

## SECOND-STAGE SMALL BUSINESS DEVELOPMENT ACT OF 2005

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JULY 28, 2005.—Committed to the Committee of the Whole House on the State of  
the Union and ordered to be printed

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

### R E P O R T

together with

### ADDITIONAL VIEWS

[To accompany H.R. 3207]

[Including cost estimate of the Congressional Budget Office]

The Committee on Small Business, to whom was referred the bill (H.R. 3207) to direct the Administrator of the Small Business Administration to establish a pilot program to make grants to eligible entities for the development of peer learning opportunities for second-stage small business concerns, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the “Second-Stage Small Business Development Act of 2005”.

#### SEC. 2. PURPOSE.

The purpose of this Act is to establish a four-year pilot program to—

- (1) identify second-stage small business concerns that have the capacity for significant business growth and job creation;
- (2) facilitate business growth and job creation by second-stage small business concerns through the development of peer learning opportunities;
- (3) utilize the network of small business development centers to expand access to peer learning opportunities for second-stage small business concerns; and
- (4) assist businesses owned by minority individuals, service-disabled veterans, and women.

**SEC. 3. PILOT PROGRAM.**

(a) **ESTABLISHMENT.**—The Administrator shall establish and carry out a pilot program (referred to in this Act as the “pilot program”) to make grants to eligible entities for the development of peer learning opportunities for second-stage small business concerns in accordance with this Act.

(b) **SELECTION OF GRANT RECIPIENTS.**—

(1) **IN GENERAL.**—From the eligible entities located in the States in each of the 10 regions under paragraph (3), the Administrator shall select 2 eligible entities to receive grants.

(2) **ELIGIBLE ENTITIES.**—In this Act, the term “eligible entity” means an entity that—

(A) is eligible to receive funding under section 21 of the Small Business Act (15 U.S.C. 648); and

(B) submits to the Secretary an application that includes—

(i) a plan to—

(I) offer peer learning opportunities to second-stage small business concerns; and

(II) transition to providing such opportunities using non-governmental funding; and

(ii) any other information and assurances that the Secretary may require.

(3) **CRITERIA FOR SELECTION.**—The Administrator shall evaluate the plans submitted by the eligible entities under paragraph (2) and select eligible entities to receive grants on the basis of the merit of such plans.

(4) **REGIONS DESCRIBED.**—The regions referred to in paragraph (1) are as follows:

(A) **REGION 1.**—Maine, Massachusetts, New Hampshire, Connecticut, Vermont, and Rhode Island.

(B) **REGION 2.**—New York, New Jersey, Puerto Rico, and the Virgin Islands.

(C) **REGION 3.**—Pennsylvania, Maryland, West Virginia, Virginia, the District of Columbia, and Delaware.

(D) **REGION 4.**—Georgia, Alabama, North Carolina, South Carolina, Mississippi, Florida, Kentucky, and Tennessee.

(E) **REGION 5.**—Illinois, Ohio, Michigan, Indiana, Wisconsin, and Minnesota.

(F) **REGION 6.**—Texas, New Mexico, Arkansas, Oklahoma, and Louisiana.

(G) **REGION 7.**—Missouri, Iowa, Nebraska, and Kansas.

(H) **REGION 8.**—Colorado, Wyoming, North Dakota, South Dakota, Montana, and Utah.

(I) **REGION 9.**—California, Guam, Hawaii, Nevada, Arizona, and American Samoa.

(J) **REGION 10.**—Washington, Alaska, Idaho, and Oregon.

(5) **CONSULTATION.**—If small business development centers have formed an association to pursue matters of common concern as authorized under section 21(a)(3)(A) of the Small Business Act (15 U.S.C. 648(a)(3)(A)), the Administrator shall consult with such association and give substantial weight to the recommendations of such association in selecting the grant recipients.

(6) **DEADLINE FOR INITIAL SELECTIONS.**—The Administrator shall make selections under paragraph (1) not later than 60 days after the promulgation of regulations under section 4.

(c) **USE OF FUNDS.**—An eligible entity that receives a grant under the pilot program shall use the grant to—

(1) identify second-stage small business concerns in the service delivery areas of the eligible entity; and

(2) establish and conduct peer learning opportunities for such second-stage small business concerns.

(d) **AMOUNT OF GRANT.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), a grant under the pilot program shall be in an amount that does not exceed the product obtained by multiplying—

(A) the amount made available for grants under the pilot program for the fiscal year for which the grant is made; and

(B) the ratio that the population of the State in which the eligible entity is located bears to the aggregate population the States in which eligible entities receiving grants for that fiscal year are located.

