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REMOVING THE ROADBLOCKS TO SUCCESS: HOW CAN THE FEDERAL GOVERNMENT HELP SMALL BUSINESS REVITALIZE THE ECONOMY?

FIELD HEARING

BEFORE THE

SUBCOMMITTEE ON TAX, FINANCE AND EXPORTS

OF THE

COMMITTEE ON SMALL BUSINESS
HOUSE OF REPRESENTATIVES

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REMOVING THE ROADBLOCKS TO SUCCESS: HOW CAN THE FEDERAL GOVERNMENT HELP SMALL BUSINESS REVITALIZE THE ECONOMY?

WEDNESDAY, AUGUST 27, 2003

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON TAX, FINANCES, EXPORT,
COMMITTEE ON SMALL BUSINESS,
Denver, CO

The Subcommittee met, pursuant to call, at 10:00 a.m., at the Old Supreme Court Room, Colorado State Capitol Building, Denver, Colorado, Hon. Pat Toomey [Chairman of the Subcommittee] presiding.

Chairman TOOMEY. Good morning, everyone. The Small Business Subcommittee on Tax, Finance, and Exports hearing will begin. I would like to say, first of all, thank you all for being here.

I would like to thank the Governor for his kind accommodation in providing us with this beautiful facility, this beautiful room which, just for your information, is considerably more eloquent and well-appointed than the one we normally conduct our hearings in in Washington, so it is a pleasure to be here.

I would like to just request that people take any cell phones and put them into an inaudible mode if they would be kind enough to do so, and just welcome everyone.

I am delighted to be here today to examine the potential roadblocks to the success of American's small businesses. And specifically this morning we are going to look at problems either generated or neglected by the federal government that limit the growth and prosperity of the small business community along with potential solutions to those problems.

I am sure most of you are aware small businesses are the driving force behind our economy. They actually represent about 99 percent of all employers in America. More than half of all U.S. employees work for small firms. It is small businesses that are generating anywhere from 60 to 80 percent of the net new jobs being created in America.

Given the importance of the small business to our economy and to our country, we as elected officials have a real obligation and responsibility to try to make sure we are advancing legislation that create an environment in which they can thrive. That is what we are trying to do and part of what our aim is today.

Before I go on, I want to thank my good friend Congressman Bob Beauprez for inviting me to be here today. First of all, I should say

we, or I personally, and many of my colleagues, I know, are very grateful to the good people of Colorado for sending Bob to Congress. He has become an invaluable asset not only to this committee but to the Congress as a general matter.

I think most of it comes from the fact of his really very extensive real-world experience out there creating jobs, dealing with the pressure of making a payroll, being a small business owner himself, complying with government regulations.

Bob has a personal and unique understanding of the pressures that are felt by the people who are risking their life savings to try to create prosperity for their neighbors and their colleagues and their co-workers. Because so few of our colleagues in Washington have that kind of experience, it is particularly helpful.

I can tell you not only on this committee but throughout the House of Representatives Bob's advice and counsel is already widely sought, despite the fact that he is only in his first term. I am delighted that he is on this committee and I am grateful to be serving with him in Congress.

Mr. BEAUPREZ. Thank you.

Chairman TOOMEY. Perhaps because too few of our colleagues have ever actually been on the front lines of owning and operating a small business. There has been a tendency for Congress, in case you haven't noticed, to pass a lot of laws and impose mandates and regulations and put burdens on the people who have to carry that out.

Fortunately, in recent years, I think, there has been a growing awareness of this problem and Congress has enacted a number of legislation that is designed to help diminish that burden, the Paperwork Reduction Act, the Small Business Paperwork Relief Act and, most recently, the Jobs and Growth Tax Relief Reconciliation Act of 2003 all come to mind.

Despite these bills and despite some progress that has been made, many small businesses still site complying with government mandates and regulation as ranking among the very top of their burdens in operating their business. As an example, according to a report recently published by the Small Business Association, Office of Advocacy, Americans spend $843 billion combined to comply with federal regulations. It is really a staggering sum of money.

Of course, it is not just the regulatory burdens that are challenging small businesses. The healthcare marketplace is especially difficult for small firms. The cost of health insurance has become prohibitive for many of America's small businesses and their employees. Of the 41 million uninsured Americans 60 percent work for small employers.

They are working and are productive citizens but their employers can't afford to purchase the health insurance either for themselves or their employees so I think Congress has an obligation to try to find ways to make health insurance more affordable. There is a number of ways we can do this.

This Subcommittee and other committees have explored several including mechanisms such as association health plans, expanding the use of medical savings accounts and flexible spending accounts, and increasing tax credits specifically for the purchase of health in-

surance. All of these mechanisms can help small businesses to obtain health insurance.

The tax codes is another government invention that is particularly onerous to small business. Despite the very important and, I believe, construction tax relief that Congress and the President have provided to small businesses this year and 2001, taxes are still too high and the code that we have to comply with is ridiculously complicated.

A 2001 study conducted for the SBA's Office of Advocacy found that tax compliance cost $1,200 per employee for the very small firms versus about $600 for the large firms. Our tax code itself put small businesses at a competitive disadvantage to larger businesses and that is one of many good reasons that we should be simplifying this code.

These are just a few examples. There are very many more but I am anxious to get to our witness testimony today so I am going to limit my remarks to these. At this time I would again like to thank Congressman Beauprez for inviting me to be here and for his being here. I would like to yield to the gentleman from Colorado for his opening statement.

Mr. BEAUPREZ. Mr. Chairman, thank you. You have been very generous in your praise. Let me reciprocate very honestly. When I went to Congress, and not everybody would appreciate this so I will digress for just a minute, you are asked what committees you would like to serve on. I specifically asked to be on the Small Business Committee and I even more specifically asked to be on the Committee for Tax, Finance, and Export in large part because of the issues but, in very large part, because of who that Subcommittee chairman was, the gentleman next to me, Congressman Toomey.

One of the real champions in the House of Representatives, he is unfortunately in a very personal way seeking to leave the House of Representatives but in a very fortunate way. The other side of the coin is seeking the Pennsylvania seat in the United States Senate and I wish him well in that endeavor.

A true gentleman and a true champion of the issues that he outlined, certainly serious tax reform and, Congressman, I join you in the wish that sometime soon we can take the massive complicated owners tax code we have, throw it in the Potomac, and start over again with something that makes a little bit more sense.

Let me also thank you for taking the time out of what I know is an extremely busy schedule for you, especially now, to take this opportunity to come out to Colorado and host this hearing with me. I share your passion for helping our small businesses to succeed in today's very difficult economy and applaud you for holding hearings outside Washington as I know you are doing. Not just in Colorado but, I believe, tomorrow you go to California and you do the same.

We look for answers on how we can create an environment in which our country's small business owners can prosper. Not just survive but prosper. I would also like to recognize our distinguished panel for being here today. As I look out, I am very happy to see so many faces of friends and leaders of the small business community in Colorado.

In addition we have with us today representatives of the federal government, Jim Henderson, who is the Regional Advocate for the U.S. Small Business Administration, and the State of Colorado in Rick O'Donnell, my good friend. He is the Executive Director for the Colorado Department of Regulatory Agencies.

Mr. Chairman, being here this morning, I would like to take a moment to reflect on just how important small businesses are to the U.S. Economy. The Small Business Administration estimates that in 2002 there were approximately 22.9 million small businesses in the United States.

As you alluded to, these small firms represent more than 99.7 percent of all employers and employ more than half of all private sector employees. In addition, they pay about 45 percent of the U.S. total private payroll taxes. In addition, it is estimated that small businesses create over three-quarters of all the new net jobs that are created in the United States annually.

These numbers aren't much different here in Colorado where the small business sector has always played a vital role. 97.5 percent of businesses in the great state of Colorado are classified as small and an estimated 170,000 individuals are self-employed. These small businesses employ over 52 percent of the all the state's private sector workforce.

And how is it that we thank these entrepreneurs and innovators that are lucky enough to make it in today's tough economic condition? We impose countless regulations and billions of dollars in taxation upon them. The total cost, Mr. Chairman, as you already referenced, of federal regulations have been estimated to be $843 billion in the year 2000. $843 billion in 2000 which $497 billion fell on businesses and the remainder on consumers or other governments.

Now, $843 billion of regulatory expense in a $10.5 trillion economy, we are approaching 10 percent of our total economy in the cost of regulation. For firms employing fewer than 20 employees, which is a great many of the firms in Colorado, the annual regulatory burden is a staggering $6,975 per employee—nearly 60 percent more than that of large firms with more than 500 employees.

Environmental regulations and tax compliance paperwork are particularly disproportionate in their effects on small businesses. Such regulations impose about 40 percent of the total business regulatory burden.

What is clearly evident from these stats is that the regulatory costs continue to increase and to the disadvantage of small businesses. This needs to change, and change soon if we are going to ask these small businesses to lead the charge to economic recovery.

Mr. Chairman, I now that you and I have sat through many hearings together out in Washington dealing with all kinds of issues that affect America's small businesses. I have got to tell you how excited I am again that you are here today in my state's capitol to hear what some of our real life small business people have to say about operating in today's difficult marketplace

Again, I want to thank you for holding this hearing, and I want to thank you and our witnesses for being here today and I look very much forward to their testimony.

Thank you, Mr. Chairman. I yield back.

Chairman TOOMEY. Thank you very much, Mr. Beauprez.

At this time I would like to welcome the first panel. I will recognize for his comments Mr. Rick O'Donnell, the Director of Regulatory Agencies for the State of Colorado. I would just like to remind the panelists that we will try to operate with the five-minute rule. We have five minutes for you to summarize your testimony. We look forward to that and at the end of the testimony from the both of you gentlemen, we will have some questions and then we will proceed from there.

At this time I would like to welcome and recognize Mr. O'Donnell.

STATEMENT OF RICK O'DONNELL, EXECUTIVE DIRECTOR, DEPARTMENT OF REGULATORY AGENCIES, STATE OF COLORADO

Mr. O'DONNELL. Thank you, Mr. Chairman. I appreciate the opportunity to be here today. I commend you for coming out here to look at how we can help small businesses which, I think you pointed out, are truly the job creators of our economy.

I am Rick O'Donnell, the Executive Director of the Colorado Department of Regulatory Agencies. My Department oversees more than 590,000 licensed professionals and businesses in the State of Colorado. Everything from accountants to stockbrokers to realtors to nurses to doctors to veterinarians. We really have A to Z.

We also regulate the insurance industry, telecommunications industry, and energy industries in Colorado. Of those 590,000 businesses the vast majority are small businesses or sole proprietorships. As a free market Republican I sometimes think it is a dubious distinction to be the chief business regulator of the state but it is something I enjoy.

If you want to know the most about small business, I think you can probably turn to your right and ask Congressman Beauprez who is very successful and knows what it takes to be a small business owner. We have been working here in Colorado to lighten the regulatory load from the state level on our small businesses.

Governor Owens championed legislation really following the motto, "First, do no harm," and made sure that what the state is doing is protecting consumers and that regulations aren't going to stifle the job creators that we rely on to keep our economy vital.

We passed a law earlier this year in Colorado that requires all agencies in the state government to submit drafts of any proposed rule or regulation to my department well before they have their public hearing. We have created the Office of Economic Competitiveness and Regulatory Reform that has the authority under this new law to review each and every proposed state regulation for its impact, specifically on job creation, and economic competitiveness in small businesses.

This is similar to what the federal government has in the Office of Information and Regulatory Affairs, except ours has a very specific component focused on the negative impact a regulation might have on small businesses. As you mentioned, representative of national figures, 98 percent of businesses are small.

I think even more important from my perspective, of those 98 percent half are sole proprietorships. They have one employee. As

I think about the regulatory burden, if we were to bring in all of Colorado State regulations and stack them up beside of me, they would stand well over my head and they would way 100 pounds.

If we coupled those with all federal regulations, the stack would be 50 feet high, almost to the ceiling here, weigh more than 1,800 pounds, and contain 167,000 pages. If you are a small business in Colorado, as I mentioned, half of those are sole proprietorships, I don't know of any way we can read through all those regulations, know what is in them, know how they are being changed constantly by the dozens and hundreds of state and federal government agencies.

What we are trying to do in Colorado, what I would consider kind of regulation without representation, is develop a groundbreaking Web site to make Colorado state government more user friendly, provide more useful information, and gather valuable feedback from small businesses on the regulatory structure of Colorado.

Our new Web site allows any small business to go on and find out about new and existing regulations and how they will affect them, learn about state and federal regulatory policy, get a calendar of all upcoming state regulatory hearings if they want to attend them, and give us direct feedback as regulators, e-mail and link back directly to us.

I think the most important part of this site is we have created the ability for small businesses to go in and sign up for regulatory alerts via e-mail, what we call Regulatory Notices, where they can click on any industry or subindustry of interest to them or that they operate in and with just a few quick clicks of the mouse they don't have to wade through a bunch of different state government agencies but one-stop shopping.

They will, therefore, automatically be notified via e-mail anytime a new regulation is proposed. So if Congressman Beauprez wanted to know about any proposed bank regulation, he would get an automatic e-mail. If the small business owner wanted to know about any new health regulation, a restaurant owner, you would get an e-mail.

What we are trying to do here is really empower small businesses who can't afford lawyers and lobbyists and the time and the energy to follow the regulatory process, to have an easy way to at least keep tabs on them and that way if something pops up of interest in their e-mail box that they really want to know about, then they can get involved and respond to us.

It was Walter Bagehot who was the founding editor of Congress Magazine two centuries ago who said that, "Bureaucracy is sure to fake that its duties to augment official power, official business, or official members rather than to leave free the energies of mankind. It overdoes the quantity of government as well as impairs it quality. The truth is that a skilled bureaucracy, although it boast of an appropriate science, is quite inconsistent with the true principles of the art of business."

What we are trying to do with Colorado is ensure that we as regulators are listening to the people who are the real business experts, the business owners. We anticipate that this new line of communication we have built will help us have better regulation,

possibly less regulation, and certainly regulation that does less harm to small business entrepreneurs.

I think at the federal level you all have made great strides and have been active, the Small Business Regulatory Enforcement Affairs Act of 1996, the Congressional Review Act, and that is opening up the regulatory role. I think a final step would potentially be to implement at the federal level a similar system to what we have here in Colorado.

We can empower small businesses by requiring all federal rulemaking entities to submit proposed rules and amendments to a central entity that can create an instantaneous opportunity for small business owners to receive regulatory news by e-mail. The technology is pretty simple and not very expensive to do that. It just requires creating a central clearing house where people can go to the federal level and learn about regulations as easy as they can at the state level.

I think if we do state-by-state and then federally across the country, we would do a lot to reduce regulation without representation, get the business owners involved in the regulatory process which will help us ultimately have better regulation which will impact them less.

So in closing, Mr. Chairman, I just want to again thank you for coming out here, for coming to Congressman Beauprez's home state, and look forward to answering any questions you might have.

Chairman TOOMEY. Thank you very much, Mr. O'Donnell for your testimony. At this time I would like to welcome and recognize Mr. Jim Henderson, Regional Advocate of the SGA Region VIII.

STATEMENT OF JIM HENDERSON, REGIONAL ADVOCATE, REGION VIII, U.S. SMALL BUSINESS ADMINISTRATION

Mr. HENDERSON. Thank you, Chairman Toomey and Congressman Beauprez. I really appreciate the honor to have a chance to testify today.

My name is Jim Henderson. I am the Regional Advocate for the Office of Advocacy in the Small Business Administration. The Office of Advocacy was created back in 1976 by Congress to allow small businesses to have a voice within the federal government both in the legislative and the rulemaking process.

My boss, Tom Sullivan, is a senate confirmed appointee and advocate champion of small business. You have covered in your opening statements some of my testimony and I appreciate very much the knowledge you already have.

The Office of the Advocacy was created primarily because Congress understood that small business, as you so well pointed out, is being crushed by regulation and hurt by agencies that do not take small business into account as it developed regulations. We at Advocacy seek to listen to small businesses and bring those concerns to the rulemakers so that they can be taken into account.

You titled today's hearing as "Removing the Roadblocks to Success. How can the Federal Government Help Small Business Revitalize the Economy?" I would like to hit on just two points. You have talked about the top concerns or impediments for small business. One that you have already touched on is the tax system and

need for additional tax reform. The second is paperwork and regulatory burden relief.

This administration and this Congress through the Jobs and Growth Act of 2003 has already done a lot for small businesses. The impact of those changes will be significant for small businesses as they begin to take advantage of some of the changes. Most significantly probably is the expensing provision, Section 179, which increased from $25,000 to $100,000.

Another area was advancing the already in-place 2001 tax cuts dropping the individual rate from 38.5 down to 35 percent is tremendously significant for small business because 90 percent of small businesses pay their taxes not at the corporate level but at the individual income tax level.

But more needs to be done. Specifically we have two concerns that stand out. One related to the tax system. We need more simplicity and more permanence to the tax system. There was a study done by the Tax Foundation that showed that for most small businesses the cost of simply complying, trying to read through the tax system trying to figure out what they need to do to report taxes, was actually costing them more than the taxes they are paying. That is something we really have to address and turn around.

The second area is predictability. On our staff we have a number of economist. One is a bright doctor, Radwan Saade. Radwan recently completed a study that showed that the fact of the inconsistency, inconsistency and lack of stability in the tax system, has a strong detrimental affect on the ability of small businesses to plan for the future and make business decisions that will allow them to get where they want to be.

They not only have the unpredictability of the market place put the unpredictability of the tax system and those two complicate each other and make it much more difficult for small businesses to be successful and to plan.

Now, taxes, unfortunately, are not the only problem for small business. We continually hear, as Chairman Toomey stated, about the paperwork burden. You have enacted the Paperwork Relief Act and the Small Business Paperwork Relief Act of 2002 on top of the Paperwork Reduction Act.

These are making some strides. We can cite some very positive things, but when you talk to the small businessperson, one of the things we consistently hear is "There is just too much paperwork." We need to keep looking at that and we will keep bringing specific suggestions to you in that area.

I think one of you already cited the Crain-Hopkins study that showed that small businesses in terms of the cost of regulatory burden—if you have less than 20 employees paying nearly $7,000 a year just to comply with the regulatory burden. We have got to turn that around.

I would like to give a local example. Here in Colorado we are grappling with the U.S. Fish and Wildlife Service's recent designation of 31,000 acres, primarily private acres, in both southeastern Wyoming and down to Colorado Springs, as critical habitat. The Critical habitat designation was for what they called threatened Preble's meadow jumping mouse. I have been told it is quite a cute mouse unless it is on your property. If it is on your property it be-

comes the mouse that roared because it significantly impacts the cost of business.

Just three weeks ago a construction outfit in Colorado Springs building an extension to a boulevard had to bring in a special crane that cost them an extra $200,000 because of the way it operated was going to have less potential impact on that habitat area.

The vexing part of it was none of these threatened meadow mice have ever been found in that particular location but they anticipated that they could be in the eyes of the U.S. Fish and Wildlife Department.

Other examples, there is a major housing development project in the northern part of Colorado Springs that has been held up for two years because the process of the designation under the Endangered Species Act.

Entire communities are impacted. About an hour north of here, we have the city of Greeley. They had a reservoir that they developed, but they wanted to do an expansion on that reservoir. They have been in the process of doing that, but they have been held up again because next to that reservoir is part of an area that they designated as habitat where the mouse resides.

It is slowing up the planning for that reservoir which without the water the city is constrained which means businesses there have more uncertainty which means jobs are not going to be created. All of this is an issue that we would want to see dealt with because there is still even a question whether the critical habitat designation really effectively protects some of these threatened species.

Mr. Chairman, Congressman Beauprez, it is an honor to be here today and I stand ready to answer any questions.

[Mr. Henderson's statement may be found in the appendix.]

Chairman TOOMEY. Thank you very much, Mr. Henderson, for your testimony as well. I will start with some questions.

Mr. O'Donnell, you referred to a new law that, as I understand it, requires that there be a review of the impact on I assume all business but, of course, like anywhere else in America that means mostly small businesses in terms of any new regulations. Have you seen any impact of this yet? Has it diminished, for instance, or slowed down any regulations that might have otherwise been implemented that would be adverse for job growth?

Mr. O'DONNELL. The law went into effect August 5th so we are just now——.

Chairman TOOMEY. This year?

Mr. O'DONNELL. This year. I think one of the most pleasant things for us is when we went around the state agencies and my staff offered training to the people who write regulations and issued rulemaking. Several of the state agency employees commented, "We had never thought before about the impact our regulations will have on the economy or small business before. We might have to think about this before we even propose the rules."

I think its impact at a minimum is going to get the bureaucracy in Colorado that hasn't really ever had to think about it before to think about it before it even goes forward with the rule. Some of the positive impact may be felt though it never comes forward which would be great.

Chairman TOOMEY. I personally am sympathetic to the point of view of the founding editor of the Economist. It is the natural inclination of most organizations to grow and that includes bureaucracies. If legislation can change the culture within the bureaucracy and create a new mindset, I would think that could be very constructive.

Another question I had regarded the Web site. What kind of traffic do you get on the Web site and how would you characterize either the number or the type or the frequency with which people sign up for these e-mail updates? I mean, how much are they being utilized?

Mr. O'DONNELL. Again, it is relatively new and has only come on line this month but we are going out to all the business organizations across the state and promoting in their newsletters and so forth to try to get them to get their members to go to the Web site. It is too early to really tell the type of people who are signing up for the regulars.

Chairman TOOMEY. Great. I am looking forward to finding out how much use that gets.

Mr. Henderson, just a couple of questions, thoughts. On the need for greater simplicity on the tax cut I just couldn't agree more. I was a small business owner for many years. I was in the restaurant business. The restaurant business is a pretty simple business when you think about it. You buy food, you cook it, you sell it. Generally you get paid right there on the spot. It is not very complicated.

Every year my accountants would put together a stack of documents about this high and they would tell me to write a check, sign it, and hope for the best. It is really ridiculous but that is all you can do. It is not possible to understand what is in there. It is not possible to understand the various schedules. I am not sure they understand it. I certainly don't. This is just ridiculous and it is costly and it is counterproductive and I am glad you mentioned this.

One of the things you touched on was Section 179, the expensing of this. This, of course, moves us at least modestly away from these very complicated depreciation schedules in the direction of expensing. I am wondering what your thoughts are about doing away with the depreciation schedules all together and moving to a tax code that allows expensing of capital purchases at the time they occur so we just get away from the complexity and the onerous burden of these depreciation schedules as well as the economic impact of being able to dispense these things up front.

Mr. HENDERSON. Well, that strikes me as moving clearly in the right direction for small businesses because it is additional simplification. I, like you, have struggled when I did have a small business with those schedules. Invariably it seemed like we came back and had calculated it wrong.

I think it is an excellent idea of moving or more expensing maybe would attract. I know what you just passed this year is just an incredible benefit for small businesses. In fact, seeing that continued as a permanent provision in the law would be one thing we would love to see.

Chairman TOOMEY. Thank you very much. At this time I would recognize the gentleman from Colorado for his questions.

Mr. BEAUPREZ. Thank you, Mr. Chairman.

Mr. Henderson, first of all, I will concur with my chairman on simplification of the tax code. I expect most of us in the room would. I think we did make some steps in the right direction with the bill that was passed this year.

I would assume that you might agree with me that in many ways with either regulation or the onerous burden of our tax code that when we talk about—we at the federal government level—when we talk about wanting to create jobs and have an expanding economy, perhaps we actually disincent the very thing we say we want to and we really peel off the layers of government and what we have done to it. Would that be a fair characterization?

Mr. HENDERSON. I think there can be some disincentive there but small businesses are very adaptive, very flexible and they will learn. If we can move in the direction of additional simplification, then they will go with us if I understood your question.

Mr. BEAUPREZ. We need to be. For example, at my little bank when we started we had just seven employees. I quickly figured out that we had to get big enough to be able to afford the cost of compliance and have to hire a compliance officer and support staff for that person and an enormous amount of the time and effort is make sure you are dotting the i's and crossing the t's.

If I can shift over to Rick for just a moment, one of the things that I would site as an example of good government actually happened a few years ago through the Colorado Division of Banking. Of course, nobody seems to have a problem with banks being closely regulated. I am not sure why that is.

The burden of on-site exams was just that, a huge burden. A team of six or eight examiners would often come in to even a little bank like ours was and basically occupy all of your time all day long of your key staff and you can't take care of the customers.

They have figured out, and compliments to Richard Fulkerson and others, that they can do much of what they need to do off-site and limit the amount of time in the bank. That is a huge savings and a real benefit ultimately to the customer because they are going to get better service from their bank. I am sure that insurance companies and others would say the same thing if it can be done.

A question to you, Rick: Healthcare is a huge concern for our small businesses right now. I hope I am not catching you completely off guard because we haven't talked about this but I am wondering with your oversight, with your interactive role with the governor and state legislature, is the State of Colorado looking at opportunities to increase competitiveness, affordability access to all of those things, and especially small business are raising with us as questions and concerns about healthcare for their employees?

Mr. O'DONNELL. Congressman, we are. A very good question. We were able to pass in Colorado this year legislation which is the MEWA legislation, Multiple Employer Workforce Association which I know Congress has been trying to pass which would basically allow our associations to offer health insurance to all their members.

We are implementing that legislation currently right now. We are hoping the Restaurant Association and Automobile Dealers Association and Chambers of Commerce or Realtor's Association will be able to pull together and band together the purchasing power for all their members. That is one area we are doing.

The other area we are doing is we passed legislation this year to allow insurance companies to offer a basic healthcare plan. What happened in Colorado over the years is the legislature passed mandates that you had to have X coverage and Y coverage and Z coverage, that each one on their own seemed like an obvious thing you would want to have and you would need a health insurance policy.

