Calendar No. 145

105TH CONGRESS, 1st Session | SENATE | REPORT 105–62

SMALL BUSINESS REAUTHORIZATION ACT OF 1997

Mr. BOND, from the Committee on Small Business, submitted the following

REPORT

OF THE

COMMITTEE ON SMALL BUSINESS UNITED STATES SENATE

TO ACCOMPANY

S. 1139

AUGUST 19, 1997.—Ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE
39–010 WASHINGTON : 1997

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AUGUST 19, 1997.—Ordered to be printed

Filed under authority of the order of the Senate of July 31, 1997

Mr. BOND, from the Committee on Small Business, submitted the following

REPORT

[To accompany S. 1139]

The Committee on Small Business reported an original bill to reauthorize the programs of the Small Business Administration, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

I. INTRODUCTION

The Small Business Reauthorization Act of 1997 is a Committee bill to reauthorize most programs at the Small Business Administration for Fiscal Years 1998, 1999, and 2000. In addition, the bill makes changes to some existing programs. On June 26, 1997, the Committee on Small Business conducted a mark-up of this legislation. The Committee adopted an en bloc amendment by unanimous consent, and it subsequently voted 18–0 for the amended bill.

The Small Business Reauthorization Act of 1997 is the result of a series of hearings held by the Committee since the beginning of 1997. In addition, this bill draws on testimony that the Committee received from hearings conducted in 1995 and 1996.

In 1995, the Committee initiated a series of hearings on "Entrepreneurship in America," which focused on the growing presence and influence small businesses are having on the economy of the United States. Small businesses in the start-up phase or which are expanding are confronted by a very complicated maze of Federal,

state and local regulations and requirements, creating unending frustration for many small business owners. Unfortunately, there is no centralized repository of government regulations, guidelines, or licensing requirements that a small business owner can turn to for help or guidance. It is not infrequent for a small business owner to first learn of a Federal regulation from an on-site inspection by a Federal, state, or local government official.

The Small Business Administration is in an excellent position to assist small businesses confronted with these oversight and regulatory difficulties or questions. The agency has the ability to work closely with the regulatory agencies to seek out a fair and balanced approach for small businesses. In 1996, the Congress adopted the Small Business Regulatory Enforcement Fairness Act, which is designed to assist small businesses confronted with the tidal wave of red tape that often confronts them from Federal agencies. This landmark legislation established ten Regional Fairness Boards, which are made up of small business owners, who work closely with small businesses around the country regarding their treatment by Federal regulatory agencies. Each year these Regional Fairness Boards will issue a report card on how effectively Federal agencies work with small businesses. This legislation is a start by our government to recognize the impacts its new laws and regulations have on small businesses and how small business growth can be stifled by uncontrolled, unfair regulations.

The Small Business Reauthorization Act of 1997 reflects the Committee's continued strong support of the SBA's credit programs. Entrepreneurs and small business owners frequently have difficulty obtaining loans from traditional lending sources, and SBA has several excellent programs that meet the small business borrowing needs. SBA programs are designed to provide very small loans, as little as $500, and can total as much as $1 million, with the government generally guaranteeing 75% of that amount. Small businesses are looking more each year to the Small Business Administration for help in meeting their borrowing needs.

This bill includes sections addressing the Microloan Program, the Small Business Investment Company (SBIC) Program, and the 504 Development Company Loan Program, as well as a section authorizing program levels for these programs and the 7(a) guaranteed business loan program. Since the Microloan Program was first created in 1991, it has been classified as a "demonstration program." Recognizing the success and acceptance of this program, the Microloan Program will be made permanent by this legislation.

Last year, the Congress adopted major legislation making significant changes in the SBIC Program. This bill continues the Committee's effort to make the SBIC Program more responsive to the small business and investor communities and to strengthen its safety and soundness to lower the risk of loss to the government.

Two years ago, this Committee reluctantly approved a proposal promoted by the Administration and the lending community made up primarily of Certified Development Companies, which mandated that this program have a "zero" subsidy rate. Subsequently, the 504 Program's subsidy rate has increased over 1200%, which required the Committee to authorize substantial fee increases on both the borrowers and the lenders to offset the subsidy costs of

this program. The bill reauthorizes the maximum fees that will be paid by the borrowers and requires the SBA to decrease these fees should the credit subsidy rate decrease. In addition, the bill includes changes in the 504 Program designed to support improved business opportunities and to encourage greater participation in the Premier Certified Lenders Program.

SBA's support and advocacy for America's small businesses need to go further. On February 24, 1997, the Committee opened its hearings on SBA's non-credit programs and received testimony from student entrepreneurs who had participated in the Junior Achievement's programs, Future Farmers of America's entrepreneurial programs; and the Kauffman Foundation's young entrepreneurs programs. The students represented the Small Business Administration's customers of the future, and they all demonstrated the value of business education and entrepreneurial programs. These bright, young entrepreneurs testified about the programs they were exposed to in their junior and senior high schools. The testimony from these students raised questions about whether SBA's programs and the programs and services of SBA's resource partners are prepared to serve the entrepreneur of the future, many of whom will have already participated in business education programs beginning as early as kindergarten and through high school. The Committee is encouraged to see that the SBDC community is reaching out to these organizations to coordinate and strengthen their programs.

With this 3-year Reauthorization, the Committee's objective is to build on the successes of the Small Business Administration and direct the Administration's attention to making the improvements and establishing the priorities necessary to achieve a standard of excellence worthy of serving America's entrepreneurs. In addition, the bill introduces a new program which is based on S. 208, the HUBZone Act of 1997. The HUBZone Program is designed to target government contracts to small businesses located in economically distressed areas which employ residents from these areas. The bill also addresses Federal contract bundling, which oftentimes makes it more difficult for small businesses to enter into prime contracts with the Federal government. This section is designed to help SBA work with Federal agencies to minimize the impact contract bundling is having on small businesses. Legislation adopted in 1990 to address the bundling issue has not been successful in stemming the increase in contract bundling; therefore, the Committee has adopted new bundling provisions. The bill includes a new welfare-to-work provision, which utilizes the Microloan Program to provide technical assistance and loans to persons who wish to leave welfare and become small business owners.

II. Description of Bill

Title I: Authorizations

Title I of the bill authorizes appropriations for SBA's business loan programs. Included among the loan programs are Section 7(a) Guaranteed Business Loans, 504 Development Company Loans, Microloans, and Small Business Investment Company Debentures and Participating Securities.

Funding for SBA loan programs are detailed in the following chart. As indicated, the bill is a three year authorization. The Committee has carefully considered the Administration's funding request for each program as well as recommendations from small business owners, individual entrepreneurs, the lending community, and members of this Committee.

Program Levels for SBA Reauthorization Bill
(In millions of dollars unless otherwise noted)

Program	Current Level FY 97 / FY98 Budget Request	SBA 3 Year Authorization Request 98 / 99 / 2000	Industry Request 98 / 99 / 2000	Reauthorization Bill 1998	Reauthoriztion Bill 1999	Reauthorization Bill 2000
7(a)	$10.3 / 8.5	$10 / 11 / 13	$10 / 12 / 13.5	$13 billion	$14 billion	$15.5 billion
504	$2.65 / 2.3	$3 / 3.5 / 4.5	$2.3 / 3.3 / 3.8	$3 billion	$3.5 billion	$4.5 billion
SBIC						
- Debentures	$300 / 376	$450 / 550 / 650	$500 / 600 / 700	$500	$600	$700
- Participating Securities	$410 / 456	$600 / 700 / 850	$900 / 900 / 900	$600	$700	$850
Microloan						
- Technical Assistance	$13 / 16.5	$42 / 65.8 / 86.7	N/A	$28	$28	$28
- Direct Loans	$24 / 19	$60 / 60 / 60	N/A	$60	$60	$60
- Guaranteed Loans	$19 / 25	$40 / 40 / 40	N/A	$40	$40	$40
Delta	$48 / 88	$1 / 1 / 1 billion	N/A	$1 billion	$1 billion	$1 billion
Surety Bond Guarantee						
- General Program	$1.8b / 1.7b	$1.35b /1.35b /1.35b	N/A	$1.350 billion	$1.350 billion	$1.350 billion
- Preferred Program		$650 / 650 / 650	N/A	$650	$650	$650
SCORE	$3.3 / 3.5	$3.9 / 4.2/ 4.5	N/A	$4	$4.5	$5
SBDC Base Closure Assistance	$2	$15 / 15 / 15	N/A	$15	$15	$15
Women's Business Centers	$4 / 4	$4 / 4 / 4	N/A	$8	$8	$8

Title II: Financial Assistance

MICROLOAN PROGRAM

Subtitle A includes a historic landmark for the Microloan program, transforming it from a demonstration program to a permanent part of the array of SBA credit assistance programs. Established by Congress on October 28, 1991 (Public Law 102–140), the Microloan Demonstration Program was intended to reach individual entrepreneurs in very small businesses that were being served by neither traditional lenders nor SBA's credit programs. Financial help and technical assistance are two fundamental needs of borrowers in this targeted group. The Microloan Program seeks to fulfill these needs by offering a consolidated package of financial and management support. The bill only authorizes for three years the pilot guarantee program for microloans which became operational one year ago, and its value is still being assessed.

The targeted Microloan borrower group is comprised of entrepreneurs requiring loans of $25,000 or less. Over the life of the demonstration program, the average loan size has been approximately $10,000. Borrowers have included women, low income individuals, minorities, business owners in areas suffering from localized economic downturns, and other individuals seeking to open or operate successful small businesses. In many cases, these borrowers may be considered unreliable borrowers by traditional credit markets due to issues such as the small amount of money required, weak or non-existent credit histories, and limited business experience. Evidence of the tremendous success of this program is provided by low default rates on loans. The Federal government has had only one default in its loans to the intermediary loan providers, and the intermediaries have experienced only a two percent default rate in loans to small business.

At a hearing on the Microloan Program held on June 12, 1997, the Committee heard from nonprofit organizations participating in the SBA Microloan Program. Based on their testimony, several improvements were made to the program and a new pilot project was included in the bill.

Several witnesses at the hearing recommended improvements to the loan loss reserve formula to reduce the burden on Microloan providers that have a proven track record. The Committee changed the formula for the period after the initial five years of program participation to require intermediaries to have a loan loss reserve equal to the greater of ten percent of outstanding loans or two times the historic loss rate.

