

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 2125

To provide for the termination of the present Small Business Administration and certain of its functions, to establish a Small Business Administration in the Department of the Treasury and an Office of Small Business Advocacy in the Executive Office of the President, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 27, 1995

Mr. DREIER (for himself, Mr. HEFLEY, Mr. SOLOMON, Mr. COX of California, Mr. MCCOLLUM, Mr. HILLEARY, Mr. ROHRABACHER, Mr. ROYCE, Mr. NEUMANN, Mr. STOCKMAN, and Mr. BAKER of California) introduced the following bill; which was referred to the Committee on Small Business

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## A BILL

To provide for the termination of the present Small Business Administration and certain of its functions, to establish a Small Business Administration in the Department of the Treasury and an Office of Small Business Advocacy in the Executive Office of the President, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Small Business Admin-  
5 istration Transfer Act”.

1     **TITLE I—REORGANIZATION OF**  
2     **SMALL BUSINESS FUNCTIONS**

3     **SEC. 101. TERMINATION OF PRESENT SMALL BUSINESS AD-**  
4                     **MINISTRATION.**

5             (a) IN GENERAL.—The present Small Business Ad-  
6     ministration shall terminate on September 30, 1996.

7             (b) PRESENT SMALL BUSINESS ADMINISTRATION  
8     DEFINED.—In this Act, the term “present Small Business  
9     Administration” means the Small Business Administra-  
10    tion established by section 4(a) of the Small Business Act,  
11    as in effect on the day before the effective date of this  
12    Act.

13    **SEC. 102. ESTABLISHMENT OF SMALL BUSINESS ADMINIS-**  
14                     **TRATION IN DEPARTMENT OF THE TREAS-**  
15                     **URY.**

16             (a) ESTABLISHMENT.—There is established in the  
17     Department of the Treasury a Small Business Adminis-  
18     tration (hereinafter in this section referred to as the “Ad-  
19     ministration”).

20             (b) APPOINTMENT OF UNDER SECRETARY.—The Ad-  
21     ministration shall be headed by an Under Secretary of the  
22     Treasury who shall be appointed by the President, by and  
23     with the advice and consent of the Senate, and who shall  
24     be compensated at the rate provided for level III of the

1 Executive Schedule in section 5314 of title 5, United  
2 States Code.

3 (c) APPOINTMENT OF DEPUTY UNDER SEC-  
4 RETARY.—The Secretary of the Treasury is authorized to  
5 appoint a Deputy Under Secretary who shall assist in the  
6 exercise of the functions vested in the Administration and  
7 who shall be compensated at the rate provided for level  
8 IV of the Executive Schedule in section 5315 of title 5,  
9 United States Code.

10 **SEC. 103. ESTABLISHMENT OF OFFICE OF SMALL BUSINESS**

11 **ADVOCACY IN EXECUTIVE OFFICE OF THE**  
12 **PRESIDENT.**

13 (a) ESTABLISHMENT.—There is established in the  
14 Executive Office of the President an Office of Small Busi-  
15 ness Advocacy (hereinafter in this section referred to as  
16 the “Office”).

17 (b) DIRECTOR.—The Office shall be headed by a Di-  
18 rector who shall be appointed by the President, by and  
19 with the advice and consent of the Senate, and who shall  
20 be compensated at the rate provided for level IV of the  
21 Executive Schedule in section 5315 of title 5, United  
22 States Code.

23 (c) FUNCTIONS OF THE DIRECTOR.—The Director is  
24 authorized to carry out any of the functions assigned to  
25 the Chief Counsel of Advocacy of the Small Business Ad-

1 ministration under the Small Business Act, as in effect  
2 on the day before the effective date of this Act.

3 **SEC. 104. CONFORMING AMENDMENTS TO TITLE 5, UNITED**  
4 **STATES CODE.**

5 (a) SECTION 5314.—Section 5314 of title 5, United  
6 States Code, is amended—

7 (1) by striking “Administrator of the Small  
8 Business Administration.”; and

9 (2) by striking “Under Secretaries of the  
10 Treasury (3).” and inserting “Under Secretaries of  
11 the Treasury (4).”.

