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SMALL BUSINESS TRANSFORMING AMERICA'S REGIONS ACT OF 2016

DECEMBER 20, 2016.—Ordered to be printed

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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. 2838]

The Committee on Small Business and Entrepreneurship, to which was referred the bill (S. 2838) to improve the HUBZone program, having considered the same, reports favorably thereon with amendments and recommends that the bill, as amended, do pass.

I. INTRODUCTION

The Small Business Transforming America's Regions Act of 2016 was introduced by Senator David Vitter on April 21, 2016, with Senators Gary Peters and Jeanne Shaheen as cosponsors. The Act would improve the HUBZone program. During the markup of the bill, the bill was approved by roll call vote.

II. HISTORY (PURPOSE & NEED FOR LEGISLATION)

The SBA's Historically Underutilized Business Zone (HUBZone) program was authorized by the Small Business Reauthorization Act of 1997. The program encourages economic development in historically underutilized business zones—"HUBZones"—by providing federal contracts to small businesses in designated HUBZone areas. In administering the HUBZone program, the SBA: (1) Determines which businesses are eligible to receive HUBZone contracts; (2) maintains a listing of qualified HUBZone small businesses that federal agencies can use to locate vendors; (3) adjudicates protests of eligibility to receive HUBZone contracts; and (4) reports to the

Congress on the program's impact on employment and investment in HUBZone areas.

HUBZone designations are based on economic data, and therefore if the economy improves in a location, the area may lose its HUBZone status. Currently, if an area loses HUBZone designation the area is redesignated (i.e., retains its HUBZone designation) for three years after the date the area ceases to be so qualified. This bill extends the redesignation period to 7 years to allow firms to make more substantial long-term investments without fear of losing HUBZone status before the business has the chance to succeed. This section retains that thirty-five percent of the firm's employees must still reside in a HUBZone, which is another important aspect for the economic well-being of distressed communities.

III. HEARINGS & ROUNDTABLES

In the 109th Congress, the Senate Committee on Small Business and Entrepreneurship held a hearing entitled "The Impact of Hurricane Katrina on Small Business" on September 22, 2005. The hearing assessed relief programs of various federal agencies. HUBZones were introduced as a possible use to help the economic development of areas affected by Hurricane Katrina.

In the 110th Congress, the Committee held a hearing entitled "Increasing Government Accountability and Ensuring Fairness in Small Business Contracting" on July 18, 2007. This hearing discussed using HUBZone businesses as contractors. The HUBZone program was designed to create jobs where they are needed the most. At this hearing, witness's testimonies focused on the benefits of the HUBZone program, and how to improve its shortcomings.

IV. DESCRIPTION OF BILL

As introduced, this bill amends the Small Business Act to include in the HUBZone program a qualified area designated by the SBA in response to a petition by the governor of a state, the District of Columbia, or a U.S. territory. The bill would authorize the SBA to designate in response to such a petition only a tract that: (1) has a median household income less than 70 percent of the state median household income; (2) has an unemployment rate at least 120 percent of the average U.S. or state unemployment rate, whichever is less; or (3) meets other SBA criteria. The bill also would require the SBA to establish procedures to: ensure that it accepts petitions from all states each fiscal year, and give an interested governor technical assistance before a petition is filed.

Between introduction of the bill on April 21 and Committee passage on May 24, modifications were made to the bill which were facilitated by its inclusion in a manager's package. As amended via the manager's package, the following changes were made:

- Expanding the applicability and eligibility requirements to include nonmetropolitan counties.
- Changing the qualifying threshold from census tracts with a median household income that is less than 70 percent of the median household income of the relevant state, to nonmetropolitan counties that have a median household income that is less than 90 percent of the median household income.
- Extending the applicability from the date of the bill's enactment to three years before the date of the bill's enactment.

- Making changes in how small business concern size standards are petitioned for reconsideration.
- Requiring prime contractors to submit performance assessments for subcontractors working on federal contracts.
- Adding the SBA Administrator to the Federal Acquisition Regulatory Committee.

V. COMMITTEE VOTE

In compliance with rule XXVI (7)(b) of the Standing Rules of the Senate, the following vote was recorded on May 11, 2015.

A motion to adopt the Small Business Transforming America's Regions Act of 2016, a bill to improve the HUBZone program, was approved by roll call vote with the following Senators present: Vitter, Risch, Scott, Ernst, Ayotte, Shaheen, Cantwell, Cardin, Heitkamp, Markey, Booker, Coons, Hirono, and Peters.

VI. 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 letter from the Congressional Budget Office:

JULY 11, 2016.

Hon. DAVID VITTER,
*Chairman, Committee on Small Business and Entrepreneurship,
U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 2838, the Small Business Transforming America's Regions Act of 2016.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Stephen Rabent.

Sincerely,

KEITH HALL.

Enclosure.

S. 2838—Small Business Transforming America's Regions Act of 2016

Summary: S. 2838 would add the Small Business Administration (SBA) to the Federal Acquisition Regulatory (FAR) Council, and make several changes to the Historically Underutilized Business Zone (HUBZone) program. CBO estimates that implementing S. 2838 would cost \$7 million over the 2017–2021 period. Such spending would be subject to the availability of appropriated funds.

The FAR Council consists of the Department of Defense, the National Aeronautics and Space Administration, and the General Services Administration and is overseen by the Office of Management and Budget. The FAR council manages, coordinates, monitors, and changes federal acquisition regulations. Each member agency contributes staff and technical expertise to the operations of the council. On the basis of information from current FAR council members, CBO estimates that the SBA's inclusion on the council would cost around \$2 million in 2017 and \$1 million in each subsequent year for additional staff and administrative expenses related

to performing the duties required for membership on the FAR council.

The SBA administers the HUBZone program, which gives preference to participating small businesses located in areas with certain economic characteristics when they seek contracts with the federal government. S. 2838 would permit the governor of a state to petition the SBA to designate certain counties as a HUBZone that would not otherwise be eligible for designation, if they meet criteria specified in the bill. On the basis of information from the SBA, CBO estimates that implementing this provision would cost \$1 million in 2017, and less than \$500,000 in subsequent years, for SBA to evaluate petitions and update HUBZone maps.

Enacting S. 2838 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. CBO estimates that enacting S. 2838 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

S. 2838 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would benefit state governments and some counties in cases where the governor successfully petitioned the SBA for a county to be designated as a HUBZone. Any costs to states or counties would result from complying with conditions of federal assistance.

The CBO staff contact for this estimate is Stephen Rabent. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

VII. 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.

VIII. SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section designates the bill as the “Small Business Transforming America’s Regions Act of 2016.”

Section 2. Modification to the HUBZone program

This section amends the Small Business Act so that qualified areas may be included in the HUBZone program in response to a petition of the governor of a state. Criteria for the inclusion of such areas are established in this section. This section also extends the period for which an area which ceased to qualify for the HUBZone program may be redesignated to qualify. This extension shall increase the period from three years to seven years.

Section 3. Filing of petitions for reconsideration of size standards

This section deals with the processes by which small businesses concern size standards are petitioned for reconsideration.

Section 4. Past performance credit for subcontractors

This section requires that prime contractors submit a past performance rating for any subcontractor used in the process of completing a federal contract. Federal agencies shall use these past performance ratings when determining whether to award a prime contract to a subcontractor.

Section 5. Membership of the administrator of the Small Business Administration on the Federal Acquisition Regulatory Council

This sections adds the Administrator of the Small Business Administration of the Federal Acquisition Regulatory Council.

