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107TH CONGRESS *2d Session*	HOUSE OF REPRESENTATIVES	REPORT 107–806

SUMMARY OF ACTIVITIES

A REPORT

OF THE

COMMITTEE ON SMALL BUSINESS HOUSE OF REPRESENTATIVES

ONE HUNDRED SEVENTH CONGRESS

JANUARY 2, 2003.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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LETTER OF TRANSMITTAL

HOUSE OF REPRESENTATIVES,
COMMITTEE ON SMALL BUSINESS,
Washington, DC, January 2, 2003.

Hon. JEFF TRANDAHL,
Clerk, House of Representatives,
Washington, DC.

DEAR MR. TRANDAHL: On behalf of the Committee on Small Business of the U.S. House of Representatives, I am pleased to transmit the attached Summary of Activities of the Committee on Small Business for the 107th Congress.

This report is submitted in compliance with the requirements of Rule XI, clause 1(d), of the Rules of the House of Representatives with respect to the activities of the Committee, and in carrying out its duties as stated in the Rules of the House of Representatives.

The purpose of this report is to provide a reference document for Members of the Committee, the Congress and the public which can serve as a research tool and historic reference outlining the Committee's legislative and oversight activities conducted pursuant to Rule X, clause 1(o), 2(b)(1) and 3(g), of the Rules of the House of Representatives. This document is intended to serve as a general reference tool, and not as a substitute for the hearing records, reports and other Committee files.

Sincerely,

DONALD A. MANZULLO,
Chairman.

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107TH CONGRESS, 2d Session | HOUSE OF REPRESENTATIVES | REPORT 107–806

SUMMARY OF ACTIVITIES

JANUARY 2, 2003.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

R E P O R T

SUMMARY OF ACTIVITIES

CHAPTER ONE

INTRODUCTION

This is the fourteenth summary report of the standing Committee on Small Business. The action by the House of Representatives in adopting the House Resolution 988 on October 8, 1974, provided that the committee be established as a standing committee, and upgraded the Permanent Select Committee on Small Business by giving the Committee legislative jurisdiction over small business matters in addition to the oversight jurisdiction it had historically exercised.

The adoption of the House rules in the 94th through 107th Congress confirmed this action and continued the process begun on August 12, 1941, when, by virtue of House Resolution 294 (77th Congress, 1st session), the Select Committee on Small Business was created. In January 1971, the House designated the Select Committee as a permanent Select Committee; and, on October 8, 1974, the 93rd Congress, recognizing the importance of the work performed on behalf of this nation's small businesses, provided that the Committee should thereafter be established as a standing committee.

1.1 HISTORICAL BACKGROUND

The history of the Select Committee on Small Business from its inception in 1941 during the 77th Congress through 1972, the end of the 92nd Congress, may be found in House Document 93–197

19–006

(93rd Congress, 2nd session), entitled "A History and Accomplishments of the Permanent Select Committee on Small Business."

The Committee is bipartisan in recognition that the nation's small business people represent a major segment of our business population and our nation's economic strength. This committee, continuing its vital oversight responsibilities, serves as the advocate and voice for small business as well as the focal point for small business legislation.

In recognition of the importance of the Committee, the House of Representatives has established the Committee's membership at 36 Members. The following Members were named to constitute the Committee in the 107th Congress:

Republicans included:

Donald A. Manzullo (IL), Chairman; Larry Combest (TX); Joel Hefley (CO); Roscoe Bartlett (MD), Vice Chairman; Frank LoBiondo (NJ); Sue Kelly (NY); Steve Chabot (OH); Patrick J. Toomey (PA); Jim DeMint (SC); John Thune (SD); Mike Pence (IN); Mike Ferguson (NJ); Darrell E. Issa (CA); Sam Graves (MO); Edward L. Schrock (VA); Felix J. Grucci, Jr. (NY); Todd W. Akin (MO); Shelley Moore Capito (WV); Bill Shuster (PA).

Democrats included:

Nydia M. Velazquez (NY), Ranking Minority Member; Juanita Millender-McDonald (CA); Danny K. Davis (IL); Bill Pascrell, Jr. (NJ); Donna Christian-Christensen (VI); Robert Brady (PA); Tom Udall (NM); Stephanie Tubbs Jones (OH); Charles Gonzalez (TX); David Phelps (IL); Grace F. Napolitano (CA); Brian Baird (WA); Mark Udall (CO); James P. Langevin (RI); Mike Ross (AR); Brad Carson (OK); Anibal Acevedo-Vila (PR).

1.2 Extracts From the Rules of the House of Representatives

RULE X

ORGANIZATION OF COMMITTEES

Committees and Their Legislative Jurisdictions

1. There shall be in the House the following standing committees, each of which shall have the jurisdiction and related functions assigned by this clause and clauses 2, 3, and 4. All bills, resolutions, and other matters relating to subjects within the jurisdiction of the standing committees listed in this clause shall be referred to those committees, in accordance with clause 2 of rule XII, as follows:

* * * * * * *

(o) Committee on Small Business.

(1) Assistance to and protection of small business, including financial aid, regulatory flexibility, and paperwork reduction.

(2) Participation of small-business enterprises in Federal procurement and Government contracts.

GENERAL OVERSIGHT RESPONSIBILITIES

2. (b)(1) In order to determine whether laws and programs addressing subjects within the jurisdiction of a committee are being implemented and carried out in accordance with the intent of Congress and whether they should be continued, curtailed, or eliminated, each standing committee (other than the Committee on Appropriations) shall review and study on a continuing basis—

(A) The application, administration, execution, and effectiveness of laws and programs addressing subjects within its jurisdiction;

(B) The organization and operation of Federal agencies and entities having responsibilities for the administration and execution of laws and programs addressing subjects within its jurisdiction;

(C) any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation addressing subjects within its jurisdiction (whether or not a bill or resolution has been introduced with respect thereto); and

(D) future research and forecasting on subjects within its jurisdiction.

(2) Each committee to which subparagraph (1) applies having more than 20 members shall establish an oversight subcommittee, or require its subcommittees to conduct oversight in their respective jurisdictions, to assist in carrying out its responsibilities under this clause. The establishment of an oversight subcommittee does not limit the responsibility of a subcommittee with legislative jurisdiction in carrying out its oversight responsibilities.

(c) Each standing committee shall review and study on a continuing basis the impact or probable impact of tax policies affecting subjects within its jurisdiction as described in clauses 1 and 3.

SPECIAL OVERSIGHT FUNCTIONS

* * * * * * *

3. (k) The Committee on Small Business shall study and investigate on a continuing basis the problems of all types of small business.

1.3 NUMBER AND JURISDICTION OF SUBCOMMITTEES

There will be four subcommittees as follows:

—Workforce, Empowerment and Government Programs (seven Republicans and six Democrats)

—Regulatory Reform and Oversight (seven Republicans and six Democrats)

—Rural Enterprises, Agriculture and Technology (five Republicans and four Democrats)

—Tax, Finance and Exports (eight Republicans and seven Democrats)

During the 107th Congress, the Chairman and ranking minority member shall be ex officio members of all subcommittees, without vote, and the full committee shall have the authority to conduct oversight of all areas of the committee's jurisdiction.

In addition to conducting oversight in the area of their respective jurisdiction, each subcommittee shall have the following jurisdiction:

WORKFORCE, EMPOWERMENT AND GOVERNMENT PROGRAMS

Oversight and investigative authority over problems faced by small businesses in attracting and retaining a high quality workforce, including but not limited to wages and benefits such as health care.

Promotion of business growth and opportunities in economically depressed areas.

Oversight and investigative authority over regulations and other government policies that impact small businesses located in high risk communities.

Opportunities for minority, women, veteran and disabled-owned small businesses, including the SBA's 8(a) program.

General oversight of programs targeted toward urban relief.

Small Business Act, Small Business Investment Act, and related legislation.

Federal Government programs that are designed to assist small business generally.

Participation of small business in Federal procurement and Government contracts.

REGULATORY REFORM AND OVERSIGHT

Oversight and investigative authority over the regulatory and paperwork policies of all Federal departments and agencies.

Regulatory Flexibility Act.

Paperwork Reduction Act.

Competition policy generally.

Oversight and investigative authority generally, including novel issues of special concern to small business.

RURAL ENTERPRISES, AGRICULTURE AND TECHNOLOGY

Promotion of business growth and opportunities in rural areas.

Oversight and investigative authority over agricultural issues that impact small businesses.

General oversight of programs targeted toward farm relief.

Oversight and investigative authority for small business technology issues.

TAX, FINANCE AND EXPORTS

Tax policy and its impact on small business.
Access to capital and finance issues generally.
Export opportunities and oversight over Federal trade policy and promotion programs.

The adoption of the House Rules in the 94th through the 107th Congresses confirmed this action and continued the process begun on August 12, 1941, when, by virtue of House Resolution 294 (77th Congress, 1st session), the Select Committee on Small Business was created. In January 1971, the House designated the Select Committee as a Permanent Select Committee; and, on October 8, 1974, the 93rd Congress, recognizing the importance of the work performed on behalf of this nation's small businesses, provided that the Committee should thereafter be established as a standing committee.

1.4 Disposition of Legislation Referred to the Committee

A total of 57 House bills and 5 Senate bills were referred to the Committee on Small Business during the 107th Congress. The Committee acted on 10 bills, of which 6 reports were filed. Four bills on which the Committee acted upon were signed into law either individually or as part of broader legislation. For a more detailed summary of the Committee's legislative activities, please refer to Chapter Five of this report.

Because the Committee passed a three-year reauthorization for the Small Business Administration (SBA) during the 106th Congress in 2000, there was not a great need to pass new legislation. Only one program needed to be reauthorized in the 107th Congress—the Small Business Technology Transfer (STTR) program—which the Committee did in 2001 (P.L. 107–50).

In response to the terrorist attacks of September 11, 2001, the Committee passed H.R. 3230 on November 14, 2001. The essential emergency elements of H.R. 3230 were incorporated into the Department of Defense Appropriations and Emergency Supplemental Act of 2002 (P.L. 107–117).

The Committee also ensured that the Small Business Investment Company Amendments Act of 2001 (S. 1196) expeditiously became law (P.L. 107–100), bypassing formal committee action and taking the bill up directly from the Senate and onto the House floor.

The Committee waived jurisdiction over the Small Business Paperwork Relief Act (H.R. 327) in order to move the process along to ensure that this bill would become law (P.L. 107–198).

Four bills on which reports were filed and passed the House did not see timely action by the Senate (H.R. 203, H.R. 2538, H.R. 2666, and H.R. 4231).

One bill, for which a Committee report was filed, did not see action on the House floor (H.R. 2867). One Senate bill that the Committee acted upon did not see action on the House floor (S. 174) in deference to a request from the Minority-side of the Committee.

Finally, while not counted in the overall total, it is important to note that the Committee waived the formal process of a mark-up and did not have any objection to placing either H.R. 5645 or S. 3172, which dealt with the same subject, on the unanimous consent

calendar prior to adjournment but was unable to because of an objection from one other Member.

For a summary of the Committee's legislative activities, please refer to Chapter Five of this report.

CHAPTER TWO

THE SMALL BUSINESS ADMINISTRATION

The Committee has both legislative and oversight jurisdiction over the Small Business Administration (SBA), which was created in 1953, inter alia, to provide opportunities for entrepreneurship, inventiveness, and the creation and growth of small businesses; to provide procurement assistance to small businesses seeking to contract with the federal government; to help assure the availability of capital to small businesses; and, to provide assistance to victims of disasters.

During the 107th Congress, the Committee held a number of hearings that focused on the mission and performance of the SBA. With the tragic events of September 11, 2001 and the unprecedented terrorist attacks upon the United States, the Committee was especially concerned with the SBA's response in providing assistance to those small businesses directly and indirectly affected by terrorism. A review of the legislative activities of the Committee appears in Chapter Five and a synopsis of the hearings held by the Committee may be found in Chapter Seven of this report.

The major programs of the SBA are briefly described below.

2.1 SBA Programs in General

SBA has approximately 2,100 employees in the field, 700 at the headquarters in Washington, D.C., and 1,300 full and part-time employees in the disaster assistance program. There are 10 regional offices, 84 district and branch offices, more than 1,100 service outlets, 6 area offices, and 3 loan processing centers. It provides loan guarantees, direct loans for physical damage and economic injury to disaster victims, assistance to small businesses who are seeking to compete in the federal procurement arena and to obtain contracts, as well as management, marketing and technical assistance provided by Small Business Development Centers (SBDCs), and the Senior Corps of Retired Executives (SCORE). It also administers a surety bond program for small businesses that are not able to obtain bonding elsewhere.

An independent entity within SBA, the Office of Advocacy, headed by the Chief Counsel for Advocacy appointed by the President with the advice and consent of the Senate, serves as an advocate for small businesses both in the legislative and executive branches of government. The SBA also oversees the implementation of the Small Business Innovation Research and Small Business Technology Transfer programs that provide research and development opportunities for small businesses.

2.2 SBA Business Loans

One of the major purposes for SBA is to help assure that capital is available to small businesses that demonstrate the ability to repay but are otherwise unable to obtain credit. Subject to appropriations, loans are made for a wide variety of purposes, such as plant acquisition, construction, conversion or expansion, including acquisition of land, material, supplies, equipment, and working capital. SBA administers three major loan programs known as the 7(a), 504, and microloan programs.

SBA's largest business loan guarantee program is the 7(a) loan program. In FY2001, 42,957 7(a) loans were made in the amount of approximately $9.9 billion and in FY2002 there were 52,666 such loans made in the amount of $12.2 billion. Banks and other lending institutions make loans and the SBA guarantees up to $1,000,000 ($1,250,000 in the case of lending for certain export purposes) of a private sector loan of up to $2,000,000. Generally, the SBA guarantees up to 85 percent of loans of $150,000 or less, and 75 percent of loans greater than $150,000.

In response to the tragic events of September 11, Public Law 107–117 appropriated $75,000,000 to reduce fees for small businesses adversely affected by the terrorist attacks. There were 4,897 loans made to small businesses under the provisions of this law (known as the "STAR" program loans) in the amount of $1.9 billion.

Cuts were made in the annual on-going fees charged to such lenders from 0.50 percent (50 basis points) to 0.25 percent (25 basis points). In addition, Public Law 107–100 made changes with respect to loans approved during the 2-year period beginning on October 1, 2002, i.e., the upfront guarantee fees charged to borrowers were reduced for loans in the total amount of not more than $700,000 and the annual guarantee fee paid by lenders was reduced by 50 percent.

The 504-loan program was established to encourage economic development, create and preserve job opportunities, and foster growth and modernization of small businesses. A small business may apply to a Certified Development Company (CDC), licensed by SBA, to finance part of a proposed 504 project. The SBA guarantees debentures of up to $1,000,000 ($1,300,000 where certain economic redevelopment objectives are met). The guarantees are for 100 percent of the debenture that represents 40 percent of the total project costs. The balance of the costs is provided by a 10 percent or more contribution by the borrower, and a private sector loan to finance the remaining 50 percent. In FY2001, CDCs made 5,213 504 loans totaling $2.3 billion and in FY2002, CDCs made 5,480 504 loans totaling $2.5 billion.

The Microloan program is designed to provide capital to small enterprises. The program has two types of loans, i.e., direct and guaranteed. SBA directly provides loans to 165 intermediaries who in turn make loans of up to $35,000 to small businesses. Also SBA guarantees 100 percent of loans to the intermediaries by banks. SBA funds grants to intermediaries and other qualified organizations to provide marketing, management, and technical assistance to borrowers. In FY2001, intermediary lenders made 2,295 loans in

the amount of $31,800,000. In FY2002, intermediary lenders made 2,532 loans in the amount of $35,794,500.

2.3 Disaster Assistance Loans

Under the Disaster Assistance program, SBA makes direct loans rather than loan guarantees. There are three kinds of disaster loans: (1) home disaster loans, (2) physical disaster business loans, and (3) economic injury business loans. The owner of a home may apply for a home disaster loan to cover physical damage to his or her primary residence and personal property, and those not owning their primary residence may apply for a loan with respect to physical loss of their personal property. Almost any business, non-profit entity, or charity (big or small) whose real or personal property was damaged in a declared disaster may apply for a physical disaster business loan.

A small business located in a declared disaster area may apply for an economic injury disaster loan, if the small business has suffered a substantial economic loss as a direct result of the disaster that prevents it from meeting its obligations as they mature or to pay its ordinary and necessary operating expenses. A small business whose owner or an essential employee is a Military Reservist or a member of the National Guard may apply for an economic injury disaster loan, if the small business has suffered or is likely to suffer substantial economic injury as a result of the individual's absence while on active duty during a period of a military conflict existing on or after March 24, 1999.

SBA received an additional $75,000,000 to fund $583,000,000 in disaster assistance loans resulting from the tragic events of September 11. With respect to such loans, Congress enacted into law changes in the program to: allow non-profit and non-depository institutions to apply for physical injury disaster loans; give discretion to the Administrator to raise the small business size standards to permit more businesses to qualify as small businesses and to be eligible for economic injury disaster loans, especially those in the New York City metropolitan area; defer payment of principal and interest for two rather than the usual 1-year period; and, raise the maximum amount that can be borrowed from $1,500,000 to $10,000,000. Since September 11, 2002 and up to the end of FY2002, SBA has approved over 10,000 disaster loans and has disbursed over $800,000,000 in loan funds.

2.4 Small Business Investment Companies

SBA licenses and regulates venture capital companies that specialize in financing, through debt or equity, in small businesses. These Small Business Investment Companies (SBICs) provide equity capital or long-term financing and may provide technical and managerial assistance. Public Law 107–100, signed into law by the President on December 21, 2001, allows the SBIC program to operate without appropriated funds for FY2002 and still provide access to capital for small businesses.

Capital for investment has been raised traditionally by investors in an SBIC and by debentures guaranteed as to both principal and interest by SBA (which usually are equal to 2 or 3 times the SBIC's private capital). SBICs relying upon debenture leverage primarily

invest in debt securities of small businesses that have cash flows sufficient to service the outstanding debentures. SBA guaranteed $486,714,000 in debentures in FY2001, and $328,625,000 in FY2002.

In 1992, legislation was enacted instituting a new SBIC program involving participating securities. SBA guarantees the principal and pays the purchasers of participating securities the interest as it comes due on behalf of a SBIC. When the SBIC becomes profitable, the SBIC repays SBA the interest advanced and a share of the profits. The participating securities program permits investment in new enterprises that do not have established records of profitability. In FY2001, $4.46 billion was made in equity investments to 2,254 small businesses. In FY2002, $2.66 billion in equity investments were made to 1,982 small businesses.

The New Markets Venture Capital (NMVC) program, enacted into law in 2000, provides capital to small enterprises located in low-income areas. SBA can enter into participation agreements with newly formed venture capital companies and guarantees securities to allow them to make equity investments in small businesses located in low-income areas. In addition, SBA can make grants to NMVC SBICs so that they can provide managerial assistance to small businesses in which they have invested. SBA guaranteed no NMVC program debentures in FY2001 since no NMVC SBICs had completed the licensing process in that fiscal year. In FY2002, one NMVC license was issued and the licensee invested $500,000 in one business. One debenture was guaranteed in the amount of $1,150,000.

2.5 Procurement Assistance

SBA is tasked with the responsibility of helping small businesses get their fair share of the total prime contract and subcontracting dollars spent by federal agencies for goods, services, property, and construction. By statute small business are expected to receive at least 23 percent of the total value of all prime contracts awarded for each fiscal year. Other Government-wide minimum goals are established by statute for small business concerns owned and controlled by service-disabled veterans, 3 percent; qualified HUBZone small business concerns, 3 percent (FY2003 and thereafter); small business concerns owned and controlled by socially and economically disadvantaged (SDB) individuals, 5 percent; and, small business concerns owned and controlled by women, 5 percent.

SBA Procurement Center Representatives (PRCs), generally located at federal agencies that have major procurement activities, are tasked with the responsibilities of identifying contracting opportunities for small businesses, attempting to break up large bundled contracts so that small businesses can participate as prime contractors, and assisting small businesses in competing for government contracts. SBA Commercial Market Representatives (CMRs) assist small businesses in obtaining subcontracts with prime contractors who have submitted subcontracting plans with federal agencies. SBA certifies small businesses as eligible for the 8(a), SDB, and HUBZone programs. Also, SBA is authorized to certify to a contracting officer that a small business is competent to perform a particular government procurement (or sale) contract.

The electronic Procurement Marketing and Access Network (PRONET) permits small businesses to list their capabilities on the Internet and is the official database of firms certified under the 8(a), SDB, and HUBZone programs. However, PRONET does not provide contracting opportunities directly to small businesses listed. SBA sets size standards that define whether a business entity is small and eligible under federal programs and preferences reserved for small businesses. Size standards are established for types of business activities, generally, under the North American Industry Classification System (NAICS). Business development assistance is provided under 7(j) of the Small Business Act to small businesses owned and controlled by economically and socially disadvantaged individuals.

2.6 Entrepreneurial Development

The SBA's economic assistance programs support those seeking to start a business, and those desiring to grow and expand an existing small business, by providing individual counseling, management training, procurement and marketing assistance, and with guidance materials and workshops. Assistance is provided at service locations throughout the United States, Puerto Rico, and the U.S. Virgin Islands, and electronically by means of various Internet sites. The facilities that deliver entrepreneurial development assistance include: approximately 1,100 SBDCs, 11,500 SCORE volunteers, 78 Business Information Centers (BICs), 16 Tribal Business Information Centers (TBICs), 4 Veterans Business Outreach Centers, and 83 Women's Business Centers (WBCs).

SBDCs are funded by both federal and state appropriations. The SBA administers the program through grants generally to state governments and agencies. Most SBDCs are affiliated with state college and university systems. They assist small businesses and aspiring entrepreneurs with business problems concerning, e.g., personnel administration, marketing, sales, merchandising, finance, accounting, business management, and participation in international markets. SBDCs may not charge a fee for counseling services. Modest fees are charged for workshops and business related training and courses.

SCORE has 389 chapter locations where volunteer counselors provide practical business advice and training services to over 375,000 clients annually. All counseling is provided free of charge to clients. Annual congressional appropriations are used to reimburse counselors for mileage and incidental expenses. E-mail counseling is provided over the Internet. The network of BICs is established through partnerships between the SBA and for-profit entities, other agencies, and non-profit organizations. BICs provide up-to-date computer technology, hardware and software, and a large library of business related publication and videos. On-site counseling in many BICs are provided by SCORE volunteers and SBDC counselors

WBCs provide assistance and one-on-one counseling to women entrepreneurs with respect to technology, financial and management planning and problem solving, access to capital, marketing, business administration, and selling to the federal government. The Online Women's Business Center provides around-the-clock

Internet access to business information to help start a business, resolve business problems, or grow an existing enterprise through federal contracting or exporting opportunities.

The National Women's Business Council is a source of independent advice to the President, federal agencies, and Congress with regard to entrepreneurship and the impact of federal polices and programs upon women who want to start and grow business enterprises. The council has focused on issues involving the award of federal prime contracts and subcontracts to women-owned small businesses and barriers to women entrepreneurs obtaining access to credit and investment capital.

Veterans Business Outreach Centers provide veterans and service-disabled veterans with assistance in gaining access to capital, resolving business and management problems, and starting and growing small businesses. In addition, SBA has entered into agreements with the Association of Small Business Development Centers, the Department of Labor, and the Department of Veterans Affairs to provide outreach and needed business administration and entrepreneurial services to veterans and service-disabled veterans.

SBA is planning to replace the present TBIC program with the Native American Economic Development program that is designed to address the special needs of the 2,500,000 Native Americans and Alaskan Natives. The average unemployment rate on reservations in 1999 was 43 percent and on some reservations can be as high as 70 percent. Development of business skills can be a major factor in resolving the present high unemployment rate. However, technical assistance was provided in only six states.

2.7 Surety Bond Guarantees

Small business contractors and subcontractors who seek public and private construction contracts are often required to furnish surety bonds guaranteeing the completion of the contracted work. The SBA provides assistance to such contractors by extending guarantees of up to 90 percent to surety insurance companies. These guarantees enable small contractors to obtain bonding more easily. The SBA's bonding assistance is accomplished through the Prior Approval Program or the Preferred Surety Bond Program. Bid bonds as well as performance and/or payment bonds may be guaranteed on contracts up to $2,000,000.

The SBA will pay a surety participating in the Prior Approval Program 90 percent of a loss incurred if: (1) the total amount of the contract is $100,000 or less; and (2) the bond was issued on behalf of a small business owned and controlled by socially and economically disadvantaged individuals or is a qualified HUBZone small business concern. Otherwise, SBA will pay a surety in an amount not to exceed an administrative ceiling of 80 percent of a loss on bonds issued to other than disadvantaged and HUBZone concerns in excess of $100,000. Under the Preferred Surety Bond program, the SBA's guarantee is limited to 70 percent of the bond for all small businesses on contracts that do not exceed a face value of $1,250,000. In FY2001, SBA provided 6,320 bid and final bond guarantees on contracts valued at $1.4 billion. In FY2002, SBA provided 7,372 bid and final bond guarantees on contracts valued at $1.76 billion.

2.8 Technology and Innovation

It is the free enterprise system, and not government programs, that make the United States the world leader in innovation and technology. Small businesses are at the forefront of research and development and have been more prolific in creating new jobs through innovation and technology. However, there are two government programs, the Small Business Innovation Research (SBIR) and the Small Business Technology Transfer (STTR) programs, which have successfully provided innovative research and developed products for government and commercial use.

SBA's Office of Technology provides oversight, monitoring, evaluation, and reporting for these programs. In FY2001, SBA awarded approximately 30 cooperative agreements in the amount of $3,500,000 pursuant to the Federal and State Technology Partnership (FAST) program. The grants are to provide technical assistance to high-tech small businesses to enhance their market competitiveness. In addition in FY2001, SBA awarded 25 cooperative agreements in the amount of $1,500,000 to provide statewide outreach to small businesses in rural states that have received few SBIR and STTR awards.

The SBIR program has been in existence since 1982. Unlike the STTR program, the SBIR program does not require, but permits, a cooperative venture between a for-profit small business and a researcher from a university, federal laboratory or a nonprofit research institution for the purpose of developing commercially viable products. However, the project's principal investigator must be employed by the small business.

A small business to be eligible must be: (1) independently owned and operated and other than the dominant firm in the field which it is proposing to carry out SBIR projects, (2) organized and operated for profit, with 500 employees or less, (3) the primary source of employment for the project's principal investigator at the time of award and during the period when the research is conducted, and (4) at least 51-percent owned by U.S. citizens or lawfully admitted permanent resident aliens.

Agencies that spend more than $100 million for external research, and research and development must set aside 2.5 percent of their R&D budget for awards under SBIR. There are no additional moneys appropriated to support this program. At present, there are ten agencies that qualify for the program. The agencies are: Department of Defense, Department of Energy, National Aeronautics and Space Administration, National Science Foundation, Department of Agriculture, Department of Commerce, Department of Education, Environmental Protection Agency, Department of Health and Human Services, and Department of Transportation.

The participating agencies listed above designate research and development topics for which small businesses may submit proposals for project funding. The proposals are evaluated by the agency based on (1) the qualifications of the small business, (2) the value of the project to the agency and the degree of innovation, and (3) the market potential of the product to be developed. Once funded, a project goes through three phases. Each phase is funded separately.

Phase I is the start-up portion of the project and may be funded up to $100,000. This phase lasts approximately six months and is for the purpose of exploring the scientific, and technical aspects of the project. Phase II may last up to two years and may be funded in an amount up to $750,000. During this period, research and development continues and the commercial potential explored. Only projects that successfully complete Phase I can be considered for funding in Phase II. Phase III is the point in the project that the idea moves from the laboratory to the production facility to the market place. No SBIR funds may be used to pay for Phase III. The funding must come from the private sector or non-SBIR federal funding. In FY2001, 3,215 Phase I funding agreements were awarded totaling $317,000,000 and 1,533 Phase II funding agreements were awarded totaling $977,000,000

The STTR program is independent of the SBIR program with which it is frequently confused. The STTR program requires a cooperative venture between a for-profit small business and a researcher from a university, federal laboratory, or a non-profit research institution for the purpose of developing commercially viable products from ideas spawned in a laboratory environment. For a federal agency to participate in the program, it must have an extramural budget for research or research and development that exceeds $1 billion for any fiscal year. Presently, there are five federal agencies that meet the funding requirement. They are: Department of Defense, Department of Energy, Department of Health and Human Services, National Aeronautics and Space Administration, and National Science Foundation.

To be eligible for an STTR award a small business must have no more than 500 employees, and be independently owned and operated with its principal place of business in the United States. In addition, the small business may not be the dominant entity in the field in which the project is contained and must be primarily owned by U.S. citizens. To be eligible to participate in the program, a research entity must be a non-profit institution as defined by the Stevenson-Wyler Act of 1980 or a federally funded research and development center as determined by the National Science Foundation under the provisions of section 35(c)(1) of the Office of Federal Procurement Policy Act.

The program requires that the research and development project be conducted jointly by a small business and a research institution in which not less than 40 percent of the work is performed by the small business, and that not less than 30 percent of the work is performed by the research institution. Though the venture is cooperative in nature, the small business is responsible for the overall management and control of each project.

The statute mandates that each award go through three phases. Phase I is the start-up part of a particular project and entails, as may be possible, a determination of the scientific, technical, and commercial merits of the concepts underlying a particular award. Phase II provides an opportunity to further develop the concepts to meet the objectives of the particular award. Only projects that successfully complete Phase I can be considered for funding under Phase II. Phase III is the point at which the project moves from the laboratory to commercial application or further cooperative re-

search and development. No STTR funds may be used to pay for Phase III. The funding must come from the private sector or non-STTR federal funding. In FY2001, 224 Phase I funding agreements were awarded in the amount of $24,000,000 and 113 Phase II funding agreements were awarded totaling $53,000,000.

2.9 Export Assistance

SBA is authorized to promote increased participation of small businesses in international trade. To assist small businesses that wish to export, SBA works with the Department of Commerce and other federal agencies to identify business opportunities and to assist in financing the sale of U.S. made products to foreign buyers. SBA works with the Department of Commerce, the Export-Import Bank, Department of Agriculture, as well as SBDCs and SCORE, in maintaining a network of 19 U.S. Export Assistance Centers (USEACs) that provide information and counseling with respect to export marketing and financing. USEACs are SBA's primary outlet for delivering export services to small businesses. Small businesses may obtain free consultation through the Export Legal Assistance Network (ELAN) program, which enables those interested in starting export operations to consult with international trade attorneys from the Federal Bar Association, and to access publications on international trade and export marketing.

The SBA has several loan programs, available to exporters depending upon the purpose for which the funds are to be used. Exporters can obtain funds for fixed asset acquisitions during startup or expansion and for general working capital needs through the 7(a) loan program. Export Trading Companies can qualify for SBA's business loan guarantee program, provided that they are for profit entities and have no bank equity participation. The Export Working Capital program authorizes SBA to guarantee 90 percent of a private sector loan of up to $750,000 for working capital. Loans made under this program generally have a 12-month maturity but two one-year extensions may be obtained.

The loans can be for single or multiple export sales and can be expended for pre-shipment working capital and post-shipment exposure coverage, but the proceeds cannot be used to obtain fixed assets. Through the 7(a) loan program, the SBA can provide export assistance by guaranteeing international trade loans that provide long-term financing to small businesses engaged in international trade, as well as those businesses adversely affected by import competition. In FY2001, SBA guaranteed 425 export loans worth an estimated $167,000,000. In FY2002, SBA guaranteed 468 export loans in the total amount of $200,300,000.

2.10 Office of Advocacy

The Office of Advocacy was created in 1976, pursuant to Title II of Public Law 94–305. The law provides for the President to appoint a Chief Counsel of Advocacy, subject to the advice and consent of the Senate. The mandated mission of the Office of Advocacy is to represent and advance small business interests before the Congress and federal agencies for the purpose of enhancing small business competitiveness.

The primary focus of the Office of Advocacy is monitoring federal agency compliance with the Regulatory Flexibility Act that requires federal agencies to assess the impact of their proposed and final rules on small entities including small businesses, small organizations, and small governmental jurisdictions. In addition, the Office of Advocacy serves as a focal point for receiving complaints and suggestions regarding federal agency policies and activities that affect small businesses. The Office of Advocacy also suggests changes in federal legislation and regulatory policy to enhance the competitive stance of small businesses. Finally, the Office of Advocacy has been delegated by the Administrator to maintain an economic database on small businesses, which is used in the preparation of an annual report on small business.

CHAPTER THREE

HEARINGS AND MEETINGS HELD BY THE COMMITTEE ON SMALL BUSINESS AND ITS SUBCOMMITTEES, 107TH CONGRESS

3.1 FULL COMMITTEE

Date	Subject and location
February 28, 2001	Meeting to consider and adopt Committee Rules and Oversight Plan for the 107th Congress; Washington, D.C.
March 14, 2001	Full Committee meeting to adopt the Committee's Views and Estimates on the President's FY 2002 Budget Proposal; Washington, D.C.
March 22, 2001	Improving and Strengthening the Office of Advocacy; Washington, D.C.
March 28, 2001	Pension Reform for Small Business; Washington, D.C.
April 4, 2001	Full Committee Roundtable, A Tax Agenda for Small Business. This was a joint Roundtable with the Senate Committee on Small Business and Entrepreneurship; Washington, D.C.
May 2, 2001	Black Beret Procurement: Business As Usual At the Pentagon? Washington, D.C.
May 9, 2001	Health Care Financing Administration Paperwork Burdens: the Paperwork Reduction Act as a Prescription for Better Medicine; Washington, D.C.
May 16, 2001	FY 2002 Budget for the U.S. Small Business Administration; Washington, D.C.
May 17, 2001	Small Business Access to Capital; Washington, D.C.
May 23, 2001	Hearing With Respect for Veterans and the National Veterans Business Development Corporation; Washington, D.C.
June 6, 2001	Federal Prison Industries Procurement and Its effects on Small Business; Washington, D.C.
June 13, 2001	What Has The Ex-Im Bank Done For Small Business Lately? Washington, D.C.
June 20, 2001	Procurement Policies of the Pentagon with Respect to Small Businesses and the New Administration; Washington, D.C.
June 26, 2001	U.S. Trade Representative, Ambassador Bob Zoellick, Briefing with Members of the Committee on Small Business; Washington, D.C.
July 9, 2001	Field Hearing on Small Business to Health Care;
July 11, 2001	The Regulatory Morass at the Centers for Medicare and Medicaid Services, A Prescription for Bad Medicine; Washington, D.C.
July 18, 2001	Federal Government Competition with Small Businesses; Washington, D.C.
July 25, 2001	Reducing Regulatory and Paperwork Burdens on the Small Healthcare Providers Proposals from the Executive Branch. Washington, D.C.
August 1, 2001	Mark-up of H.R. 1860; H.R. 203; H.R. 2538; H.R. 2666; Washington, D.C.
August 27, 2001	Field hearing, Small Business Views on Federal Government Procurement and Other Programs; Santa Fe, New Mexico.
August 27, 2001	Field hearing, Challenges that Small, Disadvantaged, and Minority Business Owners Face in the Federal Procurement Arena; Alburquerque, New Mexico.
August 30, 2001	Field hearing, Critical Small Business Issues Affecting Long Island; Riverhead, New York.
September 6, 2001	Procurement Policies of the Department of Defense with Regard to Small Businesses—Finding Solutions to Problems that Exist; Washington, D.C.
October 10, 2001	The Role Small Businesses Can Play in Jump-Starting the Economy; Washington, D.C.
October 24, 2001	Impact of Financial and Professional Service Exports on Small Business; Washington, D.C.
October 25, 2001	Medicare-Endorsed Prescription Drug Discount Cards and their Impact on Small Business; Washington, D.C.
November 14, 2001	Markup of H.R. 3230, the American Small Business Emergency Relief and Recovery Act of 2001. Washington, D.C.
November 15, 2001	National Sales Tax Holiday: How will this Proposal Impact America's Small Businesses? Washington, D.C.

Date	Subject and location
November 19, 2001	Field Hearing with Respect to Main Street America. To Learn How Small Businesses Are Surviving in the Present Economic Downturn and to Examine the Impact of Federal Programs Designed to Assist Small Businesses; Spartanburg, South Carolina.
December 6, 2001	90 Days after September 11: How are Small Businesses Being Helped? Washington, D.C.
January 26, 2002	Protecting Small Business and National Parks: The Goals are not Mutually Exclusive; West Yellowstone, Montana.
February 6, 2002	Small Business Access to Health Care; Washington, D.C.
February 13, 2002	The President's Proposed Budget for the Small Business Administration FY 2003; Washington, D.C.
February 27, 2002	Hearing on the SBA Size Standards for Small Business. Washington, D.C.
February 27, 2002	Full Committee meeting to adopt the Committee's views and estimates on the President's FY 2003 budget proposal, Washington, D.C.
March 1, 2002	Tax Roundtable: Access to Capital. Washington, D.C.
March 6, 2002	SBREFA Compliance: Is it the Same Old Story? Washington, D.C.
March 13, 2002	Subsidy Rate Calculation: An Unfair Tax on Small Business? Washington, D.C.
March 20, 2002	Making the Office of Advocacy Independent. Washington, D.C.
April 2, 2002	Field Hearing, Navigating the Small Business Environment: Challenges and Opportunities; Carson, California.
April 4, 2002	Field Hearing, on Small Business Access to Health Care; Rockford, Illinois.
April 10, 2002	Can Improved Compliance with the Regulatory Flexibility Act Resuscitate Small Business Health Care Providers? Washington, D.C.
April 24, 2002	Why Add an Interest Rate Hike on Our Struggling Small Manufacturers? Washington, D.C.
April 17, 2002	Full Committee mark-up of H.R. 2867, Small Business Opportunity Enhancement Act of 2001, ordered to be reported. Washington, D.C.
April 17, 2002	Full Committee mark-up S. 174, Microloan Program Improvement Act of 2001, ordered to be reported. Washington, D.C.
April 17, 2002	Full Committee mark-up H.R. 4231, Small Business Advocacy Improvement Act, ordered to be reported as amended. Washington, D.C.
May 8, 2002	National Small Business Week: Small Business Success Stories; Washington, D.C.
May 15, 2002	Pentagon's Procurement Polices and Programs with Respect to Small Business; Washington, D.C.
May 16, 2002	CMS: New Name, Same Old Game? Washington, D.C.
June 12, 2002	Impact of High Value of Dollar on U.S. Exports; Washington, D.C.
June 19, 2002	How Limiting International Visa Hurts Small Tourism Businesses; Washington, D.C.
July 23, 2002	Unintended Consequences of Increased Steel Tariffs on American Manufacturers. Washington, D.C.
August 14, 2002	Field hearing, Small Business Access to Health Care, Crystal Lake, Illinois.
August 14, 2002	Small Business Roundtable, Medical Malpractice and its Effects on Small Business, Libertyville, Illinois.
September 3, 2002	Field Hearing, on Federal Procurement and International Trade: Assessing the Federal Government's Efforts to meet the Needs of Local Small Businesses; Norwalk, California
September 24, 2002	The Role the Federal Government and Small Businesses are Playing in Assisting Individuals with Disabilities; Washington, D.C.
September 25, 2002	Lost jobs, More Imports: Unintended Consequences of Higher Steel Tariffs. (Part II); Washington, D.C.
October 3, 2002	CMS Regulation of Healthcare Services; Washington, D.C.
November 21, 2002	Hearing on the Federal Prison Industries' Unfair Competition with Small Business: Potential Interim Administrative Solutions Washington, D.C.

3.2 Subcommittee on Workforce, Empowerment, and Government Programs

Date	Subject and location
June 20, 2001	Joint Subcommittee hearing, Subcommittee on Workforce, Empowerment, and Government Programs and Subcommittee on Rural Enterprises, Agriculture, and Technology, Reauthorization of the Small Business Technology Transfer Program (STTR); Washington, D.C.

Date	Subject and location
June 26, 2001	Joint Subcommittee hearing Subcommittee on Tax, Finance and Exports, and the Subcommittee on Workforce, Empowerment, and Government Programs Proposed Solutions for the Capital Funding Needs of Start-up and Emerging Growth Businesses; Washington, D.C.
July 19, 2001	National Small Business Regulatory Assistance Act of 2001; Washington, D.C.
May 21, 2002	Suggestions for Improvements in SBA Programs: Veterans and Disaster Loans Sales; Washington, D.C.
June 6, 2002	Joint Subcommittee hearing between Regulatory Reform and Oversight and The Subcommittee on Workforce, Empowerment, and Government Programs, The Cost of Regulation to Small Business; Washington, D.C.
July 16, 2002	Maximizing Organization and Leadership in a Federal Agency to Fulfill its Statutory Mission Restructuring of the Small Business Administration, Washington, D.C.

3.3 Subcommittee on Regulatory Reform and Oversight

Date	Subject and location
April 3, 2001	Promoting Internet Entrepreneurship: Should Government Take any Action? Washington, D.C.
May 17, 2001	Joint Subcommittee hearing with the Subcommittee on Regulatory Reform and Oversight and the Subcommittee on Rural Enterprises, Agriculture and Technology, Economic Development in Rural America—Small Business Access to Broadband; Washington, D.C.
May 24, 2001	Joint Subcommittee hearing with the Subcommittee on Regulatory Reform and Oversight and the Subcommittee on Rural Enterprises, Agriculture and Technology, Eliminating the Digital Divide: Who Will Wire Rural America; Washington, D.C.
June 21, 2001	Regulatory Summit; Washington, D.C.
September 25, 2001	Removing Red Tape from the Department of Labor's Apprenticeship Approval Process; Washington, D.C.
October 11, 2001	September 11, 2001 Plus 30: Are America's Small Businesses Still Grounded? Washington, D.C.
November 1, 2001	Small Business Access to Competitive Telecommunications Services; Washington, D.C.
November 8, 2001	EPA Rulemaking: Do Bad Analyses Lead to Irrational Rules? Washington, D.C.
May 1, 2002	Issues in the Travel Agency Business; Washington, D.C.
June 6, 2002	Joint Subcommittee hearing between Regulatory Reform and Oversight and The Subcommittee on Workforce, Empowerment, and Government Programs. The Cost of Regulation to Small Business; Washington, D.C.
June 13, 2002	The Lead TRI Rule: Costs, Compliance, and Science; Washington, D.C.
July 11, 2002	The Small Business Health Market: Bad Reforms, High Prices, and Fewer Choices; Washington, D.C.
September 19, 2002	Federal Farm Program Rules Effects on Small Growers; Washington, D.C.

3.4 Subcommittee on Tax, Finance, and Exports

Date	Subject and location
June 26, 2001	Joint Subcommittee hearing Subcommittee on Tax, Finance and Exports, and the Subcommittee on Workforce, Empowerment, and Government Programs Proposed Solutions for the Capital Funding Needs of Start-up and Emerging Growth Businesses; Washington, D.C.
August 9, 2001	Field hearing, Farm and Ranch Risk Management Accounts (FARRM): How will Lehigh Valley Farmers Benefit? Pen Argyl, Pennsylvania.
July 24, 2001	Trade Promotion Authority and Trade; Washington, D.C.
December 6, 2001	Tax Relief: The Real Economic Stimulus for America's Economy; Washington, D.C.
February 20, 2002	Field Hearing How Can Technical Assistance Stimulate New Jersey's Manufacturing Base; Passaic, New Jersey.
April 9, 2002	Hearing on the Payroll Industry at Risk due to ACH System Used for Direct Deposit; Washington, D.C.

3.5 Subcommittee on Rural Enterprises, Agriculture, and Technology

Date	Subject and location
May 17, 2001	Joint Subcommittee hearing with the Subcommittee on Regulatory Reform and Oversight and the Subcommittee on Rural Enterprises, Agriculture and Technology Economic Development in Rural America—Small Business Access to Broadband.; Washington, D.C.
May 24, 2001	Joint Subcommittee hearing with the Subcommittee on Regulatory Reform and Oversight and the Subcommittee on Rural Enterprises, Agriculture and Technology, Eliminating the Digital Divide: Who Will Wire Rural America? Washington, D.C.
June 20, 2001	Joint Subcommittee hearing Subcommittee on Workforce, Empowerment, and Government Programs and Subcommittee on Rural Enterprises, Agriculture, and Technology Reauthorization of the Small Business Technology Transfer Program (STTR); Washington, D.C.
July 17, 2001	The Regrowing Rural America through Added Value-added Agriculture; Washington, D.C.
July 24, 2001	Renewable Fuels; Washington, D.C.
February 7, 2002	Small Business Access to Technology; Washington, D.C.
March 19, 2002	Access to Health Care in Rural America; Washington, D.C.

CHAPTER FOUR

PUBLICATIONS OF THE COMMITTEE ON SMALL BUSINESS AND ITS SUBCOMMITTEES, 107TH CONGRESS

4.1 Reports

House Report Number	Title and date
107–210	Report to accompany H.R. 203, the National Small Business Regulatory Assistance Act of 2001; September 21, 2001.
107–211	Report to accompany H.R. 2358, the Native American Small Business Development Act; September 21, 2001.
A.	Report to accompany H.R. 2666, the Vocational and Technical Entrepreneurship Development Act of 2001; September 21, 2001.
107–213, Part I	Report to accompany H.R. 1860, Small Business Technology Transfer Program Authorization Act of 2001; September 21, 2001.
107–432	Report to accompany H.R. 2867, Small Business Opportunity Enhancement Act of 2002, May 2, 2002.
107–433	Report to accompany H.R. 4231, Small Business Advocacy Improvement Act of 2002, May 2, 2002.