12 (b) SECTION 5315.—Section 5315 of title 5, United  
13 States Code, is amended—

14 (1) by striking “Deputy Administrator of the  
15 Small Business Administration.”;

16 (2) by striking “Chief Counsel for Advocacy,  
17 Small Business Administration.” and inserting “Di-  
18 rector of the Office of Small Business Advocacy.”;

19 (3) by striking “Inspector General, Small Busi-  
20 ness Administration.”; and

21 (4) by striking “Deputy Under Secretaries of  
22 the Treasury (or Assistant Secretaries of the Treas-  
23 ury) (2).” and inserting “Deputy Under Secretaries  
24 of the Treasury (or Assistant Secretaries of the  
25 Treasury) (3).”.

1 (c) SECTION 5316.—Section 5316 of title 5, United  
2 States Code, is amended by striking “Associate Adminis-  
3 trators of the Small Business Administration (4).”.

4 **TITLE II—TERMINATION OF CER-**  
5 **TAIN AUTHORITIES UNDER**  
6 **SMALL BUSINESS ACT AND**  
7 **SMALL BUSINESS INVEST-**  
8 **MENT ACT OF 1958**

9 **SEC. 201. REPEAL OF SMALL BUSINESS ACT.**

10 (a) REPEAL.—Except as otherwise provided by this  
11 section, the Small Business Act is repealed effective Sep-  
12 tember 30, 1995.

13 (b) CONTINUED EFFECTIVENESS OF CERTAIN FUNC-  
14 TIONS.—Notwithstanding subsection (a), the following  
15 provisions of the Small Business Act shall remain in effect  
16 after September 30, 1995:

17 (1) Section 3(a) (relating to the definition of  
18 “small business concern”).

19 (2) Section 4(b)(2) (relating to maintenance of  
20 a small business economic database).

21 (3) Section 5(f) (relating to the authority of  
22 lenders to sell the guaranteed portion of certain  
23 loans on the secondary market).

24 (4) Section 7(a), as amended by this Act (relat-  
25 ing to the general business loan program).

1           (5) Section 8(b)(1)(B) (relating to the Senior  
2           Corps of Retired Executives (SCORE) and the Ac-  
3           tive Corps of Executives (ACE)).

4           (6) Section 15 (relating to the award of Federal  
5           contracts to small business concerns).

6           (c) CONTINUED APPLICABILITY OF CERTAIN PROVI-  
7           SIONS.—Notwithstanding subsection (a), the following  
8           provisions of the Small Business Act shall remain in effect  
9           after September 30, 1995, insofar as such provisions apply  
10          to the functions referred to in subsection (b):

11           (1) Section 3(h) (relating to the definition of  
12           “credit elsewhere”).

13           (2) Section 4(e) (relating to denial of assistance  
14           to persons engaged in the production or distribution  
15           of obscene products or services).

16           (3) Section 4(f) (relating to denial of assistance  
17           to persons not in compliance with child support obli-  
18           gations).

19           (4) Section 5(b) (relating to general authorities  
20           to carry out functions).

21           (5) Section 16 (relating to penalties for prohib-  
22           ited acts).

1 **SEC. 202. REPEAL OF SMALL BUSINESS INVESTMENT ACT**  
2 **OF 1958.**

3 The Small Business Investment Act of 1958 is re-  
4 pealed effective September 30, 1996.

5 **TITLE III—TRANSFERS OF FUNC-**  
6 **TIONS TO SECRETARY OF THE**  
7 **TREASURY**

8 **SEC. 301. TRANSFER OF GENERAL BUSINESS LOAN PRO-**  
9 **GRAM.**

10 (a) IN GENERAL.—Section 7(a) of the Small Busi-  
11 ness Act (15 U.S.C. 636(a)) is amended to read as follows:

12 “(a) GENERAL BUSINESS LOAN PROGRAM.—

13 “(1) IN GENERAL.—The Secretary of the  
14 Treasury (hereinafter in this subsection referred to  
15 as the ‘Secretary’) is authorized to guarantee banks  
16 and other financial institutions against loss of prin-  
17 cipal and interest on any loan made to a small busi-  
18 ness concern for plant acquisition, construction, con-  
19 version, or expansion, including the acquisition of  
20 land, material, supplies, equipment, and working  
21 capital.