Inspired by testimony on successful efforts to help individuals on public assistance at the Institute for Social and Economic Development in Iowa, Senator Kerry introduced S. 958, the "Welfare-to-Work Microloan Pilot Program Act of 1997" on June 25, 1997. Cosponsors of the bill included Senators Bumpers, Harkin, Grassley, Landrieu, Cleland, Lieberman, Wellstone, Levin, Snowe, and Lautenberg. With assistance from Chairman Bond, the new pilot program was adopted into the reauthorization bill. A three year pilot program is established to provide enhanced technical assistance grants to non-profit organizations specifically to help welfare recipients start their own small businesses. To make the Microloan Pro-

gram more accessible to aspiring entrepreneurs who currently receive public assistance, the pilot program would provide intensive technical assistance for learning basic business skills, including developing business plans, starting a company, applying for small loans, and operating a new business. In addition to the technical assistance, the supplemental grants could be used by local organizations to help defray the borrower's expense of transportation or child care, which is directly related to program participation. The bill authorizes $3 million in FY 1998, $4 million in FY 1999, and $5 million in FY 2000. The SBA would provide grants of up to $200,000 to organizations participating in the Microloan Program. Up to 20 organizations could participate in the first year and 25 and 30 in the following years, respectively. Funding also may be used by SBA to provide training to organizations to serve the welfare community. The Committee urges the SBA Administration to pursue funding for the pilot program from the Administration's welfare reform budget.

Under the Microloan program, SBA lends money or guarantees commercial loans to quasi-public, non-profit entities which, in turn, re-lend the funds to small business owners and individual entrepreneurs. These entities, known as intermediary lenders, also provide their borrowers, and some prospective borrowers, with technical assistance. SBA has more than 100 intermediary lenders that provide loans in every state except Alaska, Wyoming, Louisiana and Rhode Island. As of June 1997, Microloan intermediaries have provided Microloans totaling more than $60.5 million. Microloans have ranged in size from $125 to up to $25,000; the average loan size is approximately $10,300.

SMALL BUSINESS INVESTMENT COMPANY PROGRAM

In 1958, the Congress created the Small Business Investment Company (SBIC) Program to assist small business owners obtain investment capital. Today, small businesses continue to experience difficulty obtaining investment capital from banks and traditional investment sources, and SBICs are frequently their only source of investment capital. Since 1991, this Committee has worked closely with the Small Business Administration (SBA) to correct earlier deficiencies in the law and insure the future of the program. In its early years, the SBIC program suffered instances of abuse and mismanagement and experienced a high loss rate. In recent years, however, the program has been re-established on a new foundation of safety and soundness, attracting high caliber investment groups willing to put significant amounts of private capital into the program. Growing small businesses depend on SBIC financing, and small business entrepreneurs have looked to Congress to strengthen and enhance the SBIC program so it can achieve its important objectives.

This legislation includes significant program authorization levels for the SBIC program. In addition, this legislation refines the Small Business Investment Act of 1958 in order to make the SBIC program more responsive to the needs of individual SBIC's and the small companies that rely on their investments.

Section 211 gives the Administrator of SBA new authority to make five year leverage commitments for SBICs. This change is de-

signed to assist SBICs in raising private capital, which is matched with government guaranteed capital to be invested in small businesses. By allowing SBA to approve five year commitments, an SBIC will be able to obtain leverage commitments based on its typical investment pattern, which normally allows for all investments to be made during the first five years of the SBIC's life cycle.

Under Section 213, SBICs will be required to pay a 1% commitment fee at the time SBA makes a commitment for leverage, and the balance of 2% will be paid on the amount of leverage as it is periodically drawn by the SBIC. If SBA made no prior commitment to the SBIC for leverage, the entire 3% fee is paid at the time that leverage is drawn by the SBIC.

In order to bring the Small Business Investment Act up-to-date with current investment practices, Section 213 also makes minor changes to existing law under which banks may invest up to 5% of their capital and surplus in one or more SBICs. Currently, the Small Business Investment Act only provides that banks may purchase stock from SBICs. Many SBICs now are organized as limited liability companies and partnerships, which do not have stock, and some banks may want to structure their SBIC investments through a separately managed "fund of funds" to diversify among several different SBICs. These language changes are being made to allow banks to continue to invest in SBICs, whether organized as corporations, partnerships, or limited liability companies, and expressly permits banks to invest in entities established to invest solely in SBICs, with no requirement that such entities be registered investment companies.

Because the majority of the SBICs are partnerships, Section 213 permits SBICs to make quarterly distributions to its investors (i.e., partners) to meet the investors' tax obligations. This quarterly distribution is designed to cover the situation where investors are making quarterly tax payments to the Federal government. If the SBIC's tax liability is not as great as estimated, the quarterly tax distributions are applied to the following tax year.

As a result of the growing investor and maturity of the SBIC program, the bill provides for the statutory $90 million cap on leverage to an individual SBIC or multiple SBICs under common control to be adjusted annually for inflation. Receipts of leverage in excess of $90 million would agree to invest all the leverage obtained above this cap in "smaller" small businesses, which are defined as small businesses having $2 million or less in revenues and $6 million or less in net worth.

The bill also includes three changes to enhance the operations of the investment division at SBA. Currently, SBA has authorization to collect reimbursements from SBICs to perform the examination function. Section 212 would permit SBA to begin collecting fees from SBIC applicants to offset expenses incurred by SBA to perform the licensing function, and both examination fees and licensing fees will be paid into the salaries and expense account at SBA to be used only to reimburse the agency for specific examination and licensing expenses as they occur.

Current law requires SBA pool and sell debentures to investors every three months. This requirement has caused difficulties for SBA in producing sufficiently large and diverse pools of debentures

that are most attractive to investors. Section 213 of the bill would permit SBA to pool and sell debentures to investors every six months. This change will allow for larger pools, which should generate greater investor interest and more favorable interest rates for SBICs. SBA will retain the discretion to pool and sell debentures more frequently, if there is sufficient demand.

CERTIFIED DEVELOPMENT COMPANY PROGRAM

During the past two years, this Committee has devoted considerable attention to the 504 Certified Development Company Program. During this period, the credit subsidy rate, which determines the loss reserve for this program, has increased over 1200%. Last year, at the urging of both the Administration and the organization representing the 504 lenders and Certified Development Companies (CDCs), the Committee passed legislation mandating that this program be supported entirely by fees paid by the private sector. It is the Committee's belief that these fees have had a direct impact on the reduction in demand for the program.

Since the major increase in subsidy rate and the increase in fees, this program continues to be plagued by an uncertain credit subsidy rate. This uncertainty has caused much concern about the future of the program. The 504 program is unlike any other SBA credit program. SBA guarantees 10- or 20-year debentures issued by CDCs, and the proceeds of these debentures are used to fund loans with similar terms to small businesses for plant acquisition, construction, expansion, and equipment. The SBA-guaranteed debenture to the CDC cannot exceed 40% of the project cost. A conventional lender, such as a bank, usually provides financing for 50% of the project cost. The bank's loan is senior to the SBA-guaranteed loan in the event of a default by the 504 borrower. Last year, this Committee approved legislation that increased the borrower's share of the project financing by 5% if the building to be purchased was a special purpose building, and by another 5% if the borrower were entering a new line of business.

The Committee has been concerned about reports and testimony from SBA, the Office of Management and Budget and the Congressional Budget Office about low recoveries made by SBA following a default by the borrower under the 504 program. The failure of SBA to take aggressive actions to recover the value of collateral held following a default can add significantly to the credit subsidy rate for this program. In addition, the Committee is concerned about reports that SBA has failed to retire debentures in a timely fashion following a default, which has led to further loses under this program. Recent reports from lenders and CDCs have also pointed out instances where SBA has failed to pursue secondary collateral and borrower personal guarantees after a default.

In response to reports about SBA's failure to make sufficient recoveries after 504 default, the Committee approved legislation last year to establish the 504 Loan Liquidation Pilot Program. This program was designed to allow qualified CDCs to perform all liquidation and foreclosure actions following a default. The Committee believes that recoveries can be improved if qualified CDCs diligently pursue liquidation actions. The Committee is concerned about reports citing the continuing failure of SBA to pursue aggressively

the orderly disposition of property after a borrower has become delinquent and during costly foreclosure and liquidation actions. The Congressional Budget Office staff has informed this Committee of CBO projections that SBA recoveries will be approximately 28%. It is of critical importance that SBA take effective steps now, including those specified in statute, to arrest the pattern of losses that threaten the life of the 504 program.

Section 222 permits the continuation of the 15/16ths of 1% fee that is paid by the 504 borrower annually on the outstanding principal owed on the loan guaranteed by SBA. This fee is paid to SBA in order to offset the credit subsidy rate. The bill provides that if the credit subsidy rate is reduced, this fee paid by the 504 borrower is reduced by SBA in an amount to ensure that excessive fees are not collected by SBA from 504 borrowers.

The bill also recognizes certain changes in borrower business practices. Section 222 provides that a 504 borrower can lease up to 25% of its project to one or more businesses. This change will allow the small 504 Program borrower to take advantage of a current trend where the prime business, such as a grocery store, can attract another business, such as a bank, to set up a small window operation on the site of the prime business.

Section 222 also changes current law to permit two or more small business to borrow money under the 504 Program for the same project. This section provides further that the selling party in a 504 transaction may loan money to the 504 borrower. However, in this situation the debt from the seller's loan is subordinate to the SBA loan. Thus, SBA's ability to realize an enhanced recovery is improved in a default situation.

Section 223 expands the Premier Certified Lenders Program by repealing the current limit of 15 CDCs that can participate under the program. To participate in the program, CDCs must continue to maintain a loss reserve in an amount equal to the greater of 10% or the CDC's historic loss rate for the benefit of SBA. While this section provides CDCs with new flexibility for maintaining this loss reserve, should any funds be disbursed from the loss reserve to reimburse SBA for the company's share of the loss, the CDC must replenish the reserve account within 30 days.

7(a) GUARANTEED BUSINESS LOAN PROGRAM

The bill includes significant program authorization levels for the 7(a) program for the next three Fiscal Years. The Committee believes these levels may be necessary in order for SBA to meet the projected demand from small business unable to obtain equivalent credit elsewhere. At a time that the 7(a) program is filling a central need of small business, however, the Committee remains concerned about the SBA's management of this program.

SBA witnesses have testified before the Committee about the agency's intention to rely more heavily on lenders to conduct the loan underwriting analysis and to service and liquidate the loans. The Committee has been concerned about SBA's failure to provide timely and regular examinations of SBA-licensed lenders, which are the same lenders that will be given the expanded authority under the SBA initiative to rely more heavily on lender support for the 7(a) program. As a result of these concerns, the Committee ap-

proved a proposal last year which was incorporated in Public Law 104–208, which requires SBA to implement a program to provide a complete examination of each lender under the Preferred Lenders Program (PLP) every year. According to the last report from SBA, fewer than 20 Preferred Lenders have undergone a thorough examination during Fiscal Year 1997.

The SBA Inspector General complied a report entitled "Inspection of SBA 7(a) Lender Liquidation Responsibility," which reported the SBA does not take full advantage of lender liquidation capabilities. While some SBA district offices give lenders significant latitude in pursuing a liquidation, others insist on involving themselves in step-by-step liquidation actions on PLP and CLP defaulted loans. The conclusions of the Inspector General are consistent with reports the Committee continues to receive from Preferred Lenders who are having difficulty with SBA district offices in obtaining timely approvals so they can pursue the maximum recovery once a loan is in default. These complaints persist even though SBA witnesses attempt to reassure the Committee that the agency is relying on Preferred Lenders to carry out this important function. Since the historic recovery rate for the 7(a) program is approximately 44%, the Committee believes it is imperative that the agency improve its practices in this area.