Senate Report Number	Title and date
107–18	Report to accompany S. 174, the Microloan Program Improvement Act of 2001.
107–55	Report to accompany S. 1196, Small Business Investment Company Amendments Act of 2001, Public Law 107–100; August 28, 2001.

4.2 Hearing Records

Serial No.	Held by	Date, title, and location
107–1	Full	March 22, 2001, Improving and Strengthening the Office of Advocacy; Washington, D.C.
107–2	Full	March 28, 2001, Pension Reform for Small Business; Washington, D.C.
107–3	Regulatory	April 3, 2001, Promoting Internet Entrepreneurship: Should Government Take any Action? Washington, D.C.
107–4	Full	April 4, 2001, A Tax Agenda for Small Business; Washington, D.C.
107–5	Full	May 2, 2001, Black Beret Procurement: Business As Usual at the Pentagon? Washington, D.C.
107–6	Full	May 9, 2001, Health Care Financing Administration Paperwork Burdens: The Paperwork Reduction Act as a Prescription For Better Medicine; Washington, D.C.
107–7	Full	May 16, 2001, FY 2002 Budget for the SBA; Washington, D.C.
107–8	Full	May 17, 2001, Access to Capital; Washington, D.C.
107–9	Regulatory	May 17 and 24, 2001, Joint Subcommittee hearings with the Subcommittee on Regulatory Reform and Oversight and the Subcommittee on Rural Enterprises, Agriculture and Technology; Economic Development in Rural America—Small Business Access to Broadband; Eliminating the Digital Divide: Who Will Wire Rural America? Washington, D.C.
107–10	Full	May 23, 2001, SBA Programs for Veterans and the National Veterans Business Development Corporation; Washington, D.C.
107–11	Full	June 6, 2001, Federal Prison Industries Procurement and Its Effect on Small Business; Washington, D.C.

Serial No.	Held by	Date, title, and location
107–12	Full	June 13, 2001, What has Ex-Im Bank Done for Small Business Lately? Washington, D.C.
107–13	Full	June 20, 2001, Procurement Policies of the Pentagon with Respect to Small Businesses and the New Administration; Washington, D.C.
107–14	Workforce	June 20, 2001 Joint Subcommittee hearing Subcommittee on Workforce, Empowerment, and Government Programs and Subcommittee on Rural Enterprises, Agriculture, and Technology, Reauthorization of the Small Business Technology Transfer Program (STTR); Washington, D.C.
107–15	Tax	June 26, 2001 Joint Subcommittee hearing Subcommittee on Tax, Finance and Exports, and the Subcommittee on Workforce, Empowerment, and Government Programs, Proposed Solutions for the Capital Funding Needs of Start-up and Emerging Growth Businesses; Washington, D.C.
107–16	Full	July 9, 2001, Field hearing, Small Business Access to Health Care, in Arlington Heights, Illinois.
107–17	Full	July 11, 2001 The Regulatory Morass at the Centers for Medicare and Medicaid Services: A Prescription for Bad Medicine; Washington, D.C.
107–18	Rural	July 17, 2001, Growing Rural America through Value Added Agriculture; Washington, D.C.
107–19	Full	July 18, 2001, Federal Government Competition with Private Sector Small Businesses; Washington, D.C.
107–20	Workforce	July 19, 2001, National Small Business Regulatory Assistance Act of 2001; Washington, D.C.
107–21	Rural	July 24, 2002, Renewable Fuels; Washington, D.C.
107–22	Tax	July 24, 2001, Trade Promotion Authority and Trade Adjustment Assistance: How Will Small Business Exporters and Farmers Benefit? Washington, D.C.
107–23	Full	July 25, 2001, Reducing Regulatory and Paperwork Burdens on the Small Healthcare Providers Proposals from the Executive Branch. Washington, D.C.
107–24	Tax	August 9, 2001, Farm and Ranch Risk Management Accounts. Field Hearing held in Pen Argyl, Pennsylvania.
107–25	Full	August 27, 2001, Field hearing, Procurement Practices of the New Mexico Department of Energy Facilities Santa Fe, New Mexico.
107–26	Full	August 27, 2001, Field hearing, Encouraging the Growth of Minority-Owned Small Businesses and Minority Entrepreneurship; Albuquerque, New Mexico.
107–27	Full	August 30, 2001, Field hearing, Critical Small Business Issues Affecting Long Island; Riverhead, New York.
107–28	Full	September 6, 2001, Procurement Policies of the Department of Defense with Regard to Small Businesses—Finding Solutions to Problems that Exist; Washington, D.C.
107–29	Regulatory	September 25, 2001, Removing Red Tape From the Department of Labor's Apprenticeship Approval Process. Washington, D.C.
107–30	Full	October 10, 2001, Hearing on the Role Small Businesses Can Play in Jump-Starting the Economy; Washington, D.C.
107–31	Regulatory	October 24, 2001, September 11, 2001 Plus 30: Are America's Small Businesses Still Grounded? Washington, D.C.
107–32	Full	October 24, 2001, Impact of Financial and Professional Service Exports on Small Business; Washington, D.C.
107–33	Full	October 25, 2001, Medicare-Endorsed Prescription Drug Discount Cards and their Impact on Small Business; Washington, D.C.
107–34	Regulatory	November 1, 2001, Small Business Access to Competitive Telecommunications Services. Washington, D.C.
107–35	Regulatory	November 8, 2001, EPA Rulemaking: Do Bad Analyses Lead to Irrational Rules? Washington, D.C.
107–36	Full	November 15, 2001, National Sales Tax Holiday: How will this Proposal Impact America's Small Businesses? Washington, D.C.

Serial No.	Held by	Date, title, and location
107–37	Full	November 19, 2001, Field Hearing with Respect to Main Street America to Learn How Small Businesses Are Surviving in the Present Economic Downturn and to Examine the Impact of Federal Programs Designed to Assist Small Businesses. Spartanburg, South Carolina.
107–38	Tax	December 6, 2001, Tax Relief: The Real Economic Stimulus for America's Economy. Washington, D.C.
107–39	Full	December 6, 2001, 90 Days after September 11: How are Small Businesses Being Helped? Washington, D.C.
107–40	Full	January 26, 2002, Field Hearing on Protecting Small Business and National Parks; The Goals are not Mutually Exclusive; West Yellowstone, Montana.
107–41	Full	February 6, 2002, Hearing on Small Business Access to Health Care. Washington, D.C.
107–42	Rural	February 7, 2002, Small Business Access to Technology. Washington, D.C.
107–43	Full	February 13, 2002, Hearing on the SBA Budget request for FY 2003. Washington, D.C.
107–44	Tax	February 20, 2002, How Can Technical Assistance Stimulate New Jersey's Manufacturing Base? Field Hearing in Passaic, New Jersey.
107–45	Full	February 27, 2002, Disaster Loan Size Standards; Washington, D.C.
107–46	Full	March 6, 2002, SBREFA Compliance: Is it the Same Old Story? Washington, D.C.
107–47	Full	March 13, 2002, Subsidy Rate Calculation: An Unfair Tax on Small Business? Washington, D.C.
107–48	Rural	March 19, 2002, Access to Health Care in Rural America. Washington, D.C.
107–49	Full	March 20, 2002, Making the Office of Advocacy Independent. Washington, D.C.
107–50	Full	April 2, 2002, Field Hearing, Navigating the Small Business Environment: Challenges and Opportunities. Carson, California.
107–51	Full	April 4, 2002, Field Hearing, Small Business Access to Health Care; Rockford, Illinois.
107–52	Tax	April 9, 2002, Is the Payroll Industry at Risk Due to the ACH System Used for Direct Deposit? Washington, D.C.
107–53	Full	April 10, 2002, Can Improved Compliance with the Regulatory Flexibility Act Resuscitate Small Business Health Care Providers? Washington, D.C.
107–54	Full	April 24, 2002, Why Add an Interest Rate Hike on Our Struggling Small Manufacturers? Washington, D.C.
107–55	Regulatory	May 2, 2002, Issues in the Travel Agency Business; Washington, D.C.
107–56	Full	May 8, 2002, National Small Business Week: Small Business Success Stories. Washington, D.C.
107–57	Full	May 15, 2002, Pentagon's Procurement Polices and Programs with Respect to Small Business; Washington, D.C.
107–58	Full	May 16, 2002, CMS: New Name, Same Old Game? Washington, D.C.
107–59	Workforce	May 21, 2002, Suggestions for Improvements in SBA Programs: Veterans and Disaster Loans Sales; Washington, D.C.
107–60	Regulatory and Workforce	June 6, 2002, Joint Subcommittee hearing on the Cost of Regulation to Small Business. Washington, D.C.
107–61	Full	June 12, 2002, Impact of High Value of Dollar on U.S. Exports. Washington, D.C.
107–62	Regulatory	June 13, 2002, The Lead TRI Rule: Costs, Compliance, and Science. Washington, D.C.
107–63	Full	June 19, 2002, How Limiting International Visa Hurts Small Tourism Businesses. Washington, D.C.
107–64	Regulatory	July 11, 2002, The Small Business Health Market; Bad Reforms, Higher Prices, and Fewer Choices. Washington, D.C.
107–65	Workforce	July 16, 2002, Maximizing Organization and Leadership in a Federal Agency to Fulfill its Statutory Mission of the Small Business Administration. Washington, D.C.

Serial No.	Held by	Date, title, and location
107–66	Full	July 23, 2002, Unintended Consequences of Increased Steel Tariffs on American Manufacturers. Washington, D.C.
107–67	Full	August 14, 2002, Field hearing, Small Business Access to Health Care, Crystal Lake, Illinois.
107–68	Full	September 3, 2002, Field Hearing, Federal Procurement and International Trade: Assessing the Federal Government's Efforts to Meet the Needs of Local Small Businesses. Norwalk, California.
107–69	Regulatory	September 19, 2002, Hearing on The Federal Farm Program Rules Effect on Small Growers; Washington, D.C.
107–70	Full	September 24, 2002, The Role the Federal Government and Small Businesses are Playing in Assisting Individuals with Disabilities; Washington, D.C.
107–71	Full	September 25, 2002, Hearing, Lost jobs, More Imports: Unintended Consequences of Higher Steel Tariffs. (Part II). Washington, D.C.
107–72	Full	October 3, 2002, Hearing on CMS Regulation of Healthcare Services. Washington, D.C.
107–73	Full	November 21, 2002, Federal Prison Industries' Unfair Competition with Small Business: Potential Interim Administrative Solutions; Washington, D.C.

CHAPTER FIVE

LEGISLATION ACTED ON BY THE COMMITTEE ON SMALL BUSINESS IN THE 107TH CONGRESS

5.1 H.R. 1860—Small Business Technology Transfer Program Reauthorization Act of 2001, Public Law 107–50

Legislative History

Date	Action
H.R. 1860	
5/16/2001	Referred to the Committee on Small Business, and in addition to the Committee on Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.
5/16/2001	Referred to House Small Business.
5/16/2001	Referred to House Science.
5/18/2001	Referred to the Subcommittee on Environment, Technology, and Standards.
8/1/2001	Committee consideration and mark-up session held.
9/21/2001 5:56pm	Reported (Amended) by the Committee on Small Business. H. Rept. 107–213, Part I.
9/21/2001 5:56pm	House Committee on Science Granted an extension for further consideration ending not later than Sept. 21, 2001.
9/21/2001 5:56pm	Committee on Science discharged.
9/21/2001 5:56pm	Placed on the Union Calendar, Calendar No. 128.
9/24/2001 2:17pm	Mr. Manzullo moved to suspend the rules and pass the bill, as amended.
9/24/2001 2:18pm	Considered under suspension of the rules. (Consideration: CR H5936–5941).
9/24/2001 2:41pm	On motion to suspend the rules and pass the bill, as amended Agreed to by voice vote. (Text: CR H5936–5937).
9/24/2001 2:41pm	Motion to reconsider laid on the table Agreed to without objection.
9/25/2001	Received in the Senate, read twice.
9/26/2001	Passed Senate without amendment by Unanimous Consent. (Consideration: CR S9856)
9/26/2001	Message on Senate action sent to the House.
9/26/2001	Cleared for White House.
10/3/2001	Presented to President.
10/15/2001	Signed by President.
10/15/2001	Became Public Law No. 107–50.

Need for Legislation

H.R. 1860 amends the Small Business Act to extend the Small Business Technology Transfer (STTR) Program through the end of September 2009. Under present law, the STTR Program would terminate on September 30, 2001. The STTR Program was created by Congress under the Small Business Research and Development Enhancement Act of 1992 and was initially authorized for three years beginning in FY1994. The Small Business Reauthorization Act of 1997 reauthorized the program for one additional year in 1996 and subsequently extended for an additional four years, through the end of FY2001. Besides extending the life of the program for eight additional years, H.R. 1860 makes improvements to the program similar to those made previously to the Small Business Innovative Research (SBIR) Program.

Beginning in FY2004 the percentage of the extramural budget required to be expended by agencies participating in the program increases from 0.15 percent to 0.3 percent. The permanent nature of the program is acknowledged by striking the word "pilot" as previously used to describe the program. Again, beginning in FY2004, the amount that a small business can receive for a Phase II award is increased from $500,000 to $750,000, in line with Phase II awards made under the SBIR Program.

Participating agencies are directed to implement an outreach program to research institutions and small business concerns for the purpose of enhancing the STTR Program, in conjunction with any such outreach done for purposes of the SBIR Program. The Administrator of the Small Business Administration is directed to modify the STTR Program policy directive to clarify that the rights to data provisions apply to all three phases of the STTR Program. The Administrator is also required to collect and maintain data in a common format necessary to fairly evaluate the successes or shortcomings of the program and to work with the participating agencies to simplify and standardize the reporting requirements for the collection of data from STTR applicants and awardees.

The provisions of the Federal and State Technology Partnership (FAST) Program are amended to require that the Administrator promulgate regulations establishing standards for the consideration of proposals for funding under the FAST Program and adds as one of the evaluation criteria whether the proposal addresses the needs of small business concerns located in one or more qualified census tracts. Reports to Congress regarding awards under the SBIR and STTR Programs are required to include information concerning the number of proposals received from, and the total of awards to, HUBZone small business concerns. The Administrator is directed to promulgate an STTR Program-wide model agreement for intellectual property rights.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section establishes the short title as the "Small Business Technology Transfer Program Reauthorization Act."

Section 2. Extension of program and expenditure amounts

Subsection (a) extends the STTR program, authorized by section 9(n) of the Small Business Act, through September 30, 2009. The percentage of extramural budget required to be expended by a participating agency annually on the program is established at 0.15 percent for each fiscal year through 2003 and is increased to 0.3 percent for fiscal year 2004 and each fiscal year thereafter. Subsection (b) strikes the word "pilot," as it appears in section 9 of the Small Business Act, to describe the previous, trial basis of the program, and, thereby, establishes the permanent nature of the program.

Section 3. Increase in authorized Phase II awards

Subsection (a) increases from $500,000 to $750,000 the amount that a participating agency may generally pay for a Phase II

award. Further, the subsection permits the participating agency to shorten or lengthen the periods of Phase I and Phase II awards where appropriate for particular projects. Presently, a Phase I is a one-year award and a Phase II is a two-year award.

Subsection (b) makes the amendments contained in subsection (a), above, i.e., increasing the amount of a Phase II award and making the length of Phase I and II awards more flexible, effective beginning October 1, 2003.

Section 4. Agency outreach

This section requires that a participating agency implement an outreach program to research institutions and small businesses to increase participation and to enhance its STTR Program. Such STTR outreach program is to be undertaken in conjunction with a agency's outreach with respect to the SBIR Program.

Section 5. Policy directive modification

This section amends section 9(p) of the Small Business Act to require the Administrator of the SBA to clarify the policy directive applicable to the STTR Program to insure that it is clear that the retention by a small business of rights to data generated by a small business in the performance of an STTR project does not terminate for a period of not less than four years after the small business completes participation in a phase of the award.

Section 6. STTR Program data collection

Subsection (a) requires that SBA maintain sufficient data to effectively evaluate the STTR Program.

Subsection (b) provides for the maintenance of an electronic database of information about the STTR Program similar to the database maintained for the SBIR Program. In addition, in collecting information concerning the STTR Program, the Administrator shall provide data concerning (1) whether a small business or a research institution initiated the collaboration with respect to a particular project, (2) whether the small business or the research institution originated the technology that is the subject of a project, (3) the length of time it took to negotiate a licensing agreement between the small business and the research institution, and (4) how the proceeds from the commercialization, marketing, or sale of technology resulting from each assisted STTR project were allocated (by percentage) between the small business and the research institution.

Subsection (c) requires that the Administrator work in cooperation with the participating agencies to establish standardized reporting requirements for the collection of data from STTR applicants and awardees, taking into consideration the unique needs of each agency, and where possible permitting electronic updating to the maximum extent possible. Data collection shall be designed to minimize the burden on small businesses.

Subsection (d) requires that the Administrator in reporting to Congress annually include in such reports the number of proposals received from, and the number and total amounts of awards to, HUBZone small businesses under the SBIR and STTR Programs.

Section 7. STTR Program-wide model agreement for intellectual property rights

Subsection (a) requires the Administrator to issue regulations, after an opportunity for comment by affected agencies, small businesses, research institutions, and other interested parties, that establish one model agreement for use by all participating agencies which allocates between small businesses and research institutions intellectual property rights and rights, if any, to carry out follow-on research, development, or commercialization.

Subsection (b) requires participating agencies to adopt the model agreement that the Administrator promulgates by regulation.

Section 8. FAST Program assistance to low-income areas

Subsection (a) amends the Federal and State Technology (FAST) Partnership Program by adding further criteria for reviewing proposals for funding under the program. The reviewers are to also consider whether the proposal addresses the needs of small businesses located in one or more HUBZones.

Subsection (b) requires the Administrator to promulgate regulations establishing the standards for consideration of FAST Program proposals, including addressing the need of small businesses located in one or more HUBZones.

5.2 S. 1196—Small Business Investment Company Amendments Act of 2001, Public Law 107–100

Legislative History

Date	Action
S. 1196	
7/18/2001	Read twice and referred to the Committee on Small Business and Entrepreneurship.
7/19/2001	Senate Committee on Small Business and Entrepreneurship. Ordered to be reported without amendment favorably.
8/28/2001	Senate Committee on Small Business and Entrepreneurship. Reported by Senator Kerry under authority of the order of the Senate of 07/30/2001 without amendment. With written report No. 107–55.
8/28/2001	Placed on Senate Legislative Calendar under General Orders. Calendar No. 143.
11/15/2001	Measure laid before Senate by unanimous consent. (Consideration: CR S11923–11926)
11/15/2001	Passed Senate with an amendment by Unanimous Consent. (Text: CR S11925–11926)
11/16/2001 9:16am	Received in the House.
11/16/2001	Message on Senate action sent to the House.
11/16/2001 2:28pm	Held at the desk.
11/16/2001 2:35pm	Mr. Manzullo asked unanimous consent to take from the Speaker's table and consider.
11/16/2001 2:38pm	Considered by unanimous consent. (Consideration: CR H8316–8320)
11/16/2001 2:39pm	On passage Passed without objection.
11/16/2001 2:39pm	Motion to reconsider laid on the table Agreed to without objection.
11/27/2001	Message on House action received in Senate and at desk: House amendment to Senate bill.
12/8/2001	Senate concurred in House amendment with an amendment. Unanimous Consent. (Consideration: CR 12/7/2001 S12740–12745)
12/10/2001	Message on Senate action sent to the House.
12/11/2001 10:17pm	Mr. Manzullo moved that the House suspend the rules and agree to the Senate amendment to the House amendment.
12/11/2001 10:23pm	On motion that the House suspend the rules and agree to the Senate amendment to the House amendment Agreed to by voice vote. (Consideration: CR H9193–9195; text as House agreed to Senate amendment: CR H9193–9194)
12/11/2001 10:23pm	Motion to reconsider laid on the table Agreed to without objection.
12/11/2001	Cleared for White House.
12/14/2001	Presented to President.
12/21/2001	Signed by President.

Date	Action
12/21/2001	Became Public Law No. 107–100.

NEED FOR LEGISLATION

In 1958, Congress created the SBIC program to assist small business owners obtain investment capital. Forty-three years later, small businesses continue to experience difficulty in obtaining investment capital from banks and traditional investment sources. Although investment capital is readily available to large businesses from traditional investment firms, small business seeking investments in the range of $250,000 to $5 million have to look elsewhere. SBICs frequently are the only sources of investment capital for growing small businesses.

The SBIC program has helped some of our Nation's best-known companies. It has provided a financial boost at critical points in the early growth period for many companies that are familiar to all of us. For example, the FedEx Corporation received a needed infusion of capital from two SBA-licensed SBICs at a critical juncture in its development stage. The SBIC program also helped other well-known companies when they were not so well known, such as Intel, Outback Steakhouse, America Online, and Callaway Golf.

In 1992 and 1996, the Committee on Small Business worked closely with the Small Business Administration to correct earlier deficiencies in the Small Business Investment Act of 1958 in order to ensure the future of the program. In 1992, and again in 1996, Congress enacted major changes to strengthen and reform the SBIC program. Today, the SBIC program is expanding rapidly in an effort to meet the growing demands of small business owners for debt and equity investment capital. More qualified investment teams are seeking license approval from SBA than ever before. Since October 1998, the number of new SBIC licensees has increased by more than 35 percent, as SBA approved 53 new licenses in FY 1999 and 60 new licenses in FY 2000, bringing the total number of active SBIC licenses to 415.

At the same time the SBIC program is experiencing significant growth, the investment groups that are receiving guaranteed funds for investing in small businesses are performing at an exceptionally high level. Each year the SBA and the Office of Management and Budget (OMB) develop a credit subsidy rate estimate, which is the cost of running the program based largely on its projected future losses. Under the Debenture and Participating Securities programs, the credit subsidy rates have dropped dramatically. For example, the credit subsidy rate for the Debenture program dropped again in FY 2001 and is projected to drop still further in FY 2002.

For FY 2002, the Bush Administration has recommended a program level of $2.5 billion for the Participating Securities program and increasing the annual interest fee paid by the Participating Securities SBICs by thirty-seven base points (0.37 percent, taking the fee from 1 percent to 1.37 percent) in order to cause the credit subsidy rate to drop to 0.0 percent and eliminate all appropriations for the program." (See Senate Report 107–55 at pp. 1–2 (August 28, 2001)).

Congress agreed with the President's zero funding of the SBIC participating shares program. To maintain access to valuable venture capital for small businesses, the Senate finally passed S. 1196 with an increase in participating securities fees from 1.0 percent to 1.38 percent.

As a trade-off for higher fees in the SBIC program, S. 1196 was amended in the House to provide some modest fee relief for two years starting on October 1, 2002 to small business borrowers and lenders in the other two major loan guarantee programs of the SBA—the 7(a) business loan program and the 504 Certified Development Company loan program. S. 1196, as amended, lowers both upfront borrower and the annual on-going lender fees in the 7(a) program for loans up to $700,000.

7(a) Fees	Loans up to $150,000 (percent)	$150,000 to $700,000 (percent)	Loans over $700,000 (percent)	Annual on-going fee
Current law	2	3	3.5	0.50 on balance.
S. 1196 change	1	2.5	3.5	0.25 on balance.

S. 1196 also eliminates the 504 upfront borrower fee for two years and the 504 on-going fee would be cut in half over the lifetime of the loan, subject to any needed appropriations.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This Act will be called the "Small Business Investment Company Amendments Act of 2001."

Section 2. Subsidy fees

This section amends the Small Business Investment Act of 1958 to permit the SBA to collect an annual interest fee from SBICs in an amount not to exceed 1.28 percent of the outstanding Participating Security and Debenture balance. In no case will SBA be permitted to charge an interest fee that would reduce the credit subsidy rate to less than 0 percent, when combined with other fees and congressional appropriations. This section would take effect on October 1, 2001.

Section 3. Conflicts of interest

Section 3 would remove the requirement that SBA run local advertisements when it seeks to determine if a conflict of interest is present. SBA would continue to publish these notices in the Federal Register. This section would not prohibit the SBA from requiring a local advertisement should it believe it is necessary; it is supported by the SBA.

Section 4. Penalties for false statements

This section would amend Title 12 and Title 18 of the United States Code to ensure that false statements made to SBA under the SBIC program would have the same penalty as making false statements to an SBIC. The section would make it clear that a false statement to SBA or to an SBIC for the purpose of influencing their respective actions taken under the Small Business Invest-

ment Act of 1958 would be a criminal violation. The courts could then access civil and criminal penalties for such violations.

Section 5. Removal or suspension of management officials

This section would amend section 313 of the Small Business Investment Act of 1958 to expand the list of persons who could be removed or suspended by the SBA from the management of an SBIC to include officers, directors, employees, agents, or other participants of an SBIC. The persons subject to this section are called "Management Officials," a new term added by this amendment. The amendment does not change the legal or practical effect of the provisions of Section 313; however, it has been drafted to make its provisions easier to follow.

Sections 3, 4 and 5 would take effect on enactment of this bill." (See Senate Report 107–55 at pp. 8–9 (August 28, 2001)).

Section 6. Reduction of fees

Subsection (a) reduces certain 7(a) fees for loans approved during the 2-year period beginning on October 1, 2002. The up front guarantee fee for loans that do not exceed $150,000 is reduced from 2 percent to 1 percent. The up front guarantee fee for loans that exceed $150,000 but are not more than $700,000 is reduced from 3.5 percent to 2.5 percent. The annual on-going fee on the outstanding balance of the deferred share of the participating loan was reduced to 0.25 percent from 0.50 percent.

Subsection (b) reduced fees for loans made under the 504 loan program during the 2-year period beginning October 1, 2002. The on-going fee was reduced by 50 percent for the life of the loan and the no up front guarantee fee can be assessed or collected with respect to 504 loans made during the 2-year period.

5.3 H.R. 203—National Small Business Regulatory Assistance Act of 2001

Legislative History

Date	Action
H.R. 203	
1/3/2001	Referred to the House Committee on Small Business.
8/1/2001	Mark-up session held.
9/21/2001 5:41 pm	Reported (Amended) by the Committee on Small Business. H. Rept. 107–210.
9/21/2001 5:41 pm	Placed on the Union Calendar, Calendar No. 125.
10/2/2001 3:46 pm	Mr. Manzullo moved to suspend the rules and pass the bill, as amended.
10/2/2001 3:46 pm	Considered under suspension of the rules. (Consideration: CR H6086–6090)
10/2/2001 4:10 pm	On motion to suspend the rules and pass the bills, as amended Agreed to by voice vote. (Text: CR H6086–6087)
10/2/2001 4:10 pm	Motion to reconsider laid on the table Agreed to without objection.
10/3/2001	Received in the Senate and Read twice and referred to the Committee on Small Business and Entrepreneurship.

Need for Legislation

During the past 20 years, the Federal Register—the compendium of federal regulatory initiatives and changes—almost doubled in size from 42,000 pages to a record 83,289 pages in 2000. This crush of federal dictates is particularly troubling to small businesses that find it increasingly difficult to meet these burgeoning regulatory re-

quirements while at the same time trying to successfully operate their businesses in an expanding competitive global environment. Often, small business owners do not learn about their failure to comply with a regulation or that a new regulatory requirement has been imposed until an inspector or auditor walks through the door.

The result is neither beneficial to the small business owner nor the federal government. Federal regulations exist to achieve some statutory objective; noncompliance hinders the reaching of these statutory goals. Small business owners certainly would be more interested in complying with federal regulations than paying penalties and fines. However, the amount of information, including regulations and concomitant guidance, simply overwhelms small firms.

In 1996, Congress took action in an effort to alleviate this problem. The Small Business Regulatory Enforcement Fairness Act provided that federal agencies are required to produce plain-English compliance guides for any regulation that would have a significant economic impact on a substantial number of small businesses. Of course, if small business owners do not know about the regulatory changes, the existence of such compliance guides does little to assist them. Some mechanism must exist to make small businesses more aware of their regulatory obligations.

Even more important than making small businesses aware of the regulations is providing them with assistance needed to understand and comply with the regulations. A regulation may only take up 10 or 11 pages of text, but the explanation for what those 10 or 11 pages mean may encompass as much as 300 hundred pages of dense, triple-columned, single-spaced pages in the Federal Register. Most small business owners do not have the time to go through this dense prolixity. And even if they did, they would not understand it unless they were knowledgeable in the field. The Committee believes that greater assistance must be provided to small business owners in helping them comply with complex regulatory issuances. Otherwise, a divide could develop between those businesses, usually large, with the resources to comply and those, usually small, without such resources. The small businesses will be at risk for penalties, fines, and audits while large businesses will not. A regulatory compliance assistance program operated through the small business development centers could provide substantial assistance in ensuring such a divide does not occur.

The Small Business Administration oversees a number of mechanisms for delivering advice to small business owners. One of the most effective is the Small Business Development Center (SBDC) program. Operated in conjunction with colleges and universities, the SBDCs assist small businesses in solving problems concerning the operations, manufacturing, engineering, technology, exchange and development, personnel administration, marketing, sales, merchandising, finance, accounting, and business strategy development. The SBDCs utilize the resources and the expertise of colleges and universities. In addition, the SBDCs, like the Agricultural Extension Service, also provide a focal point for information retrieval, coordination of federal and state government services, and referral to experts. Historically, SBDCs have focused on financial, management, and marketing activities of small businesses despite the re-

quirement that they also provide regulatory compliance assistance. See § 21(c)(3)(H) of the Small Business Act (codified at 15 U.S.C. § 648(c)(3)(H)).

SBDCs can provide an effective mechanism for dispensing regulatory compliance information and advice. However, regulatory compliance, unlike many of the other activities undertaken by the small business development centers, has significant legal consequences. Therefore, a pilot program to examine how the regulatory compliance assistance will operate in selected SBDCs is a preferred strategy to simply providing an authorization of additional funding so that SBDCs can provide regulatory compliance assistance.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Designates the bill as the "National Small Business Regulatory Assistance Act of 2001."

Section 2. Purpose

This section expresses the purpose of the legislation—to establish a pilot project within certain SBDCs to provide and coordinate regulatory compliance assistance to small businesses.

Section 3. Definitions

The definitions of the Small Business Act shall apply to this pilot program unless a different definition is utilized in the new § 36 created by this Act. In those cases in which the definition is different, the definitions in new § 36 shall apply to the pilot program created by this Act.

Section 4. Small Business Regulatory Assistance Pilot Program

This section establishes the pilot program by creating a new Section 36 of the Small Business Act.

Section 36(a)(1) defines the term "Administrator" as the Administrator of the Small Business Administration.

Section 36(a)(2) defines the term "Association" to be the association established pursuant to Section 21 of the Small Business Act, which represents the majority of SBDCs. That organization is the Association of Small Business Development Centers.

Section 36(a)(3) defines the term "Participating Small Business Development Center" as a SBDC selected to participate in the pilot program established under this section.

Section 36(a)(4) defines the term "Pilot Program" as the three-year program established under this section.

Section 36(a)(5) defines the term "Regulatory Compliance Assistance" as assistance provided by a participating SBDC to a small business concerning compliance with federal regulations.

Section 36(a)(6) defines the term "Small Business Development Center" means a small business development center described in section 21 of the Small Business Act.

Section 36(a)(7) defines the term "State" to include all fifty states and the District of Columbia, the Virgin Islands, and Guam.

Section 36(b) authorizes the Administrator of the Small Business Administration to establish a pilot program for selected small business development centers to provide small businesses with regulatory compliance assistance.

Section 36(c)(1) authorizes the Administrator to enter into arrangements with SBDCs selected under this section for the provision of regulatory compliance assistance.

The participating SBDCs are required to provide access to information and resources on regulatory compliance, including contact information for federal and state compliance and technical assistance similar to those established under section 507 of the Clean Air Act Amendments of 1990. Numerous other federal and state agencies have non-punitive compliance assistance programs (such as the federal Occupational Safety and Health Administration) and the Committee expects that the participating SBDCs will maintain all necessary contact information with those federal and state agencies. Furthermore, the Committee expects that the quality of coordination of these assistance resources will be a significant factor in selecting the SBDCs for the pilot project.

Section 36(c)(1) also requires that the selected SBDCs establish various training and educational activities. The Committee expects that selected centers will utilize their contacts with federal and state agencies to obtain compliance pamphlets, videos, books, and any compliance guides issued pursuant to the Small Business Regulatory Enforcement Fairness Act. In addition, the Committee expects that participating centers will hold lectures and seminars on regulatory compliance including updates on compliance based on regulatory changes. The Committee expects that the Administrator will consider the quality of proposed educational programs in determining which centers are selected to participate in the pilot program.

Section 36(c)(1)(C) also mandates that the selected SBDCs provide confidential counseling on a one-on-one basis at no charge to small businesses seeking regulatory compliance assistance. The Committee recognizes that compliance with regulations inculcates legal rights and responsibilities of small business owners. Therefore, section 36(c) prohibits any regulatory compliance counseling that would be considered the practice of law in the jurisdiction in which the SBDC is located or in which such counseling is conducted. Furthermore, the Committee supports efforts in which the participating development centers establish contacts with lawyers in the community willing to provide seminars and other consultative service on regulatory compliance matters.

Section 36(c)(1) also requires the provision of technical assistance. Such counseling may include the arrangement of meetings with technical experts known to the participating small business development centers as long as such counseling again is done on a one-on-one basis at no charge to the small business.

Section 36(c)(1)(E) makes explicit the Committee's concern that small businesses are directed to those individuals who have appropriate credentials and certifications to provide regulatory compliance assistance. While the Committee fully understands that many very successful businesses, including Microsoft, Apple, and Dell Computer, started in garages and those businessmen are quite ca-

pable of providing advice on starting, financing, and marketing a business, they are not necessarily qualified to provide guidance on compliance with OSHA, EPA, or IRS regulations. In fact, due to the potential legal consequences resulting from a small business owner following incorrect guidance, the Committee determined that it is necessary to make explicit the requirement that the participating centers only refer businesses to individuals with appropriate expertise in the regulatory compliance matter for which advice is sought.

Section 36(c)(2) requires each participating center to file a quarterly report with the Administrator. The report shall provide a summary of the compliance assistance provided under the pilot program. The report also must contain any data and information obtained by the participating SBDC from a federal agency concerning compliance that the federal agency intends to be disseminated to small business concerns. The Committee believes that this latter requirement will enable the Administrator or the Chief Counsel for Advocacy to raise issues of agency inconsistencies, to the extent that they exist, to the appropriate decisionmakers.

Section 36(c)(2) requires that reports be filed with the Administrator in an electronic format. The Committee expects the Administrator to promulgate regulations that will provide for a consistent format of the report. The Committee believes that such consistency is necessary for the accurate compilation of data and proper assessment of the effectiveness of the pilot program.

Section 36(c)(2) also permits, but does not require, participating SBDCs to make interim reports if such reports are necessary or useful. For example, a participating SBDC may receive inconsistent compliance information from a federal agency. By alerting the Administrator prior to the issuance of the quarterly report, the federal agency may be able to issue a clarification that may eliminate confusion, save compliance costs, and improve small business compliance.

One of the critical concerns to small businesses is that discussions of compliance assistance could be revealed to federal agencies, which would lead to fines and penalties. Furthermore, the Committee is concerned that SBDCs have been revealing the names of businesses, which seek their advice to the Administrator for functions unrelated to the financial auditing of SBDCs. The Committee believes that such behavior is simply intolerable. Without any assurances of privacy, small businesses will be less likely to use small business development centers. And this would be especially true for regulatory compliance assistance efforts. The Committee recognizes the concern about revealing the names of businesses that utilize the resources of SBDCs. Therefore, section 36(c)(1)(D) prohibits the disclosure of the names or addresses of any concern receiving compliance assistance under this pilot program unless the Administrator is ordered to make such disclosure pursuant to a court order or civil or criminal enforcement action commenced by a federal or state agency. The Committee expects that participating SBDCs will only respond to formal agency requests such as civil investigative demands, subpoenas, requests from Administrator's Associate Administrator for Small Business Development Centers when performing a financial audit of the

SBDC, or requests from the Inspector General of the Small Business Administration. The Committee expects the SBDCs will not provide information concerning the identity of businesses simply upon the verbal request of a federal or state agency.

Section 36(d) requires the Administrator to act as repository of data and information submitted by the participating SBDCs. Given the oversight role and importance of the Associate Administrator for Small Business Development Centers, section 36(d) requires that the functions of maintaining the database be housed with the Associate Administrator. The Committee believes that a central repository is necessary in order to determine whether federal agencies are providing consistent compliance information on a national basis. However, the Committee expects that the information received under this subsection be made available to other offices within the Small Business Administration, particularly the Chief Counsel for Advocacy and the Small Business and Agriculture Regulatory Ombudsman so those offices can more effectively carry out their mission of representing the interests of small businesses before federal agencies.

Section 36(d) also requires that the Administrator to issue an annual report to the President and the Committees on Small Business of the Senate and the House Representatives. The report will contain: (a) data on the types of information provided by the participating SBDCs; (b) the number of small businesses that contacted the participating SBDCs; (c) the number of small businesses assisted by participating SBDCs; (d) information on the outreach activities of the participating SBDCs; (e) information regarding each case known to the Administrator in which participating SBDCs provided conflicting advice regarding compliance with federal regulation to one or more small businesses; (f) and any recommendations for improving the regulatory environment of small businesses. The Committee believes that this information is necessary to properly evaluate the utility of the pilot program. More importantly, the report will reveal whether similarly situated small businesses are receiving consistent regulatory compliance assistance. In preparing the report, the Committee recognizes that the Administrator may wish to consult with the Chief Counsel for Advocacy and the Small Business and Agriculture Regulatory Ombudsman. The Committee supports such consultative efforts but notes that the Administrator may not delegate the responsibility of preparing the report required by this subsection to any office within the Small Business Administration except the Associate Administrator for Small Business Development Centers.

Section 36(e) limits participation in the pilot program only to those SBDCs certified under § 21(k)(2) of the Small Business Act. The Committee is limiting participation in the pilot program to those SBDCs selected which are of the highest quality. Some SBDCs have not completed their certification programs. Nevertheless, some of these centers may be developing or already have exceptional regulatory compliance assistance programs. The Committee does not believe that such centers should be prohibited from participating in the pilot program. Therefore, § 36(e)(2) authorizes the Administrator to waive the requirement for certification if the center is making a good faith effort to obtain such certification.

Section 36(f) requires the Administrator to select two participating state programs from each of the Small Business Administration's ten federal regions as those regions exist on the date of enactment of this Act. The Administrator shall consult with the Association and give the Association's recommendations substantial weight. The Administrator is required to complete the selection of the participating centers within 60 days after the regulations to implement the pilot program have been promulgated.

Section 36(g) ensures that no matching funds currently allocated to the operation of the SBDCs will be utilized to fund the pilot program. In order to ensure proper funding, the Committee is authorizing a separate funding authorization for the program.

Section 36(h) establishes the procedures for distributing grants among the selected state programs. The formula is based on the principle that a state that has a smaller population also will have, in absolute terms, fewer small businesses than a larger state. The formula therefore allocates funds according to the relative size of each state. The Committee believes that the minimum funds needed to initiate a state program will be $200,000. Because the Committee has authorized $5,000,000, it is making extra resources available to the larger states that will require more resources to initiate the pilot project.

Section 36(i) requires the Comptroller General of the United States to provide a report three years after the establishment of the pilot program evaluating the effectiveness of the program. The report also should contain any suggested modifications to the pilot program. Finally, the Comptroller General should provide its opinion concerning whether the program should be continued and expanded to include more SBDCs. The report shall be transmitted to the Committees on Small Business of the Senate and House of Representatives. The Committee expects that the pilot program will be sufficiently successful to expand the program to other SBDCs.

Section 36(j) limits the operation of the pilot program only to the funds appropriated in advance for the program. Section 36(j) provides an authorization of appropriations of $5,000,000 for fiscal year 2002 and each year thereafter. Section 36(j) also prohibits the Administrator from using other funds, including other funds made available for the operation of SBDCs, to operate this pilot project. The Committee authorized the additional appropriations because it determined that funding of the regulatory compliance program should not detract from the available funding for the delivery of other SBDC programs.

Section 5. Promulgation of regulations

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

The regulations shall include the priorities for the type of assistance to be provided, standards relating to the educational, tech-

nical, and support services to be provided by the Association to the participating centers, and standards for work plans that the participating centers will provide to the Administrator. The Committee believes that given the potential interest in the program by SBDCs, it is appropriate for the Administrator to have a set of standards by which it can determine which state programs shall be chosen. More importantly, the standards will provide an appropriate baseline for the Comptroller General's evaluation of the pilot project.

Section 5 also requires the Administrator to develop appropriate standards for ensuring the technical qualifications of experts to whom small businesses will be referred. The Committee does not intend that someone must have a college or advance degree to qualify. For example, a contractor licensed in a state with 20 years experience (who is a high-school graduate) may be as well equipped to provide advice on compliance with OSHA construction standards as a professor of civil engineering. On the other hand, that same contractor might not be an appropriate individual to provide tax compliance advice. The Committee does not expect that this aspect of the Administrator's regulations shall be all encompassing, i.e., delineate every profession and the appropriate qualifications. However, the Committee does expect that the Administrator will recognize, as qualified, those individuals certified by nationally-recognized accrediting bodies (whose members must demonstrate substantial educational and practical experience), meet educational and work standards established by a federal agency, or are licensed to practice a particular profession or job pursuant to state law. The Committee expects that the regulations will provide participating centers with enough information that the centers can determine whether the person providing the advice is competent in the field of regulation.

Section 6. Privacy requirements applicable to Small Business Development Centers

Section 6 amends section 21 of the Small Business Act. The Committee has been contacted on a number of occasions by SBDCs that employees of the Small Business Administration have attempted to obtain the names and addresses of businesses that sought the services of SBDCs. The Committee believes that any attempts by the Administrator or the employees of the Small Business Administration to obtain the names and addresses of persons seeking SBDC assistance is inappropriate because it would act as a disincentive for small businesses to utilize the centers.

Section 6 prohibits the Administrator, any other employee of the Small Business Administration, or any agent of the Administrator (including contractors) from obtaining the names and addresses of businesses that sought assistance. The Committee's bill provides for two exceptions: (1) if the Administrator is ordered by a court in any civil or criminal action initiated by federal or state agency; or (2) the Administrator requires the information while undertaking a financial audit of the SBDC.

To ensure that the Administrator does not unduly abuse the second exception for disclosure, section 6 requires the Administrator to promulgate regulations specifying when such disclosures in an audit shall be made. The Committee expects that the regulations

will strictly limit disclosure during the audit process and severely circumscribe those individuals who will have access to the audit information during the audit. The Committee recognizes that the information collected during the audit may have to be retained for a variety of purposes, such as management reviews by the Inspector General or Congressional oversight. The Committee expects the Administrator's regulations to cover who, if anyone, shall have access to the raw data, including the names and addresses of the SBDCs' users, after the audit is complete. The Committee does not intend that information obtained during the audit concerning identifiable individuals or businesses that are retained by the Administrator shall be releasable pursuant to the Freedom of Information Act.

5.4 H.R. 2666—Vocational and Technical Entrepreneurship Development Act of 2001

Legislative History

Date	Action
H.R. 2666	
7/2/2001:	Referred to the House Committee on Small Business.
8/1/2001:	Committee mark-up session held.
9/21/2001 5:50pm	Reported by the Committee on Small Business. H. Rept. 107–212.
9/21/2001 5:50pm	Placed on the Union Calendar, Calendar No. 127.
10/2/2001 4:12pm	Mr. Manzullo moved to suspend the rules and pass the bill, as amended.
10/2/2001 4:12pm	Considered under suspension of the rules. (consideration: CR H6090–6093)
10/2/2001 4:29pm	On motion to suspend the rules and pass the bill, as amended Agreed to by voice vote. (text: CR H6090)
10/2/2001 4:29pm	Motion to reconsider laid on the table Agreed to without objection.
10/3/2001	Received in the Senate and Read twice and referred to the Committee on Small Business and Entrepreneurship.
7/24/2002	Committee on Small Business and Entrepreneurship. Ordered to be reported without amendment favorably.
10/9/2002	Committee on Small Business and Entrepreneurship. Reported by Senator Kerry without amendment. With written report No. 107–307.
10/9/2002	Placed on Senate Legislative Calendar under General Orders. Calendar No. 695.

Need for Legislation

Many persons within the United States have technical and vocational skills, but do not have business experience or training to help them succeed in the small business community. Presently, small businesses employ mechanics, technicians, carpenters, plumbers, machinists, and draftsmen. However, H.R. 2666 is needed to provide the essential training and business counseling necessary for these skilled workers to start their own businesses, to survive in the business world, and to grow.

In providing these needed services, H.R. 2666 relies upon the present infrastructure of the Small Business Development Centers (SBDCs), which has proven by past performance to deliver services that greatly enhance the chances of a small business surviving as compared with those who do not receive such assistance. The present global economy requires that this Nation remain an agile competitor. Fostering the growth of small business, as it is anticipated this Act will do, is another building block in strengthening our international competitiveness.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

The section establishes the short title as the "Vocational and Technical Entrepreneurship Development Act of 2001."

