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**APPROVED**  
**JUN 4 - 1976**

86/4/76

DECISION

THE WHITE HOUSE  
WASHINGTON

Last Day: June 4

June 2, 1976

*Statement issued 6/4/76*

*To Archives 6/4/76*

MEMORANDUM FOR: THE PRESIDENT .

FROM: JIM CANNON *JC*

SUBJECT: Enrolled Bill S. 2498 -  
Amendments to Small Business  
and Small Business Investment  
Acts

You must decide by Friday, June 4, whether or not to sign the enrolled bill.

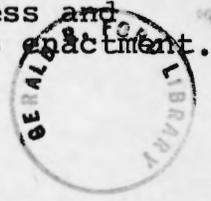
DESCRIPTION OF S. 2498

This omnibus bill (a) authorizes small business to obtain Federal guarantees of tax-exempt industrial revenue bonds to finance pollution control facilities; (b) states Congressional policy that the SBA should provide financial and management assistance to small agricultural enterprises; (c) increases the allowable share of Federal matching funds to Small Business Investment Companies; (d) increases the maximum loan limit per borrower for certain SBA business loan programs; (e) standardizes interest rates for certain SBA disaster loan programs; (f) provides increased authorization for the SBA surety bond guarantee program; and (g) expands the duties of SBA's Office of Advocacy, authorizes a \$1 million appropriation for the Office, and requires that the Chief Counsel for Advocacy be appointed by the President with Senate confirmation.

The OMB enrolled bill memorandum at Tab A discusses S. 2498 in more detail.

BACKGROUND

Support for this bill has come from small business and agricultural interests who will benefit from its enactment.



If you were to veto the bill, this could be construed as indicative of Administration disregard for the interests of small businessmen and farmers.

The concerned executive agencies oppose the bill and argue for a veto primarily because the bill:

- Authorizes Federal guarantees for tax-exempt bonds issued to finance pollution control facilities for small businesses. This combination of a Federal guarantee and tax-exemption is strongly opposed as an unnecessary interference in capital markets and a bad precedent.
- Extends the eligibility for SBA financial assistance to small agricultural enterprises which are already adequately helped by the Farmers Home Administration and other farm credit agencies.

#### Congressional Situation

This bill has broad support in Congress. Different versions initially passed the House by two-thirds vote under suspension of rules and the Senate by 69 to 5. The conference report passed the House by 392 to 0 and the Senate by voice vote. Given this situation, if you decide to veto the bill, it is planned that the Administration will propose alternative actions which are responsive to Congressional, small business and farm concerns:

- Transmit legislation containing the acceptable provisions of S. 2498 and other desirable amendments to SBA programs.
- Support legislation now pending in Congress that would provide increased USDA financial aid to small agricultural enterprises.

Max Friedersdorf indicates that it will be virtually impossible to sustain a veto in the House and very difficult in the Senate.

The veto message (which has been cleared by Doug Smith) at Tab E incorporates these initiatives. Legislation will be ready for transmission to Congress if you decide to veto.



Agency and Staff Recommendations

The SEC, EPA, the Counsel's Office (Lazarus) and I recommend that you sign the bill.

Max Friedersdorf recommends that you let the bill become law without signature (his memorandum is at Tab B)

The SBA, the Departments of Agriculture and the Treasury, Jim Lynn, Alan Greenspan, and Bill Seidman (Porter) recommend veto.

DECISIONS

Sign S. 2498 at Tab C.

Approve MCY Disapprove \_\_\_\_\_

Approve signing statement at Tab D.

Approve \_\_\_\_\_ Disapprove \_\_\_\_\_

Let the bill become law

Approve \_\_\_\_\_ Disapprove \_\_\_\_\_

Veto S. 2498 and sign veto message at Tab E

Approve \_\_\_\_\_ Disapprove \_\_\_\_\_







EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

MAY 29 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 2498 - Amendments to Small Business  
and Small Business Investment Acts  
Sponsor - Sen. Morgan (D) North Carolina

Last Day for Action

June 4, 1976 - Friday

Purpose

(a) Authorizes small business to obtain Federal guarantees of tax-exempt industrial revenue bonds to finance pollution control facilities; (b) states congressional policy that the Small Business Administration (SBA) should provide financial and management assistance to small agricultural enterprises; (c) increases the allowable share of Federal matching funds to Small Business Investment Companies (SBICs); (d) increases the maximum loan limit per borrower for certain SBA business loan programs; (e) standardizes interest rates for certain SBA disaster loan programs; (f) provides increased authorization for the SBA surety bond guarantee program; and (g) expands the duties of SBA's Office of Advocacy, authorizes a \$1 million appropriation for the Office, and requires that the Chief Counsel for Advocacy be appointed by the President with Senate confirmation.

Agency Recommendations

Office of Management and Budget

Disapproval (Veto  
message attached)

Department of the Treasury

Disapproval (Veto  
message attached)

Small Business Administration

Disapproval (Veto  
message attached)

Department of Agriculture

Disapproval (Veto  
message attached)



Council of Economic Advisers	Disapproval (Veto message attached)
Federal Reserve Board	Does not support
Federal Deposit Insurance Corporation	No objection
Farm Credit Administration	No objection
Environmental Protection Agency	Approval
Securities and Exchange Commission	Approval

### Discussion

S. 2498, an omnibus bill affecting a number of SBA programs, contains several provisions which have been either supported or not opposed by the Administration; these are described in an attachment to this memorandum. Other provisions are undesirable; some are so objectionable as to warrant disapproval of the bill, as discussed below.

### Provisions Forming Basis for Veto Recommendations

Sections 102 and 103 would authorize SBA to guarantee leases entered into by small business to finance pollution control facilities. A State or local body would issue tax-exempt industrial revenue bonds secured by the SBA guaranteed lease. A revolving fund would be established to administer the program with an appropriation authorization of \$15 million.

The legislative history of this proposal indicates congressional intent that small business should have "equal" access with large corporations to the industrial revenue bond market in order to finance required pollution control facilities. It would give small business preferred access to this market by facilitating the pass-through of a Federal guarantee directly to tax-exempt industrial revenue bonds.

The combination of a Federal guarantee and a tax exemption is the least desirable method of providing a subsidy primarily because the subsidy is inefficient since tax losses (i.e., benefits to the investor) exceed the interest savings to the borrower by substantial amounts. Because Federal guarantees of tax exemptions create a security superior to all other tax-exempt securities issued by State and local governments, it would also increase their costs of financing other essential public facilities such as schools, roads and hospitals. The executive branch has fought consistently for more than a decade to hold the line against guarantees of tax-exempt financing and the Congress has generally supported this policy through enactment of at least twelve separate statutes since 1970 that preclude guarantees of tax-exempt securities.



Moreover, SBA currently has authority to make water and air pollution control loans up to \$500,000 per borrower at subsidized interest rates (6 5/8%). These loans are less costly than the financing mechanism in the enrolled bill and insure that small business receives the full benefit of the Federal subsidy. Although these loan programs, enacted in 1974, are too new to have been utilized extensively, SBA plans to make them more accessible to small business by working with the Environmental Protection Agency (EPA) to reduce the loan certification and processing time, clarifying and promoting the purpose of the program, and providing necessary technical assistance.

Section 112 states that "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, agriculture, and all other farming and agricultural related industries..." Current SBA law provides that the agency "shall not duplicate the work or activity of any other department or agency of the Federal Government..." Section 112 exempts SBA from this provision of the law by directing it to provide management and financial assistance to small agricultural enterprises even though the Farmers Home Administration (FmHA) in the Department of Agriculture and the Farm Credit Administration can already assist such concerns. The conference committee report on the enrolled bill expresses the hope that the Department of Agriculture will more aggressively pursue programs that serve small farmers and eliminate the need for assistance from SBA. However, it also states that such small agricultural enterprises "shall not be excluded from assistance by SBA."

The legislative history of this proposal indicates the following congressional concerns:

- a. Small agricultural enterprises are generally unable to find suitable financing to meet Federal pollution control requirements.
- b. FmHA farm operating and farm ownership loan limits (\$50,000 and \$100,000 respectively) were considered too low to meet the current credit requirements of small agricultural enterprises.
- c. FmHA's programs generally are not authorized to provide credit assistance to organized partnerships and farm corporations.



We share the congressional concern about the need for adequate financial support for small business to meet pollution control requirements but believe that there are better means to achieve this purpose: Specifically,

- as noted earlier, SBA currently can make water and air pollution control loans;
- adequate credit assistance is normally available from the Farm Credit Administration (FCA) lending system and other agricultural lenders to meet the needs of farm partnerships, corporations, and most other commercial farming enterprises; and
- legislation now pending in Congress, which the Administration can support, would provide increased loan assistance to small agricultural enterprises by the Department of Agriculture (described in more detail later in this memo).

Finally, we believe the effect of this legislation will be to establish overlapping programs between SBA and the Department of Agriculture. In its views letter on the enrolled bill, Agriculture states that "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."

#### Other Undesirable Provisions

Section 113 would increase the appropriation authorization for the SBA surety bond guarantee program from \$35 million to \$56.5 million. This program provides bonding assistance to small and minority contractors who are unable to obtain bonding in the private sector. The proposed authorization would be used primarily to meet bond guarantee defaults and is intended to permit an increase in new bond guarantees from \$833 million to \$983 million in fiscal year 1976. Since defaults on new bond guarantees are generally incurred after one year, the provision is unnecessary to make additional bond guarantees in 1976. Moreover, we have recently permitted SBA to make an additional \$45 million in new bond guarantees available by the end of 1976 to meet the resurgence of small business activity in the construction industry.



Sections 201-208 would revise the duties of SBA's Office of Advocacy, establish an annual appropriation authorization of \$1 million for this Office, and require that the President appoint, subject to Senate confirmation, the Chief Counsel for Advocacy. The primary role of the Chief Counsel would be expanded from small business counselor and ombudsman to a director of special studies of small and minority businesses. The Chief Counsel would have to submit a report to the President and the Congress, with legislative proposals, no later than one year after enactment of this bill. The report could not be submitted to OMB or any other Federal agency prior to its transmittal to the President and the Congress.

These provisions are objectionable, because they would generate confusion over the authority and responsibilities of SBA's Administrator and the Chief Counsel for Advocacy, bypass normal executive office staff reviews, and place responsibilities in the Chief Counsel that are more appropriately conducted by other SBA offices at the direction of the Administrator.

