

S. 3371

At the request of Mrs. McCASKILL, the names of the Senator from Alaska (Mr. BEGICH) and the Senator from Pennsylvania (Mr. CASEY) were added as cosponsors of S. 3371, a bill to amend title 10, United States Code, to improve access to mental health care counselors under the TRICARE program, and for other purposes.

S. 3393

At the request of Mr. BROWN of Ohio, the name of the Senator from Oregon (Mr. MERKLEY) was added as a cosponsor of S. 3393, a bill to provide for extension of COBRA continuation coverage until coverage is available otherwise under either an employment-based health plan or through an American Health Benefit Exchange under the Patient Protection and Affordable Care Act.

S. 3401

At the request of Mr. BURR, the name of the Senator from Florida (Mr. LEMIEUX) was added as a cosponsor of S. 3401, a bill to provide for the use of unobligated discretionary stimulus dollars to address AIDS Drug Assistance Program waiting lists and other cost containment measures impacting State ADAP programs.

S. 3434

At the request of Mr. BINGAMAN, the names of the Senator from Vermont (Mr. LEAHY) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 3434, a bill to provide for the establishment of a Home Star Retrofit Rebate Program, and for other purposes.

S.J. RES. 29

At the request of Mr. McCONNELL, the names of the Senator from Kansas (Mr. BROWNBACK) and the Senator from Massachusetts (Mr. BROWN) were added as cosponsors of S.J. Res. 29, a joint resolution approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003.

S. CON. RES. 63

At the request of Mr. JOHNSON, the name of the Senator from Illinois (Mr. BURRIS) was added as a cosponsor of S. Con. Res. 63, a concurrent resolution expressing the sense of Congress that Taiwan should be accorded observer status in the International Civil Aviation Organization (ICAO).

#### STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. LANDRIEU (for herself and Mr. CARDIN):

S. 3458. A bill to improve the program under section 8(a) of the Small Business Act and to establish a surety bond pilot program; to the Committee on Small Business and Entrepreneurship.

Ms. LANDRIEU. Mr. President, along with my distinguished colleague Senator Benjamin Cardin of Maryland, I rise today to introduce the Section 8(a) Improvements Act of 2010. As the Chair of the Committee on Small Business

and Entrepreneurship, I have held a number of hearings and roundtables on the issues affecting small businesses that contract with the Federal Government. The Committee has repeatedly heard from small businesses throughout the country that more needs to be done to level the playing field and help our small businesses win Federal contracts. The legislation that I am introducing today seeks to improve access to Federal contracts for small businesses, particularly for socially and economically disadvantaged small businesses. It also represents the third in a series of steps that the Committee is taking to address the disparities and inequalities that currently exist in the Federal procurement process.

As I have explained in previous statements before this chamber, as the largest purchaser in the world, the Federal Government is uniquely positioned to offer new and reliable business opportunities for our small firms. Government contracts are one of the easiest and most inexpensive ways the government can help to immediately increase sales for America's entrepreneurs, leading to the creation of new jobs and helping to move our economy forward. When large businesses get government contracts, they are able to absorb that new work into their existing workforce. When small businesses get government work they must "staff up" to meet the increased demand. By increasing contracts to small businesses by just 1 percent, we can create more than 100,000 new jobs. Today, we need those jobs more than ever.

But the reality is that small businesses need all the help they can get when it comes to accessing Federal contracts. Small businesses face significant challenges in competing for these opportunities, including a maze of complicated regulations, contract bundling issues, size standards with loopholes for big businesses, and a lack of protections for sub-contractors. Despite the fact that Federal agencies have a statutory goal to spend 23 percent of their contract dollars on contracts to small firms, in recent years the government has often fallen short.

For example, according to the Federal Procurement Data System, in fiscal year 2007 the Federal Government missed its 23 percent contracting goal by .992 percent. That .992 percent doesn't sound like much, but in reality it represents more than \$3.74 billion and 93,500 jobs lost for small businesses. In fiscal year 2008, the Federal Procurement Data System reported that the government missed its goal by 1.51 percent, meaning more than \$6.51 billion and 162,700 jobs lost for our small businesses. At a time when more than 15 million Americans are still out of work, merely meeting that 23 percent goal could mean food on the table for a family struggling to make ends meet.