Section 2. Vocational and technical Entrepreneurship Development Program

This section amends the Small Business Act by adding a new section at the end entitled: "Vocational and Technical Entrepreneurship Development Program."

Subsection (a) defines the terms: "Administrator," "program," and "small business development center."

Subsection (b) requires the Administrator to establish a program by which the Administrator makes grants to SBDCs to enable such centers to provide technical assistance to secondary schools, or to postsecondary vocational or technical schools, for the development and implementation of curricula designed to promote vocational and technical entrepreneurship.

Subsection (c) establishes the minimum grant that the Administrator can make with respect to the pilot program as not less than $200,000.

Subsection (d) requires the Administrator to design a grant application that must be completed by any SBDC seeking a grant. The application shall include information regarding the applicant's goals and objectives for the educational programs to be funded.

Subsection (e) requires the Administrator, as a condition of each grant under the program, that the grantee shall transmit to the Administrator, within 18 months after receipt of grant funds, a report describing how the grant funds were used.

Subsection (f) permits the Administrator to enter into a cooperative agreement or contract with a small business development center receiving a grant under this section to provide additional assistance that furthers the purposes of the program.

Subsection (g) requires the Administrator to transmit a report to Congress, no later than March 31, 2004, that evaluates the program.

Subsection (h) requires the Administrator to select an association established under section 21(a)(3)(A) of the Small Business Act to act as a clearinghouse of information and expertise regarding vocational and technical entrepreneurship education programs. In each fiscal year, 2002, 2003, and 2004, the Administrator shall provide additional assistance to the association selected to serve as the clearinghouse.

Subsection (i) authorizes $7,000,000 be appropriated for each of the fiscal years 2002, 2003, and 2004. The funds are to remain available until expended.

5.5 H.R. 2538—Native American Small Business Development Act

Legislative History

Date	Action
H.R. 2538	
7/17/2001	Referred to the House Committee on Small Business.
8/1/2001	Committee mark-up session held.
9/21/2001 5:48pm	Reported by the Committee on Small Business. H. Rept. 107–211.
9/21/2001 5:48pm	Placed on the Union Calendar, Calendar No. 126.
12/5/2001 11:51am	Mr. Manzullo moved to suspend the rules and pass the bill, as amended.
12/5/2001 11:52am	Considered under suspension of the rules. (consideration: CR H8856–8860)
12/5/2001 12:09pm	On motion to suspend the rules and pass the bill, as amended Agreed to by voice vote. (text: CR H8856–8857)
12/5/2001 12:09pm	Motion to reconsider laid on the table Agreed to without objection.
12/5/2001 12:09pm	The title of the measure was amended. Agreed to without objection.
12/6/2001	Received in the Senate and Read twice and referred to the Committee on Small Business and Entrepreneurship.
4/30/2002	Senate Committee on Small Business and Entrepreneurship. Joint hearings held with Indian Affairs.

Need for Legislation

Approximately 60 percent of Indian tribe members and Native Alaskans live on or in the immediate vicinity of Indian lands and suffer from an average unemployment rate of 45 percent. Presently, Indian tribe members and Native Alaskans own more than 197,000 business enterprises and generate revenues in excess of $34 billion.

The service industry, the largest sector, accounts for 17 percent of the businesses, and 15.7 percent of the total revenues. The second largest sector is construction, which accounts for 13.9 percent of the businesses and 15.7 percent of the total revenues. The third largest sector, the retail trades, accounts for 7.5 percent of the businesses and 13.4 percent of the total revenues.

The number of businesses owned by Indian tribe members and Native Alaskans grew by 84 percent during the period from 1992 to 1997, while businesses, generally, grew by only seven percent. During the same period, the gross receipts for Indian tribe members and Native Alaskan business owners increased by 179 percent, in comparison with the business community, as a whole, where the gross receipts for the same period grew only by 40 percent.

In the past, the SBDC program with more than 1,000 offices throughout the United States has provided cost-effective business counseling and technical assistance to small businesses. For example, clients receiving long-term counseling under the program in 1998 generated additional tax revenues of $468 million, which was approximately six times the cost of the program to the Federal government.

By using the existing infrastructure of the SBDC program, it is anticipated that small businesses owned by Indian tribe members, Native Alaskans, and Native Hawaiians, who receive services

under the Act, will have a higher survival rate than the average small businesses not receiving such services. Further, increased assistance through SBDC counseling has in the past been able to reduce defaults under Small Business Administration (SBA) lending programs.

The business counseling and technical assistance, provided for under this Act, is critical on Indian land where, without such assistance, similar services are scarce and expensive. Past and current efforts by SBDCs to assist Native American populations located on or along reservation lands have proven difficult. In addition, the lack of resources makes it difficult to raise an equal amount of matching funds to specifically assist Native Americans.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

The section establishes the short title of the bill as the "Native American Small Business Development Act."

Section 2. Findings and purposes

Subsection (a) states the findings of Congress that include the fact that (1) the average unemployment rate for Indian tribe members and Native Alaskans who live on or adjacent to Indian lands is 45 percent, (2) Indian tribe members and Native Alaskans own more than 197,000 businesses that generate more than $34 billion in revenues, (3) for the period 1992–1997, the number of businesses owned by Indian tribe members and Native Alaskans grew by 84 percent and gross receipts grew by 179 percent, as compared with seven percent and 40 percent, respectively, for businesses generally, (4) the SBDC program is cost effective in that additional tax revenues generated by businesses counseled under the program in 1998 were approximately six times the cost of the program, (5) using the existing SBDC infrastructure it is anticipated that those receiving services under the Act will have a higher survival rate than those not receiving such services, (6) business counseling and technical assistance provided on Indian lands is critical because such services are presently scarce and where available are expensive, and (7) SBDC business counseling has proven to be effective in reducing the default rate of businesses who have received counseling and who participated in one or more SBA loan program. The Committee believes that because of the SBDC program's success and proven track record, utilizing the existing SBDC network will enhance the success of H.R. 2538.

Subsection (b) states the purpose of the Act which includes assisting Indian tribe members, Native Alaskans, and Native Hawaiians by: increasing jobs and enhancing economic development on Indian lands; creating new small businesses and expanding existing ones; providing management, technical, and research assistance; seeking the advice of Tribal Councils on where business development assistance is most needed; and, ensuring full access under the Act to existing business counseling and technical assistance available through the SBDC program.

Section 3. Small Business Development Center assistance to Indian tribe members, Native Alaskans, and Native Hawaiians

Adding a new subsection providing for an additional grant program to assist Indian tribe members, Native Alaskans, and Native Hawaiians amends the Small Business Act. An SBDC, located in an eligible State and funded by SBA, may apply for an additional grant to be used solely for providing services, as set forth in the Small Business Act with respect to the SBDC program, to assist with outreach, development, and enhancement on Indian lands of small business startups and expansions owned by Indian tribe members, Native Alaskans, and Native Hawaiians.

Because the majority of Native Americans live on or adjacent to Indian lands, where economic opportunities are limited, the Committee expects the SBDCs to be located on or in close proximity to Indian lands. Although Native Americans who do not live on Indian lands may seek the assistance of these centers, the Committee believes that assistance should go to aid with outreach, development, and enhancement on Indian lands of small business startups and expansions owned by Indian tribe members, Native Alaskans, and Native Hawaiians. Native Americans located near existing centers or subcenters are encouraged to continue to utilize those existing resources.

An eligible State is defined as a State that has a combined population of Indian tribe members, Native Alaskans, and Native Hawaiians that comprises at least one percent of the State's total population, as shown by the most recent census. Each applicant is required to complete a grant application that shall include information as to: (1) the applicants ability to provide training and services to a representative number of Indian tribe members, Native Alaskans, and Native Hawaiians, (2) the proposed location of the SBDC site, (3) the amount of grant funds needed, and (4) the extent of prior consultation with local Tribal Councils.

No applicant may receive more than $300,000 in any one fiscal year, but no matching funds are required. Within 180 days after the Act is enacted, the Administrator is required to issue final regulations with respect to the grant program established by the Act. In promulgating the regulations, the Administrator must provide notice of the proposed regulations and an opportunity for public comment. In addition, the Administrator must consult with the Association of Small Business Development Centers. The regulation must establish standards relating to (1) educational, technical, and support services to be provided by SBDCs receiving grants, and (2) any work plan that is required to be submitted by an applicant.

The Committee believes that setting standards will help ensure that the grants will be awarded to the most qualified State programs and provide a mechanism by which the Administrator can evaluate the success of the program.

The section defines the following terms: "Associate Administrator," "Indian Lands," "Indian Tribe," "Indian Tribe Member," "Native Alaskan," and "Native Hawaiian."

The section authorizes $7 million to be appropriated for each of fiscal years 2002 through 2004. Funds appropriated for the program created by the Act are in addition to funds appropriated for the SBDC program generally and for other particular SBDC pro-

grams. Monies specifically appropriated for that purpose might only fund the program created under the Act.

Section 4. State consultation with local Tribal Councils

This section amends section 21(c) of the Small Business Act by adding a new subsection (9) that requires that a State receiving grants under the program created by the Act shall request the advice of local Tribal Councils on how best to provide assistance to Indian tribe members, Native Alaskans, and Native Hawaiians and where to locate satellite centers to provide such assistance.

5.6 H.R. 4231—Small Business Advocacy Improvement Act of 2002

Legislative History

Date	Action
H.R. 4231	
4/16/2002	Referred to the House Committee on Small Business.
4/17/2002	Committee Consideration and Mark-up Session Held.
4/17/2002	Ordered to be Reported.
5/2/2002 5:18pm	Reported by the Committee on Small Business. H. Rept. 107–433.
5/2/2002 5:18pm	Placed on the Union Calendar, Calendar No. 255.
5/21/2002 7:11pm	Mr. Manzullo moved to suspend the rules and pass the bill, as amended.
5/21/2002 7:11pm	Considered under suspension of the rules. (Consideration: CR H2784–2787)
5/21/2002 7:25pm	On motion to suspend the rules and pass the bills, as amended Agreed to by voice vote. (Text: CR H2784–2785)
5/21/2002 7:25pm	Motion to reconsider laid on the table Agreed to without objection.
5/22/2002	Received in the Senate.
6/28/2002	Read the first time. Placed on Senate Legislative Calendar under Read the First Time.
7/8/2002	Read the second time. Placed on Senate Legislative Calendar under General Orders. Calendar No. 485.

Need for Legislation

There is abundant evidence, which has been the recurring focus of hearings of this Committee, that the Nation's small businesses continue to be burdened by excessive regulations and that this burden falls disproportionately upon small businesses. In his speech to the Women's Entrepreneurship Summit, held in Washington, D.C., March 19, 2002, the President underscored the complications encountered by small businesses in doing business and the excessive costs that needless regulations can place on small business concerns. In this respect the President stated:

"There are a lot of federal regulations that complicate the lives of small business people all across the country. The SBA [Small Business Administration] has calculated that the hidden costs of regulations to businesses with fewer than 20 workers * * * come down to $7000 per worker. That's a lot of money, particularly if you are trying to figure out ways to expand the employment base. And this is a drag on our economy. Hidden costs are a drag upon our economy."

The President has pledged to clean up the regulatory burden on small businesses. In line with this objective, an independent office of small business advocacy will help to ensure that federal agencies properly assess the impact of proposed regulations on the small business community and comply with the statutory obligations with respect to small business.

It is essential to Congress in performing its constitutional duties and to the President in carrying out his small business objectives that there is an office that acts as an independent advocate for small businesses and can provide unbiased views of present and proposed regulations, without being restricted by the views or policies of the Small Business Administration or any other federal executive branch agency.

To be effective, an office that acts as an advocate for small businesses requires sufficient resources to conduct creditable economic studies and research essential to an accurate evaluation of the impact of regulations on small businesses, the role of small business in the Nation's economy, and the barriers to the growth of small businesses. In the past, the Office of Advocacy has not had the necessary resources. This legislation helps to ensure that resources are available to support the independence of the office and to assure that the research, information, and expertise provided by an independent office of advocacy is a valid source of information and advice for Congress and the federal agencies with which the office will advocate for small businesses.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

The short title is the "Small Business Advocacy Improvement Act of 2002."

Section 2. Findings and purpose

The findings of Congress include the fact that excessive regulations promulgated and proposed by federal agencies continue to impose a disproportionate burden on small business; that an entity within the executive branch to effectively advocate for small businesses must be independent and not restricted by views of the Small Business Administration or any other federal executive branch agency; and, that to be effective such an independent office needs adequate resources to conduct creditable economic studies and research to be a valuable source of information and advice for Congress and the federal agencies with which the office will advocate on behalf of small businesses.

The purposes of this Act are to: ensure that an entity exists that has statutory independence and adequate resources to effectively advocate for small businesses; require that the independent office keep Congress informed about issues and regulations affecting small business concerns and the necessity for corrective action by a regulatory agency or Congress; provide a separate authorization for appropriation for such an entity; and, create greater cooperation between the Small Business and Agriculture Regulatory Enforcement Ombudsman and the independent office in assisting small businesses in resolving issues plaguing one or more small businesses.

Section 3. Appointment of Chief Counsel for Advocacy

The Chief Counsel for Advocacy is to be appointed by the President, with the advice and consent of the Senate, without regard to political affiliation and solely on the grounds of fitness to perform

the duties of the office. An individual may not be appointed whom the Small Business Administration employed during the 5-year period preceding the date of such individual's appointment.

The position of Chief Counsel is raised from level IV to level III of the Executive Schedule. A Chief Counsel may remain in office, at the pleasure of the President, until a successor is nominated, but in no instance longer than one year from the end of a President's term. The present Chief Counsel is to continue to serve, but the pay increase will be applicable to a successor Chief Counsel.

Section 4. Primary functions of Office of Advocacy

This section adds assistance to small business concerns owned and controlled by women and small business concerns owned and controlled by veterans as primary functions of the Office of Advocacy. Assistance to small business concerns owned and controlled by socially and economically disadvantaged individuals, or minority enterprises, is already a primary function of the Office of Advocacy.

As a new primary function, the office of Advocacy is required to make recommendations to Congress with respect to issues and regulations affecting small businesses and the necessity for corrective action by any federal agency or by Congress.

Section 5. Additional functions

This section adds three additional functions to be performed by the Office of Advocacy which are: (1) maintain economic databases and make the information available to the Administrator of the Small Business Administration and to Congress; (2) carry out the responsibilities of the Chief Counsel under the Regulatory Flexibility Act; and (3) enter into a memorandum of understanding with the Small Business and Agriculture Regulatory Enforcement Ombudsman concerning cooperation between the Ombudsman and the Office of Advocacy in assisting small businesses resolve issues involving federal agencies.

The Chief Counsel is given the authority to transmit to the President the estimated expenditures and proposed appropriations for the Office of Advocacy, which shall be included by the President in the Budget without revision.

Section 6. Deputy Chief Counsels and regional advocates

The Chief Counsel may appoint 2 persons to serve as Deputy Chief Counsels, one whose focus shall be in reducing the regulatory burden on small businesses and the other responsible for providing valid economic studies and reports. The Chief Counsel may also appoint 10 regional advocates, one in each of the Standard Federal Regions, as appropriate. The duties of the regional advocates shall include: (1) furthering the research efforts concerning small businesses; (2) interfacing with Federal agencies that regulate or do business with small businesses; (3) in coordination with the Small Business and Agriculture Regulatory Enforcement Ombudsman, assisting the functioning of regional small business fairness boards, including, where requested, helping small businesses to resolve matters that are the subject of complaints made to such boards with respect to adverse Federal agency action; (4) assisting in disseminating information about programs and services that help

small business concerns; and (5) performing such other duties as the Chief Counsel shall assign.

Section 7. Overhead and administrative support

The Administrator of the Small Business Administration is required to provide the Office of Advocacy with all necessary office space, together with such equipment, office supplies, communications facilities, and personnel and maintenance services, as may be needed.

Section 8. Reports

The Chief Counsel is required, not less than annually, to advise Congress and the Administrator of the Small Business Administration on whether Federal agencies are complying with the Regulatory Flexibility Act. The Chief Counsel may prepare and publish other reports as deemed necessary.

Section 9. Authorization for appropriations

The amounts authorized to be appropriated are $10,000,000 for fiscal year 2003, $12,000,000 for fiscal year 2004, and $14,000,000 for fiscal year 2005.

Section 10. Conforming amendments

This section makes conforming amendments as required by changes in this Act to strengthen and improve the Office of Advocacy.

5.7 H.R. 3230—Small Business Emergency Relief and Recovery Act

Legislative History

Date	Action
H.R. 3230	
11/6/2001	Referred to the House Committee on Small Business.
11/14/2001	Committee Consideration and Mark-up Session Held.
11/14/2001	Ordered to be Reported (Amended) by Voice Vote.

Need for Legislation

This emergency legislation is needed to help small businesses meet their payments on existing debts, finance their businesses, and maintain jobs in the aftermath of the terrorist attacks on September 11, 2001 by strengthening and expanding access to SBA loan and management counseling programs. This bill provides needed assistance to those who have suffered directly from the destruction of the World Trade Center, injury to the Pentagon, and closure of businesses, at least temporarily, in the interest of National security.

Besides those directly impacted by the physical destruction of property by terrorists or by closure of facilities in the interest of National security, there are other small businesses that are indirectly impacted and are also suffering damage. They are victims of real and substantial economic losses not compensated for or assisted by present programs.

In addition, the already struggling economy of the Nation, and especially the small business sector, has been set back by the terrorist attacks. This legislation provides a needed economic stimulus by providing assistance to small business concerns by means of programs already in place. In the past, the small business sector has been a major catalyst in rebounding this Nation's economy in periods of economic downturn. This bill is needed to help jump-start the economy now, particularly after the Federal Reserve released a survey on November 13, 2001, that banks are imposing tougher standards on business borrowing over the last three months because of the slowing economy.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Designates the bill as the "American Small Business Emergency Relief and Recovery Act of 2001."

Section 2. Findings and purpose

Describes the Congressional findings regarding the suffering of small businesses, as a result of the terrorist attacks perpetrated against the United States on September 11, 2001, directly because of (1) proximity to the World Trade Center or the Pentagon, or in a disaster area declared by the President or the Administrator of SBA, (2) closure or suspension of business for National security purposes, or (3) located in an airport that was closed, and indirectly because of being (1) a supplier or provider of services to businesses that were located in or near the World Trade Center or the Pentagon, (2) on September 11, 2001, a supplier, service provider, or complementary industry to any business or industry adversely affected by the terrorist attacks, in particular, the financial, hospitality, and travel industries, and airport concessionaires, and (3) on September 11, 2001, integral to or dependent upon a business or business sector closed or suspended for National security purposes.

The result is that small businesses adversely affected by the terrorist attacks are finding it difficult or impossible to: make loan payments on existing debt; pay their employees, vendors, and operating expenses; purchase materials, supplies, or inventory; and secure financing for their businesses. To overcome these difficulties, the stated purpose of the Act is to strengthen the loan, investment, procurement assistance, and management education programs of SBA, for the purpose of helping small businesses meet their existing obligations, finance their businesses, and maintain and create jobs, and thereby provide stability to the economy.

Section 3. Definitions relating to terrorist attacks

Amends the Small Business Act to include, in Section 3, definitions of the terms "directly affected," "indirectly affected," "adversely affected," and "substantial economic injury."

Section 4. Disaster loans after terrorist attacks

Amends Section 7(b) of the Small Business Act by adding a new paragraph (4) to authorize SBA to make economic injury loans to small businesses or nonprofit organizations directly affected by the

terrorist attacks of September 11, 2001. Payment of principal and interest on such loans (other than a refinancing) shall be deferred and no interest shall accrue during the 2-year period following the date of issuance of any such loan. Payment on such loans shall resume at the end of the 2-year period and shall be payable thereafter in the same manner and subject to the same terms and conditions as any other economic injury disaster loan.

Economic injury disaster loans made under the new program may be used to refinance any prior disaster loans outstanding as to principal or interest on September 11, 2001, and the refinanced amount shall be considered to be a part of the new loan. Refinancing of prior outstanding disaster loans are to be treated in addition to any other loan eligibility the small business may have under the Small Business Act. Loans under this temporary economic injury disaster loan program may also be used to refinance business debt and payments of principal on such loans shall be deferred, but interest may accrue during the 1-year period following the date of refinancing. At the end of the 1-year period, periodic payment of principal and interest is required, in the same manner and conditions as would otherwise be applicable to economic injury disaster loans made under Section 7(b) of the Small Business Act.

Loans made under the new paragraph (4) of Section 7(b) of the Small Business Act shall be made at an interest rate that does not exceed 4 percent. Any reasonable doubt as to the repayment ability of an applicant should be resolved in favor of the small business. Assistance under new paragraph (4) does not require the declaration of a disaster area with respect to those small businesses directly affected by the terrorist attacks of September 11, 2001.

New size standards are established for a small business concern (located in areas of New York, Virginia and the contiguous areas designated by the President or the Administrator of SBA as a disaster area) that is, i.e.: a restaurant, law firm, certified public accounting business, performing arts business, warehouse or storage business, special trade contractor, food or apparel manufacturer, travel agency, limousine service, charted bus service, taxicabs, or other similar ground transportation service. It is the intention of the Committee that benefits under the Act to small businesses such as taxicab concerns should also help drivers of such vehicles who have suffered from loss of income due to interruption in service.

Also, included are non-profit small businesses and a business (other than a depository financial institution) having a size standard under subsections 522, 523, and 524 of the North American Industry Classification System and whose size does not exceed such standard. The Administrator of SBA is authorized to increase or waive size standards and size regulations with respect to businesses applying for assistance as a result of the terrorist attacks. It is the intention of the Committee that the Administrator will be flexible in applying size standards to businesses with independently operated affiliates and that do business from multiple sites by treating such affiliates and sites as separate entities where applicable.

Increased loan caps are established for both physical damage and economic injury loans to any one borrower located in New York, Virginia, or contiguous areas designated as disaster areas following

the terrorist attacks of September 11, 2001. A loan cap is also established for economic injury loans made to small businesses, not located in the designated disaster areas. The Administrator of SBA is authorized, in his discretion, to waive the loan caps. Applications for assistance by directly affected small businesses shall be received for physical damage loans under paragraph (1) and for economic injury disaster loans under new paragraph (4) of Section 7(b) until September 10, 2002. No disaster loans made under paragraphs (1) and (4), as the result of the terrorist attacks on September 11, 2001, shall be sold until 4 years after the date of the final loan disbursement.

Section 5. Emergency relief loan program

Amends section 7(a) of the Small Business Act by adding a new paragraph (31) that creates a temporary loan program for small businesses directly and indirectly affected by the events of September 11, 2001. For a 1-year period, commencing on the date of enactment of the Act, SBA may make loans under the 7(a) loan program under terms and conditions more favorable to borrowers who are small business concerns that have been, or are likely to be, directly or indirectly adversely affected.

Such loan terms and conditions include, e.g.: a larger portion of the outstanding balance guaranteed by the Federal government; the annual fee on the outstanding balance reduced by 50 percent; waiver of the up-front guarantee fee; a rate of interest not to exceed 2 percentage points over prime; upon request of the borrower, repayment of principal and interest may be deferred for 1-year; and any reasonable doubt as to the repayment ability of a small business applying for a loan should be resolved in favor of the applicant. For purposes of this Emergency Relief Loan Program the size standard for a travel agency shall be $2 million in annual receipts. The Administrator may make loans under paragraph (31) in cooperation with insured credit unions through agreements to participate on an immediate or guaranteed basis.

Section 6. Business loan assistance following terrorist attacks

Amends section 7(a)(18) of the Small Business Act by adding a new subparagraph (C) that authorizes, for loans approved during a 1-year period following the date of enactment of the Act, a 50 percent reduction in the up-front guarantee fee that may be charged to the borrower. Amends section 7(a)(2) of the Small Business Act by adding a new subparagraph (E) that increases the amount guaranteed by the Federal government of loans under $150,000 (except with respect to loans under the Express Pilot Program), and reduces by 50 percent the annual fee charged to the borrower on the outstanding balance of the deferred participation share of the loan.

Amends section 503 of the Small business Investment Act, for a 1-year period following the enactment of the Act, with respect to the "504 Loan Program," to permit the waiver of 50 percent of the annual guarantee fee and a waiver of the up-front guarantee fee with respect to loans made during the period.

Implementation of the 1-year loan programs contained in sections 5 and 6 of this Act, with respect to the 7(a) and 504 loan programs, is to be effective only to the extent that funds are appro-

priated to carry out the provisions of those sections. Loans made under those sections and new section 4 of the Act shall be treated separately for purpose of subsidy rate calculations.

Section 7. Approval process

Authorizes the SBA Administrator to adopt such approval processes for providing assistance to eligible small business concerns under the Act, as may in the Administrator's discretion be deemed necessary and appropriate, without being required to follow any other provisions of law (e.g., the Administrative Procedure Act). However, before adoption of such approval processes, the Administrator must consult with the Committee on Small Business of the House of Representatives and the Committee on Small Business and Entrepreneurship of the Senate.

Section 8. Other specialized assistance and monitoring authorized

Increases the level of authorization to Small Business Development Centers (SBDCs), Service Corps of Retired Executives (SCORE), Microloan Program intermediaries, and Women's Business Development Centers, to provide additional individualized assistance with respect to financing, refinancing of existing debt, and business counseling to small business concerns adversely affected, directly or indirectly, by the terrorist attacks on September 11, 2001. No State matching funds are required in providing such services. Amends the Small Business Investment Act of 1958 to encourage small business investment companies to provide equity capital and to make loans to small business concerns adversely affected by the terrorist attacks of September 11, 2001.

During the 1-year period beginning on the date of enactment of the Act, the Administrator of SBA may make a grant to any small business concern that suffered substantial economic injury as the result of the terrorist attacks against the United States that occurred on September 11, 2001. Upon application by a small business concern which is the recipient of a loan under the Small Business Act and which has suffered a substantial economic injury as the result of the terrorist attacks against the United States that occurred on September 11, 2001, the Administrator of SBA may: (1) if the loan was guaranteed by the Administrator, undertake all or part of the small business concern's obligation; or (2) if the loan was a direct loan made by the Administrator, discharge all or part of the indebtedness of the small business concern under such loan.

Section 9. Study and report on effects on small business concerns

Requires the Office of Advocacy within SBA to conduct annual studies for a 5-year period of the impact of the terrorist attacks perpetrated against the United States on September 11, 2001, on small business concerns, and the effect of assistance provided under this Act on such small business concerns. The Office of Advocacy is required to submit a report to Congress in September of each fiscal year beginning in fiscal year 2002 and ending with fiscal year 2006. The amount of $500,000 is authorized to be appropriated for each fiscal year 2002 through 2006 to perform the studies and provide the reports.

Section 10. Emergency equitable relief for federal contractors

Authorizes the head of a Federal government agency, under guidance from the Administrator for Federal Procurement Policy and SBA, to increase the price of a contract entered into by the agency and performed by a small business concern, as may be equitable to compensate for any loss to the small business due to security measures taken by the Federal government at Federal facilities as the result of the terrorist attacks of September 11, 2001. Written guidance shall be issued not later than 20 days after passage of the Act. Expedited procedures shall be used, and contained in the written guidance, for determination by a Federal agency whether to grant equitable relief.

The expedited procedures shall require a Federal agency to complete action on a contactor's request for adjustment not later than 30 days after the date on which the contractor submitted the request to the contracting officer. In addition to making a price adjustment, an agency may extend the time for performance. The Administrator of SBA is to establish a fund from which payments of price contract adjustments are to be made. Amounts in the fund shall be available until expended. No request for adjustment shall be accepted if made more than 330 days after the enactment of this Act and the authority to grant equitable contract relief terminates 1 year after the date of enactment of this Act. The amount of $100,000,000 is authorized to be appropriated to SBA for purposes of the fund for payment of price contract adjustments.

Section 11. Reports to Congress

Requires the Administrator of SBA to submit on December 15, and quarterly thereafter through December 31, 2003, reports to the Committee on Small Business of the House of Representatives and the Committee on Small Business and Entrepreneurship of the Senate regarding the implementation of this Act, including program delivery, staffing, and administrative expenses.

Section 12. Expedited issuance of implementing guidelines

Requires the Administrator of SBA to issue interim final rules and guidelines to implement this Act and the amendments made by this Act, not later than 20 days after the date of enactment of this Act.

Section 13. Increased authorizations of appropriations

Amends section 20 of the Small Business Act to increase amounts authorized to be appropriated to implement this Act and the amendments made by this Act.

5.8 H.R. 2867—Small Business Opportunity Enhancement Act of 2002

Legislative History

Date	Action
H.R. 2867	
9/6/2001	Referred to the House Committee on Small Business.
4/17/2002	Committee Consideration and Mark-up Session Held.
4/17/2002	Ordered to be reported.

Date	Action
5/2/2002 5:17pm	Reported by the Committee on Small Business. H. Rept. 107–432.
5/2/2002 5:17pm	Placed on the Union Calendar, Calendar No. 254.

NEED FOR LEGISLATION

The federal procurement system has historically been a prolific and competitive source of growth for small businesses. This is understandable since the federal government is the largest buyer of goods and services in the world, with $200 billion in purchases for fiscal year 2000.

Unfortunately, in the rush to streamline the federal procurement system, the importance of small business concerns to the federal marketplace has been neglected. In recent years, federal agencies have combined requirements, previously provided by small businesses, into enormous, mega-contracts that only large corporations can bid on as prime contractors.

The result of resorting to mega-contracts has been a less competitive marketplace and a steady decline in the number of prime contracts going to small businesses. In his speech of March 19, 2002, to the Women's Entrepreneurship in the 21st Century Summit, the President emphasized that "government contracting must be open and more fair to small businesses." However, he pointed out that the use by federal agencies of mega-contracts was the major hurdle impeding small business from realizing the President's goal of "more ownership in more communities all across America." In this respect the President stated:

"But you know as well as I do that there are some large hurdles for small businesses. One is that—and the main one is—that agencies sometimes, many times, only let huge contracts with massive requirements, and they tend to go to the same group of large corporate bidders. . . . [T]he term of art in Washington is called bundling. It effectively excludes small businesses. And we need to do something about it."

The President has assigned to the head of the Office of Management and Budget the task of reviewing the federal procurement process and the responsibility of finding ways "to encourage entrepreneurial growth, the capacity for our government to stimulate small business ownership in all communities across America." Specifically, the President stated:

"And so one of the things we're going to do is we're going to examine the federal government's contracting policies; to make sure the process is open; to make sure the process helps to achieve a noble objective, which is more ownership in our country. And wherever possible, we're going to insist we break down large federal contracts so that small business owners have got a fair shot at federal contracting."

H.R. 2867 is bipartisan legislation, in line with the President's Small Business Plan, and assigns to the Office of Management and Budget the ultimate responsibility of determining whether a mega-contract is fair to small businesses and is in the best interests of the Nation. It also provides more time for small businesses to respond to a bundled contract, an essential element to forming teams of small business who will have an opportunity to compete.

This legislation is necessary to restore needed competition to the federal marketplace and to reduce use by federal agencies of mega-contracts that the President has identified as the major hurdle to restoring openness and fairness to small business in the federal marketplace.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

The short title is the "Small Business Opportunity Enhancement Act of 2001."

Section 2. Submission of certain disagreements to the Director of the Office of Management and Budget

The section would amend the Small Business Act to require the Administrator of the Small Business Administration to submit a dispute to the Director of the Office of Management and Budget where the Administrator and the contracting procurement department or agency are unable to agree and the Administrator believes the procurement, as proposed, will render small business prime contract participation unlikely.

The Director of the Office of Management and Budget must make a decision with respect to a disagreement within 10 days after receiving the matter. The Director may not delegate his responsibilities with respect to making a decision, except to a subordinate official nominated by the President, and confirmed by and with the advice and consent of the Senate.

Section 3. Minimum period for solicitation of offers for a bundled contract

The section would amend the Small Business Act to require that small businesses be permitted no less than sixty days, beginning on the date the solicitation is issued, to respond to a solicitation for offers with respect to a contract that is bundled.

5.9 S. 174—MICROLOAN IMPROVEMENT ACT OF 2001

LEGISLATIVE HISTORY

Date	Action
S. 174	
1/24/2001	Read twice and referred to the Committee on Small Business. (text of measure as introduced: CR S549)
2/28/2001	Committee on Small Business. Ordered to be reported without amendment favorably.
6/1/2001	Committee on Small Business. Reported by Senator Bond under authority of the order of the Senate of 05/26/2001 without amendment. With written report No. 107–18.
6/1/2001	Placed on Senate Legislative Calendar under General Orders. Calendar No. 55.
11/16/2001	Measure laid before Senate. (Consideration: CR S12013–12014)
11/16/2001	Passed Senate with an amendment by Unanimous Consent. (text: CR S12014)
11/19/2001	Message on Senate action sent to the House.
11/19/2001 2:02pm	Received in the House.
11/19/2001	Referred to the House Committee on Small Business.
4/17/2002	Committee Consideration and Mark-up Session Held.
4/17/2002	Ordered to be Reported (Amended).

NEED FOR LEGISLATION

This legislation is needed to provide small businesses more opportunities to participate in the SBA's Microloan program. The SBA makes funds available to qualified non-profit organizations, which act as intermediary lenders. These intermediaries use these funds to make loans of up to $35,000 to the smallest of small business borrowers. These intermediaries also provide management and technical assistant to help ensure the success of the small firm. This bill allows microloan intermediaries to offer revolving lines of credit to borrowers; broadens the eligibility requirements for intermediaries to include equivalent experience; frees up the amount of money an intermediary can use for pre-loan technical assistance to counsel borrowers; and increases the amount from 25 to 35 percent of technical assistance grant funds the intermediary can subcontract to another entity to provide technical assistance. An amendment was adopted unanimously in committee to remove a set aside of up to $1 million for microloan trade organizations because it is the belief of the House Small Business Committee that federal funds should not go to national trade associations.

SECTION-BY-SECTION ANALYSIS

Section 1. Sets for the title of the bill, the "Microloan Program Improvement Act of 2001."

Section 2. Subsection (a)(1) would eliminate the requirement that intermediaries make "short-term" loans. This change would allow Microloan intermediaries greater latitude in developing microloan products by offering their borrowers revolving lines of credit, such as for seasonal contract needs.

Subsection (a)(2) would broaden the eligibility criteria for Microloan intermediaries. Current law requires intermediaries to have one year of experience making microloans to startup, newly established or growing small businesses and providing technical assistance to its borrowers. This provision would deem a prospective intermediary eligible if it has "equivalent" experience, which would be defined by SBA.

Subsection (a)(3) would eliminate the restriction on how much technical assistance funding an intermediary can use for pre-loan assistance. Under current law, intermediaries are limited to using 25 percent of the technical assistance to assist prospective borrowers. This provision would allow an intermediary to allocate as much of its technical assistance as it deems appropriate.

This subsection would also increase the percentage of technical assistance that an intermediary can use to contract out technical assistance. Currently, intermediaries can only contract out 25 percent; this provision would raise the limit to 35 percent.

Subsection (a)(4) would establish a peer-to-peer mentoring program for SBA Microloan intermediaries and organizations seeking to become Microloan intermediaries. This provision would allow SBA to use up to $1 million of its annual appropriations for technical assistance grants to subcontract with one or more national trade associations of SBA Microloan intermediaries or other entities knowledgeable about, and experienced in, microlending and re-

lated technical experience to provide peer-to-peer mentoring. (See Senate Report 107–18 at pp. 6–7 (June 1, 2001)).

CHAPTER 6

SUMMARY OF OTHER LEGISLATIVE ACTIVITIES OF THE COMMITTEE ON SMALL BUSINESS

6.1 COMMITTEE MEETINGS

6.1.1 ORGANIZATIONAL MEETINGS

On February 28, 2002 the Committee on Small Business held an organization meeting. The purpose of this meeting was threefold: (1) to consider and adopt the Committee rules for the 107th Congress, (2) to consider and adopt the Committee's oversight plan for the 107th Congress, and (3) approve the subcommittee assignments for Members of the Committee. The Committee rules, oversight plan, and organization of subcommittees were adopted by a recorded vote of 19–15.

The text of the Committee's oversight plan follows:

6.1.2 OVERSIGHT PLAN FOR THE COMMITTEE ON SMALL BUSINESS

107TH CONGRESS

U.S. HOUSE OF REPRESENTATIVES

DONALD A. MANZULLO, CHAIRMAN

Rule X, clause 2(d)(1), of the Rules of the House requires each standing Committee to adopt an oversight plan for the two-year period of the Congress and to submit the plan to the Committees on Government Reform and Oversight and House Oversight not later than February 15 of the first session of the Congress.

The oversight plan of the Committee on Small Business includes areas in which the Committee expects to conduct oversight activity during the 107th Congress. However, this plan does not preclude oversight or investigation of additional matters as the need arises.

OVERSIGHT OF THE SMALL BUSINESS ADMINISTRATION

The Committee will conduct hearings on all the major programs of the Small Business Administration to determine their effectiveness and possible options for improvements.

FINANCIAL AND MANAGEMENT/TECHNICAL ASSISTANCE PROGRAMS

The Committee will conduct hearings on the effectiveness and efficiency of the SBA's major programs. In particular, the Committee will closely monitor the subsidy rate calculations for the loan programs and take the necessary steps to ensure that the programs are able to operate in the event of a national economic recession in the most fiscally prudent manner possible.

The Committee will also consider the possible impacts of the Gramm-Leach-Bliley Financial Modernization Act of 1999 on the ability of small businesses to gain access to capital.

In 2000, most of SBA's programs were re-authorized for three years. Thus, a number of the SBA's key programs will be the subject of on-going oversight hearings by the Committee to insure that they meet the goals set for these programs by Congress. These include:

7(a) General Business Loan Program

Certified Development Company Program

Small Business Investment Company (SBIC) Program

Microloan Program

Small Business Development Centers (SBDC)

Disaster Loan Program

Historically Underutilized Business Zones (HUBZone)

New Markets Venture Capital Program

ADVOCACY

The Office of Advocacy was created to provide small business with an effective voice inside the Federal government. The Committee will conduct hearings on how to strengthen this voice and make sure that the Office of Advocacy continues to effectively represent the interests of small business. (Spring 2001)

VETERANS

In the 106th Congress, Congress created a new office of Veterans Business Development to enhance and improve small business services to our nation's veterans. The Committee will conduct hearings on the implementation of the Veterans Entrepreneurship and Small Business Development Act (Summer, 2001).

TECHNOLOGY AND RESEARCH ASSISTANCE

Small Business Innovation Research

The Small Business Innovation Research (SBIR) program aids small businesses in obtaining federal research and development funding for new technologies. In 2000, Congress reauthorized the SBIR program for eight years. The Committee will investigate the implementation of the recent changes to the SBIR program and, more particularly, the outreach effort of the SBIR program to make sure that all areas of the country benefit from the program.

Small Business Technology Transfer

Committee oversight will focus on the program's success at helping small business access technologies developed at federal laboratories and put that knowledge to work.

FEDERAL PROCUREMENT

The Committee will examine needed changes in federal procurement. The Committee will continue to monitor and highlight the practice of creating bundled or mega-contracts that are too large for small business participation. Additionally, the implementation of legislation passed in 2000 that provides for the collection of data on bundled contracts will be closely scrutinized.

Because there is a direct correlation between the ability of an agency to achieve its goals and contract bundling, the success of Federal agencies in meeting their small business goals will also be assessed.

With the continued practice of contract bundling, more small businesses will become subcontractors. In light of this, the Committee will work to ensure fair treatment for subcontractors on federal contracts.

The Committee will also investigate the women's contracting program to make sure the program is serving the needs of women-owned businesses.

GOVERNMENT AND NON-PROFIT COMPETITION

The Committee will examine the extent to which non-profit organizations and the federal government itself compete with small business. Our focus will include activities in both the private sector and government procurement. (Summer, 2001)

REGULATORY FLEXIBILITY

The Committee will continue its oversight of agency compliance with the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act. (Ongoing)

The Committee will oversee the implementation of the Truth in Regulating Act. (Winter, 2001)

SBREFA

The Committee will be conducting oversight hearings on agency implementation of the Small Business Regulatory Enforcement Fairness Act (SBREFA), which was enacted during the second session of the 104th Congress. The Committee will also examine the need to further amend and strengthen SBREFA. (Ongoing)

PAPERWORK REDUCTION

The Committee will hold hearings and work to reauthorize the Paperwork Reduction Act. (2001)

GOVERNMENT REGULATION

The Committee will continue to examine the regulatory activities of various federal agencies and assess the impact of regulations on the small business community. (Ongoing)

TAXATION

The Committee will continue to conduct oversight hearings into ways to reduce the tax burden on small business. These hearings will include not only the fiscal but the paperwork burden of the federal tax system and federal enforcement efforts. (Ongoing)

ELECTRIC UTILITY RESTRUCTURING

The Committee will conduct oversight hearings on the potential effects of electric utility restructuring deregulation on small business. (Spring, 2002)

GOVERNMENT PERFORMANCE AND RESULTS ACT

The Committee will continue consultations with the SBA regarding the preparation and implementation of strategic plans and performance plans as required by the Government Performance and Results Act. (Winter, 2001)

EMPOWERMENT

The Committee will conduct oversight hearings on regulations and licensing policies that impact small businesses located in high risk communities. The Committee will also examine the promotion of business growth and opportunities in economically depressed areas, and will examine programs targeted towards relief for low income communities. The challenges facing minority-owned businesses will continue to be evaluated. (Ongoing)

The Committee will specifically look at agency implementation of the New Markets Initiative Act (Spring, 2002) and the Program for Investment in Microentrepreneurs (PRIME) program.

WORKFORCE

The Committee will examine issues related to the problems faced by small businesses in attracting and retaining a high quality workforce. Specifically, the Committee will investigate vocational education programs, worker retraining programs, and wage and benefit issues. (Ongoing)

HEALTH CARE

The Committee will examine ways on how to improve access and increase affordability of high quality medical care for small business owners and their employees. (Ongoing)

PENSION REFORM

The Committee will examine ways on how to enhance retirement security for small business owners and their employees. (Ongoing)

E-COMMERCE AND TECHNOLOGY

The Committee will continue to conduct oversight hearings into ways to reduce the "digital divide" in order to promote business growth and opportunities in economically depressed areas. These hearings will also examine ways to help the average small business person exploit the vast potential of Internet commerce. (Ongoing)

TELECOMMUNICATIONS

The Committee will examine the impact of Telecommunications Act of 1996 on small business. First, the Committee will investigate whether or not the broadest range of small businesses have benefited from more competition in the telecommunications market through lower prices and better service. Second, the Committee will investigate whether or not small business telecommunication companies have benefited from the Act. The Committee will explore alternatives to enhance the benefits of the changes in telecommunications technology for small business. (Ongoing)

INTERNATIONAL TRADE

The Committee will continue to examine ways to expand export opportunities for small business. The Committee will conduct oversight hearings on Federal trade policy and export promotion programs to insure that they serve the needs of small business exporters. (Ongoing)

SELF-EMPLOYED

The Committee will hold oversight hearings on how to reduce the regulatory and tax burden on the self-employed, particularly those in home-based businesses. (Ongoing)

AGRICULTURAL/RURAL/FARM ISSUES

The Committee will examine ways to promote business growth and opportunities in rural areas. The Committee will hold oversight hearings on agricultural issues that impact small business. (Ongoing)

The Committee will hold oversight hearings on the impact of Federal lands policy on small business. (Ongoing)

REVIEW OF SPECIFIC REGULATIONS

In compliance with Rule X, clause 2(d)(1)(B), the Committee will undertake to review specific problems with Federal rules and regulations. These include:

(1) Provisions of the New Market Venture Capital Act that establishes New Market Venture Capital Companies (NMVCCs):

On January 22, 2001, the Federal Register published interim final regulations implementing the New Market Venture Capital Program Act of 2000. The SBA unfortunately did not provide an opportunity for the public to comment on the interim final rule. This violates the basic premise of the Administrative Procedure Act. The Committee plans to review this regulation and solicit more input from the public prior to the establishment of NMVCCs. (Spring, 2001).

(2) Rules where small business protections contained in the Regulatory Flexibility Act (RFA) are ignored or only given cursory treatment by Federal agencies:

On January 19, 2001, the Health Care Financing Administration (HCFA) published a final rule governing the Medicaid Managed Care program but failed to perform any type of analysis pursuant to the RFA. HCFA's disdainful treatment of small business concerns will be a focus of the Committee.

On January 18, 2001, the Environmental Protection Agency (EPA) adopted final regulations that would require the application of sophisticated new emission controls for heavy-duty vehicles equipped with diesel engines. The EPA did not identify any small manufacturers of diesel engines. Neither did the EPA consider the impact of this rule on small trucking companies that must purchase new engines. How the RFA assesses indirect impacts on small business will be addressed by the Committee.

On January 22, 2001, the National Park Service (NPS) promulgated a final rule prohibiting the use of snowmobiles in Yellowstone and Grand Teton National Parks

after the 2003 winter season. The agency refused to consider outside economic information on small business impacts that it disputes. In addition, the NPS refused to consider a full range of options to achieve their objectives while minimizing impacts on small business. The Committee will explore methods by which agencies can use the RFA to develop alternatives that are less burdensome on small business.