#### Recommendations

EPA recommends approval of the enrolled bill since it would provide aid to small business to lease pollution control facilities and EPA supports any provisions that will assist in cleaning up the environment. SEC also recommends approval because "the Commission strongly supports legislation that would assist small businesses."

SBA, Treasury, CEA and Agriculture all recommend disapproval of the enrolled bill. Treasury objects to the lease guarantee provision (sections 102 and 103), Agriculture to SBA's duplicative authority to aid small agricultural enterprises (section 112), and CEA and SBA object to both provisions. In addition, SBA also opposes the revisions in the Office of Advocacy (sections 201-208). We agree that the bill should be vetoed.

There was broad support in the Congress for this bill; the different versions passed the House by two-thirds vote under suspension of rules and the Senate by 69 to 5. The conference report passed the House by 392-0 and the Senate by voice vote. Given this situation, we believe that the Administration must propose

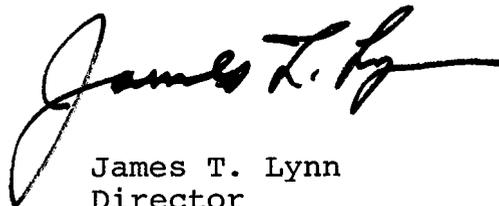


alternative actions that are responsive to congressional concerns if a veto is to be sustained. Accordingly, we propose:

- transmittal of legislation to the Congress containing the acceptable provisions of S. 2498 (as set forth in the attachment) together with other desirable amendments to SBA programs (we are working with SBA to prepare such legislation for SBA transmittal following a veto); and
- support of legislation now pending in the Congress that would provide increased aid to small agricultural enterprises by the Department of Agriculture, specifically:
  - . H.R. 10078, a bill which would provide Federal farm loans for purposes of government-mandated pollution control, and
  - . S. 3114, a bill which would increase guaranteed farm operating loan limits from \$50,000 to \$100,000 and farm ownership loan limits from \$100,000 to \$200,000.

Finally, as an additional response to the legitimate congressional concern over the impact of pollution control requirements on small business, we propose that you request EPA to devote special attention to pollution regulations which the small business community believes excessively burdensome or inequitable.

Attached for your consideration is a proposed veto message which states the reasons for disapproval of S. 2498, describes what you propose to request the agencies to do administratively under existing law and indicates the legislative initiatives the Administration proposes to take.

  
James T. Lynn  
Director

Enclosures



Attachment

Provisions in S. 2498 Supported or Not  
Opposed by the Administration

1. Section 101 would require the President to undertake a comprehensive review of all Federal disaster loan authorities and submit a report to Congress, not later than December 1976, with recommendations on the most effective and efficient delivery of disaster relief.
2. Sections 105 through 107 would amend and improve the Small Business Investment Company (SBIC) program without altering the Government liability in the program. Specifically, they would:
  - . increase the permissible guarantee by SBIC's of small business loans, from 90 to 100 percent of the loan amount;
  - . authorize unincorporated firms to be licensed as SBIC's; and
  - . permit banks to increase ownership from 49 to 100 percent of a SBIC.
3. Section 108 would permit SBA to make loans to State and local development companies for acquisition of existing plant facilities, and extend maturity of a regular SBA business loan for plant acquisition or construction from 15 to 20 years.
4. Sections 109 through 111 would increase the maximum individual loan limit for the following SBA loan programs:

	<u>From</u>	<u>To</u>
	(\$ in thousands)	
Economic Opportunity Loan	50	100
Development Company Loan	350	500
Regular Business Loan	350	500

These proposed loan limits would not adversely impact the approved loan levels for fiscal year 1977.

5. Section 114 would require a uniform interest rate for SBA disaster loans with the exception that certain disaster loans would be made at a standard interest rate in effect at the time of the occurrence of the disaster.



6. Section 104 would increase the allowable share of matching Federal capital which can be provided to Small Business Investment Companies (SBICs). This would provide additional incentives for private sector investment in SBICs and increase the SBIC investments in small business. This change can be implemented within the approved program level for fiscal year 1977.



*B*



THE WHITE HOUSE

WASHINGTON

June 2, 1976

MEMORANDUM FOR: STAFF SECRETARY

FROM: MAX FRIEDERSDORF *MF*

SUBJECT: S. 2498, Small Business Act & Small Business Act of 1958

Bill on its merits should be vetoed. However, expectation of sustaining veto in House appear hopeless and slight to fair chance in Senate.

Senate passed bill by 69-5 and conference report on voice vote. House passed bill on voice vote and conference report, 392-0.

Although enrolled bill action memo cites duplication and conflicting standards arising from authorizing SBA to make farm loans, additional budget damage, if any, is not mentioned.

Legislation passed with overwhelming support of S. 2498 indicates Congress believes current program not adequate and needs expanding. With such strong Congressional support, despite almost unanimous agency and department opposition, veto could appear acrimonious and unduly provocative.

Despite conciliatory veto message containing recommendations for new legislation and support of pending legislation, we expect quick efforts to override veto.

Supporters of the legislation have also raised spectre of veto creating political issue with farmers.

Another option would be to let the bill become law without signature and issue immediate and strong instructions to Agriculture and SBA to undertake crash program to promulgate regulations and guidelines to minimize overlap and duplication loan program to farmers.

I am concerned about a veto on Friday impacting on farm vote in Ohio, New Jersey and California.

If bill is vetoed we will attempt to build on five opposition votes in Senate with 28 absentees and possible switches among 69 who voted for bill, we estimate the most Senate votes we could expect to vote to sustain, counting friendly absentees and switches, total 22 -- 12 short of 34 needed to sustain.

C





OFFICE OF THE  
GENERAL COUNSEL

SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

May 21, 1976

The Honorable James T. Lynn  
Director  
Office of Management and Budget  
Executive Office Building  
Washington, D.C. 20503

ATTN: Mrs. Crayton

RE: S. 2498

Dear Mr. Lynn:

In response to your request of May 19, 1976, we have considered S. 2498 to amend the Small Business Act and the Small Business Investment Act. The bill contains a number of amendments to these Acts and the following comments relate only to those parts of the bill within the jurisdiction or concern of this Commission. However, the Commission strongly supports legislation that would assist small businesses.

Section 107 of the bill would amend Section 301(a) of the Small Business Investment Act of 1958 to expand the definition of small business investment company ("SBIC") to include not only corporations but limited partnerships thus providing the benefits of the Small Business Investment Act to such partnerships.

Generally speaking, SBIC's, in addition to being subject to regulation by the Small Business Administration, are required to register with the Commission under the Investment Company Act of 1940 unless they have no more than 100 security holders and do not propose to make a public offering of their securities. SBIC's which make a public offering of their securities must also register such securities under the Securities Act of 1933.

Of approximately 350 SBIC's which are presently licensed by the Small Business Administration, 45 are currently registered with the Commission as investment companies.

All of the SBIC's presently registered under the Investment Company Act are organized as corporations. On the basis of the above figures, most SBIC's are not under the regulatory jurisdiction of this Commission and most newly organized SBIC's, if organized as limited partnerships, will not encounter any difficulties under the Investment Company Act of 1940. With respect to the few that might organize as limited partnerships and become subject to the Investment Company Act, it is important to note that limited partnerships typically encounter substantial difficulties in complying with the provisions of that Act relating to voting rights of securities holders, structures of board of directors or similar management, approval of advisory contracts, and changes of investment policy.



The Honorable James T. Lynn  
Page Two

However, Section 6(c) of the Investment Company Act authorizes the Commission to exempt investment companies from provisions of the Act if such exemption is "necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions [the Act]". The Commission has recently exercised this authority in granting an order to a non-small business investment company organized as a limited partnership where under the applicable state law it was possible to give the public limited partners voting and other rights substantially equivalent to those given to shareholders of investment companies organized as corporations. The Commission would, of course, favorably consider similar applications filed by an SBIC organized as a limited partnership.

Sections 201 through 206 of the bill would establish within the Small Business Administration an Office of Advocacy which would be managed by a Chief Counsel for Advocacy appointed by the President with the advice and consent of the Senate. The Office of Advocacy would study the role of small business in American economy and, among other things, the effectiveness of federal regulation, the costs and effect of government regulation of small business, the ability of financial markets and institutions to meet small business credit needs, and the efforts of financial agencies, business and industry to assist the minority enterprises.

Among other functions, the Office of Advocacy would (1) serve as a focal point for the receipt of complaints, criticisms and suggestions concerning the policies and activities of the Administration and any federal agency which affects small business, (2) 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 and (3) represent the views and interests of small businesses before other federal agencies whose policies and activities may affect small business.

Finally, Section 205 of the bill provides that 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 the bill.

The Commission welcomes the opportunity to cooperate with the Small Business Administration in re-examining present regulatory provisions with a view toward removing unnecessary regulatory burdens from small businesses. In this connection, the Commission will continue to carry out the recent Congressional mandate in Section 23(b)(4)(J) of the Securities Reform Act



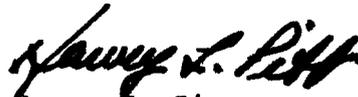
The Honorable James T. Lynn  
Page Three

of 1975 to report to Congress annually on (i) the effects the Commission's rules and regulations are having on the viability of small brokers and dealers, (ii) its attempts to reduce any unnecessary reporting burden on such brokers and dealers, and (iii) its efforts to help to assure the continued participation of small brokers and dealers in the United States securities markets.

Also, the Commission has recently established an Office of Small Business in its Directorate of Economic Policy and Research and we expect that through this Office the Commission would give full cooperation to the Small Business Administration.

The authority given to the Chief Counsel for Advocacy under Section 205 to require other federal agencies to furnish reports and information appears to be extremely broad and if not used with restraint could impose substantial burdens on this Commission. However, we assume that the Chief Counsel will exercise his authority reasonably. We also assume that in supplying information to the Chief Counsel, we could condition or withhold his access to such information in order to preserve the confidentiality of matters properly kept confidential by us under applicable provisions of the Privacy Act and the Freedom of Information Act, such as information relating to enforcement matters, trade secrets and commercial or financial information which is privileged or confidential.