Clearly we need to do better when it comes to helping our small businesses access Federal contracting opportuni-

ties. Even under the best of circumstances our small businesses face significant challenges when seeking Federal contracting opportunities. But these challenges are further compounded for small businesses that face additional obstacles, particularly those that are socially and economically disadvantaged.

The Section 8(a) Improvements Act of 2010 attempts to help socially and economically disadvantaged firms in three ways. First, it makes long overdue and much needed adjustments to the average annual income and net worth thresholds currently in place. Since the establishment of the 8(a) program over 30 years ago, these thresholds have not been significantly updated to account for inflation, placing unrealistic limits on the number of small businesses that are eligible to participate in the program.

Additionally, this legislation requires the SBA to establish maximum net worth thresholds for socially and economically disadvantaged small businesses working in the manufacturing, construction, professional services, and general services industries. Small businesses working in these industries simply face different business conditions as well as higher business costs, which prevent them from participating in the 8(a) program. Making this simple fix will open the program up to a wide array of qualified small businesses.

Secondly, this legislation builds upon the previously mentioned adjustments to the net worth and income thresholds, by extending the amount of time under which a business can participate in the program. For all of the success that many small businesses experience while participating in the program, upon graduation as many as 70 percent see their businesses fail within several years. By establishing a transition period, businesses that have graduated from the program can continue receiving developmental assistance for up to 3 years after graduation, providing them with much needed stability as they seek to transition their business operations.

The third way this legislation attempts to improve contracting opportunities for small businesses is through the creation of a Surety Bond Pilot Program. Under the program, the SBA can guarantee 90 percent of surety bonds, protecting small businesses against any loss resulting from a breach of the terms on a bond. To supplement the guarantee and help put these small businesses in a stronger position to succeed upon graduation from the 8(a) program, the legislation also requires the SBA to provide educational training and technical assistance on a wide range of topics. Finally, the legislation establishes a revolving fund to support the program, and also creates an advisory board to oversee and evaluate the effectiveness and performance of the program.

It is well past time to provide greater opportunities for the thousands of

small business owners who wish to do business with the Federal Government. The Section 8(a) Improvements Act of 2010 represents another significant step towards opening those doors of opportunity, especially for those small businesses that need a little more help. I thank Senator CARDIN for his leadership on this issue, and I hope that all of my colleagues will join us in supporting this important legislation as we work to bring it to the President's desk in the coming months.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 3458

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Section 8(a) Improvements Act of 2010".

#### SEC. 2. FINDINGS.

Congress finds the following:

(1) Despite the significant progress businesses owned by socially and economically disadvantaged individuals have made as a result of the business development program under section 8(a) of the Small Business Act (15 U.S.C. 637(a)), such businesses remain subject to discrimination that creates substantial barriers to success in the marketplace. The business development program under section 8(a) of the Small Business Act reflects the commitment of the Nation to eradicating discriminatory barriers to the formation and development of viable businesses by socially and economically disadvantaged individuals.

(2) Recent evidence presented in Congressional hearings, roundtables, and academic studies demonstrates, among other things, the following:

(A) Significant disparities still exist between the number, size, and income of businesses owned by socially and economically disadvantaged individuals and other businesses. These disparities remain even after controlling for factors such as industry, geography, education, age, and labor market status.

(B) Discrimination still limits the ability of socially and economically disadvantaged individuals to access capital. Socially and economically disadvantaged individuals are more often denied loans than individuals who are not minorities, and often pay higher rates of interest on small business loans.

(C) Socially and economically disadvantaged individuals who own businesses often experience—

(i) discrimination from prime contractors and exclusion from critical business networks; and

(ii) discrimination by bonding companies and suppliers that impedes the ability of the businesses to compete equally for Government contracts.

#### SEC. 3. DEFINITIONS.

In this Act, the terms "Administration" and "Administrator" means the Small Business Administration and the Administrator thereof, respectively.