(3) Rules that affect the Paperwork Reduction Act:

On January 19, 2001, the Occupational Safety and Health Administration (OSHA) promulgated its final rule on reporting and recordkeeping of injuries that occur in the workplace. OSHA failed to consider the cumulative economic burden of various regulations on small businesses. The Committee will turn the attention of the Paperwork Reduction Act to not just complying with one regulation at a time but also require agencies to access the cumulative impact of their proposals in order to lower the total paperwork burden of small businesses.

On December 28, 2000, regulations promulgated by the Department of Health and Human Services (HHS) prohibits the improper disclosure of medical and pharmaceutical information by entities that have this information. HHS states that the burden on small business is "insignificant." While the basic principle behind this regulation is good, the estimated cost of compliance for physicians in private practice is about $2,000 annually.

Almost no mention is made of the cumulative burden on the small business community of this additional regulation. The Committee will focus on the reducing the cumulative paperwork burdens associated with providing medical care and how the amount of paperwork actually detracts from the ability of physicians to provide medical care.

6.2 Budget Views and Estimates

Pursuant to Section 301c of the Congressional Budget Act of 1974, the Committee prepared and submitted to the Committee on the Budget its views and estimates on the fiscal year 2002 and 2003 budgets with respect to matters under the Committee's jurisdiction.

6.2.1 FISCAL YEAR 2002 BUDGET

The Committee on Small Business submits these views and estimates on the FY2002 budget submission on matters within our jurisdiction in compliance with Rule X, clause (4)(f), of the Rules of the House of Representatives. These views and estimates are based on the preliminary outline supplied by the President's Office of Management and Budget (OMB) for FY2002 as well the Small Business Administration's (SBA) budget submission. The President's proposed budget for FY2002 contains $1.6 trillion in tax relief, mostly in the form lower marginal rates. The President's proposed budget also requests $539 million for the Small Business Administration, a decrease of $360 million from FY2001 mainly achieved through eliminating the subsidies for the various loan and debenture programs of the SBA.

While the Committee believes that many of the provisions of the budget are sound and reasonable, we can not agree with all of the spending proposals in the FY2002 budget proposal. These views and estimates will be divided between two areas: the impact of the proposed tax relief on small business and SBA programs. Within the SBA, the views and estimates will be further divided into five areas: (1) Financial Programs, (2) Assistance Programs, (3) Disaster Assistance, (4) Salaries and Expenses, and (5) Office of Inspector General.

(1) Small Business Tax Relief

The Committee applauds the President for proposing broad-based tax relief for every income taxpayer. What is not well-known is the benefits of the plan for small business.

The most important component of the President's tax relief plan is replacing the current marginal income tax rates of 15, 28, 31, 36, and 39.6 percent with a simplified rate structure of 10, 15, 25, and 33 percent. Bringing down the top marginal rate down from near 40 percent to 33 percent will be of particular assistance to successful small business entrepreneurs. In fact, this proposal is very similar to a provision contained in the Small Employer Tax Relief Act of 1999 (HR 2087), which prioritized the top tax policy issues facing small business in the 106th Congress. Retroactively reducing individual tax rates to January 1, 2001 will allow over 20 million small businesses (sole proprietorships, S Corporations, and partnerships), who file their tax returns as individuals, not as corporations, to quickly increase cash flow and allow them to add jobs. This budget plan should also help to shore up near-term growth to prevent a further weakening of the economy.

In addition, the Committee commends the President's commitment to eliminating the estate or "death" tax, which is one of the highest legislative priorities for small business owners. One of the most powerful reasons why people work at or start small businesses is to make life better for their children and loved ones. However, by confiscating up to 55 percent of a family's after-tax savings, the federal death tax kills off family-owned small businesses—the very businesses which create two-thirds of the new jobs in this country.

Complete repeal of the estate or death tax was rated the number four issue at the 1995 White House Conference on Small Business. Many family-owned businesses do not survive beyond the first generation because families simply both cannot afford to pay insurance policies or the death tax and continue to run the business. Often, families are forced to sell the business for no other reason than to pay the death tax. Less than 30 percent of all family-owned businesses in America survive to the second generation and less than 13 percent make it to the third generation.

While welcoming the President's tax plan, the Committee believes the President's package could have contained more small business tax relief including:

1. Accelerate immediately the 100 percent health insurance deduction for the self-employed;
2. Increase the meal deduction from 50 percent to 80 percent immediately;
3. Increase Section 179 expensing;
4. Repeal or significantly reforming the Alternative Minimum Tax (AMT) for individuals;
5. Reduce payroll taxes on small businesses by repealing the Federal Unemployment (FUTA) 0.2 percent surtax; and
6. Allowing small businesses with average annual gross receipts of $5 million or less to use the cash method of accounting without limitation (as opposed to the accrual method).

These tax relief priorities would also boost long-term growth that would help small businesses increase cash flow and allow them to

add jobs at relatively little cost to the Treasury. The Committee will be working on these and other common-sense small business tax relief and simplification initiatives throughout the coming year.

(2) Small Business Financial Programs

Summary

The FY2002 SBA proposed budget for small business financial assistance proposes providing $17.5 billion in loans and investments, a record level of financial assistance for small business. The President's budget request will do this while actually decreasing the need for subsidy budget authority for financial programs, reducing the appropriations approximately $150 million from FY2001 levels. In other words, the President's budget for the SBA's financial programs aims to help more small businesses at less risk to the taxpayer, which is an admirable goal.

7(a) LOANS

This is the SBA's leading loan guarantee program. The Administration proposal for this program is based on an estimated program demand of $10.7 billion in loans, but requiring no budget authority. The Committee believes the program level requested is adequate, as it will provide an increase of $800 million in loan authority over FY2001 levels. Recent SBA estimates of demand for 7(a) have proved accurate.

The Administration proposes eliminating the need for subsidy budget authority by increasing both the upfront and ongoing fees for borrowers. While the Committee appreciates that none of these additional user fees will be imposed on small businesses seeking to borrow less than $150,000, the Committee still has some concerns over this method of eliminating SBA subsidy costs. The Committee believes the SBA should achieve a goal of a zero subsidy rate for the 7(a) loan program. However, the same result can be achieved by a comprehensive review of subsidy cost estimates for the 7(a) program. Previous reports from the General Accounting Office (GAO) indicate that subsidy costs have been inflated. OMB re-estimates of the subsidy cost of the 7(a) program consistently show execution rates are inflated. This has the potential to lead to the overcharging of small business borrowers. As the U.S. economy enters a period of zero growth and perhaps even a recession, the Committee is also concerned about the effect of these proposed heightened fees on the availability of capital to small businesses.

The proposed increase in 7(a) fees, despite improvements in purchases and recoveries, continues to raise concerns in the Committee. Inaccurate subsidy costs will result in overpayment of fees and eliminate flexibility in program delivery. The Committee believes that the 7(a) program is already operating at or near a zero subsidy rate and the President's budget request should instead contain a one-time accurate accounting change to reflect that reality. Thus, there should not be a need to increase fees.

504 LOANS

Thanks to legislation passed in the 104th Congress, the 504 program has a zero subsidy rate, which means that the program re-

quires no appropriations. This was accomplished through heavy fees that were placed on borrowers and lenders—fees needed to offset a severe increase in the subsidy rate. The Administration proposes a $3.75 billion program authorization for the 504 program and the Committee concurs.

The Administration believes that the Section 504 loan program will not require appropriations for FY2002, and will also be able to continue to lower fees to the program's borrowers. Improvements have appeared in the program's liquidation performance, the largest single factor in the subsidy rate equation and a source of significant concern to the Committee.

While the Committee appreciates that the President's budget request will lead to a slight reduction in fees charged to borrowers and lenders in the 504 program and agrees that no appropriation should be required for this program, the Committee is still concerned that the subsidy estimates for this program, like 7(a) are overly conservative and consequently keep fees to borrowers artificially high.

SMALL BUSINESS INVESTMENT COMPANY PROGRAM

The Administration proposes an increased program level for both parts of the SBIC program. The Administration requests a $600 million dollar program level for the debenture program and a $2.5 billion program level for the participating securities program which represents a $100 million and $500 million increase respectively.

The Administration requests no subsidy budget authority for the debenture program. In FY2000 and 2001 the debenture program operated at a zero subsidy rate requiring no appropriations and provided leverage up to $800 million dollars (a maximum not met). The FY2002 request for program level will be $600 million in debenture leverage, an amount higher than the estimated FY2001 demand of $500 million.

The request for the participating securities program also anticipates a zero subsidy rate, based on an increase in fees to cover the subsidy costs. The Committee has the same reservations towards this approach for the SBIC program as it does for the 7(a) program. In the previous budget submission the SBA revised its estimates due to errors in the subsidy estimate. The Committee believes that the subsidy estimates for this program may also be inflated.

While the Committee supports the overall program level, it has concerns over the change in subsidy costs. There have been no defaults in this program since 1992 due to improved management brought about by Congressional action. The Committee believes a zero subsidy rate is an appropriate goal but it requires an accurate and trustworthy accounting of program costs and liabilities

MICROLOAN PROGRAM

The SBA requests a decrease in funding for the microloan program for FY2002. The program level will decrease from $25 million to $20 million, and subsidy budget authority will decrease $2.5 million to $1.5 million. The Committee recently increased the authorization for the number of intermediaries allowed under the microloan program, and is concerned that the proposed program level will not allow the expected expansion.

(2) Assistance Programs

Summary

The FY2002 SBA budget submission proposes significant decreases in spending on its non-credit business assistance programs. While these programs represent well-intentioned efforts to aid small business, there is a tendency to fragment rather than consolidate these efforts.

The SBA proposes to continue or increase several new, unauthorized programs at a cost of millions. The Committee has concerns over how these funds will be spent. New programs are being targeted for substantial expenditures while existing, proven programs are being dramatically cut. The Committee believes that non-credit assistance programs are valuable but must have duties and resources equitably allocated and justified prior to any increases.

DRUG-FREE WORKPLACE

The Administration requests an increased appropriation of $5 million in funding for this program. This represents a $1.5 million increase over the previous appropriation and a $5 million increase over the previous Administration's attempt to eliminate this program. Further, the new Administration's budget correctly lists this program as fully authorized. The previous Administration had attempted to describe the program as a "Congressional Initiative" even though it was fully authorized by Congress and signed into law by the President. The Committee supports this budget position which recognizes concrete and significant efforts to improve the small business climate and workplace conditions.

MICROLOAN TECHNICAL ASSISTANCE

The Administration is requesting $20 million in technical assistance funds for the microloan program. This represents level funding for the microloan program. The Committee supports this funding.

OFFICE OF ADVOCACY

The President's budget proposes to fund the Office of Advocacy at current year's level, which is about $5.2 million. The Committee plans a major initiative this year to enhance and improve the Office of Advocacy and in order to make it more independent. The Office of Advocacy acts as a champion for small business, particularly as agencies develop regulations, without being restricted by the views or policies of the rest of the Executive Branch. To accomplish the goals of this legislation, additional funding may be required. There may be some savings as this legislation proposes to fold in the Office of the Small Business and Agriculture Regulatory Ombudsman into the newly transformed Independent Office of Small Business Advocacy and eliminate the Regional Advocates within the Office of Advocacy. However, there may some additional costs associated with moving the Independent Office of Small Business Advocacy out of the headquarters of the SBA and hiring additional staff to take on some of the new and expanded responsibilities contained in the legislation. Even though the Office of Advocacy does not receive a direct line-item appropriation, the Committee re-

quests the Budget Committee to set aside a modest increase in the overall budget of SBA of about $1 million to cover the first steps of this initiative.

The Administration also proposes $1.1 million for the Office Advocacy to support research and economic analysis. The Committee supports this proposal.

WOMEN'S BUSINESS PROGRAMS

The Administration proposes funding the Women's Business Council at $750,000, which is the same level as last year. The Administration also proposes level funding the Women's Business Centers at $12 million. The Committee supports these proposals.

BUSINESS INFORMATION CENTERS/USEACs

The Administration proposes level funding for these programs. BICs will remain at $500,000. USEACs will remain at $3.1 million. However, the agency fails to explain whether it intends to co-locate any of these centers with existing Small Business Development Centers. In fact, there are instances in several cities where these centers are located in separate sites within blocks of each other, rather than in a single central location.

The Committee supports the BIC and USEAC projects but requests that SBA to provide more substantial information on the activities of these sites and improve performance.

SMALL BUSINESS DEVELOPMENT CENTERS (SBDCs)

The Administration proposes $78 million in funding for the SBDC program. This proposal revives the scheme to require SBDCs to charge fees. The President's budget proposal contains no specifics on how SBDCs would charge fees to make up for the loss of $12 million in revenue. The Committee has held numerous hearings and has even voted against this proposal in the past. Because of the myriad of services offered by the SBDCs, the Committee questions the wisdom of a mandatory, nation-wide uniform fee for services. The Committee believes that because these small business clients have already paid enough in taxes, it is futile to charge fees. The Committee believes the appropriate support for the SBDC program should be maintained at last year's level of $87.8 million.

HUBZONES

The Administration requests level funding for this program at $2 million. The Committee supports this appropriation and the goals and full implementation of the HUBZone program.

ONE STOP CAPITAL SHOPS

The SBA FY2002 budget proposes level funding for this program at $3.1 million. The Committee notes that information regarding the use, services and merits of One Stop Capital Shops is limited. SBA reports that OSCS counseled 43,000 people last year and yet this resulted in only 430 loans. One percent is not an impressive return for a program designed to provide access to capital. The Committee is also concerned that the efforts of this program and Business Information Centers is duplicating efforts best left to other more established programs.

BUSINESS-LINC

This is a newly authorized program designed to encourage large business to small business mentoring. The Administration proposes eliminating this program and its $7 million dollar appropriation. The program has yet to be implemented and the Committee believes such action to be premature before Congress has even had a chance to evaluate its record.

NEW MARKET VENTURE CAPITAL COMPANIES

The Administration proposes eliminating the $30 million in technical assistance grant funding for New Markets Venture Capital Companies (NMVCC). These NMVCCs will make SBIC-type loans in Low & Moderate Income (LMI) areas. Because the program is yet to become operational, the Committee believes such action to be premature before Congress has even had a chance to evaluate its record.

The Committee strongly supports the goal of increased lending in LMI areas. The Committee believes that the New Market Tax Credit combined with modifying existing SBIC programs can serve the same purpose. However, the President's budget request provides no plan on how NMVCC can make this transition once funding runs out at the end of the fiscal year. The Committee is concerned about spending $30 million this year on a brand new program that is still not up and running and then leaving NMVCC without any support on October 1. The Committee reserves final judgment on this proposal until further information is supplied.

PRIME

The Administration's budget proposes elimination of this program. In previous views the Committee expressed strong reservations regarding this program and its potential for duplication of existing SBA efforts. The legislation authorizing this program was not the language approved by this Committee to prevent such duplication, consequently the Committee supports the elimination.

NEW FREEDOM INITIATIVE

This proposal from the Administration requests $5 million for grants to assist small businesses with the implementation of the Americans with Disabilities Act. The Committee supports this request and its goal in helping to pay for this unfunded mandate.

SERVICE CORPS OF RETIRED EXECUTIVES (SCORE)

The Committee welcomes the additional $250,000 proposed funding increase in the President's budget for the SCORE program to cover increased costs. The SCORE program has been level funded for several years and this increase is needed to offset the effects of inflation.

WOMEN'S PROCUREMENT ASSISTANCE

The Administration requests $500,000 to fund an initiative to improve procurement opportunities for women-owned businesses. The Committee supports this request.

VETERANS BUSINESS DEVELOPMENT ASSISTANCE

The Committee supports this request for $750,000 to fund implementation of the provisions of P.L. 106–50.

(3) Disaster Assistance

The President's FY2002 SBA budget submission asks for authority for $300 million in disaster loans. This amount is significantly below the usual average for disaster loans. The Administration proposes funding needs in excess of the request through funds available from an emergency discretionary account. A significant "savings"—over $526 million—in the SBA's budget authority is assumed through this change even though the actual cost will be transferred to this government-wide emergency reserve fund. Thus, there may be no real "savings" to the taxpayer. While the Committee applauds the goal of the Administration to bring disaster funding under the budgetary caps, it is unclear, at this point in time, what the final impact of this proposal will be on the SBA. The Committee reserves judgment on the entire proposal until further information is supplied.

The Committee is particularly concerned about the proposal to raise interest rates on business disaster loans on individuals with no credit elsewhere from a flat four percent to a floating U.S. Treasury rate. While interest rates are generally low now, it is unclear where they may go during this period of economic uncertainty. It is the view of the Committee that during a time of natural disaster, Congress should not compound an already difficult recovery period by imposing higher interest rates on small business borrowers.

The budget also requests administrative costs of $70 million. The Committee finds this sum to be adequate for the requested loan amount but low for annual request. It is unclear whether the proposed emergency account would also be used for administrative costs.

(4) Salaries and Expenses

For FY2002 the Administration requests an $11.3 million increase in SBA non-disaster staffing and expenses. The Committee has no detailed budget submission on which to base its estimate, however, the Committee believes that in general SBA staffing is adequate and requires little or no increase. In briefings, the SBA explained to staff that the increase was needed to cover the proposed pay raise. The SBA expects a net loss of 150 employees through normal attrition in FY2002, mostly due to retirements.

In FY1997–FY1999 full-time equivalents grew from the FY1997 actual of 2,915 to a FY1999 estimate of 3,133. This was an eight percent increase. With more functions being outsourced, privatized and automated it is difficult to comprehend the need for staffing increases. SBA's staffing efforts may need rethinking.

The FY2000 budget submission showed an increase of 54 FTEs over FY1998, with a request for a further 42 FTEs. In FY2001 there was no mention of FTEs in the budget submission. The number of positions at the agency has apparently dropped from 3,123 in FY1999 to 2,977 for the FY2000 estimate. For FY2001 the Administration requested 86 new SBA positions. The resulting posi-

tions number will still be 63 "slots" below FY1999. However, without the FTE count it is difficult to judge actual employment. Twenty of these positions would serve the new NMI program. But the President's budget request proposes to eliminate the NMVCC technical assistance program. The Committee reserves final judgment on the salary and expense request until further information is provided.

The Committee also notes that the Administration has requested an additional $2 million for retraining and relocating employees and buying out employees. However, no details have been forthcoming regarding the nature of this retraining, or the destination of the relocated employees. This is the third year this has been proposed with little explanation of the retraining required.

(5) Office of Inspector General

The Committee supports the proposed appropriation for the Office of Inspector General of $11.9 million. The Committee suggests that additional funding be allocated evenly between audit and investigative uses. The Committee also believes that funding is required for the Inspector General's efforts at stemming fraud in the disaster loan program.

Conclusion

The SBA continues to provide important services to the small business community. SBA's FY2002 budget is an honest attempt to accomplish more lending and assistance with less drain on the public purse. The Committee generally supports these actions but believes the results are achievable through less drastic steps. The Committee believes that a more detailed budget submission may shed light on these changes but, in the interim, has expressed concerns about the budget request as outlined above. The Committee expects fuller explanations of the disaster loan, 7(a), SBIC, Microloan, SBDC, NMVCC, BIC, Business-Linc, and S & E proposals.

Minority views were also submitted.

6.2.2. FISCAL YEAR 2003 BUDGET

The Committee on Small Business submits these views and estimates on the FY2003 budget submission on matters within our jurisdiction in compliance with Rule X, clause (4)(f), of the Rules of the House of Representatives. These views and estimates are based on the preliminary outline supplied by the President's Office of Management and Budget (OMB) for FY2003 as well the Small Business Administration's (SBA) budget submission. The President's proposed budget for FY2003 emphasizes national defense, homeland security, and economic vitality. A key part of economic revitalization is creating jobs. Small businesses, as job creators, have always led this nation out of economic downturns and they will do so again.

The Committee believes that most of the provisions of the President's budget request are sound and reasonable. Some of the contentious initiatives contained in the President's FY2002 budget are not repeated in this year's request, for which the Committee is grateful. While expressing concern about the return to deficit

spending, the Committee understands the pressing national defense and homeland security needs.

These views and estimates will be divided between two areas: the impact of the proposed tax relief on small business and SBA programs. Within the SBA, the views and estimates will be further divided into five areas: (1) Financial Programs, (2) Assistance Programs, (3) Disaster Assistance, (4) Salaries and Expenses, and (5) Office of Inspector General.

(1) Small Business Tax Relief

The Committee again applauds the President for endorsing further tax relief proposals, which will help revitalize the economy. Key elements of the President's plan, as it impacts small business, include:

- Accelerating the bipartisan tax reductions passed by Congress last year, including the individual rate reductions, which help 85 percent of small businesses that pay taxes on an individual, not corporate, basis;
- Making permanent these same tax cuts, including the all-important estate or "death" tax repeal scheduled to take full effect in 2010;
- Reforming the Alternative Minimum Tax (AMT) on business, which helps the remaining 15 percent of small businesses that pay their taxes on a corporate basis;
- Offering better tax treatment for small businesses that invest in new equipment; and
- Health care tax credits for up to $1,000 for individuals and $3,000 for families from low- and moderate-income means, which would provide further assistance to help the self-employed purchase health insurance.

The Committee supports, as long overdue, the Treasury Department regulations issued last December that allow small business service providers with average annual gross receipts of $10 million or less to use the cash method of accounting without limitation, as opposed to the accrual method. This has been a small business priority for many years and it has been resolved to the satisfaction of the Committee and the small business community.

While welcoming the President's initiative, the Committee believes the President's tax package could have contained more small business tax relief including:

1. Accelerating immediately the 100 percent health insurance deduction for the self-employed; and
2. Increasing the meal deduction from 50 percent to 80 percent immediately.

These tax relief priorities would also boost long-term growth that would help small businesses increase cash flow and allow them to add jobs at relatively little cost to the Treasury. The Committee will be working on these and other common-sense small business tax relief and simplification initiatives throughout the coming year.

(2) Small Business Administration Programs

The Committee supports the overall general spending level at the SBA. The President's budget proposal contains a modest increase in spending on the SBA, from $782 million in 2002 to $797 million

in 2003,[1] an acknowledgment by the Administration of the importance of small business in leading the way in the economic recovery. However, there are still several problems with the budget request, which are discussed in further detail below.

(A) SBA Financial Programs

(1) 7(a) LOANS

SBA guarantee-backed lending is the largest single source of long-term loans (those with maturities of three years or longer) to small businesses. SBA loan programs account for approximately 40 percent of all long-term loans to small businesses. The President's budget submission for FY2003 with respect to SBA proposes to increase the subsidy rate for the 7(a) program from 1.07 percent to 1.76 percent. The President's budget proposes spending $85.36 million for the 7(a) loan program without increasing fees. While there is some relief from last year, where the budget request asked to spend no money on the 7(a) loan program and proposed higher fees, this subsidy rate increase will have a chilling effect upon this program at a time when the economy is in need of an economic stimulus. Why? Because instead of finally obtaining an accurate subsidy rate calculation, as the Committee has requested for over seven years, the President's budget request proposes to decrease the program level of the 7(a) program in half to $4.85 billion. The impact upon the 7(a) loan program could be especially severe since the result of the subsidy rate increase, if actually implemented, could be to cut the loan program in half in the forthcoming fiscal year. While the Committee appreciates the willingness of the SBA to look at other alternatives to make up for this shortfall (i.e., moving some larger 7(a) real estate and equipment loans to the 504 loan program), it is not clear that these suggestions can be implemented.

The subsidy rates for these programs have not accurately reflected the actual performance of these loan portfolios over the past 11 years since the passage of the Federal Credit Reform Act in 1990. Instead of being a prudent sinking fund, principally to purchase defaulted loans, the subsidy rate has been continually overstated so as to be a tax and not a responsible user fee. This fact was underscored in the conference report accompanying FY2002 Treasury/Postal Appropriations bill (H.R. 2590 or P.L. 107–67) where the conferees stated "borrowers and lenders in both programs [7(a) and 504 loan programs] have been paying higher than necessary fees to participate in the programs" because the subsidy rate models do not reflect recent performance of the loan portfolios.

While the subsidy rate calculation for the 7(a) loan program has changed to weigh loans originated by the Preferred Lenders Program (PLP) more heavily than other SBA loans, the subsidy rate still does not take into account the other changes made by Congress in 1995 that made the loans less risky to the taxpayer. Sim-

[1] Adjusted to include the full share of accruing employee pensions and annuitant health benefits, a new initiative of this year's budget request to require the full share of these benefits be reflected in each individual agency's budget, as opposed to the budget at the Office of Personnel Management (OPM). Estimated final spending on the SBA for FY2002 is actually $762 million but $20 million in pension and health benefits was added to the 2002 total in order to have an accurate comparison between the 2002 and 2003 levels of funding at the SBA.

ply put, SBA loans made in 1988 are much different than loans from 1998. Yet, the new subsidy rate calculation essentially treats them the same, with the exception of those originated by PLP lenders. The SBA assumes a default rate of 12.87 percent; yet the actual default rate for the past 11 years has been between 8 and 10 percent.

The Committee looks forward to an econometric forecasting model that reflects the true performance of the loan programs. The Committee also wishes to be a constructive partner with the Budget Committee during the re-examination of the Federal Credit Reform Act of 1990 to see what changes can be made to obtain a realistic assessment of the cost of government credit programs like the SBA's 7(a) loan program.

However, relief is needed today for small businesses—not at some future time. That's why Congress passed S. 1196 last year (P.L. 107–100) to cut 7(a) loan fees in half starting next October in order to provide relief to small businesses who have overpaid the government $1.3 billion, according to the General Accounting Office (GAO), over the last 11 years to pay for the cost of running the 7(a) program. The Administration's proposal that could possibly cut access by small businesses to the 7(a) loan program, as a response to last year's legislation, is simply not acceptable. A realistic subsidy rate calculation could easily have kept the 7(a) program volume operating at historic levels while providing much needed relief to small business borrowers and lenders.

The Committee re-states its conclusion from last year's letter: inaccurate subsidy costs result in overpayment of fees and eliminates flexibility in program delivery. The Committee believes that the 7(a) program is already operating at or near a zero subsidy rate and the President's budget request should instead contain a one-time accurate accounting change to reflect that reality. Thus, there should not be a need to cut in half the availability of the program to small business borrowers and lenders.

(2) 504 LOANS

Mirroring the situation facing the 7(a) loan program, the 504 loan program is also experiencing a subsidy rate calculation problem. Ever since 1996, the 504 loan program has operated at a zero subsidy rate, which means that the program requires no appropriations. This was accomplished through heavy fees that were placed on borrowers and lenders—fees needed to offset a severe increase in the subsidy rate. The Administration proposes a $4.5 billion program authorization for the 504 program and the Committee concurs.

However, after several years of fee decreases, the President's FY2003 budget request proposes to increase the annual fee charged each small business 504-loan borrower from 0.410 percent to 0.425 percent. While the Committee agrees that no appropriation should be required for this program, the Committee is still concerned that the subsidy estimates for the 504 program are overly conservative and consequently keep fees to borrowers artificially high.

The main factor in the 504-subsidy rate calculation is the loan default rate. Yet, the SBA assumes a default rate of 8.3 percent when the actual default rate is less then three percent. Ironically,

other parts of the SBA's budget submission agree that defaults in the 504 loan program have amounted to about $60 to $70 million annually, which comports to industry data of a three percent default rate. Other factors that go into the SBA's subsidy rate formula calculation (the loan currency rate, the loan recovery rate, and the loan prepayment rate) also do not comport with industry data. In the progress report mandated by P.L. 107–67, the SBA pledges to work on an interim calculation method for the 504 program in FY2004 with a final resolution of the problem in FY2005. However, this problem has to be fixed sooner rather than later. The Committee urges the SBA to work with its industry partners to make sure that the data going into these models is correct in order to produce the most accurate subsidy rate calculation. Again, the Committee would welcome a partnership with the Budget Committee in an effort to re-examine the Federal Credit Reform Act of 1990 to see what changes can be made to obtain a realistic assessment of the cost of government credit programs like the SBA's 504 loan program.

(3) SMALL BUSINESS INVESTMENT COMPANY PROGRAM

The Administration proposes an increased program level for both parts of the SBIC program, which is welcomed by the Committee. The Administration requests a $3 billion program level for the debenture program and a $4 billion program level for the participating securities program. When added to the minimum required private capital, this would make $10 billion in new capital available for SBIC investments in small businesses. Venture capital from SBICs fill a critical gap as other private sector sources dries up during this economic recession.

The Administration requests no appropriations to fund either the debenture or the participating securities program in accordance with P.L. 107–100, which placed the entire SBIC program on a zero subsidy or no cost to the taxpayer basis. The Committee concurs with this aspect of the President's budget request. It is anticipated that no further legislation will be needed to change the fee structure to keep the SBIC program operating at no cost to the taxpayer.

(4) MICROLOAN PROGRAM

The SBA requests an increase in funding for the microloan program for FY2003 from $1.7 million to $3.7 million to reach a program level of $26.6 million. The subsidy rate increased from 6.78 percent to 13.05 percent because of changes in the discount rate and the average loan size. The Committee appreciates that, unlike the 7(a) loan program, the Administration's budget request proposes to maintain access to the Microloan program as opposed to cutting it in half when the subsidy rate nearly doubled.

(B) Assistance Programs

Summary

The FY2003 SBA budget submission proposes decreases in spending on its non-credit business assistance programs from $177 million to $144.3 million. Most of these cuts come from "Congres-

sional Initiatives ($30 million)." While these programs represent well-intentioned efforts to aid small business, there is a tendency to fragment rather than consolidate these efforts. The Committee believes that non-credit assistance programs are valuable but must have a proven record of success before funding is increased.

DRUG-FREE WORKPLACE

The Administration requests an appropriation of $3 million in funding for this program, keeping it at last year's level. This is disappointing because the Administration requested $5 million in the previous budget request for this program. The Committee trusts that this does not represent a withdrawal of Administration support for this mission. The Committee strongly supports this initiative, which recognizes concrete and significant efforts to improve the small business climate and workplace conditions.

MICROLOAN TECHNICAL ASSISTANCE

The Administration is requesting $17.5 million in technical assistance funds for the microloan program. This represents level funding for the microloan program. The Committee supports this funding.

OFFICE OF ADVOCACY

The Committee plans a major initiative this year to enhance and improve the Office of Advocacy and to make it more independent. The Office of Advocacy acts as a champion for small businesses, particularly as agencies develop regulations, without being restricted by the views or policies of the rest of the Executive Branch. To accomplish the goals of this legislation, additional funding may be required. There may be some savings as this legislation proposes to streamline some functions within SBA and the Office of Advocacy. However, there may be some additional costs associated with this initiative. Even though the Office of Advocacy does not receive a direct line-item appropriation, the Committee requests the Budget Committee to set aside a modest increase in the overall budget of SBA of about $5 million to cover the first steps of this initiative.

The Administration also proposes $1.1 million for the Office of Advocacy to support research and economic analysis. The Committee supports this proposal.

WOMEN'S BUSINESS PROGRAMS

The Administration proposes funding the Women's Business Council at $750,000, which is the same level as last year. The Administration also proposes level funding the Women's Business Centers at $12 million. The Committee supports these proposals.

BUSINESS INFORMATION CENTERS/US EXPORT ASSISTANCE CENTERS

The Administration proposes a five percent cut in the BICs from $500,000 to $475,000. USEACs will remain at $3.1 million. The Committee has questions about the BIC and USEAC request, particularly in clarifying how the SBA plans to continue to support the 80 existing BICs and also open between two and five new BICs with a smaller budget request.

SMALL BUSINESS DEVELOPMENT CENTERS (SBDCs)

The Administration proposes $88 million in funding for the SBDC program. The Committee is extremely pleased that this budget request does not contain the proposal to require SBDCs to charge counseling fees. The Committee has held numerous hearings and has voted against this proposal in the past. The Committee believes this budget request is the minimum level of support that is needed for the SBDC program. However, the Committee is gravely concerned about the language in the SBA budget submission where they expressed doubt about the effectiveness of the SBDC program. It should be made absolutely clear that the Committee strongly disagrees with this characterization.

HUBZONES

The Administration requests level funding for this program at $2 million. The Committee supports this appropriation and the goals and full implementation of the HUBZone program.

BUSINESS-LINC

This is a relatively new authorized program designed to encourage large business to small business mentoring. The Administration proposes eliminating this program and its $2 million dollar appropriation. There are several Members of the Committee who take a personal interest in this program because they believe the mentoring received in this program is qualitatively different from other SBA mentoring programs that are more focused around government procurement opportunities. However, there are many companies that already engage in this type of mentoring on their own. Perhaps if the SBA made more of an effort to link up existing private sector efforts with interested small businesses, particularly from low- and moderate-income areas of our nation, the Administration's proposal would be more acceptable to the Committee.

NEW MARKET VENTURE CAPITAL COMPANIES

The Committee supports the New Markets Venture Capital Companies (NMVCC) program, which make SBIC-type loans in Low and Moderate Income (LMI) areas. The Committee strongly supports the goal of increased lending in LMI areas. The Committee, however, encourages the SBA to move more rapidly on its rollout of NMVCCs and to extend more opportunities for other small venture capital firms to become NMVCCs.

PRIME

The Administration's budget proposes elimination of this program. In previous views the Committee expressed strong reservations regarding this program and its potential for duplication of existing SBA efforts. The legislation authorizing this program was not the language approved by this Committee to prevent such duplication; consequently the Committee supports the elimination.

NATIVE AMERICAN OUTREACH

This proposal from the Administration requests $1 million to improve its Native American small business outreach, which is a commendable goal. This initiative will make funding directly available

to tribes to assist in economic development and job creation. Last year, the House passed H.R. 2538, the Native American Small Business Development Act, authored by one of our committee Members, which would funnel grants to existing state Small Business Development Centers (SBDCs) to establish training programs and services unique to Native Americans. The Committee believes this is a better and more comprehensive approach to help Native American small business development, working through an established network of experts in the field, rather than the Administration's approach.

SERVICE CORPS OF RETIRED EXECUTIVES (SCORE)

The Committee welcomes the Administration proposal to fund the SCORE program at last year's level of $5 million.

VETERANS BUSINESS DEVELOPMENT ASSISTANCE

The Committee supports this request for $750,000 to fund implementation of the provisions of P.L. 106–50 that still fall within the SBA. Even though the National Veterans Business Development Corporation is formally out of the SBA's annual budget request and is funded under a separate line item as an independent agency, the Committee is still very much interested in its work, particularly on monitoring its path towards financial self-sufficiency. In keeping with the path outlined in P.L. 106–50, the Administration has requested $2 million for the Corporation in 2003, which the Committee supports.

WHITE HOUSE AND STATE CONFERENCES

The Administration's budget request also contains a new proposal to spend $1.5 million to fund a series of state and federal conference to celebrate the success of small business over the past 50 years and to highlight the emerging issues that face small business owners. The Committee understands that this request would be used, in part, to fund a "down payment" for a White House Conference on Small Business in 2005 and that more funding would be required to complete the task in 2004 and 2005. The Committee supports this request.

(C) Disaster Assistance

With the various supplemental appropriations added to the regular appropriation for the SBA disaster loan in response to the tragic events of September 11, 2001, the President's FY2003 budget request for disaster loans looks reasonable. While the budget submission asks for $111.14 million, which is down from last year, it supports a program level of nearly $795 million. This program level is a five year average at a 13.98 percent subsidy rate. Unlike previously, there is no proposal to create a government-wide emergency reserve fund that caused the Committee some concern last year. More particularly, the Committee is grateful that this budget request, unlike last year, contains no proposal to raise interest rates on disaster loans for anyone. It continues to remain the view of the Committee that during a time of natural disaster, our government should not compound an already difficult recovery period by imposing higher interest rates on small business borrowers.

(D) Salaries and Expenses

For FY2003 the Administration requests a $23.6 million increase to $362.1 million in SBA non-disaster staffing and expenses. This increase is comprised mainly of the shift of the pension cost of SBA employees previously funding through OPM and the general salary pay raise of 3.6 percent due in January 2003.

At the same time, the President's budget request proposes to decrease the number of non-disaster Full-Time Equivalents (FTEs) at the SBA from 2,745 in FY2002 to 2,660 in FY2003, which represents a cut of 85 FTEs, which is expected in the normal course of attrition and retirement. The Committee is particularly concerned about the inefficiencies and delays demonstrated by SBA in making the size standards changes mandated by law, particularly as it impacts the disaster loan program, which indicates a decisional process hampered by unneeded layers of decision makers. A further reduction in the number of FTEs would reduce the layering and provide more efficient and timely delivery of services.

The Committee also encourages the SBA to begin to focus on the problem of reversing "institutional memory loss" at the agency, as it will soon lose a significant portion of its senior career FTEs over the next decade because of retirements.

(E) Office of Inspector General

The Committee supports the proposed appropriation for the Office of Inspector General of $15.5 million, of which $500,000 of that total is transferred from the disaster loan program. The Committee suggests that additional funding be allocated evenly between audit and investigative uses. The Committee also believes that funding is required for the Inspector General's efforts at stemming fraud in the disaster loan program, particularly in light of the enormous growth of the use of that program after September 11, 2001.

Conclusion

Overall, the President's budget request for small business can be supported, with exceptions, both in terms of his tax relief proposals and the SBA budget. In particular, the SBA's FY2003 budget recognizes and resolves most of the mistakes from the previous budget request. The Committee acknowledges the Administration for changing these prior contentious proposals on behalf of all small businesses. There is only one major item of contention, and the Committee on Small Business looks forward to working with you, Chairman Nussle, to help resolve the subsidy rate calculation problem in the 7(a) and the 504 loan programs at its relationship to the Federal Credit Reform Act of 1990.

Minority views were also submitted.

CHAPTER SEVEN

SUMMARY OF OVERSIGHT, INVESTIGATIONS AND OTHER ACTIVITIES OF THE COMMITTEE ON SMALL BUSINESS AND ITS SUBCOMMITTEES

7.1 SUMMARY OF COMMITTEE OVERSIGHT PLAN AND IMPLEMENTATION

Pursuant to Rule X, clause 2(d)(1), of the Rules of the House of Representatives, the Committee on Small Business adopted, on February 28, 2001, an oversight agenda for the 107th Congress. (For a discussion of the Committee's consideration of the oversight agenda refer to section 6.1.1 of this report.) The House rule also requires that each Committee summarize its activities undertaken in furtherance of the oversight agenda as well as any additional oversight actions taken by the Committee.

In the following portions of Chapter Seven, the provisions of the oversight agenda are addressed in the hearing summaries of the Committee and its subcommittees. A summary of each hearing conducted by the full Committee appears in section 7.2 of this report and summaries of each subcommittee hearing appear in sections 7.3 through 7.7 of this report. An overview of the Committee's legislative activities appears in Chapter Five of this report.

7.2 SUMMARIES OF THE HEARINGS HELD BY THE FULL COMMITTEE ON SMALL BUSINESS

7.2.1 IMPROVING AND STRENGTHING THE OFFICE OF ADVOCACY

Background

On March 22, 2001, the Committee on Small Business held a hearing on improving and strengthening Small Business Administration's (SBA) Office of Advocacy. Since its inception in 1976, the Office of Advocacy has had the difficult, but important, task of being an effective voice for small business within the executive branch of the Federal government. The purpose of this hearing was to examine various constructive suggestions to strengthen the Office of Advocacy and to make it more effective and independent. Prior to the hearing, on February 27, 2001, the Chairman and Ranking Member of the Senate Committee on Small Business introduced S.395, "The Independent Office of Advocacy Act of 2001." In addition, a discussion draft of a House bill, "The Independent Office of Advocacy Act of 2001," was prepared for discussion at the hearing. The draft bill would make the Office of Advocacy more independent and provide that Office with greater resources and more authority to represent the interests of small businesses.

Summary

The hearing was comprised of a single panel which included: Mr. Frank Swain, Partner, Baker & Daniels; Mr. Thomas Kerester, Real Estate Consultant, Coldwell Banker Stevens, Realtors; Mr. Keith Cole, Partner, Swidler Berlin Shereff Friedman, LLP; Mr. John Satagaj, President, Small Business Legislative Counsel; and, Mr. Giovanni Coratolo, Director of Small Business Policy, U.S. Chamber of Commerce. Discussion centered on agreed ways to strengthen the Office of Advocacy and the Chief Counsel to combat three major problems facing small businesses—preventing needless and burdensome regulations, assisting small businesses that have been the victims of Federal agency's unfair compliance and enforcement actions, and being the focal point for combating contract bundling. The overall goal of the hearing was to make the Office more independent so that it can be a more forceful advocate for small business. The draft legislation would: (1) empower the Chief Counsel to issue regulations under the Regulatory Flexibility Act; (2) transfer the Small Business and Agriculture Regulatory Enforcement Ombudsman to the Office of Advocacy; (3) allow the Chief Counsel the right to file comments in all rulemakings where a Federal agency has requested comments; (4) requiring that all Federal agencies publish the Chief Counsel's comments about a proposed regulation and that those comments are given substantial weight; and (5) give the Office of Advocacy the responsibility of combating contract bundling.

For further information on this hearing, refer to Committee publication 107–1.

7.2.2 PENSION REFORM FOR SMALL BUSINESSES

Background

On March 28, 2001, the Committee on Small Business held a hearing on a pension reform proposal, H.R. 10, authored by Rob Portman (R–OH) and Ben Cardin (D–MD). Through tax and regulatory relief, H.R. 10 helps Americans save for retirement by making it easier for small businesses to offer retirement plans, allowing workers to save more, addressing the needs of an increasingly mobile workforce through portability and other changes, making pensions more secure, and cutting the red tape that has hamstrung employers who want to establish pension plans for their employees. H.R. 10 contains several provisions designed to increase pension participation by small business, including some ideas sponsored by Congressman Roy Blunt of Missouri in the 105th Congress (H.R. 3870), on which this Committee's Subcommittee on Tax, Finance, and Exports held a hearing September 16, 1998. A popular measure, H.R. 10 is substantially similar to two bills that passed the House last Congress in 400+ votes, but stalled in the Senate. (Subsequent to this hearing, H.R. 10 passed the House in yet another 400+ vote on May 2, 2001.) The purpose of this hearing was to highlight the small business implications of H.R. 10 and provide additional support for moving it through the Senate this Congress.

Summary

Witness Panel I was composed of the two main authors of H.R. 10—Congressmen Portman and Cardin (though Portman was unexpectedly unable to testify, submitting written testimony only). Speaking on behalf of both authors, Congressman Cardin explained the very low pension plan participation rate among small employers ("Among companies with fewer than 100 employees, as many as 80 percent of the workforce have no retirement savings plan available to them") and the provisions of H.R. 10 designed to improve this participation rate dramatically. These provisions include revision of "top heavy" rules that threaten to disqualify small business owners from meaningful participation in their own plans; increase in contribution limits for 401(k) and SIMPLE plans, increase in plan "portability" for employees changing jobs, creation of "catch-up" provisions that allow increased savings by workers entering the pension system later in life, and other changes to make plans more attractive to employees that small businesses wish to retain; and reduction in fees and regulatory burdens that discourage small business entry into the pension system. During questions from Committee members, Congressman Cardin agreed that it would be desirable to "add back into the bill" tax credits to offset start-up costs for small businesses.

Witness Panel II was composed of the following four private sector witnesses: (1) Dallas Salisbury, President & CEO of the Employee Benefit Research Institute, a nonprofit educational organization in Washington, DC that, among other things, promotes its national "Choose to Save" campaign; (2) Paula A. Calimafde, an attorney and pension expert with the Paley Rothman law firm in Bethesda, MD, appearing on behalf of Small Business Council of America, Small Business Legislative Council, and American Society of Pension Actuaries; (3) Michael P. Kelso, President & CEO of ELS, Inc., a small business engineering consulting firm in Arlington, VA; and (4) John Bachmann, Managing Partner of the Edward Jones Investment Company in St. Louis, MO, which markets pension plans. Each of these witnesses applauded H.R. 10 and explained how it would provide much-needed incentives to small businesses to establish new retirement plans for their workers and to enhance existing plans. Among the few criticisms directed at H.R. 10 during Q&A was a concern that its accelerated "vesting" of benefits might prove too costly and encourage more rapid employee turnover.

A clear consensus emerged that H.R. 10 was much-needed legislation that ought to be enacted this year. The hearing was aided by strong attendance of Committee members and by energetic Q&A with good witnesses. For further information about this hearing, refer to Committee publication number 107–2.

7.2.3 A TAX AGENDA FOR SMALL BUSINESS

Background

On April 4, 2001, the Committee on Small Business of the United States House of Representatives and the Committee on Small Business of the United States Senate held a joint roundtable

hearing to discuss a tax agenda for small business. The purpose of the roundtable hearing was to listen to the testimony of a broad number of small business representatives, practitioners and owners on their priorities for tax relief and tax simplification for small businesses.