The credit subsidy rate for the 7(a) program, which fluctuates annually (see the following chart prepared by SBA), has been discussed at great length in recent years. Since 1993, there has been an overall drop in the subsidy rate; however, this drop in the subsidy rate is attributable primarily to new fees paid by the borrowers and 7(a) lenders rather than improvements in program management by SBA. If Congress had not raised these fees, the 7(a) subsidy rate would now be over 9%. The Committee believes it is time for SBA to accomplish reductions in the subsidy rate through better program management rather than depending on new fee increases.

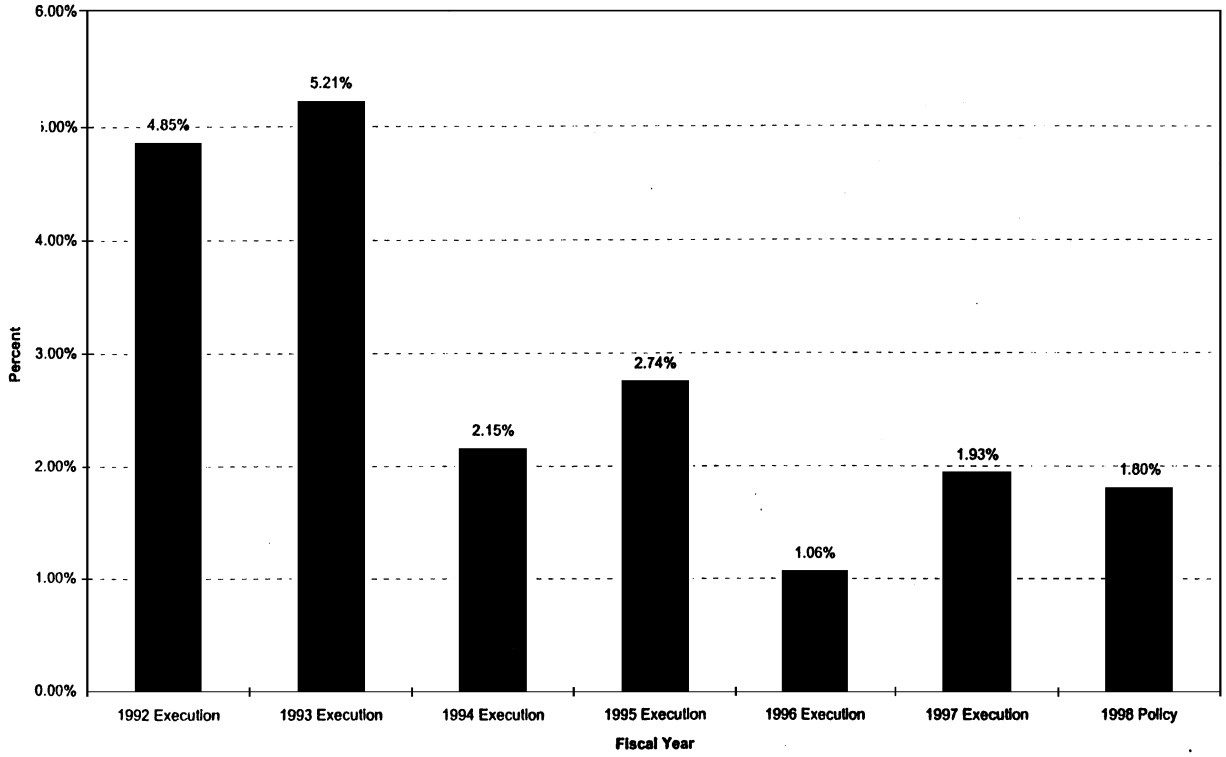
Prior to the discovery by the General Accounting Office (GAO) of the computational error in the subsidy rate calculation for Fiscal Year 1997 that went undetected by SBA and OMB, SBA had explained to this Committee that the subsidy rate for Fiscal Year 1998 would drop from 2.54% to 2.32%. The drop in the subsidy rate was explained generally as a result of a projected 1% decrease in the default rate and a very small increase in the recovery rate, which were offset by an increase in the level of prepayments from 7(a) borrowers.

Following the discovery of the computational error by GAO, which revealed that the subsidy rate for Fiscal Year 1997 in reality had been 1.93% not 2.54%, SBA reversed its explanation of the subsidy rate change. Now SBA explains that the subsidy rate will be increasing form 1.93% to 2.32%, and the decrease in the default rate and the increase in the recovery rate will not have a positive impact on the subsidy rate in the manner originally explained to the Committee. SBA's new explanation for the increasing subsidy rate is that significant growth in the level of prepayments by 7(a) borrowers is being offset only insignificantly by a decrease in the default rate and the increase in the recovery rate. The inconsistencies in these explanations continue to concern this Committee

about the soundness of these credit subsidy estimates and the assumptions used by SBA and OMB, which seem to be maintained in a fluid state to explain the ever-changing subsidy rate projections. The Committee believes SBA and OMB need to do a much better job managing the credit subsidy rates for SBA programs in the future.

The Committee also notes that SBA has not promulgated a final regulation governing the sale of the unguaranteed portion of any loan made under the 7(a) loan program. The Committee believes SBA's current procedures under its "interim final" securitization regulation do not satisfy the requirements of Section 5(f)(3) of the Small Business Act. This section directed SBA to promulgate a regulation by March 30, 1997, that applies uniformly to both banks and SBA-regulated lenders. The Committee urges the Administration to move forward with a final regulation that conforms with the specific requirements of the statute.

7(a) Subsidy Rates



ASSET SALES

Accompanying the President's SBA budget request for FY 1998 was an announcement that SBA will sell its portfolio of defaulted guaranteed loans and direct loans in Fiscal Years 1998 and 1999. Initially, SBA intends to conduct a sale of $100 million from the Disaster loan portfolio. The Committee is encouraged by the willingness of SBA to undertake efforts to improve management of its growing portfolios of Disaster loans and defaulted loans and to obtain a greater recovery from defaulted loans. The Committee also recognizes the significant size and scope of this project to be undertaken by SBA staff over the next two fiscal years. The importance of sound planning, calling on the expertise developed by other Federal agencies which have undertaken similar types of sales, is critical to the success of this effort by SBA. The Committee wants to be supportive of this undertaking by SBA, and it also wants assurances that the Agency has identified and is taking all necessary steps to carry out these sales in a prudent and financially sound manner. The Committee expects the Agency to provide to the Committee copies of preliminary plans at the time they are prepared for evaluation by SBA, as well as any amended or final plans chosen by SBA to carry out the sales of the assets covered by this program and copies of reports analyzing the results of each sale. The Committee also reminds SBA of the special characteristics and needs of disaster loan borrowers and encourages SBA to include consideration of these factors in developing its plan for the sale of disaster loan assets.

Title III: Women's Business Enterprises

Title III reflects the Committee's recognition of the economic contribution made by women entrepreneurs and the potential for the continued growth and development of businesses owned and controlled by women. During its hearings on women-owned businesses held during the 104th and 105th Congresses, the Committee received valuable input on the SBA programs dedicated to serving women entrepreneurs. Witnesses advised the Committee of their leading concerns: the need for business education and management assistance tailored to women, increased procurement opportunities for women-owned firms, and improved access to capital for women entrepreneurs. Title III addresses the non-credit programs dedicated to serving women who own or seek to start their own business.

Title III of the bill establishes the duties and responsibilities of each of the women's programs created over the past decade by Executive Order or an Act of Congress. Recommendations received by the Committee supported strengthening SBA's Office of Women's Business Ownership and its network of resources, including the Interagency Committee on Women's Business Enterprise and the National Women's Business Council—to improve the opportunities for women owning or starting a business.

INTERAGENCY COMMITTEE ON WOMEN'S BUSINESS ENTERPRISE

The Interagency Committee was created in 1977 as an interagency task force, and by Executive Order 112138 (May 1979), it

became the Interagency Council. In 1988, the Women's Business Ownership Act (Public Law 100–533) replaced the Interagency Council with a joint public-private sector National Women's Business Council, which included four public sector representatives from the former Interagency Council and six private sector representatives appointed by Congress. The SBA Reauthorization and Amendment Act of 1994 (Public Law 103–403) revised the Council's structure again, returning all public sector participants to an expanded Interagency Committee on Women's Business Enterprise.

Section 301 of the bill expands the list of Federal agencies and departments that constitute the Interagency Committee on Women's Business Enterprise. Under the 1994 SBA Reauthorization Act, the Committee included representatives from the Departments of Commerce, Defense, Health and Human Services, labor, Transportation, and Treasury, as well as representatives from SBA, General Services Administration, Federal Reserve, and the Executive Office of the President. Section 301 adds the following agencies to this list: the Departments of Education and Energy, the Environmental Protection Agency, the National Aeronautics and Science Administration, and the Office of Federal Procurement Policy.

In addition, this section provides that each designee to the Committee is to report directly to the head of that agency on the status of the Committee's activities. Under current law, the participating agency head designates who represents the agency, except that in the case of SBA the designee is the Assistant Administrator for the Office of Women's Business Ownership. The language further requires that the Assistant Administrator for the Office of Women's Business Ownership report directly to the SBA Administrator on the status of the Committee's activities.

No specific appropriation authorization is provided to support the activities of the Interagency Committee. The agencies and departments represented on the Committee are to allocate existing personnel and resources to support the agency's participation on the Committee.

Consistent with revisions made in 1994 to link the Committee more closely to the SBA, Section 302 provides that the Interagency Committee's annual report to Congress and the President shall be transmitted through the SBA. This section also deletes the requirement that the Committee's annual report include the recommendations of the Council. This change is made to reflect the fact that the bill adds a specific reporting requirement for the Council, which does not exist separate and apart from the Committee's report under current law. This section provides that the Committee's report include the status on its efforts to meet its statutory duties.

NATIONAL WOMEN'S BUSINESS COUNCIL

The National Women's Business Council was created by the Women's Business Ownership Act of 1988. The Council was created to serve as an advisory body comprised of representatives from both the private and public sectors. The public-private structure was created with the expressed intent to inspire action, because the Interagency efforts were criticized over time for inactivity. In the Conference report accompanying the 1994 Act, revisions were made in an effort to promote action by these entities. By separating the

private sector Council from the public sector Interagency Committee, it was thought that the Council would be the pro-active force to inspire action by the Interagency Committee. Regrettably, the independence of the Council has been compromised by its staff becoming the staff of the Interagency Committee as well. This contradicts the expressed intent of Congress, in the 1994 Conference report, that the resources provided for the Council were to be used solely for the Council and its activities, and the Agencies comprising the Interagency Committee would have the responsibility for committing staff and resources to the Committee's efforts.

In order to remove an inconsistency from the statute, the bill provides that the Council will submit its recommendations and reports to the Administrator of the SBA through the Assistant Administrator for the Office of Women's Business Ownership. The bill also requires the Council to report annually to the Senate and House Committees on Small Business and the President. This report is in addition to the discretionary reports and recommendations that the Council can initiate as it deems appropriate. The new annual report to the President and the Congress is to include a status report on the Council's efforts to fulfill its duties under sections 406 (a) and (d) of current law.