#### SEC. 4. PROGRAMS FOR SOCIALLY AND ECONOMICALLY DISADVANTAGED SMALL BUSINESS CONCERNS.

(a) NET WORTH THRESHOLD.—

(1) IN GENERAL.—Section 8(a)(6)(A) of the Small Business Act (15 U.S.C. 637(a)(6)(A)) is amended—

(A) by inserting "(i)" after "(6)(A)";

(B) by striking "In determining the degree of diminished credit" and inserting the following:

"(ii)(I) In determining the degree of diminished credit";

(C) by striking "In determining the economic disadvantage" and inserting the following:

"(iii) In determining the economic disadvantage"; and

(D) by inserting after clause (ii)(I), as so designated by this section, the following:

"(II)(aa) Not later than 1 year after the date of enactment of the Section 8(a) Improvements Act of 2010, the Administrator shall—

"(AA) assign each North American Industry Classification System industry code to a category described in item (cc); and

"(BB) for each category described in item (cc), establish a maximum net worth for the socially disadvantaged individuals who own or control small business concerns in the category that participate in the program under this subsection.

"(bb) The maximum net worth for a category described in item (cc) shall be not less than the modified net worth limitations established by the Administrator under section 4(a)(2) of the Section 8(a) Improvements Act of 2010.

"(cc) The categories described in this item are—

"(AA) manufacturing;

"(BB) construction;

"(CC) professional services; and

"(DD) general services.

"(III) The Administrator shall establish procedures that—

"(aa) account for inflationary adjustments to, and include a reasonable assumption of, the average income and net worth of the owners of business concerns that are dominant in the field of operation of the business concern; and

"(bb) require an annual inflationary adjustment to the average income and maximum net worth requirements under this clause.

"(IV) In determining the assets and net worth of a socially disadvantaged individual under this subparagraph, the Administrator shall not consider any assets of the individual that are held in a qualified retirement plan, as that term is defined in section 4974(c) of the Internal Revenue Code of 1986."

(2) TEMPORARY INFLATIONARY ADJUSTMENT.—

(A) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, the Administrator shall modify the net worth limitations established by the Administrator for purposes of the program under section 8(a) of the Small Business Act (15 U.S.C. 637(a)) by adjusting the amount of the net worth limitations for inflation during the period beginning on the date on which the Administrator established the net worth limitations and the date of enactment of this Act.

(B) TERMINATION.—The Administrator shall apply the net worth limitations established under subparagraph (A) until the effective date of the net worth limitations established by the Administrator under clause (ii)(II) of section 8(a)(6)(A) of the Small Business Act (15 U.S.C. 637(a)(6)(A)), as added by this subsection.

(b) TRANSITION PERIOD.—Section 7(j)(15) of the Small Business Act (15 U.S.C. 636(j)(15)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(2) by striking "Subject to" and inserting "(A) Except as provided in subparagraph (B), and subject to"; and

(3) by adding at the end the following:

"(B)(i) A small business concern may receive developmental assistance under the Program and contracts under section 8(a) during the 3-year period beginning on the date on which the small business concern graduates—

"(I) because the small business concern has participated in the Program for the total period authorized under subparagraph (A); or

"(II) under section 8(a)(6)(C)(ii), because the socially disadvantaged individuals who own or control the small business concern have a net worth that is more than the maximum net worth established by the Administrator.

"(ii) After the end of the 3-year period described in clause (i), a small business concern described in clause (i)—

"(I) may not receive developmental assistance under the Program or contracts under section 8(a); and

"(II) may continue to perform and receive payment under a contract received by the small business concern under section 8(a) before the end of the period, under the terms of the contract."

(c) GAO STUDY.—Section 8(a) of the Small Business Act (15 U.S.C. 637(a)) is amended by adding at the end the following:

"(22) REVIEW OF EFFECTIVENESS.—

"(A) GAO STUDY.—Not later than 5 years after the date of enactment of this paragraph, and every 5 years thereafter, the Comptroller General of the United States shall—

"(i) conduct an evaluation of the effectiveness of the program under this subsection, including an examination of—

"(I) the number and size of contracts applied for, as compared to the number received by, small business concerns after successfully completing the program;

"(II) the percentage of small business concerns that continue to operate during the 3-year period beginning on the date on which the small business concerns successfully complete the program;

"(III) whether the business of small business concerns increases during the 3-year period beginning on the date on which the small business concerns successfully complete the program; and

"(IV) the number of training sessions offered under the program; and

"(ii) submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report regarding each evaluation under clause (i).

"(B) SBA REPORT.—Not later than 1 year after the date of enactment of this paragraph, and every year thereafter, the Administrator shall submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report evaluating the program under this section, including an assessment of—

"(i) the regulations promulgated to carry out the program;

"(ii) online training under the program; and

"(iii) whether the structure of the program is conducive to business development."