Summary

One panel of numerous witnesses, Representatives, and Senators participated in this roundtable hearing, including: The Honorable Anibal Acevedo-Vila, a Representative in Congress from Puerto Rico; Harry Alford, President and Chief Executive Officer, National Black Chamber of Commerce; Steven Anderson, President and Chief Executive Officer, National Restaurant Association; Amy Angelier, Washington Representative, Associated Builders and Contractors Inc., Robert M. Anderton, President, American Dental Association, The Honorable Robert F. Bennett, a United States Senator from Utah, The Honorable Christopher S. Bond, Chairman, Senate Committee on Small Business, and a United States Senator from Missouri; Frank D. Brost, National Cattlemen's Beef Association; The Honorable Conrad R. Burns, a United States Senator from Montana; Paula Calimafde, Chair, Small Business Council of America, Bethesda, MD; The Honorable Donna M. Christian-Christensen, in Congress from the Virgin Islands; Henry S. Cole, President, Center for Environmentally Advanced Technologies; Benjamin Y. Cooper, Senior Vice President, Government and Public Affairs, Printing Industries of America; Dorothy Coleman, Vice President, Tax Policy, National Association of Manufacturers; Nancy Coolidge, Coordinator for Student Financial Support, University of California; John A. Cox Jr., Manager, Government Affairs, National Tooling and Machining Association; Michael Dade, Legislative Assistant, National Association of Enrolled Agents; William J. Dennis, Jr., Senior Research Fellow, National Federation of Independent Business Education Foundation; Donna Fisher, Director, Tax and Accounting, American Bankers Association; William C. Gager, President, Automotive Parts Rebuilders Association; Linda Goold, Tax Counsel, National Association of Realtors; Delna Gray, Director of Government Affairs and Tax Counsel, National Association of Home Builders; The Honorable Felix J., Grucci, Jr., a Representative in Congress from New York; Mark G. Heesen, President, National Venture Capital Association; Paul Hense, Chairman, Taxation Committee, National Small Business United; Pete Homer, President and Chief Executive Officer, National Indian Business Association; Edward S. Karl, Director, Taxation Division, American Institute of Certified Public Accountants; Karen Kerrigan, Chair, Small Business Survival Committee; The Honorable John F. Kerry, Committee on Small Business, and a United States Senator from Massachusetts; The Honorable Donald A. Manzullo, Chairman, House Committee on Small Business and a Representative in Congress from Illinois; Lee Mercer, President, National Association of Small Business Investment Companies; Paul G. Merski, Chief Economist and Director of Federal Tax Policy, Independent Community Bankers of America; The Honorable Grace F. Napolitano, a Representative in Congress from California; Terry Neese, Public Policy Advisor and Consultant, National Asso-

ciation of Women Business Owners and on behalf of the National Business Association & Grass Roots Impact; Wayne Nelson, President, Communicating for Agriculture; The Honorable Bill Pascrell, Jr., a Representative in Congress from New Jersey; The Honorable Mike Pence, a Representative in Congress from Indiana; Bernie Phillips, Tax Manager, National Society of Accountants; Martin A. Regalia, Vice President for Economic and Tax Policy and Chief Economist, U.S. Chamber of Commerce; John Satagaj, President and General Counsel, Small Business Legislative Council; Les Shapiro, President, Padgett Business Services Foundation; Jeff Shoaf, Executive Director, Congressional Relations, Associated General Contractors of America; Bob Stallman, President, American Farm Bureau Federation; The Honorable Nydia M. Velazquez, House Committee on Small Business and a Representative in Congress from New York; and Michael A. Wolyn, Executive Director, Bureau of Wholesale Sales Representatives.

Testimony at the roundtable highlighted small business support for President Bush's proposals to repeal the death tax and to cut marginal tax rates, and focused also on bipartisan, bicameral legislation introduced by Chairman Manzullo (H.R. 1037) and Chairman Bond (S. 189), entitled the Small Employer Tax Relief Act of 2001 (SETRA). SETRA is a bipartisan package of tax cut priorities and tax simplifications and protections for small businesses. Complementing the marginal rate reductions and death tax repeal that were then championed and later signed into law by President Bush, SETRA 2001 marked additional small business tax incentives to spur continued economic growth in the new millennium. Among many important provisions, the bill would provide several long-championed small business tax cuts, including immediately accelerating the 100 percent health insurance deduction for the self-employed, increasing expensing, simplifying cash accounting, repealing the outdated FUTA 0.2 percent surtax, simplifying the home office deduction, and repealing the individual alternative minimum.

For further information on this hearing, refer to the Committee publication 107–4.

7.2.4 BLACK BERET PROCUREMENT: BUSINESS AS USUAL AT THE PENTAGON?

Background

On May 2, 2001, the House Committee on Small Business held a hearing regarding the procurement of Black Berets from foreign suppliers and manufacturers, including the Peoples Republic of China, to the detriment of U.S. small businesses. The focus was on the short and long-term implications of the procurement policies of the Pentagon that favored China and other foreign countries as the supplier of berets for the Army rather than this Nation's small businesses. The unfortunate signal that the beret procurement sent, if uncorrected, was that the Pentagon had little concern for small businesses or the procurement laws and that expediency continued to be the order of the day. There was great concern that this procurement implied that it was business as usual in the Pentagon, despite the fact that there was a new Administration in Office. Par-

ticipation of small business enterprises in Federal procurement and Government contracts is a major focus of the Committee on Small Business.

Summary

This hearing consisted of three panels. The first panel was comprised of General Eric K. Shinseki, Chief of Staff, U.S. Army. The second panel consisted of the Honorable Walter B. Jones, United States House of Representatives (R–NC) and the Honorable Lois Capps, United States House of Representatives (D–CA). The third panel was made up of Lt. General Henry T. Glisson, Director, Defense Logistics Agency (DLA); Ms. Michele Goodman, President, Atlas Headwear; Mr. David Cooper, Director, Acquisition and Sourcing Management, U.S. General Accounting Office; Mr. John D. Whitmore, Jr., Acting Administrator, U.S. Small Business Administration; Mr. Evan Joffe, Springfield LLC; Mr. Steven L. Schooner, Associate Professor of Government Contracts Law, George Washington University Law School; and, the Honorable David R. Oliver, Acting Under Secretary of Defense, Acquisition, Technology and Logistics.

General Shinseki appeared as a witness to explain the Army's decision for requiring the black beret as the standard headgear for Army personnel. Adopting the black beret was part of the initiative to change the Army to meet the challenge of the 21st century. The black beret was described as being all about building cohesiveness in the Army and was stated to be the best reflection of the Army of the future. When it was announced on October 17, 2000 that the black beret would become the Army's standard, the Chief of Staff was unaware that the berets could not be procured domestically and would probably have adjusted the schedule to permit American production had he been aware of the problem. The Deputy Secretary of Defense made the decision not to use the black berets made in China. Also, the Pentagon cancelled contracts with three foreign companies for the production of black berets. Imposing an artificial deadline for delivery of the berets resulted in sending the business overseas. This cost U.S. small businesses millions of dollars. There are provisions for waiving the Berry amendment, but, if given enough time, the American apparel industry could have met the requirements of the procurement. Over the past decade, the U.S. textile and apparel industries lost 540,000 jobs. One week prior to the beret decision 1,000 textile workers lost their jobs in North Carolina.

The Army requirement called for the purchase of 3.9 million berets in a five-month period. The requirement also called for a one-piece rather than a two-piece beret. One-piece berets require a circular knitting machine, which is old technology, since modern, commercial berets are two-piece. American manufactures were largely shut out from the procurement because of an impossible delivery schedule. The Small and Disadvantaged Business Utilization Office at the Defense Supply Center at Philadelphia was by-passed, apparently inadvertently, in the procurement process. If the SBA had been consulted concerning the procurement, the matter would have been appealed. There was confusion as to who within DLA had the authority, if any, to waive the Berry amendment, which required

the berets to be made in the U.S. of American materials. The short time period in which to acquire the berets did not justify avoiding the congressionally mandated policy contained in the Berry amendment. In effect the Army asked its procurement system to do something that it could not do.

For further information on this hearing, refer to Committee publication 107–5.

7.2.5 HEALTH CARE FINANCING ADMINISTRATION PAPERWORK BURDENS

Background

On May 9, 2001, the Committee on Small Business held a hearing to examine the paperwork burdens imposed by the Health Care Financing Administration on small businesses that provide healthcare services under the Medicare program. The hearing was also held to see whether any changes are needed in the Paperwork Reduction Act—the landmark legislation enacted in 1980 to reduce the paperwork burdens on small businesses.

The Health Care Financing Administration is the government agency charged with administering Medicare, which often has been referred to as the country's largest health insurance provider. Medicare provides health care coverage to 38 million Americans.

The Office of Management and Budget's Office of Information and Regulatory Affairs (the agency that implements the Paperwork Reduction Action) has approved 219 collections of information for the Health Care Financing Administration. The total number of responses is about 1.7 billion, which take nearly 105.8 million hours to complete. The Office of Information and Regulatory Affairs estimates that completion of these forms cost $57.4 million. Of course, many in the health care professions believe that the estimates do not truly reflect the cost imposed on health care providers, the vast majority of which are small businesses.

Summary

The panelists were Dr. William H. Mahood; Dr. Alan Morris; Mr. Bruce D. Cummings, Chief Executive Officer, Blue Hill Memorial Hospital; Dr. Robert M. Anderton; and Mr. Craig Jeffries, Chief Executive Officer, Healthspan, Inc.

Dr. Mahood testified that two-thirds of the physicians in the United States are in practice groups with less than 25 employees and individual physicians spend one hour completing Medicare forms for every one to four hours of patient care. Dr. Mahood highlighted problems associated with the documentation guidelines needed to support billing for Medicare. Dr. Mahood also testified about the enrollment form that can take months for the Health Care Financing Administration to process.

Dr. Morris testified that his practice employs 26.5 people, 17 of whom are administrative employees and also retains an outside company to process paperwork. Dr. Morris noted that not only must they comply with regulations from the Health Care Financing Administration but also from the various carriers that the government has contracted with to process Medicare claims. Dr. Morris concurred with Dr. Mahood about the paperwork burdens associ-

ated with the evaluation and management guidelines and enrollment forms.

Mr. Cummings testified that paperwork burdens represented an insidious assault on the ability of small hospitals to function. Mr. Cummings presented a one-foot thick cost report that Blue Hill Hospital spent about $100,000 to prepare for a 25-bed hospital. Mr. Cummings reported that hospital personnel spent about 30 minutes on paperwork for every hour expended on patient care. Finally, Mr. Cummings noted that the Medicare Secondary Payer form must be filled out every time a patient comes into the hospital, even for daily outpatient visits.

Dr. Anderton noted that dental services are not covered under Medicare except in certain circumstances. Dr. Anderton noted that dentists must file Medicare claims with a carrier when requested to do so by a patient even though the dentist knows that the claim will be denied. This also requires dentists to enroll in Medicare even though the burden of doing so is outweighed by any potential benefit to the dentist or patient. Finally, Dr. Anderton raised concerns about medical record privacy rules that now include oral communications.

Mr. Jeffries testified that the Office of Information and Regulatory Affairs, approved certificate of medical necessity is regularly rejected by carriers as providing insufficient information to support reimbursement for durable medical equipment. This requires home health care agencies to maintain substantial additional records to demonstrate medical necessity. Mr. Jeffries concluded with a description of the OASIS form, the 80 questions contained in the form, and the 90 minutes that it takes to fill out this form. Mr. Jeffries noted that the OASIS form must be completed every 60 days even if there is no change in the status of the patient.

For further information on this hearing, refer to Committee publication 107–6.

7.2.6 U.S. SMALL BUSINESS ADMINISTRATION BUDGET REQUEST FY 2002

Background

On Wednesday, May 16, 2001, the Committee on Small Business held a hearing that focused on the Administration's proposed FY2002 budget for the U.S. Small Business Administration (SBA). As brief background, on February 28, 2001, the President submitted to Congress a budget outline entitled, A Blueprint for New Beginnings, which contains a plan to fund America's important priorities, reduce the federal debt, and to provide for tax relief for the American people. The details of that plan are contained in the proposed Budget for the United States for FY2002 submitted to Congress by the President on April 9, 2001. An important feature of the President's budget submission was the emphasis upon improving the performance of the Federal government. In line with the President's emphasis upon improved performance, SBA has included, as a part of its budget request to Congress for FY2002, the increments of a performance plan. The hearing focused of the adequacy of the budget request and the SBA's proposed performance plan.

Summary

The hearing consisted of two panels. The first panel had one witness, Mr. John Whitmore, Jr. Acting Administrator, SBA. The budget request of $539 million for the SBA focused on core programs, providing credit, capital, and technical assistance. It included $5 million for SBA's portion of the President's New Freedom Initiatives to help compliance with the American with Disabilities Act and $5 million as a part of the Drug Free Workplace Program. The budget proposed increasing the SCORE program by $250,000 to $4 million and providing $750,000 to fund veterans' business development programs (which had not been funded in FY2001). The small business development centers were proposed to be funded at a level of $88 million, $75.8 million coming from appropriations and $12 million from fees. An amount of $500,000 was included for a women's contract initiative study and a contract bundling study. The budget proposed increasing fees to make the 7(a), 504 loan program, and the venture capital program self-sufficient.

The second panel was comprised of: Ms. Diane Wolverton, State Director, Wyoming Small Business Development Centers (SBDCs); Mr. Anthony R. Wilkinson, President and Chief Executive Officer, The National Association of Government Guaranteed Lenders; Mr. Lee W. Mercer, President, National Association of Small Business Investment Companies; Ms. Zola Finch, Vice President for Congressional Relations, the National Association of Development Companies; and, Mr. David Means, Executive Director, Greater Newark Business Development Consortium. The proposal to require SBDCs to charge fees for business counseling found no support. There was testimony that the Office of Management and Budget has estimated that 7(a) borrowers and lenders have returned $1.257 billion to the Treasury since 1992 in overpayments due to inaccurate calculation of the subsidy rate. There was support in the venture capital industry for the President's budget proposal to increase fees since there was a need expressed for $3.5 billion in participating security leverage for fiscal year 2002 which would require increased fees or $65.5 million in appropriations, a 150 percent increase over FY2001. Concern was expressed with respect to the calculation of the fees for 504 loans based on rates used to project default, recovery, and debenture prepayment. General concern was expressed over a number of items presented in the budget.

For additional information on this hearing, refer to Committee publication 107–7.

7.2.7 ACCESS TO CAPITAL

Background

On May 17, 2001, the Committee on Small Business held a hearing to discuss tightening loan standards and the effect of stricter standards on access to capital for small businesses. The hearing focused on conditions affecting the Federal Reserve's March 26, 2001 survey that supported evidence of tighter loan standards for businesses attempting to obtain commercial and industrial credit. It was the first time since the 1998 financial crisis that the Federal Reserve conducted the survey—normally a quarterly report—ahead

of schedule. While stricter standards do not necessarily mean credit is unavailable, small and mid-sized businesses must be able to access the capital necessary for economic growth and survival. The Committee investigated whether, in the recent slowing economy, small businesses are accessing necessary credit through private lending.

Summary

One panel provided testimony for this hearing. Witnesses on the panel were: the Honorable Roger W. Ferguson, Vice Chairman of the Board of Governors of the Federal Reserve System; Dr. William C. Dunkelberg, Chief Economist, National Federation of Independent Business; Leslie S. Shapiro, President, Padgett Business Services Foundation; Arthur C. Johnson, Chairman and CEO, United Bank of Michigan; and Douglass M. Tatum, Partner and CEO, Tatum CFO Partners, LLP.

Testimony at the hearing highlighted the Federal Reserve's survey findings that half of bank respondents reported applying somewhat stricter standards to applications for commercial and industrial loans and credit lines by large and middle-market firms, and 43 percent reported tougher standards on small businesses. At the same time, 40 percent of domestic banks and 23 percent of foreign branches and agencies reported moderately or substantially weaker demand for loans.

Dr. Ferguson testified that half of our nation's private, non-farm output comes from small businesses and that our nation's economy depends greatly on the small business sector. Discussing the Federal Reserve's March survey and three past national surveys on small businesses in depth, Dr. Ferguson concluded that bank credit flows have been well maintained and that reports from small businesses are relatively upbeat with regard to the availability of credit. Concurring, Dr. Dunkelberg testified that NFIB data supports the absence of a credit crunch and that small businesses can still find capital despite the tightening of standards.

Accordingly, a timely article by John M. Berry in the Washington Post on May 4, 2001, entitled "Fed's Legwork Led to Quick Rate Cut—Firms Surveyed before April Surprise," credited the current attitude of businesses not attempting to obtain capital as a major factor in the Federal Reserve's surprise April 18, 2001, half-percentage-point cut in short-term interest rates. Among the remaining panelists, there was a lack of consensus on whether the small business community is experiencing a "credit crunch" or such tightening standards as to restrict small business access to capital. Nonetheless, anecdotal evidence at the hearing revealed the possibility of an emerging credit crunch affecting the manufacturing sector—in particular small and mid-sized manufacturers—and small businesses generally. Furthermore, Mr. Tatum's testimony revealed the ongoing difficulty of small and mid-sized businesses to access capital between $250,000 and $1 million—referring to this credit gap as "No Man's Land" where companies "too small to be big and too big to be small" cannot access the capital they need to grow and to expand.

For further information on this hearing, refer to the Committee publication 107–8.

7.2.8 SBA PROGRAMS FOR VETERANS AND THE NATIONAL VETERANS BUSINESS DEVELOPMENT CORPORATION

Background

On Wednesday, May 23, 2001, the Committee on Small Business held a hearing to evaluate the past and present performance of the Small Business Administration in providing assistance to veterans. The hearing examined the implementation of Public Law 106–50, the "Veterans Entrepreneurship and Small Business Development Act of 1999," signed into law by President Clinton on August 17, 1999. The law requires that specific technical, financial, and procurement assistance be provided to veterans. The Department of Veterans Affairs, the SBA, the Association of Small Business Development Centers, and the Service Corps of Retired Executives (SCORE) are the principal entities mandated by law to provide this assistance. In the past, many veterans have expressed concern that SBA and other federal agencies were ignoring the financial and entrepreneurial needs of veterans who own or want to start small businesses. In addition, the statute created the National Veterans Business Development Corporation to improve veterans access to technical assistance and to assist veterans, including service disabled veterans, with the formation and expansion of small business concerns by working with and organizing public and private resources. The hearing will provide oversight as to the progress that the Corporation has made in implementing the provisions of the law.

Summary

The hearing was comprised of a single panel which included: Mr. William Elmore, Associate Administrator for Veterans Affairs, SBA; Mr. Robert Glassman, Chairman of the Board, National Veterans Business Development Corporation; Mr. Blake C. Ortner, Associate Legislative Director, Paralyzed Veterans of America; Mr. Anthony L. Eiland, Special Assistant for Veterans Employment, Veterans of Foreign Wars of the U.S.; Mr. William C. Crandall, Director of Government Relations, Association for Service Disabled Veterans; and Mr. Rick Weidman, Director of Government Relations, Vietnam Veterans of America. SBA is required by law to provide special consideration to veterans and service-disabled veterans for their service to this country. Also by law, federal agencies must meet a procurement goal for prime contracts of three percent for service-disabled veterans.

Many agencies have ignored these requirements and have reported a zero percent achievement of the prime contract goal. There was testimony that that SBA was taking specific measures to assist veterans, including the establishment of an Office of Veterans Business Development. Additionally, the National Veterans Business Development Corporation was established as the President had appointed a federally chartered corporation in the District of Columbia in October of 1999, and as of the hearing, eight of the nine voting directors. Because many service-disabled veterans have difficulty finding employment, self-employment and small business ownership is essential to the well being of many of these individ-

uals. Many participants testified that, while steps are being taken to improve the standing of veterans and service-disabled veterans, many more tangible steps must be taken. Congressional oversight is essential to seeing that the services to veterans mandated by statute are in fact provided.

For more information concerning this hearing, refer to Committee publication 107–10.

7.2.9 FEDERAL PRISON INDUSTRIES AND ITS EFFECTS ON SMALL BUSINESS

Background

On June 6, 2001, the Committee on Small Business held a hearing on the role Federal Prison Industries (FPI) plays in government procurement, the effect it has on small business, and the provisions of H.R. 1577, the Federal Prison Industries Competition in Contracting Act.

When Congress created FPI in 1934, lawmakers gave FPI a mandatory source preference that requires federal agencies to purchase goods made by federal inmates, in most circumstances, unless the agency receives permission from FPI to use another source. FPI, which employs 21,000 inmates at factories inside 68 federal prisons, reaped $566 million in contracts from federal agencies last year. In the past five years, the number of industries in which FPI is involved nearly doubled, making FPI the 40th largest federal contractor, ahead of Motorola.

FPI recently has expanded into the services sector, causing new concerns. Also, a less than transparent decision-making process (FPI's Board of Directors meets in secret) has made accountability difficult. This hearing is the latest in a series of FPI oversight hearings by various congressional committees in recent years.

H.R. 1577 takes several steps in the right direction, as reflected in the testimony of its congressional sponsors and the brief summary of its provisions, below.

Summary

Two panels of witnesses testified. The first panel comprised two sponsors of H.R. 1577, Representatives Peter Hoekstra (R–MI) and Carolyn Maloney (D–NY). The second panel consisted of Joseph Aragon, Chairman, Federal Prison Industries; Bobbi Gentile, President, Q-Mark; Robert DeGroft, President, Source One Office Furnishings; Kass Green, President, Pacific Meridan Resources; and Carl Votteler, Federal Managers Association.

Representative Hoekstra testified to the disproportionate way that FPI affects small business owners and entrepreneurs because they are automatically shut out of bidding on federal contracts by an agency that is funded through their tax dollars. Representative Maloney spoke of a constituent company that overnight lost a contract to FPI because federal law mandates use of FPI products when FPI certifies that it can produce to specification. She explained that FPI ignored its own procedures, by-passing a hearing and other forms of transparency. She noted that competitive pricing is not a factor as long as FPI does "not exceed the highest price offered to the government."

During questions, Representative Velazquez, the ranking member of the Committee, asked whether the legislation would require FPI to access capital at market rates instead of preferential, reduced rates from the U.S. Treasury. The bill's sponsors took this suggestion under advisement.

The second panel testified to various specific instances involving FPI competition, with only FPI Chairman Aragon (accompanied by FPI Chief Operating Officer, Steve Schwalb) defending FPI's practices and advantages. The bulk of the hearing testimony, along with studies by the General Accounting Office, indicated that small businesses are shut out of many federal contracts by prison labor. Panel witnesses called on Congress to reform the prison system's role in federal procurement to let small businesses compete for these federal contracts. Several small business witnesses testified that they only wanted the "opportunity to compete" against FPI for the office products, furniture, and other supplies the federal government buys each year.

The Federal Prison Industries Competition in Contracting Act of 2001 (H.R. 1577) would require competitive procedures for purchasing prison-made products. It also would require FPI to comply with Federal occupational, health, and safety standards regarding its industrial operations. The bill would mandate an analysis of the probable impact of any proposed expansion of inmate-work activities on private sector firms whenever FPI proposes to authorize the sale of a new specific product or service or to expand production of a current product or service.

For further information about this hearing, refer to Committee publication number 107–11.

7.2.10 THE EXPORT-IMPORT BANK: WHAT HAS EX-IM DONE FOR SMALL BUSINESS LATELY?

Background

This hearing on the Export-Import Bank of the United States (Ex-Im) and its assistance to small business exporters was conducted on June 13, 2001. Ex-Im is the chief U.S. government agency that helps finance American exports. Ex-Im provides guarantees and insurance to commercial banks to make trade credits available to U.S. exporters on a limited basis, primarily to counter subsidized trade credits offered to foreign exporters by their governments.

The purpose of the hearing was to focus on the impact of Ex-Im on small business. Specifically, the hearing allowed the witnesses to testify as to how its programs directly benefit small business and its indirect impact on small business export growth. Additionally, Ex-Im's authorization expires September 30, 2001. Consequently, the hearing provided Members the opportunity to examine issues relating to its reauthorization as well as the Administration's proposed FY2002 budget cut for Ex-Im.

Summary

The hearing comprised of one panel, including: The Honorable Vanessa Weaver, Board Member, Export-Import Bank of the United States; Ms. Sharon K. DeDoncker, Vice President, Aqua-Aerobic Systems, Inc.; Mr. Joseph Waters, President, Hoffman

International; Mr. George Barr, Founder, Anatech, Ltd.; and, Mr. Kenneth Petrilla, Senior Vice President, Wells Fargo HSCB Trade Bank, N.A. In light of the Administration's proposal to cut Ex-Im's funding by nearly 25 percent, a number of the witnesses expressed concerns about the potential impact on small businesses and small business lending.

Conversely, a number of witnesses advocated the expansion of Ex-Im's budget to ensure they remain competitive with their foreign counterparts. Additionally, while she did advocate on behalf of the Administration's budget proposal, Vanessa Weaver did assure the Committee these cuts will not come at the expense of small businesses who use Ex-Im to finance export transactions.

Further, it was acknowledged that Ex-Im frequently finances aircraft sales for Boeing, thus earning Ex-Im the name "Boeing's Bank". However, these sales often have a trickle down effect for indirect exporters. Further, presently 97 percent of all exports are completed by small businesses. However, only one percent of small businesses are engaged in the export market.

Therefore, the potential exists for Ex-Im to significantly increase their involvement in small business exports.

The hearing concluded with an expression of serious concern over the impact of the proposed 25 percent cut in Ex-Im and in support of Ex-Im's overall reauthorization.

For further information about this hearing, please refer to Committee publication 107–12.

7.2.11 PROCUREMENT POLICIES OF THE PENTAGON WITH RESPECT TO SMALL BUSINESSES AND THE NEW ADMINISTRATION

Background

On Wednesday, May 20, 2001, the Committee on Small Business held a hearing that focused on the Pentagon's procurement policies. Based on figures provided by the Pentagon, in FY2000, the Department of Defense awarded over $122 billion in prime contracts to all U.S. business firms, of which approximately $26.9 billion went to small businesses. It was clear from these figures that the procurement of goods and services by the Department of Defense is an important market to small businesses. The polices that the new Administration at the Pentagon adopts in the conduct of its procurement programs is of immediate concern to small businesses and can have an important impact upon procurement policies implemented by other Federal agencies. In the past, small businesses have encountered a number of problems with the Department of Defense's procurement policies. As examples, the Pentagon has failed to meet minimum procurement goals established by statute, the number of prime contract awards to small businesses has declined, and the bundling of contacts has severely affected small businesses.

Summary

There was one panel consisting of: Deidre A. Lee, Director, Defense Procurement, Office of the Secretary of Defense; Susan M. Walthall, Acting Chief Counsel, Office of Advocacy, U.S. Small

Business Administration; Ken McLaughlin, Small Firm Council, American Council of Engineering Companies; Maurice Allain, President, Phoenix Scientific Corporation; Kathleen Diamond, President and CEO, Language Learning Enterprises, Incorporated; and, Rick Weidman, Director, Government Relations, Vietnam Veterans of America.

It was reported that in FY2000, $48 billion was spent by the Department of Defense (DOD) with small businesses, of which $29 billion went to small firms as prime contractors. However, it was pointed out that DOD needs to do better which will require a great deal of commitment to improve and reach the statutory goals. The view was expressed with respect to federal agency use of credit cards that the small business community was not getting a proportional share of the procurement dollars. It was also noted that the use by agencies of multiple award contacts and government-wide contracts reduces opportunities for small businesses. However, the major force reducing participation of small businesses in the federal procurement is contract bundling.

It was emphasized that there is a major difference for a small business as a prime contractor with the federal government as compared to a subcontractor. As a prime contractor a small business is more in control of the outcome, completely responsible to the contracting agency, are recognized for a job well done, and are assured of payment directly from the federal government. Bundling of contracts has been devastating to small businesses, absorbing many opportunities formally performed by small businesses. It was pointed out that there was no incentive to make awards to women-owned small businesses, assuming the competitors are equal. It was reported that little progress had been made at DOD in meeting the goals for veterans and especially service-disabled veterans.

For further information about this hearing, please refer to Committee publication 107–13.

7.2.12 SMALL BUSINESS TO HEALTHCARE

Background

On July 9, 2001, the Committee on Small Business held a field hearing in Arlington Heights, Illinois on small business access to healthcare. The purpose of the hearing was to provide a forum to discuss the problems that small businesses have providing their employees healthcare. There was also discussion of options and solutions to the growing epidemic of rising health care costs.

Small businesses often lack access to affordable health coverage. In fact, over 60 percent of the 38.7 million uninsured Americans have one thing in common; they are either self-employed or have a family member who is employed by a small business that cannot afford to provide health benefits. Currently, the self-employed can deduct only 70 percent of the high costs of healthcare while large businesses can deduct 100 percent. In 1998, Congress passed legislation to allow full deductibility for the self-employed in the year 2003. However, self-employed business people with no health care coverage need immediate assistance when members of their families become sick or injured. There are several legislation options that are being discussed to ease the burdens on small employers,

most notably Association Health Plans (AHPs) and expansion of Medical Savings Accounts (MSAs).

Association Health Plans (AHPs) will provide greater choice and access to affordable, high quality, private sector health insurance for millions of working families employed in small businesses. AHPs empower small business owners, who currently cannot afford to offer health insurance to their employees, to access health insurance through trade and professional associations and Chambers of Commerce. The small business owners who are members of the associations can buy into these plans for themselves and their employees. These associations would cover very large groups, would enjoy large economies of scale to that of a large business or union, and could offer self-funded plans that would not have to provide any margin for insurance company profits.

Expansion of Medical Savings Accounts (MSAs) will make insurance more affordable for businesses with qualifying high deductible plans. Expansion of MSAs will encourage more individuals to place tax-deductible funds into savings accounts for use in routine medical care while still allowing a wide choice among doctors.

Summary

There was one panel of witnesses, comprised of: Ms. Michelle Kuhn, President, Aeffect, Inc.; Mr. Douglas Weber, President & CEO, United Way of Lake County; Mr. Sammy Davis, President and Owner, Handyman at Work; Mr. Patrick H. Canary, Owner, PHC Enterprises Inc., dba Alphagraphics; Ms. Erika Berman, Senior Human Resources Manager, The Revere Group.

The participants all testified to the spiraling costs each year of their health care costs. Small businesses have had great difficulty providing health insurance to their families, employees and the families of their employees because of the expense and that they lack the economies scale that large corporations or labor unions have when purchasing health insurance. All the witnesses testified that something must be done to control the escalating cost of health care.

Of the five witnesses, four were able to provide health care to their employees. The single witness that was not able to provide insurance testified that being a small company only employing six or seven people, he could not afford to cover them and that all his employees, including himself, received their health care through their spouse. The remaining witnesses all testified to double-digit increases in premiums. One witness who ran a non-profit was only able to provide health care to his employees; dependents were paid for out of pocket by the employee. All testified that providing health care was critical to hiring and retaining quality employees in order to maintain a competitive business. At the same time, the spiraling health care cost represented a major threat to small businesses that typically all operate on tight margins. All the panelists testified that they wanted to provide health care and thought providing it was the "right" thing to do for employees.

For further information on this hearing, refer to Committee publication 107–16.

7.2.13 THE REGULATORY MORASS AT THE CENTERS FOR MEDICARE AND MEDICAID SERVICES: A PRESCRIPTION FOR BAD MEDICINE

Background

On July 11, 2001, the Committee on Small Business held a hearing to examine regulatory burdens imposed by the Centers for Medicare and Medicaid Services (formerly known as the Health Care Financing Administration) on small businesses that provide healthcare services under the Medicare program. This was the second hearing examining regulatory problems associated with the Medicare program. In the Committee's May 9, 2001 hearing, the Committee focused on deluge of paperwork generated by Medicare. The July 11, 2001 hearing addressed non-paperwork burdens imposed on small healthcare providers.

The premise of Medicare is quite simple—health care providers render a service to Medicare-eligible recipients and the Medicare program should reimburse them at a rate that allows the provider to stay in business. Yet, the Medicare program appears to be drowning providers in regulatory morass. Regulations promulgated by the government and additional material developed by the carriers that process reimbursements now run to more than 130,000 pages. Federal contractors have substantial discretion to operate the reimbursement process with little oversight from the federal government. Health care providers, the vast majority of which are small businesses, suffer unduly in this regulatory swamp.

Summary

The first panel consisted of the Hon. Patrick J. Toomey (R–PA) and the Hon. Shelley Berkley (D–NV). Witnesses on the second panel were: Dr. Michael Hulsebus, Rockford, IL; Dr. David Whitson, Allentown, PA; Mr. Brian Seeley, Chief Executive Officer, Seeley Medical, Inc., Ormond Beach, FL; Phillip Chase, The Chase Group, Thousand Oaks, CA; Mr. Norman Goldhecht, Executive Vice President, Diagnostic Health Systems, Lakewood, NJ.

Representative Berkley first noted that the regulations governing Medicare significantly outweigh the basic textbooks used by medical students in learning medicine. Representative Berkley went on to testify that she knew of a physician whose practice was decimated while the Health Care Financing Administration and the Part B carrier audited his practice resulting in finding $900 of overpayments. She also noted that another constituent was forced to retire rather than continue to fight through the regulatory morass created by the Health Care Financing Administration. Representative Berkley concluded with an appeal for support of the Medicare Education and Regulatory Fairness Act.

Representative Toomey noted that the voluminous regulations associated with the Medicare program represent a fundamental structural flaw in the program. Representative Toomey noted that it did not make sense to impose undue regulatory burdens on most physicians in order to capture a few health care providers that might try to game the system. He also noted that these burdensome regulations actually reduce the amount of time that physi-

cians spend with their patients. Representative Toomey then noted that the Medicare Education and Regulatory Fairness Act will: (a) prohibit retroactive application of regulations; (b) permit repayment plans for overpayments rather than automatic reductions in future payments; (c) prevents the federal government from recouping a payment while an appeal is still pending; (d) authorizes the return of overpayments without penalties if discovered by a self-audit; (e) establishes a safe harbor so that providers can submit claims to learn how to correctly code them without fear of investigation and penalty; and (f) mandates that new evaluation and management guidelines be tested before being implemented.

Dr. Hulsebus testified about his experience with an audit by a Part B Medicare carrier—Wisconsin Physician Services. He noted that they determined that he owed substantial sums of money because his chiropractic care was determined to be medically unnecessary and that he did not document the procedures that he performed correctly. Dr. Hulsebus noted that the reviewer did not examine X-rays and was not a chiropractor. Furthermore, Dr. Hulsebus noted that HCFA (now the Centers for Medicare and Medicaid Services) agreed with him and reduced the overpayment down to zero.

Dr. Whitson testified about the evaluation and management guidelines and their absurdity. Dr. Whitson noted that it requires significant detail that would not be used by physicians normally and that make it difficult, if not impossible, to find relevant medical history information about a patient. Dr. Whitson noted that the need for this detail is because Part B carriers assume that if it is not written down the procedure was not performed. In other words, Dr. Whitson noted that the carriers automatically assume that the providers are being dishonest.

Mr. Seeley testified that 99 percent of all providers of durable medical equipment have revenue of less than five million dollars. Mr. Seeley explained that CMS, pursuant to Congressional mandate, established a separate category of carriers to process claims for durable medical equipment covered by Medicare. These DMERCs, according to Mr. Seeley, have sufficient discretion to impose standards that even directly contradict guidance from CMS. Mr. Seeley noted that a particularly insidious problem was extrapolation in which CMS might examine 50 claims and assume that all claims made by the durable medical equipment supplier followed that identical pattern.

Mr. Chase commenced his testimony by citing problems, both operational and financial, that skilled nursing facilities face. Mr. Chase then testified about the catch-22 facing nursing home operators. If they have a low number of citations it is assumed that the state (which inspects nursing homes on behalf of CMS) is not providing sufficient oversight. On the other hand, if the number of citations is high, then the nursing facility must not be providing adequate health care. Mr. Chase noted that CMS and the skilled nursing facility industry require a consultative rather than an antagonistic relationship. Mr. Chase also noted the need for a timely appeals process that does not unduly burden small businesses with extraordinary legal expenses in an effort to protect them.

Mr. Goldhecht testified that CMS does not perform an adequate assessment of the impact of its regulations on small businesses as required by the Regulatory Flexibility Act. Mr. Goldhecht also noted that the policy against reimbursing providers for transportation costs for portable electrocardiogram diagnosis might be pennywise and pound-foolish which would be especially problematic in rural areas. Finally, Mr. Goldhecht noted that consolidated billing for skilled nursing facilities, as mandated by the BBA of 1997, created enormous reimbursement problems for portable EKG providers.

For further information on this hearing, refer to Committee publication 107–17.

7.2.14 FEDERAL GOVERNMENT COMPETITION WITH SMALL BUSINESS

Background

On Wednesday, July 18, 2001, the Committee on Small Business held a hearing on the impact of direct government competition with small businesses. The examples showed a pattern that costs small businesses contracts, revenues, and jobs. Such competition by government is exceedingly unfair, since government entities share little or none of the regulatory and tax burdens imposed on small business. The government can underbid its private competition because the government is subsidized and does not have to account for its spending in the way that a private business does. Moreover, a small business actually is forced to support its government competitors through the taxes it pays.

Specific situations explored at the hearing included: (1) a private laundry owner forced to compete with a VA Hospital in Illinois; (2) a private mailbox service in Granville, NY forced out of business by the U.S. Postal Service; (3) an Alaskan campground owner and a D.C. tourmobile operator forced to compete with the National Park Service; and (4) a charter bus service forced to compete with the Federal Transit Authority.

Summary

Two panels of witnesses testified. The first panel consisted of John Eakes, Owner/President, Royal Laundry Systems; Arthur Hamerschlag, Deputy Chief Financial Officer, Veterans Health Administration, Department of Veterans Affairs; Rick Merritt, Executive Director, Postal Watch; Gregory Tucci, Past Owner, P.A.S.S. of Granville; and Michael Spates, Manager of Delivery Options, U.S. Postal Service. The second panel included Dan Mastromarco, Travel Council for Fair Competition; Scott Reisland, Owner/Manager, Denali Grizzly Bear Cabins/Campground; Tom Mack, Owner/President, Tourmobile, Inc.; Clyde Hart, Jr., Vice-President, American Bus Association; and Greg Felt, Canyon Marine, Inc. (by written testimony only).

Mr. Eakes testified to unfair competition from a VA Hospital in Greater Chicago, resulting in several lost contracts. Mr. Eakes stated it costs him 24 cents per pound to process laundry (fair market price in Chicago is 29 cents per pound) and that the VA Hospital has underbid him by offering a price of 23 cents per pound. A GAO

report stated that as of FY 1999 it costs the VA 35 cents per pound for laundry. The VA underbids Mr. Eakes because the taxpayers, including Mr. Eakes, subsidize its costs. In welcome responsive testimony, Mr. Hamerschlag of the VA offered to rectify this situation immediately and declared that the VA was getting out of the private laundry business.

Substantial testimony was given against the U.S. Postal Service (USPS). USPS pays no state or local taxes, has a $15 billion line of credit from the U.S. Treasury, and spends over $100 million advertising for its goods and services. In March of 1999, USPS promulgated rules against businesses offering private mailbox rentals, resulting in the bankruptcy of many such private competitors. The Postal Service Inspector General, however, concluded "the Postal Service did not demonstrate the need for regulatory change by presenting statistical or scientific data to support its claims of mail fraud conducted through private mailboxes."

Denali National Park (DNP) in Alaska has stated its intention to build additional campsites and camper convenience services in direct competition with the private sector. DNP will charge less for its campsites and RV sites, which already enjoy the advantage of being "in" the National Park, under-bidding the private operators who offer the same services and testified they can increase levels of service as needed. [Subsequent compromises by the National Park Service (NPS) resolved many of these issues.]

Tourmobile, a private concessionaire to the National Park Service (NPS), has successfully operated the fleet of tourmobile trams that ferry tourists around Washington, D.C. However, DC–BID (Downtown Business Improvement District), in violation of Tourmobile's NPS concessionaire contract, has proposed the establishment of a competing, taxpayer-funded tourmobile service with the approval of NPS and public funding from the Department of Transportation (DOT) and the museums of the metropolitan area.

The American Bus Association testified on how small business charter bus companies are losing contracts to federally funded local transit authorities. The Federal Transit Authority of the DOT provides local governments with federal funds to meet area mass transit needs, but federal law forbids the use of such funds if there is a pre-existing private transit service. Many small businesses provide charter services for group transportation to sporting and other recreational events. In many cases, however, city buses are providing this same service at federally funded, significantly reduced cost.

During questions, many members of the Committee actively questioned Mr. Spates of the USPS, and invited discussion on his testimony. Chairman Manzullo declared that written questions from the Committee to USPS would follow the hearing, which would be held open to receive the answers. [These questions and related correspondence may be found in the hearing record.]

For further information about this hearing, refer to the Committee publication number 107–19.

7.2.15 REDUCING REGULATORY AND PAPERWORK BURDENS ON SMALL HEALTHCARE PROVIDERS: PROPOSALS FROM THE EXECUTIVE BRANCH

Background

On July 25, 2001, the Committee on Small Business held a hearing to obtain suggestions from the Executive Branch on ways to reduce the regulatory and paperwork burdens imposed by the Centers for Medicare and Medicaid Services (CMS) on small health care providers. The hearing was a third in a series of hearings conducted by the Committee in which examined the paperwork burdens and regulatory entanglements facing health care professionals providing services to Medicare recipients.

The recordkeeping and reporting requirements imposed by CMS provide little in the way of information and probably inhibit the provision of sound medical care. The non-paperwork regulatory burdens do not benefit either providers or Medicare recipients. The system that has been created constitutes a maze that snares those least able to afford the legal and financial resources necessary to wend their way out. Legislation introduced by Mr. Toomey (R–PA), the Medicare Education and Regulatory Fairness Act is one effort at reducing the regulatory burdens imposed on physicians. The heads of CMS and the Office of Information and Regulatory Affairs could offer non-legislative solutions in their oversight of the implementation of the Medicare provisions of the Social Security Act and the Paperwork Reduction Act.

Summary

The panel consisted of the Hon. Thomas Scully, Administrator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, Washington, DC; Hon. Dr. John Graham, Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget; and Mr. George Grob, Deputy Inspector General for Evaluations and Inspections, Department of Health and Human Services.

Mr. Scully concurred with the judgment of the Committee that changes needed to be made to the operation of the Medicare program to reduce the regulatory burdens on health care providers. Mr. Scully noted that changes will take place. Some may be imminent such as modification to Form 855. Other actions include the establishment of a regulatory reform task force within CMS. Mr. Scully also will be overseeing various working groups of providers to obtain their input on the necessary changes. Mr. Scully also is conducting listening sessions around the country to hear about the problems facing health care providers. CMS also will embolden and empower its employees to develop creative solutions that reduce and streamline the Medicare process. Mr. Scully intends to issue regulations on a specific date each month and reduce the number of contractors that process claims. Finally, CMS wants to institute an education program for seniors so that they better understand Medicare, which could reduce the friction between providers and patients.

Dr. Graham testified that OIRA will aggressively enforce the Paperwork Reduction Act. Among the items that OIRA will assess are the need for CMS to have the information and whether the burdens of collecting the information outweigh the utility to the public.

Mr. Grob noted that fundamental structural problems exist with the contractors that CMS uses to process claims, such as the absence of dual entry accounting systems that would be required by any other large business pursuant to SEC regulations and generally accepted accounting principles. Mr. Grob also noted the legislative limitations on the type of contractors that can process claims and the ability of CMS to cancel those contracts. Mr. Grob also noted that the appeals process takes too long and has four levels of review in which each level utilizes a different standard of review. Mr. Grob also noted that the Office of Inspector General programs have reduced the number of billing errors by half from 23 billion to 12 billion dollars. Mr. Grob did not specify how much of that error was due to fraud versus innocent mistakes in coding of claims.

For further information on this hearing, refer to Committee publication 107–23.

7.2.16 SMALL BUSINESS VIEWS ON FEDERAL GOVERNMENT PROCUREMENT AND OTHER PROGRAMS

Background

On August 27, 2001, the Committee on Small Business held a field hearing in Albuquerque, NM, to allow New Mexico small business owners to express their views about federal government programs, particularly in regard to the Department of Energy. Despite the importance of small businesses to the economy of this Nation, some small businesses have had problems in finding federal procurement opportunities and in doing business with the federal government. A central focus of this hearing was reviewing the challenges that small, disadvantaged, and minority business owners face in the federal procurement arena.

Another focus of this hearing is to learn how small business owners have succeeded—whether by reliance solely upon the private sector or with some assistance by federal programs—in order to help others become, or continue to be, successful small business owners. This hearing will provide a forum for the expression of views with respect to federal government programs for the purpose of addressing any problems, where feasible, with remedial legislation. The federal government should be user friendly since it is the taxpayers who pay for every federal program and the salaries of those who administer them.

Summary

The hearing was comprised on one panel consisting of: Mr. John Browne, Director, Los Alamos National Laboratory; Mr. Buck Coonce, Laboratory Administrative Office, Office of the President, University of California; Mr. David Cordova, Eight Northern Indian Pueblo Council, Inc.; Ms. Patty Wagner, Assistant Manager, Department of Energy, Albuquerque Operation Office; Mr. Mario Martinez, New Mexico Office Products; Mr. Antonio Montoya, L&M

Technologies; Ms. Michelle Morales, CJ Enterprises, Inc.; Ms. Joan Woodard, Executive Vice President & Deputy Director, Sandia National Laboratories; Mr. Abe Salazar, Computer Assets, Inc.; and Dr. Inez Triay, Manager, Carlsbad Field Office.

Witnesses testified to their experiences with Sandia National Laboratories and Los Alamos National Laboratories. There was a consensus among those who testified with regard to their experiences with Sandia and Los Alamos. It was felt that Sandia National Laboratories was accessible for small businesses to compete for federal contracts and that Sandia made a concerted effort to ensure that small entrepreneurs received fair consideration. However, there was an overwhelming consensus that Los Alamos National Laboratories showed a bias against area small businesses and showed little incentive to award prime contracts to them. Moreover, testimony indicated that contracts routinely were "bundled" and awarded to large companies instead of small businesses.