22 “(2) TERMS AND CONDITIONS.—The authority  
23 of the Secretary under paragraph (1) shall be sub-  
24 ject to the following terms and conditions:

25 “(A) CREDIT ELSEWHERE REQUIRE-  
26 MENT.—No guarantee may be made under this

1 subsection if the applicant can obtain credit  
2 elsewhere.

3 “(B) SOUND VALUE REQUIREMENT.—No  
4 guarantee may be made under this subsection  
5 on a loan unless the loan is of such sound value  
6 or so secured as reasonably to assure repay-  
7 ment.

8 “(C) MAXIMUM GUARANTEE PERCENT-  
9 AGE.—No guarantee may be made under this  
10 subsection extending to more than 75 percent  
11 of the balance of the financing outstanding at  
12 the time of disbursement.

13 “(D) MAXIMUM LOAN AMOUNTS.—No  
14 guarantee may be made under this subsection if  
15 the total amount outstanding and committed to  
16 the borrower under this subsection would ex-  
17 ceed \$750,000.

18 “(E) MAXIMUM LOAN TERM.—No guaran-  
19 tee may be made under this subsection on a  
20 loan if the terms of the loan permit repayment  
21 more than 25 years after the date of the loan;  
22 except that such portion of a loan made for the  
23 purpose of acquiring real property or construct-  
24 ing, converting, or expanding facilities may  
25 have a maturity of 25 years plus such addi-

1 tional period as is estimated may be required to  
2 complete such construction, conversion, or ex-  
3 pansion.

4 “(F) MAXIMUM INTEREST RATE.—No  
5 guarantee may be made under this subsection  
6 on a loan if the rate of interest charged on the  
7 loan exceeds such rate as may be prescribed by  
8 the Secretary.

9 “(3) GUARANTEE AGREEMENTS.—

10 “(A) IN GENERAL.—The Secretary shall  
11 enter into a guarantee agreement with each fi-  
12 nancial institution participating in the program  
13 established under this subsection.

14 “(B) TERMS AND CONDITIONS.—A guar-  
15 antee agreement entered into under subpara-  
16 graph (A) shall contain such terms and condi-  
17 tions as may be necessary to carry out the ob-  
18 jectives of this subsection and to require the fi-  
19 nancial institution to comply with the require-  
20 ments of this subsection.

21 “(C) TANGIBLE ASSETS REQUIREMENT.—  
22 As part of each guarantee agreement entered  
23 under this paragraph, a financial institution  
24 shall agree to maintain at all times during the  
25 period of its participation in the program estab-

1           lished under this subsection tangible capital as-  
2           sets in an amount not less than 6 percent of  
3           the total assets of the financial institution.

4           “(D) AUTHORITY TO MAKE LOANS.—A  
5           guarantee agreement entered into under this  
6           paragraph shall delegate to the financial insti-  
7           tution—

8                   “(i) complete authority to make and  
9                   close loans with a guarantee from the Sec-  
10                  retary under this subsection without ob-  
11                  taining the prior specific approval of the  
12                  Secretary; and

13                   “(ii) complete authority to service and  
14                  liquidate such loans.

15           “(4) GUARANTEE FEES.—

16                   “(A) AUTHORITY TO COLLECT.—The Sec-  
17                  retary shall collect a guarantee fee equal to 2  
18                  percent of the guaranteed amount of any loan  
19                  made under this subsection other than a loan  
20                  repayable in 1 year or less. The fee shall be  
21                  payable by the lender and may be charged to  
22                  the borrower.

23                   “(B) ADJUSTMENT OF AMOUNT.—The  
24                  Secretary may increase or decrease the amount  
25                  of fees collected pursuant to this paragraph if

1 the Secretary determines, after providing notice  
2 and opportunity for public comment, that such  
3 an increase or decrease is necessary to cover the  
4 Secretary's costs of administration of the pro-  
5 gram under this subsection.

6 “(5) REDUCTION IN GUARANTEES TO CERTAIN  
7 LENDERS.—The Secretary shall reduce the guaran-  
8 teed portion of loans made by a financial institution  
9 under the program established by this subsection if  
10 the Secretary determines that losses on loans made  
11 by the financial institution under the program have  
12 exceeded average losses on loans made under the  
13 program by other financial institutions.

