrator, the Chief Counsel for Advocacy may—

(1) employ and fix the compensation of such additional staff personnel as is deemed necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51, and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates but at rates not in excess of the lowest rate for GS-15 of the General Schedule;

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code;

(3) consult with experts and authorities in the fields of small business investment, venture capital, investment and commercial banking and other comparable financial institutions involved in the financing of business, and with individuals with regulatory, legal, economic, or financial expertise, including members of the academic community, and individuals who generally represent the public interest;

(4) utilize the services of the National Advisory Council established pursuant to the provisions of section 8(b) (13) of the Small Business Act and in accordance with the provisions of such statute, also appoint such other advisory boards or committees as is reasonably appropriate and necessary to carry out the provisions of this title; and

(5) hold hearings and sit and act at such times and places as he may deem advisable.

ASSISTANCE OF GOVERNMENT AGENCIES

SEC. 205. Each department, agency, and instrumentality of the Federal Government is authorized and directed to furnish to the Chief Counsel for Advocacy such reports and other information as he deems necessary to carry out his functions under this title.

REPORTS

SEC. 206. The Chief Counsel may from time to time prepare and publish such reports as he deems appropriate. Not later than one year after the date of enactment of this title, he shall transmit to the Congress, the President and the Administration, a full report containing his findings and specific recommendations with respect to each of the functions referred to in section 202, including specific legislative proposals and recommendations for administration or other action. Not later than 6 months after the date of enactment of this title, he shall prepare and transmit a preliminary report on his activities. The reports shall not be submitted to the Office of Management and Budget or to any other Federal agency or executive department for any purpose prior to transmittal to the Congress and the President.

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AUTHORIZATION

SEC. 207. There are authorized to be appropriated not to exceed \$1,000,000 to carry out the provisions of this title. Any sums so appropriated shall remain available until expended.

TECHNICAL AMENDMENT

SEC. 208. Section 5(e) of the Small Business Act is hereby repealed.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*

June 4, 1976

Office of the White House Press Secretary

THE WHITE HOUSE

STATEMENT BY THE PRESIDENT

I am today signing S. 2498, an omnibus bill which affects a number of Small Business Administration (SBA) programs. I strongly favor many provisions of this bill which will immediately help small businesses. For example, increases in the maximum loan limit per borrower for certain SBA business loan programs are needed to compensate for the higher cost of capital plant and equipment.

While, on balance, I favor this bill, three parts of this legislation trouble me.

First, section 102 would authorize the SBA to guarantee small business leases of pollution control facilities from State or local public bodies. To finance these facilities, State or local authorities would issue tax-exempt obligations secured by the SBA-guaranteed lease.

I have consistently opposed the combination of a Federal guarantee and a tax-exempt security. And Congress over the past six years has also recognized this problem by enacting at least twelve separate statutes which preclude guarantees of tax-exempt securities. The combination of Federal guarantees with tax-exempt bonds increases the revenues loss to the U.S. Government while primarily benefiting the high-income purchasers of these bonds rather than small businesses.

In addition, the provision of a Federal guarantee of tax-exempt bonds creates a security which would be more attractive in the capital markets than direct obligations of the U.S. Treasury. Also, Federal guarantees of tax-exempt obligations add to the pressures on the municipal bond market by creating a security which is superior to all other tax-exempt securities issued by States and local governments. The result could be higher borrowing costs for States and local governmental units which must finance schools, roads, hospitals, and other essential public facilities.

I share the Congressional concern that small business needs Federal assistance to comply with pollution control requirements. But this is not the best way to do it. A better way to provide small business with access to financing for pollution control facilities is through the SBA's water and air pollution control loan programs. Although these relatively new programs have been adequately funded in fiscal years 1976 and 1977, small business has not yet had the opportunity to use them fully. I am therefore directing the SBA to take prompt and vigorous action to insure that these loan programs are made fully accessible to the small business community by working with the Environmental Protection Agency (EPA). They will work to reduce the loan processing and certification time, clarify and promote the purpose of the program, and to provide necessary technical assistance.

more

I am also requesting that the EPA devote special attention to pollution regulations which the small business community believes excessively burdensome or inequitable. The EPA has already promulgated less stringent effluent guidelines for small plants in several industries including dairies, electroplating, leather, seafoods, textiles, meat processing and rendering.

These actions should help to alleviate the adverse impact of pollution regulations on small business finances. I hope that the Congress will recognize that this problem can be corrected without resort to the extraordinary authorization of Federal guarantees for tax-exempt pollution control bonds. I urge the Congress to review this guarantee program promptly along with an examination of the growth of industrial revenue financing -- an issue which is of much concern to municipal finance experts.

My second concern is with Section 112, which makes all small agricultural enterprises eligible for financing and management assistance from the SBA. Despite widespread Congressional concern about overlapping and conflicting Federal programs, this new SBA program is quite similar to that of the Department of Agriculture. The Department of Agriculture, through the Farmers Home Administration, and the Farm Credit Administration have ample legal authority to extend financial assistance to small agricultural enterprises. I am directing the SBA and the Department of Agriculture to insure that the overlap inherent in their credit programs is minimized.

The legislative history of S. 2498 indicates that Congress is concerned with the difficulty which small agricultural enterprises often have in obtaining loans from the Farmers Home Administration. I share this concern. However, I believe that small agricultural enterprises can be assisted better through needed amendments to the Consolidated Farm and Rural Development Act which would:

- provide Federal credit assistance for meeting pollution control requirements and
- double the loan limits for farm operating and ownership loans.

I urge the Congress to enact H.R. 10078 and S. 3114 which would make these required changes in the Consolidated Farm and Rural Development Act and to reconsider the necessity for expanding SBA authority to finance small farms and ranches.

Finally, I question the provision of S. 2498 which requires Presidential appointment with Senate confirmation of the Chief Counsel for Advocacy, redirects the role of the Chief Counsel from small business advocate to that of director of special studies of small and minority business and requires the Counsel to transmit reports to the President and Congress without prior review by other Federal agencies.

With these reservations, I am signing S. 2498. While the Congress and I share a deep concern for the health of small business and small farms, this commitment should not result in unnecessary or inappropriate changes in SBA programs. Therefore, I ask the Congress to join with my Administration in reexamining the parts of S. 2498 which concern me and take appropriate action to correct the problems I have outlined.