For further information on this hearing, refer to Committee publication 107–25.

7.2.17 ENCOURAGING THE GROWTH OF MINORITY-OWNED SMALL BUSINESSES AND MINORITY ENTREPRENEURSHIP

Background

The Committee on Small Business held a field hearing on August 27, 2001 in Albuquerque, New Mexico. A central focus of this hearing was reviewing the challenges that small, disadvantaged, and minority business owners face in the federal procurement arena. Another focus of this hearing was to learn how small business owners have succeeded whether by reliance solely upon the private sector or with some assistance by federal programs, in order to help others become, or continue to be, successful small business owners. Are Federal programs helpful? For example, have the loan programs administered by the Small Business Administration provided needed access to capital? Have federal regulations proved burdensome and needless? This hearing provided a forum for the expression of views with respect to federal government programs for the purpose of addressing any problems, where feasible, with remedial legislation.

Summary

The hearing consisted of one panel: Tina M. Cordova, President, Queston Construction, Inc.; Ms. Anna Muller, President, Neda Business Consultants, Inc.; Evaristo J. Bonano, Ph.D., President of Beta Corporation International; Ms. Joan E. Schlueter, President and CEO, Onsite Hiring Consultants; Mr. Joe A. Powdrell, Mr. Powdrell's Barbeque House; Mr. Don Furtivo, Commercial Loans, SBA Division, Matrix Capital Bank; Mr. Michael Canfield, President and CEO, Valliant Enterprises, Inc.; and, Miguel Rios, Jr., Ph.D., CEO, Orion International Technologies, Inc. It was noted at the start that New Mexico has the highest per capita ownership of businesses by Hispanics in the Nation—22 percent of the businesses in New Mexico are owned by Hispanics.

Growth in Hispanic owned businesses is attributed in large measure to the rapid growth of Hispanic women-owned small busi-

nesses. However, the view was expressed that Hispanics were underrepresented in the 8(a) program and that the dollar value of 8(a) contracts in New Mexico had rapidly declined in the five-year period from 1995 to 2000. A number of causes were cited for this decline, e.g., contract bundling, use of GSA schedules, government-wide acquisition contracts (GWACS) and credit cards. It was recommended that the net worth limit for owners of 8(a) businesses be raised and the size standards for small businesses be increased.

No progress was seen in reducing contract bundling as a result of regulations put in place in December 1999. Just the opposite was observed—an increase in contract bundling with apparently no significant cost savings. Bundling contracts could be characterized as a method of setting-aside procurement opportunities for large businesses since the practice effectively hinders small businesses from competing. Examples were provided of hurdles faced by women-owned small business in competing in the federal procurement arena. These obstacles include slow payment, bundling, preference for large businesses, and burdensome paperwork.

It was stated that the process used to certify a small business under the 8(a) program was too complicated and that there are problems in obtaining access to capital, even with respect to established businesses. However, the SBA loan program has been able to provide financing for more than 40,000 borrowers each year, but the view was expressed that the fee structure at the time was too high. A 7(a) loan assisted one of the businesses in the purchase of the building in which it operated. The view was expressed that small businesses have been under pressure to prosper when competing in the federal procurement marketplace. The 8(a) program has not had great successes in helping large numbers of eligible small businesses enter the mainstream of the private sector.

For further information concerning this hearing, refer to Committee publication 107–26.

7.2.18 CRITIAL ISSUES AFFECTING LONG ISLAND

Background

On August 30, 2001, the Committee on Small Business held a field hearing in Riverhead, NY to examine issues affecting Long Island's small businesses and proposed solutions involving the federal government. Discussion touched on the local impact and operations of Small Business Administration (SBA) programs including, Small Business Development Centers (SBDCs), Service Core of Retired Executives (SCORE), and SBA partners.

Suffolk County is one of the most diverse areas of the country, encompassing historic Montauk Point, the Hamptons, Brookhaven National Laboratory, educational institutions such as State University of New York at Stony Brook, and many "main street" small towns lined with classic small businesses. Local small businesses run the gamut and balance issues of seasonal tourism, coastal storms, and the high cost of living. Many of these businesses are family-owned and have been passed on for generations. Long Island, including the counties of Nassau and Suffolk, thrives on its tourism, high-tech, and information technology sectors, composed almost entirely of small businesses. Overall, small businesses on

Long Island account for 92 percent of all business and provide more than 75 percent of all jobs.

Summary

The hearing consisted of one panel as follows: Aubrey Rogers, New York State Director and Acting Regional Administrator, Small Business Administration; James King, New York State Director, Small Business Development Centers; Judith McEvoy, Director, New York State Small Business Development Centers at SUNY-Stony Brook; Robert Kozakiewicz, Supervisor, Town of Riverhead; Anthony Aloisio, Director of Economic Development, Town of Brookhaven; Marion Cohn, Assistant Director of Government Affairs, Long Island Association; Roslyn Goldmacher, President/Founder, Long Island Development Corporation; Judith Shivak, Executive Director, Greater Smithtown Chamber of Commerce; Sima Freierman, General Manager, Montauk Intel Seafood. Mr. William Grimm, Commercial Fisherman and Partner, Montauk Inlet Seafood submitted written testimony.

SBA witnesses explained SBA's presence on Long Island. In 1978, SBA established a branch office in Melville, NY to address Long Island's business concerns and provide better service to this area. Currently, the Melville office is staffed by nine people and supports two SBDCs and four SCORE chapters. SBA has launched a New Markets Venture Capital program to assist with venture capital needs in low-income rural and urban areas. This office also works with 15 Long Island lenders. SBDC is a partnership between the SBA, the State of New York, higher education centers, and the private sector. SBDCs provide consultation, training, and research for area small businesses.

Witnesses testified to many impediments for Long Island's entrepreneurs, including poor access to capital (sometimes brought on by bank mergers); federal regulatory burdens; and worker-retention difficulties due to an inadequate and over-burdened transportation system and a chronic lack of affordable housing. Legislative options included: (1) continue and expand SBA's guarantee programs; (2) raise the capital expenditure for Industrial Revenue Bonds (IRBs); (3) increase government guarantees rather than direct lending programs for small business; and (4) encourage SBA partnerships instead of "direct ownership" of program. Also, there was support for (1) H.R. 203, the National Small Business Regulatory Assistance Act, (2) H.R. 2538, the Native American Small Business Development Act, (3) H.R. 2666, the Vocational and Technical Entrepreneurship Act, and (4) reauthorization of the Small Business Technical Transfer Research Program.

During questions, Representative Grucci queried Mr. Rogers at length about apparent inequities in the distribution of SBA programs and benefits. Drawing from Mr. Rogers' own written testimony, Representative Grucci pointed out that Long Island was receiving a surprisingly small percentage of the SBA benefits going to New York State—a percentage much lower than the Island's share of state population would suggest. Mr. Rogers was unable to explain the disparity and Representative Grucci held the hearing open for Mr. Rogers' subsequent written explanation, which may be found in the hearing record. That explanation narrows the dis-

parity somewhat, but confirms that a substantial disparity remains and fails to explain its origin or to propose a remedy.

For further information about this hearing, refer to Committee publication number 107–27.

7.2.19 PROCUREMENT POLICIES OF THE DEPARTMENT OF DEFENSE WITH REGARD TO SMALL BUSINESSES, FINDING SOLUTIONS TO PROBLEMS THAT EXIST

Background

On September 6, 2001 the Committee on Small Business held a hearing on the procurement policies of the Pentagon with respect to small businesses and explored problems in doing business with the Pentagon.

The policies that the new Administration at the Pentagon adopted in the conduct of its procurement programs is of immediate concern to small businesses and has an important impact upon procurement policies implemented by other Federal agencies. In the past, small businesses have encountered a number of problems with the Department of Defense's procurement policies. As examples, the Pentagon has failed to meet minimum procurement goals established by statute, the number of prime contract awards to small businesses has declined, and the bundling of contacts has severely affected small businesses. To resolve these problems, there is a need for receptivity to new thinking and new ideas. The hearing focused on past problems for the purpose of finding solutions to those problems.

Summary

The hearing consisted of one panel which included: Bobbie Gentile, President/Owner, Q-Mark, Inc.; Curtis A. Wright, Colonel, USAF, Acting Director of Small and Disadvantaged Businesses, Department of Defense; Robert B. Spencer, President, Spenro Industrial Supply; Janice Hoffmann, President and Owner, Hoffmann Fabricating (on behalf of Women Impacting Public Policy (WIPP); Dr. William F. Crandell, Ph.D., Director of Government Relations, Association of Service Disabled Veterans; and, Thomas J. Kelleher, Jr., Esq., Member, Smith Currie & Hancock, LLP (on behalf of Associated General Contractors). Contract bundling was described as having the effect of displacing small businesses that had successfully provided goods and services to the Department of Defense (DOD). It was observed that large prime contractors were receiving more and more federal procurement dollars.

It was stated that in FY2000, $48 billion of DOD procurement dollars went to small businesses of which $26.9 billion went to small businesses as prime contractors and that in eight out of the past 10 years DOD met the statutory prime contract goals for small businesses and small disadvantaged businesses. A suggestion was made that a new size standard of "very small business" be adopted to include businesses with 25 or fewer employees. Onerous requirements of a large company in selecting subcontractors were cited as a method used to restrict competition among small businesses. Procurement conferences that do not result in contracting opportuni-

ties for small businesses were described as both costly and unproductive.

Federal Prison Industries was cited as taking a good share of the work away from small businesses and the Committee was asked to review the impact of this agency upon the small business community. Women-owned businesses are growing at a rate twice that of all businesses, yet women-owned businesses have encountered severe obstacles in doing business with the federal government. DOD has not met the minimum 3 percent prime contract goal for service-disabled veterans and American veterans wanted to know what plans have been made to meet this minimum requirement. DOD was urged to vigorously set and achieve at least the minimum statutory prime contract goals. It was pointed out that delay in resolving procurement disputes is bad both for small businesses and DOD.

For further information on this hearing, refer to Committee publication 107–28.

7.2.20 THE ROLE SMALL BUSINESS CAN PLAY IN JUMP STARTING THE ECONOMY

Background

On Wednesday, October 10, 2001, the Committee on Small Business held a hearing in Washington D.C. on the role that small businesses can play in the economic recovery of this nation after the horrific acts of terrorism perpetrated against the United States. In past periods of economic downturns, it has been the small business community that has been the major catalyst to renewed economic growth and the new job opportunities. Small businesses have always been vital to a healthy national economy and their vitality has played a large part in the economic recovery of this nation.

There was a debate as whether they economic stimulus package should help jump-start the economy. Witnesses were invited to express their views on what policies should be included in a stimulus package as well as why changes, if any, should be made to programs administered by the U.S. Small Business Administration.

Summary

The hearing was comprised of two panels. The first panel consisted of The Honorable Hector Barreto, Administrator, and U.S. Small Business Administration (SBA). The second panel consisted of: Giovanni Coratolo, Director of Small Business Policy, U.S. Chamber of Commerce; William Dunkleberg, Chief Economist, National Federation of Independent Business; Christianne Ricchi, Owner, I Ricchi Ristorante (on behalf of the National Restaurant Association); Richard Herring, Chairman, National Small Business United; Darrell McKigney, President, Small Business Survival Committee; John S. Satagaj, President and General Counsel, Small Business Legislative Council; and Linda Bauer Darr, Vice President for Policy and External Affairs, American Bus Association.

It was reported that SBA had opened eight locations to assist victims of September 11 and there were 94 agency people deployed in the New York area with 205 people at the Niagara Falls Disaster Loan office that were rotating when needed. Though disaster loans

may be used by small businesses to recover from economic injury as well as physical damage, SBA was primarily focused on the small businesses in the New York City and northern Virginia areas that were suffering economic injury. While normally small businesses are in direct proximity to disaster areas, the events of September 11 presented a unique situation with the closing of airports across the Nation and the interdependence of small businesses within and without areas attacked by the terrorists.

The view was expressed that consumers needed to regain confidence in the economy and that tax incentives are needed such as the accelerating the marginal rate cuts previously enacted, provide investment tax credits and repeal the alternative minimum tax. Blame for the present economic downturn was attributed at least in part to the federal government holding onto a surplus and not putting the money back in the taxpayer's hands. A survey showed that after September 11 more firms expected sales to go down than those who thought their sales would rise. Increased government spending as a remedy was criticized as taking too long to be effective, being too focused, and being wasteful.

It was reported that the economic harm to the restaurant industry (which employs 11.3 million people) because of the terrorist attacks was substantial. People have not been comfortable dining in urban areas with the attendant drop in revenues and a loss of 103,000 employees in September. The similar losses were suffered with respect to small businesses directly or indirectly associated with the airline industry and tourism. It was estimated that in the motor coach industry, there was a loss of one quarter of its usual 2 million daily riders, and from 20,000 to 40,000 jobs lost in the industry that employs approximately 200,000 workers.

The President's four point tax relief program which includes accelerating date of tax cuts, additional tax relief for low and moderate income workers, stimulating investment by businesses, and eliminating the alternative minimum tax was supported. Additional relief was advocated, e.g., repeal of the death tax, elimination of the capital gains tax, providing the President with trade promotion authority, and increasing domestic energy production. There was consensus that something should be done now and not wait for a future date.

For more information please refer to Committee publication number 107–30.

7.2.21 IMPACT OF FINANCIAL AND PROFESSIONAL SERVICE EXPORTS ON SMALL BUSINESS

Background

On October 24, 2001, the Committee on Small Business held a hearing to focus on the important relationship between our international services trade and the small businesses that drive our economy. The U.S. service sector accounts for 80 percent of the private Gross Domestic Product and over 83 million jobs. Small businesses represent 91 percent of all importers and account for nearly 97 percent of the total number of U.S. exporters. Over the last decade, the number of small business exporters has tripled. Not in-

cluded in this statistic are the many "invisible exporters" that supply goods and services to larger export-driven firms.

The United States service sector is the fastest growing segment of the U.S. economy and is the largest exporter of services. The service sector creates a significant trade surplus for the U.S., fueling economic growth. This sector has slowed somewhat, however, due to variety of trade barriers.

Summary

The hearing consisted of two panels of witnesses. The first panel included John B. Taylor, Under Secretary of Treasury for International Affairs and Grant B. Aldonas, Under Secretary of Commerce for International Trade. The second panel consisted of Robert Vastine, President, Coalition of Service Industries; Peter Ehrenhaft, Partner, Miller and Chevalier (on behalf of the American Bar Association); Lawrence Pemble, Executive Vice President, Chindex International, Inc. (on behalf of the U.S. Chamber of Commerce); Ed Coffin, President, Technology Export Management (on behalf of the Small Business Exporters Association); and James Hoffman, Consultant. Written testimony was submitted by David L. Aaron, Senior International Adviser, Dorsey and Whitney, Former U.S. Ambassador and Undersecretary of Commerce for International Trade; Donald L. Morgan, Partner, Cleary Gottlieb Steen & Hamilton; Robert Vagley, President, American Insurance Association; and Lonnie P. Taylor, Senior Policy Advisor, Powell Goldstein Frazer & Murphy.

Under Secretary Taylor spoke of the great strides made in the financial service sector, which has benefited the U.S. both here and abroad. Exporting financial services has stabilized developing countries' banking systems and improved transparency. Under Secretary Aldonas explained that while many critics think that lowering trade barriers benefits only Fortune 500 companies, it is our small and medium sized companies that benefit the most. Large companies have options in addition to cross border exports, such as investing or building on the other side of trade barriers. Small companies normally have no such options, but instead may only export. Small companies therefore benefit disproportionately by reduced trade barriers and increased market access. Due to lack of resources and sophistication in international trade, small companies also benefit disproportionately from increased transparency and decreased regulatory burdens.

The private sector witnesses expanded on points made by the two Administration witnesses, with many sector-specific examples. There was agreement among all witnesses that granting the President Trade Promotion Authority (TPA) was vitally important to the continued strength of U.S. exports, because it will allow the U.S. to negotiate favorable trade agreements. Without TPA, the U.S. will be left behind the European Union and Asian countries in terms of favorable trading relations. Over the last decade, about 132 trade agreements have been signed worldwide, but the U.S. has been party to only two. TPA would allow for successful negotiation of the Free Trade Agreement of the Americas (FTAA) and bilateral trade agreements with Chile and Singapore, among others.

The World Trade Organization (WTO) has brought countries of the world together to lower barriers, increase market access, and promulgate "rules" for increased transparency and openness that encourage commerce. Again, small businesses benefit the most from "standardization" of tariffs and import/export laws through the reduction of "red tape."

During questions, Chairman Manzullo secured the commitments of both Administration witnesses to help him establish a trade working group to focus on key trade issues of importance to small and medium sized enterprises (SMEs). [Chairman Manzullo convened this SME Trade Working Group (a/k/a The Manzullo Group) in an organizational meeting on March 12, 2002 and hosted subsequent major/quarterly meetings on June 4 and September 12. The group consists of 80+ lawmakers; Administration officials, congressional trade staff, and industry leaders, and will continue meeting quarterly. The work of the group often is conducted informally on a continuous basis.]

For further information about this hearing, refer to Committee publication number 107–32.

7.2.22 MEDICARE-ENDORSED PRESCRIPTION DRUG DISCOUNT CARE: THEIR IMPACT ON SMALL BUSINESS

Background

On October 25, 2001, the Committee on Small Business held a hearing to examine the impact of the proposed Medicare-endorsed prescription drug card on small retail pharmacies. The Centers for Medicare and Medicaid Services (CMS) announced on July 12, 2001 a proposal for a Medicare-endorsed prescription drug discount card. The purposes of the discount card is to assist Medicare beneficiaries in making optimal use of their Medicare-covered services and provide them with information on ways to save money on prescription drugs. Consortia of manufacturers, pharmacy benefit management companies, and retailers would be authorized to offer a prescription drug discount card that would have a Medicare endorsement on it if the consortia meet certain requirements. In developing the proposal, CMS did not comply with the notice and comment rulemaking requirements of the Administrative Procedure Act or the analytical requirements of the Regulatory Flexibility Act.

Summary

The panelists were Mr. Glenn Bower, Director of the Illinois Department of Revenue; Ms Priscilla Chatman, Senior Legislative Representative, National Committee to Preserve Social Security and Medicare; Dr. David Kreling, Ph.D., Professor, School of Pharmacy, University of Wisconsin; Mr. Gary Sims, Owner, Drug Emporium; Ms. LaVarne Burton, President, Pharmaceutical Care Management Association; and Mr. John Rector, Senior Vice President for Government Affairs and General Counsel, National Community Pharmacists Association.

Mr. Bower explained the operation of the Illinois Circuit Breaker program. The program operates out of the Department of Revenue because seniors who fall below a certain income threshold are eligi-

ble to obtain a card for the discounted purchase of prescription drugs. The Illinois program does not provide discounts for all conditions but only on those conditions that primarily affect the elderly. All pharmacies willing to participate are permitted to do so if they are willing to accept reimbursement at a discount of 10% off the average wholesale price plus a dispensing fee of $3.60 per prescription. The pharmacy benefit management company only negotiated the discounts with the pharmaceutical manufacturers and processed claims. Any discount savings were returned to the state treasury.

Ms. Chatman raised numerous concerns about the operation of the plan. For example, the plan limits the number of drugs to only one in each therapeutic class. Seniors are only allowed to have one card and cannot change for a six-month period. Ms. Chatman noted that this could make it difficult for seniors to obtain the drugs prescribed by a physician. Furthermore, the operators of the discount card could be enticed to include name brand pharmaceuticals and ignore generics, which would have the perverse result of increasing not decreasing costs for seniors. Finally, Ms. Chatman was concerned that the requirements for retail participation might force rural seniors to purchase their drugs from mail-order pharmacies, which could lead to the rapid deterioration of retail rural pharmacies.

Professor Kreling testified about the study he did on the discount program operated by the State of Washington. He noted that seniors could get discounts of .5% to 2.6% more in privately-run discount programs than they could through participation in the state-run program. Dr. Kreling testified that the primary revenue producer for pharmacy benefit managers that operate discount programs is rebates from pharmaceutical manufacturers. He stated that the proposed Medicare-endorsed discount card would enable pharmacy benefit managers to retain an undetermined amount of the rebates from manufacturers.

Mr. Sims owns four pharmacies in West Virginia. Mr. Sims testified he loses money by participating in the West Virginia discount program given the state's demographics he has no choice but to participate in the program. Mr. Sims noted that the state reimburses him average wholesale price less 13 percent plus roughly $3.00 dispensing fee. This is insufficient to cover his costs. Nor, according to Mr. Sims, does the Golden Mountaineer Card provide customers with any significant savings and certainly nowhere the 30 percent claimed by state officials.

Ms. Burton testified that pharmacy benefit management (PBMs) companies oversee the drug benefit that many employers provide to their employees because normal health insurance carriers are ill equipped to provide this service. PBMs maintain formularies of approved drugs, process claims, and negotiate discounts with drug manufacturers. Ms. Burton stated that the plan sponsor owns the discounts and PBMs only retain the discounts to the extent authorized in the contract between the plan sponsor and the PBM. Ms. Burton also noted that mail-order pharmacies tended to have lower prices than retail pharmacies for many drugs. Finally, Ms. Burton noted that PBMs, including any that participated in Administration's program, must rely on retail pharmacies to provide service.

Mr. Rector testified that his association sued the federal government to stop the program and the court agreed that CMS had not demonstrated that it had legal authority to sponsor such program. Mr. Rector also noted that CMS had not examined the impact of the program on the approximately 55,000 retail pharmacies in the United States—the vast majority of which are small businesses. Finally, Mr. Rector contended that the biggest problem with the Administration program was that it gave a significant competitive advantage (with federal government imprimatur) to mail order pharmacy competitors to small retail pharmacies.

For further information on this hearing, refer to Committee publication 107–33.

7.2.23 NATIONAL SALES TAX HOLIDAY: HOW WILL THIS PROPOSAL IMPACT AMERICA'S SMALL BUSINESSES?

Background

The Full Committee conducted a hearing on November 15, 2002, concerning the proposed sales tax holiday and its potential impact on our nation's small businesses.

This hearing focused on the potential impacts a national sales tax holiday would have on America's small businesses. In particular, the hearing focused on legislation introduced by Representatives Lindsay Graham and Neil Abercrombie, and Senator Patty Murray.

Consumer spending accounts for more than two-thirds of gross domestic product (GDP). Over the last six months, retail consumer spending has sustained an under-performing economy. Several economists have cited the July and August increases in consumer spending as being responsible for keeping the economy growing during the third quarter despite declines in business investment and construction.

The proposal being advocated has broad bipartisan support. If enacted, States and localities that collect sales tax would temporarily stop collecting this tax on tangible personal property, except for alcohol and tobacco, for a period of ten days. Congress would reimburse states and localities for lost sales tax revenue during this period. Further, states would not be forced to participate. Each state can determine if it wishes to participate.

Summary

The hearing included two panels. The first panel included The Honorable Patty Murray, United States Senate (D–WA), The Honorable Lindsay Graham, United States House of Representatives (R–SC), and The Honorable Neil Abercrombie, United States House of Representatives (D–HI) the sponsors of companion legislation in the Senate and House. On the second panel, several interested parties, including Iris J. Lav, Center on Budget and Policy Priorities; Washington, D.C.; Grover Norquist, Americans for Tax Reform; Washington, D.C.; Elmer Karl, Karl TV and Appliance Store; Rapid City, SD; Elizabeth Holland, Abbell Credit Corporation; Chicago, Ill; Mr. Rush Wilson, Rush Wilson, LTD, Greenville, SC; and Katherine Gornik, Thiel Audio Products Company; Lexington, KY; testified about their experiences with existing state sales tax holidays.

During the first panel, the witnesses unanimously agreed that, with the economy in its current state of flux, it is imperative the Federal government make attempts to resuscitate the economy. Senator Murray provided examples of the sales tax holiday's successes in a number of states, including Maryland and Pennsylvania. Representative Abercrombie advised that the House version of this legislation, H.R. 3172, would establish a one time reimbursement to states and localities for revenue that otherwise would have been collected through sales taxes on virtually all consumer purchases between November 23 and December 2. Representative Graham testified that the Holiday sales period represents up to 40 percent of all annual sales for some retailers. This bill would provide a direct benefit to our economy. Shopper's benefit from lower overall costs for their retail purchases during the holiday shopping season. Merchants, workers and manufacturers benefit from increased demand, and ultimately our economy benefits from the increase in consumer spending.

In the second panel, all, except for Ms. Lav, expressed support for the proposed sales tax holiday. Citing problems such as timing, the difficulty for states to implement the plan, and the questionable benefits of the sales tax holiday, Ms. Lav suggested a more effective benefit would be a rebate to low and moderate income workers who are more likely to spend than save the rebate. Conversely, retailers such as Elmer Karl and Rush Wilson suggested the sales tax holiday would be a boon for consumers, and thus generate a much needed flurry of spending which would benefit consumers, businesses, and workers alike.

The hearing concluded with the acknowledgment that implementation of the Sales Tax Holiday would be difficult, but would likely provide some benefit for the economy.

For further information about this hearing, please refer to Committee publication 107–36.

7.2.24 LISTENING TO MAIN STREET

Background

On November 19, 2001, the Committee on Small Business held a field hearing at the Chamber of Commerce in Spartenburg, South Carolina. The purpose of the hearing was to listen to "Main Street" America and to understand how small business owners are surviving in the present economic downturn and to examine the impact of federal programs designed to assist small business. The hearing also provided witnesses the opportunity to express their views with respect to federal regulations for the purpose of addressing any problems that could be remedied, if feasible, through legislation would be applicable. The Federal Government should be user friendly since it is the taxpayers who pay for every Federal program and the salaries of those who administer them.

Summary

The hearing was comprised of one panel made up of: Elliott Cooper, Acting Regional Director of the U.S. Small Business Administration (SBA); Donald Wilson, President and CEO, Association of Small Business Development Centers (SBDCs); Rick S. Beltram,

President, Intedge Industries, Inc.; June Lennon, Senior Partner, Martin and Lennon, CPAs, PA (representing the National Federation of Independent Business (NFIB)); Bob Hughes, President, Hughes Development; and Wesley Hammond, President, HBJ Home Furnishings. SBA reported South Carolina had over a hundred applications for economic injury loans after the economic injury disaster loan program was extended to include areas outside New York and Virginia following the terrorist attacks of September 11. In addition, South Carolina was number four in the country in obtaining benefits from the Economic Adjustment Program, a part of NAFTA.

It was reported that SBDCs nationally see approximately six hundred and fifty thousand small business owners and aspiring entrepreneurs annually for a minimum of a one-hour, one-on-one face-to-face session. The concerns were cited with respect to the economy: orders for manufactured goods were down, unemployment was increasing, and needless regulations were adding to product costs and reducing competitiveness for small businesses. Those small businesses that produce basic products were stated to be under great stress, with the result that some local businesses were going out of business. It was noted that large businesses could reduce expenses by laying-off employees, but that small business could not employ the same measure. A vivid picture was drawn of empty factories, lost jobs and reduced economic activity.

Various remedies were suggested, such as: allow small business owners to expense more of equipment acquisitions; reduce personnel income taxes; provide amnesty for past-due amounts for federal taxes, penalties, and interest on a case-by-case basis; provide grants for export marketing; and, permit tax relief that truly represents the cost to a small business of owning and operating a vehicle. The view was expressed that reducing the regulatory burden on small businesses would be of greater benefit than tax reductions. Lack of access to affordable healthcare was cited as another burden affecting small businesses. The bleak picture was drawn of being attacked by terrorists, experiencing anthrax delivered by mail, rumors of airlines folding, and the closing of a substantial number of textile mills. Yet the resolve of the Nation is strong.

For further information on this hearing, refer to Committee publication 107–37.

7.2.25 90 DAYS AFTER SEPTEMBER 11: HOW ARE SMALL BUSINESSES BEING HELPED?

Background

On December 6, 2001, the Committee on Small Business held a hearing in Washington, D.C. The hearing focused on the U.S. Small Business Administration's (SBA) efforts to provide assistance to those directly and indirectly impacted by the terrorist attacks of September 11, 2001, upon the World Trade Center in New York City and the Pentagon in Arlington, Virginia. Soon after the these tragic events the Committee held a hearing on Wednesday, October 10, 2001, with respect to the efforts up to that time by the SBA to respond to the physical damage and economic injury suffered by small businesses as result of the events of September 11. Since the

last hearing the SBA issued regulations expanding the scope of the disaster loan program and has reported making over $140,000,000 in disaster loans.

Many individuals lost their businesses and homes in New York City as a result of the terrible terrorist attack on the World Trade Center, and others have suffered as a consequence of the attacks though not located in the declared disaster areas. The Committee wanted to determine whether the benefits under the Disaster Loan Program were sufficient to meet the needs of those suffering directly and indirectly from these treacherous acts of terrorism perpetrated on September 11. Assistance was needed immediately.

Summary

The hearing was comprised of two panels. The first panel consisted of: Representative Jerrold Nadler of New York and Representative James P. Moran of Virginia. On the second panel were: The Honorable Hector Barreto, Administrator, U.S. Small Business Administration (SBA); Joan Sweeney, Chief Operating Officer, Allied Capital Corporation; Alice Yan, Owner and Operator, Acupuncture Therapeutic Care; Don B. Lee, Disaster Assistance Coordinator, Chinese Consolidated Benevolent Association; John Calder, Co-manager (major shareholder), Steamer's Landing Restaurant; Michael Kramer, Owner, Audio Systems Technology Sound and Video; and, James King, Director, Small Business Development Centers, State of New York. It was reported that there were 14,000 business in lower Manhattan impacted by the terrorist attacks of September 11 that have resulted in loss of customers, devastating property damage, and severe loss of profits. It was also reported that nationally the unemployment rate went up 10 percent and that 700,000 more Americans were without jobs.

As of the date of the hearing, SBA had approved 2,029 disaster loans in the declared disaster areas in the total amount of $163, 282,500, and an average loan size of $80,308. The Economic Injury Disaster Loan Program to provide for loans to small businesses directly injured by the events of September 11 and the Federal actions taken as result of those events, but located outside of ground zero. Small businesses directly and indirectly impacted by the terrorist attacks are in need of capital to weather the economic conditions and support for H.R. 3230 was expressed as a means of providing needed capitol. Concern was expressed as to how many of the businesses in Lower Manhattan would survive with loss of customers and dropping sales. At least one community organization provided at no cost office space, equipment, supplies, food, water and other services to affected businesses. He opinion was expressed that SBA's and Federal Emergency Management Administration's programs were inadequate.

Just reopening businesses in proximity to Ground Zero was not enough without a customer base. Business interruption insurance proved inadequate to be inadequate, at least in one instance, to compensate for cash flow and other losses. According to one source, before the World Trade Center attack there were approximately 7,800 businesses with annual revenues of $10,000,000 or less at Ground Zero and about 34,800 of them south of 14th Street in Lower Manhattan. The Small Business Development Centers in

New York took action to help small businesses in New York City in conjunction with other organizations providing relief. The terrorist attacks were described as an act of war for which the airlines were baled out but not small businesses.

For further information on the hearing, refer to Committee publication 107–39.

7.2.26 PROTECTING SMALL BUSINESS AND THE NATIONAL PARKS: THE GOALS ARE NOT MUTUALLY EXCLUSIVE

Background

On January 26, 2002, the Committee on Small Business held a field hearing in West Yellowstone, MT to examine the impact on small businesses and rural communities of limiting snowmobile access to Yellowstone and Grand Teton National Parks. The purpose of the hearing was to obtain testimony from local business and community leaders on the economic consequences of modifying the winter use plans for the two parks. The co-chair of the hearing was the Honorable Dennis Rehberg (R–MT).

The National Park Service (NPS) issued a regulation to modify the winter use plan for Yellowstone and Grand Teton National Park just days before the President Bush was to take office. The plan would eliminate the use of snowmobiles in Yellowstone and Grand Teton National Park. Winter visitors to the parks would be limited to non-motorized entry or snowcoaches (multi-passenger vehicles, such as minivans, with the wheels removed and snow tracks installed). The NPS, in developing the rule, severely underestimated the economic consequences of limiting snowmobile use to the small businesses in the region, the communities that rely on winter tourism revenue, and the small manufacturers that supply parts for snowmobiles. Nor did the NPS assess the environmental impact that snowcoaches would have on the two parks.

Prior to the hearing, the National Park Service agreed to reexamine the modifications to the winter use plan. The NPS developed a supplemental environmental impact statement that analyzed alternatives other than the elimination of snowmobiles from the parks. The NPS also agreed to further delay the implementation of the existing restrictions pending the outcome of the environmental review.

Summary

The first panel consisted of the Hon. Fran Mainella, Director, National Park Service, Washington, DC. The second panel included Mr. Robert Walker, CEO, Flagg Ranch Resort, Moran, WY; Clyde Seeley, Owner, Yellowstone Tour & Travel, West Yellowstone, MT; Melissa Buller, Owner, Free Heel & Wheel, West Yellowstone, MT; Ms. Jackie Matthews for the Greater Yellowstone Coalition, West Yellowstone and Bozeman, MT; and Glen Loomis, Owner, Yellowstone Motorsport, West Yellowstone, MT.

Director Mainella testified that the NPS was going to revisit the previous Administration's decision to eliminate snowmobile access to the two parks. Director Mainella promised that the NPS would examine the economic impact of various alternatives as required by the Regulatory Flexibility Act. She also mentioned that witnesses

were already taking steps to reduce environmental impact of snowmobiles by converting to four-stroke engines and selling advance passes to snowmobile riders to reduce congestion at the west entrance to Yellowstone National Park. Finally, Director Mainella explained the decision-making procedures that the NPS will use to revise the winter use plan regulations.

Mr. Walker testified that elimination of snowmobile access to the parks would force him to shut his winter operations. He would have to lay off 50 people and the community would lose about $225 thousand in gross salary—a significant multiplier effect in a small rural Wyoming town. Mr. Walker also noted that snowcoaches are not comfortable for passengers and can create safety problems in adverse weather conditions. Mr. Walker summed up his testimony by noting that, despite NPS assurances to the contrary, snowcoaches were not an adequate winter touring substitute to snowmobiles.

Mr. Seeley testified that some of the inns in West Yellowstone, MT derive more than 50 percent of their annual revenue during the winter. And much of that revenue comes from snowmobilers. Even moderate reductions in snowmobile use would have significant economic consequences to the businesses in West Yellowstone, MT and to the ability of the community to deliver vital services, such as police and fire protection and schooling. Mr. Seeley also concurred with Mr. Walker that snowcoaches are not an adequate substitute and the two-year transition period simply is insufficient time to obtain and market snowcoaches to prospective winter visitors.

Ms. Buller had a somewhat different take on the use of snowmobiles in the two parks. Her business catered to park visitors, both in the summer and winter, who were not interested in motorized access to Yellowstone. She recommended changes in snowmobile utilization because they did not provide a quality experience to all park visitors in the wintertime. She suggested cleaner snowmobiles and greater marketing of the Yellowstone to non-motorized winter visitors. These alternatives would reduce the air and noise pollution in Yellowstone National Park.

Ms. Mathews owns a fly-fishing retail and tour guide business in West Yellowstone, MT and was testifying on behalf of the Greater Yellowstone Coalition. She testified that businesses must become better stewards of the resources, such as Yellowstone National Park, that they utilize. She noted that 82% of the commenters supported the original decision on banning snowmobiles. A snowmobile ban would help West Yellowstone, MT businesses attract many other visitors who are put off by the concentration of snowmobiles in Yellowstone. She also noted that because of low snow packs, snowmobile use had been curtailed in March of 2001 but led to an increase use of shuttle buses in Yellowstone and a city sales tax collection increase of 40 percent.

Mr. Loomis, who also serves on the town council, testified that reductions in visitors cause a significant reduction in sales tax collections. In turn, this has a severe impact on the finances of West Yellowstone, MT. Mr. Loomis also criticized the NPS for not analyzing improved snowmobile technology in the environmental impact statement. Finally, Mr. Loomis noted that snowcoaches rep-

resented only about 8% of his business and that snowcoaches could not make up the revenue difference from snowmobiles.

For further information on this hearing, refer to Committee publication 107–40.

7.2.27 SMALL BUSINESS TO HEALTH CARE

Background

The Committee on Small Business held a hearing on small business access to health care on February 6, 2002.

The hearing was called to discuss the concerns of small business owners as they struggle to provide health insurance to their families and employees. As Congress debates the issue of how best to provide coverage for the uninsured, small business concerns have been notably absent from this debate. Yet roughly 60 percent of the uninsured are small business owners, their employees, and their families. At the hearing, the committee discussed some of the innovative solutions pending before Congress that would help small businesses meet their health care needs.

In addition, the hearing focused on H.R. 1774, the Small Business Health Fairness Act of 2001, introduced by Representative Ernie Fletcher. Dr. Fletcher's legislation, if enacted, would allow industry and trade group associations to offer health insurance to their members through Association Health Plans. Dr. Fletcher was successful in getting his bill attached as an amendment to the House-passed patient protection bill (H.R. 2563), and the committee is fully supportive of his efforts to get H.R. 1774 passed as a stand-alone bill this year.

The committee also focused on the President's recently released plan to help employees of small businesses get better access to affordable health insurance. The President urged Congress to (1) dramatically improve Medical Savings Accounts by eliminating the current cap on the number of MSAs allowed nationwide, and lowering the deductible for individuals and families; (2) permitting industry associations to provide health insurance for their members through Association Health Plans, and (3) allow individuals who purchase health insurance on their own to receive refundable tax credits to help cover the cost of insurance premiums.

Summary

The committee heard from two panels of witnesses. The first panel consisted of The Honorable Ernie Fletcher, M.D, United States House of Representatives (R–KY). The second panel was made up of the following witnesses: Ms. Elaine P. Smith, President of E. Smith & Associates, Granite City, Illinois; Mr. Raymond Arth, President of Phoenix Products, Inc.; Mr. Robert Hughes, President of the National Association for the Self-Employed.; Mr. Rick Curtis, President, Institute for Health Policy Studies; Ms. Janet Trautwein, Director of Federal Policy Analysis, The National Association of Health Underwriters; and Ms. Mary Nell Lehnhard, Senior Vice President for Policy and Representation, The BlueCross and BlueShield Association.

Dr. Fletcher testified about the benefits of Association Health Plans. He stated that they would create an affordable health care

option for many small business employees who are currently uninsured, by leveling the playing field to give entrepreneurs the same tools big business and labor unions currently use to make health coverage affordable for their employees and members. AHPs allow small businesses to pool their resources and purchasing power by getting health insurance through a professional association, ensuring that they will enjoy the same economies of scale, purchasing clout, and administrative efficiencies that are only available to employees in large corporations and labor unions.

The second panel testified in favor of a range of health care options, from Association Health Plans, to tax credits and Medical Savings Accounts. The small business owners on the panel discussed the skyrocketing premium increases they were experiencing, with one witness stating that her company's premiums went up 26 percent this year, and was told by her insurance company to expect similar future increases. All the witnesses thought that the President's proposal was an important first step, but some were concerned that the amounts of the tax credits were not high enough to make a difference, and that individuals would need to receive the credit before they actually purchased the insurance so that they could afford coverage. Blue Cross/Blue Shield testified in opposition to AHPs, stating that they would "cherry pick" only healthy members and not have to follow the same mandates as other plans. Supporters of AHPs countered that as a result of the 1996 Health Care Portability Act, it is illegal to "cherry pick," and that opposition to AHPs from health insurance companies was motivated by a fear of competition in the marketplace. They also stated that AHPs can help small businesses reduce health insurance costs by 15–30 percent, and have the potential to provide health insurance coverage to as many as 8.5 million currently uninsured workers and their families.

For further information on this hearing, refer to Committee publication 107–41.

7.2.28 THE PRESIDENT'S PROPOSED BUDGET FOR THE SMALL BUSINESS ADMINISTRATION FISCAL YEAR 2003

Background

The Committee on Small Business held a hearing February 13, 2002 at 2:00 pm on the Administration's proposed FY2003 budget for the Small Business Administration (SBA). The Congressional Budget Act of 1974 requires the Committee to recommend budget levels and report legislative plans within the Committee's jurisdiction to the Committee on Budget.

In performing its duties under this statute and with respect to the Committee's oversight responsibilities, the hearing focused on whether the proposed budget adequately addressed the needs of the small businesses of this nation. In addition, the Administration has emphasized the need to improve the performance of the Federal Government and for the Federal Government to more effectively serve the American people. In line with the President's emphasis upon the Federal agency performance, the Committee was also seeking views concerning SBA's past performance and how the

deliver of services by SBA to this Nation's small businesses could be improved in the future.

Summary

The hearing was comprised of two panels. On the first panel was The Honorable Hector Barreto, the Administrator of the U.S. Small Business Administration (SBA). On the second panel was Anthony R. Wilkinson, President and CEO, the National Association of Guaranteed Government Lenders; Phil Black, Director of Community Economic Development, The Economic Development Group of People Incorporated of Southwest Virginia; Lee W. Mercer, President, National Association of Small Business Investment Companies; Christopher L. Crawford, Executive Director, National Association of Development Companies; and, Donald Wilson, President and CEO, Association of Small Business Development Centers.

SBA announced that it had contracted with the Office of Federal Housing Enterprise Oversight to create an econometric model to calculate the subsidy rate for the 7(a) loan program beginning in fiscal year 2004. In the interim for fiscal year 2003, SBA stated that it would weight the preferred lender loans in proportion to participation in the program and that this approach would result in a subsidy rate of approximately .88 percent. SBA also stated that it was anticipated that the level of lending in fiscal year 2002 would be $10.5 billion and that it would be possible to carry over $2 billion guarantee authority to the next fiscal year to support a program level of 47 billion in fiscal year 2003. SBA intended to encourage large real estate loans to be funded under the 504-loan program rather than the 7(a) loan program and to encourage lenders to make smaller loans.

Dissatisfaction with the Office of Management and Budget's (OMB) calculation of the subsidy rate was voiced and evidence was provided that OMB's calculations have resulted in over payments with respect to the 7(a) loan program of between $1.8 billion and $2 billion in recent years. Support was requested for a $12 billion 7(a) loan program in fiscal year 2003 and an appropriation of $176 million (in addition to the prior fiscal year carryover) to support this proposed program level. The OMB subsidy rate calculation was criticized as using too high a default rate. Concern was expressed with respect to any funding reduction in the Microloan, Low Income Individuals, PRIME or Women's Business Development Center programs. The view was expressed that the Administration's proposed budget would continue the growth of the Small Business Investment Company (SBIC) program and support for the Administration's proposed budget for this program. It was reported that the 504-loan program had exceeded the $5 billion level, of which SBA will guarantee $2.5 billion and the remainder funded through private debt financing. Dissatisfaction was expressed with the proposal to increase the annual fee for the program from 0.410 percent to 0.425 percent when the forecast projected a $90 million overage in fees for fiscal year 2003. There was evidence presented that the 504 loan program had in recent years returned $400 million to the Treasury in overpayments. It was reported that in fiscal year 2001 the Small Business Development Centers increased clients by 4.6 percent and serviced 610,000 persons with one or more hours of

counseling or two hours of training. Of those clients, 43 percent were women, 24 percent were minorities, and 7 percent were self-declared veterans.

For further information on this hearing, refer to Committee publication 107–43.

7.2.29 DISASTER LOAN SIZE STANDARDS

Background

On February 27, 2002, the Committee on Small Business held a hearing to review the promulgation of size standards by the Small Business Administration (SBA). In particular, the Committee wanted to examine the SBA's slow response to developing size standards for its expanded economic injury disaster loan program established after the events of September 11, 2001.

The SBA operates an economic injury disaster loan (EIDL) program. Businesses in areas that have been declared disasters may obtain temporary loans to meet ongoing business expenses, such as rent, utilities, payroll, and the like while the business recovers from the disaster. Due to the widespread economic impacts of the terrorist attacks on September 11, 2001, the SBA made these EIDLs available nationwide if the business could demonstrate that its operating capital shortage was directly tied to the events of September 11 and not any general economic downturn. Many small businesses applied for EIDL loans but were found to be other than small under the SBA existing size standards. The SBA was slow to make changes to those size standards and the Committee wanted to find out why and what could be done to improve the size standard modification process to ensure that all small businesses could take advantage of the expanded EIDL program.

Summary

The witnesses were: The Honorable Hector Barreto, Administrator, Small Business Administration; the Honorable John Graham, Ph.D., Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget; Mr. Rodney Klassovity, CEO, Albany Travel Unlimited; and Ms. Jacquelyn Alton, Owner, CWT/Almeda Travel, Inc.

Mr. Barreto first explained that he is given authority to set size standards but all regulations issued by executive branch agencies, including the SBA, are reviewed by Dr. Graham's Office of Information and Regulatory Affairs (OIRA). While the SBA had done some work on changing size standards, the Administrator admitted they had not done it quickly enough or engaged OIRA early enough in the process. Mr. Barreto agreed to work more closely with the Committee to ensure that all small businesses can utilize the expanded EIDL program.

