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THE WOMEN'S SMALL BUSINESS OWNERSHIP ACT OF 2015

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December 9), 2016

Mr. VITTER, from the Committee on Small Business and
Entrepreneurship, submitted the following

R E P O R T

[To accompany S. 2126]

The Committee on Small Business and Entrepreneurship, to which was referred the bill (S. 2126) to reauthorize the Women's Business Center Program of the Small Business Administration, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

I. INTRODUCTION

The Women's Small Business Ownership Act (S. 2126) was introduced by Sen. Maria Cantwell with Sen. Cory Booker, Sen. Heidi Heitkamp, Sen. Gary Peters, Sen. Jeanne Shaheen, and Sen. David Vitter on October 1, 2015. The Women's Small Business Ownership Act reauthorizes and makes certain changes to the Women's Business Center Program at the Small Business Administration (SBA). During the markup of the bill, the bill was approved unanimously by voice vote.

II. HISTORY (PURPOSE & NEED FOR LEGISLATION)

The Women's Business Center (WBC) Program provides quality counseling and training services to women, primarily those who are socially and economically disadvantaged, in order to help them start and grow small firms in the local area in which they serve and to stimulate economic growth. Comprised of over 100 local or-

ganizations that host the WBCs, located throughout most of the U.S. and its territories, the program helps more than 150,000 clients annually. It is the only program within the U.S. Small Business Administration (SBA) to provide counseling and training specifically to women, and the only authorized Entrepreneurial Development program providing counseling to socially and economically disadvantaged communities. Many WBCs provide multilingual services and a number offer daycare services, allowing for mothers with children to attend training classes. The WBC program also accommodates the needs of women by maintaining business hours on weekends and evenings.

Originally created in 1988 by H.R. 5050, the “Women’s Business Ownership Act of 1988.” (P.L. 100–533), the program opened its first 12 centers in 1989. In 1997, the program was reauthorized for three years by S. 1139, the “Small Business Reauthorization Act of 1997” (P.L. 105–135). The legislation increased the program’s authorized funding level from \$4 million per fiscal year to \$8 million for fiscal years 1998–2000. Additionally, the bill precluded any funds appropriated under the authorization from being used for anything other than grants. Grantees awarded funds under this bill received funds for five years rather than three, as law dictated at that time.

In 1999, ten years after the inception of the WBC program, Congress passed the “Women’s Business Centers Sustainability Act of 1999” (PL 106–165) on December 9th. At that time, there were 81 centers in 47 states, the District of Columbia, Puerto Rico, and the Virgin Islands. The program authorization levels were adjusted to \$12 million, \$12.8 million, \$13.7 million, and \$14.5 million for fiscal years 2000–2003, respectively. The higher authorization levels were intended to support 45 existing centers, an average of 12 re-competing centers, and an average of 12 new centers per year.

Since that time, the Committee has introduced legislation reauthorizing the program to keep pace with the demand for its services and the needs of women entrepreneurs. In the 111th Congress, Senators Landrieu and Snowe introduced the Entrepreneurial Development Act of 2009 (S. 1229) which sought to improve and expand the program further. The bill was voted unanimously out of Committee but did not move further in the Senate. The bill included language setting grants for the centers at \$150,000 per year, and included language that required the Administration to allocate funds equally in the event of insufficient funding. The bill increased authorization levels to \$20 million, \$20.5 million, and \$21 million for FY2010–2012. In the 112th Congress, Senator’s Snowe and Landrieu introduced a bipartisan bill to reauthorize the program which included substantially similar language as provisions reauthorizing the program in the bill from the previous Congress.

Today, women-owned firms are a driver of economic growth. According to the most recent data, they account for \$1.3 trillion in revenue from more than 8.3 million individual firms employing 7.8 million people. From 1997 to 2013, the number of women-owned firms increased by 59 percent. Even despite periods of economic uncertainty, women-owned firms maintained their steady pace of growth. From 2007 to 2013, women-owned firms trailed only publicly-traded firms in U.S. job creation.