Over the years we added close to 25 mandates that together had significantly increased the cost of insurance. It was illegal in Colorado to sell health insurance policies without those. We have now made it legal for health insurers to offer a basic kind of cash plan without all the mandates at a lower price.

The way we like to talk about it is we require that you can only sell Cadillacs so if you are a small business owner who can only afford to buy your employees Chevys, you are out of the market. We are hoping by offering Chevys that some of our small businesses will be able to continue to afford or begin to afford insurance. I would think at a federal level I know there are many health insurance mandates as well and maybe something to look into could be incurred at the federal level as well, a low-cost basic health plan to make it more affordable.

Mr. BEAUPREZ. Last question to either one of you. Do either of you have in your mind an estimate of what are costs of tax compliance? Not how much we pay in taxes but the cost of figuring out how much we do pay? Does either of you know what that number is estimated to be?

Mr. HENDERSON. I do not. I know that we do have a new study in this arena at the Office of Advocacy so I will explore and see when that is going to be completed to make sure that we get that information do you.

Mr. BEAUPREZ. Let me shorten your effort. The number I have heard, and the Chairman may have a different number, but the estimate I hear is somewhere between $200 and $300 billion a year. Again, that is to figure out how much we owe. Does that make any sense to anybody? You add that to that regulatory burden cost we have now and you just went north of what 10 percent of our total economy.

Mr. Chairman, I yield back. Thank you.

Chairman TOOMEY. Thank you. I would like to thank the witnesses on our first panel very much for your testimony and for your answers to our questions. At this time I would invite the witnesses on the second panel to take their seats at the witness table.

I would like to welcome our witnesses to the second panel and at this time I will recognize the gentleman from Colorado to provide us with introductions of our distinguished panelists.

Mr. BEAUPREZ. Thank you, Mr. Chairman. We have with us Dr. Rebecca Hea. Dr. Hea represents the management team for the Denver Children's Home. DCH is the oldest nonprofit in all of Colorado and provides residential and day treatment to abused and neglected children. Dr. Hea is a recognized leader in psychological

treatment of children working with at-risk kids over 18 years. Welcome, Dr. Hea.

Dr. HEA. Thank you.

Mr. BEAUPREZ. We also have with us in the center Mr. Patrick Hilleary. He is the Director of Denver Operations for Brookfield Properties. Patrick is responsible for the management of three commercial office projects in downtown Denver including the 56-storey Republic Plaza, the World Trade Center's Twin Towers, and the Colorado State Bank Building. In all total over 3 million square feet. Mr. Hilleary has many years of active service in his trade association, the Building Owner's and Manager's Association.

To my right, your left, my good friend Bert Weston. Bert is the President and Chief Executive Officer of Inner-City Community Development Corporation. Among her many achievements are the following. She has developed and wrote a city loan program for women in minority owned business, contractors bidding on Denver's new International Airport.

She is the founder and owner of West-Co, Ltd., a mortgage, banking, and brokerage company that is specialized in economic development and small business lending, counseling and management.

In 1992 she chartered Inner-City Community Development Corporation, the only comprehensive community development corporation in northeast Denver. Bert is also very active as a community citizen and a very dear personal friend. Welcome to the entire panel.

Chairman TOOMEY. I would like to extend my welcome to the panel and at this time recognize Ms. Hea for her testimony and remind all of our witnesses that if you could keep your testimony to five minutes, we will proceed with questions after each of you have testified.

STATEMENT OF REBECCA HEA, M.D., SENIOR ADMINISTRATOR, DENVER CHILDREN'S HOME, DENVER, CO

Dr. HEA. Thank you, Mr. Chairman, and members of this committee for the opportunity to present testimony on the roadblocks hurting small businesses.

I am Dr. Rebecca Hea and I am Senior Administrator at Denver Children's Home, the oldest nonprofit in the State of Colorado. We were founded in 1876 as an orphanage and now we are residential and outpatient treatment facility for children and families with mental health issues. Our clients come from county human services agencies.

I am thankful for the opportunity to discuss the impact of excessive paperwork on our small nonprofit business. I would like to briefly highlight some of the problems created by governmental demands for documentation and the inefficiencies that result for our staff, taking valuable time away from effectively treating children and containing costs.

We began receiving Medicaid funds in 1994 when our agency status changed from a Residential Child Care Facility to a Residential Treatment Center. While this increased our funds for treatment, it also meant that three extra clinicians and one clerical staff person

were needed to manage the increase in documentation for our 60 residents.

Currently we are required to complete paperwork at intake. We do an admission summary. We do a 10-day staffing report. We have to log all individual, group, and family sessions, all critical incidents, and all phone communications related to the case.

The clinical staff average more than 8 hours a week documenting the work they do. Forms to report critical incidents are not standardized and the information required differs for reporting to the state and the county causing redundancies and inefficiencies.

There is currently a Medicaid audit proposal that would eliminate a full day's treatment reimbursement for any documentation missing on that day. for example, if a note for an individual therapy session is not completed and logged, we would lose a whole day's pay despite all of the other services that are given on that day.

The penalties are huge but the documentation is nearly impossible to complete considering all of the responsibilities to keep the children safe and provide intensive treatment.

Documentation problems also impact our business office as well. For residential clients we have multiple funding sources including Medicaid for treatment, counties for room and board, Colorado Department of Education for per pupil operating revenue, federal school lunch program, and specific school districts for all students identified with special education needs.

The constant need to track our many families that frequently move is burdensome. for our small business it means that funds are delayed and require extensive collection efforts. Unfortunately, funds are transferred into our bank accounts and the detail may follow three days to three weeks later.

Then there are often numerous discrepancies, not well defined, that cause the counties to adjust payments for months. Attached is an example of three clients from Jefferson County. As you can see in these cases, the adjustments span several months and multiple transactions for a net effect of $47.00. The amount of time for our accounting staff and the counties' accounting staff is not being utilized efficiently when so much time is devoted to debit/credit memos that can be exchanged back and forth for months.

The process required for billing starts with tracking individual clients on a daily basis including Medicaid number, date of birth, caseworker (which changes frequently), county and school district. More than 50 percent of our bookkeeper's time is spent untangling the billing nightmare. Tracking down paperwork from numerous sources (internal and external to the agency) takes so much time that we had to hire a bookkeeper to manage that task.

Even though our residents are located in one place, one facility, they have highly transient families and if the family moves to a different school district or county, then billing is contested and payment delayed further. Nothing is easy or automatic. HIPAA that is now in effect is adding this much more documentation for every child we treat and every vendor that helps us provide services including a lot of small businesses.

While our budget has decreased due to funding crises in referring counties, and we have fewer referrals, our paperwork demands con-

tinue to increase. These burdens compromise our ability to directly provide quality care and contain costs.

If you do anything as a result of this hearing, I ask that you streamline our paperwork and compliance requirements so that we can spend less time filling in forms and more time treating children. Thank you.

[Ms. Hea's statement may be found in the appendix.]

Chairman TOOMEY. Thank you very much for that testimony.

At this time I will recognize Mr. Hilleary.

STATEMENT OF PATRICK HILLEARY, BROOKFIELD PROPERTIES, AND DENVER METRO BUILDING OWNERS AND MANAGERS ASSOCIATION, DENVER, CO

Mr. HILLEARY. Thank you, Mr. Chairman. I am sure you are sitting there thinking, "What is this guy doing in a small business meeting?" I will explain that. The Denver Metro Building Owners and Managers Association is a not-for-profit organization that represents commercial office buildings, service industries that provide services to those buildings, and several government buildings in the Denver area.

We are known in the industry as BOMA and we are part of a federation of similar organizations all over the U.S. and Canada that collectively represent about 9 billion square feet of buildings. Many of the BOMA members are small businesses, owners or managers of buildings, or allied members who provide services to those buildings including such things as construction companies.

In addition, BOMA indirectly represents America's workforce. It is a bit of hyperbole injected by our PR people but there is a lot of truth in that if you think about it. Almost every small business pays rent to somebody unless they happen to own their building in which case they are a building owner. Anything that affects our cost of operating buildings indirectly affects all those tenants because they pay most or all of the operating costs of the buildings that they inhabit.

Since I am speaking to so many individuals and companies, I am going to narrow the focus of my talk to three specific issues that are important to us now and are national issues. Personally, I spend most of my time doing regulatory issues on the local level but there are some national things that affect us all.

We are talking about taxes. Let us talk about leasehold depreciation. A change in tax policy that BOMA has pursued for years concerns the schedule for depreciating the improvements on our properties. The depreciation period currently dictated by tax laws is 39 years. Thirty-nine years is probably an appropriate time period for the structures themselves.

However, that same schedule is applied to improvements made inside the buildings, things like carpeting, paint, wall coverings, even the interior walls. These things have practical lives of much less than 39 years, as you can imagine. Most of those things are replaced every three to five years. Even the walls, we typically would completely tear down and replace at least every 10 years as leases roll.

As a result, deductions for depreciation that we are entitled to during the life of those improvements are not representative of the

actual decline of the value of the properties. BOMA strongly supports House Bill 1634 which was introduced by Representative Clay Shaw. This would reduce the depreciation period to 10 years for lease hold improvements which, in our opinion, is a lot fairer. We also support the identical Senate Bill S. 576 introduced by Senator Conrad.

A second very timely topic: power is the life blood of American businesses, I am sure we are all well aware, certainly after last Friday on the east coast. BOMA calls upon the federal government to enact a national energy policy that ensures that all consumers have access to adequate supplies of reasonably priced energy by addressing the energy challenge from both the demand and supply perspective.

As both energy consumers and aggregators of energy use, the members of BOMA spent a great deal of time and effort to address the energy challenge through conservation and demand reduction. In this effort, we look to the government as a partner in research and education on the efficient use of energy. However, we want to make clear that we are not going to solve the problems of power in the United States through energy efficiency and conservation alone.

The federal government must implement a national energy policy that guarantees all consumers access to adequate, reliable supplies of reasonably priced energy. We believe this goal can only be achieved if the federal government takes a leadership role in five things.

First is identifying reliable sources of domestic and renewable energy. Second is eliminating unreasonable regulatory burdens and restrictions that inhibit the develop of those energy sources. Third, identifying and eliminating regulatory structures that impose artificial pricing schemes.

Fourth, providing a federally controlled modern, robust transmission and distribution system and, speaking from a local level, looking at a national business. We all understand now that what we have is a mishmash of little transmission systems that are linked and there is no general oversight to ensure that one part of the country's problem doesn't affect the rest of us.

Finally, we look to the government to protect consumers from price gouging in the cases where competitive market forces are absent. Part of the transmission distribution problem is an outgrowth of deregulation and retail electric sales in some parts of the country. There have been other parts, Colorado is a perfect example, where there is a strong move to deregulate the electric power industry. What we would have ended up with in most of Colorado is a nonregulated monopoly because of constraints on transmission into and out of Colorado.

The final thing I would like to talk about is the topic of ADA notification. Our industry strongly supports the objectives of the Americans with Disabilities Act and the various codes and standards that have evolved out of it. However, we believe there have always been issues of fairness in the way that the act has been enforced.

Since the ADA is itself civil rights legislation, most of its enforcement has been through the courts, and some building owners and

managers' first knowledge of alleged ADA infraction comes in the form of a legal notice that we have been sued. The technical requirements of the ADA guidelines are very detailed, so sometimes defendants in ADA lawsuits are truly unaware of some of the deficiencies in their buildings.

In other cases, an older building—this one is a perfect example—may suffer from a multitude of ADA compliance issues and an owner has to prioritize which of those issues he is going to fix and in which order. If a complainant comes on the property and disagrees with that priority, the lawsuit can be the result.

Congressman Mark Foley has for the second time this year introduced the ADA Notification Act, which is H.R. 728. This would give building owners 90 days from notification of an ADA violation to make corrections before a suit could be brought. BOMA supports the concept and the legislation. Such a notice period will allow owners a reasonable time to remedy ADA relieved deficiencies with their buildings and save all parties the cost of the lawsuit.

Chairman TOOMEY. Thank you very much for your testimony.

At this time I would like to welcome and recognize Ms. Weston.

STATEMENT OF BERT WESTON, PRESIDENT/CEO, INNER-CITY COMMUNITY DEVELOPMENT CORPORATION, DENVER, CO

Ms. WESTON. Thank you, Mr. Chairman and also Congressman Bob Beauprez, my very good friend whom I have lots of respect and admiration.

Thank you for inviting me to appear here this morning before you. I would like to add that I am also an honorary chair of the Small Business Advisory Council for the National Republican Congressional committee. I have also owned and operated a for-profit mortgage brokerage company for 10 years.

I bring today my unique testimony as a previous owner of a for-profit business and as a current CEO of a not-for-profit business who has been directly impacted by government policies and regulations. I am not here in any official capacity and should not be regarded as representing the position of the Business Advisory Council for the National Republican Congressional Committee.

Today I would like to share what I believe are three roadblocks hindering the success of small businesses and provide the Subcommittee with possible strategies to remove these roadblocks.

The first roadblock that I would like to discuss this morning is the issue of affordable insurance, both healthcare and bonding. Bonding for small businesses, particularly construction contractors with weak financial statements and limited borrowing experiences face a major barrier in obtaining bonding. Also in getting contracts of scale both public and private. In addition, affordable health insurance is a challenge that I face personally.

Since the terrorist attacks on September 11th, healthcare prices have continued to escalate. Furthermore, the aging workforce, who may have more health issues, can cost employers 80 percent more than a younger less experienced workers. This dilemma can put some employers in the position of not hiring an older person or have to fire an older person because of the higher expense.

Moreover, some business owners have told me that their health insurance costs are sometimes now equal to 30 percent of their em-

ployee's salaries. All of these factors make it very difficult to obtain good employees because small businesses cannot compete with big businesses and their healthcare package. I believe legislation like the Small Business Health Fairness Act, House Bill 660 is the direction that the federal government needs to take to address this issue.

My second point is the issue of locating a skilled and able workforce. My business is the developer of the former Air Force Finance and Accounting Center, a 37 acre parcel that was previously blighted property located in the inner city where poverty is high and education levels are low. Unemployment is approximately four time the Denver 6.5 average.

According to the most recent census, the neighborhood where the inner city is located, nearly 58 percent of the adults, 25 and older, have not completed their high school diploma or equivalent. This is compared to the Denver average of 21 percent. Furthermore, only 12 percent of adults 25 and older have a college degree compared to 40 of 25 and older adults of all different neighborhoods.

This not only poses a problem for me and my company but all businesses that occupy space in our development, both the incubator businesses and the established businesses who may want to hire individuals from the neighborhood to meet the residency requirement of the HUBZone program.

I propose that the federal government increase the presence of one-stop workforce development centers in neighborhoods where residents are socially and economically disadvantaged. Moreover, these centers should work hard to understand the workforce needs of small business owners and train residents to occupy these positions. A lot of time and attention is focused on training these individuals to work in entry-level positions at large corporations, but little attention is given to train them to work in small businesses.

The last issue I would like to discuss is access to capital and specifically the Section 108 loans. As the committee is aware the Section 108 loan is a financing vehicle for small businesses that is administered from city government. In my role as president and CEO of Inner-City CDC I have found the rules of the Section 108 loan to be extremely rigid.

The primary problem with the loan is the inflexibility of the repayment requirements. This can penalize the city as well as the small business without a mechanism that takes into consideration a slump in the economy like the one we are currently facing where vacancies are double digits and rental rates are declining.

My recommendation is that the repayment terms mimic that of the private banking industry, which allows borrowers to restructure their payments, thus preventing a possible foreclosure, bankruptcy or overall business failure. Or forcing the city to step in either to manage the property, the business, or facilitate the sale of the property which could alter the intended public benefit.

I do believe that Community Development Block Grant (CDBG) funds are a great vehicle for small businesses, however, exception should be made for a business that has an excellent business plan but due to extenuating circumstances are unable to borrow the matching funds. In cases such as these, the entire loan should be funded by the agency administering the funds.

In addition, I would like to address the point of non-traditional not-for-profit businesses that have a mission that is not just social, but more geared toward economic development, such as my organization inner-city Community Development Corporation. There should be recognition of such organizations, and more room should be allowed to offer operational support and not just programmatic support from possibly OCS and/or HHS.

I would like to add that in addition to the Section 108 inflexibility in rewriting loans, there is also the burden of Davis Bacon Wages. Currently the trades salaries/wages are equal, and sometimes in excess of, Davis Bacon Wages and having to fill out all the papers that go along with recording the Davis Bacon Wages sometimes increase the bid by 5 to 10 percent.

I thank you much for the opportunity to participate here today.

[Ms. Weston' statement may be found in the appendix.]

Chairman TOOMEY. Thank you very much for your testimony as well.

Let me begin the questions with Dr. Hea.

Just so that I understand this, Dr. Hea, is the former HCFA now called CMS, the entity that promulgates the regulation that you referred to?

Dr. HEA. They do but there is also state regulations, county regulations, and regulations for Medicaid which have federal and state matched funds.

Chairman TOOMEY. So you have multiple regulators, each of which requires its own unique set of paperwork which has not been standardized amongst the various regulators, and you have to fill out multiple forms for——.

Dr. HEA. For each one of them.

Chairman TOOMEY.—with respect to each patient in each service.

Dr. HEA. Exactly.

Chairman TOOMEY. Now, in your professional opinion, does filling out all of this paperwork enhance the quality of the healthcare that is provided to your patients in any meaningful way?

Dr. HEA. Absolutely not.

Chairman TOOMEY. No. Does it really amount to just a mechanism for ensuring payment?

Dr. HEA. It doesn't even ensure the payment because we are always at risk if somebody has moved. When they say, "That's not our responsibility anymore." It just becomes a very tangled mess. It is so burdensome that both the paperwork and the tracking in order to get payment is really hurting us as a small business.

Chairman TOOMEY. Now, do you have a ballpark estimate of what percentage of all your total workforce time of all your staff is spending complying in filling out these redundant and inconsistent paperwork requirements?

Dr. HEA. My best guess would be 20 to 25 percent of the time that the staff has is spent documenting and trying to meet regulations instead of directly treating and caring for children and families.

Chairman TOOMEY. So couldn't you make the argument that all of this—25 percent is an enormous chunk of time. Couldn't you make the argument that this actually detracts from the quality of

the healthcare you provide because of the amount of time it takes away from patients?

Dr. HEA. Yes, and that is increasing instead of decreasing.

Chairman TOOMEY. And that is increasing, especially with the latest privacy regulations that you alluded to as well.

Dr. HEA. Exactly.

Chairman TOOMEY. Have you had occasions in which there have been disputes with HCFA or CMS regarding the appropriate reimbursement level because the coding or the description of the services were, in your mind, ambiguous? You did the best you could in trying to define the services provided and request the appropriate reimbursement but then there was some dispute?

Dr. HEA. Yes. And what is currently happening is they implemented new regulations and rules and now they would like to go back and audit us for a year ago and say, "You are not in compliance with new rules."

Chairman TOOMEY. New rules that were not in effect at the time?

Dr. HEA. Exactly. Now as they audit they say, "You should have been doing it this way."

Chairman TOOMEY. Wait a minute. Should have been that which they had not yet developed regulations for?

Dr. HEA. Yes, sir.

Chairman TOOMEY. So they look at you and say, "You should have anticipated what was in our minds and what we might do at some future date. You should have complied with what was the requirement at the time, of course, because that was the law, but you should also have separately in addition anticipated what we might do." Might there be many versions of what they might have done that you should have on file?

Dr. HEA. I would imagine. What is so difficult is that they actually come in and they penalize residential treatment centers and they give funding back for not being in compliance with rules that they have just implemented.

Chairman TOOMEY. The rules that were not in effect at the time which the service was provided?

Dr. HEA. I know it sounds crazy but that——.

Chairman TOOMEY. It sounds so ridiculous that it could only be the government. I am sorry. This is outrageous.

Dr. HEA. It is outrageous.

Chairman TOOMEY. It is outrageous that a regulator would come in and expect you to have complied with regulations that were not in effect at the time. I think this is something that we ought to pursue further. It is obviously impossible to anticipate regulations that have not yet been promulgated. And to in anyway impose a penalty or burden for that is just simply outrageous.

I would like to follow up with you on the specifics of this instance because I think there are some regulators that ought to be made to explain and defend and justify exactly why it is that they would retroactively impose regulations. It is bad enough what they do prospectively but to do it retroactively is simply absurd.

I have a question for Mr. Hilleary. You referred to Clay Shaw's bill that would allow for the depreciation of lease hold improve-

ments over 10 years rather than the 39 years which is current law and I think that bill is definitely a step in the right direction.

Do you see any economic or business reason why it would be detrimental to allow full expense of home improvements? Is there a good rational reason why there ought to be some depreciation period for these kinds of investments?

Mr. HILLEARY. My understanding is the 10-year schedule is a compromise that our position was that we should be able to expense these things over the years that is spent and it was represented as an impossibility.

Chairman TOOMEY. So you would agree that ultimately the ideal would be allow expensing the year and its purchase. As you are probably aware, there are proposals for broad overhauls of the tax code that would, in fact, have exactly that kind of treatment. I think there would be enormous post-economic growth if we allow businesses to acknowledge the expense at the time in which it occurred rather than force this to be deferred over many years. Also that the government can collect a little more money in the meantime.

My last question is for Ms. Weston. You talk a little bit about the challenge of affordable healthcare. I was wondering if you would just react to an idea. It strikes me that by virtue of what I think is a flaw in our tax code, a flaw which allows employers to fully deduct the cost of health insurance that they purchase for their workers but which does not provide that same benefit for employees, we have created an anomaly, an aberration, in which there is an economic incentive for employers to provide health insurance for employees and an economic disincentive for employees to obtain it themselves.

One of the consequences of that is that it actually makes economic sense to have an overly generous health insurance policy. For instance, if it makes economic sense to compensate people in the form of a generous health insurance plan which is not taxable to the individual rather than to provide that person with money because that is taxable to a worker, I think it is not a coincidence that we have many, many people who are relatively healthy, have relatively healthy families, have relatively modest medical needs that could easily be covered out of pocket.

But we have these very loaded deductibles and we put them into this insurance system right out of the block and, therefore, this becomes a very expensive insurance policy because it covers not dollar one. It covers a cost after a very low deductible.

It seems to me that what most people really need is catastrophic health insurance so that if you get into an accident or you have a serious illness, you could never be wiped out by the cost of that, but that routine medical expenses could be paid out of pocket and it might make more sense.

Do you think that is an idea that has some merit to encourage the development of a marketplace where individually based health insurance products which might have higher deductibles and, therefore, lower premiums?

Ms. WESTON. Mr. Chairman, as we look at what are deductibles now on our taxes, as we look it being basically interest on mortgages and then we look at charitable donations, and as we look at

an older population that is going possibly from home ownership into retirement places where they all rent versus having ownership but still having some income, I think it would be a good thing to look at in terms of having that as a deductible for the employee.

Also, as we look at small businesses struggling with trying to provide coverage and often times using insurance or deducting or dropping insurance coverage as a means of maintaining your employee base, I think it would be an excellent thing to look into providing the tax payer, the employee, with the opportunity of deducting the insurance.

Chairman TOOMEY. Thank you very much. I recognize the gentleman from Colorado.

Mr. BEAUPREZ. Thank you, Mr. Chairman. I want to begin in the same order you followed, first of all, with Dr. Hea. I want to go back to your introduction. I want to make sure that I didn't miss something here. The DCH provides residential and day treatment for abused and neglected children. Would I be correct in assuming that almost anything you can do to change the environment that these children are coming from is going to be an improvement?

Dr. HEA. Yes. Our goal is to provide them a safe therapeutic environment so they can heal and we hope to disrupt the generations of abuse by stopping and treating the children now so that we are not dealing with the next generation of traumatized and abused kids.

Mr. BEAUPREZ. And not to just be cute but so rather than the kids suffering pain, the federal government inflicts pain and suffering on you?

Dr. HEA. Yes.

Mr. BEAUPREZ. Okay. It is a transfer of the pain. It really does, Mr. Chairman, sound very bizarre and I am reminded—we talk about the cost of care and if I could expand the good work that you do to healthcare. I am reminded of a study that is still laying on my desk the American Hospital Association provided me where in ER rooms because of HIPAA and other regulations as much as one hour of patient time corresponds to one hour of paperwork directly proportional.

One scratches their head obviously if you happen to be an ER nurse, you happen to be an ER doc. "I came here to take care of patients. I didn't come here to push paper." We have to find a way, Mr. Chairman, on behalf of business, on behalf of healthcare, on behalf of America to do a better job. It is pretty mindless.

Mr. Hilleary, two days ago I had the privilege of chairing a hearing here in Colorado on the question of natural gas and it expanded to energy which you talked at great length about. I think it is a little bit of the silent threat or the hidden threat that many people aren't fully aware of.

I want to explore that with you just a little bit further. If, for example, natural gas which fires virtually all of our electric generating power stations now. If that cost were to rise, if the cost of energy were to rise, what does that do to an industry like yours especially in times like this?

Mr. HILLEARY. It does two things. Depending on the finances of the building owner it either puts our property out of the market if we can't afford to absorb the additional cost of the energy or it

reduces our profit. There are huge buildings even in the city that don't make any money because by the time you take the operating cost and the debt service out, you are not even covering the rent.

My company has net leases which means that we charge rent and we charge the operating costs, but we compete in a gross market. The tenants don't care whether they are paying rent or operating cost. All they care about is the size of that check so for all of us, every single increase in those costs is either going to come out of our pocket or we are going to have to pass it on to the consumer. It is such a shock to us and is so uncontrollable.

Energy in Denver went up 15 percent January 1, 2003. Electricity went up another 10 percent in July of this year. Steam from the local utility went up 16 percent in January and it went up another 10 percent in March. Collectively we are looking at 25 to 30 percent increases in energy cost.

Just, for example, the building you can see out the window, Republic Plaza, of our operating costs the single largest item is property taxes. About $2.65 a foot. Energy is now over a $1.50 a foot. The two largest operating costs in the building are absolutely beyond our control.