14 “(6) ABILITY OF A FINANCIAL INSTITUTION TO  
15 CALL LOANS.—Notwithstanding any other provision  
16 of this Act, the Secretary shall not limit the ability  
17 of a financial institution participating in the pro-  
18 gram established under this subsection to call a loan  
19 guaranteed under this subsection.

20 “(7) PENALTY FEES.—The Secretary is author-  
21 ized to permit lenders participating in the program  
22 established under this subsection to impose and col-  
23 lect a reasonable penalty fee on late payments of  
24 loans guaranteed under this subsection.

25 “(8) ANNUAL COMPLIANCE REVIEW.—

1           “(A) REQUIREMENT.—As a condition of  
2 participation in the program established under  
3 this subsection, each financial institution shall  
4 be subject to an annual review to ensure com-  
5 pliance with the requirements of this sub-  
6 section. Such review shall be carried out by the  
7 Secretary at the expense of the financial insti-  
8 tution.

9           “(B) INSURED DEPOSITORY INSTITU-  
10 TIONS.—In the case of an insured depository  
11 institution (as defined by section 3(c)(2) of the  
12 Federal Deposit Insurance Act), the review  
13 under subparagraph (A) may be conducted as  
14 part of an examination conducted by the appro-  
15 priate Federal banking agency (as defined by  
16 section 3(q) of such Act).

17           “(C) INSURED CREDIT UNIONS.—In the  
18 case of an insured credit union (as defined by  
19 section 101(7) of the Federal Credit Union  
20 Act), the review under subparagraph (A) may  
21 be conducted as part of an examination con-  
22 ducted by the National Credit Union Adminis-  
23 tration.”.

24           (b) APPLICABILITY.—

1           (1) GENERAL RULE.—Except as provided by  
2 paragraph (2), the amendment made by subsection  
3 (a) shall apply to loans made after September 30,  
4 1995.

5           (2) PHASE-IN PERIOD.—The Secretary of the  
6 Treasury may phase-in application of the amend-  
7 ment to section 7(a) of the Small Business Act made  
8 by subsection (a) of this section to the extent that  
9 the Secretary determines that such a phase-in period  
10 is necessary to prevent disruption to financial insti-  
11 tutions currently participating in the program estab-  
12 lished under section 7(a) of the Small Business Act.

13 **SEC. 302. TRANSFER OF FINANCIAL OBLIGATIONS OWNED**  
14 **BY SMALL BUSINESS ADMINISTRATION.**

15           (a) TRANSFERS TO SECRETARY OF THE TREAS-  
16 URY.—There are transferred to the Secretary of the  
17 Treasury the loans, notes, bonds, debentures, securities,  
18 and other financial obligations owned by the present Small  
19 Business Administration, together with all assets or other  
20 rights (including security interests) incident thereto, and  
21 all liabilities related thereto, and there are assigned to the  
22 Secretary the functions, powers, and abilities vested in or  
23 delegated to the present Small Business Administration  
24 to manage, service, collect, sell, dispose of, or otherwise  
25 realize proceeds on obligations owed to the present Small

1 Business Administration under authority of the Small  
2 Business Act and the Small Business Investment Act of  
3 1958 (including those assets purchased from the Federal  
4 Financing Bank pursuant to subsection (e) of this sec-  
5 tion). With respect to obligations owned by the present  
6 Small Business Administration under authority of the  
7 Small Business Investment Act of 1958, this section shall  
8 not take effect until September 30, 1996.

9 (b) LEGAL RIGHTS, OBLIGATIONS, RESPONSIBIL-  
10 ITIES, AND LIABILITIES.—The Secretary of the Treasury  
11 shall succeed to all rights and obligations of the present  
12 Small Business Administration with respect to any and  
13 all legal rights, obligations, responsibilities, and liabilities  
14 arising out of the obligations described in subsections (a)  
15 and (e) of this section, including any outstanding guaran-  
16 tee of the present Small Business Administration and any  
17 of its defenses against a claim under such guarantee, and  
18 shall have the same legal rights, obligations, responsibil-  
19 ities, and liabilities as the present Small Business Admin-  
20 istration had with respect to such obligations, and the reg-  
21 ulation of brokers and dealers in such obligations.

