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2d Session

SENATE

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114–393

SELECTUSA AUTHORIZATION ACT OF 2016

R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ON

S. 3097

DECEMBER 6, 2016.—Ordered to be printed

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED FOURTEENTH CONGRESS

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Mr. THUNE, from the Committee on Commerce, Science, and Transportation, submitted the following

R E P O R T

[To accompany S. 3097]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 3097) to establish the SelectUSA program, and for other purposes, having considered the same, reports favorably thereon with an amendment (in the nature of a substitute) and recommends that the bill (as amended) do pass.

PURPOSE OF THE BILL

The purpose of S. 3097 is to authorize an existing program within the International Trade Administration (ITA) at the Department of Commerce known as the SelectUSA program. And in response to an investigation by the Office of Inspector General of the Department of Commerce that revealed travel and other improprieties by the former Under Secretary for International Trade, Stefan Selig, the purpose also is to require newly appointed political appointees of the Department of Commerce to undergo training on official travel and office renovation policies. The SelectUSA program would continue to coordinate investment-related resources across more than 20 Federal agencies and operate as a partner to State and local economic development efforts to promote the United States as the best market for investment in the world. S. 3097 would codify the structure, missions, and functions of the SelectUSA program, among other things.

BACKGROUND AND NEEDS

On June 15, 2011, President Obama issued Executive Order 13577, which established SelectUSA, an initiative to attract more foreign direct investment (FDI) in the United States.[1] According to the Obama Administration, the Federal Government lacked the centralized investment promotion infrastructure and resources to attract business investment that is often found in other industrialized countries.

SelectUSA is housed within ITA at the Department of Commerce. The aim of SelectUSA is to make attracting FDI as important a component of U.S. foreign policy as promoting exports.[2] SelectUSA has designated global teams led by U.S. ambassadors in 32 key countries to encourage foreign investment into the United States and has established a "coordinated process" to connect prospective investors with senior U.S. officials.[3] SelectUSA offers a number of tools for foreign investors looking to invest in the United States, including a list of various State and Federal programs that may be available to foreign investors.[4]

Although the United States is the leading single destination of FDI, it faces competition from other industrialized economies, as well as developing economies. In 2014, the share of worldwide investment in the United States dropped to 21 percent, down from 39 percent in 2000.[5] Today, virtually every economy in the world has a national institution dedicated to investment promotion. S. 3097 would respond to the need for a sustained and concerted effort to bring the United States closer to the level of investment promotion agencies of other nations that are competing for job-creating business investment in the global economy.

SelectUSA's mission is to facilitate job-creating business investment into the United States and raise awareness of the critical role that FDI plays in the U.S. economy.[6] The initiative helps companies of all sizes: find the information they need to make decisions; connect to the right people at the local level; and navigate the Federal regulatory system.[7] According to its website, since its inception, SelectUSA has facilitated over $23 billion in investment for the United States and will provide services to nearly 1,000 investors and economic development organizations.[8]

SelectUSA's current executive director is Vinai Thummalapally, a former U.S. ambassador to Belize, who coordinates activities both within the Department of Commerce and with other Executive departments and agencies that have activities relating to business investment decisions.

The Executive Order establishing SelectUSA requires the Department of Commerce to provide funding and administrative support through resources and staff to the extent permitted by law and within existing appropriations. The Executive Order also established the Federal Interagency Investment Working Group (Working Group), which is convened and chaired by the executive director of SelectUSA, in coordination with the Director of the National

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[1] Exec. Order No. 13577, at https://www.whitehouse.gov/the-press-office/2011/06/15/executive-order-13577-selectusa-initiative.

[2] Congressional Research Service Report RS21857, *Foreign Direct Investment in the United States: An Economic Analysis*, by James K. Jackson.

[3] Ibid.

[4] Ibid.

[5] Organization for International Investment, *Foreign Direct Investment in the United States*, 2016, at http://ofii. org/sites/ default/ files/Foreign %20 Direct% 20Investment %20in% 20the% 20United% 20States% 202016%20Report.pdf.

[6] About SelectUSA, last visited Oct. 7, 2016, https://www. selectusa. gov/about-selectusa.

[7] Ibid.

[8] Ibid.