Sincerely,



Harvey L. Pitt  
General Counsel



Draft Language for Inclusion in a Possible Veto Message on S. 2498

S. 2498 seeks to help small business make investments in pollution control facilities. The act would do this by producing Federal guarantees for tax exempt revenue bonds.

I do not believe that Federal guarantees are the appropriate way of providing the necessary assistance to small business. 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 lose in revenue is a burden on all taxpayers. Furthermore, only a part of the reduction in government revenues results in lower costs for small businesses. The larger part of the lose in revenue goes to the benefit of those who purchase the bonds. This is an expensive side effect that does not contribute to the purpose of the guarantee, which is to help small business, not to help the purchasers of bonds. I believe that Congress can, and should, find much less costly ways to help small business invest in pollution control facilities.

S. 2498 would also extend the Small Business Administration's mandate to include agricultural small business. The Department of Agriculture currently administers programs for agricultural small business that parallel most of those of the SBA. If existing programs for agricultural



small business are inadequate, Congress should change those programs.

It is not appropriate to seek a solution by extending the SBA's activities to agricultural small business, as this would create a massive duplication of effort.

I would call your attention in this connection to S.2925, introduced in February by Senator Muskie. Among other things, this Act would require the President to identify overlapping and duplicative programs, and suggest appropriate remedies. S.2812 introduced by Senator Percy and Senator Byrd last December speaks to similar problems. S.2498 would create exactly the sort of overlapping and uncoordinated efforts that these two Acts seek to correct.



490 L'ENFANT PLAZA, S.W. WASHINGTON, D.C. 20578

May 26, 1976

Director, Office of Management and Budget  
Executive Office of the President  
Washington, DC 20503

Attention: Assistant Director for  
Legislative Reference

Subject: Views on enrolled bill S. 2498

This is in response to your request of May 24, 1976, for the views of the Farm Credit Administration on enrolled bill S. 2498 "To amend the Small Business Act and Small Business Investment Act of 1958, to provide additional assistance under such Acts, and to create a pollution control financing program for small business, and for other purposes."

Our concern is with regard to that provision of the bill that would amend section 7 (a) (1) of the Small Business Act (15 U.S.C. 636 (a) (1)) so as to read:

No financial assistance shall be extended pursuant to this subsection unless the financial assistance applied for is not otherwise available on reasonable terms from non-Federal sources. (Underlined language is being added by S. 2498.)

Under the present language of section 7 (a) (1), it has been considered that financial assistance by SBA to small business concerns for facilities, equipment, or working capital was not available if such financial assistance was otherwise available through institutions of the Farm Credit System. We do not believe that the bill changes this. However, the addition of the words "from non-Federal sources" in section 7 (a) (1) may be thought by some to indicate an intention of Congress to equate financial assistance by a Farm Credit institution with that, for instance, by the Farmers Home Administration and, thus, to make SBA financing available even though financing is otherwise available on reasonable terms from a Farm Credit institution.

These institutions are the Federal land banks, Federal land bank associations, Federal intermediate credit banks, production credit associations, and banks for cooperatives. All of them are privately capitalized and owned by their borrower-members. The United States does not, in any way,



2-Director, Office of Management and Budget

guarantee or insure the loans the institutions make nor the bonds the banks sell to obtain loan funds.

We believe the words "from non-Federal sources" to be added to section 7 (a) (1) are not intended to put the SBA into competition with Farm Credit institutions any more than with any other privately owned financial institution. We would so interpret S. 2498. However, in the Real Estate Settlement Procedures Act, the term "federally related mortgage loan" was defined to include one "made in whole or in part by any lender regulated by an agency of the Federal Government." Since the Farm Credit institutions are regulated by the Farm Credit Administration, their housing loans were considered to be federally related mortgage loans.

RESPA seemed to give a Federal program identification to financing by the Farm Credit institutions. Whether or not that was intended under RESPA we do not believe that such was the intention of Congress in connection with the amendment of section 7 (a) (1), and we would hope and expect that the Small Business Administration, in administering the Small Business Act, as amended, will interpret section 7 (a) (1) so as not to include the Farm Credit institutions as Federal sources of financial assistance.

Sincerely,

*W. M. Harjo*

Governor



THE CHAIRMAN OF THE  
COUNCIL OF ECONOMIC ADVISERS  
WASHINGTON

May 26, 1976

Dear Mr. Frey:

This is in response to your request for our views on S. 2498, an enrolled bill "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."

Our comments are limited to Sections 102 and 112 of Title I of the Act. Section 102 seeks to help small business meet required environmental standards. This would be done by providing Federal guarantees for tax exempt revenue bonds sold to finance investment by small business in pollution control facilities. It is argued that such guarantees are necessary to provide small business with the same access to tax exempt revenue bonds currently enjoyed by large business.

Federal guarantees of bonds is not the appropriate way to correct any inequities that are thought to exist in the present situation. While there are several important arguments against loan guarantees, we would point particularly to their inefficiency. In reducing small business costs to some extent, guarantees provide significant, and unwarranted, benefits to purchasers of tax exempt bonds. The same aid to small business can be provided in other ways at a much smaller cost to taxpayers.

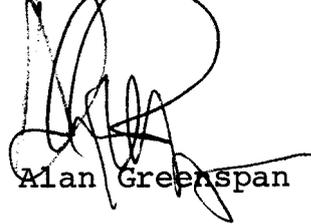
Section 112 of the Act in effect extends the Small Business Administration's (SBA) mandate to cover all of agricultural small business. If existing programs for agricultural small business



are judged to be inadequate, those programs should be changed. Extending the activities of the SBA to non-agricultural business would create a massive and unnecessary duplication of effort.

We believe that the defects that have been noted are of major importance and accordingly recommend that the President be advised to veto S2498.

Sincerely,



Alan Greenspan

Mr. James M. Frey  
Assistant Director  
for Legislative Reference  
Office of Management and Budget  
Washington, D. C. 20503





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

MAY 28 1976

OFFICE OF THE  
ADMINISTRATOR

Dear Mr. Lynn:

This letter is in response to your enrolled bill request dated May 24, 1976, on S. 2498, "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 businesses, and for other purposes." While we defer to the Small Business Administration and the Department of the Treasury on technical matters encompassed by the bill, there are several points we wish to address in support of the legislation.

S. 2498 contains a number of new sections, however sections 102 (pollution control) and 112 (farming and agriculture related industries) are of primary interest to the Environmental Protection Agency. Section 102 provides for the Federal guarantee of rental payments and other qualified contracts for pollution control facilities by small businesses. The availability of such a guarantee is intended to assist small businesses in efforts to comply with pollution control laws. The Environmental Protection Agency favors broad Federal assistance for the planning, design, and installation of pollution control equipment. S. 2498 provides needed Federal guarantees in this area. We also approve of the definition of "pollution control facilities" eligible for this assistance under section 102 of the bill since its coverage spans a wide range of pollution problems. If this bill were enacted, we would expect that the Small Business Administration would consult with EPA to define further the term "pollution control facilities."

Finally we believe that section 112 of S. 2498 is an important addition to the Small Business Administration's statutory authority. Congress has clarified its intent that farming or other agricultural operations should be considered on equal footing with other small businesses by the SBA. Section 112(b) expresses the intention that the existing



provision of the statute which precludes a duplication of effort by Federal agencies should not apply in the case of applications from farmers. We hope that the enactment of S. 2498 will make the appropriate resources of both the Small Business Administration and the Department of Agriculture available to agricultural operations for the control of pollution. Rural air and water pollution and waste disposal problems are of great concern to the Environmental Protection Agency. Consequently we would favor enactment of S. 2498.

Sincerely yours,



Russell E. Train  
Acting Administrator

Honorable James T. Lynn  
Director, Office of  
Management and Budget  
Washington, D.C. 20503

EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

MAY 29 1976

MEMORANDUM FOR THE PRESIDENT

Subject: Enrolled Bill S. 2498 - Amendments to Small Business  
and Small Business Investment Acts  
Sponsor - Sen. Morgan (D) North Carolina

Last Day for Action

June 4, 1976 - Friday

Purpose

(a) Authorizes small business to obtain Federal guarantees of tax-exempt industrial revenue bonds to finance pollution control facilities; (b) states congressional policy that the Small Business Administration (SBA) should provide financial and management assistance to small agricultural enterprises; (c) increases the allowable share of Federal matching funds to Small Business Investment Companies (SBICs); (d) increases the maximum loan limit per borrower for certain SBA business loan programs; (e) standardizes interest rates for certain SBA disaster loan programs; (f) provides increased authorization for the SBA surety bond guarantee program; and (g) expands the duties of SBA's Office of Advocacy, authorizes a \$1 million appropriation for the Office, and requires that the Chief Counsel for Advocacy be appointed by the President with Senate confirmation.

Agency Recommendations

Office of Management and Budget

Disapproval (Veto  
message attached)

Department of the Treasury

Disapproval (Veto  
message attached)

Small Business Administration

Disapproval (Veto  
message attached)

Department of Agriculture

Disapproval (Veto  
message attached)



To -  
J. Conaway  
6-1-76  
10:00 a.m.  
(Pick on 5-31-76-9.m.)  
Holiday



Council of Economic Advisers	Disapproval (Veto message attached)
Federal Reserve Board	Does not support
Federal Deposit Insurance Corporation	No objection
Farm Credit Administration	No objection
Environmental Protection Agency	Approval
Securities and Exchange Commission	Approval

### Discussion

S. 2498, an omnibus bill affecting a number of SBA programs, contains several provisions which have been either supported or not opposed by the Administration; these are described in an attachment to this memorandum. Other provisions are undesirable; some are so objectionable as to warrant disapproval of the bill, as discussed below.

### Provisions Forming Basis for Veto Recommendations

Sections 102 and 103 would authorize SBA to guarantee leases entered into by small business to finance pollution control facilities. A State or local body would issue tax-exempt industrial revenue bonds secured by the SBA guaranteed lease. A revolving fund would be established to administer the program with an appropriation authorization of \$15 million.

The legislative history of this proposal indicates congressional intent that small business should have "equal" access with large corporations to the industrial revenue bond market in order to finance required pollution control facilities. It would give small business preferred access to this market by facilitating the pass-through of a Federal guarantee directly to tax-exempt industrial revenue bonds.