#### SEC. 5. SURETY BOND PILOT PROGRAM.

(a) DEFINITIONS.—In this section—

(1) the terms "bid bond", "payment bond", "performance bond", and "surety" have the meanings given those terms in section 410 of the Small Business Investment Act of 1958 (15 U.S.C. 694a);

(2) the term "Board" means the pilot program advisory board established under subsection (d)(1);

(3) the term "eligible small business concern" means a socially and economically disadvantaged small business concern that is

participating in the program under section 8(a) of the Small Business Act (15 U.S.C. 637(a));

(4) the term "Fund" means the Small Business Surety Bond Pilot Program Fund established under subsection (e)(1);

(5) the term "graduated" has the meaning given that term in section 7(j)(10)(H) of the Small Business Act (15 U.S.C. 636(j)(10)(H));

(6) the term "pilot program" means the surety bond pilot program established under subsection (b)(1); and

(7) the term "socially and economically disadvantaged small business concern" has the meaning given that term in section 8(a) of the Small Business Act (15 U.S.C. 637(a)).

(b) PROGRAM.—

(1) IN GENERAL.—The Administrator shall establish a surety bond pilot program under which the Administrator may guarantee any surety against loss resulting from a breach of the terms of a bid bond, payment bond, performance bond, or bonds ancillary thereto, by an eligible small business concern.

(2) GUARANTEE PERCENTAGE.—A guarantee under the pilot program shall obligate the Administration to pay to a surety 90 percent of the loss incurred and paid by the surety.

(3) APPLICATION.—An eligible small business concern desiring a guarantee under the pilot program shall submit an application at such time, in such manner, and accompanied by such information as the Administrator may require.

(4) REVIEW.—A surety desiring a guarantee under the pilot program against loss resulting from a breach of the terms of a bid bond, payment bond, performance bond, or bonds ancillary thereto by an eligible small business concern shall—

(A) submit to the Administrator a report evaluating whether the eligible small business concern meets such criteria as the Administrator may establish relating to whether a bond should be issued to the eligible small business concern; and

(B) if the Administrator does not guarantee the surety against loss, submit an update of the report described in subparagraph (A) every 6 months.

(c) TECHNICAL ASSISTANCE AND EDUCATIONAL TRAINING.—

(1) IN GENERAL.—The Administrator shall provide technical assistance and educational training to an eligible small business concern participating in the pilot program or desiring to participate in the pilot program for a period of not less than 3 years, to promote the growth of the eligible small business concern and assist the eligible small business concern in promoting job development.

(2) TOPICS.—

(A) TECHNICAL ASSISTANCE.—The technical assistance under paragraph (1) shall include assistance relating to—

- (i) scheduling of employees;
- (ii) cash flow analysis;
- (iii) change orders;
- (iv) requisition preparation;
- (v) submitting proposals;
- (vi) dispute resolution; and
- (vii) contract management.

(B) EDUCATIONAL TRAINING.—The educational training under paragraph (1) shall include training regarding—

- (i) accounting;
- (ii) legal issues;
- (iii) infrastructure;
- (iv) human resources;
- (v) estimating costs;
- (vi) scheduling; and

(vii) any other area the Administrator determines is a key area for which training is needed for eligible small business concerns.

(d) PANEL.—

(1) ESTABLISHMENT.—The Administrator shall establish a pilot program advisory

board to evaluate and make recommendations regarding the pilot program.

(2) MEMBERSHIP.—The Board shall be composed of 5 members—

(A) who shall be appointed by the Administrator;

(B) not less than 2 of whom shall have graduated from the program under section 8(a) of the Small Business Act (15 U.S.C. 637(a)); and

(C) not more than 1 of whom may be an officer or employee of the Administration.

(3) DUTIES.—The Board shall—

(A) evaluate and make recommendations to the Administrator regarding the effectiveness of the pilot program;

(B) make recommendations to the Administrator regarding performance measures to evaluate eligible small business concerns applying for a guarantee under the pilot program; and

(C) not later than 90 days after the date on which all members of the Board are appointed, and every year thereafter until the authority to carry out the pilot program terminates under subsection (f), submit to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives a report regarding the activities of the Board.