The membership of the Council continues to evolve under this bill. First, to re-invigorate the interaction between the Council and the Congress, Section 304 expressly addresses the role Congress is to play in recommending individuals for appointment to the Council. In the 1988 Act, the private sector participants on the Council were selected by the Majority and Minority leaders of the Senate and House. Under the 1994 revisions, the role of Congress in the selection of Council members was removed from the bill and placed in the report language. The SBA Administrator was given the authority to appoint Council members after consultation with the Chairperson (who is appointed by the President) and with the Assistant Administrator of the Office of Women's Business Ownership. The role of Congress was limited to recommendations from the leadership delivered through the Committees on Small Business in the House of Representatives and the Senate.

The approach taken by this bill is a hybrid of these earlier approaches. The SBA Administrator continues to appoint the Council members with the consultation mentioned above; however, those appointments are to be made after receiving the recommendations from the Chairman and Ranking Minority Members of the Committees on Small Business in the House of Representatives and Senate. This change is intended to ensure that these Committees, and Congress as a whole, take an active and ongoing interest in the Council and its activities. If the Council is to be an advisor to Congress, Congress needs to be a stakeholder in the process. Having individuals recommended by the House and Senate Small Business Committees appointed to the Council will ensure that the reports and recommendation of the Council have an interested and involved audience in Congress.

Consistent with past changes, the revisions are intended to bolster private sector participation in the Council. The bill expands the Council to fourteen members and one chairperson. Under current law, there are nine members (four business owners and five

women's business organizations' representatives). Section 304 revises the membership by increasing the number of entrepreneurs from four to six; increasing the number of women's business organization representatives from five to six with the express recognition representatives of local Women's Business Centers are eligible to be selected; and adds two slots for representatives from academia or corporations that have an interest in women entrepreneurship. In order to facilitate the inclusion of representatives from Women's Business Centers, the Committee removed the word "national" as a qualifier for the types of organizations that can be represented on the Council. Successful local programs are often the best laboratories for new ideas, and the Committee has sought to ensure that the Council expands its focus to include issues relevant to the women seeking assistance from the Women's Business Centers. Consistent with its focus on women entrepreneurs, individuals appointed to the Council to represent women's business organizations should be women business owners themselves.

Testimony provided to the Committee by the current chair of the Council recommended expanding the size of the Council and the Committee met that request in this legislation. In communications with the Council and its staff, it was recommended that slots be added from academia and corporate America. The former category was intended to bolster the Council's ongoing efforts to encourage research in areas of interest to women entrepreneurs. The latter slot was recommended in light of the Council's work with major corporations which have proactively sought to improve contracting opportunities for businesses owned and controlled by women. Depending on the caliber of nominations, the legislation authorizes the Administrator to choose one academic and one corporate representative or two from one category or another.

The bill also amends the language addressing diversity in selecting members to include attention to rural as well as urban representation. Several Members of the Committee represent states with rural populations, and the current requirement to consider geographic diversity is amended to ensure that consideration is also given to rural and urban representation.

Section 305 provides an authorization for the appropriation set at $400,000 per year for Fiscal Years 1998, 1999, and 2000. This increase in the annual authorization is intended in part to absorb the additional costs associated with an expanded Council. It is the intent of the Committee that any funds appropriated under this section are to be used solely for the activities and duties of the Council and not diverted to any other activities at SBA.

Section 306 includes the text of S. 888, the Women's Business Centers Act of 1997, introduced by Senators Domenici, Bond and Kerry on June 12, 1997. S. 888 was cosponsored by other members of the Committee, including Senators Burns, Kempthorne, Frist, Snowe, Faircloth, Enzi, Bumpers, Levin, Harkin, Lieberman, Wellstone, Cleland and Landrieu. Cosponsors of the bill that are not on this Committee include: Senators Kohl, Lautenberg, Daschle, Mikulski, Moseley-Braun, Hutchison, Boxer, Specter, Moynihan, Santorum, Bingaman.

S. 888 and the language incorporated in this bill increase the program authorization level for creating Women's Business Cen-

ters, previously called "Women's Business Demonstration Sites," from $4 million per year. Grantees awarded funds under this section will receive funds for five years rather than three, as provided under current law, and the Federal/non-Federal funding match is changed as follows:

One non-Federal dollar for each two Federal dollars in years one through three rather than just during the first year,

One non-Federal dollar for each two Federal dollars in year four rather than during year two, and

Two non-Federal dollars for Federal dollar in year five rather than in year three, which had been the last year.

The bill provides further that grantees receiving funds under the previous program on the day before enactment will be able to make application to SBA for approval to receive funds for two additional years. The receipt of funds is conditioned on fulfillment of the grantee's obligations under this section.

Section 306 includes language from S. 925, legislation introduced by Senator Coverdell to codify the practice of allowing Women's Business Center grant recipients to pursue other sources of Federal funds. Funds received from other Federal agencies do not qualify as non-Federal funds under the matching funds requirement of this section. The additional funds obtained by a Women's Business Center do not in any way affect the level of non-Federal funds they must obtain, and the performance of other Federal contracts shall not hinder the ability of the Women's Business Center grantee from fulfilling its obligations under this section.

The bill adds the "location for the Women's Business Center site" as an item to be addressed by the criteria developed by the SBA for selecting successful grant applicants under this section. Under current law, the SBA is authorized to establish criteria for selecting grant applicants and special emphasis has been provided to applicants from states that do not have an existing Women's Business Center Site. The language added by this bill is intended to codify the preference currently given to applicants from state's without existing center sites. This is not intended to be an absolute preference, but rather each application must be selected on its merits. Where possible, however, preference should be given to applications that expand the number of states with Women's Business Centers. Currently, there are 32 states without such centers and several states with multiple centers.

The Committee does not intend to stifle the expansion of center sites in those states with the infrastructure to reach additional women. The Committee would like to see the Office of Women's Business Ownership work to cultivate possible grant applicants in states lacking centers and provide guidance to prospective applicants from underserved states to help ensure that new sites are sustainable. It is the goal of the Committee to have Women's Business Centers in every state of the nation. This should be a priority of the program.

Support for the increased authorization was obtained in part by stating that it would enable the creation of centers in states without sites, while balancing this objective with a strong interest in providing funds for additional sites in states where there remains the demand for additional centers. To reflect the fact that existing

Women's Business Centers may submit applications for grants to create new sites in their state or neighboring states, a definition of "women's business center site" is included. The language is revised from S. 888 to clarify that linkages between new and existing sites are permitted but not required.

Having increased the size of the grant program two-fold, the Committee considered imposing additional safeguards and controls to ensure that the program was appropriately managed. The controls included in the bill include the elevation of the position of the Assistant Administrator for the Office of Women's Business Ownership and an express prohibition on the use of the funds appropriated under this section for any purposes other than grant awards. It was just one year ago when the Administration sought to merge the women's business demonstration sites with other SBA business assistance programs. Congress rejected the Administration's proposal, restored the program's separate funding, and language was included to prohibit the reprogramming of the funds appropriate to other programs.

The SBA office charged with administration and support of the program has been chronically under-staffed. This threatens the integrity of the program and the intent of Congress that the funds appropriated be provided to the grantees to establish programs in the states. In its Fiscal Year 1998 budget submission, the SBA request indicated a need for seven full time employees in the Office of Women's Business Ownership. It is the intent of this Committee that SBA not only fulfill its commitment to having seven full time employees, but that the ceiling be increased, if necessary, so additional staffing can be dedicated to the administration of this program. The present allocation of one full time employee to the oversight of this program appears woefully inadequate. SBA staff assigned to OWBO activities in District Offices (Women Business Ownership Representatives/WBORs), also should be properly trained to assist in the oversight of the Women's Business Centers program.

Section 307 sets forth the duties of the Assistant Administrator for the Office of Women's Business Ownership. The position was elevated to an Assistant Administrator in the last reauthorization bill, but the corresponding responsibilities and duties were not provided. The GS level of the Assistant Administrator is increased to GS 17, again to ensure that the office receives the staffing and stature within the SBA that an $8 million program warrants. This section sets forth the duties and responsibilities of the Assistant Administrator of the OWBO.

The Office of Women's Business Ownership was established by Executive Order in 1979, as a result of a report produced by the Federal Interagency Task Force on Women's Business Enterprise. The Order gave OWBO a broad advocacy role and was charged with the responsibility for promoting Federal agency and private efforts to assist women owned businesses. The SBA Reauthorization Act of 1994, made OWBO a permanent office within the SBA. In addition to administering and managing the Women's Business Centers program, the OWBO promotes women's business ownership programs and services which are delivered through SBA Dis-

trict Offices and Resource Partners offering a network of training, counseling and mentoring services for women.

FEDERAL PROCUREMENT OPPORTUNITIES FOR WOMEN OWNED BUSINESSES

The Committee approved an amendment offered by Senators Cleland and Coverdell to provide for the study of issues related to procurement opportunities for businesses controlled and owned by women. The amendment authorizes a separate appropriation of funds, not to exceed $200,000, which can be provided in whole or in part in Fiscal Years 1998, 1999 and 2000. The funds are to be available until spent for the purposes specified in section 308.

Women-owned business now represent over one-third of all businesses. However, they receive a much smaller share of Federal procurement dollars. In 1994, the Federal Acquisition Streamlining Act established a government-wide goal of five percent for Federal contracts being awarded to women-owned businesses. In order to gain a greater understanding of the Federal government's performance in working with this growing sector, the Coverdell/Cleland amendment has directed the National Women's Business Council to conduct a study of the Federal government's procurement history in attracting and awarding contracts to women-owned business using existing data collected by agencies. The bill also requires the NWBC to prepare a report on the best procurement practices of the Federal government and the commercial sector and to recommend policy changes. The Committee believes the $200,000 authorized for this project is critical to ensure that the NWBC is able to attain a qualified outside contractor to review the data and develop the study.

Title IV—Competitiveness Program and Procurement Opportunities

SMALL BUSINESS COMPETITIVENESS PROGRAM

The Small Business Competitiveness Demonstration Program was established under Title VII of Public Law 100–656, the "Business Opportunity Development Reform Act of 1988", which was signed into law on November 15, 1988. The program's purpose is to demonstrate that the competitive capabilities of small business firms in certain industry categories will enable them to compete successfully on an unrestricted basis for Federal contracting opportunities. Further, the program is designed to show how the use of targeted goaling and management techniques by procuring agencies, in conjunction with the Small Business Administration, can expand small business participation in certain industries where participation has been historically low.

The Committee bill extends the demonstration program through Fiscal Year 2000 because the benefits for all covered small businesses are still uncertain. The Committee, in an effort to streamline the reporting process, changed the quarterly reporting requirement to an annual reporting requirement. The intent is to reduce the administrative reporting burden on participating Federal agencies and to provide more comprehensive and meaningful reports.