The combination of a Federal guarantee and a tax exemption is the least desirable method of providing a subsidy primarily because the subsidy is inefficient since tax losses (i.e., benefits to the investor) exceed the interest savings to the borrower by substantial amounts. Because Federal guarantees of tax exemptions create a security superior to all other tax-exempt securities issued by State and local governments, it would also increase their costs of financing other essential public facilities such as schools, roads and hospitals. The executive branch has fought consistently for more than a decade to hold the line against guarantees of tax-exempt financing and the Congress has generally supported this policy through enactment of at least twelve separate statutes since 1970 that preclude guarantees of tax-exempt securities.

Moreover, SBA currently has authority to make water and air pollution control loans up to \$500,000 per borrower at subsidized interest rates (6 5/8%). These loans are less costly than the financing mechanism in the enrolled bill and insure that small business receives the full benefit of the Federal subsidy. Although these loan programs, enacted in 1974, are too new to have been utilized extensively, SBA plans to make them more accessible to small business by working with the Environmental Protection Agency (EPA) to reduce the loan certification and processing time, clarifying and promoting the purpose of the program, and providing necessary technical assistance.

Section 112 states that "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, agriculture, and all other farming and agricultural related industries..." Current SBA law provides that the agency "shall not duplicate the work or activity of any other department or agency of the Federal Government..." Section 112 exempts SBA from this provision of the law by directing it to provide management and financial assistance to small agricultural enterprises even though the Farmers Home Administration (FmHA) in the Department of Agriculture and the Farm Credit Administration can already assist such concerns. The conference committee report on the enrolled bill expresses the hope that the Department of Agriculture will more aggressively pursue programs that serve small farmers and eliminate the need for assistance from SBA. However, it also states that such small agricultural enterprises "shall not be excluded from assistance by SBA."

The legislative history of this proposal indicates the following congressional concerns:

- a. Small agricultural enterprises are generally unable to find suitable financing to meet Federal pollution control requirements.
- b. FmHA farm operating and farm ownership loan limits (\$50,000 and \$100,000 respectively) were considered too low to meet the current credit requirements of small agricultural enterprises.
- c. FmHA's programs generally are not authorized to provide credit assistance to organized partnerships and farm corporations.



We share the congressional concern about the need for adequate financial support for small business to meet pollution control requirements but believe that there are better means to achieve this purpose: Specifically,

- as noted earlier, SBA currently can make water and air pollution control loans;
- adequate credit assistance is normally available from the Farm Credit Administration (FCA) lending system and other agricultural lenders to meet the needs of farm partnerships, corporations, and most other commercial farming enterprises; and
- legislation now pending in Congress, which the Administration can support, would provide increased loan assistance to small agricultural enterprises by the Department of Agriculture (described in more detail later in this memo).

Finally, we believe the effect of this legislation will be to establish overlapping programs between SBA and the Department of Agriculture. In its views letter on the enrolled bill, Agriculture states that "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."

#### Other Undesirable Provisions

Section 113 would increase the appropriation authorization for the SBA surety bond guarantee program from \$35 million to \$56.5 million. This program provides bonding assistance to small and minority contractors who are unable to obtain bonding in the private sector. The proposed authorization would be used primarily to meet bond guarantee defaults and is intended to permit an increase in new bond guarantees from \$833 million to \$983 million in fiscal year 1976. Since defaults on new bond guarantees are generally incurred after one year, the provision is unnecessary to make additional bond guarantees in 1976. Moreover, we have recently permitted SBA to make an additional \$45 million in new bond guarantees available by the end of 1976 to meet the resurgence of small business activity in the construction industry.



Sections 201-208 would revise the duties of SBA's Office of Advocacy, establish an annual appropriation authorization of \$1 million for this Office, and require that the President appoint, subject to Senate confirmation, the Chief Counsel for Advocacy. The primary role of the Chief Counsel would be expanded from small business counselor and ombudsman to a director of special studies of small and minority businesses. The Chief Counsel would have to submit a report to the President and the Congress, with legislative proposals, no later than one year after enactment of this bill. The report could not be submitted to OMB or any other Federal agency prior to its transmittal to the President and the Congress.

These provisions are objectionable, because they would generate confusion over the authority and responsibilities of SBA's Administrator and the Chief Counsel for Advocacy, bypass normal executive office staff reviews, and place responsibilities in the Chief Counsel that are more appropriately conducted by other SBA offices at the direction of the Administrator.

#### Recommendations

EPA recommends approval of the enrolled bill since it would provide aid to small business to lease pollution control facilities and EPA supports any provisions that will assist in cleaning up the environment. SEC also recommends approval because "the Commission strongly supports legislation that would assist small businesses."

SBA, Treasury, CEA and Agriculture all recommend disapproval of the enrolled bill. Treasury objects to the lease guarantee provision (sections 102 and 103), Agriculture to SBA's duplicative authority to aid small agricultural enterprises (section 112), and CEA and SBA object to both provisions. In addition, SBA also opposes the revisions in the Office of Advocacy (sections 201-208). We agree that the bill should be vetoed.

There was broad support in the Congress for this bill; the different versions passed the House by two-thirds vote under suspension of rules and the Senate by 69 to 5. The conference report passed the House by 392-0 and the Senate by voice vote. Given this situation, we believe that the Administration must propose

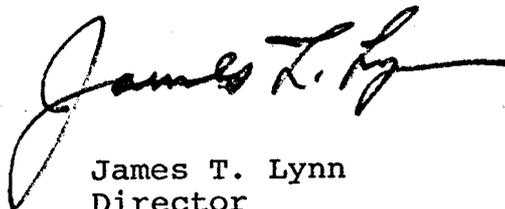


alternative actions that are responsive to congressional concerns if a veto is to be sustained. Accordingly, we propose:

- transmittal of legislation to the Congress containing the acceptable provisions of S. 2498 (as set forth in the attachment) together with other desirable amendments to SBA programs (we are working with SBA to prepare such legislation for SBA transmittal following a veto); and
- support of legislation now pending in the Congress that would provide increased aid to small agricultural enterprises by the Department of Agriculture, specifically:
  - . H.R. 10078, a bill which would provide Federal farm loans for purposes of government-mandated pollution control, and
  - . S. 3114, a bill which would increase guaranteed farm operating loan limits from \$50,000 to \$100,000 and farm ownership loan limits from \$100,000 to \$200,000.

Finally, as an additional response to the legitimate congressional concern over the impact of pollution control requirements on small business, we propose that you request EPA to devote special attention to pollution regulations which the small business community believes excessively burdensome or inequitable.

Attached for your consideration is a proposed veto message which states the reasons for disapproval of S. 2498, describes what you propose to request the agencies to do administratively under existing law and indicates the legislative initiatives the Administration proposes to take.

  
James T. Lynn  
Director

Enclosures



Provisions in S. 2498 Supported or Not  
Opposed by the Administration

1. Section 101 would require the President to undertake a comprehensive review of all Federal disaster loan authorities and submit a report to Congress, not later than December 1976, with recommendations on the most effective and efficient delivery of disaster relief.
2. Sections 105 through 107 would amend and improve the Small Business Investment Company (SBIC) program without altering the Government liability in the program. Specifically, they would:
  - . increase the permissible guarantee by SBIC's of small business loans, from 90 to 100 percent of the loan amount;
  - . authorize unincorporated firms to be licensed as SBIC's; and
  - . permit banks to increase ownership from 49 to 100 percent of a SBIC.
3. Section 108 would permit SBA to make loans to State and local development companies for acquisition of existing plant facilities, and extend maturity of a regular SBA business loan for plant acquisition or construction from 15 to 20 years.
4. Sections 109 through 111 would increase the maximum individual loan limit for the following SBA loan programs:

	<u>From</u>	<u>To</u>
	(\$ in thousands)	
Economic Opportunity Loan	50	100
Development Company Loan	350	500
Regular Business Loan	350	500

These proposed loan limits would not adversely impact the approved loan levels for fiscal year 1977..

5. Section 114 would require a uniform interest rate for SBA disaster loans with the exception that certain disaster loans would be made at a standard interest rate in effect at the time of the occurrence of the disaster.



6. Section 104 would increase the allowable share of matching Federal capital which can be provided to Small Business Investment Companies (SBICs). This would provide additional incentives for private sector investment in SBICs and increase the SBIC investments in small business. This change can be implemented within the approved program level for fiscal year 1977.



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.



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.



THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: June 1

Time: 930am

FOR ACTION: Paul Leach  
Max Friedersdorf  
Ken Lazarus  
Robert Hartmann (veto message attached)  
Bill Seidman

cc (for information): Jack Marsh  
Jim Cavanaugh  
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: June 1

Time: 530pm

SUBJECT:

S. 2498 - Small Business Act and Small Business  
Investment Act of 1958

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James M. Cannon  
for the President



## THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: ~~May~~ 1

Time: 930am

FOR ACTION: Paul Leach  
 Max Friedersdorf  
 Ken Lazarus  
 Robert Hartmann (veto message attached)  
 Bill Seidman *WCT*

cc (for information):

FROM THE STAFF SECRETARY

DUE: Date: June 1

Time: 530pm

SUBJECT:

H. 2498 - Small Business Act and Small Business  
 Investment Act of 1958

## ACTION REQUESTED:

<input type="checkbox"/> For Necessary Action	<input type="checkbox"/> For Your Recommendations
<input type="checkbox"/> Prepare Agenda and Brief	<input type="checkbox"/> Draft Reply
<input checked="" type="checkbox"/> For Your Comments	<input type="checkbox"/> Draft Remarks

## REMARKS:

Please return to Judy Jhnston, Ground Floor West Wing

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K. R. COLE, JR.  
 For the President



*rec'd 1:45 P.M. 6/1/76*

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: June 1

Time: 930am

FOR ACTION: Paul Leach  
Max Friedersdorf  
Ken Lazarus  
Robert Hartmann (veto message attached)  
Bill Seidman

cc (for information): Jack Marsh  
Jim Cavanaugh  
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: June 1

Time: 530pm

SUBJECT:

S. 2498 - Small Business Act and Small Business Investment Act of 1958

ACTION REQUESTED:

- For Necessary Action
- For Your Recommendations
- Prepare Agenda and Brief
- Draft Reply
- For Your Comments
- Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

*DISAPPROVAL*  
*RBP for LWS*



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James H. Cannon  
for the President

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

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FOR ACTION: Paul Leach  
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cc (for information): Jack Marsh  
 Jim Cavanaugh  
 Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: June 1

Time: 530pm

SUBJECT:

S. 2498 - Small Business Act and Small Business Investment Act of 1958

ACTION REQUESTED:

- |   |   |
|---|---|
| <input type="checkbox"/> For Necessary Action         | <input type="checkbox"/> For Your Recommendations |
| <input type="checkbox"/> Prepare Agenda and Brief     | <input type="checkbox"/> Draft Reply              |
| <input checked="" type="checkbox"/> For Your Comments | <input type="checkbox"/> Draft Remarks            |

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

Although this legislation is obviously not an optimum model of responsible legislation, Counsel's Office does not believe a veto is in order. There would appear to be basically two arguments advanced in support of a veto: (1) Federal guarantees for small business pollution control financing is inappropriate; and (2) certain current responsibilities of the Farmers Home Administration and the Farm Credit Administration would be reassigned to or duplicated by the SBA. Given the fact that "small business" is very much a sacred cow of Republican loyalists and the apparent likelihood of a veto override (notwithstanding the content of any veto message), the concerns of opponents of the legislation would not appear to be overriding.