(2) **MINIMUM AMOUNT OF GRANT.**—A grant under the pilot program shall be in an amount not less than \$50,000.

(e) **MATCHING REQUIREMENT.**—As a condition of a grant under the pilot program, the Administrator shall require that a matching amount be provided from sources other than the Federal Government that—

(1) is equal to the amount of the grant, or in the case of an eligible entity that is a community college, historically Black college, Hispanic-serving institution, or other minority institution, is equal to 50 percent of the amount of the grant;

(2) is not less than 50 percent cash;

(3) is not more than 50 percent comprised of indirect costs and in-kind contributions; and

(4) does not include any indirect cost or in-kind contribution derived from any Federal program

(f) **QUARTERLY REPORT TO ADMINISTRATOR.**—

(1) **IN GENERAL.**—Each eligible entity that receives a grant under the pilot program shall submit to the Administrator a quarterly report that includes—

(A) a summary of the peer learning opportunities established by the eligible entity using grant funds;

(B) the number of second-stage small business concerns assisted using grant funds; and

(C) in the case of an eligible entity that receives a grant for a second fiscal year or any subsequent fiscal year—

(i) any measurable economic impact data resulting from the peer learning opportunities established using grant funds; and

(ii) the number of peer learning opportunities established by the eligible entity that have transitioned from operating using Government funds to operating without using Government funds.

(2) **FORM OF REPORT.**—The report required under paragraph (1) shall be transmitted in electronic form.

(g) **DATA REPOSITORY AND CLEARINGHOUSE.**—In carrying out the pilot program, the Administrator shall act as the repository of and clearinghouse for data and information submitted by the eligible entities.

(h) **ANNUAL REPORT ON PILOT PROGRAM.**—Not later than November 1 of each year, the Administrator shall submit to the President and to Congress, a report evaluating the success of the pilot program during the preceding fiscal year, which shall include the following:

(1) A description of the types of peer learning opportunities provided with grant funds.

(2) The number of second-stage small business concerns assisted with grant funds.

(3) For fiscal year 2007 and each subsequent fiscal year of the pilot program—

(A) data regarding the economic impact of the peer learning opportunities provided with grant funds; and

(B) the number of peer learning opportunities established by grant recipients that have transitioned from operating using Government funds to operating without using Government funds.

(i) **PRIVACY REQUIREMENT.**—

(1) **IN GENERAL.**—A small business development center, consortium of small business development centers, or contractor or agent of a small business development center shall not disclose the name, address, or telephone number of any individual or small business concern receiving assistance under this section without the consent of such individual or small business concern, unless—

(A) the Administrator is ordered to make such a disclosure by a court in any civil or criminal enforcement action initiated by a Federal or State agency; or

(B) the Administrator considers such a disclosure to be necessary for the purpose of conducting a financial audit of a small business development center, but a disclosure under this subparagraph shall be limited to the information necessary for such audit.

(2) **ADMINISTRATOR USE OF INFORMATION.**—The privacy requirement under this subsection shall not—

(A) restrict Administrator access to program activity data; or

(B) prevent the Administrator from using client information to conduct client surveys.

(j) **EVALUATION AND REPORT.**—Not later than 3 years after the establishment of the pilot program, the Comptroller General of the United States shall—

(1) conduct an evaluation of the pilot program; and

(2) transmit to Congress and the Administrator a report containing the results of such evaluation along with any recommendations as to whether the

pilot program, with or without modification, should be extended to include the participation of all small business development centers.

(k) **TERMINATION.**—The pilot program shall terminate on September 30, 2009.

#### **SEC. 4. REGULATIONS.**

After providing notice and an opportunity for comment and after consulting with the association described in section 3(b)(5) (if any such association has been formed), the Administrator shall promulgate final regulations to carry out this Act, including regulations that establish—

- (1) standards relating to the establishment and conduct of peer learning opportunities to be provided by grant recipients, including the number of individuals that may participate in a peer group that is part of a peer learning opportunity;
- (2) standards relating to the educational, technical, and professional competency of any facilitator who delivers peer learning opportunities under the pilot program; and
- (3) requirements for transitioning peer learning opportunities funded under the pilot program to non-governmental funding.