Additionally, the Small Business Administration has been designated as the Federal agency responsible for the preparation and submission of the Congressional Report on the results of the Small Business Comprehensiveness Demonstration Program. This reporting should address the benefits and deficiencies of this program compared to more traditional methods of guaranteeing of small business prime contracts in Federal procurement.

SMALL BUSINESS PROCUREMENT OPPORTUNITIES PROGRAM

In October 1978, President Carter signed into law (Public Law 95–507) legislation which established the requirement for the Small Business Administration to be the agency responsible for negotiating small business contracting goals with Federal departments and agencies. Subsequently, the Congress passed, and President Reagan signed into law, the Business Opportunity Development Reform Act of 1988 (Public Law 100–656), which mandated that the government-wide goal for small business participation in Federal contracting be "not less than 20 percent of the total value of all prime contract awards for each Fiscal Year."

Testimony before the Committee and other evidence accumulated by its staff has outlined a series of actions by the Federal government that could remove many prime contract opportunities from the reach of thousands of small businesses, which could make the 20% goal unattainable.

This bill includes a separate subtitle that responds to the issue of bundling of Federal contract opportunities. Bundling is the Federal government's practice of consolidating smaller contracts into very large contracts. Often bundling results in contracts of a size or geographic dispersion that small businesses cannot compete for or obtain. As a result, the government can experience a dramatic reduction in the number of offerors. This practice, intended to reduce short term administrative costs, can result in a monopolistic environment with a few large businesses controlling the market supply. The Federal government should not abandon the innovative and competitive small business market for the purposes of administrative convenience. The purpose of this section is to ensure that actions are not taken arbitrarily that have the effect of shifting Federal contracting out of the reach of many small businesses that have previously contracted with the government or who wish to bid on Federal contracts.

As part of the Committee's February 6, 1997, hearing on Women-Owned and Home-Based Business, Ms. Phyllis Hill Slater, President of Hill Slater, Inc., President-elect, National Association of Women Business Owners, and Chairperson, Women Business Owners Corporation, testified that as the result of the implementation of the Federal Acquisition Streamlining Act (FASA) of 1994, "small business is being streamlined right out of the procurement system." Ms. Slater went on to state that Federal contract bundling "has become one of the most pervasive problems faced by women business owners and other small business."

Ms. Carolyn Stradley, President and chief Executive Officer, C & S Paving, Inc., Marietta, Georgia testified that she was opposed to the Federal government's initiative to "bundle" contract requirements. As an example of the problem, Ms. Stradley explained that

her firm's limit on bonding is $5 million. As the direct result of contract bundling actions, her firm lacked the bonding capacity to submit a bid on these expanded requirements.

The Committee has received numerous constituent and trade association letters complaining of the Federal government's apparent movement towards the consolidation "bundling" of contract requirements. Some of the letters address specific contract solicitations that were previously performed by small businesses as several separate contracts. Most of the letters noted that the trend in Federal contracting has been moving towards larger and larger solicitation packages that are beyond the capability of small business. In some cases, the bundled contracts are so large that participation is limited to a select few of the largest contractors.

The Small Business Administration commissioned a study titled "Bundled Contract Study FY91–FY95," dated June 20, 1997. The study showed that fewer and larger contracts are being won by fewer and larger companies. As a result, thousands of small businesses have disappeared from the Federal marketplace as these trends occurred. The study indicated that 5,723 small businesses have disappeared from the Federal marketplace between Fiscal Years 1991 and 1995, while the number of large businesses increased by 1,201. The study also found that "the rate of new, small business participants has declined over the last four years." One of the study's recommendations was to "add a reporting requirement on the DD–350 and SF–279 forms that indicates whether a newly awarded contract combined requirements from previously separate contracts." The study also noted that the Federal government has enacted significant procurement reforms encouraging contract consolidations, and centralized administration and has entered long-term agreements with fewer vendors.

Mr. Jere Glover, Chief Counsel for Advocacy, Small Business Administration, has issued a letter endorsing the bundling provisions contained in this bill. Mr. Glover's letter stated that seven of the top sixty recommendations of the White House Conference on Small Business focused on expanding the market share of government contracts to small business. Mr. Glover further related that his office is concerned by "* * * the apparent trend to bundle contracts in the interest of short term operating cost savings that would harm competition and limit small business access to Federal procurement."

Consequently, the Committee, after recognizing the concerns of small businesses, trade associations and Government personnel regarding the growing problem of contract bundling, included language in the bill to address this issue.

Title V: Miscellaneous Provisions

SMALL BUSINESS TECHNOLOGY TRANSFER (STTR) PROGRAM

Under present law, the STTR Program will terminate on September 30, 1997. In establishing the STTR Program, Congress intended to create an easy-to-use vehicle for moving ideas from research institutions to the marketplace where they can best benefit the U.S. economy. STTR accomplishes this goal by linking small businesses with creative ideas to universities, nonprofit scientific

and educational institutions, and Federal laboratories. Under STTR, research and development that benefits our national defense, promotes health and safety, and improves our highways and airports can move from the early research and development state to the marketplace. The STTR Program ensures that innovative ideas developed by universities and non-profit organizations, in partnership with quality small businesses, serve an active role in building our nation's economy. The current legislation recognizes the past success of the STTR Program and provides a 6-year reauthorization. This long term reauthorization will give both the government agencies and private sector participants and supporters of the program the knowledge that they can depend on it the long term continuation of the program.

SMALL BUSINESS DEVELOPMENT CENTERS

Since its inception in 1980, the Small Business Development Centers (SBDCs) Program has been key in the delivery of the Administration's small business education programs (training) and economic development services (no-fee counseling) for entrepreneurs from more than 950 SBDC locations nationwide.

Operating in partnership with the SBA under a Cooperative Agreement, participating SBDCs are required to provide funds from non-Federal sources to match the grant funds supplied by SBA. SBA's Office of SBDC and SBA District Directors are involved in the management and oversight of the Cooperative Agreement and on-going operations of the SBDC to ensure proper use of Federal funds. SBDCs are permitted to engage in other programs funded by the Federal government if so approved by the SBA Associate Administrator, SBDC.

The Committee increased the SBDC authorized funding level at $85 million for FY 1998 rather than the $57 million sought by the Administration, and the Committee rejected the idea of imposing fees for counseling services by SBDCs, recommended by the Administration. For FYs 1999 and 2000, the funding levels will increase to $90 million and $95 million, respectively. The increase in funding levels will allow for the increase in minimum Federal funding and an increase in the funding base for SBDCs authorized by the bill. However, the bill provides that the latter increase will go into effect only if adequate appropriations are made available in advance. The Committee included bill language that would add Women's Business Centers (WBCs) to the category of applicants eligible to receive grants and the Committee hopes SBDCs will form partnerships with WBCs to further support programs for women entrepreneurs.

The Committee encourages the SBDC program participants to become even more creative and competitive in serving the ever-changing needs of today's entrepreneurs with a greater emphasis on helping small business owners avoid failure and extend the life cycle of small businesses. The SBDCs should become more accessible to their customers, expand the number of participating regional subcenters where appropriate, and fully integrate their resources through SBA District Offices with all SBA funded programs and services.

The Committee recommends that SBDCs work cooperatively with SBA District Offices and Federal agencies to prepare entrepreneurs to meet government regulatory compliance burdens. Without easy and understandable access to current Federal and state regulatory requirements, small business owners are finding it difficult to meet these requirements. Failure to anticipate these potential costs and the potential impact of fees or penalties can be disastrous, threatening the continued existence of many small businesses.

THE PILOT PREFERRED SURETY BOND GUARANTEED PROGRAM EXTENSION

In 1988, Congress created the Preferred Surety Bond Program as a pilot, and its current authority will expire on September 30, 1997. This legislation will extend this pilot program for 3 additional years.

Under the Surety Bond Guarantee Program, SBA guarantees bid bonds and performance bonds that are issued by surety companies on behalf of small business contractors. The program has two parts: the Prior Approval Program and the Preferred Surety Bond Program. Under the Prior Approval Program, surety companies must obtain SBA's prior approval for each bond guarantee. Under the Preferred Surety Bond Program, a limited number of surety companies are empowered by SBA to issue, service, and monitor surety bonds without SBA's prior approval. The later program was established to encourage larger, standard insurance companies to provide bonding assistance to more small businesses.

Since its inception, the Preferred Surety Bond Program has grown and is now an important alternative in the surety bond industry. Currently, there are 15 Preferred Surety Bond Program participants. Since FY 1992, Preferred Surety Bond Program activity has increased from 365 bonds valued at $72.2 million to 1,347 bonds valued at $305.8 million in FY 1996.

EXTENSION OF COSPONSORSHIP AUTHORITY

Since 1980, SBA has continued to demonstrate the value of leveraging its resources with the private sector to produce programs and products to meet the changing needs of small businesses. In 1996, for every SBA dollar invested in cosponsored national, state and local activities, $8 was generated in the development and delivery of small business programs and services including publications, videos, and training materials.

One of the best examples of the benefits of cosponsorships is the SBA Business Information Centers (BICs) program. Approximately 100,000 clients use the 40 BICs (10 BISC in progress) annually which feature self-help computerized work stations for business plan and financial package development, business reference libraries, training, and individual counseling. The actual costs to the SBA is nominal.

The SBA continues to adhere to the restrictions and requirements imposed by Congress to ensure that the agency avoids the endorsement or promotion of a cosponsor's product or service.

SERVICE CORPS OF RETIRED EXECUTIVES (SCORE)

Established in 1964 as a not-for-profit association sponsored by the SBA, SCORE offers pre-business workshops and no-fee counseling at more than 800 locations. Two-thirds of the funding for the SCORE program is used for reimbursement for out-of-pocket expenses to its more than 13,000 volunteer members; one-third of the program funding is allocated to the National SCORE Office for administration and for resources and tools provided to SCORE Chapters nationwide. In addition to traditional workshop and counseling, in 1997 SCORE expanded its service to entrepreneurs through the Internet with its new "Cyber-Chapter" comprised of 100 SCORE counselors. "Cyber-Chapter" offers counseling services direct through Internet e-mail.

The Committee is concerned about reports from SCORE volunteers that direct in-kind support from SBA may be withdrawn. Historically, SBA has provided needed office space, telephone service, and postage service to SCORE chapters, enabling thousands of SCORE volunteers to meet with and communicate with small businesses in need of help. In approving the authorization level for SCORE, the Committee recognizes that funds provided to the SCORE program are supplemented by these SBA-provided support services. The Committees believes that the withdrawal of these services from the SCORE chapters could cause serious hardship to the program that has served small businesses across America so well and urges SBA to continue to maintain its current level of in-kind support.

Title VI: HUBZone Program

In January 1997, Senator Bond introduced S. 208, the HUBZone Act of 1997. Title VI: the HUBZone Program, includes much of S. 208 with amendments that were proposed by Senator Kerry, and which were endorsed unanimously by the Committee.