Ken Lazarus 6/2/76

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James H. Cannon  
 for the President



THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: June 1

Time: 930am

FOR ACTION: Paul Leach  
Max Friedersdorf  
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Robert Hartmann (veto message attached)  
Bill Seidman

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Jim Cavanaugh  
Ed Schmults

FROM THE STAFF SECRETARY

DUE: Date: June 1

Time: 530pm

SUBJECT:

S. 2498 - Small Business Act and Small Business Investment Act of 1958

ACTION REQUESTED:

For Necessary Action

For Your Recommendations

Prepare Agenda and Brief

Draft Reply

For Your Comments

Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

*6/1 - Copy sent to Gene for researching. mm*  
*6/1 - Researched copy returned. mm*

*6/1 Had for [unclear]  
6/2 [unclear]*

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

James H. Cannon  
for the President



THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: June 1

Time: 9:30am

*to Res 11:45  
6/1 6:45*

FOR ACTION: Paul Leach  
Max Friedersdorf  
Ken Lazarus  
Robert Hartmann (veto message attached)  
Bill Seidman

cc (for information): Jack Marsh  
Jim Cavanaugh  
Ed Schmults

*to DJS  
6/1 5:30  
GAMS*

FROM THE STAFF SECRETARY

DUE: Date: June 1

Time: 5:30pm

SUBJECT:

S. 2498 - Small Business Act and Small Business Investment Act of 1958

ACTION REQUESTED:

- For Necessary Action
- For Your Recommendations
- Prepare Agenda and Brief
- Draft Reply
- For Your Comments
- Draft Remarks

REMARKS:

Please return to Judy Johnston, Ground Floor West Wing

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If you have any questions or if you anticipate a delay in submitting the required material, please

James H. Cannon

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. OK OK

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. OK OK OK

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. OK OK OK

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. OK OK OK OK

Federal guarantees of tax-exempt obligations also create a security which is superior to 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~~ <sup>past six years</sup>. OK

OMB memo, p. 2, bottom



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

SMB

SMB



✓OK

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 program. 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.



*D*





THE GENERAL COUNSEL OF THE TREASURY  
WASHINGTON, D.C. 20220

MAY 26 1976

Director, Office of Management and Budget  
Executive Office of the President  
Washington, D. C. 20503

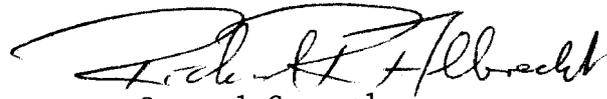
Attention: Assistant Director for Legislative  
Reference

Sir:

Reference is made to your request for the views of this Department on the enrolled enactment of S. 2498, "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."

For the reasons stated in the enclosed Treasury Memorandum which provides language concerning section 102 of the enrolled enactment for incorporation into a veto message, the Department recommends that the enrolled enactment not be approved by the President.

Sincerely yours,



General Counsel

Richard R. Albrecht

Enclosure

TREASURY MEMORANDUM

Proposed language discussing section 102 of the enrolled enactment of S. 2498 to be used in a veto message:

"Section 102 would authorize the Small Business Administration to guarantee leases entered into by small businesses and State or local public bodies to finance pollution control facilities. To finance these facilities, the State or local public bodies would issue tax-exempt obligations secured by the SBA-guaranteed lease. I am strongly opposed to Federal guarantees of tax-exempt securities. Placing the credit of the United States behind an obligation that is exempt from Federal taxation would create a security which would be superior in the market to direct obligations issued by the U.S. Treasury, and is counter to the purposes of the Public Debt Act of 1941 which prohibits the Federal Government from issuing tax-exempt obligations directly.

"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 adds to the pressures on the municipal bond market. Thus, the enrolled enactment would lead to a deterioration in the relative position of other municipal securities. This would result in higher borrowing costs to States and local governments in financing their own schools, roads, hospitals, and other essential public facilities.



"Finally, since the tax loss to the Treasury exceeds the interest savings to the issuer of tax-exempt obligations, Federal guarantees of tax-exempt obligations are a most inefficient means of providing Federal credit assistance for small business or other purposes deemed by the Congress to be of high national priority.

"For these reasons Federal guarantees of tax-exempt obligations have been rejected by the Congress and by the Administration in other guarantee programs. On at least twelve occasions since 1970 the Congress has enacted legislation with the approval of the Administration which specifically prohibited Federal guarantees of tax-exempt obligations and provided other, more efficient, means of subsidizing municipal borrowings."





U.S. GOVERNMENT  
SMALL BUSINESS ADMINISTRATION  
WASHINGTON, D.C. 20416

OFFICE OF THE ADMINISTRATOR

Mr. James M. Frey  
Assistant Director for  
Legislative Reference  
Office of Management and Budget  
Washington, D. C. 20503

Dear Mr. Frey:

This is in response to your Enrolled Bill request asking for the views of the Small Business Administration with respect to S. 2498, a bill "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."

We recommend that the President veto this legislation for the reasons set forth in our enclosed draft Veto Message. Also enclosed in this transmittal is a draft copy of the legislation proposed as an Administration alternative to be introduced in lieu of S. 2498 together with a Section-by-Section Analysis. This Administration draft legislation incorporates those features of S. 2498 and H.R. 13567, as reported May 15, 1976, which we believe will provide Congress an acceptable alternative.

Sincerely,

for Mitchell P. Kobelinski  
Administrator

Enclosures



VETO OF SMALL BUSINESS ACT AND  
SMALL BUSINESS ACT AMENDMENTS

I am returning, without my approval, S. 2498, a bill which would prove disruptive of the overall Government programs to assist small businesses and small agricultural enterprises. Any attempt at reorganizing Federal programs for both business and agricultural enterprises deserves Government's best attention and planning. This legislation cannot be said to be Government's best effort and in fact does not carry forward in all respects the intentions of the Managers on the part of the House and the Senate as expressed in the Joint Explanatory Statement of the Committee of Conference. This leads to the conclusion that in certain aspects it is bad law. There is, however, much in the bill which would prove beneficial to small business and small agricultural concerns if the language of the legislation is redrafted to accomplish its stated purpose.

Section 112 of the bill would take a new direction in Government assistance to agricultural enterprises by making it the declared policy of Congress that the Small Business Administration's loan programs and services would be available to agricultural operations. Presently, the Farmers Home Administration in the Department of Agriculture has the predominant statutory authority to service this segment of the small business community.



I appreciate and share Congress' concern for the small farmer. However, in the interest of good Government, shortfalls in assistance available from the Department of Agriculture should be corrected through amendments to the legislation governing programs for that Department.

The obvious effect of the present legislation will be to provide an alternate source of assistance to small farmers and increase the demand for SBA loans. This legislation provides no additional resources or loan authorizations for SBA; it is without a comparable decrease in resources or loan authority for FmHA programs.

Unfortunately with no increase in SBA resources or loan authority, any loans made to farming operations would reduce the loan availability for the 9,400,000 small businesses which are currently dependent on SBA for support. While agricultural enterprises might benefit from passage of the legislation as now written, it would be at the sacrifice of small business.

The Joint Explanatory Statement of the Committee of Conference states:



"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." (Emphasis supplied)

Yet the statutory language clearly indicates SBA would be an optional source for assistance. The Small Business Act would be modified to make agricultural enterprises eligible for all SBA programs including loans. However, there is no modification to the FmHA legislation and therefore FmHA would become the lender of last resort. SBA could not refuse a loan or services because there were resources available from FmHA, but FmHA could refuse the loan or service if it could be obtained from SBA. This could result in duplicative applications being made to SBA with obvious confusion and overlap. I believe the House and Senate Committees on Agriculture, neither of which gave consideration to this proposal affecting programs under their jurisdiction, should consider the advisability of any restructuring of aid to small agricultural enterprises. Therefore, I am directing the Department of Agriculture to study this problem and to work with Congress in furtherance of the purposes of legislation



such as S. 3114, a bill to amend the Consolidated Farm and Rural Development Act to increase the maximum loan amounts on certain programs, to revise the interest rate for certain loans, and to provide for congressional authorization of program levels.

At this time, SBA is operating with limited funds. Any shift of farm loan demand from FmHA to SBA will drain monies Congress previously intended for small nonfarm businesses. There is certainly a lack of logic and efficient management concepts in placing responsibility with SBA for programs that have already been authorized within the framework of the Department of Agriculture's authorities.

Making farmers eligible for SBA loans could set an unfortunate precedent for program duplication and "comparison shopping" among Federal agencies. The Administration does not want an agency to duplicate the work or activity of any other department or agency of the Federal Government. It would be acceptable for SBA to adopt a policy whereby if loan applications or requested services are being refused or loans denied by any other department or agency responsible for such work or activity due to administrative withholding from obligation or withholding from apportionment, or due to administratively declared moratorium, then, for purposes



of this legislation, SBA would decide no duplication shall be deemed to have occurred, and that a loan or service could then be processed.