Economic Council. The Working Group consists of senior officials from the Treasury, Department of State, Department of Defense, Department of Justice, Department of the Interior, Department of Agriculture, Department of Commerce, Department of Labor, Department of Veterans Affairs, Department of Health and Human Services, Department of Housing and Urban Development, Department of Transportation, Department of Energy, Department of Education, Department of Homeland Security, Environmental Protection Agency, Small Business Administration, Export-Import Bank of the United States, Office of the U.S. Trade Representative, Domestic Policy Council, National Economic Council, National Security Staff, Office of Management and Budget, and Council of Economic Advisers. The Working Group coordinates activities to promote business investment and respond to specific issues that affect business decisions. The Department of Commerce provides funding and administrative support for the Working Group to the extent permitted by law and within existing appropriations.

SUMMARY OF PROVISIONS

S. 3097 would authorize an existing program within the ITA at the Department of Commerce known as the SelectUSA program. Launched by the Obama Administration on June 15, 2011,[9] the SelectUSA program currently coordinates investment-related resources across more than 20 Federal agencies and operates as a partner to State and local economic development efforts to promote the United States as the best market for investment in the world. S. 3097 would, among other things: establish the position of Executive Director for the SelectUSA program; set forth the mission and functions of SelectUSA; and establish a Federal Interagency Investment Working Group comprised of senior officials from relevant agencies that would coordinate activities to promote business investment.

In fiscal year (FY) 2016, SelectUSA received funding of $10 million within the amount appropriated for ITA. For FY 2017, ITA requested $20 million for SelectUSA, a $10 million increase.[10] S. 3097 would authorize $15 million for SelectUSA for each of FYs 2017 through 2021.

LEGISLATIVE HISTORY

S. 3907 was introduced on June 23, 2016, by Senator Schatz and was referred to the Committee on Commerce, Science, and Transportation of the Senate. The bill is cosponsored by Senators Nelson, Heller, and Coons. On September 21, 2016, the Committee met in open Executive Session and, by voice vote, ordered S. 3097 to be reported with an amendment (in the nature of a substitute).

Senators Rubio, Cruz, and Fischer requested to be recorded in opposition to S. 3097. The Committee approved an amendment by Senator Thune, which was cosponsored by Senators Heller, Johnson, and Ayotte, that sets forth training requirements for political appointees of the Department of Commerce, which were originally

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[9] Exec. Order No. 13577, 2011.

[10] Department of Commerce, *International Trade Administration Budget Estimates, Fiscal Year 2017, Congressional Submission*, 2016, at http://www. osec. doc.gov/bmi/ budget/FY17CBJ/ ITA% 20FY% 202017% 20CBJ%20 Final% 20not 508.pdf.

recommended by the Inspector General of the Department of Commerce after an investigation revealed travel and other improprieties by the former Under Secretary of Commerce for International Trade, Stefan Selig.[11]

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

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Summary: S. 3097 would establish the SelectUSA program within the Department of Commerce (DOC) to facilitate business investment in the United States. The bill would authorize the appropriation of $15 million a year over the 2017–2021 period for the operation of that program. S. 3097 would direct DOC to annually certify that its employees who are political appointees have received training on various government policies. The bill also would require DOC to issue reports on certain government office renovations and steps the department has taken to empower whistleblowing. Lastly, the bill would require the Government Accountability Office (GAO) to submit a report to the Congress with recommendations on the effectiveness of the SelectUSA program.

CBO estimates that implementing this bill would cost $67 million over the 2017–2021 period, assuming appropriation of the authorized amounts. Enacting S. 3097 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting S. 3097 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

S. 3097 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary effect of S. 3097 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—					
	2017	2018	2019	2020	2021	2017–2021
INCREASES IN SPENDING SUBJECT TO APPROPRIATION						
Estimated Authorization Level	15	15	15	15	15	75
Estimated Outlays	8	14	15	15	15	67

Basis of estimate: For this estimate, CBO assumes that the bill will be enacted by the end of calendar year 2016, that the authorized amounts will be appropriated each year, and that outlays will follow the historical rate of spending for this program.