Mr. BEAUPREZ. We had testimony Monday from a farmer from the San Luis Valley, a potato farmer. Thirty-five percent of his total operating costs are energy to run his electric pumps, to irrigate, his tractors, his equipment, fertilizer which comes from energy, of course, natural gas, 35 percent of his overhead. Similar to you really. Business is business. The margin continues to get squeezed and at some point you go upside down and you are done.

Mr. HILLEARY. You can't budget because you can't predict.

Mr. BEAUPREZ. Right. I think you touched on that, the predictability. In fact, I think what I am really referencing is comments made by Mr. Henderson in the last panel. The permanence of, or the lack of permanence with our tax code especially makes it nearly impossible for business to plan or bankers to finance because you don't know what the repayment source is going to be.

Which leads me to my last question. You spoke about something that sparked my memory and my experiences. Well, many things actually but I'll just pursue bonding. I think for small business especially—I don't think, I know—that it is a very serious problem. You tell me if this is correct.

Typically you bid on a project and you have to collateralize that loan somehow. Often times it might be the building itself or what have you, or your own assets. If it happens to be, say, a $5 million project, you've got to go get a bond for the same amount. You basically have to collateralize it twice. That is your experience?

Ms. WESTON. That is my experience.

Mr. BEAUPREZ. And for small companies, which is the subject we are talking about today, at least it has been my experience as a banker when they come to me saying, "I would like to get this financed," I say, "Well, that looks like a great deal. You have a contract with the government, the county government, the state, the local school district," or whomever. "Let looks like a great deal. Go do the work and we will finance it."

Then they throw out the tough question, "Oh, by the way, I need a bond of the same size." How do we do that? That is my question

to you. The problem is a fairly obvious one to me. What can we do that is still fiscally responsible that can work that can provide bonding opportunity to companies, the contractors who legitimately could utilize that to get this economy going, to create jobs without jeopardizing, I guess, fiscal responsibility. Have you got any ideas how we might be of assistance?

Ms. WESTON. That is a very good question and a very tough question. We looked at that and we were trying to involve contractors at DIA. It was a major problem. How do you get bonding for a small contractor whose financial statement is weak who has not done a job of this scale, does not have the assets to collateralize that bond.

What we looked at there was having the city put aside X amount of dollars that would ensure that a smaller contractor could be bonded, or having the smaller contractor work as a sub or a co-contractor to a larger company. But what happens there is that the small contractor continues to work in the shadow of the larger contractor and is very slow in acquiring the financial strength in order to get his or her own bond.

Again, what we suggested before was that the government look at putting aside enough funds, resources in an institution that underwrites bonding and using those funds in order to increase the net worth of the contractor in order that company might acquire the bond that was necessary to perform that job. Doing it over a period of time in which that contractor would become strong enough where he or she would not need to utilize the underwriting of the government.

Mr. BEAUPREZ. Last question. Davis Bacon, you brought it up. Are you suggesting that in some cases Davis Bacon need not apply or what exactly were you saying to us?

Ms. WESTON. Yes, I am saying that there are cases where Davis Bacon need not apply. There was a time when the wages were not in line, did not equal, did not exceed what they are now. That is not the case.

Often times the trade wages are far in excess of the Davis Bacon Wages. But when you have to do all the reporting that it increases the cost of the job simply because of the reporting, it does not change the amount of pay that is going to the subcontractors. All it does is add another layer of reporting which cost the developer money at the end of the day.

Mr. BEAUPREZ. Jobs training. I said it was the last question but it is not. Jobs training. I am familiar with your neighborhood, of course. I took from your testimony that we don't need to train everybody now to be an expert computer technician. What kind of jobs do we need to train them for in neighborhoods like the one you are working in?

Ms. WESTON. Receptionist. It is hard to find someone that has the telephone skills or life skills. Knowing that they need to be at work at a certain time, that you don't get up at the hour that you are due at work. Just very simple skills in addition to how to dress for the job. And how to carry yourself in an office.

Sometimes it is just things that we take for granted. But, more simply, the front office jobs are the ones that are available at first and if the person has been taught those life skills and a minimum

amount of office skills, then they can walk in the door and start off with a company that is small and have those kills expanded and increased.

Mr. BEAUPREZ. Thank you, Mr. Chairman. I yield back.

Chairman TOOMEY. Thank you. Thank you to the witnesses for the second panel. I appreciate your testimony and your answers to our questions.

At this time I would welcome the third panel to take their seats. We appreciate you being here this morning and, at this time, I will once against recognize the gentleman from Colorado to provide introductions.

Mr. BEAUPREZ. Thank you, Mr. Chairman. Beginning from my left to right we have Bob Piper. Bob is Vice President of Corporate Operations and partner of Piper Electric who opened in 1983 as a small shop with a modest workforce of 15 people and today retains approximately 170 employees. Bob has been extremely active in his trade association which is the Association of Builders and Contractors for many, many years and is a great civic activist as well.

Next to Bob is Susan Cirocki-Trujillo. Susan is the President of Arrow Sheet Metal Products. She was appointed president after the untimely death of her father and founder, Fred Cirocki in November of 1997. Arrow, which is located in Denver, currently employs 19 people with annual sales revenues of $1.5 million and has been incorporated since January of 1976. Welcome, Susan.

Cedric Tyler. Cedric is CEO of BusinessGenetics, a company providing break-through technology to business and government to increase productivity and streamline regulation. He is a leading expert in business and IT solutions. He pioneered the creation of business process and requirement engineering. BusinessGenetics opened for business earlier this very year and already employs over 60 people.

Last, certainly not least, is John Ziegler. John is the owner and chairman of Jackson's All-American Sports Grill located here in the Denver metropolitan area as well as in Greeley and Fort Collins. John opened his first Jackson's in 1977, was elected to the Board of Colorado Restaurant Association in 1986, was elected their president in 1991. I know from personal experience that John is still extremely active with that trade organization.

Welcome to all four of you and thank you for being here.

Chairman TOOMEY. Okay. At this time I would welcome and recognize our first witness from Panel 3, Mr. Piper.

STATEMENT OF ROBERT PIPER, REGIONAL VICE-CHAIRMAN, ASSOCIATED BUILDERS AND CONTRACTORS (ABC), AND VICE-PRESIDENT OF CORPORATE OPERATIONS, PIPER ELECTRIC COMPANY, INC., ARVADA, CO

Mr. PIPER. Good morning, Chairman Toomey, Congressman Beauprez, and other distinguished guests. My name is Bob Piper and I am with Piper Electric, an electrical contractor in Arvada. I currently serve as the Regional Vice-Chairman for the Associated Builders and Contractors. I would like to thank Chairman Toomey and the members of the Subcommittee for this opportunity to speak.

For over 20 years Piper Electric has been in business in the city of Arvada. We have offered dedicated customer service through our employees. We pride ourselves in our field, our innovation, our design, and our reputation. We have built our reputation through providing quality workmanship for our clients and safe, healthy worksite for our employees. We do work from small home repair to new commercial buildings to automated industrial processes. Client satisfaction is ingrained in Piper's culture.

For the last 18 years we have been members of Associated Builders and Contractors. The construction industry which represents about 12 percent of the gross national product and approximately 9 percent of the gross domestic product is an industry of small businesses. 94 percent of all construction companies are privately held and 1.3 million construction companies are not incorporated.

As the nation's second largest employer with over 6 million workers the construction industry continues to create new and beneficial jobs each year. To remain at this present level of activity the construction industry needs an additional 250,000 workers per year to replace its aging and retiring workforce.

One of the key elements in attracting and retaining workers are the quality of benefits that we offer, one of those benefits being health insurance. I know we have addressed the issue here earlier, but I would also like to speak on the Association of Health Plans.

Piper Electric in the year 2001 to 2002 to 2003 our health insurance premium costs have gone up 54 percent. To keep it at a 54 percent increase, we have dropped our coverage the last three years raising our deductibles, that type of thing. Basically we are paying more and we are getting less.

At this current rate I can see the day coming very soon where Piper Electric will not be able to offer health insurance as a benefit for our employees. That concerns me greatly due to the number of uninsured Americans that we have. Today there are 42 million uninsured Americans with 60 percent of them employed and are employed by small businesses. That is a fact that small businesses are not able to offer their employees health insurance so it is not just the unemployed that is creating that number of uninsured.

I think association health plans would be a great step in helping to solve that. I would like to thank Chairman Toomey and Representative Beauprez for their support with the House Bill 660. I think that goes a long way in helping it but I have a real concern that is not going to make it through the Senate and that troubles me. I don't want to stand at the front of our employees on a day and tell them that we are not able to offer them insurance anymore as a benefit.

Association health funds, I think, would enable small businesses to provide an affordable healthcare to their employees significantly reducing the number of uninsured Americans.

There are a couple of other issues that I would just like to touch on briefly that affect. I feel any issue that affects my employees affects us as a company being a successful company and continuing our success in the future.

President Bush signed an executive order when he came into office on project labor agreements against—banning project labor agreements. I am not sure of the exact process of that but I also

know that those executive orders, the first thing that happens when a new administration comes in is those executive orders are changed. We would like to see that become law, that project labor agreements are done away with. I believe that projects should be given and these refer to projects that have government funding, that they go to the lowest qualified bidder. It should not have any—it doesn't matter what their affiliation are with associations or labor organizations. It should go to the lowest qualified bidder.

Another issue that is important to us are 401(K) retirement plan. We would like to see the government not restrict our employees in the percentages that they are able to put into their retirement funds. I would think our government would encourage people to prepare for their retirement instead of limiting the amount that they can do on 401(K) retirement plans.

Another issue you were talking about earlier is tax preparation, anything that the government can do to cut back on the paperwork that we have to do. This year our company spent $9,000 in having our taxes prepared to determine that we are paying the right amount of tax. To me that seems like a tremendous amount to pay just to determine if we are paying the right amount of tax.

I have no problem with paying my fair share of tax but I think the paperwork that it takes is something that we as a business are not qualified. We have to go outside to qualify people that can do that for us.

The last issue that I have would be the death tax. I don't even know where to start with that. It just seems bizarre to me that our government feels the need to tax in a state where those dollars have already been taxed once if not two or three times. Then the family has to pay tax on them again. I would definitely like to see that death tax be eliminated for obvious reasons.

I would like to thank the committee for this opportunity to address them and look forward to any questions you may have.

[Mr. Piper's statement may be found in the appendix.]

Chairman TOOMEY. Thank you, Mr. Piper.

At this time I would welcome and recognize Ms. Trujillo.

STATEMENT OF SUSAN CIROCKI-TRUJILLO, PRESIDENT, ARROW SHEET METAL PRODUCTS COMPANY, DENVER, CO

Ms. CIROCKI-TRUJILLO. Thank you, Mr. Chairman and Congressman Beauprez for this opportunity to participate in this hearing today.

Again, I am Susan Cirocki-Trujillo, President of Arrow Sheet Metal Products located here in Denver. I am one of the small businesses of less than 20 employees. I have 19 currently. It was staggering to find out the amount of money that I pay to comply with everything per employee which explains why a lot of my overhead costs are difficult to overcome.

I am speaking to you today only on a couple of issues out of the many challenges that really small businesses face that could have a permanent effect on the future as well as what we have to overcome today. I am expressing my opinions based on my personal experiences and those of my closest peers.

The first issue that I would like to address, again which has been discussed over and over this morning, is the healthcare. We need

to really take a look at that. Just to enforce again, my percentages have 60 percent over five years, an average of 12 percent a year.

And, again, to try to control the costs I have done the same as Mr. Piper, and that is to have less coverage so currently the goal was to provide insurance that was at least cost effective for my employees to go in and see the doctor, pay the allocated amount, and then get medication.

If they should have to go to hospitalization, the minimum deductible is $3,000 and then the maximum is about $10,000. These are blue collar workers. They are not the higher paid white-collar workers that I am working with. It is very difficult to put that into place but it was just more and more difficult to overcome.

Recently, actually just yesterday, I had to make an unpopular decision and I informed my employees I could no longer afford dental insurance. Just health insurance is costing me enough and at least I can provide that. I am looking at policies for them to purchase on their own if they can and we will see how that goes. I understand there is no quick fix to the problem and there is a huge commitment and undertaking by Congress but one that I think is worthy and necessary to do.

A couple of reason laws that were introduced in Colorado, I think the intent was they don't see the benefits right off. It is the "Cover Colorado" and House Bill 02–1353. The intent is good, however, my medical insurance premiums are higher for those of my employees and their rolling dependents to cover the expenses of those who cannot afford health coverage insurance.

There will come a time when those individuals who choose not to have health insurance will still need to require healthcare due to poor health, pregnancy, etc. Again, it becomes an additional burden on small businesses that we pay and the regular taxpayers as well.

House Bill 02–1353 is typical in the fact that my company is very small and I have one individual that covers a lot of the administrative duties including human resources, accounts payable and receivable, purchasing, etc. To miss terminating an employee at the time of termination with the healthcare insurance companies, we could get hit with an additional couple months of premium which is already a high expense alone covering an employee.

Congress, I would ask that you could go further on the tort reform and controlling frivolous law suits. Look at putting maximums on law suits along with what types of cases can be tried.

The other thing to look at is how insurance companies are rating small businesses to provide some other alternatives. Again, Colorado House Bill 11–64 which will be effective September 1st I believe was designed to promote competition and to reduce the insurance company's high premiums. However, after speaking to my personal broker, it really depends on the health of your employees and rolling dependents.

I know for a fact that I at least have one employee that has heart disease so I am probably not a likely candidate to see much of a discount, if any. I have submitted my census. We will see how it comes because I am doing everything that I can just to try to control my P&L statement.

Again, I would like to piggyback on the comment by Ms. Bert Weston on the seniors. They are a great resource to bring onto the workforce with their experience and their knowledge. However, we do see the effects they have on our healthcare premiums when rated on a whole as a company based on their age and their healthcare. My age group ranges anywhere from 20 years of age to 55 years of age so I have run the gamut on that whole thing.

The second issue that I would like to address is the American Trade——.

Mr. BEAUPREZ. I was just observing that 55 is not old.

Ms. CIROCKI-TRUJILLO. No, I just—but I had—yes. Never mind.

Mr. BEAUPREZ. Never mind exactly.

Ms. CIROCKI-TRUJILLO. The second issue I would like to address is the American trade. I would do a disservice to my company and my employees if I did not mention the challenges we face today in manufacturing. To be a small manufacturing company in the U.S. is extremely difficult to remain competitive when we are saddled with, again, regulations, EPA, healthcare, worker's compensation, unemployment, Medicare, Disabilities Act, Social Security, tariffs, and other state and federal burdens.

OSHA regulations alone are a huge expense. That is my industry. That is my company. It is getting to the point, though, that we are almost looking at hiring a full-time person to handle again the paperwork mandatory to stay current. We have the safety meetings. We are going through cost containment.

We are doing everything we can to try to control that and workman's compensation insurance as well. Still, that is one more additional overhead cost which does not fall to the bottom line easily. My money is made on the production floor and actually producing a part and send it out the door. The more overhead cost that I have, the less there is to squeeze out of profit at the end.

Arrow Sheet Metal has been very fortunate. We have not had to compete directly overseas but I have been affected indirectly with just some of my customers. I work with many local machine jobs, stamping houses, contract manufacturers, and high tech companies. I serve currently on the Board of the Rocky Mountain Sheeting and Tooling Association, a division of NTMA which is the National Tooling Machine Association.

Several of my peers monthly when we meet together as a board announce that they have lost a manufacturing job to overseas due to price. These are jobs they have been producing for many, many years. Their quality and delivery records have been exceptional We as a group try to help one another, network with one another, off load some excess work that we can help them out with or introduce them to new customers to keep their doors open.

Arrow has been a great resource to stamping houses alone. We can fabricate the small initial production runs while allowing the stamping houses to design and fabricate the tooling that is necessary for hired runs. If more of those opportunities were them are lost, that is another market segment that I no longer provide for.

Over the last couple years there has been a decrease in revenue due to the high tech sector. Some of my customers simply could not compete even with their unique products that they have against

the larger companies that have moved their manufacturing overseas.

Here in Colorado there has been a decrease of about 30 percent of raw material consumption which is actually 12 percent overall sheet metal industry decrease. Many, many of my competitors and peers have either downsized or simply closed the doors because they could no longer compete with the costs.

At one time both Hewlett Packard and Storage Technology were customers of Arrow Sheet Metal. However, I think the success to us still being here has been able to diversify ourselves. Both of those have been large players in the market and, again, a lot of their manufacturing has moved to overseas.

I feel strongly more and more that if manufacturing continues to go off shore, the stronger trickle-down affect will affect me and my company and my employees on future jobs. Many of my peers I share business with may not be around much longer. A solution suggestion, it is actually more complicated than one I can actually provide, only that for Congress to be very conscious of the decisions you make and new regulations you may impose on my industry.

Our state policy needs to be sensible and fair. I know tariffs are a hot topic. It is a bit confusing to me as well except that on a personal note I get several calls a day from my customers asking what is going to happen to future products with reading all this news about the tariffs and how much extra they will have to pay for the raw materials.

I have one customer which is very sizable, about 10 percent of my annual revenues, that we go out every year and do a guaranteed price for a 12-month period. I had a difficult time getting a phone number from a metal supplier because they were unclear as to what was gong to happen with the tariffs and what the costs were gong to be and they weren't willing to negotiate a flat rate or flat price per year.

In theory then my customer chose to do small contract for a couple months versus a 12-month period. We are still negotiating the 12-month but still the unknowns of the tariffs and how it is going to affect material costs is still there.

In closing, I hope my testimony has provided you some insight on small business and what challenges Arrow Sheet Metal and others face today. No doubt we have suffered greatly to keep our doors open and our employees employed through the recession, 9/11, rising insurance costs, overseas competition.

As the voice of a small business, I would like to again sincerely thank you for this opportunity to be heard.

[Ms. Cirocki-Trujillo's statement may be found in the appendix.]

Chairman TOOMEY. Thank you for your testimony.

Mr. Tyler.

STATEMENT OF CEDRIC G. TYLER, BUSINESSGENETICS

Mr. TYLER. Thank you. From my perspective, I would like to start off by saying it is a great honor and privilege to be here. Especially, as you can ascertain from the funny way I talk, this really is truly a monumental occasion for me so I thank you for the privilege.

I come to speak to you today from a number of perspectives. The first is to issue, I guess, a warning. I have looked in two economies which I view as being in decline. I view them as being in decline as a direct consequence of overburden some legislation which stifled productivity and creativity. From my perspective, as I say, I consider myself somewhat of a refugee from that environment.

Having been in these great United States for the past decade, I have become concerned about the slow and insidious nature of laws and regulations creeping up onto the business and stifling the creativity and productivity of small business. One issue, as I say, a warning. In fact, I thought this morning I would come here today and talk about revolution because I believe that is what we need. We need to kind of look at this from a revolutionary perspective.

But having considered my background, the audience, and the esteemed folks on the panel, I thought I wouldn't insight a revolution today but merely put the thought out there that I believe what we need is not more legislation to deregulate, but we need to start repealing acts on a massive scale is what I would advocate.

I will talk a little bit about some of the issues and complexities that confront us in business. But I would also like to focus on what are we going to do about it because I don't believe passing more regulation to deregulate is an effective mechanism or means as we have seen with the telecommunications industry and countless others, and now the healthcare industry.

I also want to say that what I see today in terms of the massive amount, the sea of regulation and legislation that confronts the small business owner in the United States, what we have mentioned today unfortunately is only the tip of the iceberg.

When Mr. O'Donnell mentioned up to the ceiling of federal regulations and pages and pages of state regulations, there are more unfortunately. There is county legislation. There is city ordinances. I have property governance and covenants that I have to comply with and the cost just goes on and on.

In fact, I assert at this very point in time we are advocating a culture of noncompliance. In fact, I believe not only it is impossible for a small business to be compliant and consequently we are all law breakers unintentional. Of course, government passes most of these laws and legislations with the finest of intent.

In fact, in one of our cities in these great United States I saw a city ordinance which, again, with all good intentions mentioned that we should check—this is a city ordinance and if you are noncompliant, there is a penalty—you must check all fire hydrants one hour before fires. Again, good intents but just absolutely impossible to be compliant with something as ludicrous as that.

And so we foster more and more legislation but we never sit back and stop and say, "Enough. How do we stop this and repeal on a revolutionary scale if possible?" The culture of noncompliance has two consequences, one being we cannot—I just can't even understand or comprehend. If I take some of the legislation in the handout I provided, there is a couple of pages.

I just picked on one, the Department of Labor alone. In fact, the Department of Labor, the Federal Department of Labor is the first to admit that they do not comprehend all the legislation and issue a warning to small business on their Web site saying, "We apolo-

gize if this is incorrect but we kind of don't know what the laws are anymore. We have lost track."

When we reach a point of absurdity of that nature when federal agencies are no longer able to understand, comprehend and be compliant, something is systemically wrong. As I say, major reform and appeal in my opinion is the only way out if we want to avoid the decay of some of the economies I've seen and lived through.

Let me move on to the solution aspect. The first is please try and avoid the temptation of deregulation by yet more regulation. It is just absurd to try to understand the affect of the deregulated regulations. Repeal is probably the best way to approach reform.

I would also strongly advocate the use of more advanced methods and technology such as the ones Business Genetic has already provided to the federal government. Worked closely with Mr. Tenney and others at the USDA level and Chief of the Forest Service and we have helped them with pretty sensitive environmental legislation which inhibited that agency, in fact, from being productive.

I worked with folks in the field and the various ologists I work with that actually do the real work here in Colorado on a restoration product. We are totally cynical about what they were supposed to do for the agency. Their view was, "Well, whatever we do it is going to be repealed. It is going to be objected anyway. There is going to be an objection so we may as well just go through the motions and wait for the objection." The laws even governing some of the agencies have got to a point of absurdity.

So what we have done is invented a method of bridging what I call the legislative divide by putting legislation and laws out for even small business to review is not going to—it is, again, a noble thought but trying to interpret the legal terminology is not a forte or skill of small business. I can read about a balance sheet, an income statement, a business plan. If you give me a set of laws and regulations, that is not my forte for the average business person.

There is technology, as I mentioned, available which can take this legal terminology, synthesize the complexity, and present it in a very business centric set of pictures which we can then look at from a compliance perspective, from a resource perspective to ascertain what kind of resources and costs are going to be required, and to ascertain if we are in compliance. It is kind of a barrier between the raw legislation or law and the small business owner.

In the interest of time, that is all I want to say. To summarize, I believe the problem is far bigger than the gentleman in this panel even believes. It is massive. If I take all those layers beyond the federal, the state, the county I believe we are going to stifle small business if we continue down this path. I believe we need unprecedented reform and we need to do this in a manner which uses technology and the latest thinking to synthesize and distill this complexity into something which is comprehensible to the average small business owner.

That concludes my testimony. I thank you again. It has been a tremendous privilege for me as a transplant to come in and provide my inputs and I hope it has added some value.

[Mr. Tyler's statement may be found in the appendix.]

Chairman TOOMEY. Thank you very much for your testimony.

At this time I'll recognize Mr. Ziegler. As I alluded to earlier, I was in the restaurant business myself. Specifically, I owned and operated two sports-themed restaurants so I am particularly looking forward to his testimony.

STATEMENT OF JOHN ZIEGLER, OWNER, JACKSON'S ALL-AMERICAN SPORTS GRILL, AND REPRESENTATIVE, NATIONAL RESTAURANT ASSOCIATION

Mr. ZIEGLER. Thank you very much, Chairman Toomey and Congressman Beauprez for holding this hearing here in Colorado and, of course, for the honor to appear before a fellow restauranteur.

My name is John Ziegler. I am the owner of Jackson's All-American Sports Grills. I am testifying here today on behalf of myself as a small business person, and for the Colorado Restaurant Association and the National Restaurant Association which is the leading business association for the restaurant industry.

Together with the National Restaurant Association Education Foundation, the Association's mission is to represent, educate, and promote a rapidly growing industry that is comprised of 870,000 restaurant and food service outlets employing 11.7 million people around the country. As a member of the Board of Directors of the National Restaurant Association and the Colorado Restaurant Association, I am proud to say that our nation's restaurant industry is the cornerstone of the economy, careers and community involvement.

Mr. Chairman, I am living the American dream. I have over 40 years of experience in the restaurant industry. I am the owner and chairman of Jackson's All-American Sports Grills located here in Denver and in Greeley and Fort Collins, Colorado.

When I started 26 years ago I had four employees. My business now operates seven locations and employs approximately 400 people. Due to negative economic conditions in our community I was forced to close two of my restaurants last year eliminating about 100 jobs.

As I understand it, the purpose of today's meeting is to examine how government can remove obstacles to help small businesses to succeed. I would offer several suggestions and observations in that regard. First, the tragic events of September 11, 2001, had a dramatic impact on all aspects of American society. The economic harm to the restaurant industry resulting from the terrorist attacks has been substantial, particularly on fine dining restaurants, airport concessions, and restaurants located in urban and rural travel destinations, including Denver, Colorado.

The downturn in business travel has also impacted an airline with a significant local presence, United Airlines, which has a hub at Denver International Airport. Fewer travelers arriving in Denver on airplanes results in fewer people staying in Denver hotels, decreasing that employment, which results in fewer people eating in Colorado's many excellent restaurants, including my own.

This year, Congress appropriated $50 million to the Commerce Department and authorized the Secretary of Commerce to create a United States Travel and Tourism Promotion Advisory Board. While these funds are an important first step in promoting the United States as an attractive destination, the National Restaurant

Association hopes that Congress will consider a longer term authorization to capture these travelers that our economy desperately needs.