Should SBA receive this new mandate it would require additional personnel. However, with no corresponding change in FmHA not only would duplication result but the number of Government personnel would be unnecessarily increased. Agricultural enterprises would be subjected to another maze of agency regulations and policies. This is counter productive and against the Administration's policy of reducing big Government and streamlining Government operations.

#### POLLUTION CONTROL FINANCING

Sections 102 and 103 of S. 2498 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 due under "qualified contracts" (including financing by means of revenue bonds issued by states or political subdivisions thereof, or other public bodies), 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. The SBA guarantee would issue only if the small business would not be able to obtain financing through the use of industrial revenue bonds without SBA's guarantee.

Despite the case that might be made for this financial assistance by Government guarantee of tax-exempt obligations other approaches should be sought. The Administration has consistently maintained a credit policy position opposing Federal guarantees of tax-exempt financing, and has had the cooperation and support of a wide variety of Congressional committees on this. At least a dozen statutes in the past five years either bar such guarantees, or make all such guaranteed securities taxable. Additionally, enactments of other proposals for such financing have generally been forestalled. The reasons for these policies include the following:

Guarantees of tax-exempt securities create a class of securities superior to Treasury debt issues; guarantees make them direct substitutes for Treasury securities for most regulated taxable investors.



This increases the difficulties of marketing and managing the more than \$400 billion of Federal debt sold to the public, and increases interest costs on the Federal debt. The approach takes on major significance if new precedents are permitted to erode policy, inviting demands for similar treatment on behalf of equally worthy causes of unlimited number and unlimited appetite for capital subsidies.

Moreover, the device circumvents the 1941 Public Debt Act -- which bars the Federal Government from issuing tax-exempt securities -- by accomplishing indirectly what is prohibited directly.

Guarantees of tax-exempt securities automatically expand the demand by borrowers for tax-exempt financing, thus increasing erosion of the Federal tax base, while also increasing the difficulties and costs of financing State and local debt in this limited market sector.

While tax exemption is currently available on a general basis, establishment of an explicit Government program of targeted financial assistance obligates the Government to deliver such assistance by the most efficient means. Express use of tax exemption in a Federal program is the least efficient method of providing a subsidy, since



tax losses invariably exceed the interest savings to the borrower by substantial amounts.

Federal guarantees in themselves are substantial subsidies. Doubling up of both forms of subsidies further hides their costs and benefits, while bypassing both budget and appropriation controls.

The bill also has many technical defects which would make its administration chaotic. Some of these defects are enumerated hereafter.

The Conference Report describes the new lease guarantee program for pollution control equipment as "self-sustaining through the collection of a lease guarantee fee." The bill, however, sets a maximum fee of 3-1/2%. The equipment, in almost all cases, will be custom-built in a changing technological environment and permanently installed. It will therefore have little or no resale value. For this reason the 3-1/2% limitation is too restrictive to allow the program to be self-sustaining.

Also, the Conference Report describes a 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."

No such provision is contained in the bill.



The self-sustaining power of the program will be further crippled by the bill's seeming restriction on SBA's authority to minimize risk to equipment leases, while other forms of acquisition ("loan agreement, installment sales contract, or similar instrument") are authorized to be guaranteed by SBA without the corresponding provisions to minimize risk. Therefore, SBA's ability to reduce risk will be severely hampered and thus its losses could increase.

More fundamentally, this program would be more burdensome on the small businessman than a program which is available now. Under Section 7(b)(5) of the Small Business Act, SBA is authorized to make low-interest loans of up to 30-year maturity to small concerns which must conform to Federal requirements, State or local law or regulations issued pursuant to Federal law. An expansion of the assistance offered by this provision is a preferable solution to the problem of alleviating the burden of pollution control on small concerns. This is but one of the alternatives which the Administration through the Economic Policy Board is now considering and which would make the proposed pollution control provisions of S. 2498 unnecessary. I also am asking Congress to enact legislation similar to H. R. 10078, a bill to amend the Consolidated Farm and Rural Development Act to provide for Federal farm loans for the purposes of Government-mandated pollution control.



In addition, I am convening a panel of Government and private organizations to study the problem of pollution control financing for small business and small agricultural concerns. This interagency panel consisting of the Small Business Administration, Department of Agriculture, Treasury Department, the Environmental Protection Agency and interested private organizations is to report its recommendations to the Congress in 60 days.

This panel will be charged with the responsibility for determining guidelines for assistance to small enterprises in their efforts to meet new environmental obligations. At present, the primary objective of the Small Business Administration's environmental program is to develop a financing and management program that will enable small firms to attain parity with large companies.

We must recognize that pollution control expenditures are having a large negative impact on the growth and even survival of small business. There are four causes: (a) it costs small business more per unit of output to "clean up;" (b) environmental engineering and management skills are scarce in the typical small business; small business does not have access



to low-interest rate, long-term financing that is available to big business; and bank financing, even with SBA guarantees, is often not available because the equipment does not enhance the value of the company - further, because of the type of equipment required, it has little collateral value.

Alternatives to the type of financing mandated by S. 2498 will take into consideration three existing SBA programs: SBA guarantees of commercial bank loans; SBA participation in commercial bank loans; and direct SBA loans.

However, we must recognize the possibility that none of these approaches will attain parity for small business compared with big business. Bank guarantees, while involving minimal reliance on Federal expenditures, will not provide long-term, low-interest rate financing. Bank participations are subject to the same objections as those for bank guarantees; they are probably less desirable than bank guarantees because the impact on Federal expenditures would be greater. Direct loans would provide low-interest, long-term financing; but they would be a substantial drain on Federal expenditures. In addition, they inevitably involve a centralization of



decisionmaking in Washington. Some type of pollution control revenue bond may be the preferred method of financing environmental equipment needs. For smaller needs and for social and economic reasons (such as high unemployment), I will not rule out the use of the other financing techniques previously outlined.

#### SMALL BUSINESS INVESTMENT COMPANY PROVISIONS

The Conference Report states that the bill would authorize:

" . . . limited partnerships with a corporate general partner to be licensed by SBA as small business investment companies." The bill merely authorizes the licensing of limited partnerships, but is silent about the corporate general partner.

The bill is also deficient in conforming amendments for the enforcement provisions of Sections 312, 313 and 314 of the Small Business Investment Act, which are geared to corporations. SBA will therefore be deprived of the use of these provisions in the case of limited partnerships. Sections 302(b) and (c) of the Small Business Investment Act are also in need of conforming amendments.



TITLE II - STUDY OF SMALL BUSINESS

Section 5(e) of the Small Business Act mandated the appointment, by the Administrator and subject to his direction, of a Chief Counsel for Advocacy within the Small Business Administration. This office is presently performing the duties outlined in Section 203 of S. 2498. The study required by Title II of this legislation could be performed in a better and more efficient manner.

It would not be advisable to statutorily establish a separate SBA Advocacy Office as set forth in the proposal. It would create confusion over the respective authority of Administrator and head of this new office. Moreover, it would be an anomaly that this new office director would be a Presidential appointee while his superior, the Deputy Administrator is not.

Section 206 forbids prior submission of the study conducted under this Title to OMB prior to transmittal to Congress and the President. This would be an invalid restriction of executive authority.



Title II is also unacceptable because it places the primary role of the advocate as a spokesman for small business in a secondary position during the one-year period of the study. Study functions assigned to the New Office of Advocacy would duplicate the present activities of the Agency's Office of Advocacy, Planning and Research's present. The Administration prefers that the advocate for small business concentrate on his present statutory duties at this crucial period when small business needs advocacy's assistance before the Executive Branch and Congress. The one million dollars allocated for the purposes of Title II would be inadequate to carry on either the Advocacy Office's present or newly-mandated activities.

The Administration supports the concept of the use of \$1 million for the purposes of the study as outlined in S. 2498. However, this authority should be given to the Small Business Administration with the understanding that the Administrator will contract for this study using to the extent practicable private sources rather than increasing



SBA's staff. The independent findings should be made available to Congress and the Agency report should be transmitted directly to Congress.

In summary, I believe this bill will fail in its most worthwhile objectives. I recognize the need for continuing assistance to achieve these objectives, and pledge the resources of this Administration to secure the goals of this legislation. Therefore, I am returning this legislation, and in its place I am proposing amendments to the Small Business Act and Small Business Investment Act which should meet Congressional concern as expressed through recent legislative efforts in both the House and Senate.



## SECTION BY SECTION ANALYSIS

### TITLE I - SMALL BUSINESS DEVELOPMENT

#### Section 101 - Transfer of Disaster Relief Authority

Provides that 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.

#### Section 102

This section increases the limit of Section 7(i)(1) loans (formerly EOL loans) from \$50,000 to \$100,000. The current \$50,000 limitation appears to contribute to the number of cases where inadequate financial assistance is provided.



Section 103

This section increases the ceiling for loans to State and Local Development Companies under Section 502 of the Small Business Investment Act of 1958 from \$350,000 to \$500,000.

Section 104

This section would increase the maximum permissible amount of a regular business loan under Section 7(a) from \$350,000 to \$500,000.

Section 105(a)

Would amend Section 502 of the Small Business Act of 1958 by inserting the word "acquisition" after the word "plant," thereby granting SBA additional authority to provide for loans for plant acquisition irrespective of the necessity for conversion or modification as is presently required.



Section 105(b)

Would 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.

Section 106

Amends Section 7(b) of the Small Business Act in order to establish in the Small Business Act with a narrow exception, a uniform interest rate on the Small Business Administration's share of any loan made under such section 7(b). The exception permits natural disaster loans (made under section 7(b)(1) of the Act) and economic injury disaster loans (made under section 7(b)(2) of the Act) to be made at an interest rate which does not exceed the rate of interest which is in effect at the time of the occurrence of the disaster with respect to which such loan is made. This is the same language which is now in the Consolidated Farm and Rural Development Act.



Section 107

The repeal of section 305(b) ends the 90 percent limit on guarantees by SBICs.

Section 108

Would authorize limited partnerships to be licensed by SBA as small business investment companies.

Sections 109 - 113 make necessary technical conforming amendments in the Small Business Investment Act to recognize the newly authorized limited partnership SBICs.

Section 114

Would permit banks, which are now restricted by the 50 percent ownership limitation, to own 100 percent of an SBIC's voting common stock.