Dr. Graham testified that the President requires him to review all executive branch agencies regulations pursuant to Executive Order 12866. Under that authority, Dr. Graham returned the proposed size standard for the EIDL program of 500 employees because the SBA did not adequately justify the need for the change. Dr. Graham testified that his office was open to having a continuing dialog with the SBA to reach an appropriate size standard

definition so small businesses would not be excluded from the expanded EIDL program.

Mr. Klassovity noted that travel agents operated under an unusually restrictive $1 million size standard (significantly lower than the other size standards in the retail and services sectors). Mr. Klassovity testified that he applied for a SBA loan under the expanded EIDL program. The SBA promoted Mr. Klassovity's application in a press release only to later learn that his business would not qualify because his travel agency was other than small under the existing size standard. Mr. Klassovity opined that travel agents were unduly suffering as a result of the events of September 11, 2001 but he could not get an EIDL for even $60,000. Mr. Klassovity asked the rhetorical question why travel agents were given that low a standard while tour operators (who perform the same function as travel agents except for groups) had a significantly higher size standard.

Ms. Alton testified that travel agents were facing substantial financial difficulties after September 11, 2001. Ms. Alton noted that this financial difficulty was exacerbated by changes in the way airlines and others in the travel industry were reimbursing travel agents. Ms. Alton went on to discuss the concentration in the travel agency business where the top 62 agencies account for 98 percent of the air travel booked in the United States. Ms. Alton strongly urged the Committee to support an increase in the size standard to $3 million for travel agencies.

For further information on this hearing, refer to Committee publication 107–45.

7.2.30 SBREFA COMPLIANCE: IS IT THE SAME OLD STORY?

Background

On March 6, 2002, the Committee on Small Business held a hearing to review agency compliance with the Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA). In particular, the hearing addressed whether legislative changes are needed to ensure agency compliance.

In 1980, Congress responded to increasing federal regulatory burdens by enacting the Paperwork Reduction Act and the RFA. The authors of the RFA intended that the Act would have same effect on agency decision making that the National Environmental Policy Act had on agency decisions concerning projects that affect the environment. After 15 years, Congress had enough with agencies ignoring the analytical mandates of the RFA and enacted SBREFA. The primary change was to allow judicial review over agency compliance with the RFA. However, agencies lawyers are quite innovative and have found new loopholes and created new interpretations to avoid analyzing the impact of proposed and final rules on small businesses and other small entities.

Summary

The panelists were Hon. Thomas Sullivan, Chief Counsel for Advocacy, Office of Advocay, United States Small Business Administration; Mr. Victor Rezendes, Managing Director, General Account-

ing Office; David Frulla, Esq., Partner, Brand & Frulla; Mr. Norman Goldhecht, Regulatory Chairman, National Association Portable X-Ray Providers; Mr. Damon Dozier, Director, Government Affairs, National Small Business United; Mr. Jeffrey Gibson, Director of Support Operations, American Pacific Corp.

Mr. Sullivan commenced his testimony by asserting that the Office of Advocacy's intervention in rulemaking resulted in billions of dollars of savings for small businesses. Mr. Sullivan then went on to aver that some agencies regulatory cultures have changed as a result of the RFA. On the other hand, many agencies still fail to comply with the RFA and provisions of SBREFA, including the requirement to publish compliance guides. Mr. Sullivan concluded his testimony by pledging to work the Committee on reforming RFA compliance.

Mr. Rezendes noted that GAO has performed a number of studies on agency compliance with the RFA and in each case found it wanting. The GAO determined that agencies do not comply with the periodic review requirement of § 610, fail to publish compliance guides as required by § 212 of SBREFA, and failed to adequately assess impacts of rules on small governmental jurisdictions. According to GAO, the biggest gap is the failure to have a consistent definition throughout government on the RFA's threshold question—whether a rule will have a significant economic impact on a substantial number of small entities.

Mr. Frulla testified about his experience litigating RFA non-compliance against the National Marine Fisheries Service. That lawsuit, with some delays and remands, ultimately was won in favor of the fishermen and the federal judge prohibited the Service from implementing its rule until the judge was satisfied that the agency complied with the RFA. Mr. Frulla then pointed out some of the weaknesses in the current RFA such as: asserting the absence of discretion to adopt a different regulatory standard thereby rendering an analysis under the RFA meaningless; issuing certifications without adequate supporting data; claiming that the rule does not directly regulate small entities; and preparing reams of economic data that is indecipherable to small entities and reviewing courts.

Mr. Goldhecht testified that the Centers for Medicare and Medicaid Services (CMS) examined the impact of changes in the Medicare physician fee schedule for many small physician practices. However, Mr. Goldhecht noted that CMS did not assess the impact on his industry—portable X-ray providers even though they absorbed a significantly higher cut in payments than other healthcare professionals subject to the physician fee schedule. Mr. Goldhecht noted, that even though the Office of Advocacy contended that CMS was wrong, his association would have to go through the expense of suing CMS to enforce the law. He ended his testimony with a plea to make the RFA more self-executing.

Mr. Dozier focused his testimony on one of the primary flaws uncovered by the GAO studies—the lack of a consistent definition of "significant economic impact" and "substantial number of small entities." One way to fix this problem is to perform outreach as mandated by § 609 of the RFA. EPA was lauded for its efforts in this area. Other agencies did not do that type of outreach and Mr.

Dozier suggested a legislative change to strengthen outreach would alleviate some of the problems agencies face in complying with the RFA.

Mr. Gibson testified about a specific instance in which EPA certified that a rule would not have a significant economic impact on a substantial number of small entities when in fact it would. The reductions in the amount of hydro chlorofluorocarbons (HCFCs) mandated by EPA would create a duopoly in the industry. EPA did not assess the impact of creating this duopoly in the HCFC market on users, such as American Pacific. Mr. Gibson noted that creation of the duopoly would seriously raise his company's production costs. Nevertheless, EPA determined that the rule would not have any impact on small businesses because they were not directly subject to regulation under the rule. Mr. Gibson recommended that any legislative fix remove that "exemption."

For further information on this hearing, refer to Committee publication 107–46.

7.2.31 SUBSIDY RATE CALCULATION: AN UNFAIR TAX ON SMALL BUSINESSES

Background

On March 13, 2002 the Committee on Small Business held a hearing in Washington, D.C. on the calculation of the subsidy rate for the 7(a) and 504 loan programs, administered by the Small Business Administration (SBA). The President's budget submission for FY2003 with respect to SBA proposed to increase the subsidy rates for both the 7(a) and 504 loan programs. These subsidy rate increases have a chilling effect upon both programs at a time when the economy is in need of an economic stimulus. The impact upon the 7(a) loan program is especially severe since the result of the increase, if actually implemented, would be to cut the loan program in half in the forthcoming fiscal year.

Despite the comments contained in the budget document submitted to Congress about the economic value of SBA administered loan programs, there is undisputed testimony before the Committee that SBA guarantee-backed lending is the largest single source of long-term loans (those with maturities of three years or longer) to small businesses. SBA loan programs account for approximately 40 percent of all long-term loans to small businesses.

The subsidy rates for these programs have not accurately reflected the actual performance of these loan portfolios over the past 11 years since the passage of the Credit Reform Act in 1990. Instead of being a prudent sinking fund, principally to purchase defaulted loans, the subsidy rate has been continually overstated so as to be a tax and not a responsible user fee. This fact was underscored in the conference report accompanying H.R. 2590 (P.L. 107–67) where the conferees stated "borrowers and lenders in both programs [7(a) and 504 loan programs] have been paying higher than necessary fees to participate in the programs" because the subsidy rate models do not reflect recent performance of the loan portfolios.

Summary

The hearing had one panel that was comprised of: The Honorable Nancy Dorn, Deputy Director, Office of Management and Budget; The Honorable Hector V. Barreto, Jr., Administrator, U.S. Small Business Administration (SBA); Mr. Christopher L. Crawford, Executive Director, National Association of Development Companies; and, Mr. Anthony R. Wilkinson, President and CEO, The National Association of Government Guaranteed Lenders. The Administration expressed the view that the SBA loan programs were important, but that tax relief and regulatory fairness were of greater priority. It was pointed out that the Credit Reform Act requires that the cost of the loan programs be determined and recorded in the year the loan is made or guaranteed. It was explained that the subsidy rate is the amount of appropriated money necessary to cover defaults of guaranteed loans made in a single fiscal year.

Presently, the subsidy rate is calculated using performance of prior loans going back 16 years. In nine of the past ten years the subsidy rate was re-estimated downward. From fiscal year 1993 to fiscal year 2002, the subsidy rate was lowered from 5.21 percent to 1.07 percent. The subsidy rate used to calculate the President's budget request for fiscal year 2003 was .88 percent which would have funded $9.7 billion in lending, if the fees had not been reduced to make borrowing less burdensome in a period of economic downturn. With reduced fees, it was reported that the subsidy rate doubled to 1.76 percent and the amount of loans funded with the amount $85 million the President requested would be cut in half. SBA pledged to use an econometric model for calculating the subsidy rate for fiscal year 2004.

For further information on this hearing, refer to Committee publication 107–47.

7.2.32 MAKING THE OFFICE OF ADVOCACY INDEPENDENT

Background

The House Committee on Small Business met on March 20, 2002, to discuss ways to make the Office of Advocacy of the SBA stronger and more independent. The Committee held a similar hearing about a year before, and held the second hearing because of new legislative activity on the subject.

The small business agenda of the President, announced the day before the hearing, concurred with the Chairman's feeling that the Office of Advocacy should have a stronger voice in the federal government. The desire of the Committee was to ensure that regulators take into account the interests of small business before enacting a new rule

Summary

The hearing had one panel comprised of: the Honorable Thomas M. Sullivan, Chief Counsel, Office of Advocacy, U.S. Small Business Administration (SBA); Michael Barrera, Small Business and Agriculture Regulatory Enforcement Ombudsman, SBA; Jere W. Glover, Esq., Counsel, Brand & Frulla. The view was expressed that the federal government is accountable to small businesses

through effective enforcement of the Regulatory Flexibility Act and the Small Business Regulatory Flexibility Act. It was announced that the Chief Counsel and the Ombudsman had signed a memorandum of understanding with respect to cooperation in maximizing assistance to small businesses that suffer from burdensome and unnecessary regulations and unfair regulatory enforcement actions. Reference was made to the President's small business initiatives that include issuing an executive order to provide greater enforcement powers to the Office of Advocacy, instruction to the Director of the Office of Management and Budget (OMB) to seek the views and comments of small businesses on existing federal regulations, paperwork requirements and guidance documents, instruction to OMB and the Office of Advocacy to work together to strengthen the enforcement of the Regulatory Flexibility Act and for increasing the coordination between OMB and the Office of Advocacy.

The President's small business initiatives were characterized as a great day for small businesses. The President advocated strengthening the Office of Advocacy and stopping contract bundling. Less than 2 percent of the assets of SBA are devoted to the Office of Advocacy, whereas in the late 1970's 5 percent of SBA's assets were devoted to the Office of Advocacy. It was stated that the Office of Advocacy has roughly saved small businesses $16 billion in potential regulatory costs, which is approximately $800 saved for each dollar spent. Yet, the number of employees has declined along with the amount appropriated for running the Office of Advocacy. It was recommended that the Office of Advocacy be restored to it prior status and provide the assets to perform successfully.

For further information concerning this hearing, refer to Committee publication 107–49.

7.2.33 NAVIGATING THE SMALL BUSINESS ENVIRONMENT: CHALLENGES AND OPPORTUNITIES

Background

The Committee on Small Business met on April 2, 2002 in Carson, California with The Honorable Darrell E. Issa (R–CA) presiding. The purposes of the hearing included: learning from small business experts and participants what the government can do to help small businesses thrive, trying to help enact the President's small business agenda, and examine the roles of women and minority owned businesses within the small business sector.

Summary

The hearing consisted of two panels. Panel 1 was comprised of: Alberto G. Alvarado, District Director, U.S. Small Business Administration (SBA); Colleen Anderson, Area Vice President, Wells Fargo Bank; Regina Grant-Peterson, Executive Director, Long Beach Area Certified Development Corporation; Paul Tambakis, HUB Director, Commercial Service, Department of Commerce; Isabel Duran, Manager, Capital Partners Loan Program, Community Financial Resource Center; and Phyllis More Venable, Business Development Officer, Long Beach, California (representing the City and Small Business Council, Chamber of Commerce). Panel 2 was

comprised of: Patricia D. Unangst, Executive Director, Workforce Investment Network; Phil Borden, Executive Director, Women's Enterprise Development Corporation; and Rolina Brown, Small Business Development Center.

It was reported that SBA's Los Angeles office in the past four years had $2.8 billion in loans to small businesses, including $1.4 billion in loans to 5100 small disadvantaged businesses and $569 million to women-owned small businesses. It was stated that Wells Fargo Bank was the leading financial services provider to small businesses with more than 1.5 million small business customers, and in the year 2000 in California made more than 62,000 loans totaling more than $2.4 billion, which included more than $692 million to 15,000 California businesses in low and moderate income census tracts. The view was expressed that there is room for growth in the 504-loan program and in providing greater access to capital and procurement opportunities for minorities, women and disabled veterans. With respect to the export market, 97 percent of businesses that export are small and medium sized enterprises. Exports account for 30 percent of the economic growth of the United States since 1989 and accounted for 21 percent of the GDP growth in the year 2000.

One community organization provided business lending programs, business plan guidance, technical assistance provided in English and in Spanish, consumer and business development workshops, homeownership preparation and counseling, business automation development, and money management counseling. The opinion was expressed that the most pressing problem facing small businesses today was obtaining access to capital. It was stated that according to the U.S. Census, in the County of Los Angeles, 40 percent of the small businesses are minority owned. Problems for providers of services to women entrepreneurs were said to be the confusing number of government programs and the paperwork requirements of government agencies. Barriers to growth of California small businesses were cited as lack of: access to capital, business assistance in strategic planning and marketing, effective use of technology, and access to markets outside of their traditional areas and participation in social and business networks.

For further information on this hearing, refer to Committee publication 107–50.

7.2.34 CAN IMPROVED COMPLIANCE WITH THE REGULATORY FLEXIBITY ACT RESUSCITATE SMALL HEALTHCARE PROVIDERS?

Background

On April 10, 2002, the Committee on Small Business held another in a series of hearings on the burdens imposed by the Centers for Medicare and Medicaid Services (CMS) on small healthcare providers. The hearing focused on CMS's failure to comply with the Regulatory Flexibility Act (RFA) and whether improved compliance would reduce the regulatory burdens on small businesses.

CMS is the government agency charged with administering Medicare, which often has been referred to as the country's largest health insurance provider. Medicare provides health care coverage

to 38 million Americans. It imposes some 110,000 pages of regulations, has 219 collections of information approved by the Office of Management and Budget, and forces physicians to spend at least one hour of their day in completing forms for CMS. The regulatory burdens, along with the reductions in payments under the physician fee schedule, is making it difficult for physicians and other healthcare providers, to continue offering services to Medicare eligible patients.

The RFA requires federal agencies to assess the impact of their proposed and final rules on small businesses. If the impacts are economically significant on a substantial number of small entities, the agency is required to perform a regulatory flexibility analysis. The core of the analysis is an examination of alternatives that will reduce the burdens on small business. CMS's compliance with the RFA has not been particularly good.

Summary

The panelists were The Honorable Thomas A. Scully, Administrator, Center for Medicare and Medicaid Services; Honorable Thomas Sullivan, Chief Counsel for Advocacy, Office of Advocacy, United States Small Business Administration; David Nielsen, M.D., Executive Vice President, American Academy of Otolaryngology; Warren Jones, M.D., President, American Academy of Family Physicians; Mr. Zachary Evans, Chairman of the Board, National Association of Portable X-ray Providers; and Mary Harroun, President, Merry Walker Corp.

Administrator Scully ignored a validly issued subpoena and failed to attend the hearing.

Mr. Sullivan testified that the Office of Advocacy has submitted a number of comment letters criticizing CMS compliance with the RFA. Mr. Sullivan noted that on one occasion CMS was prevented from implementing a regulation by a federal district court because it failed to comply with the RFA. Despite the courts and Advocacy's insistence, CMS still had not completed the regulatory flexibility analysis required for the rule. Mr. Sullivan also testified that the Office was troubled by the agency's failure to examine the impact of its rules on portable X-ray providers. Mr. Sullivan has directed his staff to work with CMS staff on improving compliance with the RFA pursuant to President Bush's March 19, 2002 directive that all agencies must comply with the RFA.

Dr. Nielsen testified that federal regulations often have a particularly dramatic and significant effect on physicians. Dr. Nielsen noted that physicians are subject to many laws; not just those associated with Medicare reimbursement but include the Health Insurance Portability and Accountability Act on privacy, False Claims Act, and the Americans with Disability Act. For example, the cost of a translator for the limited English patients often cost more than what an otolaryngologist can obtain in reimbursement under Medicare or Medicaid. Dr. Nielsen also noted that CMS had greater discretion to resolve issues related to payment reductions in the physician fee schedule than it admits. Finally, Dr. Nielsen recommended that Congress enact legislation to reform the appeal and audit process at CMS and force the agency to comply with the RFA.

Dr. Jones testified about the coming crisis in primary care in rural areas as a result of the fee schedule reductions. He noted that many physicians are forced to subsidize their Medicare practices from their own financial resources. New physicians with substantial medical school loans cannot afford to do that. Therefore, the number of new physicians in rural areas that will accept Medicare patients is diminishing. Dr. Jones requested Congress redress this problem.

Mr. Evans testified that CMS examined the impact of changes in the Medicare physician fee schedule for many small physician practices. However, Mr. Evans noted that CMS did not assess the impact on his industry—portable X-ray providers even though they absorbed a significantly higher cut in payments than other healthcare professionals subject to the physician fee schedule. Mr. Evans explained that his service would save the government money by not having senior citizens transported in ambulances to health care facilities for X-ray and electrocardiograms.

Ms. Harroun testified about CMS's guidance to nursing homes that force them to consider her ambulatory assistance device a restraint. She testified that this acts as a disincentive to nursing homes (concerned about ratings and improper use of restraints) from purchasing her device. She opined that CMS needed to reexamine this determination because it was permitting long-term care facilities to put residents in wheelchairs and subject them to potential muscle atrophy rather than allowing them the mobility of walking with assistance.

For further information on this hearing, refer to Committee publication 107–53.

7.2.35 WHY ADD AN INTEREST RATE HIKE ON OUR STRUGGLING SMALL MANUFACTURERS?

Background

On April 24, 2002, the Committee on Small Business held a hearing to discuss the effect an increase in the interest rate would have on small manufacturers. The hearing explored how an imminent increase in interest rates would affect our small manufacturers who are already struggling to compete in an increasingly globalized marketplace. Discussion centered on the manufacturing sector, which was the hardest hit during the recession and has still not felt the recovery that other segments have. The hearing provided the Federal Reserve Board with timely information on an important economic sector before it was to decide whether to increase interest rates. The Federal Reserve Board met on May 7, 2002 and voted not to increase interest rates citing that the economy had not fully recovered from the recession.

Summary

There were two panels that provided testimony for this hearing. The Honorable Roger W. Ferguson, Vice Chairman, Board of Governors of the Federal Reserve Board testified on the first panel. The second panel consisted of Michael Czinkota, Ph.D., Professor of International Business, Georgetown University; Mr. Don Metz, Owner/President, Metz Tool & Die; Mr. Edward Fedor, President,

MASCO Machine, Inc.; Mr. Howard Habenicht, President/Chief Financial Officer, Vibro/Dynamics Corporation; and Sara Garretson, President, Industrial and Technology Assistance Corporation.

Dr. Ferguson spoke of the overall condition of the US economy and the recent slowdown that the economy had undergone and stated that the manufacturing sector was hit the hardest. However, he stated that recently, the economy had shown signs of strengthening. Because of the downturn in the economy, credit standards have tightened, limiting access to capital that is a natural outcome of a recession. Small businesses and small manufacturers have felt this affect most keenly. Dr. Ferguson stated Federal Reserve Board looked at broad economic factors and did not base their decision affecting the interest rates on either sectoral or regional interests.

The remaining panelists testified that while the economy had begun to recover from the recession, the manufacturing sector, which was the first to be impacted by it, had only belatedly seen improvements. The manufacturing sector was simultaneously impacted by the high overvaluation of the dollar, which has caused exports to be priced more expensively on world markets than comparable products of foreign competitors. Another by-product of the recession affecting small businesses and small manufacturing was the tightening of credit that hampered their access to needed capital. There was a consensus from the remaining panelists that should interest rates increase, the nascent recovery of the manufacturing sector would not only be lost, but could affect the entire US recovery causing the onset of yet another recession.

During the question and answer period, Chairman Manzullo invited Dr. Ferguson to tour a tool and die plant in his congressional district, to which Dr. Ferguson accepted.

For further information on this hearing, refer to the Committee publication 107–54.

7.2.36 NATIONAL SMALL BUSINESS WEEK: SMALL BUSINESS SUCCESS STORIES

Background

On May 8, 2002, the Committee on Small Business met to hold a hearing to look at small businesses that displayed entrepreneurial spirit and business success. This hearing was conducted in conjunction with National Small Business Week, sponsored by the Small Business Administration (SBA).

These small businesses managed to grow their businesses, with the assistance of the SBA, despite the roadblocks of a burdensome tax and regulatory system. The hearing was also a forum for them to promote their successes in their respective industries.

Summary

The witnesses were: Richard Carroll, Founder and CEO, Digital Systems Resources, Inc.; Gene Berg, President and Owner, Austin/Westran; Roberto Espat, President and CEO, Roses Southwest Papers, Inc. Also, witnesses also included: John Bartoletta, Founder and Chief Executive Officer, High Street Financial Group; John Francis, Owner, Northern Virginia Roofing Co. Inc.; Donald Kuntz, Owner, Fine Print of Grand Forks. The other witnesses were: Billy

Shore, Chairman, Community Wealth Ventures; Frank Siccardi, President, Coenco Inc.; Belinda Guadarrama, President and Chief Executive Officer, GC Micro Corp.; Brenda Berkhartsmeier, President, Mountain Mudd and Mountain Manufacturing.

Chairman Manzullo began the hearing with an opening statement. He announced the purpose of the hearing. He commended the owners of small businesses for their contributions to the U.S. economy, and mentioned some successes of the Committee on Small Business in removing over-regulation and lowering tax burdens.

Mr. Carroll testified that his company, which manufactures computers that process data for sonar on U.S. Navy submarines, received its first contract through the Small Business Innovative Research Program (SBIR) when it had only 24 employees. The company now employs 480 scientists and engineers and has offices not only in Virginia, but also in Florida, California, and Hawaii. The SBIR allowed this small company to compete for contracts in its sector with giant companies such as Lockheed Martin and Raytheon.

Mr. Berg testified that he acquired his company through the assistance of the SBA. Austin/Westran was going to be purchased by a European corporation and relocated. While attempting to purchase the company, Mr. Berg was contacted by the Chairman of this Committee, and was put in touch with the SBA. With the resulting 504 loan, Mr. Berg purchased the company and saved 200 jobs for his community.

Mr. Espat testified that his company, which was once 8(a) certified, has grown from having 12 employees on one production line to employing 200 people on 17 lines. Mr. Espat suggested that the government help the SBA by trying to reduce paperwork that can frustrate small business, or even keep small businesses from coming into being.

Mr. Bartoletta discussed the success of his investment firm. He credits his firm's ability to compete with big finance as a testimony to the hard work that is reflective of the entrepreneurial spirit. Mr. Francis focused on the National Roofing Contractors Association's volunteer efforts. The NRCA is conducting a re-roofing of the Pentagon to assist with repairing damage. This is an example of the efforts of small businesses, including Mr. Francis's roofing company, to help the community.

Mr. Kuntz testified to the strength of the SBA as a beneficial partner for small businesses in the area of disaster relief. The 1997 Red River flood nearly destroyed Mr. Kuntz's printing company. When banks refused to loan to him, he informed his Congressman, who put him in touch with the SBA. The loan was approved in short order and Mr. Kuntz's company is now doing better than ever.

Mr. Shore testified about the nonprofit sector of small business and the entrepreneurial spirit that can be found there. He emphasized the role nonprofits can play in creating community wealth that can make communities less government dependent. He also suggested the SBA begin a program to provide technical and consulting assistance to nonprofits that assist in setting up for-profit ventures.

Mr. Siccardi is listed in Who's Who of American Science. His company, Coelco, Inc., creates energy efficient heating systems for large buildings. He has been an SBA customer for years, and increased the cash flow of his growing business with SBA loans in 1995 and 1997.

Ms. Guadarrama's company manufactures computer hardware and software for both the government and private sector. She testified concerned the ability of the SBA 8(a) loan program to help small businesses. She also suggested the Committee pay close attention to enforcement of small business and minority business targets for percentages of government contracts.

Ms. Berkhartsmeier testified concerning the problems put in the way of small business by regulation. In order to expand into a town or city, her coffee kiosk company undergoes a great deal of red tape.

For more information on this hearing please refer to Committee publication 107–56.

7.2.37 PENTAGON PROCUREMENT POLICIES AND PROGRAMS WITH RESPECT TO SMALL BUSINESSES

Background

The House Committee on Small Business held a hearing on May 15, 2002 on the Pentagon's procurement policies and programs with respect to small business. On March 19, 2002, the President set forth the Administration's Small Business Plan at the "Women's Entrepreneurship in the 21st Century" Summit here in Washington, D.C. In that speech to over 1500 women entrepreneurs and to the Nation, the President emphasized the capacity and responsibility of the federal government to "stimulate small business ownership in all communities across America." He specifically singled out Federal procurement as a principal resource for stimulating the growth of small business.

Based on figures provided by the Pentagon, in FY00, the Department of Defense awarded over $122 billion in prime contracts to all United States businesses, of which approximately $26.9 billion went to small businesses. It is clear from these figures that the procurement of goods and services by the Department of Defense is an important market to small businesses and a key area for implementing the President's Small Business Plan. One of the hurdles to achieving greater participation by small businesses in the procurement process is contract consolidation or more accurately, "bundling." As the President pointed out, "It effectively excludes small business. And we need to do something about that." The Committee heard from small businesses as to their experiences in doing business with the Department of Defense and the steps that DoD has taken to carry out the President's Small Business Plan.

Summary

The hearing was comprised of two panels. The first panel had one witness: the Honorable Edward C. Aldridge, Jr., Under Secretary of Defense, Acquisition, Technology, and Logistics, Department of Defense (DOD). It was announced a new record was set and that small businesses in the past year had received over $50

billion in DOD procurement dollars and 54 percent was due to prime contract awards. Training courses were begun at the Defense Acquisition University to show managers and buyers how to better use small businesses. DOD is in full support of the President's mandate to avoid bundling of contracts and it was stated that it should be a rare practice for DOD to bundle procurement requirements. The opinion was given that the reason DOD is not meeting the procurement goals for small businesses because there were not enough qualified small businesses available. The view was expressed that support for small businesses must be balanced with the obligation to ensure that the taxpayers are getting maximum value for their tax dollars. The President put together a task group to look at the issue of bundling, but the recommendation of the task group had not been announced at the time of the hearing.

The second panel was comprised of six witnesses. They were: John E. DeGiacomo, Program Director, Procurement Technical Assistance Center (PTAC); Cathy S. Ritter, President, The Constellation Design Group, Inc.; Pamela Brandon, President, Gryphon Technologies; Mike Tucker, President, George W. Allen Co, Inc.; Frederick Erwin, Program Manager, Camp, Inc.; and, Bill Cabrera, President, Lord and Company. The PTAC program, which has been in existence for about 17 years, has 89 assistance centers around the country. In 1999, $6.8 billion in contract awards to small businesses are attributable to the efforts of PTACs. Consolidation of contracts into very large procurement is a major obstacle to small engineering firms participating in the federal procurement market. A bundled contract may be awarded to a large business that is located out of the locale where the work is to be performed and unacquainted with the local soil conditions, geographic features, climate, permitting process, and local construction practices.

The view was expressed that there is a need to enforce the procurement regulation already in place. Basic Purchasing Agreements (BPAs) were cited as a contract form that has resulted in reducing the participation of small businesses. Large businesses were getting contracts that were formally awarded to small businesses. A question was raised as to the efforts by agencies to provide training to the acquisition workforce as to the proper application of the laws and regulations pertaining to bundling. Late payments are a special concern to small businesses and can cause severe cash flow problems. Congress was urged to extend the prompt payment requirements applicable to DOD to the civilian agencies. The failure of the federal government to meet statutory procurement goals has resulted in a loss of sales by small businesses. The Postal Service was cited as an entity that had consolidated a requirement to the detriment of small businesses. The Electronic Commerce Resource Center (ECRC) Program, that helps small businesses compete in the E-government procurement arena, was cited as a helpful to small businesses, but that it had been recently suspended. A new program was advocated, using elements of the ECRC program. Government delays in providing documents necessary to performance and changes in specifications were cited as typical obstacles that small businesses might face in completing work on time.

For further information on this hearing, refer to Committee publication 107–57.

7.2.38 CMS: NEW NAME, SAME OLD GAME?

Background

On May 16, 2002, the Committee on Small Business held another in a series of hearings on the burdens imposed by the Centers for Medicare and Medicaid Services (CMS) on small healthcare providers. The hearing was held so that Administrator Scully, who decided not to attend the Committee's April 10, 2002, could hear from healthcare providers and respond directly to their concerns.

CMS is the government agency charged with administering Medicare, which often has been referred to as the country's largest health insurance provider. Medicare provides health care coverage to 38 million Americans. It imposes some 110,000 pages of regulations, has 219 collections of information approved by the Office of Management and Budget, and forces physicians to spend at least one hour of their day in completing forms for CMS. The regulatory burdens, along with the reductions in payments under the physician fee schedule, is making it difficult for physicians and other healthcare providers, to continue offering services to Medicare eligible patients.

Summary

The panelists were The Honorable Thomas A. Scully, Administrator, Center for Medicare and Medicaid Services; The Honorable Thomas Sullivan, Chief Counsel for Advocacy, Office of Advocacy, United States Small Business Administration; Mr. Zachary Evans, Chairman of the Board, National Association of Portable X-ray Providers; Mr. Brian Seeley, Chief Executive Officer, Seeley Medical; W. Stephen Minore, M.D., President, Rockford Anesthesiologists Associates; Michael Hulsebus, D.C., Hulsebus Chiropractic; and Timothy Blanchard, Esq., Partner, McDermott, Will & Emery.

Administrator Scully apologized for not attending the April 10, 2002 hearing. Then he turned to the problems associated with overhauling an agency that oversees nearly $550 billion in spending per year with 4,800 employees and 49 contractors. Administrator Scully hopes that he will be given the statutory authority to remove contractors and utilize the federal acquisition rules to select these contractors. Employees within CMS are working closely with the Office of Advocacy to improve the agency's compliance with the Regulatory Flexibility Act (RFA). Administrator Scully also reiterated his efforts to make it easier for healthcare providers to follow regulatory changes at CMS and understand those changes. Finally, Administrator Scully noted that he working to make significant regulatory reforms in a variety of arenas including revisiting its definitions of restraint and modifying the MDS used by nursing homes.

Mr. Sullivan testified that the Office of Advocacy was continuing to work with CMS to improve compliance with the RFA. Mr. Sullivan noted that Advocacy staff had a fruitful meeting with Administrator Scully's deputy and expected the meetings to continue.

Mr. Evans testified that CMS examined the impact of changes in the Medicare physician fee schedule for many small physician practices. However, Mr. Evans noted that CMS did not assess the im-

pact on his industry—portable X-ray providers even though they absorbed a significantly higher cut in payments than other healthcare professionals subject to the physician fee schedule. Mr. Evans explained that his service would save the government money by not having senior citizens transported in ambulances to health care facilities for X-ray and electrocardiograms.

Mr. Seeley testified about the problems that durable medical equipment suppliers face in obtaining reimbursement from the diverse policy interpretations made by CMS contractors. According to Mr. Seeley, the most egregious problem is that of contractors not accepting the certificate of medical necessity as proof that the piece of equipment is medically necessary. Contractors often require the suppliers to second-guess and supplement the information provided in the certificate by physicians. Furthermore, CMS continues to review payments to suppliers based on utilization factors that may not be appropriate.

Dr. Minore testified that CMS contractor call centers provided correct answers to questions only 15 percent of the time. If its contractors do not understand the regulations, Dr. Minore wondered how physicians, whose primary job is healing patients, would be capable of properly completing forms and requests for reimbursement. Dr. Minore added that it is difficult for physicians to do things correctly when the physician is getting different answers for the same query depending upon whom the physician asks. Dr. Minore concluded his testimony by noting that physicians are often forced to pay back putative overpayments because they do not have any decent appeal route that is compounded by the attitude that the physician is guilty of overcharging unless proved otherwise.

Dr. Hulsebus testified about his carrier's inability to conduct a proper audit of chiropractic services. He first explained that the overpayments were based on extrapolations that his procedures were not medically necessary, and the contractors refused to examine X-rays when doing the audit. He would have had to pay back nearly a quarter of a million dollars had not the Chairman of the Committee intervened with CMS and its contractor.

Mr. Blanchard testified about the amount of "secret" law that CMS and its contractors rely on to make decisions. The basic problem is that the local policy determinations often are inconsistent with the decisions made by Department of Health and Human Services administrative law judges and the appeals board. The administrative law judges are not bound by the local policy decisions that the contractors are bound by when considering physician appeals. However, most physicians neither have the time nor money to contest contractor decisions due to the time it takes to appeal through the Department. He recommended that CMS rely more on national medical determinations developed through notice and comment rulemaking rather than granting decision-making authority to local contractors.

For further information on this hearing, refer to Committee publication 107–58.

7.2.39 IMPACT OF HIGH DOLLAR VALUE ON SMALL EXPORTERS

Background

The hearing was held on June 12, 2002 in Washington, D.C. This hearing discussed the impact of the over-valuation of the dollar on small business exporters and farmers across the country.

The purpose of the hearing was to explore some of the factors leading to the current economic state and discusses possible solutions. Some economists have stated that the dollar is "overvalued" by as much as 30 percent and this adversely affects the exporting sector. Compounding this is that some Asian currencies are "undervalued" in order to make their exports cheaper, exacerbating problems for U.S. exporters. Trade is vitally important to this country and was part of the reason for the economic expanse of the 1990s.

Trade is also increasingly important for the small business sector as the number of small business exporters increased by more than three-fold between 1987 and 1999, going from 66,000 to 224,000. Ninety seven percent of all exporters are small businesses. Thus, any significant difference in price a small business can obtain overseas due to currency fluctuations can have a significant impact on the ability of these small companies to sell their goods and services.

Summary

There was one panel that was comprised for this hearing and it included Lawrence Chimerine, Ph.D., Economist; Mr. Tony Raimondo, President & CEO, Behlen Manufacturing Company; Mr. Robert J. Westkamp, President, Wes-Tech, Inc.; Mr. Wayne Dollar, President, Georgia Farm Bureau; Mr. Vargese George, President & CEO, Westex International, Inc. Discussion centered on problems facing US exporters that have been compounded by the overvaluation of the dollar, which was likened to a 30 percent tariff against US made products.

For further information on this hearing, refer to Committee publication 107–61.

7.2.40 HOW LIMITING INTERNATIONAL VISITOR VISAS HURTS SMALL TOURISM BUSINESS

Background

On June 19, 2002 the House Committee on Small Business held a hearing on the impact of proposed changes by the Immigration and Naturalization Service (INS) on visitor visas by limiting the duration of a visitors from non-waiver countries from one year to six months maximum. Visitors must be able to demonstrate to an INS Inspector their reason for staying in the U.S. past 30 days and should there be ambiguity over their explanation, and then the visa will only be issued for 30 days. The rational for this change in rules is to maintain stricter control over visitors to this country in the aftermath of the September 11 terrorist attacks.

Over 25 million international visitors came to this country in 2000 and save the US a trade surplus of $14 billion. The Department of Commerce estimated that 939,000 visitors from non-visa waiver nations contributed almost $2.1 billion to the U.S. economy

in 2000. The travel and tourism industry is a leader in the services industry and primarily comprised of small businesses. There is great concern that given the uncertainty surrounding the issuance of visitor visas, many will opt not to visit the US. Additionally, this will affect many Canadian visitors to his country. Under current law, Canadians crossing into this country do not need a passport and that policy will continue. However, Canadians, like other visitors, will be limited to staying no more than six months in this country, despite the fact that they are not required to have a visa to enter this country.

Summary

There were two panels that testified before the Committee. The first panel consisted of: the Honorable James Ziglar, Commissioner, Immigration and Naturalization Service; the Honorable John Ellis "Jeb" Bush, Governor, State of Florida, via videotape; and the Honorable Thomas Sullivan, Chief Counsel for Advocacy, Office of Advocacy, US Small Business Administration. The second panel was comprised of: Mr. Mark McDermott, Director, Arizona Office of Tourism, on behalf of the Western States Tourism Policy Council; Mr. John Lewis, former Assistant Director, National Security Division, Federal Bureau of Investigation; Mr. Neil Amrine, President, Guide Service of Washington, on behalf of the Travel Industry Association of America; Mr. Del Highfield, Owner, Camping Resort of Palm Beaches, on behalf of the National Association of RV Parks and Campgrounds; Ms. Ellen White, President, Canadian Snowbird Association; and Mr. Mark Hjelle, Vice President and General Counsel, The Brickman Group, on behalf of the American Nursery and Landscape Association.

Administrator Ziglar testified that the Immigration and Naturalization Service (INS) has published a proposed rule that would change the length of time that visitors to the United States could stay from a maximum of one year to six months. This change was triggered because 16 of the 19 hijackers associated with the events of September 11, entered the US on visitor visas. Furthermore while visitors may stay for duration not to exceed six months, visitors must explain their purpose and reason for their length of stay in the US. If there does not seem to exist a clear purpose for the visit, then he or she will only be admitted for a period of 30 days. This change is based on the assumption that by limiting the time visitors remain in this country, that US citizens will be safer from those with intentions to bring about harm. Additionally, INS statistics show that 73 percent of all visitors complete their stay in the US less than 30 days, with 51 percent departing in 13 days.

Governor Jeb Bush testified that his state of Florida is the recipient of 70 million visitors year and nearly eight million are from another country. While a number of the visitors to Florida stay only a week or two, others stay longer. Many stay with relatives for several months; others own property and winter in Florida. They contribute over $3 billion to Florida's economy. Governor Bush expressed his concern that confusion over the new rules could cause tourists to vacation in other destinations or even sell their property.

Mr. Sullivan testified about the impact the INS proposal could have on small business. As the Chief Counsel for the Office of Advocacy, he is charged with monitoring federal agencies adherence to the Regulatory Flexibility Act and this law requires agencies to prepare small business impact studies resulting from new regulations. INS has certified that the change in proposal for visitor visas will not significantly affect small business. Mr. Sullivan expressed concern that when 95 percent of all travel agencies and 84.5 percent of tour operating businesses are small businesses, it was hard understand that this proposal would not affect small business.

Mr. McDermott testified that for many states, tourism is a major part of their state's economy and international visitors play an especially large role. The tourism industry in the western states is dominated by "mom and pop" businesses including campgrounds, restaurants, motels RV parks and campgrounds. He is concerned that the when visitors come to the US, the burden of proof for validating the length of their stay rests on the visitor. This may make visitors re-think their travel plans to the US. In addition, while Canadians are not required to have visas, they are still governed by the applicability of this new rule. Travel and tourism plummeted nearly 50 percent after September 11 and has not fully recovered. According to the Department of Commerce, in 2000 more than 14.6 million Canadians visited the US and spent $6.1 billion. Similarly, 10.3 million Mexicans visited the US and spent more than $5.1 billion. In Arizona alone, 315,000 Canadians spent $208 million and 1.5 million Mexican visitors spent $740 million. During the "winter season," Canadian visitors occupied between 10–25 percent of parks and in some sites, almost 50 percent of parks.

Mr. Lewis testified about his concerns that the terrorists have fully exploited US immigration policies and stated that visa entry and exit really rests on proper screening and tracking. He suggests the following ideas: (1) visa applications need to be better checked against a database that has all suspected criminals and terrorists; (2) ability to better detect fraudulent passports in visa waiver countries; (3) institute a computerized entry-exit system; (4) fingerprinting all visa applicants from countries with populations that have supported terrorists; (5) organizations that sponsor students on a work permit or student visa need to be responsible to report their location; and (6) Local, state and federal law enforcement agencies should all have the same access to data bases related to visitors to the US.

Mr. Amrine testified that his organization is concerned that the proposal to shorten the admission period for travelers is poorly defined and will deter visitors from this country because of confusion surrounding the regulations. Additionally, he suggested that for many visitors, problems or changes in itineraries occur and they need flexibility to sort those out. He further suggested that a reasonable compromise would be to cut the admission period down to 90 days in order to allow visitors the maximum flexibility while reducing the stay of foreign travelers for to safeguard the mainland.

Mr. Highfield testified to the impact that Canadian visitors have on the economy of Florida, particularly in his industry of RV parks. He stated that Canadian visitors represent 25 percent of their revenues each year of over $200,000 a year and pump another $250,000

into his community. Additionally, Canadian visitors stay almost twice as long as other visitors. This trend is echoed throughout the "sunbelt" states. While under the proposed rule, home ownership is declared a valid reason for staying in this country a longer period of time, leasing or renting a residency or an RV site does not meet the criteria. Mr. Highfield urges that leasing or renting be treated in the same manner as home ownership does for B–2 visas.

Ms. White testified that proposed changes to the visitor visa program has already caused confusion among Canadian snowbirds and will result in a decrease of tourism in the US. Last year alone, 15 million Canadians came to the US, ten million for vacations and spent more than $7 billion in the US. Canadians that come to the US to winter fall into the same category as other visitors to the US, with the sole exception that they do not have to have a passport. When this regulation was first proposed Tom Ridge, Director of Homeland Security, assured Canadians that they would not be affected by the proposed regulations. Already Ms. White has received word that a Canadian citizen was turned back at the border because he did not have the deed to his home in the US with him.

Mr. Hjelle testified that he is concerned about the proposed rule's affect on migrant labor. The new proposed regulations for H–2B visas require background checks for guest workers, but no new resources have been allocated for this program. Current backlogs can run up to 75 days. Alternatively, employers can pay a $1,000 for "premium processing" which many feel is a form of government extortion in order to get needed workers in time to harvest crops.

During the questions from Member of the Committee, Mr. Ziglar agreed to work on a letter that would clarify that Canadians have an automatic six-month entry period into the US.

For more information, please refer to Committee publication 107–63.

7.2.41 MAXIMIZING ORGANIZATION AND LEADERSHIP IN A FEDERAL AGENCY TO FULFILL ITS STATUTORY MISSION: RESTRUCTURING OF THE SMALL BUSINESS ADMINISTRATION

Background

The House Committee on Small Business held a hearing on July 16, 2002 that focused on the application of sound management principles and leadership in the structuring or restructuring of a large business, governmental, or military unit or entity for the purpose of efficiently accomplishing its established mission. The hearing also focused on the application of basic management principles to the restructuring of the U.S. Small Business Administration (SBA).

The U.S. General Accounting Office (GAO) has done a management study of SBA and issued a report entitled: "Current Structure Presents Challenges for Service Delivery: Small Business Administration" (GAO–02–17, Oct. 2001). Among the structural challenges identified by the report, the SBA faces "ineffective lines of communication; confusion over the mission of district offices; overlapping organizational relationships; and a field structure not consistently matched with mission requirements." Since the SBA is in the proc-

ess of restructuring, the GAO report and the discussion of management principles to guide the organization were most timely.

Summary

The hearing consisted of one panel which was comprised of: Davi M. D'Agostino, Director, Financial Markets and Community Investment, U.S. General Accounting Office (GAO); Lloyd A. Blanchard, Chief Operating Officer, U.S. Small Business Administration (SBA); Herbert Jasper, Fellow, National Academy of Public Administration; and, Brigadier General Frank J. Anderson, Jr., USA (Ret.), President, Defense Acquisition University. SBA's mission is to maintain and strengthen the Nation's economy by aiding, counseling, assisting, and protecting the interests of this country's small businesses and by helping families and businesses recover from natural disaster. Three weaknesses in the present organizational structure of SBA were said to be: (1) complicated, overlapping organizational relationships and ineffective lines of communication; (2) confusion over the mission of district offices; and, (3) field structure inconsistently matched with SBA's mission requirements.

SBA presented a transformation plan that SBA is seeking $15 million to implement. SBA was said to have 2,100 employees in the field, 700 at the headquarters in Washington, D.C., and approximately 1,300 full and part-time employees in the disaster assistance program. The transformation plan was stated to have the following main components: (1) regional offices are to play a more important role in communications from the field to headquarters and greater responsibility in delivery of services to taxpayers; (2) government contracting offices need to be consolidated with surety bond functions within the regional offices; (3) most loan processing, servicing, guaranteed purchases and liquidation of business loans as well as servicing and liquidation of disaster loans should be consolidated into the present service centers; (4) the certification, eligibility, and review functions of the HUBZone, Small Disadvantaged Business (SDB), and 8(a) programs should be consolidated and the lender oversight functions and purchase reviews need to be centralized; (5) headquarters operations should be streamlined by removing excessive layering; and (6) a training program should be implemented to prepare employees for implementation of new structure and changed job requirements.