Mr. Chairman, moving on to another important topic, the United States legal system is deeply troubled. Recent class-action lawsuits filed in New York City by an attorney who says restaurant companies should be held liable for his clients' obesity-related health problems may be among the most egregious examples of problems in the U.S. legal system, but they are not out of the ordinary. The U.S. House passed a series of common-sense reforms to the nation's class-action system on June 11 by a vote of 253 to 170. The measure is now pending in the U.S. Senate.

With restaurant profit margins averaging around four percent, a single frivolous lawsuit is enough to put a small restaurant out of business. High-priced liability insurance and out-of-court settlements have become a permanent cost of doing business in the restaurant industry. The National Restaurant Association strongly supports class-action reform as a first step toward meaningful lawsuit reform.

Regarding our nation's ongoing economic recovery, the economic growth package passed by Congress earlier this year contains provisions that are helping to build the nation's recovery by stimulating consumer spending, freeing up resources for businesses to expand and create jobs, and promoting long-term growth.

the new law includes a boost for small businesses through increased expensing limits. The new law lets business owners who spend $100,000 a year and gives this option to any business owner whose annual investment in the business is under $400,000. That is a big incentive for a restaurateur to grow his or her business by pumping money into such investments as new kitchen equipment, hardware and software upgrades, or dining room furniture.

The law also includes a boost for businesses through a "bonus depreciation" allowance which provides an allowance equal to 50 percent of what they spend on qualified equipment between May 5, 2003, and January 1, 2005. In addition to equipment purchases, the bonus write-off applies to improvements made to leased properties.

An important note. Congress can do even more by making business meals fully deductible as a legitimate business expense. This is a critical issue for all small businesses. Many Democrats including past fellow waiter from my Hawaii days, Neil Abercrombie, believes strongly on this issue.

Exploding healthcare costs is another key issue which has been addressed by almost everyone here and certainly is a key issue for the restaurant industry. Restauranteurs want to provide health benefits for their employees and many do. For those who do not, however, surveys show that skyrocketing costs are the main reason. Table service restaurant operators have seen health plan costs increase an average of 23 percent in each of the last two years.

In the restaurant business this is an acute problem. Seven out of 10 eating and drinking places are single unit operations and, thus, have a particularly tough time finding affordable high-qualify health insurance. In most states, as in Colorado, a handful of insurance companies dominate the small business market.

The Bush Administration and members of Congress from both parties have endorsed Association Health Plans (AHPs) as an important way to provide more Americans access to affordable health care. Through AHPs, small and medium sized employers can join together across state lines to buy health insurance through a recognized membership organization such as the National Restaurant Association.

The House of Representatives passed AHP legislation (H.R. 660) in June and we hope the Senate will act soon on companion legislation, S. 545.

Another regulatory issue important to the restaurant industry is pending at the U.S. Department of Labor, the DOL. DOL is proposing to revise its "white-collar" overtime regulations which determine "professional, executive or administrative" employees' eligibility to receive overtime pay. Written in 1949, the old labor regulations are now outdated and include job classifications that no longer exist.

The National Restaurant Association believes that the current regulations are no longer relevant to the 21st century work place and workforce and should be updated so the small business including restaurants can determine how to classify their managerial employees without having to hire an attorney or an outside expert.

Mr. Chairman, I want to thank you again for the opportunity to appear before you today and I would be happy to answer any questions.

[Mr. Ziegler's statement may be found in the appendix.]

Chairman TOOMEY. Thank you very much for your testimony.

Let me being the questions with Mr. Piper.

First of all, let me just recognize that I think that the association that you belong to, ABC, Associated Builders and Contractors, have for years done an outstanding job in advocating for a free enterprise system that levels the playing field for merit shops. I am a big fan of the work that they have done and that you members have done to try to advance to some common-sense fairness in the way the construction industry contracts are awarded and other aspects of the issues you addressed. Congratulations on the great work you folks do.

Let me just touch briefly on another point. You had mentioned concern about the death tax. You voiced well a view that I have that it is just an outrageously unfair tax in the first place. You also, I think, alluded to the importance of having the repeal which is currently on the books become permanent because, as we all know, this tax is repealed and I think it is 2011 or something. Then it promptly comes back in full force in 2012.

Just for the record, I just would like to make it clear that there is a reason for that. It is not a good reason but I want people to understand when it came to passing this tax relief package that President Bush proposed and that the House of Representatives enthusiastically embraced, it was by virtue of the rules of the United States Senate, dead on arrival had we not put in a provision that would allow it to pass with a simple 50 votes instead of being subject to a filibuster which would then require 60 votes. There is no way we would get 60 votes for this.

Now, because of the arcade rules, and I apologize for getting into this minutiae but I think it is important to explain this. The rules of the Senate are such that the only way you can have legislation regarding taxes that cannot be filibustered and, therefore, can be passed with 50 votes is if it applies for only 10 years. Hence, the need to put a sunset provision on the entire tax relief package.

We did that as the unfortunate but necessary way to get this passed and I share your view that we should be working very diligently to make this permanent. It is an outrageous tax in the first place and it is even more egregious that businesses cannot plan and people don't know whether or not there will be a death tax. I appreciate that input.

You had talked about association health plans and your advocacy thereof. I am just wondering—I am with you on that. I think it makes perfect sense and I support that legislation. Have you thought about or looked into other ways of making health insurance more affordable such as medical savings accounts and flexible spending accounts and other mechanisms that would help in addition to association health plans?

Mr. PIPER. We are actually doing that this year with the renewal of our insurance assuming that we are going to have a sizable increase again this year. That is one thing we are looking at. We are looking at other options to be able to provide insurance for our employees.

Chairman TOOMEY. So you think that will be an important part?

Mr. PIPER. Yes, it would be a very important part.

Chairman TOOMEY. Okay. It seems to me that we want to create an environment where there are as many options as possible for individuals, small employers, and large employers to obtain health insurance. It seems there is a menu that we ought to make available.

Mrs. Trujillo, you had mentioned tort reform as one of a number of issues that you think are important. There are a lot of—obviously civil litigation covers an enormously broad spectrum and I want to believe we need a lot of tort reform. Are there any particular areas that you think need special priority? For instance, medical malpractice reform. Is that a particular issue that concerns you, or are there other components of tort reform that you would put as a higher priority?

Ms. CIROCKI-TRUJILLO. No, I would agree with that. I have some friends that are in that industry and some disturbing news that I heard is more and more people are choosing not to go into that profession because when they get out, they are not able to afford the malpractice insurance and be specialized. I don't know about you but I have been affected by people that have had cancer, heart disease, those types of things which are all in specialized fields. We are getting older. The generations are getting to where we may not have that knowledge to help us with our diseases. It is a big concern of mine.

Chairman TOOMEY. Mr. Tyler, you made some interesting observations which I find myself very sympathetic with. I think one of the problems with many of my colleagues honestly in their enthusiasm for new regulation is a lack of appreciation of how well markets work and how much businesses feel the need and, in fact, do

need to be responsive to their customers and to provide the services in a responsible way for the sake of their own business. You may be aware of that.

You talked about the decline of some economies that you attribute to excessive regulation. I think you are exactly right. You may be aware of the annual Heritage Wall Street Journal publication where they create an index of economic freedom. There are 20 or 30 objective criteria for evaluating how free an economy is. That includes things like convertibility of currency, level of taxes, the extent of regulation but they are objective measures.

They rank countries based on the extent of the economic freedom in their economies. Then they plot on the same graph the average annual economic growth over the last, say, 10 years. Now, what you see is this enormous correlation, a very high correlation with prosperity and growth and economic freedom, which is to say lower regulation. I think you are absolutely right. There is a huge cost.

When we talk about the 10 percent or so of our GDP that goes to complying with regulation, it is a huge, huge sum of capital that is not being put to productive use. It is being put to fundamentally unproductive use. We systematically cost our society jobs and higher wages and a better quality of life by virtue of these regulations. I share your frustration in saying how do we get this out there.

I guess my question for you is do you have any suggestions as to how we change the culture, the mindset, so that the focus is on how do we maximize economic growth and prosperity so that everyone has a better life and more fully lives the American Dream rather than how do we constrain and control people.

Mr. TYLER. I am a strong advocate of strong leadership and I believe the current administration has a tremendous window of opportunity to show the leadership that I think you are sharing here today to help us and make the right kind of steps in the right direction to introduce new processes for reviewing regulations and laws, and for putting stage gates in place to go through certain due diligence before we pass laws. When I say due diligence, I mean with regards to the regulatory impact on small businesses before we pass them and have a scramble to try and recover. I think leadership is part of the solution at getting the message out, communicating it, as well as reviewing the processes that we use in the legislative system. I think it is time for them to be looked at and improved and streamlined for the right reasons.

Chairman TOOMEY. Thank you. My last question for Mr. Ziegler. You also mentioned tort reform, the importance of that. As I mentioned, I am very sympathetic to that. In my restaurant we were more than once sued by people who have alleged to have slipped and fallen in the restaurant and our attorneys were convinced that these people never stepped foot in the restaurant. But, of course, it is very hard to prove a negative and this is the kind of abuse that is egregious.

My question for you is of all the kinds of things we can do in tort reform whether it is class action reform, product liability reform, repeal of certain liability, medical malpractice reform, do you have a sense of what would be an important priority for your industry? Which of these many tort reform measures would be most helpful for the restaurant business?

Mr. ZIEGLER. Well, eliminate the liability to the individual restaurant owner/operator with third party situations. You have seen that in the liquor liability area. There are many others. We are the third party. We are responsible because you overeat. We are responsible because you over consume alcohol. We are responsible for many of these third party issues. Just to limit the liability that a third party has would help. Proving a negative is real tough, like you say, and live under all these regulations.

This gentleman to my right pointed out the different levels that we all have to deal with going down to the local community is extremely difficult for all us. But eliminating the liability and exposure that we have would help a lot.

Chairman TOOMEY. Thank you very much. I will yield to the gentleman from Colorado.

Mr. BEAUPREZ. Thank you, Mr. Chairman. I have great empathy and sympathy and camaraderie with all four of you having run businesses myself. As I sit here, several thoughts are racing through my mind relative to tort reform.

We seem to have fallen into a time in our culture where there is a prevailing mentality out there that it is up to others of us such as the four of you to save us from ourselves whether we over eat, over drink, over whatever we do. That somehow people like yourselves have a responsibility to make sure that we vent those excesses or simple accidents. That is kind of bizarre in my mind.

Also, I would love if one of you, maybe all four of you even, want to take a shot. Ms. Trujillo, it crossed my mind you might want to be the one. Of the many, many costs that have been outlined, insurance, energy, regulation, taxation, is there not also a very real cost to business, a cost I will call the fear of litigation cost? Some have an acronym called CYA that they attach to that. Is that or is that not a real cost of doing business today, fear of litigation?

Ms. CIROCKI-TRUJILLO. Oh, yes, definitely. I didn't talk about that as an issue but when you talk about the tort reform, another one that I am personally going to renew is workman's compensation. You do everything that you can to provide a healthy environment for your employees and I feel that we have done that. I have two cases that are going through, both different injuries.

One is going through just fine and the other one is I have to watch consistently what I say and how I react to this employee. I have had several appointments with attorneys to make sure that I am dotting my i's and crossing my t's not knowing how it is going to end and not knowing if it is going to come back to me unjustly after it has ended. My father has had a couple of those. He is no longer with me for advice.

However, I am going through my first one and it is probably the most painful thing that I have yet to experience with running a business. It certainly makes you wonder if you can trust what is going on out there and you are trying to do the best that you can. Yet, you have somebody where—you know, Colorado is a very claimant state. Workmen's comp insurance is high compared in relationship to the nation for those reasons.

I am constantly having to be on the phone to my claims adjuster handling the employee's questions. I can't even explain it. A big portion of my time and money is spent covering my ass hoping this

is going to flip the other way and will I be in business two years from now when my insurance premiums go up even further for something that I feel we did everything to prevent the accident.

Mr. BEAUPREZ. Reasonableness does not always seem to be a legitimate standard anymore or the appropriate standard.

I pick up on another point that you made, Ms. Trujillo, the insurance ratings for small businesses. Would I be correct in assuming that one of the strong arguments for association health plans is just that. I recall when my bank was very small and we had a handful of employees, we had a teller that I think was 60 plus or minus and had a little heart problem. Our insurance costs went through the roof as you can imagine.

You are sitting there faced with a horrible, an absolutely impossible group of choices. Do you let her go? You can't do that. You bite the bullet and pay the fee? That is what you end up doing. All bad choices. If you can combine in large enough groups, am I correct? Such as association health plans.

Ms. CIROCKI-TRUJILLO. I just learned about that today because we were talking. When my renewal came around I looked into it. I thought this has got to be the way to do it. At the time it was not more cost effective but it has got to be if you can work together as an association. Again, in the past of Arrow Sheet Metal my father, again, had some employees, senior employees, people that he trusted who had worked very hard for him who had serious illnesses, cancer and whatnot, and the choice was having to let them go.

Morally and ethnically it is against us to do that but you have got to keep the business alive to look at the greater good of employer and employee so that has happened. I am looking forward to the opportunity at my renewal to do that because I will look at every option that I can to try to keep at least the cost down to something that is affordable to our employees.

Again, it is the skilled workforce. The first question out of their mouth when they come in to interview is, "What is your healthcare and how much does it cost?" Then I am looking at the wages that I am afforded to pay them to be competitive in my marketplace and it is very difficult for them to come work for me. Right now I pay 100 percent of my health insurance. That probably won't happen very much longer. I don't ever see ever being able to afford or even them being able to afford the other portion of that.

Mr. BEAUPREZ. It is a huge catch 22. I recall my oldest son worked for a company that had the same challenges that you are talking about, especially relative to healthcare. They decided to self-insure. They were big enough. If you know who they were, you would agree that maybe they could self-insure. Even at their size the same year my son got cancer another employee got cancer and it nearly bankrupted what you would think was a very healthy company.

Mr. Piper, if I might, are you familiar at all with a new acronym out there HSAs, health savings accounts?

Mr. PIPER. Yes.

Mr. BEAUPREZ. Opine on that if you would. In essence, what a health savings account allows one to do is put tax-free money into an account, roll it over from year to year if you don't spend it. More

specifically, it would allow other relatives such as children to assist with their parents to contribute to that account tax free. Even an employer who might, for example, want to contribute to a retired key employee into their retiring years also provide that as a deductible item. An opinion, please.

Mr. PIPER. One thing that we do is we also offer a cafeteria plan which allows the employees—it does not allow us to put money in but it allows the employee to set money aside before taxes when they have fixed medical costs whether it is a prescription every month or treatment when they know what the amount is going to be. That money is deducted out of their check, put into this plan before taxes.

I think that is similar to what that savings account is but it is on a very limited basis that they are able to do that. There are some real restrictions as far as if they have $1,000 and they only spend $500, they don't get that other $500 back. There are some real limitations to encouraging the employees to participate in that cafeteria plan. Out of our employees we only have three that participate in it.

Mr. BEAUPREZ. Mr. Tyler, I am very curious what other economies and countries have you had your painful experience with that we should try not to emulate?

Mr. TYLER. The first was the United Kingdom. The major issue I had there was labor laws. It became almost impossible to fire even justifiably an employee. It was just an unworkable situation. I became very reluctant to hire folks in the business.

I had a brief excursion into France which was to say the least. I also opened an operation in South Africa for a few years which was initially quite successful and as the business grew became more and more constraining. I just felt intolerable and unfair in a lot of instance so I decided to come to the bastion of economic freedom. I want to stay here so I urge policy makers to bring some sanity back.

Obviously we still have a fantastic environment. I have the luxury of having worked outside of this theater and seen what occurs in other countries. Al things considered this is a fantastic place to do business. However, the warning signs are there and I would urge us not to proceed in the direction we appear to be proceeding in and to reform as much as possible.

Mr. BEAUPREZ. I appreciate that. I will give you one other tidbit of information. There is some—there are probably many pieces of legislation that I think we are looking at to perhaps improve the situation. One is called the Congressional—I think it is called. I hope I am right in this—the Congressional Responsibility Act.

Mr. Chairman, did I get close? I think that is the right phrase. Anyway, what it would mandate is that law, rule, the stuff you have to deal with everyday, actually be originated by Congress where the lawmaking ought to reside, not with the bureaucracies. I think that might be a very good step in the right direction. At least you have a mechanism to hold the likes of the Chairman and myself accountable every two years.

Mr. Ziegler, I will close quickly with you. This is something that had not come up until your testimony but something that I think is very real. We talk about regulation taxation, cost of insurance,

cost of energy and all those are very real. But if we talk about the health of the economy, the impact of an event like 9/11 should not go unnoticed by the business community or anyone else.

If God forbid that something like that happened again or worse events similar to that would become more the norm than the exception, what would be the impact to businesses such as yours?

Mr. ZIEGLER. When 9/11 happened, as you probably are all aware, business travel fell 50 percent. With the latest news about the preponderance of shoulder-fired missile capability, if one airplane is shot down—and this was brought up in our last board meeting—that travel will stop.

When the business travel went down 50 percent here in Colorado, our business, the restaurant business, fell off significantly in all levels, primarily the fine dining where the more expensive meals were. But as the travel fell—by the way, other issues that happen in the tourism, and that is why I did bring up the tourism issue which, obviously is connected with travel in a significant manner.

As the tourism fell, as the travel fell, and, of course, hotels were not occupied, I didn't think I was directly hooked into the tourist business but because of the cutbacks in just people bringing money to our community, although we are not located in the mountain exactly, the trickle down situation and it has been very devastating.

We are not a necessary expenditure. You can cook a hamburger on your hot plate at home so, consequently, it was devastating. God forbid another issue related to 9/11 or if an airplane got shot down, I am afraid to say what would happen to our economy.

Mr. BEAUPREZ. A lost observation, Mr. Chairman, before I yield back. I think I can speak for many of the members of our committee and hopefully many in Congress. We labor a lot with job creation. We have been spending a considerable amount of out attention in this Congress on that, and rightfully so. But I have opined before—I will commend the four of your and others just like you as employers.

I have opined that we cannot always be just for employees if at least once in a while we are not for employers who hire those employees. There does have to be balance and I think that is a good share of the reason why we are here today. I commend you for the testimony that you brought to us and the job you do on a daily basis.

Thank you, Mr. Chairman. I will yield back.

Chairman TOOMEY. Thank you very much. I would like to thank all of the witnesses who testified today. I think we heard some very interesting, very important and compelling testimony which will inform our judgment and which we will bring back to our full committee and to our deliberations in Congress.

I look forward to working with Mr. Beauprez in particular to pursue the issues raised by Dr. Hea, some truly egregious situations that I hope we will be able to address. I look forward to coming back to Colorado at some point in the future. Thank you all very much. The hearing is adjourned.

[Whereupon, at 12:23 p.m. the Subcommittee hearing adjourned.]

Subcommittee on Tax, Finance, & Exports
Field Hearing, Denver Colorado
August 27, 2003
Removing the Roadblocks to Success: How Can the Federal Government Help Small Businesses Revitalize the Economy?

Good morning. Thank you all for being here today as we examine potential roadblocks to success for America's small business. Specifically, we are going to be looking at problems (either generated or neglected by the federal government) that prohibit growth and prosperity in America's small business community along with potential solutions to these problems.

As I am sure most of you are aware, small businesses are the driving force behind our economy. They represent 99 percent of all employers; more than half of all U.S. employees work for small firms; and, they generate between 60 and 80 percent of all new jobs in America. Small businesses can and will be the leaders in our economic recovery and we, as your elected officials, must do all we can to foster, not hinder, their growth.

Before we begin, I would like to thank my good friend, Congressman Bob Beauprez, for inviting me to be here with you today. I consider Bob to be an invaluable asset to the House Small Business Committee. He brings real-world experience to the Committee as he, like myself, has owned a small business. Bob knows the pressures of meeting payroll, finding affordable health insurance for his employees, and complying with government regulations. Bob also realizes the immense burden placed upon small businesses by our own federal government, and has excellent ideas as to how to rectify them.

Few of our colleagues have the kind of experience, knowledge, and wisdom that Bob brings to Congress. Even in his first term, Bob's opinions are sought out and respected.

Perhaps because too few of our colleagues ever had to make a payroll themselves, Congress has been fond of passing new laws and imposing mandates and regulations on business. Congress has been working in recent years to diminish that burden--legislation such as the Paperwork Reduction Act, the Small Business Paperwork Relief Act, and most recently the Jobs and Growth Tax Relief Reconciliation Act of 2003. However, even with the passage of these bills, federal regulatory, tax, and compliance burdens continue to be cited by many owners as the most significant problems facing their businesses.

For example, according to a report recently published by the SBA's Office of Advocacy, Americans spend $843 billion complying with countless federal regulations.

It's not just the regulatory burdens that hurt small businesses. The health care marketplace is especially difficult for small firms.
The cost of health insurance has become prohibitive for many of America's small businesses and their employees. Of the 41 million uninsured Americans, 60 percent work for small employers who can't afford to purchase health insurance for themselves or their employees.

Congress, and more specifically this subcommittee, is exploring mechanisms, such as Association Health Plans, expanding the use of Medical Savings Accounts and Flexible Spending Accounts, and increasing tax credits specifically for the purchase of health insurance. All of which will help small businesses use market forces to make healthcare more affordable.

The tax code is another government invention particularly onerous to small businesses. Despite the significant tax relief Congress and President Bush have provided to small businesses, taxes are still too high, and the tax code is ridiculously complex.

A 2001 study conducted for the SBA's Office of Advocacy found that Tax compliance cost $1200 per employee for the very small firms versus $562 for large firms. That is a significant handicap for a small business as every extra minute spent deciphering the tax code is one less minute that owner can spend growing his or her business, providing new jobs, and revitalizing our economy. We must continue to strive for lower levels of taxation along with simplicity and permanency in our tax code.

These are but a few examples, there are many more and I am anxious to get to our witness testimony, however, before I we begin, I would like to thank Congressman Beauprez again for inviting me to come here today.

MR. BEAUPREZ OPENING STATEMENT

Mr. Chairman, I would first like to take this opportunity to thank you for taking time out of your busy schedule and traveling out to my home state to hold this important field hearing. I share your passion for helping our small business owners succeed in today's difficult economy and applaud you for holding hearings outside of Washington, DC, to look for answers as to how we can create an environment in which our country's small business owners can prosper.

I also would like to recognize our distinguished panel for being here today. As I look out, I'm happy to see so many of the faces that make up the leaders of the small business community in Colorado. In addition, we have with us today representatives of the federal government in Jim Henderson, who is the Regional Advocate for the U.S. Small Business Administration, and the State of Colorado in Rick O'Donnell, who is the Executive Director for the Colorado Department of Regulatory Agencies.

Mr. Chairman, as we begin here this morning, I'd like to take a moment to reflect on just how important small businesses are to the U.S. economy. The Small Business Administration estimates that in 2002, there were approximately 22.9 million small businesses in the United States.

These small firms:

• Represent more than 99.7 percent of all employers;
• Employ more than half of all private sector employees;
• and pay 45 percent of the total U.S. private payroll.

In addition, it is estimated that small businesses create over three-quarters of all net new jobs in the United States annually.

These numbers aren't much different here in Colorado, where the small business sector has always played a vital role.

97.5 percent of businesses in the state are classified as small and an estimated 170,000 individuals are self-employed. These small businesses employ over 52% of the all the state's private sector workforce.

And how is it that we thank these entrepreneurs and innovators that are lucky enough to make it in today's difficult economic conditions? We impose countless regulations and billions of dollars in taxation upon them.

The total costs of federal regulations were estimated to be $843 billion in 2000, of which $497 billion fell on business and the remainder on consumers or other governments. For firms employing fewer than 20 employees, the annual regulatory burden is a staggering $6,975 per employee—nearly 60 percent more than that of firms with more than 500 employees, at $4,463.

Environmental regulations and tax compliance paperwork are particularly disproportionate in their effects on small businesses. Such regulations impose about 40 percent of the total business regulatory burden.

What is clearly evident from these stats is that regulatory costs continue to increase and to the disadvantage of small businesses. This needs to change, and change soon if we are going to ask these small businesses to lead the charge to economic recovery.

Mr. Chairman, I know that you and I have sat through many hearings together out in Washington dealing with all kinds of issues that affect America's small business owners. I've got to tell you how excited I am to be here today in my state's capitol to hear what some real life small businessmen and women have to say about the ways we can help them succeed in today's difficult marketplace. Again, I want to thank you for holding this hearing, I want to thank our witnesses for being here today, and I look forward to hearing their testimony.

Office of Advocacy

Testimony of

Jim Henderson, Region VIII
Regional Advocate, Office of Advocacy
U.S. Small Business Administration

Before the

Subcommittee on Tax, Finance, and Exports

of the

U.S. House of Representatives
Committee on Small Business

for

"Removing the Roadblocks to Success: How Can the Federal Government Help Small Businesses Revitalize the Economy?"

August 27, 2003
10:00 a.m.

in the

Old Supreme Court Room

Colorado State Capitol

Denver Colorado

Chairman Toomey, Congressman Beauprez, and members of the Subcommittee, thank you for the opportunity to testify today. My name is Jim Henderson and I am the Regional Advocate for Region VIII in the Office of Advocacy (Advocacy) at the U.S. Small Business Administration (SBA). In 1976, the U.S. Congress established the Office of Advocacy within the SBA to protect, strengthen and effectively represent the nation's small businesses within the Federal government's legislative and rulemaking processes. The office is directed by the Chief Counsel for Advocacy, Thomas M. Sullivan, who is a Senate confirmed appointee. The Office of Advocacy is an independent office within the SBA so the views expressed in this statement do not necessarily represent the views of the Administration or of the SBA.

As the Regional Advocate for Region VIII, I am charged with being the eyes and ears for the Chief Counsel for Advocacy by listening and responding to concerns of small businesses in Colorado, Montana, North Dakota, South Dakota, Utah and Wyoming. I also work with state officials on small business friendly initiatives. For example, Governor Bill Owens of Colorado recently signed state regulatory flexibility legislation (S.B. 03-121) into law that will make the rulemaking process in Colorado more transparent and allow small businesses to have their voices heard.