The HUBZone Program is a jobs bill and a welfare-to-work bill. Specifically, this Program targets special Federal government help to inner cities and rural counties that have low household incomes, high unemployment, and whose communities have suffered from a lack of investment. In addition, the bill designates each Federal Indian Reservation as a HUBZone. The HUBZone Program is designed to help fulfill the goal set by President Clinton and Congressional leaders that we create realistic opportunities for moving people off welfare and into meaningful jobs.

The role of America's businesses, in particular the small business community, is critical if we want to be successful in rebuilding low income areas in our cities and the rural poor areas of our Nation. No amount of training dollars can insure the revival of these communities if there are no jobs. And we must have business, in particular small business, locating and thriving in these areas to provide those jobs.

Testimony before this Committee has indicated that current programs have not succeeded in creating job opportunities in economically distressed areas. Many poor people do not have jobs. Many poor people live in urban and rural communities made up of vacant buildings, inferior schools, and neglected public services. And many

of America's poor have lived under these circumstances for generations. Poor people in America do not have professional lobbyists who can fight for them in Washington, D.C. and in their state capitals. They need help. The HUBZone Program is designed to provide both help and hope.

Creating new jobs in an economically distressed areas has been the greatest challenge for many of our nation's governors, mayors, and community leaders. The trend is for business to locate in areas where there are customers and a skilled workforce. Asking a business to locate in a distressed area often seems counter to its potential to be successful. But without businesses in these communities, we don't create jobs, and without sources of new jobs, we are unlikely to have a successful revitalization effort.

The HUBZone Program attempts to utilize a valuable government resource, a government contract, and make it available to small businesses who agree in return to locate in economically distressed areas and employ people from these areas. There are more than 6,000 areas within the United States that could qualify as HUBZones. Contracts to small businesses in HUBZones can translate into thousands of job opportunities for persons who are unemployed or underemployed.

It should be noted that the HUBZone Program is not designed to compete with SBA's 8(a) Program. One of the amendments adopted by the Committee during its markup of this legislation places a HUBZone small business concern at the same level of contracting preference as an 8(a) small business concern. The bill, as amended, gives the procuring agency's contracting officer the flexibility to decide whether to target a specific procurement requirement for the HUBZone Program or the 8(a) Program.

HUBZONES DEFINED

Under the bill, a HUBZone small business concern has the following characteristics:

It is a small business whose principal office is located in a HUBZone; and

Its work force includes at least 35% of its employees from one or more HUBZones.

A HUBZone can be one or more of the following:

One or more census tracts in a metropolitan area where not less than 50% of the households have an income of less than 60% of the metropolitan statistical area median gross income;

A rural county where the household income is less than 80% of the non-metropolitan area median gross income for its state;

A rural county where the unemployment rate is not less than 140% of the state-wide average unemployment rate for the state in which the county is located;

A Federally recognized Indian Reservation.

A qualified HUBZone small business concern is eligible to obtain federal contracts through three procedures:

If the procuring agency determines that two or more qualified HUBZone small business concerns will submit offers for the contract and the award can be made at a fair market price;

At the discretion of the contracting officer, a sole source contract can be awarded to a qualified small business concern so

long as the contract does not exceed $5 million for manufacturing and $3 million for all other contracts;

In the case of a full and open competition, a qualified HUBZone small business concern may qualify for a 10% price evaluation preference.

PHASED-IN IMPLEMENTATION

Implementation of the HUBZone Program is intended to be phased in over the next three years. Until September 30, 2000, implementation will be limited to the following Agencies: EPA, GSA, NASA and the Department of Defense, Agriculture, Health and Human Services, Transportation, Veterans Affairs, Energy, and Housing and Urban Development.

PROGRAM GOALS

In FY 1999, the government-wide goal for awarding government contracts to qualified small business concerns will be not less than 1% of the total value of all procurement contracts awarded by the Federal government. In FY 2000, this goal will increase to 1.5%; in FY 2001, it will be 2%; in FY 2002, it will be 2.5%, and it will be 3% in 2003 and each year thereafter.

CERTIFICATION AND PENALTIES

In order for a small business to qualify as a HUBZone small business concern, it must certify in writing to the SBA, or SBA may make a determination, that it meets the following three criteria:

It is located in a HUBZone;

It will attempt to maintain a workforce that includes at least 35% of its employees from one or more HUBZones;

It will ensure that not less than 50% of the contract costs will be performed by the qualified small business concern.

The SBA Administrator will be responsible for establishing a system to verify certifications made by small business concerns. Such a verification system will include random inspections and procedures relating to the disposition of any challenges to the accuracy of any certification. If the Administrator of SBA or his designee determines that a small business concern misrepresented its status as a HUBZone small business concern, it could be subject to prosecution under 18 U.S.C. 1001, False Certification, in 31 U.S.C. 3729–3733, False Claims Act. In addition, the HUBZone Program provides that anyone who misrepresents an entity as being a qualified HUBZone small business concern in order to obtain a government contract or subcontract can be fined up to $500,000 and imprisoned for not more than 10 years and be subject to the administrative remedies prescribed by the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801–3812).

In order to assure this program is developed and promoted, the Committee authorized $5 million per year for three years. The Committee expects SBA to report to the Committee in 180 days on implementation and the costs associated with it.

III. Committee Vote

In compliance with rule XXVI(7)(b) of the Standing Rules of the Senate, the following vote was recorded on June 26, 1997.

A motion by Senator Bond to adopt the En Bloc Amendment to the Small Business Reauthorization Act of 1997 passed by unanimous voice vote.

A motion by Senator Bond to adopt the Small Business Reauthorization Act of 1997, to reauthorize the programs of the Small Business Administration, and for other purposes, was approved by a unanimous 18–0 recorded vote, with the following Senators voting in the affirmative: Bond, Kerry, Burns, Coverdell, Kempthorne, Bennett, Warner, Frist, Snowe, Faircloth, Enzi, Bumpers, Levin, Harkin, Lieberman, Wellstone, Cleland and Landrieu.

IV. Cost Estimate

In compliance with rule XXVI(11)(a)(1) of the Standing Rules of the Senate, the Committee estimates the cost of the legislation will be equal to the amounts discussed below.

Assuming Congress appropriates the amounts necessary to carry out the programs authorized under the Small Business Reauthorization Act of 1997, $570 million is specifically authorized in the bill for SBA programs such as the Small Business Development Center (SBDC) program, the Service Corps of Retired Executives (SCORE) program, and technical assistance grants to Microloan recipients. In addition, the bill includes authorization of the next three fiscal years for the credit programs at SBA, including the 7(a) Business Loan Program, 504 Development Loan Program, the SBIC Program, and the Microloan Program. Since the cost for these credit programs is determined annually by the credit subsidy rate that is established by the Office of Management and Budget (OMB) and SBA, it is not possible to provide a fixed cost for these programs until the annual appropriation is approved.

In order to provide a broader understanding of the projected estimates for SBA programs authorized by this bill, two tables prepared by the Congressional Budget Office (CBO) have been included. Table 1 provides an overall estimate of the budgetary impact by the Small Business Reauthorization Act of 1997.

TABLE 1.—ESTIMATED BUDGETARY EFFECTS OF THE SMALL BUSINESS REAUTHORIZATION ACT OF 1997

	By fiscal years, in millions of dollars—					
	1997	1998	1999	2000	2001	2002
SPENDING SUBJECT TO APPROPRIATION [1]						
Spending Under Current Law:						
Budget authority [2]	873	0	0	0	0	0
Estimated outlays	820	299	65	21	9	0
Proposed Changes:						
Specified authorization level	0	151	157	163	103	103
Estimated authorization level	0	1,226	1,274	1,327	13	13
Total authorization level	0	1,377	1,431	1,490	116	116
Estimated outlays	0	871	1,276	1,444	583	189
Spending Under The Bill:						
Authorization level [2]	873	1,377	1,431	1,490	116	116

TABLE 1.—ESTIMATED BUDGETARY EFFECTS OF THE SMALL BUSINESS REAUTHORIZATION ACT OF 1997—Continued

	By fiscal years, in millions of dollars—					
	1997	1998	1999	2000	2001	2002
Estimated outlays	820	1,171	1,341	1,465	592	189
CHANGES IN DIRECT SPENDING						
Estimated Budget Authority	0	1	1	1	1	1
Estimated Outlays	0	1	1	1	1	1

[1] All but approximately $15 million of the estimated amounts are for projected spending by the SBA. In addition to the amounts shown in the table, CBO expects that Title VI (HUBZone program) would impose significant cost on agencies other than the SBA, but we cannot estimate those costs at this time.
[2] The 1997 level is the amount appropriated for that year.

Table 2 includes both the specific authorization levels established by the Committee in this bill, and it includes an estimate by CBO of the cost of the credit programs. The latter estimate in Table 2 assumes a not yet determined credit subsidy rate, and it also assumes that Congress will appropriate an amount necessary to fund the entire amount authorized. Table 2 also provides a more detailed breakdown of the estimated credit subsidy costs for SBA's credit programs and estimated loan administration costs for SBA. It should be noted, however, that while CBO has included annual increases in these amounts, Congress has not funded annual increases in recent years.

TABLE 2.—SBA LOAN LEVELS, SUBSIDY COSTS, AND ADMINISTRATIVE COSTS

	By fiscal years, in millions of dollars—				
	1998	1999	2000	2001	2002
AUTHORIZED LOAN LEVELS					
Guaranteed and Direct Business Loans	18,200	19,950	22,650	0	0
Disaster Loans	1,543	1,543	1,543	0	0
LOAN SUBSIDY COSTS					
Guaranteed and Direct Business Loans:					
Estimated authorization level	350	380	421	0	0
Estimated outlays	225	348	390	133	8
Disaster Loans:					
Estimated authorization level	459	459	459	0	0
Estimated outlays	230	413	459	230	46
LOAN ADMINISTRATION COSTS					
Guaranteed and Direct Business Loans:					
Estimated authorization level	94	97	100	0	0
Estimated outlays	94	97	100	0	0
Disaster Loans:					
Estimated authorization level	164	169	174	0	0
Estimated outlays	164	169	174	0	0

The Committee, during its consideration of the Small Business Reauthorization Act of 1997, considered the possibility that both loan subsidy costs and loan administration costs might increase as suggested by the CBO estimates. The Committee believes that SBA has begun to take steps to streamline administration of its credit programs, and the Committee expects SBA's overhead costs to decrease over the next three years. In addition, the Committee has encouraged SBA to take steps necessary to improve the management of its credit programs in order to reduce the credit subsidy cost necessary to maintain the loan programs. The Committee be-

lieves these subsidy rate costs need to decrease further by adopting management improvements at SBA rather than through increased fees or through the need for additional appropriations from the Congress.

The Small Business Reauthorization Act of 1997 would reauthorize the Small Business Competitiveness Demonstration Program through fiscal year 2000. This program establishes a goal of 40% for small business contracting in the areas of architecture and engineering, refuse removal, construction, and non-nuclear ship repair. CBO estimates that extending the program would cost the ten Federal agencies that participate in the program and SBA a total of $1 million per year. In addition, the bill extends the small business participation in Dredging Program, which is estimated to cost $500,000 annually during FY 1998–2000.