#### **SEC. 5. DEFINITIONS.**

In this Act:

- (1) The term “Administrator” means the Administrator of the Small Business Administration.
- (2) The term “peer learning opportunities” means formally organized peer groups of owners, presidents and chief executive officers in non-competing second-stage business concerns, meeting regularly with a professionally trained facilitator.
- (3) The term “second-stage small business concern” means a small business concern that—
  - (A) has experienced high growth demonstrated by—
    - (i) an average annual revenue or employee growth rate of at least 15 percent during the preceding 3 years; or
    - (ii) any 3 of the following:
      - (I) Owning proprietary intellectual property.
      - (II) Addressing an underserved or growing market.
      - (III) Having a sustainable competitive advantage.
      - (IV) Exporting goods or services outside of its community.
      - (V) Having a product or service that is scalable to a large market.
      - (VI) Ownership by minority individuals, service-disabled veterans, or women; and
  - (B) does not exceed the size standard for the North American Industrial Classification System code of such concern, as established pursuant to section 3(a) of the Small Business Act (15 U.S.C. 632(a)).
- (4) The term “small business concern” has the meaning given that term under section 3 of the Small Business Act (15 U.S.C. 632).
- (5) The term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.
- (6) The term “community college” has the meaning given that term in section 3301(3) of the Higher Education Act of 1965 (20 U.S.C. 7011(3)).
- (7) The term “historically Black college” means a part B institution, as defined in section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2)).
- (8) The term “Hispanic-serving institution” has the meaning given that term in section 502(a)(5) of the Higher Education Act of 1965 (20 U.S.C. 1101a(a)(5)).
- (9) The term “minority institution” has the meaning given that term in section 365(3) of the Higher Education Act of 1965 (20 U.S.C. 1067k(3)).

#### **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

- (a) **IN GENERAL.**—There is authorized to be appropriated to carry out this Act \$1,500,000 for each of fiscal years 2006 through 2009.
- (b) **LIMITATION ON USE OF OTHER FUNDS.**—The Administrator shall carry out this Act using only amounts appropriated in advance specifically for the purpose of carrying out this Act.

#### **PURPOSE**

The purpose of H.R. 3207, the Second-Stage Small Business Development Act of 2005, is to utilize the existing Small Business Administration infrastructure to improve second-stage small business

concern operations through counseling from other similar business concerns. Specifically, H.R. 3207 aims to utilize the existing network of small business development centers to organize peer learning opportunities for second-stage small business concerns. The Committee's expectation is that these programs will provide targeted assistance to those small business concerns that are growing rapidly but face operational obstacles that other similarly-situated business concerns faced and overcame. The Committee expects that other small business development centers will utilize the best practices and advice obtained from the pilot program.

#### NEED FOR LEGISLATION

Scholars classify various stages of small business development. For purposes of H.R. 3207, the four stages of small business are: new venture, expansion, professionalization, and consolidation. Y. Randle & E. Flamholtz, *Growing Pains* 32–43 (1990). The expansion phase is frequently referred to as “second-stage entrepreneurship.” See <http://www.lowe.org/index.ppeer?page=ENTstages>. Second-stage business concerns are growing rapidly and changing their focus from that of the founders to an identifiable culture apart from the founders. *Id.* These second-stage concerns may be ready for even more rapid expansion, including the hiring of additional personnel. Given their readiness to grow, other scholars refer to them as entrepreneurial growth companies<sup>1</sup> or gazelles.<sup>2</sup> Gazelles are critical to the American economy. According to Dr. David Birch, gazelles represent about three to four percent of all American businesses but are responsible for the vast majority of new employment in the United States. John Case, *The Age of the Gazelle*, Inc. Magazine (May 1996) (citing Dr. Birch data noting that gazelles created net employment of 4 million new jobs from 1990–94).<sup>3</sup> Furthermore, gazelles typically are not found in high-tech industries but rather are spread throughout the American economy, including a surprising number in manufacturing. National Commission on Entrepreneurship, *High-Growth Companies: Mapping America's Entrepreneurial Landscape* 1 (2001).

Despite the fact that such businesses have overcome significant problems associated with the start-up phase of business,<sup>4</sup> they still face operational obstacles to maximize their potential. Absent taking the right steps with respect to the role of the founders, upgrades to accounting systems, and sales efforts, the gazelles could stumble. Stephen Solomon & Julie Sloane, *Thinkers, The Top Ten Minds in Small Business*, Fortune Small Business (September 2001) (citing Verne Harnish, consultant and founder of Gazelles, Inc.). Other problems that gazelles may face are capital markets not designed to assist gazelles, the need for appropriate intellectual

<sup>1</sup>National Commission on Entrepreneurship, *Five Myths About Entrepreneurs* 3 (2001). The report is available at <http://www.publicforuminstitute.org/nde/reports/2001-five-myths.pdf>.

<sup>2</sup>David Birch, an economist, is credited with first using the term “gazelle” in reference to fast-growing small businesses. See <http://www.sba.gov/advo/25ann.html#report>.