The Office of Advocacy was established because Congress recognized that small businesses were being crushed by the cost of regulation and government agencies were not considering the economic impact of regulations on small businesses before they implemented new regulations. Since small businesses do not have the time or resources to insert themselves into the rulemaking process, Advocacy was created to directly advanced the view, concerns and interests of small business before Congress, the White

House, federal regulatory agencies and state policy makers. The mission of Advocacy is to listen to small businesses, learn what they really need and carry that message to those involved in the Federal rulemaking and regulatory process.

This effort was greatly strengthened with the passage of the Regulatory Flexibility Act (RFA) which mandated that agencies are to analyze the impact of proposed regulations and consider less burdensome alternatives to achieving their public policy goals. The RFA was further strengthened by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 which gave the Office of Advocacy the ability to file friend of the court briefs on behalf of small businesses. In FY 2002, the Office of Advocacy saved small businesses over $21 billion in foregone regulatory costs that small businesses can now use to hire another employee, purchase new equipment, or provide healthcare for their employees. Even with this savings for small business, more work remains to be done to level the playing field for small businesses so they can do what they do best: create jobs.

The hearing today is titled "Removing the Roadblocks to Success: How Can the Federal Government Help Small Business Revitalize the Economy?" I would like to address two issues that remain at the top of small business' list of impediments to their growth and success: tax reform, and paperwork and regulatory relief.

This Administration and this Congress have already done a great deal with the passage of the Jobs and Growth Tax Relief Reconciliation Act of 2003. Advocacy promoted a number of the provisions in the President's Jobs and Growth package and we were pleased with the bill's emphasis on small business. Many of the provisions in the

law received widespread support from small business during Congressional consideration. These provisions will have a significant positive impact on small business.

First and foremost, the Jobs and Growth Act provided useful changes in section 179 expensing that had long been sought by Advocacy and the small business community. The new law increased the amount of equipment purchase a small business can expense directly, rather than depreciate over time, from $25,000 to $100,000. In addition, the threshold for phasing out expensing was doubled to $400,000. Each of these numbers will be indexed to inflation beginning in 2004.

The Treasury Department has estimated that at least half a million businesses would directly benefit from expensing provision changes that were similar, but not as generous, to those enacted.

Additionally, first year "bonus" depreciation was increased from 30 to 50 percent for investments acquired and placed in service through 2004 and in some cases through 2005. When combined with section 179, this creates a substantial addition incentive for small businesses to make their capital equipment purchase quickly. Likewise, equipment dealers and manufacturers benefit from the sale of new, more productive equipment to these businesses. Further, it is highly probable that the environment will benefit from use of newer and cleaner equipment that replaces older and more outdated items.

Also, the Jobs and Growth Act accelerated most of the tax cuts enacted in 2001 to take effect this year. The top tax rate for individuals, for example, was reduced from 38.6 percent to 35 percent. The impact of individual income tax rate cuts is widely felt in the small business community since over 90 percent of all businesses are taxed at the individual, not corporate level.

More can be done. Two things stand out in particular: simplicity and permanence.

First, the tax system must be made less complex. Tax compliance is a serious and costly problem for small business. Over 90 percent of all businesses have fewer than five employees. The majority have no employees; they are simply run by the family. One study by the Tax Foundation found that it costs small businesses more to collect and keep tax records than they pay in taxes (*The Cost of Complying with the U.S. Federal Income Tax.* Tax Foundation, November 2000). A huge chunk of that cost is the time and effort required for the owner to wade through and decipher volumes of new tax laws and regulations. Many businesses find it necessary to hire a tax expert to guide them through the tax maze, dig out the required information and make the correct computations and judgment calls.

Second, the tax system must be made more stable and predictable. Dr. Radwan Saade of the Office of Advocacy's economic team recently presented a working paper that demonstrated that constantly changing tax laws can create problems for small business. He said, in part:

> Small business associations identify taxes as the single most important issue facing small businesses. Unexpected shifts in the tax rate and structure only exacerbate the already difficult circumstances involved in running a small business. Now in addition to the uncertainties inherent in operating a small business, business owners must make allowances for unknown changes in the tax code while making plans that extend beyond the next presidential election cycle.

Providing certainty in the Tax Code gives small businesses the confidence to make decisions for their long term viability and growth. Giving small business the ability to invest with confidence in their future is good for the businesses and good for our economy.

But taxes, while universal and inevitable, are not the sole problem area for small business. Based on frequent comments from small businesses, the Office of Advocacy is concerned about the large—and growing—Federal paperwork and regulatory burden. Despite the passage of laws designed to relieve the paperwork burdens on small businesses—such as the Paperwork Reduction Act, and more recently, the Small Business Paperwork Relief Act of 2002—the Federal paperwork burden continues to be cited by small businesses as one of their most significant problems.

In addition to paperwork, small businesses tell us that they often encounter regulations written with no apparent awareness of the costs that must be borne by the affected businesses. This happens despite laws requiring agencies to account for the costs and benefits of new rules.

While Advocacy works to improve agency rulemakings, small businesses are obliged to comply with rules that may have significant costs and negligible societal benefits. As well-documented by Advocacy's Crain-Hopkins report, small businesses continue to pay a disproportionately large share of the total Federal regulatory burden, which was estimated to total $843 billion in 2000. For firms employing fewer that 20 employees, the annual regulatory burden in 2000 was estimated to $6,975 per

employee—nearly 60 percent higher than the $4,463 estimated for firms with more than 500 employees.

As a local example, we are grappling with the U.S. Fish and Wildlife Service's designation in June 2003 of 31,000 acres from southeastern Wyoming to Colorado Springs as critical habitat for the threatened Preble's meadow jumping mouse. It is becoming known as "the mouse that roars" as the habitat designation significantly boosts business operating costs.

Just three weeks ago, a Colorado Springs road construction firm was compelled to spend an additional $200,000 to lease a specialized crane to ensure that the company's work did not disturb the habitat of the Preble meadow jumping mouse while building a boulevard extension. What makes this story more vexing is that the mouse has never actually been found at the site. In another part of Colorado Springs a major housing development project has been on hold for two years.

This endangered species act habitat designation has affected entire communities. In northern Colorado mouse protections threatened to halt the planned expansion of a water reservoir for the city of Greeley. The result is uncertainty, imposing conditions that slow development and kill job creation. Such regulatory actions are particularly wasteful when there is still question whether granting critical habitat designation actually protects endangered species.

Mr. Chairman, this concludes my prepared remarks. Let me state again what pleasure it is to have this discussion here in Colorado on these important small business issues. I would be very happy to try to answer any questions you might have.

Removing the Roadblocks to Success:
How Can the Federal Government Help Small Businesses Revitalize the Economy

Testimony of Dr. Rebecca Hea
Senior Administrator, Denver Children's Home
Subcommittee on Tax, Finance and Exports
Committee on Small Business of the U.S. House of Representatives
August 27, 2003

Thank you, Mr. Chairman, and members of this Committee, for the opportunity to present testimony on the roadblocks hurting small businesses. I am Dr. Rebecca Hea and I am a senior administrator at Denver Children's Home, the oldest nonprofit in Colorado. Founded in 1876 as an orphanage, we currently provide intensive residential and outpatient treatment services to children and families with mental health issues. Our clients are referred for treatment from county human services agencies.

I am thankful for the opportunity to discuss the impact of excessive paperwork on our small nonprofit business. I would like to briefly highlight some of the problems created by governmental demands for documentation and the inefficiencies that result for our staff, taking valuable time away from effectively treating children and containing costs.

We began receiving Medicaid funds in 1994 when our agency status changed from a Residential Child Care Facility to a Residential Treatment Center. While this increased our funds for treatment, it also meant that three extra clinicians and one clerical staff person were needed to manage the increase in documentation for our 60 residents.

Currently we are required to complete the following paperwork:

- At admission (when a child enters our care)
- A 10 day staffing report
- A log entry for all individual, group and family sessions
- All critical incidents
- All phone communications related to the case.

The clinical staff average more than 8 hours a week documenting the work they do. Forms to report critical incidents are not standardized and the information required differs for reporting to the State vs. counties causing redundancy and inefficiencies.

There is currently a Medicaid audit proposal that would eliminate a full day's treatment reimbursement for any documentation missing on that day. For example, if a note for an individual therapy session is not completed and logged, we would lose a whole day's pay despite all of the other services provided on that day. The penalties are huge but the documentation is nearly impossible to complete considering all of the responsibilities to keep the children safe and provide intensive treatment.

Documentation problems also impact our business office. For residential clients our funding sources are:

- Medicaid for treatment
- Counties for room and board
- Colorado Department of Education for per pupil operating revenue,
- Federal school lunch program
- And specific school districts for all students identified with special education needs.

The constant need to track our many families that frequently move is burdensome. For our small business it means that funds are delayed and require extensive collection efforts. Unfortunately, funds are transferred into our bank accounts and the detail may follow three days to three weeks later. Then there are often numerous discrepancies, not well defined, that cause the counties to adjust payments for months. Attached is an example on three clients from Jefferson County. As you can see in these cases the adjustments span several months and multiple transactions for a net effect of $37.00. The amount of time for our accounting staff and the counties' accounting staff is not being utilized efficiently when so much time is spent devoted to debit/credit memos that can be exchanged back and forth for months.

The process required for billing starts with tracking individual clients on a daily basis including Medicaid number, date of birth, caseworker (which changes frequently), county, and school district. More than 50% of our bookkeeper's time is spent untangling the billing nightmare. Tracking down paperwork from numerous sources (internal and external to the agency) takes so much time that we had to hire a bookkeeper to manage this workload.

Even though our residents are located in one place, if their highly transient families move to a different school district or county, then billing is contested and payment delayed further. Nothing is easy or automatic. HIPAA requirements will further complicate the paperwork requirements for treatment and billing.

While our budget has decreased due to funding crises in referring counties, and we have fewer referrals, our paperwork demands continue to increase. These burdens compromise our ability to directly provide quality care and contain costs. If you do anything as a result of this hearing, I ask that you streamline our paperwork and compliance requirements so that we can spend less time filling in forms and more time treating children.

Thank you.

Rule IX clause 2(g)(4) of the Rules of the House:

I have not received a federal grant, contract or subcontract in this or the preceding two years.

Jefferson County Analysis 8-20-02
Detail Analysis

Partial analysis of series of transactions, payments and payment corrections for two kids billed to Jefferson County.
Billings are for March and April, 2002. Essentially three billing transactions created this. Attendance attached.
There were 15 line items billed in these two periods - these represent 20% of the total billed items.

Date	Invoice	Trans Type	Client #	Begin	End	Days	Rate	Amount	Balance OS	Svc Type
04/02/02	3310206	*Invoice	1	03/28/02	03/30/02	2	$82.23	164.46	164.46	RCCF Child Maintenance
04/03/02	3310206	*Invoice	1	03/01/02	03/29/02	29	$37.00	1,073.00	1,237.46	
04/11/02	3310206	Payment	1	03/02/02	03/31/02	31	$37.00	(1,147.00)	90.46	RTC/Maint Room and Board
04/30/02	3310206	CM 40249	1	03/31/02	03/31/02	1	($90.47)	(90.47)	(0.01)	Adjust to cash received
05/10/02	3310206	Payment	1	03/28/02	03/30/02	3	$74.56	(223.68)	(223.69)	RCCF Child Maintenance
05/10/02	3310206	Payment	1	03/01/02	03/31/02	(31)	$37.00	1,147.00	923.31	RTC/Maint Room and Board
05/10/02	3310206	Payment	1	03/01/02	03/27/02	27	$37.00	(999.00)	(75.69)	RTC/Maint Room and Board
05/10/02	3310206	Payment	1	03/31/02	03/31/02	1	$37.00	(37.00)	(112.69)	RTC/Maint Room and Board
05/21/02	3310206	DM 50213	1	03/31/02	03/31/02	1	$112.68	112.68	(0.01)	Adjust to cash received
06/24/02	3310206	Payment	1	03/28/02	03/29/02	2	$74.56	(149.12)	(149.13)	RCCF Child Maintenance
06/24/02	3310206	Payment	1	03/28/02	03/30/02	(3)	$74.56	223.68	74.55	RCCF Child Maintenance
06/24/02	3310206	Payment	1	03/30/02	03/31/02	2	$37.00	(74.00)	0.00	RTC/Maint Room and Board
06/24/02	3310206	Payment	1	03/31/02	03/31/02	(1)	$37.00	37.00	37.55	RTC/Maint Room and Board
04/02/02	3310206	*Invoice	2	03/28/02	03/28/02	1	$82.23	82.23	119.78	RCCF Child Maintenance
04/02/02	3310206	*Invoice	2	03/01/02	03/27/02	27	$37.00	999.00	1,118.78	RTC/Maint Room and Board
04/02/02	3310206	*Invoice	2	03/29/02	03/31/02	3	$37.00	111.00	1,229.78	RTC/Maint Room and Board
04/11/02	3310206	Payment	2	03/01/02	03/31/02	31	$37.00	(1,147.00)	82.78	RTC/Maint Room and Board
04/30/02	3310206	CM 40249	2	03/31/02	03/31/02	1	($45.23)	(45.23)	37.55	Adjust to cash received
06/24/02	3310206	Payment	2	03/30/02	03/27/02	27	$37.00	(999.00)	(961.45)	RTC/Maint Room and Board
06/24/02	3310206	Payment	2	03/01/02	03/31/02	(31)	$37.00	1,147.00	185.55	RTC/Maint Room and Board
06/24/02	3310206	Payment	2	03/29/02	03/31/02	3	$37.00	(111.00)	74.55	RTC/Maint Room and Board
06/24/02	3310206	Payment	2	03/28/02	03/28/02	1	$74.56	(74.56)	(0.01)	
05/02/02	4300207	*Invoice	3	04/10/02	04/10/02	1	$82.23	82.23	82.22	RCCF Child Maintenance
05/02/02	4300207	*Invoice	3	04/12/02	04/16/02	5	$82.23	411.15	493.37	RCCF Child Maintenance
05/02/02	4300207	*Invoice	3	04/01/02	04/09/02	10	$37.00	370.00	863.37	RTC/Maint Room and Board
05/02/02	4300207	*Invoice	3	04/11/02	04/11/02	1	$37.00	37.00	900.37	RTC/Maint Room and Board
05/10/02	4300207	Payment	3	04/01/02	04/30/02	30	$37.00	(1,110.00)	(209.63)	RTC/Maint Room and Board
05/29/02	4300207	Payment	3	04/01/02	04/30/02	(30)	$37.00	1,110.00	900.37	RTC/Maint Room and Board
05/29/02	4300207	Payment	3	04/11/02	04/11/02	1	$37.00	(37.00)	963.37	RTC/Maint Room and Board
05/29/02	4300207	Payment	3	04/01/02	04/09/02	9	$37.00	(333.00)	530.37	RTC/Maint Room and Board
05/29/02	4300207	Payment	3	04/10/02	04/10/02	1	$74.56	(74.56)	455.81	RCCF Child Maintenance

Item Counts:	*Invoice	3,330.07
Item Counts:	Payment	(2,851.24)
Item Counts:	CM 40249	(135.70)
Item Counts:	DM 50213	112.68
		455.81

Debit and Credit memos were attempts to force balance to County payments. Both incorrect.

C:\Documents and Settings\rhea\Local Settings\Temporary Internet Files\OLK8\[Trails Analysis1.xls]Sheet1

"Removing the Roadblocks to Success: How Can the Federal Government Help Small Businesses Revitalize the Economy?"

Testimony

Presented to

Committee on Small Business
Subcommittee on Tax, Finance, and Exports

By,

Bert Weston, President/CEO Inner-city Community Development Corporation

On

August 27, 2003

Good Morning Mr. Chairman and members of the Subcommittee: Thank you for inviting me to appear before you. I am pleased to testify at today's hearing on removing the roadblocks to success. My name is Bert Weston. I am the President and CEO of Inner-city Community Development Corporation, a local economic development organization working to revitalize northeast Denver. I am also Honorary Chair of the Business Advisory Council for the National Republican Congressional Committee. I have recently served as a member of the board of directors for the Denver Metro Chamber of Commerce. I also owned and operated a for-profit mortgage brokerage company for 10 years. I bring today in my testimony a unique perspective as a previous owner of a for-profit business and as a current CEO of a not-for-profit business who has been directly impacted by government policies and regulations. I am not here in any official capacity and should not be regarded as representing the position of the Business Advisory Council for the National Republican Congressional Committee.

Today, I want to share what I believe are 3 key roadblocks hindering the success of small businesses and provide the subcommittee with strategies to remove these roadblocks.

The first roadblock I would like to discuss this morning is the issue of affordable insurance, both healthcare and bonding. Bonding for small businesses has and still is a major barrier to obtaining contracts of scale. In addition, affordable health insurance is a challenge that I face personally. Since the terrorist attacks on September 11th, healthcare prices have continued to escalate. Furthermore, the aging workforce, who may have more health issues, can cost employers 80% more than a younger less experienced worker. This dilemma can put some employers in the position of not hiring an older person because of the higher expense. Moreover, some small business owners have told me that their health insurance costs are sometimes equal to 30% of their employees' salaries. All of these factors make it very difficult to retain good employees, because small businesses cannot compete with big businesses and their health benefit package. I believe legislation like the Small Business Health Fairness Act

(HR 660) is the direction that the federal government needs to take to address this issue.

My second point, is the issue of locating a skilled and able workforce. My business is located in the inner city, where poverty is high and education levels are low. According to the most recent Census, the neighborhood where my company is located, nearly 58% of the adults 25 and older have not completed their high school diploma or equivalent this is compared with the Denver average of 21%. Furthermore, only 12% of adults 25 and older have a college degree compared with 40% of 25 and older adults of all Denver neighborhoods. This not only poses a problem for me and my company, but also the businesses that occupy space in our development who may want to hire individuals from the neighborhood to meet the residency requirement of the HUBZone program. I propose that the Federal government increase the presence of one-stop workforce development centers in neighborhoods where residents are socially and economically disadvantaged. Moreover, these centers should work hard to understand the workforce needs of small business owners and train residents to occupy these positions. A lot of time and attention is focused on training these individuals to work in entry-level positions at large corporations, but little attention is given to train them to work in small businesses.

The last issue I would like to discuss is access to capital and specifically the Section 108 loans. As the committee is aware the Section 108 loan is a financing vehicle for small businesses. In my role as the President and CEO of Inner-city CDC, I have found the rules of the Section 108 loan to be extremely rigid. The primary problem with the loan is the inflexibility of the repayment requirements without a mechanism, which takes into consideration a slump in the economy, like the one we are currently facing. My recommendation is that the repayment terms mimic that of the private banking industry, which allows borrowers to restructure their payments, thus preventing a possible foreclosure, bankruptcy or overall business failure. I do believe the Community Development Block Grant (CDBG) funds are a great vehicle for small businesses, however, exception should be made for a business that has an excellent business plan,

but due to extenuating circumstances are unable to borrow the matching funds. In cases such as these, the entire loan should be funded by the agency administering the funds. In addition, I would like to address the point of non-traditional not-for-profit businesses that have a mission that is not just social, but more geared toward economic development, such as my organization Inner-city Community Development Corporation. Funding that is available tends to be solely for programs and not operations. There ought to be recognition of such organizations, and more room should be allowed to offer operational support and not just programmatic support from possibly OCS and/or HHS.

I thank you for the opportunity to participate here today.

Statement of Associated Builders and Contractors

Statement of Robert Piper
Vice President of Corporate Operations
Piper Electric Company, Inc.

Before the House Committee on Small Business
Subcommittee on Tax, Finance and Exports

"Removing the Roadblocks to Success: How can the Federal Government Help Small Business Revive the Economy?"

Speaking for the Merit Shop

4250 North Fairfax Drive
9th Floor
Arlington, Virginia 22203
(703) 812-2000

Introduction

Good morning, Chairman Toomey, Congressman Beauprez and other distinguished guests. My name is Bob Piper and I am President of Piper Electric Company, Inc., located in Arvada, CO. I currently serve as a Regional Vice-Chairman for the Associated Builders and Contractors (ABC). On behalf of ABC, I would like to thank Chairman Toomey and the members of the Subcommittee on Tax, Finance and Exports of the House Committee on Small Business for this opportunity to address ABC's perspective on how the federal government can help small businesses revive the economy. It is our hope that this hearing will serve to promote Association Health Plans as one solution for reducing the skyrocketing costs associated with providing and purchasing health insurance in the United States. I will be summarizing my comments, but I would request that my full statement be submitted for the official record.

For over 20 years, Piper Electric has offered dedicated customer service through its over 170 employees. Piper prides itself on its service in the field, innovation in design and our reputation as a client-driven organization. We have built our reputation through providing quality workmanship for our clients and safe, healthy worksites for our employees. From small home repairs to new commercial buildings to automated industrial processes, client satisfaction is ingrained in Piper's culture.

Piper Electric has been a member of the Rocky Mountain Chapter of ABC for 18 years. ABC is a national trade association representing more than 23,000 merit shop contractors, subcontractors, materials suppliers and construction-related firms within a network of 82 chapters throughout the United States and Guam. Our diverse membership is bound by a shared commitment to the merit shop philosophy within construction industry. This philosophy is based on the principles of full and open competition unfettered by the government, and nondiscrimination based on labor affiliation and the awarding of construction contracts to the lowest responsible bidder, through open and competitive bidding. This process assures that taxpayers and consumers will receive the most for their construction dollar. With 80 percent of construction today performed by open shop contractors, ABC is proud to be their voice.

The construction industry, which represents approximately 12 percent of the Gross National Product and approximately 9 percent of the Gross Domestic Product, is an industry of small businesses; 94 percent of all construction companies are privately held, and 1.3 million construction companies are not incorporated. As the nation's second-largest employer, with over 6 million workers, the construction industry continues to create new and beneficial jobs each year. Construction spending has a stimulative effect on the economy. For every $1 million spent in construction, $3 million in economic activity is generated and 13 new permanent jobs are created.

To remain at the present level of activity, the construction industry needs an additional quarter of a million (250,000) workers per year to replace an aging and retiring workforce. One of the key elements to attracting and retaining workers and remaining competitive in any industry is to provide high quality, flexible health benefit plans. Maintaining cost effective health insurance plans is a key ingredient in achieving this objective.

In America today, there are nearly 42 million uninsured, and 60 percent of them are employed by (or family members are employed by) small businesses. Therefore, the problem of the uninsured does not solely lie with the unemployed, but also with the small businesses across the country who are unable to provide quality health care coverage due to skyrocketing costs. One solution to this growing problem is Association Health Plans.

The Associated Builders and Contractors - Association Health Plan

Providing quality health care benefits is a top priority for ABC and its members. ABC had operated an Association Health Plan for more than 40 years through the ABC Insurance Trust. Because of overwhelming costs in complying with overlapping, inconsistent and often incompatible state laws, our association health plan carrier was forced to drop their AHP coverage. Today, ABC continues to provide a full array of insurance benefits, but has been forced to work with multiple, regional health insurance providers. ABC now serves as a broker, providing our membership with the most competitive carriers and rates in their area. ABC is a perfect example of how a trade or professional association, serving as a purchasing pool for employers, can have a significant impact upon the small employer health insurance market in both price and design.

The ABC Insurance Trust was founded in 1957 by five contractors who could not buy group health insurance for their employees in the open market due to their small size. Through 2000, the ABC Insurance Trust served as a voluntary purchasing pool for members of the association. An important component of the plan's long-term success was that it was guided by contractor members who serve as trustees. As participants in the program, they acted in the best interest of their fellow members and their employees. Participation of the board of trustees is a key ingredient in aggregating the voice of employers to negotiate price and coverage with insurance carriers and other providers.

ABC's Association Health Plan program offered HMOs, PPOs, and traditional health insurance plans including both in-network and out-of-network benefits. All of ABC's plans provided wellness benefits with coverage for physicals and annual check ups. At its height, ABC's Association Health Plan covered over 50,000 lives. While ABC continues to offer dental coverage, group life insurance, and disability programs to serve members of the association, the program today covers just 15,000 employees and

their families nationwide. A majority of those covered work for small construction firms with 10-20 employees.

ABC's Insurance Trust operates in full compliance with the Employee Retirement Income Security Act (ERISA) of 1974 reporting requirements, with the Consolidated Omnibus Reconciliation Act (COBRA) of 1985 and with the Health Insurance Portability and Accountability Act (HIPPA) of 1996. Complying with the federal HIPPA legislation requires ABC and other associations to provide open access to all members and provide credit for prior coverage. In fact, Association Health Plans are specifically referenced and defined in the HIPPA legislation and are required to take all members under HIPPA guidelines.

Similar to large employers, AHPs could provide economies of scale to small businesses. The ABC plan, which operated nationally, had total expenses of 13 ½ cents (13.5 percent) for every dollar of premium. These costs included all marketing, administration, insurance company risk, claim payment expenses and state premium taxes. Alternatively, small employers who purchase coverage directly from an insurance company can experience total expenses of 30 cents (30%) for every dollar of premium or more. It stands to reason that small businesses that purchase coverage through an Association Health Plan can expect to save 15 to 20 percent, or more. Another component of the AHP legislation is that any profit margin generated by the health plan in a given year does not go to the stockholders of the insurance company. Rather, it stays in the plan and inures to the benefit of participants by keeping costs lower in the future.

Bona-fide trade associations like ABC have an established infrastructure that allows them to communicate with members more effectively because of their pre-established relationship. This allows associations and trade groups to provide employers with unique plan designs. This valuable option allows ABC to offer additional benefits over and above what many insurance vendors provide today. ABC has successfully tailored the products and services specifically for the needs of ABC contractor members. For example, all medical plans offered through the ABC Insurance Trust also provide vision coverage, which includes coverage for safety glasses, an item unique to the construction industry.