The bill also extends the STTR program from FY 1998 and FY 2003. This program is limited to Federal agencies with annual appropriations for extramural research of $1 billion or more, which are required to set aside a specified percentage of their extramural research budget for cooperative research between small businesses and non-profit or university-based research centers. CBO estimates that the cost of administering the awards would be $1 million per year.

The Small Business Reauthorization Act of 1977 includes two new sections. The Small Business Procurement Opportunities Program would build on an SBA program to monitor the growth of the bundling of Federal procurement contracts. CBO has estimated that it would cost approximately $2.5 million in FY 1998 and $1.5 million in each subsequent fiscal year to follow the procedures established in the bill.

The bill also establishes the HUBZone Program with a specific authorization of $5 million for each year for SBA to implement the program. The HUBZone Program would raise the government-wide goal for awarding contracts to small businesses from 20% to 23% of all prime Federal contracts. Although CBO and SBA have made general comments about other possible spending implications of the HUBZone Program, the Committee has not been made aware of any conclusive evidence that this change would lead to any increased costs for the government in excess of the authorization contained in the bill.

Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through FY 2007. CBO has estimated that provisions in the bill allowing SBA to spend examination fees paid by SBA-licensed Small Business Investment Companies would increase direct spending by $1 million per year.

The Small Business Reauthorization Act contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) of 1995, and it would not impose any costs on state, local or tribal governments. In addition the bill would impose no new private-sector mandates as defined in UMRA.

V. Evaluation of Regulatory Impact

In compliance with rule XXVI(11)(b) of the Standing Rules of the Senate, it is the opinion of the Committee that no significant addi-

tional regulatory impact will be incurred in carrying out the provisions of this legislation. There will be no additional impact on the personal privacy of companies or individuals who utilize the services provided.

VI. Section-by-Section Analysis

Title I: Authorizations

See the table with the program levels included in Part II of this report.

Title II: Financial Assistance

A. MICROLOAN PROGRAM

Section 201

Converts the direct microloan program from a demonstration program to a permanent program, and extends the guaranteed microloan program for three years.

B. SMALL BUSINESS INVESTMENT COMPANY (SBIC) PROGRAM

Section 211

Gives the Administrator the option of making five year leverage commitments for SBICs. This change permits SBA to provide leverage to SBICs based with their investment pattern, which normally allows for all investments to be made during the first five years of the SBIC life cycle.

Section 212. Licensing Fees

Permits SBA to collect fees from SBIC applicants to offset expenses incurred by SBA to perform licensing function.

Section 213

(a) Bank Investment

Clarifies current law provisions permitting Federal or state regulated banks to invest in one or more SBICs. Currently, the Act only provides that banks may purchase stock from SBICs; however, since most SBICs are now partnerships, which do not have stock, this change is being made to allow banks to continue to invest in SBICs, whether they are corporations, partnerships, limited liability companies, or entities established to invest solely in SBICs.

(b) Leverage Cap

This section would allow individual SBICs or multiple SBICs under common control to exceed the $90 million cap on leverage if it agrees to invest all leverage obtained above this cap in smaller small businesses (those defined as having $2 million or less in revenues, and $6 million or less in net worth). Each year this cap would be adjusted upwards for inflation.

(c) Tax Distributions

This section permits SBICs to make quarterly distributions to its investors to meet the investors' tax obligations. This is to cover the

situation where investors are making quarterly tax payments to the Federal government.

(d) Leverage Fee

Currently, SBICs must pay three percent as a fee for the leverage it receives from SBA. This section requires that one percent be paid at the time SBA makes a commitment for this leverage and the balance of two percent be paid on the date that the leverage is drawn by the SBIC. If no prior commitment from SBA is provided, the three percent fee is paid at the time that leverage is drawn by the SBIC.

(e) Issuance of Guarantees and Trust Certificates

This section provides that SBA will poor and sell debentures to investors every six months; this is a change from current statute which requires it to be done every three months. The purpose of the change is to allow for larger pools, which should generate greater investor interest and more favorable interest rates for the SBICs.

Section 214. Examination Fees

SBA has authorization to collect from SBICs to perform examination function. Section 214 permits SBA to use these fees to offset examination program expenses.

C. CERTIFIED DEVELOPMENT COMPANY PROGRAM

Section 211

Changes current law and permits two or more small businesses to borrow money from the 504 program for the same project. This section further provides that the selling party in a 504 transaction may loan money to the 504 borrow; however, the debt from the seller's loan is subordinate to the SBA loan. This improves SBA's position to improve its recovery if there is a default.

This section also provides that a 504 borrower can lease up to twenty-five percent of its project to one or more small businesses. This is to allow the 504 borrower to take advantage of a current trend where the prime business, such a gas station, attracts another small business, such as a fast food franchise, to set up a small operation at its site.

Section 222

Permits the continuation of the 15/16ths of one percent fee that is paid by the borrower on an annual basis. This fee is collected by SBA in order to offset the credit subsidy rate. It also provides that if the credit subsidy rate is reduced, this fee is reduced by SBA in an amount to insure that excessive fees are not collected from 504 borrowers. Authority to collect these fees is approved through Fiscal Year 2000.

Section 223

Expands the Premier Certified Lenders Program under the 504 program by eliminating the limit of 15 CDCs that previously could participate. To participate in the program, CDCs must maintain a

loss reserve, in an amount equal to the greater of 10 percent or the CDC's historic loss rate, for the benefit of SBA. This section provides CDCs with new flexibility for maintaining this loss reserve. Should funds be disbursed from the loss reserve to reimburse SBA for the company's share of the loss, the CDC must replenish the reserve account within thirty days.

This section provides further that a premier CDC should establish a goal of processing at least fifty percent of its loan applications under this program.

Title III: Women's Business Enterprises

Section 301. Interagency Committee Participation

This section expands the group of departments that constitutes the Interagency Committee on Woman's Business Enterprise to include: Education, EPA, DOE, NASA, and Office of Procurement Policy. The departments currently on the Committee are: Commerce, Defense, HHS, Labor, SBA, DOT, Treasury, GSA, Federal Reserve, and the Executive Office of the President.

In addition, this section provides that each designee to the Committee is to report directly to the head of that agency on the status of the Committee's activities. Under current law, the agency head may designate who sits at the table on their behalf, except that the designee for SBA is the Assistant Administrator for the Office of Women's Business Ownership. The bill adds that the AA for OWBO is to report directly to the SBA Administrator on the status of the Committee's activities.

Section 302. Reports

To bolster the role of the SBA, the Committee's annual report to Congress and the President shall be transmitted through the SBA. This section also deletes the requirement that the Committee's annual report includes the recommendations of the Council. This change is made because the bill adds a specific reporting requirement for the Council, which presently does not exist separate and apart from the Committee's report. The bill inserts language to have the Committee's report include the status on its efforts to meet its statutory duties.

Section 303. Duties of the Council

The bill removes an inconsistency from that statute by having the Council submit its recommendations and report to the SBA through the Assistant Administrator for OWBO. As mentioned before, the current proposal adds reporting requirements for the Council. The general reporting to the President and the House and Senate Small Business Committee ties in with the Council's duties in sections 406 (a) and (d) under current law.

Section 304. Council Membership

The bill expands the Council to 14 members and one chairperson. Under current law, there are 9 members (4 business owners and 5 women's business organizations' representatives). The bill revises the membership as follows: increases the number of entrepreneurs from 4 to 6; increases the number of women's business organization

representatives from 5 to 6, and makes representatives of local Women's Business Centers eligible; and adds two slots for representatives from academia or corporations who have an interest in women entrepreneurship.

The bill also amends the language addressing diversity in selecting members to include attention to rural versus urban representation. Section 305 provides an authorization for the appropriation of $400,000 per year for Fiscal Years 1998, 1999, and 2000.

Section 306. Women's Business Centers

This section includes the text of S. 888, the Women's Business Centers Act of 1997, introduced by Senators Domenici, Bond and Kerry. The bill's cosponsors include 15 of the Committee's 18 members. The language increases the authorization from $4 million per year for three years to $8 million per year for three years. The language precludes any funds appropriated under this authorization from being used for anything other than grants. Grantees awarded funds under this section will receive funds for five years rather than three, as under current law, and the Federal/non-Federal funding match is changed accordingly. Current grantees receiving funds on the day of enactment will be able to apply to receive funds for two additional years.

This section includes language from S. 925, Senator Coverdell's bill, to codify the practice of allowing grant recipients to pursue other sources of Federal funds. Obtaining additional Federal funding will not jeopardize the centers from receiving funds under this section.

Under current law, the SBA is to establish criteria for selecting grant applicants. The bill adds the "location for the Women's Business Center site" as an issue to be considered. The bill's report will reflect the Committee's preference for funding new sites in states without sites, while balancing this objective with a strong interest in providing funds for additional sites in states where their remains the demand for additional centers. The definition of "women's business center site" is revised from S. 888 to clarify that linkages between new and existing sites are permitted but not required.

Section 307. Office of Women's Business Ownership

This section sets forth the duties of the Assistant Administrator for the Office of Women's Business Ownership. The position was elevated to an Assistant Administrator in the last reauthorization bill, but the responsibilities and duties were not provided. The GS level of the Assistant Administrator is increased to GS 17, again to ensure that the office receives the staffing and stature within the SBA that an $8 million program warrants. The perspectives and experience of OWBO should be included in all SBA program and policy deliberations.

Title IV—Competitiveness Program and Procurement Opportunities

A. SMALL BUSINESS COMPETITIVENESS PROGRAM

Section 401. Program Term

Amends section 711(c) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note) to extend the program through Fiscal Year 2000.

Section 402. Monitoring Agency Performance

Amends section 712(d)(1) to change the reporting and goal accomplishment from quarterly to annual.

Section 403. Reports to Congress

Amends section 716(a) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note) to extend the reporting requirements through Fiscal Year 2000 and requires the Administrator of the Small Business Administration (SBA) to be the reporting agency in lieu of the Administrator of the Office of Federal Procurement Policy (OFPP). As a technical amendment this section replaces the term "Committee on Governmental Affairs" with "Committee on Government Reform and Oversight."

Section 404. Small Business Participation in Dredging

Amends section 722(a) of the Small Business Competitiveness Demonstration Program Act of 1988 (15 U.S.C. 644 note) to extend the program through Fiscal Year 2000.

B. SMALL BUSINESS PROCUREMENT OPPORTUNITIES PROGRAM

Section 411. Contract Bundling

Adds a new subsection (j) to section 2 of the Small Business Act (15 U.S.C. 631). The amendment amplifies the Small Business Act's Congressional policy to foster the participation of small business concerns in Federal contracting opportunities. The new provision emphasizes the existing responsibilities of each Federal agency and structures their contract solicitations to take all reasonable steps to avoid obstacles to small business participation.