22 (c) DEPOSIT OF AMOUNTS RECEIVED FROM TRANS-  
23 FERRED ASSETS.—All amounts received by the Secretary  
24 of the Treasury with respect to any asset transferred to  
25 the Secretary pursuant to subsection (a) or (e) of this sec-

1 tion shall be deposited in the Treasury as miscellaneous  
2 receipts.

3 (d) DISPOSITION OF ASSETS.—

4 (1) IN GENERAL.—The Secretary of the Treas-  
5 ury is authorized to dispose of any loan, debenture,  
6 or other asset acquired by the Secretary pursuant to  
7 subsections (a) and (e) of this section (including ob-  
8 ligations formerly guaranteed pursuant to the Small  
9 Business Act or the Small Business Investment Act  
10 of 1958 that will be or have been acquired by the  
11 Secretary) in the way, in amounts, at prices (for  
12 cash, obligations, property, or combination of cash,  
13 obligations, or property), and on such conditions as  
14 the Secretary considers advisable and in the public  
15 interest.

16 (2) LIMITATION ON APPLICABILITY OF CERTAIN  
17 LAWS.—Any disposition by the Secretary of the  
18 Treasury under this subsection, including a disposi-  
19 tion through sale of the Federal Government's inter-  
20 est in an asset or in a pool of assets, shall not be  
21 subject to the provisions of the Federal Property  
22 and Administrative Services Act of 1949 or the pro-  
23 visions of any Federal or State securities law.

24 (3) PROHIBITION ON GUARANTEES.—Any dis-  
25 position of an asset under this subsection shall be

1 without any guarantee of the United States or any  
2 agency or instrumentality thereof.

3 (4) TRANSFER OF INFORMATION.—Notwith-  
4 standing any other provision of law, including the  
5 Privacy Act of 1974, the Secretary may transfer to  
6 a prospective purchaser or transferee of an asset  
7 under this subsection such information as may be in-  
8 cident to the disposition of the asset.

9 (5) LIMITATION ON APPLICABILITY OF CERTAIN  
10 FILING REQUIREMENTS.—Notwithstanding any  
11 State or local law or regulation to the contrary, no  
12 filing or other action shall be required in order to  
13 continue the perfected status of any security interest  
14 transferred to the Secretary of the Treasury which  
15 was held, on the day before the effective date of this  
16 Act, by the present Small Business Administration  
17 or any representative, transferee, or assignee there-  
18 of.

19 (6) CONTINUED APPLICABILITY OF CERTAIN  
20 LAWS.—Sections 5 (b) and (e), 7 (c) (1) and (2), 16,  
21 and 17 of the Small Business Act shall remain in ef-  
22 fect with respect to the assets and guarantees trans-  
23 ferred to the Secretary of the Treasury by this Act  
24 as long as the Secretary shall retain any such asset  
25 or guarantee.

1           (e) OBLIGATIONS HELD BY FEDERAL FINANCING  
2 BANK.—The Secretary of the Treasury is authorized and  
3 directed, subject to funds being specifically appropriated  
4 for such purpose, to purchase from the Federal Financing  
5 Bank all notes, bonds, debentures, or other obligations  
6 held by the Federal Financing Bank that were, on the day  
7 before the effective date of this Act, guaranteed or other-  
8 wise backed by the present Small Business Administra-  
9 tion. Such purchases are to be made at prices determined  
10 by the Federal Financing Bank as if the obligations were  
11 repurchased by the respective obligers consistent with the  
12 terms of such obligations or such other agreements be-  
13 tween the present Small Business Administration and the  
14 Federal Financing Bank as are in effect on the day before  
15 the effective date of this Act.

16           (f) REGULATORY AUTHORITIES.—Effective Septem-  
17 ber 30, 1996, there are transferred to the Secretary of  
18 the Treasury the regulatory authorities with respect to  
19 small business investment companies and minority enter-  
20 prise small business investment companies conferred by  
21 the Small Business Investment Act of 1958; except that  
22 such regulatory authorities shall expire—

23                   (1) for each loan, debenture, or equity security  
24                   purchased or guaranteed by the present Small Busi-  
25                   ness Administration, on the date such loan or deben-

1       ture is disposed of by the Secretary of the Treasury;  
2       or

3               (2) for each small business investment company  
4       or minority enterprise small business investment  
5       company whose loans, debentures, or equity securi-  
6       ties were purchased or guaranteed by the present  
7       Small Business Administration, on the date on  
8       which the last such loan, debenture, or equity secu-  
9       rity of such company is disposed of by the Secretary  
10      of the Treasury.