The Problem

The health benefit programs offered by ABC are consistent with Congress's goal of meeting consumer demands for expanded benefits by providing high quality health benefit options. One of the principle reasons for Congress's enactment of the Employee Retirement Income Security Act of 1974 (ERISA) was to foster the growth of employee benefit plans by promoting uniform federal regulation of such plans.

However, despite the great need for expanded health coverage, ever-increasing federal and state regulations have not always had the intended positive impact on small employers. In fact, the regulations often obstruct the development of innovative and effective health benefit programs.

A number of state reforms, such as those enacted in Maryland have actually forced ABC to increase rates and reduce benefits in order to comply with the law. State health insurance reforms and community rating in New York forced ABC's insurance carrier to completely withdraw from the market for employers with less than 50 employees. When these and other state reforms occur, small employers are left with fewer alternatives for health insurance coverage for themselves and their employees.

Recent mergers of health insurance companies have also reduced competition and alternatives for employers who seek access to quality and affordable health insurance. Today, there is a great need to bring more competition back into the system rather than continually reducing it.

The Solution

ABC strongly supports extending ERISA preemption of costly state mandated benefits, currently available for larger, self-insured plans, to bona-fide association health plans and professional societies for small businesses. Without the benefit of ERISA's nationally uniform standards, many of the most creative, innovative and cost-effective employer-sponsored health benefit plans could not continue to exist because of the overwhelming costs of complying with overlapping, inconsistent and incompatible state laws.

Now more than ever, Congress needs to pass legislation that would extend the time-tested ERISA preemption to bona-fide trade associations. ABC thanks Chairman Toomey and Representative Beauprez for their support of H.R. 660, the Small Business Health Fairness Act of 2003, which would provide for the creation of Association Health Plans. The United States House of Representatives passed this vital legislation on June 19, 2003 by an overwhelming, bipartisan vote of 262-162. ABC calls on the United States Senate to consider and expediently pass S. 545, the Small Business Health Fairness Act of 2003.

In conclusion, Association Health Plans would enable small businesses to provide affordable health care to their employees, thus significantly reducing the number of uninsured in America. While there is no single solution to the problem of the uninsured, AHPs are an essential component to any possible solution. AHPs provide working families the best opportunity to obtain the quality, affordable health coverage they both need and deserve.

ABC appreciates this opportunity to testify before the House Small Business Committee Subcommittee on Tax, Finance and Exports on removing the roadblocks that hinder small business growth. We look forward to continuing a constructive dialogue on how to increase access to affordable and competitive health insurance for small businesses and thus reducing the number of uninsured Americans.

Robert Piper

Robert Piper is the Vice President of Corporate Operations and Partner of Piper Electric, located in Arvada, CO. A longtime member of Associated Builders and Contractors (ABC), Mr. Piper has served on the ABC Labor Council, Legislative Council, Board of Directors, School to Career Program, and served as President of the Construction Industry Trade Council. Mr. Piper has over 25 years of experience in managing and coordinating electrical installations in such areas as industrial, institutional, life safety, data processing, energy management, laboratory, controlled environments, and solar collection installations. His extensive operations experience and demand for quality have allowed Piper Electric to maintain the highest standards and installation methods required by laboratories, industrial installations, and controlled environments. These results are due to the specific training and development of the project managers and field personnel, a responsibility in which Mr. Piper takes great pride.

Mr. Piper has received a great deal of recognition for his dedicated service to ABC and the Rocky Mountain Chapter. He was awarded the 1996 ABCer of the Year honor, the 1998 Excellence in Legislative Efforts, the 1999 Special Service Award, and the 1999 Super Board Member Award. He was also presented with the Directors Award for Outstanding Effort for Student Intern Program, as well as the Directors Award for Excellence in Grassroots Legislative Program Development. He is a Beam Club Member and presides over the Bob Piper Construction Education Scholarship program. In addition to his observable chapter involvement, he is a longstanding member of multiple ABC National committees. Mr. Piper's list of committees include the Safety Committee, Education Committee, Legislative Committee, Image Committee, School to Career Committee, Education Committee, Learning for Life Steering Committee, Employee Relations Sub-Committee, and Executive Committee. He was a chapter Board Member for six years, as well as President of the Rocky Mountain chapter. He served on the CITC Board for eight years, and was the CITC President for two years. He participated in VICA Skills USA, and was also a Craft Olympics judge. Mr. Piper chaired the National School to Career Committee for four years, and is currently the Chair of the National Craft Training Committee.

Piper Electric Company, Inc.

5960 Jay Street
Arvada, CO 80003

Since opening in Arvada, CO, in 1983, Piper Electric Company, Inc. has upheld its dedication to quality and customer service. Despite the economic troubles encountered by businesses during the early 1980s, Piper Electric persevered obstacles ranging from the Colorado weather troubles of 1982 to the savings and loan crises. Through the years, Piper Electric experienced lasting success thanks to the quality of its employees and a commitment to their customers.

Opening in the early 1980s, Gary Brown designed and marketed all company projects at Piper, and Bob Piper served as the Operations Manager. While his position encompassed a wide variety of skills and projects, Bob displayed adaptability, a positive attitude, and professionalism, earning him the respect and appreciation of his staff and customers alike. Mr. Piper's dedication and Mr. Brown's creative and artistic talents have become the foundation for this "client driven" organization.

The organization was further strengthened in 1988 with the arrival of Dave Doherty, whose previous experience in shoveling walks and newspaper delivery gave him a clear sense of customer service. Dave's skills as manager have served as an asset, evidenced by the dependable, consistent, and inventive style of customer service found at Piper Electric.

Opened as a small shop with a modest workforce of 15 people, today Piper Electric retains approximately 170 employees. The positive culture has not only fostered the growth of numerous long time workers, it has also attracted new talent which adds freshness to the reliable foundation of positive customer service. With a range of services from small home repairs to innovative commercial building to automated industrial procedures, Piper Electric will continually provide its clients with the highest possible customer assistance.

Piper has grown from 15 employees in 1988 to 170 employees today. The culture at Piper Electric has fostered the growth of many long time employees and attracted new talent to continue and improve their efforts to provide customers with the highest possible service. From small home repairs to new commercial buildings to automated industrial processes, client satisfaction is ingrained in Piper's culture.

August 20, 2003

Mr. Bob Beauprez
Member of Congress
House of Representatives
Committee on Small Business
2361 Rayborn House Office Building
Washington, DC 20515-6315

Dear Congressman Bequprez;

Thank you for this opportunity to participate in "Breaking Down the Barriers for Small Businesses, how can the Federal Government Help?" **I, Susan Cirocki-Trujillo, am President of Arrow Sheet Metal Products Co.** Arrow currently employees 19 people with annual sales revenues of $1.5 million, and has been incorporated since January of 1976. I was appointed President after the untimely death of my father and founder Fred J. Cirocki in November of 1997. The following two burdens are just a small sample of what challenges small businesses face today and what may have a permanent effect on the future.

The spiraling increase in healthcare costs for small businesses.

In the last three years, Arrow Sheet Metal's insurance premiums have increased 18%. When you track back 5 years, insurance premiums have increased 60%, which is an average of 12% each year. At the same time in order to control costs and manage the significant increase in premiums, Arrow has chosen plans with less coverage higher deductibles and higher out-of-pocket maximums. Our goal has been to provide a plan which would enable our employees to afford an office visit and afford medication if required; hopefully no one insured would need to be hospitalized, with a staggering deductible of $3000. Therefore not only have Arrow Sheet Metal's premiums increased 60%; the medical coverage at the high premium has been reduced considerably.

Currently Arrow Sheet Metal is in the process of reviewing health benefits and other benefits. Arrow pays 100% of the employee premium, but soon

I would do a disservice to my company, my employees and my industry if I do not mention the challenges we face in manufacturing today and the future. To be a small manufacturing business in the United States, it is extremely difficult to remain competitive when we are saddled with; OSHA regulations, EPA regulations, worker's compensation, unemployment insurance, social security, a disabilities act, healthcare, Medicare, tariffs, and other state and federal burdens. China, Puerto Rico and other world competitors do not have the same "costs of doing business". American industry can compete with anyone if given a chance to, on a level playing field.

American manufacturing needs to be protected, not our own Federal Government rewarding companies to move manufacturing jobs overseas with a large guaranteed reduced federal tax rate. If small manufacturing firms continue to disappear throughout America, the American economy will be forced to survive with only small businesses in the service industry. Manufacturers are big consumers of all services. If more manufacturing leaves our shores, more service providers will follow. Small manufacturing businesses generate wealth, and without that function you cannot buy services. If high-paying jobs disappear, who will be able to buy all the goods and services the United States produce? Congress must be conscious of the costs it imposes on all small businesses with over regulations in all areas. Whether it is the cost of insurance of all kinds, increased regulation, increased taxes at the state level, inaccessibility of capital, inaccessibility of defense government contracts, tariffs on consumables needed by small and medium sized manufacturer's or other trade barriers the industry needs relief.

With the U.S. unemployment rate at an all time high, and more jobs lost to overseas, I do not see this improving anytime soon. Arrow Sheet Metal is doing everything to remain efficient and become better to afford the costs of doing business and make a dollar at the end of the day. The "American Dream" which was once what everyone wanted a piece of, is becoming more challenging every day to achieve. More small businesses which contribute to 80% of the American economy, are questioning if all the "costs of doing business" are worth the headaches, stress and hard work. Already several peers and competitors both in my industry and outside my industry have downsized or simply closed their doors. This increases the already high unemployment rate and continues to penalize the economy.

the employee will need to share in the cost of insurance, which could make us non-competitive in the employee market. If costs continue to spiral like they have in the past, a larger percentage of the premium will need to be shared with the employee. With the employees earning less and having to pay more for benefits, my industry will suffer more by not having an available skilled workforce to employ from.

Two recent laws introduced, in my opinion will have a negative impact on small business. The "CoverColorado and House Bill 02-1353. Although the intent is good, in my opinion it opens the door for abuse by individuals choosing not to carry medical insurance due to higher premiums. This will put additional burden on small businesses and regular tax payers when this group needs insurance due to poor health, pregnancy etc. The House Bill 02-1353 will penalize businesses who do not terminate employee's benefits the day the termination occurs. Small businesses generally do not have a formal Human Resource department which would take care of such a function. Small business is usually comprised of one or two individuals who take the responsibility of all office operations; including human resources, accounting, payroll, purchasing etc. Insurance premiums are already a drain on cash-flow, now it becomes even more difficult to pay for a terminated employee's individual premium for one or two additional months.

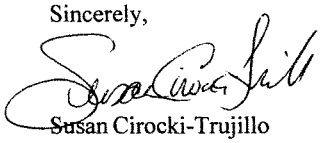
Insurance costs overall have risen rapidly not only within the medical industry, but worker's compensation and business insurance. All of these industries have been hit hard with "fraudulent and frivolous law suits". This has had a direct impact on premiums, making it more difficult to cover overhead costs forcing the reduction in margins and squeezing profits.

American Trade Policies

With competition strong, not only within the United States but globally, more and more, smaller businesses are finding it difficult to survive. Competition is a great thing, but the American trade policy needs to be revamped to even out the playing field. As a small business, costs increase at a steeper rate than larger corporations. As a small manufacturing company, Arrow Sheet Metal has fought the last three years to keep the doors open and keep our employees employed. Indirectly Arrow has been affected by global competition. A percentage of Arrow's business comes from the machining and stamping industries as well as high tech.

Arrow Sheet Metal being a small business in the manufacturing industry, which is one of the "back-bones" of the American economy, has suffered greatly due to the recession, 9-11 and largely to overseas competition. As a voice of small business, I would like to sincerely thank you for this opportunity to be heard!

Sincerely,



Susan Cirocki-Trujillo
President
Arrow Sheet Metal Products

A Case for Legislative Reform for Legislative Complexity Governing Small Business Operation

Author: Cedric G. Tyler
August, 2002
Version: 1.1

1. Introduction

There is no doubt that "small" business constitutes the "backbone" of the economy[1]. The entrepreneur is almost solely responsible for the creation of wealth and establishes the foundation for growth, prosperity, and indeed government itself. The very economic future of the United States of America is directly proportionate to our ability to attract, retain and nurture the entrepreneur. The success of "small" business is undeniably the incubator for our economic prosperity.

The political and legislative creation system, whilst being in most instances, well meaning and admirably motivated, has evolved into an aberration of inordinate complexity, contradictions and, wild and costly excess. This system will ultimately strangle the very lifeblood of the economy if left to continue on its current course.

Ironically, we are fast mimicking the very environment which out forefathers wished to escape from, an environment of illogical complexity, which stifled and extinguished the flame of creativity, freedom and entrepreneurship. Indeed, I suggest that the United States of America is fast approaching the Rubicon and imminently must decide whether we intend to remain a bastion of (economic) freedom or whether we continue down the path which ultimately leads to economic senility, as can be attested by our so called "first world" parent nations.

2. The Legislative Maze

Consider the current environment in which a small (or **any**) business must operate. Firstly, a plethora of Federal laws exist. In fact Federal Agencies ***readily*** admit that they are largely ***unable*** to accurately guide the business owner through the maze of applicable laws that may or may not govern their business[2].

The categories of Federal statutory complexity is in itself daunting and consists of at least the following major statutory domains:

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[1] In CO alone small business represents 97.5% of the State's commercial base.
[2] Department of Labor Web site.

i) Department of Labor Laws
ii) Internal Revenue Service Laws
iii) Environment Protection Agency Laws
iv) Immigration and Naturalization Laws

Additionally, the following statutes and laws require awareness and potential compliance:

v) Do Not Solicit
vi) Health Care (HIPPA – should it ever be understood!)
vii) Sales Tax
viii) Public Safety
ix) Trade name Registration
x) Underground Storage Tanks
xi) Vending Machines
xii) Weights and Measures
xiii) Wholesale Sales
xiv) Zoning
xv) Child Labor Laws
xvi) Consumer Credit
xvii) Subcontractors
xviii) General Business Licenses (local)
xix) Hazardous Waste
xx) Home-Based Business
xxi) Non-profit Status

Of course the notoriety of IRS legislation speaks for itself and assessments of the other legislative domains unfortunately proves equally if not far more daunting. The DOL alone touts at least 23 compliance laws for businesses and references at least three other legislative bodies, prescribing potentially additional legislation[3]. Furthermore the DOL then asserts that the legislative compliance guidance that it provides ***may in fact be inaccurate!*** It would appear that the legislation management and enforcement by this Agency is beyond it's own means and resources.

Similarly the entire NEPA body of legislation has reached a point beyond absurdity defying mortal comprehension, let alone compliance or enforcement[4].

It can already be concluded that the Federal statutory legislative maze is in itself enough to drain the resources, energy and spirit of entrepreneurship. Sadly this only reflects the beginning of the legislative hurdles that require compliance by businesses. There are an additional deluge of laws, statutes, regulations and ordinances at the State, County and City levels, each representing yet another layer of stifling bureaucracy. ***In fact literally hundreds of such laws exist.***

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[3] State Labor Office, Equal Employment Opportunity Commission & the National Labor Relations Board.
[4] Refer Chief of the Forest Service Testimony to 108th Congress 2002

3. A Proposed Solution

It can reasonably be asserted that it is an impossibility ***even to identify the applicable legislation governing business***, let alone understand the legal complexities and be compliant.

Given the enormity of legislation, government is faced with three scenarios:

I. Enforcement – In order to make legislation meaningful it must be enforced. Undoubtedly, enforcement will result in business relocation to less stringent and constraining geographies (probably the developing economies – as occurred circa 1776)

II. Non-enforcement – It is already doubtful whether government has even a fraction of the resources to enforce its own legislation. This will ultimately lead to a situation were laws become meaningless

III. Civil Legislative Reform – A Rubicon decision is required by leadership. The current legislative state is untenable. Compliance is no longer possible by businesses.

BusinessGenetics®, a Colorado Headquartered company, has pioneered and launched a breakthrough technology which directly enables organizations to operate more efficiently and effectively. Results of deploying this ROI (Return on Investment) centric technology has yielded **staggering results** (typically saving corporations $10's or $100's of millions).

Various Agencies within the federal government and private sector have effectively deployed the BusinessGenetics® technology in the statutory and regulatory reform domain, with remarkable results. BusinessGenetics® pioneered a world first and revolutionary capability which enables statutes and regulations:

1. To be synthesized into business centric, easy to understand diagrammatic representations/depictions
2. To be assessed (using binary logic) to identify issues, bottlenecks/impasses and inefficiencies
3. To estimate resource requirements using a unique discrete, multi-dimensional costing algorithm
4. To proactively model/describe reformed future statutes and regulations
5. To assess potential conflict between laws and regulations
6. To assess/audit whether an organization is in compliance with legislation.

The output from this unique approach has been used in a number of instances, namely:

1. To depict the massive complexity and inefficiency contained in the Forest Planning regulations.
2. To proactively describe future, reformed and less resource intensive Forest Planning regulations.
3. To cost current and future Forest Planning regulations.
4. To represent the inherent inefficiency and impasse caused by contradictory legislation (EPA, NEPA, Clean Air Act, Clean Water Act, Scenic Rivers Act, etc.).

The resulting output has been very effectively used to support the Chief of a Federal Agencies testimony to Congress, as well as enlightening Congressional personnel as to the significant challenges faced by the Agency.

The result of this initiative was the suspension of key regulations and the drafting of new streamlined regulations. The net result was a quantifiable saving of $300M to the US tax payer (*Reference article: Denver Post National forest management Good stewardship* ***Sunday, December 22, 2002*** *- Re: "Forest rules bypass public," Dec. 8 editorial).*

This breakthrough technology has also recently been deployed by commercial clients to better understand complex legislation (e.g. Do Not Solicit Statutes, Sarbanes-Oxley and HIPPA) and to determine their degree of compliance.

The company has also collaborated with a number of Federal agencies (USDA, Forest Service, National Park Service, CEQ), the State of Colorado, (Office of Innovation and Technology, Department of Natural Resources, Department of Personnel and Administration), as well as local government.

Schedule A: Federal Department of Labor Laws

- **Wages and Hours of Work**
  - Minimum Wage and Overtime Pay
  - Wage Garnishment
  - Migrant and Seasonal Agricultural Worker Protection
  - Child Labor (Nonagricultural Work)
- **Safety and Health Standards**
  - Occupational Safety and Health
  - Mine Safety and Health
  - Migrant and Seasonal Agricultural Worker Protection
  - Child Labor (Nonagricultural Work)
- **Health Benefits and Retirement Standards**
  - Employee Benefit Plans
  - Black Lung Compensation
  - Longshore and Harbor Workers' Compensation
- **Other Workplace Standards**
  - Family and Medical Leave
  - Lie Detector Tests
  - Whistleblower Protection
  - Plant Closings and Mass Layoffs
  - Union Members
  - Uniformed Service Members
- **Work Authorization for Non-U.S. Citizens**
  - Authorized Workers
  - Temporary Agricultural Workers (H-2A Visas)
  - Temporary Nonagricultural Workers (H-2B Visas)
  - Workers in Professional and Specialty Occupations (H-1B Visas)
  - Permanent Employment of Workers Based on Immigration
  - Nurses (H-1C Visas)
  - Crewmembers (D-1 Visas)
- **Federal Contracts: Wages, Hours of Work, and Fringe Benefits**
  - Wages in Supply and Equipment Contracts
  - Prevailing Wages in Service Contracts
  - Prevailing Wages in Construction Contracts
  - Hours and Safety Standards in Construction Contracts
  - "Kickbacks" in Federally Funded Construction (Copeland Act)
- **Federal Contracts: Equal Opportunity**
  - Employment Discrimination and Equal Opportunity in Supply and Service Contracts (Executive Order 11246)
  - Employment Discrimination in Construction Contracts (Executive Order 11246)
  - Equal Opportunity for Individuals with Disabilities
  - Employment Discrimination and Equal Opportunity for Certain Veterans Who Served on Active Duty and Special Disabled Veterans

- **Index of Acts by Specific Industry**
    - **Agriculture**
    - Fair Labor Standards Act (FLSA)
    - Migrant and Seasonal Agricultural Worker Protection Act (MSPA)
    - Occupational Safety and Health Act (OSH Act)
    - Authorized Workers (Non-U.S. Citizens)
    - Temporary Agricultural Workers (H-2A Visas)
    - **Immigration and Nationality Act (INA)**
        - Section A
        - Section B
        - Section C
    - **Mining**
        - Federal Mine Safety and Health Act of 1977
        - Black Lung Compensation
    - **Construction**
        - Occupational Safety and Health Act (OSH Act)
        - Davis-Bacon Act and Related Acts
        - Copeland Act ("Kickbacks" in Federally Funded Construction)
        - Executive Order 11246 (Employment Discrimination in Construction Contracts)
            - » Section A
            - » Section B
    - **Transportation**
        - Occupational Safety and Health Act (OSH Act)

Schedule B: National Environment Protection Agency Laws

More than a dozen major statutes or laws form the legal basis for the programs of the Environmental Protection Agency (EPA).

- **National Environmental Policy Act of 1969 (NEPA)**; 42 U.S.C. 4321-4347 NEPA is the basic national charter for protection of the environment. It establishes policy, sets goals, and provides means for carrying out the policy.
- **Chemical Safety Information, Site Security and Fuels Regulatory Relief Act** Public Law 106-40, Jan. 6, 1999; 42 U.S.C. 7412(r) Amendment to Section 112(r) of the Clean Air Act
- **The Clean Air Act (CAA)**; 42 U.S.C. s/s 7401 et seq. (1970)
- **The Clean Water Act (CWA)**; 33 U.S.C. ss/1251 et seq. (1977)
- **Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund)** 42 U.S.C. s/s 9601 et seq. (1980)
- **The Emergency Planning & Community Right-To-Know Act (EPCRA)**; 42 U.S.C. 11011 et seq. (1986)
- **The Endangered Species Act (ESA)**; 7 U.S.C. 136;16 U.S.C. 460 et seq. (1973)
- **Federal Insecticide, Fungicide and Rodenticide Act (FIFRA)**; 7 U.S.C. s/s 135 et seq. (1972)
- **Federal Food, Drug, and Cosmetic Act (FFDCA)** 21 U.S.C. 301 et seq.
- **Food Quality Protection Act (FQPA)** Public Law 104-170, Aug. 3, 1996
- **The Freedom of Information Act (FOIA)**; U.S.C. s/s 552 (1966)
- **The Occupational Safety and Health Act (OSHA)**; 29 U.S.C. 651 et seq. (1970)
- **The Oil Pollution Act of 1990 (OPA)**; 33 U.S.C. 2702 to 2761
- **The Pollution Prevention Act (PPA)**; 42 U.S.C. 13101 and 13102, s/s et seq. (1990)
- **The Resource Conservation and Recovery Act (RCRA)**; 42 U.S.C. s/s 321 et seq. (1976)

- **The Safe Drinking Water Act (SDWA)**; 42 U.S.C. s/s 300f et seq. (1974)
- **The Superfund Amendments and Reauthorization Act (SARA)**; 42 U.S.C.9601 et seq. (1986)
- **The Toxic Substances Control Act (TSCA)**; 15 U.S.C. s/s 2601 et seq. (1976)

A more comprehensive list of laws (as of 1995) administered by EPA is available.

Statement of John Ziegler, FMP
Owner, Jackson's All American Sports Grills
Englewood, Colorado
On behalf of the National Restaurant Association
Committee on Small Business
Subcommittee on Tax, Finance and Exports
U.S. House of Representatives
August 27, 2003

Thank you, Mr. Chairman. Chairman Toomey, Congressman Beauprez and other members of the Subcommittee my name is John Ziegler and I am the owner of Jackson's All-American Sports Grills. I am testifying here today on behalf of myself as a small business owner, and for the National Restaurant Association, which is the leading business association for the restaurant industry. Together with the National Restaurant Association Educational Foundation, the Association's mission is to represent, educate, and promote a rapidly growing industry that is comprised of 870,000 restaurant and foodservice outlets employing 11.7 million people around the country. As a member of the Board of Directors of the Association, I am proud to say that our nation's restaurant industry is the cornerstone of the economy, careers and community involvement.

Mr. Chairman, I am living the American dream. I have over 40 years of experience in the restaurant industry and am the owner and chairman of Jackson's All-American Sports Grills, located in the Denver metropolitan area and in Greeley and Ft. Collins, Colorado. My business operates seven locations and employs approximately 400 people. Due to negative economic conditions, in our community, I was forced to close two of my restaurants last year.

As I understand it, the purpose of today's meeting is to examine how government can remove obstacles to help small businesses to succeed. I would offer several observations and suggestions in this area. First, the tragic events of September 11, 2001 had a dramatic impact on all aspects of American society. The economic harm to the restaurant industry resulting from the terrorist attacks has been substantial, particularly on fine dining restaurants, airport concessions and restaurants located in urban and rural travel destinations, including Colorado. The downturn in business travel has also impacted an airline with a significant local presence, United Airlines, which has a hub at Denver International Airport. Fewer travelers arriving in Denver on airplanes results in fewer people staying in Colorado's hotels, which results in fewer people are eating in Colorado's many excellent restaurants, including my own.

This year, Congress appropriated $50 million to the Commerce Department and authorized the Secretary of Commerce to create a United States Travel and Tourism Promotion Advisory Board. This board will make recommendations on advertising and marketing programs that would encourage international visitors to travel to the United States. The Secretary would also be directed to consult with state and regional tourism officials on the disbursement of these funds. National Restaurant Association member Bill Hyde was appointed to the Presidential U.S. Travel & Tourism Promotion Advisory Board by U.S. Secretary of Commerce Don Evans. With the continuing decline in international arrivals, the balance of trade surplus generated by travel and tourism has plummeted from $26 billion in 1996 to $8.6 billion in 2001. While these funds are an important first step in promoting the United States as an attractive destination, the

National Restaurant Association hopes that Congress will consider a longer term authorization to capture these travelers that our economy desperately needs.