(e) FUND.—

(1) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a revolving fund to be known as the "Small Business Surety Bond Pilot Program Fund", to be administered by the Administrator.

(2) AVAILABILITY.—Amounts in the Fund shall be available without fiscal year limitation or further appropriation by Congress.

(3) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Fund \$20,000,000.

(4) RESCISSION.—Effective on the day after the date on which the term of all guarantees made under the pilot program have ended, all amounts in the Fund are rescinded.

(f) TERMINATION.—The Administrator may not guarantee a surety against loss under the pilot program on or after the date that is 7 years after the date the date on which the Administrator makes the first guarantee under the pilot program.

## AMENDMENTS SUBMITTED AND PROPOSED

SA 4300. Mr. LEMIEUX submitted an amendment intended to be proposed by him to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table.

## TEXT OF AMENDMENTS

SA 4300. Mr. LEMIEUX submitted an amendment intended to be proposed by him to the bill H.R. 4213, to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

### TITLE —RETURNING SPENDING LEVELS TO 2007 LEVELS

#### SEC. 01. EXPEDITED CONSIDERATION.

(a) 2007 SPENDING BILL.—For purposes of this title, the term "2007 spending bill" means a bill that reduces outlays for the fiscal year beginning in the year in which the bill is considered to levels not exceeding the levels for fiscal year 2007. The bill may not increase revenues.

(b) EXPEDITED CONSIDERATION OF 2007 SPENDING BILL.—

(1) INTRODUCTION OF 2007 SPENDING BILL.—A 2007 spending bill may be introduced in the House of Representatives and in the Senate not later than July 12, 2010, or any time after the first day of a session for any year thereafter by the majority leader of each House of Congress. If 5 session days after July 12 in 2010 or after the first day of session any year thereafter the majority leader has not introduced a bill, the minority leader of each House of Congress may introduce a 2007 spending bill (during this time the majority leader may not introduce a 2007 spending bill). If a 2007 spending bill is not introduced in accordance with the preceding sentence in either House of Congress within 5 session days, then any Member of that House may introduce a 2007 spending bill on any day thereafter. Upon introduction, the 2007 spending bill shall be referred to the relevant committees of jurisdiction.

(2) COMMITTEE CONSIDERATION.—The committees to which the 2007 spending bill is referred shall report the 2007 spending bill without any revision and with a favorable recommendation, an unfavorable recommendation, or without recommendation, not later than 30 calendar days after the date of introduction of the bill in that House, or the first day thereafter on which that House is in session. If any committee fails to report the bill within that period, that committee shall be automatically discharged from consideration of the bill, and the bill shall be placed on the appropriate calendar.

(3) FAST TRACK CONSIDERATION IN HOUSE OF REPRESENTATIVES.—

(A) PROCEEDING TO CONSIDERATION.—It shall be in order, not later than 7 days of session after the date on which an 2007 spending bill is reported or discharged from all committees to which it was referred, for the majority leader of the House of Representatives or the majority leader's designee, to move to proceed to the consideration of the 2007 spending bill. It shall also be in order for any Member of the House of Representatives to move to proceed to the consideration of the 2007 spending bill at any time after the conclusion of such 7-day period. All points of order against the motion are waived. Such a motion shall not be in order after the House has disposed of a motion to proceed on the 2007 spending bill. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. The motion shall not be debatable. A motion to reconsider the vote by which the motion is disposed of shall not be in order.

(B) CONSIDERATION.—The 2007 spending bill shall be considered as read. The previous question shall be considered as ordered on the 2007 spending bill to its passage without intervening motion except 50 hours of debate, equally divided and controlled by the proponent and an opponent. A motion to limit debate shall be in order during such debate. A motion to reconsider the vote on passage of the 2007 spending bill shall not be in order.

(C) APPEALS.—Appeals from decisions of the chair relating to the application of the Rules of the House of Representatives to the procedure relating to the 2007 spending bill shall be decided without debate.

(D) APPLICATION OF HOUSE RULES.—Except to the extent specifically provided in this paragraph, consideration of an 2007 spending bill shall be governed by the Rules of the House of Representatives. It shall not be in order in the House of Representatives to consider any 2007 spending bill introduced pursuant to the provisions of this subsection under a suspension of the rules pursuant to clause 1 of House Rule XV, or under a special