Section 412. Definition of Contract Bundling

Adds a new subsection (o) to Section 3 of the Small Business Act (15 U.S.C. 632). The new subsection defines 'contract bundling' as the practice of consolidating two or more procurement requirements of a type that were previously solicited and awarded as separate smaller contracts into a single contract solicitation likely to be unsuitable for award to small business. This subsection establishes the following four criteria that would indicate a bundled requirement:

1. Diversity and size of elements of performance.
2. Aggregate dollar value of anticipated contract.
3. Geographical dispersion of contract performance sites.
4. Any combinations of (1), (2), and (3).

Section 413. Assessing Proposed Contract Bundling

This amendment to Section 15(b) of the Small Business Act (15 U.S.C. 644(b)) establishes the procedures to be followed by contracting activities and the Small Business Administration (SBA) in regards to the bundling of contract requirements (similar to the SBA Procurement Center Representative (PCR) review procedures when a solicitation has not been set-aside for small business). When a bundled contract is contemplated, the activity shall identify the anticipated benefits and assess impediments to small business participation. The PCR shall be given an opportunity to review the 'bundled requirement' and be allowed to request that the activity provide alternative strategies that would increase participation opportunities for small business. The PCR can also suggest alternative strategies to the contracting activity.

Provides the PCR a 30 day review period, instead of the 15 day period for set-aside reviews, in recognition that the proposed solicitation for bundled contracts can reasonably be expected to be more complex.

"(C) Dispute Resolution. Provides the procedural structure to be followed when the PCR and the contracting activity fail to agree on a revised procurement strategy. If the head of the contracting activity and the PCR fail to agree, the PCR may submit a challenge to the proposed bundled contract to the SBA Administrator. If the SBA Administrator concurs that the proposed solicitation is an unjustified bundling of contract requirements precluding small business participation as prime contractors, the SBA Administrator shall refer the challenge to the agency head for final determination. The intent is to encourage the agency head to initiate a further review of the bundled requirement for the purpose of identifying an alternate procurement strategy that would enhance the likelihood of small business participation.

"(D) Supporting Information. Any decision of the head of the agency to issue a contract solicitation with no revision of the procurement strategy shall be documented with a written 'determination and finding' (D&F). The D&F shall be submitted to the Administrator.

"(E) Specific Findings. The D&F shall include the estimated benefits of the proposed bundled contract requirements, including programmatic objectives, cost savings and how such benefits were calculated. Additionally, the D&F should address specific actions to be taken by the contracting activity to foster small business participation at the subcontractor level of the bundled requirement.

"(F) Timing. A bundled solicitation may not be issued prior to the issuance of a D&F unless the agency head determines that the solicitation must be issued for "urgent and compelling reasons". It is intended that such a finding of urgent and compelling reasons shall be supported by a D&F which will be submitted to the Administrator.

"(c) Responsibilities of Agency Small Business Advocates. This modification to the Small Business Act (15 U.S.C. 644(k)) adds an additional responsibility to the Federal agency's Director of the Office of Small and Disadvantaged Business Utilization, to identify and report on proposed solicitations that represent bundling of contract requirements and work with agency acquisition officials to re-

vise procurement strategies for such proposed solicitations to improve small business participation at prime and subcontract levels.

Section 414. Fostering Contractor Teaming

Amends Section 15(b) of the Small Business Act (15 U.S.C. 644(b)) to permit a small business concern to assemble a team of small businesses capable of competing for bundled requirements. This amendment waives the SBA rules regarding "affiliation" and "control" limitations for a requirement to be counted as a small business award.

The purpose is to encourage the formation of tailored small business teams, including flexible prime/subcontractor teams, capable of performing the bundled contract requirements. The proposed small business-led team would be subject to approval by the SBA. Under the proposed provision the subcontract team could include firms that are "other than small business," provided that such firms perform not more than 25 percent of the effort.

Section 415. Reporting of Bundled Contract Opportunities

Subsection (a) of this section requires the Federal Procurement Data System (FPDS) to be modified to collect data regarding contract bundling to facilitate oversight by Congress and the small business community. The information collected will capture determinations that an awarded contract (and subsequent modifications) be counted as incidents of contract bundling.

Section 416. Evaluating Subcontract Participation in Awarding Contracts

Amends Section 8(d) of the Small Business Act to provide for the consideration of proposed small business participation as subcontractors and suppliers as part of the process of selecting among competing offerors for award of a prime contract. Section 416 also recognizes prime contractors past performance in supporting small business subcontracting participation in other Federal contracts.

Section 417. Improved Notice of Subcontracting

Amend (15 U.S.C. 637) by adding a new subsection (k) Notices of Subcontracting Opportunities. This amendment provides permissive authority for Government prime contractors and their subcontractors to place notices of subcontracting opportunities in the Commerce Business Daily (CBD). This may provide small firms with additional information regarding business opportunities as subcontractors or suppliers.

Subsection (b) requires the implementation of this provision through modification of the Government-wide Federal Acquisition Regulation (FAR).

Subsection (c) makes conforming modification to Section 8(e)(1)(C) of the Small Business Act increasing the threshold for requiring agencies to furnish to the CBD notices regarding contracting awards or orders placed by executive agencies from $25,000 to $100,000. The Federal Acquisition Streamlining Act of 1994 (FASA) made a series of changes in subsections (e), (f) and (g) of Section 8 of the Small Business Act when FASA increased the $25,000

small purchase threshold to the $100,000 Simplified Acquisition Threshold (SAT).

Section 418. Deadlines for Issuance of Regulations

Subsection (a) of this section established a deadline for the publication in the Federal Register of proposed regulations for the implementation of the Act. The deadline is not later than 120 days from the date of enactment. The public is assured 60-days for comment on the proposed regulations.

Subsection (b) requires that final regulations be published in the Federal Register within 270 days of the date of enactment. The effective date of the final regulations cannot be sooner than 30-days after the date of publication to assure small business concerns and small business advocates within Government and the small business community adequate time to understand the protections afforded by the new regulations.

Title V: Miscellaneous Provisions

Section 501

Extends the Small Business Technology Transfer (STTR) Program through Fiscal Year 2003.

Section 502

Makes numerous changes to the Small Business Development Center (SBDC) Program. This section directs that when SBA does not renew or extend an existing contract with an SBDC, SBA shall award a contract to a new entity based on full and open competition. In each such competition, Women Business Centers will be eligible to be selected by SBA to be the new SBDC.

This section also strengthens the relationship between SBDCs and the SBA by requiring all programs and services be jointly developed between the two entities. Furthermore, this section calls on the SBDCs to review all public and private partnerships and cosponsorships with SBA on an annual basis.

This section expands on the concept of SBDCs providing 1-on-1 individual counseling for small businesses by requiring that SBDCs work with individual entrepreneurs to improve their basic credit practices, and to assist these individuals in developing business plans, credit applications, and contract proposals. This section also directs SBDCs to work with SBA to provide appropriate information for individual businesses to assist in their start up planning, business expansion, and export planning.

This section further clarifies the SBDC's role in working with SBA to assist small businesses in recognizing regulations that affect their businesses and to make counseling and support materials available on methods of complying with these regulations. This section directs SBDCs to provide counseling and technology development assistance when necessary to help small businesses find solutions for complying with environmental, energy, health, safety and other Federal, state, and local regulations.

Section 502 amends the Small Business Act to prohibit any Small Business Development Center from imposing or collecting a

fee in connection with providing counseling services to individuals and small businesses.

Section 503

Extends the pilot Preferred Security Bond Program through Fiscal Year 2000.

Section 504

Extends SBA's co-sponsorship authority through Fiscal Year 2000.

Title VI. HUBZones Program

Section 601

This Act is called the "HUBZone Act of 1997."

Section 602. Historically Underutilized Business Zones

Definitions—

Historically Underutilized Business Zone (HUBZone) is any area located within a qualified census tract or qualified non-metropolitan county.

HUBZone Small Business Concern is a small business whose principal office is located in a HUBZone and whose workforce includes at least 35% of its employees from one or more HUBZones.

Qualified Census Tract is an area where not less than 50% of the households have an income of less than 60% of the metropolitan statistical area median gross income as determined by the Department of Housing and Urban Development.

Qualified Non-metropolitan County is an area where the household income is less than 80% of the non-metropolitan area median gross income as determined by the Bureau of the Census of the Department of Commerce.

Qualified HUBZone Small Business Concern must certify in writing to the Small Business Administration (SBA) or be certified by SBA that it (a) is located in a HUBZone, (b) will attempt to maintain a workforce that includes at least 35% of its employees from one or more HUBZones, (c) will insure that not less than 50% of the contract cost will be performed by the Qualified Small Business.

Eligible Contracts—

A contract award to a qualified HUBZone small business concern can be made by a procuring agency if it determines that 2 or more qualified HUBZone small business concerns will submit offers for the contract and the award can be made at a fair market price.

A contracting officer can award a sole source contract to a qualified HUBZone small business concern if it submits a reasonable and responsive offer and is determined by the appropriate agency contracting officer to be a responsible contractor. Sole-source contracts cannot exceed $5 million for manufacturing contracts and $3 million for all other contract opportunities.

10% Price Evaluation Preference in full and open competition can be made on behalf of the Qualified HUBZone small business concern if its offer is not more than 10% higher than the other offeror, so long as it is not a small business concern.

Enforcement; Penalties—

The SBA Administrator or his designee shall establish a system to verify certifications made by small business concerns to include random inspections and procedures relating to disposition of any challenges to the accuracy of any certification. If SBA determines that a small business concern may have misrepresented it status as a HUBZone small business, it shall be subject to prosecution under title 18, section 1001, U.S.C., False Certifications, and title 31, sections 3729–3733, U.S.C., False Claims Act.

Section 603. Technical and Conforming Amendments to the Small Business Act

HUBZone Preference—

HUBZone small business concerns are afforded the same level of preference given to 8(a) small business concerns.

Phased-in Implementation—

After enactment and until September 30, 2000, implementation of the HUBZone Act of 1997 will be limited to the following Agencies: EPA, GSA, NASA, and the Department of Defense, Agriculture, Health and Human Services, Transportation, Veterans Affairs Energy, and Housing and Urban Development.

HUBZone Goals—

This section sets forth government-wide goals for awarding government contracts to qualified small businesses. In Fiscal Year 1999, the goal will be not less than 1% of the total value of all prime contracts awarded to qualified small businesses located in HUBZones. In FY 2000, this goal will increase to 1.5% in FY 2001, it will be 2%; in FY 2002, it will be 2.5%, and it will reach 3% in FY 2003 and each year thereafter.

Offenses and Penalties—

This section provides that anyone who misrepresents any entity as being a qualified HUBZone small business concern in order to obtain a government contract or subcontract can be fined up to $500,000 and imprisoned for not more than 10 years and be subject to the administrative remedies prescribed by the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801–3812).

Section 604. Other Technical and Conforming Amendments

This section makes technical amendments to other federal government agency programs that have traditionally provided contract set asides and preferences to disadvantaged small businesses by expanding each program to include qualified HUBZone small business concerns.

Section 607

This section authorizes $5 million for each of the next three years to implement the program.

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