Mr. Chairman, the U.S. legal system is deeply troubled. Recent class-action lawsuits filed in New York City by an attorney who says restaurant companies should be held liable for his clients' obesity-related health problems may be among the most egregious examples of problems in the U.S. legal system, but they are not atypical. The U.S. House passed a series of common-sense reforms to the nation's class-action system on June 11 by a vote of 253-170; the measure now moves to the U.S. Senate.

What has gone wrong? Class-action cases -- where attorneys represent a group of people litigating the same claim -- are rapidly becoming one of the judicial system's biggest problems. Forum-shopping plaintiffs' attorneys do their best to keep their cases out of federal court so they can get the cases heard in the state courts where they think they can collect the biggest settlements and highest attorneys' fees. Small businesses find themselves named as defendants in multi-state suits not necessarily because they did anything wrong but because they happen to be located in the state where attorneys would like to file the lawsuit -- thus keeping the matter out of federal courts. "Successful" class-action clients often end up with little or nothing while attorneys walk away with multi-million-dollar fees. And state judges end up regulating products and services far beyond their borders.

Crippling litigation costs and damage awards: Americans file an astounding 18 million+ civil lawsuits each year in state courts alone. Business owners are routinely forced to settle meritless cases because they cannot afford to litigate or because they fear unlimited punitive damage awards. Because of something called "joint and several liability," trial attorneys are even bringing businesses only remotely connected with a case into court, hoping that they have found the "deep-pocket" defendants who will have to pay up regardless of the business's degree of fault in the case.

With restaurant profit margins averaging around four percent, a single frivolous lawsuit is enough to put a small restaurant out of business. High-priced liability insurance and out-of-court settlements have become a permanent cost of doing business in the restaurant industry. The National Restaurant Association strongly supports class-action reform as a first step toward meaningful lawsuit reform. The Association also backs other litigation reform bills, including the "ADA Notification Act" and the "Personal Responsibility in Food Consumption Act."

Regarding our nation's ongoing economic recovery, the economic growth package passed by Congress earlier this year is doing a great deal to improve economic conditions. The new law contains provisions that are helping to build the nation's recovery: it stimulates consumer spending, frees up resources for businesses to expand and create jobs, and promotes long-term growth.

The new law includes a boost for small businesses through increased expensing limits. Under current "Section 179" tax law, business owners who buy equipment and other eligible property -- and whose total investment in such property during a year is less than $200,000 -- can immediately expense (rather than depreciate) $25,000 of that amount. The new law lets business owners expense $100,000 in a year, and gives this option to any business owner whose annual investment in the business is under $400,000. That's a big incentive for a restaurateur to grow his

or her business by pumping money into such investments as new kitchen equipment, hardware and software upgrades, or dining-room furniture.

The law also includes a boost for businesses through a "bonus depreciation" allowance which provides an allowance equal to 50 percent of what they spend on qualified equipment between May 5, 2003, and Jan. 1, 2005. In addition to equipment purchases, the bonus write-off applies to improvements made to leased properties. On a separate but related matter, the Association also continues to lobby Congress to speed up the building depreciation schedule for stand-alone restaurant buildings.

Congress could do even more by making business meals fully deductible as a legitimate business expense. When Congress reduced the business meal and entertainment deduction in 1986, small business owners -- who rely heavily on business meals to promote and grow their operations -- were hit the hardest. The cut in the deduction resulted in a punitive and disproportionate tax increase on these businesspeople.

Quite literally, restaurants are the conference rooms for small businesses: According to a recent survey, restaurants were the number-one location for conducting meetings outside the office. Two-thirds of business meal users are small business owners who rely on the business meal deduction to grow their businesses and stay competitive. Rep. Mark Foley (R-FL) has introduced H.R. 2094, his bill to increase the allowable tax deduction for business-meal spending from 50 percent to 80 percent.

Exploding health care costs is another key issue for the restaurant industry. Restaurateurs want to provide health benefits to their employees -- and many do. For those who do not, however, surveys show that skyrocketing costs are the main reason. Tableservice restaurant operators have seen health-plan costs increase an average of 23 percent in each of the last two years.

In the restaurant business, this is an acute problem: Seven out of ten eating-and-drinking places are single-unit operations, and thus have a particularly tough time finding affordable, high-quality health insurance. In most states, a handful of insurance companies dominate the small-business market. And research shows that small employers face fewer choices and higher prices for health plans than bigger businesses.

The Bush Administration and members of Congress from both parties have endorsed Association Health Plans (AHPs) as an important way to provide more Americans access to affordable health care. Through AHPs, small- and medium-sized employers could join together across state lines to buy health insurance through a recognized membership organization, such as the National Restaurant Association. AHPs have many benefits including:

• Smaller companies would get the same market clout, risk-pooling advantages and administrative savings that big companies already enjoy.
• Rather than being bound by 50 separate sets of state rules, the AHPs would be nationally regulated -- the same as larger businesses who self-insure today.
• AHPs would be fully regulated and certified. U.S. Labor Secretary Chao released a September 2002 report that states that her department is fully prepared to perform the needed oversight and certification functions to protect employers and employees from fraud and abuse.

• AHPs would save small businesses 15 to 30 percent in health-care costs and could provide coverage for up to 8.5 million uninsured Americans.

The House of Representatives passed AHP legislation (H.R. 660) in June and we hope the Senate will act soon on companion legislation, S. 545.

Another regulatory issue pending at the U.S. Department of Labor is also very important to the restaurant industry. DOL is proposing to revise its "white collar" overtime regulations, which determine "professional, executive or administrative" employees' eligibility to receive overtime pay. In March, the DOL issued a draft proposal to update, clarify and simplify the existing regulations. Written in 1949, the old labor regulations are now outdated and include job classifications that no longer exist.

The National Restaurant Association believes that the current regulations are no longer relevant to the 21st century workplace and workforce. The current rules were written at a time when industry revolved around a manufacturing-employment economy and do not relate to the current work environment in the restaurant industry. In addition, the "duties" requirements used to differentiate salaried from hourly workers do not account for the unique aspects of restaurant management, and result in significant problems for both employers and employees.

Furthermore, the retail industry increasingly has been under attack (often in the form of class-action litigation) regarding the classification of retail-unit managerial employees as exempt employees. Litigation in this area is extremely costly for restaurateurs, requiring intense factual analysis and expert time studies of the duties and responsibilities actually performed by each individual in the job classification(s) under attack.

Mr. Chairman and members of the Subcommittee, thank you again for this opportunity to appear before you today. I would be happy to answer any questions.

August 26, 2003
Testimony from David Barber
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There is an issue that has plagued small business owners for years in different industries that could perhaps be easily solved by some administrative rule changes in some agencies.

The issue is: "independent contractor" abuse. This abuse occurs when companies accomplish their work using "independent contractor" workers who by existing standards should be employees. There are different means used to accomplish this result, but they all create problems that are very costly and difficult to solve. The result of this situation is that there is a huge underground society of workers who enjoy the benefits of our country, but do not fully participate in sharing the cost of our society.

There is most definitely a legitimate place for independent contracting as a way of doing business, and I do not think we should try to eliminate it. The freedom to be "self-employed" is of tremendous value to our nation. However, abuse of this concept brings serious consequences to our economy. How does this whole business work? Here is a condensed analysis of the issue detailing some of the problems and offering at least one possibility for a solution.

In the most common of scenarios, a contractor or sub-contractor employees the services of "independent contractors." These people are paid with cash, checks to them as individuals, or checks to some business name they are using. No withholding taxes are held, no FICA contributions made, no workman's compensation premium or unemployment premium is paid on their behalf. No overtime compensation is ever paid, and of course there is no health insurance made available to them either. They work as many hours as demanded to keep the schedule dictated by the "employer". (Obviously, the use of the word "employer" is my preference, but it does help keep the idea straight.) Many times the rate of pay is hourly, but often it is piece related.

Many of these workers are minority workers, with many of them being in the country illegally. A very large percentage of these workers do not file state or federal income tax returns. If they should find themselves under scrutiny, they have many ways to change the identities of themselves or their "company".
Many go for years flying "under the radar" of the governmental agencies who collect taxes from the rest of us. Those agencies, mostly the departments of revenue have the unenviable job of trying to enforce the collection of the revenues due them from people who are all but invisible to their systems.

The collection departments of these agencies by nature focus on the cases where larger dollar amounts are at stake, so individuals who are "independent contractors" stand very little chance of being pursued for the amounts they owe if in fact they are not responsible citizens and pay their share. I should note that some of these "independent contractors" do pay their taxes. Some provide health insurance coverage and disability insurance coverage for themselves. From my own experience, however, these are a small minority of the total "independent contractor" work force. The rest of this work force typically creates a financial drain on the resources of the community they live in.

Another aspect of this issue is that some businessmen read the rules and regulations published by the various governmental agencies and realize that the "right" way to get work done is to hire employees. Their businesses incur the risks and costs associated with having employees. They compete in a marketplace with those businesses using "independent contractors" who have lower cost. In the instances I am aware of, the reduced cost of the "independent contractor" operator makes them able to undercut the cost of the legitimate business operator. This makes it harder for the legitimate operator to be successful, which is very unfortunate because they are the ones who consistently contribute their share of revenues due all the associated agencies. So this competitive disadvantage is doubly harmful to our society.
What is the size of this problem? Because it is an "underground" problem, it is very difficult to find statistics quantifying it. Residential construction is dominated by the "independent contractor" system, so I will use only statistics relating to residential construction to calculate a cost. It should be noted, though, that the commercial construction industry is seeing a sharp increase in the use of "independent contractors."

Residential construction accounts for approximately $7 billion of business per year in Colorado. Labor comprises approximately one third of that total dollar amount, or $2.3 billion.. A straw poll taken by myself of sub-

contractors in the residential market indicates that about 80% of the labor done in the residential world is done by "independent contractors". If you figure that the "employer" pays about 70% of his total labor revenue out to his workers, this would translate into at least $1.3 billion being paid to "independent contractors". From my experience, a large majority of these workers are aliens, legal or otherwise, who are not likely to be filing tax returns. For the sake of argument, I am going to assume that half of the "independent contractors" do not file tax returns. I admit to not having any source for this figure, but I believe it to be conservative. This translates in to $650 million of "untaxed" revenue.

The amount paid to the government in one form or another and to workman's compensation insurers from every labor dollar is about $42 out of every $100, and this is assuming a low work comp cost. This includes taxes withheld from the employee, taxes contributed by the company, and work comp and unemployment insurance premiums. Using these gross figures, the total revenue lost to government agencies and comp insurance carriers is in the neighborhood of $260 million. This figure is of course a "ball park" number, but is it only calculated for the Colorado residential construction industry alone! I hate to think what the total revenue dollars lost to this problem are when all industries where it occurs are taken into consideration.

So, what types of solutions are available? The reality is, if all rules and regulations currently in place were consistently enforced, the problem would not exist. However, given the nature of the problem, it is unlikely that these thousands of individuals and hundreds of companies are going to be forced into compliance. I would like to propose a conceptual solution that would be very effective if employed.

Given all these factors, what can we do to reduce the magnitude of this problem? My suggestion is to make the "hirer" of these independent contractors responsible for enforcing the existing rules regarding taxes and comp premiums that the independent contractor should pay. Contractors could be required to get verified copies of the independent contractor's tax returns for state and fed governments. Quarterly deposit verifications could be required. Insurance certificates for Workman's Compensation Insurance with notice of cancellation provisions could be required. If the "employer" does not have these items on file, they would become liable for these costs.

This principle, having a higher tier in the economic food chain being held liable for the responsibilities of the lower tier, probably raises objections. May I point out though, this concept is already in place with regard to "legitimate" employers. We do this every day through withholding taxes for our employees and depositing them to the appropriate agencies. We pay premiums for workman's compensation insurance and unemployment for them.

If this problem were solved, many people who are now avoiding contributing to the cost of running our society would start carrying their fare share. Legitimate businesses would find a more level playing field where they would be rewarded for abiding by the laws of the land. Changes that would solve this problem should be supported by all legitimate business owners and by all concerned citizens who are paying for the shortfall left by those not contributing their fare share.

As a matter of clarification on one point, let me state that some states have less of a problem with one aspect of the overall problem than does Colorado, because in Colorado it is easy for individuals doing business as "independent contractors" to elect not to cover themselves with workman's compensation insurance. The state statute regarding this issue is not clear nor easily enforced, so it is commonly ignored. Because the cost of workman's comp is at least $10 per $100, that makes up a large cost factor that is part of the analysis I am doing. However, when non-insured workers are injured, they sometimes are able to claim that they should have been employees, and are successful in getting a decision in their favor, entitling them to insurance by some higher tier contractor, who didn't pay premium for them. More likely, they utilize the social systems for medical treatment and disability income at a cost to society. Colorado needs to fix this statute quickly somehow as part of the overall solution

David Barber
President, Owner
River's Edge Woodworking, Inc.
President
American Subcontractors Association of Colorado

August 25, 2003

Representative Bob Beauprez
4251 Kipling, Ste. 370
Wheatridge, CO 80033

Dear Mr. Beauprez:

I am a part owner of Imaging Systems, LLC, a woman-owned small business located in Colorado Springs. Our company manufactures cartridges for laser printers and distributes computer supplies. We employ 25 people in Colorado Springs, 15 of which are in manufacturing, and have 3 employees in Denver. .In addition, we provide printer service in Colorado and Wyoming. For the last 2 years, we have received a Gold Medal from the Defense Supply Center Richmond for outstanding contract performance.

We have gone thru the effort of obtaining a GSA contract for the products we manufacture and distribute. We have done this because we want to sell to the federal government. We also have our catalog on the DoD Emall, utilize the services of a Value Added Network to locate and bid on government opportunities, and participate in various government bid services. This takes a large of amount of time and effort, which for a small business has a premium in terms of manpower. We make every effort we can to maximize our ability to sell to the federal government, but we do so without the help of the government, which puts policies in place with no monitoring protocol to insure that they work.

We could grow our business substantially, and employ more people, if legislative mandates and commitments were being met by federal agencies. Every agency has small business goals, including minority and woman-owned business goals, and based upon a scorecard of one of your committee members few agencies are meeting those goals. We would suggest that if money is not being spent as appropriated it be forfeited. We would also suggest that the responsibility for meeting goals be placed on all levels of agency personnel who procure commodities and services. We have found that those who make the commitment to increase small business participation in procurement are not the ones who actually procure.

The Small Business Administration has an Advocate, and we would urge that this position receive its own line item funding.

Prime contractors who have submitted small business plans should be penalized if they do not meet their contracted goals. Specifically this portion of their contract should go unfunded. This of course requires that such subcontracting plans be monitored and formally reviewed on an annual basis, or more frequently. This is not done currently on a routine basis.

We are continually impacted by bundled contracts. Most recently, we have been adversely affected by the EDS/Navy NMCI contract, which is a contract combining services and commodities, and which has caused us to lose one contract at the Mechanicsburg Naval Station and has impacted another at the Puget Sound Naval Station. However, there are large contracts, not technically considered to be bundled, that also adversely affect small business. In our case, whenever an agency chooses to go to a large office supply distributor for their office needs on an agency-wide, mandatory basis, many small businesses are impacted. For example, the Army recently arbitrarily chose 10 office products distributors and issued a mandate that all facilities buy only from them. Initially this list was composed only of 3 large office products distributors. Upon review, the Army added some small businesses to this list. In Colorado Springs, there were at least 4 small businesses affected by this. At the GSA Expo in San Antonio this year, we spoke with an Army buyer who told us that the small business she used to purchase toner cartridges from went out of business because of this mandatory BPA. I will not believe that this was the only case in which this occurred.

The Congress has an office products contract with Boise Cascade, one of the large office products distributors. Boise also has a mandatory office supply contract with the United States Postal Service. The latter contract was put into place, we were told, to save money and to better control costs. However, when we did a price comparison between our product and comparable Boise products, our selling price was approximately 30% lower. Since then, our pricing has decreased about another 10%. Has Boise reduced their pricing in the interim? We had at one time tried to obtain a copy of the subcontracting report filed by Boise on their performance under the USPS contract. Oddly enough, we had a very difficult time trying to explain to the USPS contract administrator what it was that we wanted, even though we provided the official name and number of the form, which is a required reporting procedure. We never did receive it, which may explain why agency goals are not being met.

Just recently, we visited the United States Air Force Academy Contracting Office, and on our way, discovered that Office Depot has an on-base store next to the GSA offices. We questioned how it was that this large office products distributor has the opportunity to have an on-site store on base, when no other small office products company can do so. We were told that Office Depot was subcontracting the space from another renter. Up to this point, we always thought that subcontracting was to assist small business efforts, not large business.

Agencies will tell us to get in the large office product catalogs. This costs upwards of $20,000 annually with no guarantee of sales, with the office supply distributor making more money on their margin to their customer than we would make on our margin to them. These costs make us less competitive and will ultimately be passed along to the government. When it comes to selling to the federal government, why is it necessary for a small business to spend money to get into a catalog of a large business? If small business is to continue to grow and support our economy, we should be able to sell directly without having to go to a middleman, which impacts our profits and the government's use of taxpayer dollars.

While the government may incur some additional cost in supporting open competition, which agencies claim is in the additional costs of sourcing supplies and services among many vendors rather than one, the offset is lower prices and more participation by small business. For example, is on-line ordering thru GSA Advantage more costly than using the Office Depot website? The searching for product is the same, thus the manpower hours expended are comparable. The costs, however, can be dramatically different. GSA Advantage is the most level playing field we have found for small business, and it enables small business to compete directly with large business. There are fair and relatively easy procedures to adjust prices, and small business has the ability to remain as competitive as it chooses to be while competing with the likes of Staples and Boise Cascade.

Small business does not want special treatment, or rather, it would like to have the same treatment large business has. We do not have the manpower, market penetration or finances to advertise ourselves to the extent of large companies. The federal government has undertaken to assist us, but this assistance has been in the form of setting the rules only, not ensuring that they are communicated or followed. If you want to help small business in this state to do business with the federal government, make sure your rules are being followed.

Signed

Steven Krell
Manager
Imaging Systems LLC

August 26, 2003

Greetings Congressman Beauprez,

Executive Business Decision Software, LLC (EBDS) is a Vietnam veteran owned new-start, small business based in Broomfield, Colorado. We appreciate the opportunity to present this information to you. As taxpayers we would like to see innovation, and problem solving from small businesses help to make our government more efficient and effective.

EBDS has been working for the past year to market a new financial analysis capability to Federal Agencies and DoD Services that will provide them a very powerful new capability to comply with the President's Management Agenda, Circular A-11 Exhibit 300B, Clinger Cohen Act, E-Gov Act of 2002, and budget preparation processes. Our new service will allow the government to match investments in Information Technology to Business Transformation initiatives resulting in dramatic increases in performance and productivity, thereby saving the government and taxpayers significant dollars.

The DoD and OMB officials who have seen demonstrations of our financial analytic capability have all stated that they would like to employ our methodology, but are inhibited from doing so by law. (See Item 1 below) We believe we can save our government billions of dollars in Information Technology costs and dramatically improve the performance and efficiency of Information Systems acquisition and budgeting processes.

The OMB Federal Enterprise Architecture Project Management Office (FEAPMO) and DoD Business Management Modernization Program (BMMP) documents clearly state they are seeking the unique new capability we can provide. Unfortunately, there is no mechanism for our small Colorado business to contract with those government agencies and services seeking our innovative new Capital Planning and Investment Management capability.

We believe the roadblocks are as follows:

1. By Federal Acquisition Regulation (FAR) law, government officials who make policy are not permitted to "purchase" our services, even if they see great value in our service for the government.

2. For those Agencies which can buy, the purchasing vehicle of choice is the GSA Schedule. "Getting on the GSA Schedule" presents a conundrum for new, innovative small businesses with a product targeted to address specific government requirements.

    - Small businesses may not get on the GSA Schedule without having a government contract. The only clear way to receive a government contract, according to the Agencies and Services we have contacted, is to be on the GSA Schedule. This conundrum is very difficult to circumvent without teaming as a Subcontractor to a Prime Contractor that holds a government contract or is on the GSA Schedule. This is not an easy task to achieve.

    - Bids for government contracts must be compliant with the Request for Proposal (RFP). New, innovative capabilities are generally not requested because the RFP authors are not aware that new capabilities exist. The downside of this situation is compounded for small businesses that do not have the funding for extensive advertising campaigns or attendance at major conferences held in the Washington, DC area.

3. When Solicitations are posted on Fed Biz Ops, the authors of the Solicitation have no way to request new innovative technologies since there is no source or documented requirement against which they can request proposals.

4. We believe there should be a mechanism that enables new innovative technologies to be evaluated in an appropriate, "Office of Innovation". This "Office" or "organization" could provide a "Clearinghouse" function for cataloguing and matching promising new technologies with government needs. In addition, the "Office of Innovation" could provide the methodology and path to expedite Rapid Acquisition Initiatives of needed technology. This activity could be handled within an existing organization such as the GSA or Department of Interior, and funded by a portion of the resulting savings or by subcontracting these services to fellow agencies.

In summary, we have something of great value to offer the government. Those officials we have talked to would like to buy it, but we have no clear way to transact business. If we can be of assistance in explaining this further, please contact us.

Thank you for your interest in this vexing problem.

Respectfully,

John Santoro
Managing Partner
Executive Business Decision Software, LLC
303-503-0043

Electric Power Equipment Company

5151 East 56th Avenue, Commerce City, Colorado 80022
Tel: 303-288-0751 * 1-888-842-7927 * Fax. 303-288-5003
Email: jfried@epecoinc.com www.epecoinc.com

SBA Beauprez
27 August 2003

The Honorable Bob Beauprez
U. S. House of Representatives
Committee on Small Business
4251 Kipling Street #370
Wheat Ridge, CO 80033

RE: FAR 32.202.4 Effects on Small Business

Congressman Beauprez:

FAR Subpart 32.2 Commercial Item Purchase Financing, specifically 32.202-4 has taken on a new meaning in the rush to convert to "Commercial-Off-The Shelf (COTS) Purchases in that it is removing a vital segment of Small Business Manufactures from the federal market place. Specifically, the bonding requirement, when applied the small manufacturers of highly engineered capital equipment in the $100,000 to $1,000,000 range per contract can no longer afford to do business with the Federal Government.

Please refer to the attached correspondence with a Department of Defense entity that is typical of our plight. The standard commercial terms for small firms such as ourselves is a milestone or monthly payments when performing a large contract for capital equipment. Attached are representative samples of this portion of industry standard commercial terms.

When bonding is imposed, this ties up all the available operating capital of a firm our size, so that if we accept a project in excess of the $100,000 to $200,000 range, we cannot fund any concurrent work as all of our working capital is utilized to guarantee payment of the one contract.

In the past, we have operated under the interim progress payment clause FAR 52.232-16 which allows for interim monthly progress payments based on material and labor completed on the project. This is standard for our industry, has worked well, and properly protects the government in the possible event of default.

Rather than this interim payment philosophy that has governed our specific highly engineered capital equipment industry terms and conditions for decades, the contracting officers are interpreting new COTS emphasis to require government "financing" under FAR Subpart 32.2 – Commercial Item Purchase Financing. While these clauses adequately serve for true commercial products that are normally inventoried and carried in stock, the narrow definition of COTS, they should not apply to specific engineered high cost capital equipment. This equipment must be designed and manufactured specifically for the project and normally have a delivery of 6 months to

2 years. Yet, due to recently imposed restrictions, contracting officers are interpreting this type of equipment to be "Off the Shelf" as there is no other way to classify this type of equipment. As a result, the FAR 32.202-1 Policy is utilized which does not allow for interim progress payments. Bonding under this regulation is therefore utilized.

This new application of "Commercial Finance Bonding", however, makes it difficult or impossible to bid and accept contracts for small businesses such as ourselves. The "One-Size-Fits-All" regarding COTS is driving companies such as ourselves whom manufacture Defense critical large capital equipment from the federal marketplace.

Please look into this matter. Of the approximately 43,000 Small Business Defense Contractors, of which we are one, I would estimate that 30% or more would fall into the "engineered high dollar capital equipment manufacturing category. Our nation cannot afford to lose this valuable asset. I will attempt to assist with more information as time permits, however I must first find new markets for our products.