In the 113th Congress, Senator Cantwell, as Chairwoman of the Committee, released a report entitled “21st Century Barriers to Women’s Entrepreneurship” that assessed the current challenges faced by women-owned businesses. The report included four critical findings and provided policy recommendations to help remedy the business climate for women entrepreneurs.

First, the report found that women business owners face challenges in getting access to capital. The report highlighted a study by the Urban Institute that finds only four percent of the total value of all conventional small business loans go to women entrepreneurs. The report also noted that women are forced to rely on personal savings, loans from family or friends, or high interest credit instead of traditional small business lending from banks.

Second, the report found that women business owners still face challenges in getting access to loans of the right size. According to the report’s findings, however, women-owned businesses have been very successful with the SBA’s Microloan program, using loans of \$50,000 and under and offered by intermediaries who also provide assistance in the development of business plans.

Third, and most relevant to S. 2126, the report found that women entrepreneurs face challenges getting relevant business training and counseling. Women’s Business Centers provide specialized counseling and training designed to address the unique challenges women face in starting a small business. The report showed that the Women’s Business Centers have not been re-authorized since the 1990s and are in need of a 21st century modernization.

As part of its policy recommendations, the report suggested reauthorizing the Women’s Business Center Program. According to the report, the program is successful and continues to help women overcome these challenges in becoming entrepreneurs. The report stated that the WBC program has helped clients access more than \$25 million in capital and open more than 630 businesses in fiscal year 2013.

Last, the committee report found that women business owners face challenges getting access to federal contracts. The federal government has never met its goal of awarding 5 percent of its contracts to women-owned businesses. The report noted that if the government met this goal, women-owned businesses would have access to a market opportunity worth up to \$4 billion a year.

As a result of that report, Senator Cantwell, along with Senators Cardin, Shaheen, Gillibrand, Baldwin, Wash, Boxer, Hagan, Heinrich, Blumenthal, and Stabenow, introduced S. 2693, the “Women’s Small Business Ownership Act of 2014.” As part of that legislation, Senator Cantwell sought to reauthorize the Women’s Business Center Program and increase its funding. The legislation also included several programmatic improvements to help improve the program’s service deliver and the SBA’s administration of the program.

III. HEARINGS & ROUNDTABLES

In the 111th Congress:

On June 11, 2009, the Senate Committee on Small Business and Entrepreneurship held a roundtable discussion titled “Entrepreneurial Development: Investing in Small Businesses to Strengthen our Economy.” The discussion included policy recommendations re-

garding the SBA's entrepreneurial development programs, such as Small Business Development Centers, Women's Business Centers, SCORE and other programs. The Committee received testimony from organizational representatives urging the Committee to reauthorize the Women's Business Center Program.

In the 112th Congress:

On April 18, 2012, the Senate Committee on Small Business and Entrepreneurship held a roundtable discussion titled "Perspectives from the Entrepreneurial Ecosystem: Creating Jobs and Growing Businesses through Entrepreneurship." The Committee received testimony from Ms. Juliet Gorman, Communications Director, Etsy; Patricia G. Greene, Ph.D., Paul T. Babson Chair in Entrepreneurial Studies, Babson College; Ms. Jennifer Hyman, Chief Executive Officer and Co-Founder, Rent the Runway, among others, who discussed the obstacles facing women entrepreneurs and the need for additional training and counseling resources.

On November 29, 2012, the Senate Committee on Small Business and Entrepreneurship held a hearing titled "Creating Jobs and Growing the Economy: Legislative Proposals to Strengthen the Entrepreneurial Ecosystem." The Committee received testimony from agency representatives, including Mr. Michael Chodos, Associate Administrator of the Office of Entrepreneurial Development at the U.S. Small Business Administration; small business stakeholders; entrepreneurs and policy experts. The purpose of the hearing was to discuss legislative proposals that promote job creation and small business growth in entrepreneurial ecosystems. During the hearing, the Committee received testimony in support of the SBA's entrepreneurial development programs, including the Women's Business Center Program.