<sup>3</sup>A 2001 report by the National Commission on Entrepreneurship, *High-Growth Companies: Mapping America's Entrepreneurial Landscape*, reconfirmed the findings of Dr. Birch for the period 1992–97.

<sup>4</sup>Brian Headd, *Redefining Business Success: Distinguishing Between Closure and Failure*, 21 *Small Business Economics* 51, 52 (2003) (noting that the majority of small businesses close within four years).

property protection, proper workforce education and investment in human capital, and development of market opportunities.

The Small Business Administration runs a number of programs in which small businesses can learn from other businesses. In the government procurement arena, a mentor-protégé program exists to help small businesses by linking them with large prime contractors. An extension of the program, BusinessLINC (a program whose authorization ceased on September 30, 2004), was designed to facilitate meetings among various mentor-protégé participants. While somewhat effective, the mentor-protégé programs have a narrow remit. The Committee believes that learning from peers who have had or are having the same or similar experiences, provides useful assistance to small business concerns.

The Committee believes that small business development centers can provide an effective mechanism for arranging and helping facilitate peer-to-peer learning among gazelles. The Committee believes that a pilot program to demonstrate the effectiveness of small business development center involvement is appropriate. The Committee fully expects that the best practices will be adopted by other small business development centers and the program may be made permanent.

#### COMMITTEE ACTION

The Committee on Small Business held a hearing on July 13, 2005 on H.R. 3207. Ms. Erica Kauten, the Director of the Wisconsin Small Business Development Center, cited a number of examples in which peer-to-peer learning had been beneficial to second-stage entrepreneurs and explained how the small business development centers can play a key role in such peer-to-peer learning.

#### CONSIDERATION OF H.R. 3207

At 9:36 a.m. on July 14, 2005, the Committee on Small Business met to consider and report H.R. 3207. Following a brief opening statement by the Chairman, he declared the bill open for amendment.

An amendment was offered by the Amendments were offered by Ranking Democratic Member, Ms. Velázquez (D-NY) and Ms. Bean (D-IL) offered an en bloc amendment which was approved by unanimous voice vote, a quorum being present. Chairman Manzullo then moved the bill be reported, and at 9:56 a.m. by unanimous voice vote, a quorum being present, the Committee passed H.R. 3207, as amended and ordered it reported.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short title*

The section establishes the short title as the “Second-Stage Small Business Development Act of 2005.”

##### *Section 2. Purpose*

This section states the Congressional rationale for enactment of the program.

### *Section 3. Pilot program*

Subsection (a) mandates that the Administrator establish the program of peer learning opportunities through SBDCs.

Subsection (b) requires that the Administrator to select eligible entities (SBDCs) that apply pursuant to the pilot program. Eligible entities are defined as those institutions or governmental organizations that currently receive funding pursuant to § 21 of the Small Business Act. The term “eligible entities” does not refer to the situs at which locations of services are delivered by entities that receive funds pursuant to § 21 of the Small Business Act. Subsection (b) limits the pilot program to twenty grantees, two selected from each of the ten federal regions as delineated in paragraph (4). The Committee recognizes that some states may have more than one SBDC eligible to receive funding pursuant to the funding formula in § 21 of the Small Business Act. For those states, the Committee intends that the Administrator select only one SBDC program from those states with more than one grantee under § 21. Eligible grantees may submit an application to the Administrator with a plan for offering peer learning opportunities and a plan to ensure that these peer learning opportunities will become self-sustaining by the end of the pilot program. The Administrator is required to select the applicants with the best plans for providing the opportunities and ensuring that the peer learning opportunities shall be self-sustaining. Nothing in the bill restricts the Administrator from weighting the factors in favor of the self-sustaining aspects or the quality of the peer learning opportunities. Paragraph (5) of subsection (b) requires the Administrator to consult with the Association recognized pursuant to § 21(a)(3)(A) of the Small Business Act and give the Association’s recommendations substantial weight. The Committee intends that the term “substantial weight” not give the Association controlling weight; rather the term “substantial” is used in its administrative law context of more than a scintilla but less than a preponderance. See *Grand Canyon Air Tour Coalition v. FAA*, 154 F.3d 455, 474–75 (D.C. Cir. 1998), cert. denied, 526 U.S. 1158 (1999). It is not the Committee’s intention that this consultation process not fall within the requirements of the Federal Advisory Committee Act. Paragraph (6) of subsection (b) requires completion of the selection process within 60 days after the regulations to implement the pilot program have been promulgated.

Subsection (c) requires that a grantee selected in the pilot program to use the funds solely for purposes of conducting peer learning opportunities. Funds may not be used by the selected grantees for any other purpose, including provision of any other service mandated by § 21 of the Small Business Act or the grantees contract or cooperative agreement with the Small Business Administration.