S. 3097 would authorize the appropriation of $15 million annually over the 2017–2021 period for DOC to implement the

[11] Investigation into Travel & Other Improprieties in the Office of a Politically Appointed Official, Inv. No. 15-044, Dep't of Commerce, September 2016, (Final), at https://www. oig. doc.gov/ OIGPublications/ 15-0444.pdf.

SelectUSA program. The SelectUSA program was established in 2011 and is currently operated by the International Trade Administration within DOC. The program's budget was $10 million in 2016. Based on an analysis of information from DOC, CBO estimates that implementing S. 3097 would cost $67 million over the 2017–2021 period for the operations of the SelectUSA program, assuming appropriations of the specified amounts. The reporting and certification requirements would cost less than $500,000 each year. Based on the costs of similar reports conducted by GAO, CBO estimates that the increased costs to GAO to conduct a study and issue a report on the SelectUSA program would be insignificant.

Pay-As-You-Go considerations: None.

Increase in long-term direct spending and deficits: CBO estimates that enacting S. 3097 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2027.

Intergovernmental and private-sector impact: S. 3097 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Estimate prepared by: Federal costs: Stephen Rabent; Impact on state, local, and tribal governments: Rachel Austin; Impact on the private sector: Logan Smith.

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

REGULATORY IMPACT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported:

NUMBER OF PERSONS COVERED

A key measure of the number of persons covered by authorizing a program that encourages FDI is the number of people in the United States who are directly employed by U.S. affiliates of international companies.[12] As of 2014, the most recent data available, nearly 6.4 million people in the United States were directly employed by U.S. affiliates of international companies. These U.S. affiliates account for more than one-quarter of U.S. goods exported and spent $57 billion on U.S. research and development that year.[13]

ECONOMIC IMPACT

Section 2 of the bill would provide that the mission of SelectUSA is to facilitate business investment in the United States in order to create jobs, spur economic growth, and promote U.S. competitiveness. FDI helps drive economic growth, job creation, innovation, and exports. The activities of the SelectUSA program would con-

[12] Letter from Department of Commerce General Counsel, Kelly R. Welsh, to Chairman John Thune, U.S. Senate Commerce, Science & Transportation Committee, 2016, at https://ogc.commerce.gov/sites/ogc.commerce.gov/files/media/files/2016/selectusa__authorization__act__of__2016.pdf.

[13] Ibid.

tribute to the stock of FDI in the United States, which was $2.9 trillion on a historical-cost basis in 2014.[14]

PRIVACY

S. 3907 would not have any adverse impact on the personal privacy of individuals.

PAPERWORK

The bill would not increase paperwork requirements for private individuals or businesses. The bill would require several reports and notifications from the Federal Government. Section 4 of the bill would require annual reports and notifications to Congress on SelectUSA's activities during the preceding FY. Section 5 of the bill would require an assessment by the Government Accountability Office of the effectiveness of SelectUSA in increasing, encouraging, and supporting FDI in the United States.

Section 6 of the bill would require the Secretary of Commerce, at the beginning of each FY, to certify to Congress that each newly appointed political official of the Department of Commerce has received training on key regulations and policies governing official travel, among other things, as well as a report on renovations to the office suite of the Under Secretary for International Trade not later than 30 days after the date of enactment of the Act. S. 3097 also would require the Secretary of Commerce to submit a report to Congress on the steps the Secretary has taken to encourage whistleblowing by subordinates who observe instances of potential regulatory, policy, or rule violations.

CONGRESSIONALLY DIRECTED SPENDING

In compliance with paragraph 4(b) of rule XLIV of the Standing Rules of the Senate, the Committee provides that no provisions contained in the bill, as reported, meet the definition of congressionally directed spending items under the rule.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title.

This section would provide that the Act may be cited as the "SelectUSA Authorization Act of 2016".

Section 2. Establishment of SelectUSA.

This section would establish in the Department of Commerce the SelectUSA program as a "Government-wide program to attract and retain investment in the United States economy." It also would direct the Secretary of Commerce to designate a senior staff member to be the executive director of SelectUSA, who shall coordinate activities relating to business investment decisions within the Department of Commerce and with other Federal agencies with responsibility for such activities.