In the 113th Congress:

On May 8, 2013, the Committee on Small Business and Entrepreneurship held a hearing titled "Strengthening the Entrepreneurial Ecosystem for Minority Women." The hearing focused on the success of the Women's Business Ownership Act, since its enactment 25 years previously, as well as increasing access to capital and credit, access to federal contracts and funding for technical assistance and counseling programs. Testifying before the Committee were U.S. Small Business Administration (SBA) Deputy Administrator, Marie Johns; Minority Business Development Agency (MBDA) National Deputy Director, Alejandra Castillo; Eva Longoria Foundation Founder, Eva Longoria; National Urban League President and CEO, Marc Morial; DSFederal, Inc. Founder and Chief Executive Officer, Sophia Parker; Brighton Enterprises, Inc. and Open-Box Creations, LLC Owner, Ms. Dixie Kolditz; and Lancaster Packaging, Inc. President & CEO, Marianne Lancaster. The Committee received testimony in support of the Women's Business Center Program and recommendations to reauthorize the program.

On July 23, 2014, the Committee on Small Business and Entrepreneurship held a hearing titled "Empowering Women Entrepreneurs: Understanding Successes, Addressing Persistent Challenges, and Identifying New Opportunities." The hearing was held in conjunction with Women Impacting Public Policy's annual leadership meeting in Washington, D.C. as well as the Association of Women's Business Centers' annual convention. Witnesses included

women business owners who have benefited from government programs as well as successful women entrepreneurs, including Barbara Corcoran, co-host of the ABC reality show “Shark Tank.” During the hearing, the Committee received testimony in support of re-authorizing several SBA programs, including the Women’s Business Center Program.

IV. DESCRIPTION OF BILL

This bill clarifies the mission of the OWBO and directs the OWBO to collaborate with other entities to ensure that the WBC program maximizes taxpayer dollars and effectively complements the efforts of other Federal and private-sector programs. Award grants will be used to establish contracts or cooperative agreements related to the development of a training program for WBCs. This bill increases the transparency of the WBC financial assistance proposal and financial examination processes by requiring the Administrator to publicly publish evaluation criteria, the importance of each criteria, and its decisions. It also requires that WBCs who receive federal funding collaborate with organizations representing a majority of WBCs to develop a proposal for a WBC accreditation program (including establishing a system of peer review, site visits, regular inspections, performance standards and audits at the Administration’s discretion) and submit it to Congress along with all funding details by the end of fiscal year 2016.

WBC projects must be aimed at providing training and counseling that meets the needs of women, especially those socially or economically disadvantaged. The amount of Federal funding each WBC could receive per year would be capped at \$250,000 per WBC but exceptions could be made if the qualifying WBC met performance goals for the previous year, has received more than \$250,000 in non-federal contributions for that project year, and proposes a new project to be carried out with additional funding. Additional assistance may only be awarded if it is not more than 1% of the amount appropriated to the OWBO for this purpose. Eligible entities who fail to obtain non-Federal contributions for two consecutive years will be ineligible for advance disbursements for current and future projects unless they are able to obtain requisite non-Federal funding. This bill also outlines the selection criteria requirements and site visit requirements to ensure proper oversight and competitive participation.

This bill authorizes \$21.75 million for each fiscal year between 2016 and 2020. For fiscal year 2016, 2.65 percent of total appropriated amount, and for each of fiscal years 2017 to 2020, 2.5 percent of total appropriated amount shall be available for selection panel costs, costs associated with developing and maintaining a training program, costs associated with maintaining an accreditation program, post-award conference costs, and costs related to monitoring. The Administrator is allowed to waive or reduce matching requirements for up to two years. In doing so, the Administrator must consider the economic conditions, the waiver’s impact on the WBC’s credibility, the WBC’s ability to raise non-Federal funds, and the WBC’s performance.

The administration is prohibited from waiving the matching requirements if doing so reduces the WBC’s credibility. WBCs may

use financial assistance provided to solicit and manage funds from private parties.