## 11       **TITLE IV—OTHER TRANSFERS**

### 12      **SEC. 401. SIZE STANDARDS FOR SMALL BUSINESS CON-** 13                           **CERNS; GOVERNMENT PROCUREMENT PRO-** 14                           **GRAMS.**

15       There are transferred to the Director of the Office  
16      of Management of Budget all of the functions, powers, and  
17      duties vested in or delegated to the present Small Business  
18      Administration under sections 3(a) and 15 of the Small  
19      Business Act.

### 20      **SEC. 402. MAINTENANCE OF NATIONAL SMALL BUSINESS** 21                           **ECONOMIC INDICES; SCORE AND ACE PRO-** 22                           **GRAMS.**

23       There are transferred to the Director of the Office  
24      of Small Business Advocacy all of the functions, powers,  
25      and duties vested in or delegated to the present Small

1 Business Administration under sections 4(b)(2) and  
2 8(b)(1)(B) of the Small Business Act.

3 **TITLE V—GENERAL**  
4 **ADMINISTRATIVE PROVISIONS**

5 **SEC. 501. REFERENCES TO TRANSFERS MADE BY THIS ACT.**

6 In this Act, any reference to the transfer of a func-  
7 tion or any other transfer made by this Act shall include  
8 transfers made by amendments made by this Act.

9 **SEC. 502. TRANSFER OF AUTHORITIES.**

10 To the extent necessary or appropriate, and consist-  
11 ent with the provisions of this Act, in order to perform  
12 a function transferred by this Act, the head of a depart-  
13 ment or agency may exercise any authority or part thereof  
14 which was provided by law to the present Small Business  
15 Administration or the Administrator of the Small Busi-  
16 ness Administration.

17 **SEC. 503. ORGANIZATIONAL ENTITIES AND OFFICES.**

18 (a) IN GENERAL.—With the exception of the Small  
19 Business Administration established by section 102 of this  
20 Act, the head of a department or agency is authorized to  
21 locate among the officers of the department or agency the  
22 functions transferred to the department or agency, and  
23 to establish, consolidate, alter, or discontinue such organi-  
24 zational entities or offices within the department or agency  
25 as may be necessary or appropriate.

1 (b) TREATMENT DURING TRANSITION.—In accord-  
2 ance with section 601 of this Act, and regulations issued  
3 thereunder, and until such time as the consolidation and  
4 termination of the transferred functions is completed, the  
5 head of a department or agency shall treat the organiza-  
6 tional entities and functions transferred by this Act to  
7 their respective departments, as if they remained a part  
8 of the present Small Business Administration.

9 **SEC. 504. DELEGATION OF FUNCTIONS.**

10 Except where otherwise expressly provided for by law,  
11 the head of a department or agency may delegate any of  
12 the functions now vested in a position transferred pursu-  
13 ant to this Act that relate to such a position to any of  
14 the officers and employees of the department or agency,  
15 and may authorize successive redelegation of those func-  
16 tions, as appropriate.

17 **SEC. 505. RULES AND REGULATIONS.**

18 The head of a department or agency is authorized  
19 to issue such rules and regulations as may be necessary  
20 or appropriate to carry out the functions, powers, and du-  
21 ties vested or transferred by this Act.

22 **SEC. 506. TRANSFER OF FUND ACCOUNTS.**

23 Any appropriations or fund accounts established to  
24 carry out the purposes of this Act shall be deemed to be  
25 successor accounts to those that existed in the present

1 Small Business Administration prior to the date of the en-  
2 actment of this Act, and the balances of those prior ac-  
3 counts may be transferred and merged with any of the  
4 successor accounts so established.