Section 115

Would amend Section 310(b) to subject both the corporate general partner of a limited partnership SBIC, and all SBICs, to annual SBA



examinations, but permit the Administrator to omit one such annual examination every second year.

Section 116

This section increases the amount of financial assistance small business investment companies (SBICs) may obtain from the Government from 200 to 300 percent of the SBICs private capital. It also increases the amount of financial assistance which venture capital SBICs (i.e., those SBICs 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 SBICs private capital. It also extends these leverage increases to Minority Enterprise Small Business Investment Companies (i.e., those SBICs which provide assistance solely to small business concerns which are owned by persons who are hampered because of social or economic disadvantages) and establishes a maximum leverage ceilings for all SBICs of \$35,000,000.



TITLE II - MISCELLANEOUS CONFORMING AND TECHNICAL AMENDMENTSSection 201

Amends Section 4(c) of the Small Business Act to provide that repayments of water pollution control loans shall be paid into the disaster loan revolving fund.

Section 202

Amends Section 4(c)(5) of the Small Business Act to provide that SBA's quarterly financial reports shall be made to the House Small Business Committee rather than to the House Banking Committee..

Section 203

Amends Section 10(b) of the Small Business Act to provide that SBA's annual report shall be submitted to the House Small Business Committee rather than to the House Banking Committee.

Section 204

Amends Section 10(e) of the Small Business Act to provide that SBA's records shall be available for inspection and examination by the



House Small Business Committee rather than by the House Select Committee on Small Business.

Section 205

Amends Section 10(g) of the Small Business Investment Act to provide that the sealed report from SBA concerning investigations of criminal allegations and audits shall be submitted to the House Small Business Committee rather than to the House Banking Committee.

Section 206

Amends Section 5316 of Title 5 of the United States Code to establish SBA's Associate Administration for Minority Small Business as an Executive Level V position.

Section 207

Amends Section 10(a) of the Small Business Act to require SBA in its annual report to Congress to break out the proportion of loans and other assistance provided to minority concerns and to state the Administration's goals for the next fiscal year and make recommendations to improve assistance to minority concerns.



TITLE III - CERTIFICATE OF COMPETENCYSection 301

Amends Section 8(b) of the Small Business Act to expand the SBA's certificate of competency program by including within SBA jurisdiction final determination of all elements of responsibility for purposes of a small business concern bidding on a Government contract.

TITLE IV - AUTHORIZATIONSSection 401

The total amount of loans, guarantees and other obligations or commitments heretofore or hereafter entered into by the Administration which are outstanding at any one time under Sections 7(a), 7(b)(3), 7(6), 7(i) and 8(a) of the Small Business Act (under the business loan and investment revolving fund) is now limited by 4(c)(4)(A) to \$6 billion. Section 501 would raise this subceiling to \$8.5 billion.

Section 402

The total amount of loans, guarantees and other obligations or commitments heretofore or hereafter entered into by the Administration which



are outstanding at any one time under Title III of the Small Business Investment Act of 1958 (under the business loan and investment revolving fund) is now limited to \$725 million. Section 502 would raise this subceiling to \$1.1 billion.

#### Section 403

The total amount of loans, guarantees and other obligations for commitments heretofore or hereafter entered into by the Administration which are outstanding at any one time under Title V of the Small Business Investment Act of 1958 (under the business loan and investment fund) is now limited to \$525,000,000. Section 503 would raise this subceiling to \$575,000,000.

#### Section 404

The total amount of loans, guarantees and other obligations or commitments heretofore or hereafter entered into by the Administration which are outstanding at any one time under Section 7(i) of the Small Business Act (under the business loan and investment revolving fund) is now limited to \$450 million. Section 404 would raise this subceiling to \$550 million.



Section 405

This section authorizes an additional \$53 million to be appropriated for the surety bond guarantee fund.

TITLE V - VOLUNTEER PROGRAMS TO ASSIST SMALL BUSINESSSection 501

Section 501 of the bill sets out the additional subparagraphs proposed to be added under Section 8(b)(1) of the Small Business Act (15 U.S.C. 637(b)(1)).

(B) Restates and codifies in the Small Business Act the authority for the SCORE/ACE programs.

(C) This is simply a recodification of Section 8(b)(1)(B)(i) of the Small Business Act.

(i) declares that such volunteers, while working on SBA projects or programs, shall be considered Federal employees for purposes of coverage regarding Federal tort claims and compensation for work injuries. This



codification confirms the current SBA practice of providing for tort claims and FECA coverage.

- (ii) authorizes the Administrator to reimburse SCORE/ACE volunteers for transportation (including parking and mileage in the event of appropriate use of private automobile), meals, telephone calls, and other out-of-pocket expenses incident to their service (including the cost of necessary temporary secretarial services not available from SBA, and attendance at official workshops and meetings).
- (iii) prohibits SCORE/ACE volunteers from providing services to an SBA client with a delinquent loan outstanding except when specifically requested by such a client after the loan has become delinquent.

(D) Exempts payments for supportive services or reimbursement for out-of-pocket expenses made to persons serving in the programs under Section 8(b)(1) from any tax or charge for the purposes of



unemployment, temporary disability, retirement or similar benefits of monetary value received by such volunteers should also be free from any such tax or charge. This section provides that these payments shall not be considered as if their recipients were a part of the labor force: deductions shall not be made for purposes of reducing Social Security benefit payments, for unemployment insurance, or similar purposes.

(E) authorizes the Administrator, pursuant to regulations, to assume the legal expenses incidental to the defense of full-time or part-time volunteers serving in programs under this Act.

(F) would authorize the Administration to accept contributions from SCORE/ACE volunteers or other interested parties to further the Agency's service to small business through its volunteer assistance programs.

#### Section 502

Completes the transfer of volunteer programs to assist small business by (a) repealing the Title III of the "Domestic Volunteer Service Act of 1973" and (b) repealing Section 503 of the "Domestic Volunteer



Service Act of 1973" which authorizes appropriations for carrying out Title III for the National Volunteer Programs to Assist Small Businesses and Promote Voluntary Service by Small Business Proprietors for Fiscal Years 1974, 1975, and 1976.

## TITLE VI - STUDY OF SMALL BUSINESS

### Section 601

The Administrator is directed to submit a report and legislative recommendations to the President and Congress.

### Section 602

The 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) Delivery of financial assistance to minority enterprise;

(7) Federal and private efforts to assist minority business;

(8) Recommendations to assist minority and other small business enterprise;

(9) The qualities necessary in an environment in which small business can compete and expand to full potential; and

(10) The desirability of developing a set of criteria to define small businesses.



Section 603

Authorizes the Administrator to draw upon the resources of other Federal agencies for purposes of this title.

Section 604

Deadline for submission of the study is one year after enactment.

Section 605

Authorizes the appropriation of \$1 million to carry out the provisions of this title.



94th Congress  
2nd Session

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A BILL

To amend the Small Business Act and the Small Business Investment  
Act.

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



TITLE I - SMALL BUSINESS DEVELOPMENTTransfer of Disaster Relief Authority

Section 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.

Economic Opportunity Loan Limit

Section 102. 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

Section 103. 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

Section 104. 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."

Loans for Plant Acquisition

Section 105. (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."

#### Interest Rate

Section 106. 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) 2-3/4 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."

Small Business Investment Company Guarantees

Section 107. The last sentence of section 305(b) of the Small Business Investment Act of 1958 is repealed.



Licensing of Noncorporate Small Business Investment Companies

Section 108. (a) Section 301 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."

Section 109. Section 302(b) is amended to read as follows:

"(b) Shares in small business investment companies including shares in their general partners, 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 such bank acquire shares in any small business investment company or the general partner of such company if, upon the making of that acquisition, the aggregate amount of all such shares then held by the bank would exceed 5 percent of its capital and surplus."



Section 110. Section 302(c) is amended to read as follows:

"(c) The aggregate amount of shares in any such company or companies, or in any corporation or corporations which is or are the general partner or partners of such a company, which may be owned or controlled by any stockholder or partner, or by any group or class of such persons, may be limited by the Administration.

Section 111. Section 312 is amended by inserting (1) the words "of a corporation which is the general partner of such a company" after the words "small business investment company," (2) "or partners" after "shareholders," and (3) "or partner" after "shareholder" wherever they appear.

Section 112. (a) Section 313(a) is amended by inserting after the word "licensee" a comma, and adding the words "or of a corporation which is the general partner of such licensee,". (b) Section 313(c) is amended by inserting after the word "licensee," wherever it appears, a comma, and the words "or of a corporation which is the general partner of such licensee,".



Section 113. Section 314(c) is amended by inserting after the word "licensee" a comma, and the words "or of a corporation which is the general partner of such licensee,".

Repeal of 50 Percent Limitation on Bank Investment

Section 114. 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."

Audit and Examination

Section 115. Section 310(b) is amended to read as follows:

"(b) Each small business investment company and each corporation which is the general partner of such company shall be subject to examination made by direction of the Administration by examiners selected or approved by the Administration, and the



cost of such examinations, including the compensation of the examiners, may in the discretion of the Administration be assessed against the company or corporation examined and when so assessed shall be paid by such company or corporation. Each such company and corporation shall be examined at least once each year, except that the Administrator may waive examination in the case of a company or corporation whose operations have been suspended by reason of the fact that the company is involved in litigation or is in receivership, and the Administrator may also, in his discretion, waive any such annual examination if such waiver will not cause more than twenty-four months to elapse between successive examinations. Every company and corporation shall make such reports to the Administration at such times and in such form as the Administration may require; except that the Administration is authorized to exempt from making such reports any such company which is registered under the Investment Company Act of 1940 to the extent necessary to avoid duplication in reporting requirements."

Small Business Investment Company Leverage

Section 116. (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"; 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"; and

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

## TITLE II - MISCELLANEOUS CONFORMING AND TECHNICAL AMENDMENTS

Section 201. Section 4(c)(2) of the Small Business Act is amended by striking out "and 7(c)(2)" and by inserting in lieu thereof "7(c)(2) and 7(g)."



Section 202. Section 4(c)(5) of the Small Business Act is amended by striking out "Committees on Banking and Currency of the Senate and House of Representatives" and by inserting in lieu thereof "Committee on Banking, Housing and Urban Affairs of the Senate and the Committee on Small Business of the House of Representatives."