Subsection (d) establishes the procedures for distributing grants among the selected state programs. The formula is based on the principle that a state, which has a smaller population, also will have, in absolute terms, fewer small businesses than a larger state. The formula, therefore, allocates funds according to the relative size of each state. The Committee believes that the minimum funds needed to initiate a state program will be \$50,000 and grants the Administrator the authority to modify the grant size calculated by

the formula in this subsection to ensure that each SBDC selected under the pilot program will receive a minimum of \$50,000.

Subsection (e) requires the applicants to satisfy the matching funds requirements of subparagraphs (A) and (B) of § 21(a)(4) of the Small Business Act. The Committee decided that since these peer learning opportunities would be of sufficient value to the small business community, the selected programs should be able to obtain matching funds, including the payment of attendance fees by the participants. Furthermore, the matching requirement will expand the total resources devoted to the program. Subsection (e) provides an exception for lead centers located at community colleges, historically Black college, Hispanic-serving institutions, and minority institutions in meeting these matching requirements. Where the lead center in a state is housed in any of these centers, such center must only obtain only 50% of the matching fund requirements of subparagraphs (A) and (B) of § 21(a)(4) of the Small Business Act. The matching funds requirement shall be calculated based on the amount of the grant made under this pilot program.

Subsection (f) requires each SBDC selected to operate peer learning opportunities must provide a quarterly report to the Administrator with the information set forth in paragraphs (A)–(C). Nothing in this requirement alters any other reporting requirement mandated by the Administrator. The Administrator, for the sake of reductions in paperwork burdens, may combine the report required by this subsection with other quarterly reports. Since the reports mandated by this subsection must be filed electronically, we urge the Administrator to establish an overall electronic reporting system for SBDCs to the extent such a system has not been developed.

The Association recognized by § 21 of the Small Business Act provides a number of services to SBDCs. It frequently acts as a conduit to provide information to the Administrator and from the Administrator to the SBDCs. Given this role, the Committee determined that the Association should act as a clearinghouse and conduit of information to SBDCs under the terms set forth in subsection (g).

The Committee believes that peer learning will be sufficiently valuable addition to the services provided by SBDCs that they would be able to recoup, after an initial period, the entire cost of providing this service. Thus, the Committee mandates in subsection (h) that the reports required by H.R. 3207 provide the Administrator with progress on making the peer learning opportunities self-sustaining. Such reports shall be filed on annual basis. To ensure that the Administrator has sufficient information to conduct audits and reviews of the program, subsection (h) also requires the grantees to submit, on an annual basis, descriptions of the peer learning opportunities and the number of “second-stage” small business concerns assisted by the pilot program. Finally, the Committee included a requirement that the grantees assess the economic impact of the program but delayed that requirement until one year after the program was established.

Subsection (i) provides the same privacy protections to grantees in the pilot program that currently exist for SBDC clients pursuant to § 21 as added by Division K of H.R. 4818, the Consolidated Appropriations Act of 2005, Pub. L. No. 108–447. This subsection prohibits the disclosure of client information (including the name, ad-



dress, telephone and facsimile numbers, and e-mail address) of any concern or individual receiving assistance from a SBDC grantee or its subcontractors (who operate service centers that business owners can utilize to obtain advice) unless the Administrator is ordered to make such disclosure pursuant to a court order or civil or criminal enforcement action commenced by a federal or state agency. The Committee expects that SBDC grantees will only respond to formal agency requests, such as civil investigative demands, and subpoenas. The Committee also recognizes that the Administrator has significant management responsibilities to ensure that federal taxpayer dollars are wisely used by grantees and are in compliance with the law, regulations, and the cooperative agreements signed by SBDC grantees. Thus, the Committee authorizes the SBDC grantees to provide client names for the purposes of financial audits conducted by the Administrator or Inspector General and for client surveys to ensure that the SBDC grantees are satisfying certain aspects of their grant agreements. The Committee recognizes that client surveys may be misused and impose restrictions on their use. The Committee expects that the regulations promulgated pursuant to the amendments made to § 21 pursuant to Pub. L. No. 108-447 shall apply to this pilot program, including the regulations about the use of client surveys.

Subsection (j) requires the Comptroller General of the United States to provide a report evaluating the effectiveness of the program three years after establishment. The report also should contain any suggested modifications to the program. Finally, the Comptroller General should provide its opinion concerning whether the program should be continued and expanded to include more SBDCs on self-funding basis. The report shall be transmitted to the Committees on Small Business of the Senate and House of Representatives. The Committee expects that the program will be sufficiently successful to expand the program to other SBDCs without the need for additional federal funds.