5 **TITLE VI—TRANSITIONAL, SAV-**  
6 **INGS, AND CONFORMING**  
7 **PROVISIONS**

8 **SEC. 601. TRANSFERS.**

9 So much of the personnel (including Senior Executive  
10 Service and GS-16, GS-17, and GS-18 positions), posi-  
11 tions, assets, liabilities, contracts, property, records, and  
12 unexpended balance of appropriations, authorizations, al-  
13 locations, and other funds employed, held, used, arising  
14 from, available to or to be made available in connection  
15 with any functions or authority transferred by this Act,  
16 are transferred to the head of the appropriate agency, ex-  
17 cept that no such unexpended balances transferred shall  
18 be used for purposes other than those for which the appro-  
19 priation was originally made.

20 **SEC. 602. DIRECTOR OF OFFICE OF MANAGEMENT AND**  
21 **BUDGET.**

22 The Director of the Office of Management and Budg-  
23 et, in consultation with the Administrator of the Small  
24 Business Administration, the Secretary of the Treasury,  
25 and other officials as appropriate, shall make such deter-

1 minations as may be necessary with regard to the func-  
2 tions transferred by this Act, assets, liabilities, contracts,  
3 property, records, and unexpended balances of appropria-  
4 tions, authorizations, allocations, and other funds held,  
5 used, arising from, available to or to be made available  
6 in connection with the functions transferred by this Act,  
7 that the Director considers necessary to accomplish the  
8 purposes of this Act.

9 **SEC. 603. SAVINGS PROVISIONS.**

10 (a) EXISTING RULES, REGULATIONS, AND OR-  
11 DERS.—All orders, determinations, rules, regulations, per-  
12 mits, contracts, certificates, licenses, and privileges—

13 (1) that have been issued, made, granted, or al-  
14 lowed to become effective by the President, any Fed-  
15 eral department or agency, or official thereof, or by  
16 a court of competent jurisdiction, in the performance  
17 of functions which are transferred by this Act; and

18 (2) that are in effect on September 30, 1995,  
19 shall continue in effect according to their terms until  
20 modified, terminated, superseded, set aside, or re-  
21 voked in accordance with law by the head of the de-  
22 partment or agency to which such function is trans-  
23 ferred, or other authorized officials, a court of com-  
24 petent jurisdiction, or by operation of law.

25 (b) ADMINISTRATIVE PROCEEDINGS.—

1           (1) PENDING PROCEEDINGS NOT AFFECTED.—

2           The provisions of this Act shall not affect any pro-  
3           ceedings or any application for any license, permit,  
4           certificate, or financial assistance pending on the ef-  
5           fective date of this Act; but such proceedings and  
6           applications, to the extent that they relate to func-  
7           tions so transferred, shall be continued.

8           (2) EFFECT OF ORDERS.—Orders shall be is-  
9           sued in such a proceeding, appeals shall be taken  
10          therefrom, and payments shall be made under such  
11          orders, as if this Act had not been enacted, and or-  
12          ders issued in such a proceeding shall continue in ef-  
13          fect until modified, terminated, superseded, or re-  
14          voked by a duly authorized official, by a court of  
15          competent jurisdiction, or by operation of law. Noth-  
16          ing in this subsection prohibits the discontinuance or  
17          modification of such a proceeding under the same  
18          terms and conditions and to the same extent that  
19          such a proceeding could have been discontinued or  
20          modified if this Act had not been enacted.

21          (3) ISSUANCE OF REGULATIONS PROVIDING FOR  
22          TRANSFER.—The head of a department or agency  
23          may issue regulations providing for the orderly  
24          transfer of such a proceeding to the department or  
25          agency.

1 (c) PENDING JUDICIAL PROCEEDINGS.—Except as  
2 provided in subsection (e) of this section—

3 (1) the provisions of this Act do not affect a  
4 suit commenced before this Act takes effect; and

5 (2) in such a suit, proceedings shall be had, ap-  
6 peals taken, and judgments rendered in the same  
7 manner and effect as if this Act had not been en-  
8 acted.