This section would set forth the mission of SelectUSA as facilitating business investment in the United States in order to create

[14] Department of Commerce, *Economics & Statistics Administration, Foreign Direct Investment in the United States: Update to 2013 Report*, June 20, 2016, at http://esa.gov/reports/foreign-direct-investment-united-states-update-2013-report.

jobs, spur economic growth, and promote U.S. competitiveness, among other things. It also would set forth the functions of SelectUSA, which would be to coordinate outreach and engagement by the Federal Government to promote the United States as the premiere location to operate a business, and to endeavor to coordinate and avoid duplication with other Federal agencies, among other things. This section also would require SelectUSA to report periodically to the President, through the National Economic Council, the Domestic Policy Council, and the National Security Staff, on outreach activities of SelectUSA.

This section also would emphasize increased opportunities for rural areas and smaller States, requiring SelectUSA to endeavor to increase FDI opportunities in such areas. Among other things, it would require SelectUSA to endeavor to hold conferences and events in rural areas and smaller States, when practicable.

Lastly, this section would require all Federal agencies with responsibility for activities relating to business investment decisions to cooperate with SelectUSA, as requested by the executive director, to support the objectives of SelectUSA.

Section 3. Federal Interagency Investment Working Group.

This section would establish the Federal Interagency Investment Working Group, referred to as the "Working Group," which would be convened and chaired by the executive director of SelectUSA, in coordination with the Director of the National Economic Council. The Working Group would consist of senior officials from agencies represented on the Trade Promotion Coordinating Committee, an interagency committee established under the Export Enhancement Act of 1992 (Public Law 102–429; 106 Stat. 2186) to provide a unifying framework to coordinate the export promotion and export financing activities of the U.S. Government.[15] The functions of the Working Group would be to coordinate activities to promote business investment and respond to specific issues that affect business investment decisions.

Section 4. Reports and notifications to Congress.

This section would require that, not later than December 31 of each year, the Secretary of Commerce submit to Congress a report on the activities of SelectUSA during the preceding FY. The report would be required to include a description of the outreach activities of SelectUSA, a statement of the funds used by SelectUSA, and an assessment of the number of foreign firms that located in the United States using the services provided by SelectUSA, among other things.

Section 5. Government Accountability Office assessment of effectiveness of SelectUSA.

This section would require the Comptroller General to submit to Congress, not later than 1 year after the date of enactment, a report assessing the effectiveness of SelectUSA in increasing, encouraging, and supporting FDI in the United States. The report would be required to include recommendations for ways SelectUSA may

[15] The Trade Promotion Coordinating Committee, *Helping U.S. Companies Export*, last visited Oct. 7, 2016, at http://2016.export.gov/advocacy/eg.

increase FDI in the United States and better serve rural areas and smaller States, among other things.

Section 6. Requirements for political appointees of Department of Commerce.

This section would require the Secretary of Commerce, at the beginning of each FY, to certify to Congress that each newly appointed political official of the Department of Commerce has received training on: regulations and policies governing the use of subordinates for non-official business; restrictions against the use of the political appointee's title or position for personal gain or creating the appearance of such use; key regulations and policies governing official travel; and the advisability of monitoring renovation work done to their office suites to ensure the cost of such work does not contravene congressional budget restrictions.

This section also would require the Secretary of Commerce to submit to Congress, not later than 30 days after the date of enactment, a written report regarding the renovations to the office suite of the Under Secretary for International Trade regarding whether expenditures associated with those renovations exceeded the $5,000 limit imposed by Congress and whether the expenditures contravened the Anti-Deficiency Act.

This section also would require the Secretary of Commerce to certify to Congress, not later than 30 days after the date of enactment, that the Secretary has implemented procedures requiring thorough documentation to support the categorization of any work performed on an office suite of a politically appointed official as general or routine maintenance, or renovation work that is subject to congressional budget restrictions.

This section also would require the Secretary of Commerce to submit to Congress, not later than 30 days after the date of enactment, a report on the steps the Secretary has taken to make subordinates working for politically appointed officials feel empowered to report instances of potential regulatory, policy, or rule violations to their superiors or to the Inspector General of the Department of Commerce.

Section 7. Authorization of appropriations for SelectUSA.

This section would authorize to be appropriated $15 million for each of FYs 2017 through 2021 to carry out the SelectUSA program.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee states that the bill as reported would make no change to existing law.

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