V. 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 in the following from the Congressional Budget Office:

S. 2126—Women’s Small Business Ownership Act of 2015

Summary: S. 2126 would amend the Small Business Administration’s Women’s Business Center Program, and authorize the appropriation of \$21.75 million for each of fiscal years 2016 through 2020 for that program. CBO estimates that implementing S. 2126 would cost \$97 million over the 2016–2020 period, assuming appropriation of the authorized amounts.

Enacting S. 2126 would not affect direct spending or revenues, therefore pay-as-you-go procedures do not apply.

CBO estimates that enacting S. 2126 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2026.

S. 2126 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA).

Estimated cost to the Federal Government: The estimated budgetary effect of S. 2126 is shown in the following table. The costs of this legislation fall within budget function 370 (commerce and housing credit).

| | By fiscal year, in millions of dollars— | | | | | |
|--|---|------|------|------|------|-----------|
| | 2016 | 2017 | 2018 | 2019 | 2020 | 2016–2020 |
| CHANGES IN SPENDING SUBJECT TO APPROPRIATION | | | | | | |
| Authorization Level | 22 | 22 | 22 | 22 | 22 | 109 |
| Estimated Outlays | 12 | 20 | 22 | 22 | 22 | 97 |

Note: Details may not sum to totals because of rounding.

Basis of estimate: For this estimate, CBO assumes that S. 2126 will be enacted near the end of calendar year 2015.

S. 2126 would authorize the appropriation of \$21.75 million for each of fiscal years 2016 through 2020 to carry out the Women’s Small Business Program. The SBA provides funds to nonprofit organizations that offer financial, management, and marketing assistance to small businesses owned or controlled by women. In 2015, the Congress provided \$15 million for this program.

The bill would make several changes to the program including broadening the types of organizations that would be eligible for grants under the program, and providing the SBA with authority to waive, for a limited time, requirements that funding recipients provide matching funds from nonfederal sources. S. 2126 also would direct the SBA to develop plans to establish an accreditation program for women’s business centers and to provide training for service providers at the centers.

Based on historical spending patterns for this program and assuming appropriation of the authorized amounts, CBO estimates that implementing S. 2126 would cost \$97 million over the 2016–2020 period.

Pay-As-You-Go considerations: None.

Increase in long-term direct spending and deficits: CBO estimates that enacting S. 2126 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2026.

Intergovernmental and private-sector impact: S. 2126 contains no intergovernmental or private-sector mandates as defined in UMRA. State, local, and tribal entities would benefit from federal assistance for training and education programs. Any costs to those entities would be incurred voluntarily as a condition of receiving federal assistance.

Estimate prepared by: Federal Costs: Susan Willie; Impact on State, Local, and Tribal Governments: Melissa Merrell; Impact on the Private Sector: Logan Smith.

Estimate approved by: H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

VI. 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 additional 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.

VII. SECTION-BY-SECTION ANALYSIS

Sec. 1. Short title

“Women’s Small Business Ownership Act of 2015”

Sec. 2. Definitions

Definitions for the terms of: Administration, Administrator, small business concern, small business development center, and women’s business center.

Sec. 3. Office of Women’s Business Ownership

Outlines responsibilities of the Office of Women’s Business Ownership to include: addressing issues concerning the management, operations, manufacturing, technology, finance, retail and product sales, international trade, Government contracting, and other disciplines required for starting, operating, and increasing the business of small business concerns.

Directs the Office to work with Administration officials and collaborate with entities other than the Administration to ensure that the work of the women’s business center program maximizes taxpayer dollars and coordinates effectively with the efforts of other Federal Government and private sector programs.

Directs the Office will confer and seek the advice of Administration Officials in areas served by the women’s business centers, the National Women’s Business Council, and any organization representing the majority of women’s business centers.

States the mission of the Office will be to assist women entrepreneurs to start, grow, and compete in global markets by providing quality support with access to capital, access to job markets, job creation, growth, and counseling and training.

Directs carrying out the fostering of participation of women entrepreneurs in the economy by overseeing a network of women's business centers throughout States and territories. It will create public-private partnerships to support women entrepreneurs and conduct outreach and education to startup and existing small business concerns owned and controlled by women. It will work with other initiatives and programs of the Administration to ensure women are well-represented and being served and to identify gaps where participation by women could be increased.