Subsection (k) provides for termination of the pilot program on September 30, 2009. The Committee decided not to provide for any authorization contingency if the program does not receive appropriations for the entire authorized length of the pilot program.

#### *Section 4. Promulgation of regulations*

Section 4 authorizes the Administrator to promulgate regulations to implement this program no later than 180 days after the enactment of the Act. Such regulations only shall be promulgated after the public has been given an opportunity for notice and comment. The Committee believes that the Administrator can and should accomplish the issuance of regulations within the deadline set by statute. The Committee considers this Act to be some other law for purposes of section 603 of Title 5 of the United States Code.

The regulations shall include the standards relating to conduct of peer learning opportunities, the number of individuals that may participate in a group, determining whether a participant constitutes a competitor, various requirements for the facilitators of these peer learning opportunities, and requirements for transitioning these peer learning opportunities to full self-sustaining basis. The Committee expects that the regulations will lay

out milestones and other requirements to ensure that this program will become self-funding once the pilot program's authority lapses.

#### *Section 5. Definitions*

Paragraph (1) defines the term "Administrator" to be the Administrator of the Small Business Administration.

Paragraph (2) defines the term "peer learning opportunities" as formally organized groups, overseen by professional facilitators, of presidents, owners, and chief executive officers of second-stage small business concerns. These groups meet regularly to discuss strategies and tactics and share ideas about operating their businesses. Meetings among business executives may lead to the perception of collusion in violation of the antitrust laws. While the Committee does not believe that second-stage entrepreneurs have sufficient market power to collude, the Committee took the safer approach by prohibiting peer learning among competitors. Thus, peer learning opportunities will be limited to non-competitors. The Committee believes that valuable information, such as capital markets or handling certain workforce issues, will be shared among non-competitors. Furthermore, by eliminating competitors, members of the peer learning groups may be more willing to speak freely without concern about revealing important information to a competitor.

Paragraph (3) establishes the criteria for determining whether a business concern qualifies as a second-stage entrepreneur and, thus, eligible for inclusion in the peer learning opportunities. Any small business that has survived the start-up, or new venture, phase may be considered a second-stage business. However, the Committee's impetus for passing H.R. 3207 is to assist not all second-stage entrepreneurs but those that have shown the potential for accelerated growth, *i.e.*, a gazelle. Additionally, the Committee wished to ensure maximum participation of women, service-disabled, and minority entrepreneurs who were in the "gazelle" category; as such, the legislation provides such ownership as meeting one of the three necessary requirements for qualification under clause (ii). Therefore, the Committee determined that parameters were necessary for circumscribing those second-stage entrepreneurs that are or have the potential for being gazelles. This paragraph establishes those standards and small business concerns must be both a small business as defined by the Administrator's regulations set forth in 13 C.F.R. § 121.201 and meet the criteria set forth in clauses (i) or (ii).

Paragraph (4) defines a small business concern by cross-reference to § 3 of the Small Business Act. The Committee intends that the Administrator shall construe the terms in H.R. 3207 and the Small Business Act in *pari materia*.

Paragraph (5) defines the term "state" to include all the states, the District of Columbia and the territories of the United States Virgin Islands, Guam, the Commonwealth of Puerto Rico, and American Samoa. Puerto Rico, the Virgin Islands, and Guam all have SBDCs that receive funding pursuant to subsection (a)(4) of § 21. Guam provides the services mandated by § 21 to American Samoa.

Paragraphs (6)–(9) set forth the definitions of those institutions of higher learning that are eligible for the reduced matching requirement pursuant to § 3(e).

*Section 6. Authorization of appropriations*

Section (6) limits the operation of the program only to the funds appropriated in advance for the program. The Committee provides an authorization of \$1.5 million for each four fiscal years starting with the first fiscal year after enactment. Section (6) also prohibits the Administrator from using other funds, including other funds made available for the operation of SBDCs, to conduct this pilot program. The Committee authorized the additional appropriations because it determined that funding of the peer learning opportunities program should not detract from the available funding for the delivery of other services by SBDCs.

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, July 20, 2005.*

Hon. DONALD MANZULLO,  
*Chairman, Committee on Small Business,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3207, the Second-Stage Small Business Development Act of 2005.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Melissa E. Zimmerman.  
Sincerely,

DOUGLAS HOLTZ-EAKIN, *Director.*

Enclosure.