ELECTRIC POWER EQUIPMENT COMPANY

J. V. "Jack" Fried
Vice President – Marketing

Attachments

RE: DAAE24-03-Q-0009 Hydraulic Test StandsFrom: Nunnelley, Kaye
[kaye.nunnelley@us.army.mil]
Sent: Monday, March 10, 2003 3:54 PM
To: 'Jack Fried'
Cc: Jones, Valerie
Subject: RE: DAAE24-03-Q-0009 Hydraulic Test Stands

Mr. Fried,
Thank you for your interest in these test stand projects. This is the information we relayed to you telephonically on 6 Mar 03 and below is our response to your emails dated 3/6/03 and 3/07/03 in reference to financing.
The FAR Reference 32.202-1 Policy gives us specific guidance on the use of financing in commercial item contracts. However, please note it normally the responsibility of the contractor to provide all resources needed for performance of the contract.
10 U.S.C. 2307(f) and 41 U.S.C. 255(f) (FAR Reference 32.201 Statutory authority) provides that payment for commercial items may be made under such terms and conditions as the head of the agency determines are appropriate , such as (Interim payments) and are customary in the commercial marketplace and are in the best interest of the United States.
FAR defines "Customary contract financing", (For our agency, Interim payments) as that financing deemed by an agency to be available for routine use by contracting officers. Most customary contract financing arrangements should be usable by contracting officers without specific reviews or approvals by higher management. Progress payments are not deemed customary for Commercial Item procurements. "Unusual contract financing", (For our agency, Progress Payments) means any financing not deemed customary financing by the agency.
Difference from non-commercial financing. Government financing of commercial purchases (Interim Payments) under this subpart is expected to be different from that used for non-commercial purchases entitled 32.1 Non-Commercial Item Purchase Financing under Subpart 32.1.
Since we elected to provide Interim payments as our form of financing, 10 U.S.C 2307(f) and 41 U.S.C 255(f) requires the government to obtain adequate security for government financing. The Contracting Officer shall specify in the solicitation the type of security the Government will accept.
Based on the above, For our agency- Interim payments have been deemed appropriate and in the best interest of the government.
Kaye G. Nunnelley
Contract Specialist
256-235-4192
Fax 256-235-4503
www.anadprocnet.army.mil

-----Original Message-----
From: Jack Fried [mailto:jfried@epecoinc.com]
Sent: Monday, March 10, 2003 9:41 AM
To: 'nunnelleyk@anad.army.mil'
Subject: FW: DAAE24-03-Q-0009 Hydraulic Test Stands
Importance: High

-----Original Message-----

Jack Fried
From: Jack Fried
Sent: Friday, March 07, 2003 9:22 AM
To: 'nunnelleyk@anad.army.mil'
Cc: 'annie.west@dcma.mil'; 'lewish@ria.army.mil'
Subject: DAAE24-03-Q-0009 Hydraulic Test Stands

Dear Ms. Nunnelley,

Electric Power Equipment Company will not be submitting a proposal on this project as it also contains the surety bonding provision. Surety bonding would tie up our current $500,000 line of working capital credit which would not leave us sufficient capital to complete current Department of Defense contract work in progress.

Refer to our attached Pricing Bulletin PCS, Clause D.2 ALTERNATE PAYMENT POLICY which is our standard commercial terms for contracts in excess of $100,000. In addition, we will accept a paramount lien upon work in progress as security for the Government. You will note that this is essentially similar to FAR 52.232-16 Progress Payments, a system which we have been under for several years that is administered by our local DCMC-Denver.

If this is acceptable, please advise by return email. We believe it is in the best interest of the Government to allow for competition from small businesses such as ourselves. We are halting further proposal preparation pending resolution. As stated above, it would be futile on our part to continue work on this proposal if surety bonding is a requirement.

PRICING BULLETIN
PCS Jan01.doc...

If additional information is required by your contracting officer concerning Electric Power Equipment Company's financial condition we suggest that you contact Defense Contract Management – Denver. Annie West of the Colorado Operations Central Team is the Administrative Contracting Officer in charge of the two existing contracts that we have work in progress going on. She may be contacted at 303-220-4020 or via email at annie.west@dcma.mil. One of these contracts is with TACOM, DAAE20-98-D-0018 which has over $1,500,000 worth of equipment currently under manufacture. PCO for this contract is Howard Lewis, TACOM-Rock Island, 309-782-3506 lewish@ria.army.mil.

Thank you for your courtesies extended during our recent site visit.

Jack Fried
From: Jack Fried
Sent: Monday, March 10, 2003 8:39 AM
To: 'nunnelleyk@anad.army.mil'
Subject: FW: DAAE24-03-Q-0028 X1100 Transmission Test Stand

Importance: High

-----Original Message-----
From: **Jack Fried**
Sent: Thursday, March 06, 2003 4:58 PM
To: 'nunnelleyk@anad.army.mil'
Cc: Dick Gutru; Kevin Barnes; Ron Gutru
Subject: DAAE24-03-Q-0028 X1100 Transmission Test Stand

Dear Ms. Nunnelley,

We have determined that the surety bond requirement will exceed our capacity for bonding as we are small business with annual sales in the $5,000,000 range. Therefore, we will not be able to meet the requirements of Note 12 regarding FAR 52.232-30. Neither of the contractors at the walkthrough (Plant Engineering and AMTEC), with whom we were negotiating a teaming arrangement, will take the position of prime contractor on this solicitation also due to the surety bonding requirement.

We have noted, however, that FAR 52.232-31 Invitation to Propose Financing Terms is also apparently available as an alternative (reference page 7 of 51 of the solicitation).

FAR 52-232-31 guidelines are prescribed in 32.205(b) and 32.206. 32.206(b)(1)(iv) references 32.202-4 "Security for Government financing" that gives discretion to the Contracting Officer as to the form of security required. Reference 32.202-4(b)(2) which is a common form of Government security, normally a paramount lien upon work in process.

Refer to our attached Pricing Bulletin PCS, Clause D.2 ALTERNATE PAYMENT POLICY which is our standard commercial terms for contracts in excess of $100,000. In addition, we will accept a paramount lien upon work in progress as security for the Government. You will note that this is essentially similar to FAR 52.232-16 Progress Payments, a system which we have been under for several years that is administered by our local DCMC-Denver.

If this is acceptable, please advise by return email. We believe it is in the best interest of the Government to allow for competition from small businesses such as ourselves. We are halting further proposal preparation pending resolution. As stated above, it would be futile on our part to continue work on this proposal if surety bonding is a requirement.

PRICING BULLETIN
PCS Jan01.doc...

Thank you for your consideration.

ELECTRIC POWER EQUIPMENT COMPANY

151 E. 56th AVE. PH: 303 288-0751 FAX: 303 288-5003 COMMERCE CITY, CO 80022

PRICING BULLETIN PCS
POLICIES AND CONDITIONS OF SALE
January 30, 2001

A. STANDARD CONDITIONS OF SALE:

All terms and conditions of sale are subject to change without notice. Electric Power Equipment Company (EPECo) reserves the right to change or discontinue, without notice, the individual types of products referred to here, on its website, or in its literature. We make a good faith effort to update the information contained on our website and in our literature, however it is the responsibility of the user to contact EPECo direct to confirm that this information is correct.

B. SERVICE CONDITIONS:

Unless otherwise indicated in writing by EPECo, products are rated in accordance with applicable ANSI/IEEE and NEMA Standards and are designed to meet service conditions defined as "Usual Service Conditions."

C. PRICING:

Quotations of price and shipment are based on EPECo proposal specifications, proposal clarifications to scope and/or quotation letter. Purchaser's technical specifications as referenced in EPECo proposal only are included. Features not covered by the above will be in accordance with Electric Power Equipment Company's Design & Manufacturing Criteria and ISO 9001 quality procedures. Purchaser's changes that require engineering, drafting or modification of material and construction, may result in additional charges. These changes may also result in extended shipments.

Prices stated in the EPECo proposal are firm for 60 days from date of proposal or 12 months from date of order unless otherwise stated in our proposal. Escalation after 12 months will be based upon producer price index increases for Commodities Code 1175 as published by the US Department of Labor with the month of the proposal as the base month.

D. TERMS OF PAYMENT – DOMESTIC:

1. NORMAL PAYMENT POLICY – Net cash within 30 days from date of shipment, subject to approved credit, or as stated in quotation.

2. ALTERNATE PAYMENT POLICY – Except as stated in the EPECo proposal, for contracts with a price in excess of $100,000 and/or with a shipment date of 1 year or more from the date of order, the following terms shall apply:

a. 10% of the contract price will be initially invoiced when drawings for approval are mailed by EPECo. If drawings for approval are not specified, an invoice will be mailed for material received and labor performed specific to the contract 60 days after the date of the order.

b. Subsequent to the initial invoice, monthly progress invoices will be issued based on additional material received and labor performed specific to the contract up to a maximum of 80% of contract amount.

c. The final 20% of the price of each line item as detailed in the contract shall be invoiced upon complete shipment of each line item. If we assume systems responsibility in the base quotation, the final 10% of the price of each unit shall be invoiced upon completion of start-up and testing at installation site or 60 days from shipment, whichever occurs first.

d. The terms of these payments are net 30 days from date of invoice.

E. TERMS OF PAYMENT – FOREIGN:

The following export terms shall apply for all equipment furnished to a country other than the United States and its territories, unless specifically stated in writing by EPECo:

EMAIL: EPECO462@AOL.COM ISO 9001 REGISTERED WEB: WWW.EPECOINC.COM

Terms and Conditions of Sale
UNICO

(a) ***If the Buyer resides outside the United States or Canada,*** Buyer shall pay UNICO by Irrevocable Letter of Credit, acceptable in form and substance to UNICO and, at UNICO's option, confirmed by a U. S. bank acceptable to UNICO. Such Letter of Credit shall provide for payment to UNICO of the full amount of the purchase price plus prepaid freight in U. S. Dollars on presentation by UNICO of sight drafts, UNICO invoice, and such documents as the Letter of Credit may require. Payment terms include 25% of order amount due with purchase order, 65% due upon receipt of clean on-board bill of lading, and the balance of 10% due upon completion of start-up or net 90 days from arrival of equipment at Sea Port, whichever is first. All banking and other charges for such Letter of Credit are for the account of Buyer.

(b) ***If Buyer resides inside the United States or Canada and the order is less than $30,000.00,*** payment terms are 100% of order amount due net 30 days from shipment of hardware system.

(c) ***If Buyer resides inside the United States or Canada and the order is $30,000.00 or greater and less than $150,000.00,*** payment terms are 100% of order amount due net 30 days from shipment of hardware system; a 1% discount will be offered to accept payment terms of 25% of order amount due with purchase order, 65% due net 30 days from shipment of hardware system, and the balance of 10% due upon acceptance but no later than net 90 days from hardware shipment. Failure to meet terms will result in the loss of the 1% discount.

(d) ***If Buyer resides inside the United States or Canada and the order is $150,000 or greater,*** payment terms are 25% of order amount due with purchase order, 65% due net 30 days from shipment of hardware system, and the balance of 10% due upon acceptance but no later than net 90 days from hardware shipment.

6. Cancellations, Changes, and Returns

(a) ***Cancellations:*** All undelivered Products may be cancelled by Buyer at any time but only by written approval of an authorized representative of UNICO at its main office in Franksville, Wisconsin. In the event of any cancellation of this order by Buyer, Buyer shall pay to UNICO its reasonable costs and expenses, plus UNICO's usual rate of profit for similar work.

(b) ***Changes:*** Buyer may not alter or modify its order or any part thereof without the prior written consent of UNICO. UNICO reserves the right to change the price, terms of payment, and delivery dates for any Products affected by any alterations or modification to which it consents.

(c) ***Returns:*** No Products may be returned to UNICO without its prior written authorization, and Products may be returned only on the terms or conditions specified in such authorization. Returned Products must be of current manufacture, unused, in resalable condition, and securely packed to reach UNICO without damage. Any cost incurred by UNICO to put equipment in first-class condition will be charged to Buyer.

(d) ***Effect of Termination/Returns:*** Upon termination of this Agreement for any reason, or return of Product and/or Software, except as provided in this Agreement, all respective rights and obligations of the Parties hereunder shall terminate and be of no further effect and all licenses shall immediately revert to UNICO. Upon termination, Buyer shall immediately de-install, return to UNICO, or destroy all copies of the Software and Documentation. Termination of this Agreement shall not result in a termination of either of the following: (a) any rights and obligations of the parties which, by the express terms of this Agreement, survive termination; or (b) any liabilities and obligations of the Parties hereunder (whether a payment obligation or otherwise) that have accrued prior to termination. Upon termination of this contract for any reason, UNICO shall have the rights and remedies provided by law, including, without limitation, the rights of a secured party under Chapter 409, Wisconsin Statutes, or any successor statute or similar statute in the jurisdiction where Buyer is located or stores the Products.

7. Warranty

(a) ***Product:*** UNICO warrants that its Products will be free from defects in workmanship and materials under normal use and service for a period of 24 months from the date of shipment pursuant to Section 2 of these Terms and Conditions of Sale. This warranty is void in cases of damage in transit, negligence, abuse, abnormal usage, misuse, accidents, or improper installation and maintenance. This warranty is also void in cases of start-up of product by a third-party organization or other service provider not approved in advance by UNICO.

On equipment furnished by UNICO, but manufactured by others, the written warranty of the manufacturer, if any, will be assigned to Buyer if assignment is reasonably practicable. However, UNICO does not adopt or guarantee or represent that the manufacturer will comply with any of the terms of the warranty of such manufacturer.

UNICO will not reimburse Buyer for any expenses incurred by Buyer in repairing or replacing any defective Products, except for those incurred with the prior written permission of UNICO.

(b) ***Software:*** UNICO warrants that its Software shall conform to the specifications set forth in its documentation when properly installed on drives or systems meeting or exceeding the minimum hardware specifications and shall be free from any material defects, whether in design or programming, for a period of six (6) months after the date of delivery of the Software. UNICO represents and warrants that, to the best of its knowledge, as of the date of delivery, it owns the Software and has the right to enter in this Agreement and that Buyer's use of the Products in accordance with the terms of this Agreement does not infringe upon any third party's copyright, U. S. patent, or trade secret. UNICO does not warrant that the Software will operate uninterrupted or error-free or meet the requirements of Buyer or any other party. UNICO is not responsible for problems caused by use of the Software in conjunction with third-party software, hardware, or products. UNICO will assign, if practicable, the written warranty, if any, provided by a third-party manufacturer on equipment furnished by UNICO but manufactured by another; however, UNICO is not responsible for and does not adopt, guarantee, or represent that the manufacturer will comply with any of the terms of the manufacturer warranty.

UNICO's sole obligation under this warranty shall be, upon prompt written notice by Buyer of any defect, to repair or replace without charge, F. C. A. Franksville, Wisconsin, any defective Products, Software, or parts thereof expressly warranted herein against defects by UNICO. This warranty covers only replacement or repair of defective parts at UNICO's main office and does not include field service travel and living. In no event shall UNICO be liable for incidental, consequential, or other damage.

If any third-party claim substantially interferes with Buyer's use of the Products, or if UNICO believes that a third-party claim may substantially interfere with Buyer's use of the Products, UNICO, at its sole discretion, may: (a) replace or modify the portion of the infringing Product, without additional charge, with functionally equivalent and noninfringing parts or code to avoid the infringement; or (b) obtain a license for the Buyer to continue use of the Product and pay any additional required license fee; or (c) if the foregoing alternatives are not commercially reasonable, terminate this Agreement. This Section 7 shall constitute UNICO's entire liability and Buyer's exclusive remedy for a claim of infringement.

8. Disclaimer of Warranties

UNICO AND BUYER AGREE THAT THE WARRANTIES IN THE PRECEDING SECTION ARE EXCLUSIVE AND IN LIEU OF ALL OTHER EXPRESS OR IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. UNICO HEREBY DISCLAIMS AND EXCLUDES ALL OTHER EXPRESS OR IMPLIED WARRANTIES. Any oral or written description of the Products is for the sole purpose of identifying the Products and shall not be construed as an express warranty.

9. Liability

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Lakewood, CO 80215
Direct: 303.520.5235
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September 9, 2003

Amber O'Connor
Office of Congressman Bob Beauprez - Small Business Liaison
4251 Kipling Street, Suite 370
Wheat Ridge, CO 80033

Dear Ms. O'Connor,

I respectfully submit the 1997 Colorado Statehouse Report on Small Business for the United Sates Congressional Panel. As a member of the Program Committee, we were charged with surveying business owners across the state and identifying their top priorities. More than 300 delegates participated in 15 regional meetings to gather and refine these priories. From these, delegates developed a 20-point agenda as the 1998-1999 Small Business Agenda for Colorado. Eight issues were selected as priority for implementation in 1998. They are listed in the Executive Summary. Many of them, if not all, are relevant concerns to the small business community in Colorado today.

If, after reviewing the Executive Summary, you have further need for information, please contact Tracy E. Houston at 303.520.5235.

Thank you in advance for your time and attention to these materials.

Sincerely,

Tracy E. Houston
Program Committee Member

FINAL REPORT
of the
1997 COLORADO STATEHOUSE CONFERENCE ON SMALL BUSINESS

October 24, 1997

Hosted by:
COLORADO SMALL BUSINESS COUNCIL
COLORADO MINORITY BUSINESS ADVISORY COUNCIL
COLORADO WOMEN'S ECONOMIC DEVELOPMENT COUNCIL

Prepared by:
Carol O'Dowd, CMC
Athena's Consulting Network, Inc.

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TO: Governor and Cabinet, Colorado State Legislature, Small Business Council, Minority Business Advisory Council, Women's Economic Development Council, and 1997 Statehouse Conference Participants
FROM: 1997 Statehouse Conference Co-Chairs: Linda Lodenkamper, Don Kelin, and Carol O'Dowd
DATE: October 30, 1997
RE: 1998-1999 Small Business Agenda for Colorado

We are forwarding to you a copy of the 1998-1999 Small Business Agenda for Colorado. This agenda was adopted at the 1997 Statehouse Conference on Small Business held on October 24, 1997 by the conference delegates.

More than 260 delegates and business representatives participated in the Statehouse Conference on Small Business. Colorado business owners with 50 employees or less could be delegates. In addition, presidents and executive directors of organizations representing small businesses participated at the regional meetings that preceded the conference.

Before the Statehouse Conference, more than 300 delegates participated in 15 regional meetings to refine proposals for consideration at the 1997 Statehouse Conference on Small Business. As a result of these meetings, a total of 26 papers was presented at the 1997 Statehouse Conference. From these, delegates developed a 20 point agenda as the 1998-1999 Small Business Agenda for Colorado. Eight issues were selected as priority for implementation in 1998. The remaining 12 issues will be worked on as time and resources permit. The eight priorities are:

- Re-capture Tourism Market Share
- Eliminate or Reduce Business Personal Property Tax
- Reduce Government Competition with the Private Sector
- Identify, Train and Employ Welfare Recipients
- Create Attainable Housing for Colorado's Workforce
- Establish Funding for Statewide Transportation
- Promote Colorado's Public Education System
- Provide Quality Affordable Health Care for Employees

The Conference also was the start of efforts to implement the 1998 Priorities. Task Forces formed at the Conference identified next steps needed to implement the eight priorities for 1998. Several of them scheduled their next meeting times and appointed a point person to coordinate their efforts. These task forces will work on implementing legislative, administrative and public/private solutions. Please refer to the section on each proposal for an outline of the Task Force plans and members.

We hope many of you, after reviewing the Conference report, will assist with implementation of this important Small Business Agenda for Colorado. Please refer to committee members listed in the overview for the names of the many outstanding volunteers who helped create the 1998-1999 Small Business Agenda for Colorado.

You can read the details of this report on the web at: www.gov_dir/obd/shc-sum.html

If you have any questions, please contact Carol O'Dowd 303-422-4981, Don Kelin 303-220-9747 or Linda Lodenkamper 303-642-3078

1997 STATEHOUSE CONFERENCE OVERVIEW

The 20 Point Small Business Agenda for 1998-1999

The 1998-1999 SMALL BUSINESS AGENDA was adopted by the delegates at the 1997 Statehouse Conference on Small Business held on October 25, 1997. This Conference was a joint project of the Colorado Women's Economic Development Council, the Small Business Council and the Minority Business Advisory Council. The Conference goal was to focus on inventing solutions and to get beyond venting. The result was the Small Business Agenda presented here.

The Small Business Agenda, reflecting participation by small businesses from throughout Colorado, includes 20 proposals for action. Eight of the proposals (listed below in bold) represent priorities for implementation in 1998. The proposals in the 20 point agenda, listed by issue area, are:

Economic Development and Taxes

- **Re-capture Tourism Market Share**
- **Eliminate or Reduce Business Personal Property Tax**
  Revise the Gallagher Amendment
  Advocate State-Wide Support for Microlending Activities
  Improve Revolving Loan Fund by Amending the Davis Bacon Act

Legislative and Regulatory Reform

- **Reduce Government Competition with the Private Sector**
  Clarify Definitions for Independent Contractor in State Law
  Maintain Competition Among Small and Big Businesses
  Reduce Paperwork Burdens
  Establish Oversight of Small Business Regulatory Enforcement

Workforce Development

- **Identify, Train and Position Welfare Recipients for Employment**
- **Create Attainable Housing for Colorado's Workforce**
- **Promote Colorado's Public Education System**
- **Provide Quality Affordable Health Care for Employees**
  Clarify Workers' Compensation Insurance
  Provide Health Insurance and Related Programs for Small Businesses
  Maintain Fair Competition for Small Child Care and Development Businesses

Infrastructure

- **Establish Funding for Statewide Transportation**
  Make Information Technology Accessible, Affordable and Used to Improve Efficiency
  Meet the Water Needs of Small Businesses and Small Agricultural Users

For each of the top eight priorities for 1998, task force action plans are given in the body of this report. The section on each priority includes the proposal, suggestions for implementation, a draft 1998 action plan, and the current task force volunteers, including the point person to contact regarding each task force.

The Statehouse Conference Process

The 1997 Statehouse Conference represented a broad, statewide spectrum of Colorado's small businesses. Also, this Statehouse Conference was a privately funded event. This conference was funded by private contributions and produced by volunteers.

For purposes of the Conference, small business was defined as a business in Colorado with 50 employees or less. Before the October 24th Conference, 15 regional meetings were held throughout the state to develop and review specific proposals.

At each regional meeting, participants selected five to eight proposals for forwarding to the Statehouse Conference. Proposals not selected as a priority at any regional meeting were not carried forward to the Statehouse Conference.

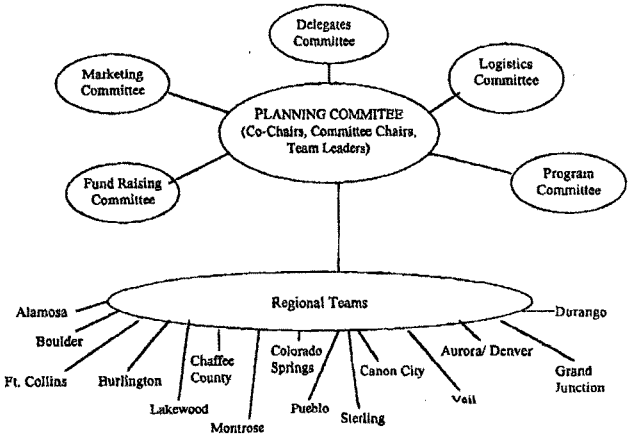
Feedback from the 15 regional meetings was used to prepare the final drafts of action proposals for review at the 1997 Statehouse Conference. A volunteer Program Committee used this feedback to complete draft papers outlining 26 specific proposals for the Conference delegates to consider. At the Conference, more than 200 delegates and over 60 business representatives worked on breakout sessions to review and improve the proposals and develop ways to implement them.

These efforts produced a 20 point SMALL BUSINESS AGENDA with eight priorities for 1998. The proposals are listed above including the eight priorities in bold face type.

Statehouse Conference Participants

Many Committees made the 1997 Statehouse Conference a success. The Committee structure is shown in Figure 1. The lines shown in the figure were not the only lines of communication. The functional relationships formed a web of cross-communication. For example, the Logistics Committee members supported Regional Teams and Regional Team Members communicated with the Program Committee.

Figure 1 -- 1997 STATEHOUSE COMMITTEE STRUCTURE



The work of the several committees made the 1997 Statehouse Conference a success. Listed below are the volunteers who served on the working committees:

Statehouse Conference Co-Chairs

Don Kelin, Minority Business Advisory Council, (MBAC) Past Co-Chair
Linda Lodenkamper, Small Business Council (SBC)
Carol O'Dowd, Women's Economic Development Council (WEDC) Co-Chair

Statehouse Administrative Co-ordinator, Lana Maes
Statehouse Treasurer, Don McNurlin, McNurlin & Associates, SBC

Program Committee

Co-Chairs: Carol O'Dowd, Athena's Consulting Network, WEDC
Greg Dickey, Hein & Associates

Bonnie Andrikopoulos
Deb Armbruster, Colorado Women's Chamber of Commerce
Dawn Bookhardt, Bookhardt & O'Toole
Joan Coplan, US Small Business Administration
Cynthia Covell, Alperstein and Covell
PJ Dinner, PJ Dinner Communications
Jack Fox, Colorado Child Care Association
Tom Godwin, Complexity Simplified; MBAC
Tracy Houston, Aims Community College
Tracy Jenkins, Family TV; Colorado Black Chamber of Commerce
Cathy Johnson, Cathy's Old Boarding House
Diane Matt, Landscape Contractors of Colorado
Bob Palmer, National Federation of Independent Business
Dr. Florine Raitano, Colorado Rural Economic Council
Yolanda Russell, Key Bank of Colorado
Kristy Schloss, Schloss Engineered Equipment
Colorado Society of Women Engineers
Steve Schramm, Schramm & Associates
Butch Schoup, Hein & Associates
Caren Swales, Cherry Creek Chamber of Commerce
Anne Vitek, Vitek & Doniger, Alliance for Professional Women
Linda Weiler, Colorado Bar Association

Marketing Committee

Chair: Alice Borodkin; Women's Business Chronicle, WEDC
Tamela Lee, Denver Small Business Development Center, SBC

Fund Raising Committee

Chair: Patricia Kelin, CADDO Design and Office Products, Inc.
Don Kelin; CADDO Design and Office Products, MBAC
Trish McNamara, Cherry Creek Investment Advisors

Delegates Committee

Chair: Linda Lodenkamper, Esquire
Chantal Weatherly-White, Governor's Office of Boards and Commissions
Catherine Fogg, Rocky Mountain Chinese Chamber of Commerce
Judy Pepper, Pepper Design Associates, Inc.; National Association of Women Business Owners
Debbie Segres, JII Associates, Inc.; Colorado Women's Chamber of Commerce
Constance B. Wood, Esquire

Logistics Committee

Chair: Donna Ralston, Management Plus
Carolyn Romero, Colorado Business and Professional Women
Linda Lodenkamper, Esquire; SBC
Jewell Underwood, Department of Regulatory Agencies
Ben Sparks, Sparks Dix, P.C.; Colorado Bar Association
Lucille Rosenfeld, P.C.