Requires provision of annual programmatic and financial examination training for women's business center representatives and district office technical representatives of the Administration to carry out their responsibilities.

Requires that award grants or enter into contracts or cooperative agreements related to training to develop a plan for a training program for women's business centers, including attendance to relevant national conferences, by September 30, 2016. The training program will cover managing, financing, and operation of small business concerns; marketing, including use of social media; management and technology assistance regarding small business concern participation in international markets, export promotion, and technology transfer; and delivery or distribution of services and information of all the above.

Maximizes the transparency of the women's business center financial assistance proposal process and programmatic and financial examination process. Provides public notice of any announcement for financial assistance while outlining award and program evaluation criteria and describing weighting of criteria for financial assistance and grants. No later than 60 days after completion of a site visit, when feasible, provides each business center with a copy of any site visit report or evaluation prepared.

Requires that the Administrator submits to Congress, no later than September 30, 2016, a plan to develop—including identification of funding needs—an accreditation program of women's business centers which would be developed with the consultation and collaboration of organizations representing a majority of women's business centers.

Directs the accreditation program to establish a regular system of peer review and site visits to be conducted in addition to the regular inspections and audits at the discretion of the Administration. In addition, it will develop standards for assessment of performance to include: leadership and management, strategic planning, market and client needs assessment, and metrics and measurements of performance and results.

Amends the Small Business Act by clarifying the role the SBA Office of Women's Business Ownership and requiring the Office of Women's Business Ownership to consult with organizations representing a majority Women's Business Centers (WBCs).

Sec. 4. Women's Business Center Program

Replaces terms like "recipient of assistance", "applicant organization" and "such organization" with eligible entity (EE) and defines such as: private nonprofit organizations; state, regional, or local economic development organization; a development, credit, or fi-

nance corporation chartered by a State; a junior or community college; or any combination of these entities.

Defines the term "women's business center" as a project conducted by an EE defined above. Instead of only allowing the Administration to provide financial assistance to private non-profits for 5-year projects, this section allows the provision of finances for EE's conducting a project for the benefit of small business concerns owned and controlled by women.

Projects must be designed to provide training and counseling that meets the needs of women, especially socially or economically disadvantaged women in order to qualify.

Limits the maximum grant amount to no more than \$250,000 per WBC per year.

Amends that more than \$250,000 of annual financial assistance may be provided if the WBC has met performance goals for the previous year (if applicable), has received more than \$250,000 in non-Federal contributions for that project year, is in good standing with the women's business center program, and proposes a new project to be carried out with the additional assistance.

Requires the administrator to consult with any organization representing a majority of WBCs to develop a training program for women's business centers and recommendations toward improving policies and procedures for governing the general operations and administration of the women's business center program, including grant program improvements.

States that if any EE fails to obtain the non-federal contribution during any project for two consecutive years, the entity shall not be eligible for advance disbursements for the current project or any other project funded by the Administration unless the Administration determines that the EE is able to obtain the requisite non-Federal funding.

In its application for financial assistance, the EE is required to submit to the Administrator certification of designation of an executive director or program manager. The EE must also agree to receive a site visit at the discretion of the Administrator as part of the selection process, to undergo annual programmatic and financial examination, and to remedy any problems identified pursuant to the site visit.

Requires that the EE also submit information demonstrating that it has the ability and resources to meet the needs of the market to be served, and an ability to obtain non-Federal contributions. The EE shall also submit information demonstrating its experience and effectiveness in: conducting financial, management, and marketing assistance programs, which are designed to teach or upgrade the business skills of women who are business owners or potential business owners; providing training and services to a representative number of women who are socially or economically disadvantaged; and working with resource partners of the Administration and other entities.

Requires that the EE also submit a 5-year plan demonstrating the ability of the WBC to serve women who are business owners or potential business owners and provide training and services to women who are socially or economically disadvantaged.

Requires that the Administrator, to the extent practicable, conduct a site visit to each EE as part of the final selection process.