9 (d) CAUSES OF ACTION.—No suit, action, or other  
10 proceeding commenced by or against any officer in the of-  
11 ficer's official capacity as an officer of any department or  
12 agency, functions of which are transferred by this Act,  
13 shall abate by reason of the enactment of this Act. No  
14 cause of action by or against any department or agency,  
15 functions of which are transferred by this Act, or by or  
16 against any officer thereof in the officer's official capacity  
17 shall abate by reason of the enactment of this Act. The  
18 authority to impose sanctions and grant waivers with re-  
19 spect to conflicts of interest occurring before the effective  
20 date of this Act, and the requirement to maintain records  
21 relating to the consideration of conflicts of interest before  
22 the effective date of this Act, do not abate by reason of  
23 the enactment of this Act.

24 (e) PARTIES TO A SUIT.—If, before the date on which  
25 this Act takes effect, any department or agency, or any

1 officer thereof in the officer's official capacity, is a party  
2 to a suit, and under this Act any function of that depart-  
3 ment, agency, or officer is transferred to the head of a  
4 department or agency, then the suit shall be continued  
5 with the head of the department or agency substituted.

6 **SEC. 604. COORDINATION OF TRANSFER ACTIVITIES.**

7 (a) PLANNING.—The Administrator of the Small  
8 Business Administration, the Secretary of the Treasury,  
9 and other officials as appropriate shall, beginning as soon  
10 as practicable after the date of the enactment of this Act,  
11 plan for the orderly transfer of functions and personnel  
12 pursuant to this Act.

13 (b) USE OF PERSONNEL.—With the consent of the  
14 Administrator of the Small Business Administration, the  
15 head of each agency to which functions are transferred  
16 by this Act is authorized to use the services of such offi-  
17 cers, employees, and other personnel of the present Small  
18 Business Administration for such period of time as may  
19 reasonably be needed to facilitate the orderly transfer of  
20 functions pursuant to this Act.

21 **SEC. 605. REFERENCES.**

22 With respect to any functions transferred by this Act  
23 and exercised after the effective date of this Act, reference  
24 in any other Federal law to any department, commission,  
25 or agency or any officer or office the functions of which

1 are so transferred shall be considered to refer to the offi-  
2 cial to whom they were transferred.

3 **SEC. 606. TRANSITIONAL PERIOD.**

4 (a) IN GENERAL.—During the period from Septem-  
5 ber 30, 1995, until September 30, 1996, the present Small  
6 Business Administration shall remain in existence, and  
7 there is authorized to be appropriated such sums as may  
8 be necessary for the purposes of winding up its affairs and  
9 advising the Secretary of the Treasury and other appro-  
10 priate officials, insofar as they may request, in the exercise  
11 of the functions transferred by this Act. During this tran-  
12 sitional period, the present Small Business Administration  
13 may not engage in any program activities under the Small  
14 Business Act, either with respect to those functions that  
15 are transferred to other agencies or those that are termi-  
16 nated.

17 (b) EXCEPTIONS.—Notwithstanding subsection (a),  
18 the present Small Business Administration—

19 (1) may continue to carry out functions under  
20 the Small Business Investment Act of 1958 until  
21 September 30, 1996; and

22 (2) upon request of the Secretary of the Treas-  
23 ury, may continue to carry out functions under sec-  
24 tion 7(a) of the Small Business Act until September

1       30, 1996, or the date on which the transfer of such  
2       functions is complete, whichever occurs first.

3       **SEC. 607. EFFECTIVE DATE.**

4       (a) IN GENERAL.—Unless otherwise indicated, the  
5       provisions of this Act shall take effect on September 30,  
6       1995.

7       (b) EXCEPTIONS.—Notwithstanding subsection (a),  
8       at any time after the date of the enactment of this Act—

9               (1) the officers provided for in sections 102 and  
10       103 of this Act may be nominated and appointed, as  
11       provided in such sections; and

12              (2) the head of a department or agency to  
13       whom functions are transferred under this Act may  
14       issue regulations under section 505 of this Act.

15       (c) TEMPORARY APPOINTMENTS.—If any officer re-  
16       quired by this Act to be appointed by and with the advice  
17       and consent of the Senate has not entered office on the  
18       effective date of this Act, the President may designate any  
19       officer whose appointment was required to be made by and  
20       with the advice and consent of the Senate, and who was  
21       such an officer immediately before the effective date of  
22       this Act, to act in the office until it is filled as provided  
23       in this Act. While so acting, such an officer shall be com-

1 pensated at the rate prescribed by this Act for the office  
2 in which the officer acts.

○

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