Section 203. Section 10(b) of the Small Business Act is amended by striking out "House Select Committee To Conduct a Study and Investigation of the Problems of Small Business" and by inserting in lieu thereof "Committee on Small Business of the House of Representatives."

Section 204. Section 10(e) of the Small Business Act is amended by striking out "House Select Committee To Conduat a Study and Investigation of the Problems of Small Business" and by inserting in lieu thereof "Committee on Small Business of the House of Representatives."

Section 205. Section 10(g) of the Small Business Act is amended by striking out "Banking and Currency" and by inserting in lieu thereof "Small Business."



Section 206. Section 5316 of title 5, United States Code, is amended by striking from paragraph (11) the figure "(3)" and by inserting the figure "(4)."

Section 207. Section 10(a) of the Small Business Act (15 U.S.C. 639(a)) is amended by adding at the end thereof the following new sentence: "With respect to minority small business concerns, the report shall include the proportion of loans and other assistance under this Act provided to such concerns, the goals of the Administration for the next fiscal year with respect to such concerns, and recommendations for improving assistance to minority small business concerns under this Act."

### TITLE III - CERTIFICATE OF COMPETENCY

Section 301. Section 8(b) of the Small Business Act is amended by striking paragraph (7) and by inserting in lieu thereof the following:

"(7)(A) to certify to Government procurement officers, and officers engaged in the sale and disposal of Federal property, with respect to all elements of responsibility, including, but not limited to, capability, competency, capacity, credit, integrity, preserverance, and



tenacity, of any small business concern or group of such concerns to receive and perform a specific Government contract. A Government procurement officer or an officer engaged in the sale and disposal of Federal property may not, for any reason specified in the preceding sentence, preclude any small business concern or group of such concerns from being awarded such contract without referring the matter for a final disposition to the Administration.

"(B) In any case in which a small business concern or group of such concerns has been certified by the Administration pursuant to (A) to be a responsible Government contractor as to a specific Government contract, the officers of the Government having procurement or property disposal powers are directed to accept such certification as conclusive, and shall let such Government contract to such concern or group of concerns without requiring it to meet any other requirement or responsibility."

#### TITLE IV - AUTHORIZATIONS

##### Business Loan and Investment Fund

Section 401. Subparagraph 4(A) of Section 4(c) of the Small Business Act is amended by striking out "\$6,000,000,000" and inserting in lieu thereof "\$8,500,000,000."



Small Business Investment Companies

Section 402. Subparagraph 4(B) of Section 4(c) of the Small Business Act is amended by striking out "\$725,000,000" and inserting in lieu thereof "\$1,100,000,000."

State and Local Development Companies

Section 403. Subparagraph 4(C) of Section 4(c) of the Small Business Act is amended by striking out "\$525,000,000" and inserting in lieu thereof "\$575,000,000."

Economic Opportunity Loans

Section 404. Subparagraph 4(D) of Section 4(c) of the Small Business Act is amended by striking out "\$450,000,000" and inserting in lieu thereof "\$550,000,000."

Surety Bond Guarantees

Section 405. Section 412 of the Small Business Investment Act of 1958 is amended by striking out "\$35,000,000" and inserting in lieu thereof "\$88,000,000."



TITLE V - VOLUNTEER PROGRAMS TO ASSIST SMALL BUSINESS

Section 501. Section 8(b)(1) of the Small Business Act (15 U.S.C. 637(b)(1)) is amended by striking subparagraph (1)(B) and inserting in lieu thereof the following subparagraphs:

(B) To establish and conduct, and to recruit, select, and train volunteers for (or enter into contracts therefor), volunteer programs, including a Service Corps of Retired Executives (SCORE) and an Active Corps of Executives (ACE) for the purposes of Section 8(b)(1)(A) of this Act.

(C) To allow any individual or group of persons cooperating with it in furtherance of the purposes of subparagraphs A and B to use the Administration's office facilities and related material and services as the Administration deems appropriate.

(i) Such volunteers, while carrying out activities under Section 8(b)(1) of this Act shall be deemed Federal employees for the purpose of the Federal tort claims provisions in Title 28, United States Code; and for



the purposes of Subchapter I of Chapter 81 of Title 5 USC (relative to compensation to Federal employees for work injuries) shall be deemed civil employees of the United States within the meaning of the term "employee" as defined in Section 8101 of Title 5 USC, and the provisions of that subchapter shall apply except that in computing compensation benefits for disability or death, the monthly pay of a volunteer shall be deemed that received under the entrance salary to a grade GS-7 employee.

- (ii) The Administrator is authorized to reimburse such volunteers only for such necessary out-of-pocket expenses incident to their provision of services under this Act, or in connection with attendance at meetings sponsored by the Administration, as he shall determine, in accordance with regulations which he shall prescribe, and, while they are carrying out such activities away from their homes or regular places of business, for travel expenses



(including per diem in lieu of subsistence) as authorized by Section 5703 of Title 5, United States Code, for individuals serving without pay.

(iii) Such volunteers shall in no way provide services to a client of such Administration with a delinquent loan outstanding, except upon a specific request signed by such client for assistance in connection with such matter.

(D) Notwithstanding any other provision of law, no payment for supportive services or reimbursement of out-of-pocket expenses made to persons serving pursuant to Section 8(b)(1) of this Act shall be subject to any tax or charge or be treated as wages or compensation for the purposes of unemployment, disability, retirement, public assistance, or similar benefit payments, or minimum wage laws.

(E) Notwithstanding any other provision of law and pursuant to regulations which the Administrator shall prescribe, counsel may



be employed and counsel fees, court costs, bail, and other expenses incidental of the defense of volunteers may be paid in judicial or administrative proceedings arising directly out of the performance of activities pursuant to Section 8(b)(1) of this Act, as amended (15 U.S.C. 637(b)(1)) to which volunteers have been made parties.

(F) In carrying out its functions under Subsection 8(b)(1) of this Act, the Administration is authorized to accept, in the name of the Administration, and employ or dispose of in furtherance of the purposes of this Act, any money or property, real, personal, or mixed, tangible, or intangible, received by gift, devise, bequest, or otherwise.

Section 502. (a) Title III of the "Domestic Volunteer Service Act of 1973, 42 USC 5031 et seq., is hereby repealed.

(b) Section 503 of the "Domestic Volunteer Service Act of 1973, 42 USC 5083, is hereby repealed.



TITLE VI - STUDY OF SMALL BUSINESS

Section 601. (a) During 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, the Administrator of the Small Business Administration shall conduct a study pursuant to Section 602 of this title and furnish recommendations to the President and the Congress with respect to small business.

(d) In addition to utilizing the Agency's Office of Advocacy, Planning and Research, the Administrator shall make such contracts with private consultant, research, or study organizations as he feels are necessary to accomplish the purposes of this title.



Section 602. The Administration shall conduct a study which will:

(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 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 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.

Section 603. Each department, agency, and instrumentality of the Federal Government is authorized and directed to furnish to the Administrator such reports and other information as he deems necessary to carry out its functions under this Act.

Section 604. The Administrator 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, the Administrator shall



transmit to the Congress and the President a full report containing his findings and specific recommendations with respect to each of the functions referred to in Section 602 including specific legislative proposals and recommendations for administration or other action.

Section 605. 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.





DEPARTMENT OF AGRICULTURE  
OFFICE OF THE SECRETARY  
WASHINGTON, D. C. 20250

May 27, 1976

Honorable James T. Lynn  
Director, Office of Management  
and Budget  
Washington, DC 20503

Dear Mr. Lynn:

In reply to the request of your office, the following report is submitted on the enrolled enactment S.2498, "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 the 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. Our comments are confined to the provisions of this section.

Based on our review of section 112, this Department recommends that the President veto the bill. We defer to SBA for comment on the other provisions of the bill. We have attached a proposed veto message which is based solely on section 112.

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 Federal Government. The bill establishes that this is no longer to be the case. However, the Conference Committee in its report expresses its hope that the Department of Agriculture will more aggressively pursue programs that serve small farmers and eliminate the need for assistance from SBA.

The conference report further states that if satisfactory financial assistance is not available from the Farmers Home Administration (FmHA) due to lack of funds, or for any other reason, such small businesses shall not be excluded from assistance by SBA on the excuse that they are agricultural enterprises.



The USDA through the FmHA has ample legal authority to assist farmers, ranchers and those engaged in the production of aquatic organisms under controlled or selected environments. The FmHA has, through its supervised credit programs, assisted 2,038,374 farm operating loan borrowers, 291,904 farm ownership loan borrowers, and 233,185 farm emergency loan borrowers from its inception in the "thirties" through June 30, 1975. The total amount of the loans was \$16.3 billion.

The changes to be made by the bill 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.

FmHA currently has 42 State offices, 232 district offices, 1757 full-time county offices, 33 sub-offices and 968 part-time county offices serving farmers, ranchers and aquaculture operators. The FmHA has 6,797 full-time and 935 part-time employees for a total of 7,732. More than 6,800 of these employees are located in the field offices. In addition there are more than 4,850 FmHA County Committeemen who determine eligibility of farmer loan applicants. SBA has no such delivery system, expertise or personnel trained in agricultural credit.

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 County Supervisor is a trained agriculturalist. He assists applicants and borrowers in working out sound farm loans that fit their needs. Such a plan includes a projection of income and expenses, as well as the estimated credit necessary to place the farm in a liveable and operable condition in the beginning. Families receiving farmer program loans continue to receive guidance in farm and home planning and farm management assistance from year to year until such families are able to proceed on their own through commercial credit sources.

Under the bill, farmers would not have to be turned down by another Federal agency to obtain SBA financial assistance and thus SBA would not be a lender of last resort. FmHA, on the other hand, is a lender of last resort and cannot make a loan if the applicant is able to obtain the credit he needs on reasonable terms from another lender. It could



be argued that every applicant for an FmHA farmer program loan would first have to contact SBA and obtain a "turn down" letter before FmHA could make the loan. During the 1975 fiscal year, FmHA received more than 118,000 applications for initial farmer program type loans.

The SBA and FmHA have had for many years a "Memorandum of Understanding" which defines areas of responsibility of the two agencies. This memorandum has worked well and avoided overlapping of Federal authorities.

The net result of the bill 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.

Sincerely,

*William H. Walker, III*

WILLIAM H. WALKER, III  
Assistant Secretary

Attachment