Selection criteria will be established before the deadline, stated in relative terms of importance, and publicly available and stated in each solicitation for applicants. Selection criteria for financial assistance shall include: experience of the applicant in conducting programs or ongoing efforts designed to teach or enhance business skills of women who are owners or potential owners; the ability to begin a project within a minimum amount of time, as established; the ability to provide training and services to women who are socially or economically disadvantaged; whether the WBC program proposed will be sustainable for more than a 5-year period; and whether the proposed location proposed includes women who are underserved or includes significant groups of women who are underserved due to language or other social, cultural, and economic barriers.

Requires that the principal place of business of the applicant be located more than 50 miles from an existing or current women's business center.

Allows exception to the 50 mile condition if the applicant: submits a detailed written justification of the need for an additional center in the area, including information demonstrating that it is not providing redundant or duplicative services of the existing or current center; submits a detailed plan for how it plans to reach clients outside the geographic area of the existing or current center; and demonstrates that it has a pre-existing presence in other parts of the same geographic area.

Requires the Administration retain a copy of each application for no less than 5 years, and directs the Administrator to take steps to reduce, to the maximum extent practicable, the paperwork burden associated with the process.

Directs the Administrator to solicit applications and award grants for the first fiscal year after enactment, and every third fiscal year thereafter. As a final part of the selection process for grants, the Administrator may at its discretion, carry out site visits to each women's business center to evaluate it based upon its selection criteria. Selection criteria will include: the total number of entrepreneurs served; total number of new startup companies assisted; percentage of clients socially or economically disadvantaged; percentage of individuals in the community socially or economically disadvantaged; successful participation under the accreditation program; and any additional criteria the Administrator requires.

Conditions for continued funding will include consideration of the results of the most recent evaluation of the women's business center, and to a lesser extent, previous evaluations. The administrator may also withhold a grant if it determines that the applicant has failed to provide information required, or if it is inadequate.

Establishes that there is no limitation on the number of times the Administrator may award a grant to an applicant.

Authorizes \$21,750,000 for each of fiscal years 2016 to 2020 to be appropriated to the Administration. Of the amount made available, the following amount shall be available for selection panel costs, costs associated with developing and maintaining a training program, costs associated with maintaining an accreditation program, post-award conference costs, and costs related to monitoring. For fiscal year 2016, 2.65 percent of total appropriated amount. For each of fiscal years 2017 to 2020, 2.5 percent.

Requires the Administrator, to the extent practicable, promptly reimburse funds to any women's business center awarded if the center meets the eligibility requirements.

The Administrator may not suspend or terminate the grant or cooperative agreement with a WBC unless, it provides the WBC with written notification setting forth the reasons, and affords the WBC an opportunity for a hearing, appeal, or other administrative proceeding under chapter 5 of title 5, U.S. Code.

Sec. 5. Matching requirements under Women's Business Center Program

Allows the Administrator to waive, in whole or in part, the requirement to obtain non-Federal funds for counseling and training activities of the recipient of financial assistance. The Administrator may not waive the requirement for a recipient organization to obtain non-Federal funds for more than a total of 2 consecutive fiscal years.

Requires the Administrator to consider when determining whether to waive the requirement to obtain non-Federal funds: the economic conditions affecting the recipient; the impact of a waiver would have on the credibility of the women's business center program; the demonstrated ability of the recipient to raise non-Federal funds; and the performance of the recipient.

Prohibits the Administrator from waiving the requirement to obtain non-Federal funds if granting the waiver would undermine the credibility of the WBC program.

Allows for a recipient to solicit, notwithstanding any other provision of law, cash and in-kind contributions from private individuals and entities to be used in carrying out activities. It may use amounts made available by the Administration for the cost of such solicitation and management of the contributions received.

Exempts the amount of non-Federal dollars obtained that is above the amount required to be obtained, and which is not used as matching funds for purposes of implementing the program, from part 200 of title 2, Code of Federal Regulations, or any successor thereto.

Requires the Administrator to publish in the Federal Register proposed regulations to carry out amendments to section 2 of the Small Business Act, and to accept public comments on proposed regulations for not less than 60 days.