*H.R. 3207—Second-Stage Small Business Development Act of 2005*

Summary: H.R. 3207 would authorize the appropriation of \$6 million over the 2006–2009 period (\$1.5 million a year) for a pilot program to support certain small businesses. Under the bill, the Small Business Administration would make grants to eligible Small Business Development Centers to create learning opportunities for small businesses in the “second stage” of business development. Under the bill, such second-stage businesses would be those that meet specific size, revenue, growth, and market criteria. Assuming appropriation of the specified amounts, CBO estimates that implementing H.R. 3207 would not have a significant cost in 2006 and would cost about \$4 million over the 2006–2010 period, with about \$2 million in outlays after 2010. The bill would not affect direct spending or revenues.

H.R. 3207 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). The bill would benefit state, local, and tribal governments receiving grants under the bill, and any costs incurred by grant recipients would result from complying with grant conditions.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 3207 is shown in the following table. The costs of this legislation fall within budget function 370 (commerce and housing credit). CBO assumes that the bill will be enacted by the end of 2005, that the specified amounts will be appropriated for

each fiscal year, and that outlays will follow historical trends. CBO estimates that implementing the bill would increase spending subject to appropriation by less than \$500,000 in 2006 and by about \$4 million over the 2006–2010 period for grants for promoting job creation and growth for “second-stage” small businesses. The remaining amount—about \$2 million—would be spent after 2010.

	By fiscal year, in millions of dollars—				
	2006	2007	2008	2009	2010
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Authorization Level <sup>1</sup> .....	2	2	2	2	0
Estimated Outlays .....	*	1	1	1	1

<sup>1</sup> The bill specifies an authorization level of \$1.5 million a year. (The table shows a rounded amount of \$2 million a year.)

Note.—\* = Less than \$500,000.

**Intergovernmental and private-sector impact:** H.R. 3207 contains no intergovernmental or private-sector mandates as defined in UMRA. The bill would benefit State, local, and tribal governments receiving grants under the bill, and any costs incurred by grant recipients would result from complying with grant conditions.

Estimate prepared by: Federal costs: Melissa E. Zimmerman. Impact on State, local, and tribal governments: Sarah Puro. Impact on the private sector: Craig Cammarata.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

#### COMMITTEE ESTIMATE OF COSTS

Pursuant to the Congressional Budget Act of 1974, the Committee estimates that the amendments to the Small Business Act contained in H.R. 3207 will increase appropriations by no more than \$1.5 million annually over the next four fiscal years. Furthermore, pursuant to clause 3(d)(2)(A) of rule XIII of the Rules of the House of Representatives, the Committee estimates that implementation of H.R. 3207 will not significantly increase the administrative costs. This concurs with the estimate of the Congressional Budget Office.

#### OVERSIGHT FINDINGS

In accordance with clause 4(c)(2) of rule X of the Rules of the House of Representatives, the Committee states that no oversight findings or recommendations have been made by the Committee on Government Reform with respect to the subject matter contained in H.R. 3207.

In accordance with clause 2(b)(1) of rule X of the Rules of the House of Representatives, the oversight findings and recommendations of the Committee on Small Business with respect to the subject matter contained in H.R. 3207 are contained in the descriptive portions of this report.

#### STATEMENT OF CONSTITUTIONAL AUTHORITY

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in Article I, Section 8, Clause 18 of the Constitution of the United States.

## ADDITIONAL VIEWS

Democrats agree strongly with the intent of this legislation in assisting these so-called “gazelles,” as these small firms have been a major source of job creation in this economy. H.R. 3207 is designed to utilize the infrastructure of the small business development center network to provide assistance to this unique set of small businesses. The SBDC program has traditionally spent most of its resources on assisting start-up businesses, and this program would engage the vast majority of SBDCs into a new arena.

Targeting companies that are established and are prepared to expand is a sound investment that Democrats believe can improve job creation. Unfortunately, the need for this program and job creation has never been more important. In June 2005, the economy created only 78,000 jobs, well below expectations, and the number of workers who have given up trying to find work has continued to rise in the last five years.

The small business development center program has a proven track record of spurring job creation. At the hearing on this legislation on July 13, 2005, Dr. James Cristman noted that the SBDCs generate up to three dollars in federal revenue for every dollar spent. The expansion of these SBDC services to assist gazelles is a laudable goal and one that Democrats strongly support.

## FUNDING FOR THE PROGRAM

H.R. 3207 provides for funding of \$1.5 million per year for a four-year pilot program. Democrats recognize that this modest appropriation is in line with other proposed SBDC pilot programs and a period of four years is adequate time to determine whether the program is successful. However, while Democrats concur with this funding level and time period, they are concerned that the success of this pilot program could be hindered by the failure to adequately fund the overall existing SBDC network.

The SBDC program has been flatfunded at \$89 million in each of the last five years; this is despite increased demand for small business development centers’ services. As was noted at the congressional hearing on this legislation, many states have seen their SBDC funding reduced and it has resulted in staff reductions in various centers. Without a strong SBDC infrastructure, the grant amounts of \$50,000 or more for the peer-training program may prove to be inadequate to get this program off the ground. It is for this reason that Democrats support additional funding for the SBDC program on top of the \$1.5 million per year for the pilot in H.R. 3207.

The legislation correctly requires that this program, even if authorized, will not be enacted unless there are appropriations provided. In other words, it will not create an unfunded mandate on SBDCs if there are no additional resources. This is necessary be-

cause these small business development centers are already being spread thin in terms of resources.

#### EN BLOC AMENDMENT

At the markup on July 14, 2005, Ms. Velázquez of New York, Ranking Democratic Member, and Ms. Bean of Illinois offered an en bloc amendment that was adopted by the committee by unanimous consent. The en bloc amendment made a number of improvements to the legislation.

The en bloc amendment offered by these Democratic Members was designed to ensure that the pilot program would meet the needs of all second-stage entrepreneurs who are eligible to participate. Being that this was the first time this legislation has been introduced and provides for a significant departure from the current role of most small business development centers, Democrats wanted to provide a framework so that centers could successfully participate and implement the peer-learning program.

First, the amendment altered the funding requirements for two types of institutions: community colleges and minority colleges, which shall include Historically Black Colleges and Universities, Hispanic-Serving Institutions, and minority-serving institutions. These categories of institutions that house many small business development centers across the country face unique concerns and difficulties when it comes to obtaining matching funding. As Ms. Bean noted at the markup, many community colleges cater to those entrepreneurs that have the desire but many not have the resources or technical skills to take the next step. The amendment required that these institutions would only need to raise \$1 for every \$2 dollars of federal funding provided under the pilot, as opposed to \$1 to \$1. By reducing the matching requirements for these centers, it will increase the outreach of this program. Without such a change, many centers that are located in community colleges and minority institutions may not be able to raise adequate funds to participate in this program.

Second, the en bloc amendment also altered the size standard of eligible businesses for participation. By making this change, Democrats sought to ensure that the program will serve small businesses and simplify the process of making such a determination as to eligibility. Democrats were concerned that the broad standards in the original legislation would make it difficult to make a determination, as well as leave open the possibility that very large firms could participate. The amendment would eliminate confusion and avoid an unnecessary burden on small business development centers in identifying eligible second-stage entrepreneurs. The adopted provision provides that the size standards established by the Small Business Administration would be used in determining eligibility.

Finally, the en bloc amendment provided for changes in the eligibility requirements in meeting the criteria for “experiencing high growth demand.” Democrats recognized that the program should serve all second-stage entrepreneurs, but that there should be particular efforts to assist certain groups of entrepreneurs. Specifically, the amendment added that “ownership by minority individuals, service-disabled veterans, or women,” as one of the criteria used in determining eligibility.

Under this change, any minority, service-disabled veteran or women-owned business will need to meet two other criteria set out in Section 5(3)(a)(ii), as opposed to three other criteria for small businesses that do not fall in these categories. The purpose is to expand the reach of the program to these entrepreneurs. The rising number of women and minority entrepreneurs in the last few years has been staggering. According to the latest census data, the number of African American-owned firms grew by more than 26 percent and Hispanic firms grew by 30 percent; meanwhile, total U.S. business grew by only 6 percent. Additionally, the growing number of service-disabled veterans who are looking to expand can use this program as a tool for growth. With this change, these men and women who have served their country with honor and dignity will be better able to utilize the peer-networking services of this program.

#### NEED FOR PROGRAM

The Committee's expectation is that this program will provide targeted assistance to those small businesses that are growing rapidly but face operational obstacles. Democrats wish to ensure the program serves small businesses that are growing, but wants to ensure that it does not become a program that serve firms that are large corporations. There are other federal programs that can provide assistance to these firms and/or they can afford to set up mentoring systems on their own.

Democrats support both the legislation and the underlying SBDC program and the intent of improving job creation. The development of targeted programs has been a successful model developed by the Small Business Administration and its programs. Whether it's helping high-tech ventures through Small Business Innovation Research (SBIR), or women entrepreneurs through women's business centers or assisting Native American business owners through the former Tribal Business Information Centers, Democrats believe programs like these can fill a niche in spurring economic development. It is the desire of Democratic Members that this program do the same. As the hearing on the legislation pointed out, private market forces are inadequate to make this program self-sufficient, but with modest funding, the program can become operational and more than pay for itself.

NYDIA M. VELÁZQUEZ.