The transformation efforts are to begin with a phase I which calls for removal of backroom lending functions from three districts offices (Miami, Charlotte, and Phoenix); the transfer from these districts offices to the Santa Ana liquidation center of 7(a) loan purchases and 7(a) and disaster loan liquidations; and the transfer from these districts offices and the Sacramento district office of all 504 loan processing to the Sacramento PLP processing center. The view was expressed that reorganizations are always costly and disrupts the agency, may emphasize certain goals, but is always without cost savings. Phase I of the plan was cited as not addressing the problems of a complicated field structure that has 10 regional offices, 70 district and 16 branch offices, more than 1,100 centers, 6 area offices, and nine loan processing centers. It was emphasized that leadership and management skills would be needed to restructure SBA to better serve the small businesses of this Nation.

For further information on this hearing, refer to Committee publication 107–65.

7.2.42 UNINTENDED CONSEQUENCES OF INCREASED TARIFFS ON AMERICAN MANUFACTURERS

Background

On July 23, 2002, the House Committee on Small Business held a hearing to discuss the ramifications of the President's decision to increase steel tariffs.

In March, President Bush announced his decision to impose temporary safeguards intended to help the U.S. steel industry and its workers adapt to the large influx of foreign steel. The relief is being provided in response to injury findings of the International Trade Commission (ITC) as part of the Section 201 "safeguard" trade investigation launched by the Administration in 2001. Tariff rates as high as 30 percent are being imposed for three years on selected key categories of foreign steel products.

Summary

There was one panel of witnesses that testified: Ms. Laura Baughman, President and Economist, Trade Partnerships Worldwide; Mr. Michael Nelson, Arnold Engineering; Mr. Lester Trilla, President and CEO, Trilla Steel Drum Corporation; Mr. David Pritchard, President & CEO, AJ Rose Manufacturing; Mr. Robert Herrman, Machine Technician, AJ Rose Manufacturing; Mr. John Grove, Vice President of Procurement, Cold Metal Products; Mr. Merle Emery, Vice President & General Manager, GR Spring and Stamping; Mr. Michael Tanner, President, Wren Industries; and Mr. Charles Connor, President & CEO, Magneco/Metral.

Ms. Baughman testified that the majority of steel consuming manufacturers are small businesses, and that unlike the manufacturing sector as a whole, this sector had added 1.2 million jobs at a time when the other sectors lost jobs. Moreover, there are millions of union jobs in the steel consuming sector and that the workers in this industry outnumber steel industry workers by 59 to one.

There was a consensus between all of the witnesses that the President's decision to impose tariffs on steel had greatly hurt many in this sector. First, U.S. steel companies and the workers they employ compete globally and therefore the increases in tariffs affect their bottom-lines. Secondly, steel consumers need a steady and reliable source in order to be competitive. The tariffs have interrupted steady supplies and caused delays of weeks and months. Third, steel consumers need reliable price quotes. That, along with supply has been interrupted since the President's implementation of tariffs. Additionally, steel consumers have seen sharp increases in the cost of purchasing steel, which must either be passed along to their customers or absorbed. Many cannot pass these prices to their customers or they will lose the sale to a foreign competitor and are losing money.

All of these factors that affect steel consumer manufacturers affect the employees that work in these plants. Individual workers have felt a loss of wages and threaten their jobs. Both management

and labor are united in their opposition to President Bush's implementation of tariffs against steel.

Chairman Manzullo stated before the proceedings that he had asked the Attorney General to investigate collusion and anti-trust violations on part of some of the U.S. steel producers. For more information, please refer to Committee publication 107–66.

7.2.43 SMALL BUSINESS ACCESS TO HEALTH CARE

Background

The Committee on Small Business held a field hearing on the subject of small business access to health care on Wednesday, August 14, 2002, at the McHenry County College in Crystal Lake, Illinois.

The purpose of this hearing is to discuss the concerns of small business owners as they struggle to provide health insurance to their families and employees. As Congress discussed the issue of how to provide coverage to the uninsured, small business concerns have been notably absent from the debate. Yet roughly 60 percent of the uninsured are small business owners, their employees and their families. The hearing served as a forum to discuss and promote innovative solutions to help small businesses meet their health care needs.

Summary

There was one panel of witnesses who testified: Mr. Ryan Brauns, Senior Vice President, Rockford Consulting and Brokerage; Mr. Brad Close, Director, Federal Policy, National Federation of Independent Business; Ms. Mary Blankenbaker, Benjamin's Restaurant; Mr. Scott Shalek, Shalek Financial; Mr. Ken Koehler, Flowerwood, Inc.; Mr. Brad Buxton, Vice President, Blue Cross Blue Shield of IL, Ms. Isabella Wilson, Chief Financial Officer, Illinois Blower, Inc.; and Dr. James L. Milam, Illinois Sate Medical Society.

Ms. Blankenbaker testified that for the restaurant industry, healthcare premiums had increased by 23 percent and in her own business; the premiums had gone up 28 percent. She urged Congress to pass Association Health Plans (AHPs) as way to help diffuse the cost of health care and increase access to health care. AHP's would lower premiums by allowing employers to band together to provide a "pool" that would result in lower premiums. She also expressed concerns that state or congressional mandates for health care plan often increase the cost of health care, which can force employers to cut back on providing it.

Mr. Brauns advocated that an element of "consumerism" was needed for any health care model that as a nation we go forth with. Consumerism would allow for people to grow a fund of money as their own so that they become involved in the care and cost decisions affecting their medical care. This approach would insert a "capitalistic approach" into the equation for health care.

Mr. Shalek testified to the ability of health brokers to help employers find different health care insurance options and alternatives that were suited to the individual needs of their businesses. He also promoted the idea that purchasers of health care become

health plan consumers and bring more-market driven plans to the forefront for employers. This in turn can save employers and employees money and allow them to maintain affordability.

Mr. Close testified to the need for Congress to pass Association Health Care Plans (AHPs) as way to allow employers to purchase health care at reasonable costs and control the skyrocketing cost of insurance. Specifically, Mr. Close advocated H.R. 1774, the Small Business Health Fairness Act introduced by Representatives Ernie Fletcher and Cal Dooley. This legislation would enable small business to purchase their health care in the manner that corporations and union do by having large pools of people. He also pressed for adoption of Medical Savings Accounts (MSAs) by Congress that would give employees more control over their health care dollars.

Mr. Koehler testified to the difficulty as a small businessman that he has in providing his employees with health care coverage. For many years, his business provided the full cost of insurance coverage with only a minimum amount coming from employees. Today, his company funds 40–45 percent of the cost and the employees now much shoulder 55–60 percent of the cost. Last year alone, his company was hit with a 45 percent increase in premiums.

Mr. Buxton spoke about proposals to protect the small group market from price pressure. He expressed concerns about state and federal mandates and cautioned that the costs must be balanced against the benefits. He supported subsidizing employer-sponsored insurance. He was also concerned that "patient's bill of right" legislation could add cost and liability factors that would cause small business to drop health care coverage. He also supported expansion of Kid Care. He promoted the expansion of Medical Savings Accounts (MSAs). He urged an acceleration of the full tax deductibility for the self-employed. He also was for legislation removing barriers to generic drug entry onto the market.

Ms. Wilson spoke of several of the challenges that small business have when providing their employees with health care insurance. She said that health care costs not only affect a company's bottom line, but also can adversely affect employee morale and productivity. Spiraling health care costs force small business to make difficult choices pertaining to their bottom line because they cannot pass these costs along to their customers.

Dr. Milam spoke to the soaring cost of medical malpractice insurance rates that drive up health care premium costs. He said that many of his colleagues are forced to limit services, retire early or move to other states where insurance rates are not as high. Data has indicated that medical liability premiums are driven by increases in lawsuits and the unrestrained nature of jury awards. In order to inoculate themselves against lawsuits, many doctors order unnecessary tests. He supports H.R. 4600, the "Help Efficient, Accessible, Low Cost, Timely Health Care Health Act" that would lead to a stabilized medical liability insurance market and bring balance to the medical liability litigation system by capping noneconomic damages at $250,000.

For further information on this hearing, refer to Committee publication 107–67.

7.2.44 FEDERAL PROCUREMENT AND INTERNATIONAL TRADE: ASSESSING THE FEDERAL GOVERNMENT'S EFFORTS TO MEET THE NEEDS OF LOCAL SMALL BUSINESSES

Background

On September 3, 2002, the Committee on Small Business held a field hearing in Norwalk, California with 18 witnesses to discuss two key issues affecting small business: opportunities and challenges in both federal procurement and international trade. The purpose of this hearing was to examine the numerous problems facing small businesses in procurement and trade and what the federal government is doing to help solve these problems.

Summary

The hearing was comprised of two panels. The first panel, which had five public and private sector witnesses, discussed federal procurement issues. The first two public sector witnesses were the Regional Administrator for the Small Business Administration (SBA) for Region X, Mr. Bruce Thompson, and Mr. Frank Ramos, Director of the Office of the Small Disadvantaged Business Utilization (OSDBU) at the Department of Defense (DoD), which is the largest purchaser within the federal government. They both discussed what has been done, nationally and locally, and they will continue to do to open up more procurement opportunities for small businesses.

Next, Deborah Cabriera-Johnson, Manager of the Los Angeles County Procurement Technical Assistance Center (PTACs), spoke about the mission of PTACs to offer hands-on assistance to small firms to help them do business with the federal government. She specifically thanked Chairman Manzullo for his efforts to get additional funding for PTACs through the Defense authorization and appropriations process.

Last on this panel were two local small business owners who testified about their problems in doing business with the federal government. Eric Espinoza, owner of Stitches Uniforms of Montebello, California, complained that larger companies primarily based in the South continue to win various textile contracts, specifically T-shirts, to the military despite his lower bids. Adriana Grippa, President of Master Research & Manufacturing of Norwalk, California testified about her problems in dealing with the Defense Supply Center in Richmond, Virginia regarding constant unilateral changes to the contracts, even after award, in terms of requiring her aerospace components to be "flight critical" when there is not real justification to do so. In Ms. Grippa's opinion, making more and more products "flight critical" biases federal procurement officers to look to larger manufacturers for the good, regardless of the cost. Mr. Ramos of DOD promised to get to the bottom of these problems brought to his attention at this hearing.

The second panel was comprised of 13 public and private sector witnesses to discuss four main issues in international trade: Trade Adjustment Assistance (TAA) for firms and import competition in general; federal export promotion programs; the community adjustment assistance program of the North American Development

Bank; and the impact of the recently imposed higher steel tariffs on small manufacturers who use steel. First, David Bearden, Deputy Assistant Secretary of Commerce for Economic Development and David Holbert, Executive Director of the Western Trade Adjustment Assistance Center (TAAC) in Los Angeles, California discussed the programs and services offered by the TAA program for firms, which help small businesses overcome the threats from import competition. Next, Bruce Thompson of the SBA, Mary Delemege of the Trade Promotion Coordinating Committee (TPCC), and William Redway and David Josephson of the Export-Import Bank of the United States (Ex-Im) spoke about the various federal export promotion programs under their purview and how small businesses interested in trade can take advantage of these services.

Then the Committee heard from Raul Hinojosa, Research Director of the North American Integration & Development Center at UCLA and Hugh Loftus, Director of the Community Adjustment and Investment Program (CAIP) at the North American Development (NAD) Bank in the City of Industry, California. Professor Hinojosa, developed the idea of the NAD Bank, addressed what he felt were the successes and failures of the NAD Bank in terms of living up to original expectations. Mr. Loftus discussed the programs and services of the CAIP and agreed with Professor Hinojosa on many of the problems but traced them back mainly to limited funding.

Next, the Committee listened to two perspectives concerning the steel tariffs. Anita Huseth and John Reynolds of Mace Metal Sales, a steel supply center in Los Angeles, California and Bart Alcamo, President of RBK Tool & Die in Modesto, California testified about the deleterious effects these tariffs were having on their small businesses. They have seen steel price increases in excess of 40 percent with lead times going beyond six months. Terry Bonds, Director of District 12 of the United Steel Workers of America presented a different perspective, talking about the current state of the steel industry and the need for these higher tariffs to protect the workers in this industry.

Finally, Tom Martin testified on behalf of the Small Manufacturers Association of California to discuss the myriad of problems facing small manufacturers in California. He mainly focused on the problems facing small manufacturers by import competition and used his company—Coast Foundry and Manufacturing, a manufacturer of toilet values—as an example. He recommended that both state and federal officials should take into account the global competitiveness of manufacturing before embarking on any new laws or regulations that places restrictions on manufacturers.

The hearing concluded with an open session, where members of the audience could address the committee for one minute regarding any of the issues discussed by the witnesses. The hearing ended on a positive note for small business owners to take advantage of the many federal programs and services available to help them start and grow to be successful.

For further information about this hearing, please refer to Committee publication number 107–68.

7.2.45 LOST JOBS, MORE IMPORTS: UNINTENDED CONSEQUENCES OF HIGHER STEEL TARIFFS

Background

On Wednesday, September 25, 2002, the House Committee on Small Business held a second hearing on the subject of higher steel tariff rates and its affect on small manufacturers that use steel.

The purpose of this hearing was to continue to examine how small steel-using manufacturers are affected by the increase in tariffs on imported steel and to see if the exclusion process brought sufficient relief. In March, President Bush announced that he would impose temporary safeguards intended to help the U.S. steel industry adapt to the large influx of foreign steel by the imposition of tariffs. Last month, the Administration announced the last set of products excluded from steel remedies list, bringing a total of 727 products out of the more than 13,000 that filed for exemption, representing nearly 25 percent of foreign steel imports into the United States. However, many small steel-using manufacturers still suffer from arbitrary price hikes because either the exclusion process was irrelevant to them (these manufacturers buy only domestic steel) or the exclusions granted were limited in scope. Another round of exclusion requests is expected to begin in November, with decisions expected in March 2003. There was also being a mid-point administrative review of the entire steel remedies policy by September 2003.

Summary

There were two panels of witnesses that testified at the hearing. The first panel was the Honorable Grant D. Aldonas, Under Secretary for the International Trade Administration (ITA), Department of Commerce. The second panel was comprised of: Mr. Jon Jenson, Vice Chairman & President, Consuming Industries Trade Action Coalition (CITAC); Mr. Erick Ajax, Vice President, EJ Ajax and Sons, Inc.; Mr. Jay Carlson, President, G & R Manufacturing; Ms. Jennifer Johns Friel, President, Mid West Fabricating Company; Ms. Christine Dowding, President, Dowding Industries; Mr. Brian Robinson, President of Manufacturing, Wilson Tool International, and Mr. Robert Johns, Director of Marketing, Sheet Mill Group.

Secretary Aldonas testified that the Administration embarked on this policy in order to help the U.S. steel industry as it withstands market manipulation by foreign government intervention. A decade ago, world governments owned 75 percent of the steel industry worldwide. Today, there is still a 25 percent ownership by governments in that marketplace. As such, the private U.S. steel industry has had to withstand a 200 million ton glut of excess capacity from its foreign competition. Critics have complained that the U.S. steel industry is a dinosaur and needs to modernize. Yet, half of all U.S. steel is produced in "minimills" that utilize the latest electric arc furnace technology that has brought about the highest efficiency of steel manufacturers worldwide.

Mr. Aldonas explained the Administration's three-point plan is to bring a level playing field to the worldwide steel market. President

Bush declared a three-year moratorium under "Section 201" on steel imports that have devastated the U.S. steel industry. This was designed to bring temporary relief to the industry and give it a reprieve so that it can consolidate. This was done after the ITC found that imports had injured the U.S. domestic industry. Secondly, he has launched international negotiations to eliminate excess global capacity. Third, the U.S. is conducting negotiations to address distortions through subsidies and anti-competitive practices that distort the market through the OECD.

All of the remaining witnesses, with the exception of Mr. Johns testified that the imposition of steel tariffs had the unintended consequences of greatly hurting the steel market for downstream steel-using manufacturers. The tariffs have made steel in the U.S. higher priced than almost anywhere else while hurting U.S. competitiveness in the global market. There has been an exodus of business to offshore manufacturers because they can procure steel at cheaper prices making their end product less expensive. The exclusion process has not helped many of the small manufacturers that it was intended to protect. Many stated that the exclusions did not go far enough to protect them and the tariffs have hurt their business. Instead they faced numerous obstacles because of the tariffs including: increased cost of raw materials (between 40–75 percent); shortages and delays of weeks and months to receive materials; inability to pass the dramatic increases in price along to their customers and greater competition from abroad because of their ability to obtain steel for less. All of these factors have caused many companies to loose business and profits. Because of these factors, workers have been greatly affected by either having they're hours decreased or their jobs eliminated.

Mr. Johns testified in support of the President Bush's remedy for the steel industry. He stated that the President acted after the U.S. steel market had been besieged by illegally traded and dumped steel. The President's decision to provide Section 201 relief will allow the domestic steel industry a "timeout" that will allow it to consolidate and prevent dislocations in the market that will benefit steel users. Since the President's decision, prices for flat-rolled products have returned to normal levels from a twenty-year low. He further said that because steel prices have risen worldwide, U.S. companies should not be at a competitive disadvantage. The President's decision to implement this policy will have a long-term positive affect on the steel industry and its survivability.

For more information, please refer to Committee publication 107–71.

7.2.46 CMS REGULATION OF HEALTHCARE SERVICES

Background

On October 3, 2002, the Committee on Small Business held another in a series of hearings on the burdens imposed by the Centers for Medicare and Medicaid Services (CMS) on small healthcare providers. The hearing was held so that Administrator Scully could address some of the unresolved issues that had been brought to the Committee's attention by small healthcare providers.

CMS is the government agency charged with administering Medicare, which often has been referred to as the country's largest health insurance provider. Medicare provides health care coverage to 38 million Americans. It imposes some 110,000 pages of regulations, has 219 collections of information approved by the Office of Management and Budget, and forces physicians to spend at least one hour of their day in completing forms for CMS. The regulatory burdens, such as the paperwork burdens associated with performing clinical laboratory examinations, the fees paid to portable X-ray providers, and the classification of restraints, all make it more difficult for small businesses to perform their primary mission—improving the quality of life of the sick and infirm.

Summary

The panelists were The Honorable Thomas A. Scully, Administrator, Center for Medicare and Medicaid Services; Mary Harroun, President, Merry Walker Corp.; Patrick Davey, M.D., on behalf of the American Academy of Dermatology Association; Edward L. Probst, M.D.; Mr. Steven Halsey, Partner, Halsey, Rains & Associates, on behalf of the National Association of Portable X-Ray Providers; and Nancy Taylor, Esq., Greenberg Traurig, LLP, on behalf of the National Association for the Support of Long Term Care.

Administrator Scully stated that he is working to make significant regulatory reforms in a variety of arenas including revisiting its definitions of restraint and modifying the MDS used by nursing homes. He noted that CMS agreed to send out guidance to long-term care facilities reminding them that the Merry Walker® should not be categorically classified as a restraint. However, Administrator Scully noted that the Merry Walker® under the Nursing Home Reform Act of 1987 must be considered a restraint for certain individuals. Accompanying Administrator Scully was Leslie Norwalk who explained the efforts that CMS went through to resolve the classification of the Merry Walker® by long-term care facilities.

Ms. Harroun reiterated her concern that nursing home residents should be ambulatory rather than immobilized in wheelchairs. Ms. Harroun stated that she was satisfied with the efforts of CMS in resolving the classification of her device by nursing homes.

Drs. Probst and Evans testified about the burdens imposed by the Clinical Laboratory Improvement Act Amendments of 1988 (CLIA) on individual physician practices. Both noted that the statute was enacted to insure the quality of tests done by large laboratories rather than those of individual physicians. They stated that the paperwork burdens made it difficult for physicians to perform certain critical analyses while the patient waited. In turn, this reduced the quality of care that physicians could provide. In response, Judy Yost, a CMS employee who directs the implementation of CLIA, noted that some of the information received by physicians concerning the type of paperwork that they would have to file was inaccurate. Administrator Scully also promised that a dermatologist would be placed on the advisory panel that assists CMS in implementing CLIA.

Mr. Halsey testified portable X-ray providers absorbed a significantly higher cut in payments than other healthcare professionals

subject to the physician fee schedule and that portable X-ray providers were going out of business. Ms. Taylor testified that CMS was attempting to resolve some of the regulatory issues facing portable X-ray providers. Administrator Scully, his special advisor, Tim Trysla, and Terry Kay, a CMS employee charged with implementing the physician fee schedule all testified that changing the set-up fee would require reductions in fees to other healthcare providers under the physician fee schedule. However, all of them noted that a memorandum would go out to the fiscal intermediaries and carriers requesting that they reexamine their reimbursement for transportation to portable X-ray providers.

For more information on this hearing please refer to Committee publication 107–72.

7.2.47 FEDERAL PRISON INDUSTRIES' UNFAIR COMPETITION WITH SMALL BUSINESS: POTENTIAL INTERIM ADMINISTRATIVE SOLUTIONS

Background

On Thursday, November 21, 2002, the Committee on Small Business held a hearing with respect to Federal Prison Industries' (FPI) unfair competition with small business and the potential for interim administrative solutions. The Committee received testimony regarding the views and planned actions, if any, of the Administration and the Board of Directors of FPI regarding a series of proposals to provided interim administrative relief from FPI's unfair competition in the federal procurement marketplace, especially for small business. These recommendations were made in a letter sent to the President on October 17, 2002 by six Members of the House, who joined together in advancing comprehensive legislative reform of FPI, including the Chairman and Ranking Democratic Member of the Committee on the Judiciary. Representatives of the business community and organized labor made other recommendations to the FPI Board of Directors during two public forums held on September 24 and October 24, 2002.

Although not the focus of the hearing, the Committee received testimony with regard to H.R. 1577, the "Federal Prison Industries Competition in Contracting Act of 2002," a comprehensive reform of FPI, which enjoyed broad bipartisan support within the Committee and the House and was supported by the small business community, organized labor, and federal managers. Expressions of support for the bill had been received from representatives of the Administration, given that it simultaneously requires the competitive award of contracts, gives FPI time to adjust, and authorizes an array of alternative rehabilitative opportunities for inmates, which were demonstrated to be even more effective at reducing recidivism.

Summary

The hearing consisted of one panel that included: the Honorable Angela B. Styles, Administrator, Office of Federal Procurement Policy, Office of Management and Budget; Mr. Kenneth E. Rocks, Chairman, Board of Directors, Federal Prison Industries; Mr. John Palatiello, Executive Director, Management Association for Photo-

grammetric Surveyors (MAPPS); Mr. Michael Mansh, President, Pennsylvania Apparel Corporation; Mr. Gary Engebretson, President, Contract Services Association of America; Mr. Paul A. Miller, Director of Government Affairs, Independent Office Products and Furniture Dealers Association; and, Donald DeRossi, President, DeRossi and Sons Company. FPI is the 39th largest government contractor with sales of $580 million a year. The Administration was in favor of reforming FPI mandatory source preference by permitting the federal agencies to determine whether the price, quality, and delivery terms were the best buy. The Administration also favored in the long run phasing out the mandatory source requirement. Consideration was to be given to raising the blanket waiver threshold and to addressing those instances where there is significant price disparity. FPI was concerned that inmates are productively occupied and not idle, but at the same time taking into account the concerns of small businesses.

The present situation whereby federal agencies are forced to purchase products from FPI at the price, quality, and delivery terms dictated by FPI has created a monopoly devoid of competition. The advantage that FPI has over small business in selling to federal agencies is all but insurmountable. FPI has had the effect of putting small entities out of business in the textile industry. There was a request that textile and apparel purchases from FPI be suspended. The issue of what constitutes the marketplace for determining FPI's impact should be based on the federal marketplace and not the commercial sector where FPI is prohibited from selling products. It was pointed out that FPI was now engaging in services in the private sector that include laundry, data, and telephone support services and it was suggested that FPI would push aggressively for an increase in the amount of services it provides. It was indicated that FPI was engaging, or had engaged, in "drive-by" manufacturing in which the inmates added little value, if any, to the product sold. The Chairman requested assurances from FPI that it would not sell products to federal agencies which did not have value added by inmates and that a letter be delivered containing such assurances by 5:00 p.m. the day of the hearing. A letter to that effect was delivered as requested. (The hearing was broadcast nationally on C–SPAN.)

For further information on this hearing, refer to committee publication 107–73.

7.3 Summaries of the Hearings Held by the Subcommittee on Workforce, Empowerment, and Government Programs

7.3.1 Reauthorization of the Small Business Technology Transfer Program (STTR)

Background

The Subcommittee on Workforce, Empowerment, and Government Programs and the Subcommittee on Rural Enterprises, Agriculture and Technology of the Committee on Small Business jointly held a hearing on June 20, 2001 regarding three legislative proposals that were under consideration. The first, H.R. 203, the "National Small Business Regulatory Assistance Act of 2001," intro-

duced by Congressman Sweeney of New York, directs the Administrator of the Small Business Administration (SBA) to establish a pilot program to provide regulatory compliance assistance to small business concerns through participating SBDCs. Under H.R. 203, small businesses would be able to receive confidential counseling regarding compliance with Federal regulations, provided that such counseling does not constitute the practice of law. In addition, SBDCs would provide to small businesses training and educational activities, technical assistance, and referrals to experts and other providers of compliance assistance. The bill is aimed at helping small businesses cope with the maze of Federal regulations.

The second legislative proposal, sponsored by Congressman Brady of Pennsylvania, would permit the SBA to make grants to SBDCs to enable them to provide technical assistance to secondary schools, or to post secondary vocational or technical schools, for the development and implementation of curricula designed to promote vocational and technical entrepreneurship. The third legislative proposal, sponsored by Congressman Udall of New Mexico, would authorize the SBA to make grants to SBDCs for the purpose of providing entrepreneurial assistance to Alaska Natives, members of Indian Tribes, and Native Hawaiians in starting, operating, and growing small businesses. This legislation is aimed at stimulating the economies of the areas served and to promote job creation. The second and third legislative proposals are in draft form and had not been filed at the time of the hearing.

Summary

This hearing was presided over by both Chairman of the Subcommittee on Rural Enterprises, Agriculture, and Technology, John Thune (R–SD) and Acting Chairman of the Subcommittee on Workforce, Empowerment and Government Programs Felix Grucci (R–NY). There was one panel of witnesses consisting of Mr. Maurice Swinton, Assistant Administrator, Small Business Administration; Mr. Tim Foreman, Acting Director, Small & Disadvantaged Business Utilization Office, Department of Defense; Dr. Walter Polansky, Office of Science, and Ms. Joanna Goodnight, SBIR/STTR Coordinator, National Institutes of Health; Mr. Anthony Camarota, President & CEO, Avtek Industries Inc.; Mr. Richard Carroll, CEO, Digital System Resources.

For further information on this hearing, refer to Committee publication 107–14.

7.3.2 TO INVESTIGATE THE LEGISLATION THAT WOULD INCREASE THE EXTENT AND SCOPE OF THE SERVICES PROVIDED BY SMALL BUSINESS DEVELOPMENT CENTERS

Background

The Subcommittee on Workforce, Empowerment, and Government Programs of the Committee on Small Business held a hearing on July 19, 2001 regarding three legislative proposals that were under consideration. The first, H.R. 203, the "National Small Business Regulatory Assistance Act of 2001," introduced by Congressman Sweeney of New York, directs the Administrator of the Small Business Administration (SBA) to establish a pilot program to pro-

vide regulatory compliance assistance to small business concerns through participating SBDCs.

The Honorable Brady of Pennsylvania introduced H.R. 2666, the "Vocational and Technical Entrepreneurship Development Act," that would permit the SBA to make grants to SBDCs to enable them to provide technical assistance to secondary schools, or to post secondary vocational or technical schools, for the development and implementation of curricula designed to promote vocational and technical entrepreneurship. Congressman Udall of New Mexico introduced H.R. 2538, the "Native American Small Business Development Act," that would authorize the SBA to make grants to SBDCs for the purpose of providing entrepreneurial assistance to Alaska Natives, members of Indian Tribes, and Native Hawaiians in starting, operating, and growing small businesses.

Summary

There were two panels that provided testimony for the hearing. The first panel consisted of Representative John Sweeney (NY–R), Representative Robert Brady (PA–D) and Representative Tom Udall (NM–D) who spoke of their respective bills being discussed at the hearing. The second panel was comprised of Mr. Thomas Grumbles, Vice President, American Industrial Hygiene Association; Mr. Donald T. Wilson; President & CEO, Association of Small Business Development Centers; Mr. Rudolph Cartier, Jr., Small Business Ombudsman, State of New Hampshire; Mr. Christian Conroy, Associate State Director, Pennsylvania Small Business Development Centers; and Mr. Leonard Lopez, Sun Valley Express, Navaho Reservation. All of the witnesses testified in strong support of the legislation being discussed.

Witnesses testified that small and medium sized businesses often had difficulty complying with Federal regulations regarding workplace safety for several reasons including the number and complexity of such rules, fear of prosecution and heavy fines for accidental non-compliance and a disproportionate cost burden versus large businesses to follow the letter of the law. There was a consensus of strong support for H.R. 203. This legislation would allow small businesses to receive confidential counseling regarding compliance with Federal regulations, provided that such counseling does not constitute the practice of law. In addition, SBDCs would provide to small businesses training and educational activities, technical assistance, and referrals to experts and other providers of compliance assistance. The bill is aimed at helping small businesses cope with the maze of Federal regulations.

During testimony on H.R. 2666, it was pointed out that entrepreneurial educational experience is severely lacking in high schools, community colleges and vocational/technical schools. Graduates from a vocation/technical school often gravitate towards using their skills to start their own business and need the business expertise to do so. Small business owners who have been trained in entrepreneurship education have higher success rates in operating success businesses than those who have not.

Evidence was presented during discussion of H.R. 2538, the "Native American Small Business Development Act," of the very high unemployment rate among Native Americans residing on Indian

reservations. Yet, at the same time, there were encouraging numbers about gains in small business ownership, but more can be done. This legislation would allow for SBDCs to apply for Federal grants to establish Native American Small Business Development Centers to assist Native American entrepreneurs to achieve success. This legislation is aimed at stimulating the economies of the areas served and to promote job creation.

All of these bills were referred out of this Committee and passed by the House of Representatives.

For further information on this hearing, refer to Committee publication 107–20.

7.3.3 SUGGESTIONS FOR IMPROVEMENT IN SBA PROGRAMS: VETERANS AND DISASTER LOANS

Background

The hearing before the Subcommittee on Workforce, Empowerment and Government Programs was held on May 21, 2002 in Washington, D.C. The purpose of the hearing was to suggest possible improvements to SBA programs with respect to veterans and disaster loan sales.

The hearing was comprised of two panels. The first panel included: William Elmore, Associate Administrator, Veterans Business Development, U.S. Small Business Administration; Frank Soares, Chairman, Board of Directors, National Veterans Business Development Corporation; Major General Charles R. Henry, U.S.A. (Ret.), President and CEO, National Veterans Business Development Corporation; Wayne M. Gatewood, Jr., President and CEO, Quality Support, Inc.; John Lopez, President, Association of Service Disabled Veterans; Tony Eiland, National Office of Veterans Employment, Veterans of Foreign Wars of the United States; and, Rick Weidman, Director, Government Relations, Vietnam Veterans of America.

The second panel was comprised only of Ronald E. Bew, Associate Deputy Administrator for Capital Access of the U.S. Small Business Administration.

Summary

SBA reported that it had taken steps to cooperate with other federal agencies and the Corporation to make more resources available to veteran entrepreneurs. It was announced that there were seven candidates selected for the Advisory Committee on Veterans Business Affairs, but that the clearance process had not been completed. Though legislation creating the Corporation passed in 1999, the funding did not begin until 2001, which is the suggested date that should be used in judging the progress of the Corporation.

One of the goals of the Corporation is to establish and supervise the creation of guidelines and standards for professional certification of members of the Armed Forces. It was reported that 70% of the Army's enlisted military occupational specialties have private sector counterparts that require a license or a certification. It was announced that the Corporation had created strategic business units which include a venture capital fund called the "Veterans Venture Capital Fund," an electronic marketplace for buying and

selling goods and services, a network of banks that are willing to make loans to veterans, and providing training to veterans under a program known as "Fast Trac."

It was pointed out that the Corporation had not, at the time of the hearing, developed a database of veteran- and disabled veteran-owned businesses. It was further pointed out that the government-wide contracting goal for small businesses owned by service-disabled veterans had not been met and that during the three years in which the requirement had been in effect, little progress had been made. Some headway in the SBA's efforts was seen in the co-operative efforts between SBA, the Corporation, and the Department of Veterans Affairs. It was emphasized that the law requires that veterans, especially service-disabled veterans, be given priority status with respect to every program administered by SBA.

Mr. Bew testified concerning SBA's Asset Sales Program. It was reported that since August of 1999, SBA had sold over 111,000 loans totaling over $2.5 billion, and that it intended to continue the program with two or three asset sales per year. It was explained that the purpose of the program was to allow SBA to concentrate governmental functions, in this instance, making the loans and not servicing them. It was reported that the bidders included New York investment banks, regional banks, loan servicing companies, and small investment companies. It was stated that a loan purchaser would have to adhere to the terms of the note as originally executed before sale unless the borrower requests a change and that there was a two-year waiting period before disaster loans could be sold.

For further information on this hearing, refer to Committee publication 107–59.

7.4 Summaries of the Hearings Held by the Subcommittee on Regulatory Reform and Oversight

7.4.1 Promoting Internet Entrepreneurship: Should the Government Take Any Action?

Background

On April 3, 2001, the Subcommittee on Regulatory Reform and Oversight of the Committee on Small Business held a hearing to address Internet entrepreneurship and whether any legal or regulatory barriers exist to the commencement, operation, and growth of Internet-based small businesses. The purpose of the hearing was to examine the types of businesses that utilize the Internet, whether they faced unique legal and regulatory problems, and obtain recommendations concerning actions that federal decision makers should take or avoid taking to promote the growth of Internet entrepreneurship.

The expansion of commerce on the Internet has been staggering. In 1998, retail transactions on the Internet were estimated at $7 billion. Two years later that figure has almost tripled to $20 billion dollars. But business-to-consumer transactions pale in comparison to global business-to-business transactions on the Internet. Estimates are that these transactions will exceed $6 trillion by January 1, 2004. The increase in electronic commerce means that Internet has become the new central business district, the new "Main

Street", and the new shopping mall. It also has the possibility of replacing existing newspapers, telephone directories, cable systems, and telephone networks.

Summary

The panelists were: Mr. Joseph Clark, CEO, LocalWeb4U; Mr. Douglas K. Mellinger, Chairman, National Commission on Entrepreneurship; Mr. Joshua Engel, General Counsel, BigStep.Com; Ragan Hughs, Co-Owner, Capital Baby Rentals; Mr. Jonathan Draluck, Vice President for Legal Affairs, iBasis; and Mr. Robert McCord, President and CEO, Eastern Technology Council.

Mr. Clark testified that the critical need for Internet entrepreneurs is the need for financing. Mr. Clark then stated that the current tax structure does not benefit either investors or small businesses seeking capital. Mr. Clark suggested that the capital gains tax be eliminated or, if not eliminated, at least modified so that investors would not be taxed if they rolled their capital gains into new stock investments.

Mr. Mellinger noted that Internet entrepreneurs face a number of problems and that the government, in certain instances, might be part of the solution. For example, there is a dire need to have qualified workers for an Internet-based economy. This may mean creating incentives for American students to obtain postgraduate degrees in computer science and electrical engineering. But to do that elementary and secondary education in math and science must improve. In the interim, Mr. Mellinger, noted that the H–1B visa program must be updated to ensure that enough foreign workers can enter the United States to fill the needs of high technology companies, including small businesses.

Mr. Engel highlighted one existing problem and one looming problem. Mr. Engel noted that small businesses do not have broadband access or high-speed Internet connections. This makes it impracticable for small businesses to utilize the Internet as a component or primary means of operation. Mr. Engel also was concerned that the elimination of the tax moratorium on Internet sales would impose substantial burdens on small businesses seeking to expand their markets using the Internet.

Ms. Hughs echoed the concerns raised by Mr. Engel. She noted that, while one of her businesses would not be affected by the lifting of the Internet tax moratorium, her other business, Partybug.Com, would probably go out of business because she would not be capable of handling the regulatory burdens associated with collecting sales tax from multiple jurisdictions, maintaining records for audits, and reporting sales taxes. She strongly urged that Congress renew the moratorium.

Mr. Draluck testified about providing voice telephone communication using the Internet instead of the public switched telephone network. Mr. Draluck noted that the Internet was a more efficient mechanism for transmitting voice traffic throughout the world. However, many countries imposed barriers in an effort to raise revenue and protect their indigenous monopoly (in many cases government-owned) local telephone company. Furthermore, Mr. Draluck warned Congress that the Federal Communications Commission

could impose access charges on voice over Internet-protocol telephony, which would increase costs without providing any benefits.

Mr. McCord testified about the tremendous synergies between the information technology arena and the biotechnology arena. According to Mr. McCord that requires a skilled workforce that America may not be producing. He strongly urged the Subcommittee and Congress to rectify that situation, at least initially through the modification of the H–1B visa program.

For further information on this hearing, refer to Committee publication 107–3.

7.4.2 BROADBAND ACCESS IN RURAL AREAS

Background

On May 17 and 24, 2001, the Subcommittees on Regulatory Reform and Oversight and Rural Enterprises, Agriculture and Technology of the Committee on Small Business held a hearing to address issues of broadband access in rural America. The first day of hearings examined the importance of broadband access to economic development in rural America. The second day of hearings addressed the entities that would provide broadband services in rural America.

Infrastructure development always has been a key component of economic development. Today communities that do not have broadband access to the Internet face the same economic barriers to economic development that communities, mostly rural, faced in previous generations when railroads or interstate highways bypassed them. Without broadband access, rural communities will be unable to attract businesses that need connectivity to the world. In turn, the rural areas will lose population as children seek their fortunes in urban areas connected to the global economy.

One of the biggest obstacles to rural broadband access is affordability. Because of the sheer cost of new technology and the associated access costs, the vast majority of small business owners in rural America find themselves unable to obtain services that the other parts of the country take for granted. Estimates of providing broadband access in rural areas may run to $11 billion. Little doubt exists that a digital divide exists between rural and urban areas. The solutions may involve panoply of different broadband providers such as wireline and wireless local telephony, cable, and satellite service.

Summary

The panelists for the first day of hearings were Mr. Robert Nolley, President of Tubesock.Net; Mr. Gene Reich, Telehealth Coordinator, Avera St. Luke's Hospital; Mr. Marvin Imus, Vice President, Paw Paw Shopping Center; Mr. Jonathan D. Linkous, Executive Director, American Telemedicine Association; and Ms. Nancy Stark, Director of Community and Economic Development, National Small Center Communities.

The panelists for the second day of hearings were Mr. Michael Cook, Vice President & General Manager, Hughes Network Systems; Mr. Thorpe Kelly, Senior Vice President for Sales & Marketing, Western Wireless Corp.; Ms. Susan McAdams, Vice Presi-

dent for External & Legal Affairs, New Edge Networks; Mr. Randy W. Houdek, General Manager, Sulley's Butte Telephone Cooperative; Mr. Kirby J. Campbell, Chief Executive Officer, Armstrong Group of Companies.

Mr. Nolley testified his company was interested in reselling high-speed Internet access. SBC decided not to provide DSL service in the area of Indiana in which Tubesock.Net operates. Mr. Nolley was able to obtain broadband service to resell from the local cable operator. Mr. Nolley noted that the service is used regularly by a variety of small businesses and the Shelby County government. Mr. Nolley concluded that broadband access was vital to the economic health of Shelbyville, IN.

Mr. Reich testified that advanced technology would be a key component of Avera St. Luke's survival. The hospital uses ISDN service but is looking to upgrade to a higher speed service, such as DSL or T–1 service. St. Luke's uses telecommunications to provide continuing medical education, telemedicine services, and community health programs. Mr. Reich noted that St. Luke's uses its telecommunication services to reduce cost and cut down on dangerous winter travel.

Mr. Imus testified that the grocery business relies heavily on computer technology. Databases maintain what customers purchase and high-speed Internet connections are necessary to directly connect with wholesale suppliers thereby enabling more efficient restocking of goods. The grocery store would utilize more web-based services for customers if those customers had access to broadband services.

Mr. Linkous noted that telemedicine represents a marriage of advanced telecommunications technology and new approaches to improving medical and health care. Telemedicine provides consultations between rural clinics and specialists at major medical centers, tele-homecare for patients unable to travel, and access to a variety of medical databases. Mr. Linkous noted that telemedicine couldn't properly function without broadband access due to the amount of information being transmitted and the need for high-quality transmission. Mr. Linkous concluded that Congress should consider adopting a national strategy of nationwide deployment of broadband and continue to fund programs that assist rural health providers established by the Telecommunications Act of 1996.

Ms. Stark testified that the National Center for Small Communities published a guide for local communities on how to obtain broadband access. The Center also is conducting a yearlong project to assess the best practices for rural communities to ensure that they can obtain broadband access. Ms. Stark testified that less than one percent of residents in communities with fewer than 10,000 residents have access to DSL service. In contrast, 86 percent of the residents in cities with more than 100,000 people have access to DSL service. Similarly, 72 percent of the residents in cities with more than 250,000 people have access to cable modem service while only one percent of the residents in towns with less than 10,000 people have access to cable modem service. Small and medium-sized enterprises are being forced to migrate to the Internet in order to do business with larger companies. The inability to obtain broadband access represents a substantial detriment to rural-

based enterprises. Ms. Stark concluded that market forces might not be sufficient to ensure deployment of broadband technology in rural areas.

Mr. Cook testified that Hughes Network Systems was developing a geostationary orbit satellite to provide broadband access. Mr. Cook noted that three satellites will serve all of North America without the need for non-traffic sensitive high cost local telephone wires. Uplink and downlink speeds will be substantially greater than typical broadband connections utilizing T–1 technology. Mr. Cook concluded that the federal government needs to ensure that satellite users have clear spectrum without interference from terrestrial uses.

Mr. Kelly testified that Western Wireless first entered rural markets to provide cellular telephone service. Western Wireless then recognized that wireless telephony might be the way to bring local competition, including broadband services, to small businesses in rural areas. That avenue was enhanced with the enactment of the Telecommunications Act of 1996 allowing any telecommunications provider to be an eligible telecommunications carrier and thereby receive subsidies that help defray the cost of serving low-density rural populations. Mr. Kelly noted that designation as an eligible telecommunications carrier is often caught between decisions by the states and the Federal Communications Commission. Mr. Kelly also concurred with Mr. Cook concerning the need for a sound spectrum allocation policy to ensure that all providers have access to the resources they need to deliver low-cost wireless broadband access to rural Americans.

Ms. McAdams testified that the New Edge Networks is only interested in serving communities with between 5,000 and 25,000 residents. New Edge Networks focuses on providing DSL service by utilizing the existing network of the incumbent local telephone company as mandated by the Telecommunications Act of 1996. Ms. McAdams concluded that the best way for her and similarly situated companies to succeed was to leave the Telecommunications Act of 1996 the way it is and provide the FCC with greater enforcement powers.

Mr. Houdek testified that Sulley Buttes Cooperative serves more than 13,600 customers in rural South Dakota. In contrast to an urban area, which has 100 customers per mile of line, Sulley Buttes has two customers per mile of line. Despite the cost of installing broadband access given the non-traffic sensitive costs, Mr. Houdek testified that Sulley Buttes will have DSL-qualified lines in all of its 19 central offices by the end of the year. Mr. Houdek concluded that competition in rural areas must be tempered with concerns about universal service and the funding for universal service assistance overseen by the FCC.

Mr. Campbell testified that small cable operators, such as Armstrong, are already providing broadband access in rural America. Those customers include 1,100 businesses. Mr. Campbell noted that it was illogical to provide incentives to larger companies to provide broadband service in rural areas when companies, such as Armstrong and other small cable operators were already doing that. Mr. Campbell noted that the federal government could take a number of actions to improve the capability of small cable operators to

provide broadband services by ensuring access to capital through low-interest loans, prohibiting forced carriage of analog and digital broadcast signals, barring mandatory open access to internet service providers in smaller markets, and ensuring that large, vertically-integrated program providers do not abuse their market power.

For further information on this hearing, refer to Committee publication 107–9 (Part 1 and Part 2).

7.4.3 REMOVING RED TAPE FROM THE DEPARTMENT OF LABOR'S APPRENTICESHIP APPROVAL PROCESS

Background

On September 25, 2001, the Subcommittee on Regulatory Reform and Oversight of the Committee on Small Business held a hearing to address the problems associated with approval of apprenticeship programs pursuant to the National Apprenticeship Act. Congress enacted the National Apprenticeship Act in 1937 to protect apprentices from abuse. After more than 40 years of informal guidance, the Department of Labor issued regulations to implement the National Apprenticeship Act. Those regulations authorized states, using State Apprenticeship Councils (SACs), to approve apprenticeship programs. In states that were not ceded authority, the Department of Labor's regional offices would approve apprenticeship programs. Companies operating approved apprenticeship programs are authorized to pay a lower wage to apprentices than the journeyman that would otherwise be required for federal contracts under the Davis-Bacon Act. Evidence exists that open shop apprenticeship programs have substantial difficulties in obtaining approval from SACs.

Summary

The first panel consisted of the Honorable Roger F. Wicker, United States House of Representatives (R–MS). The second panel consisted of Mr. Ken Dunham, Executive Director, Inland Northwest AGC; Mr. John Bonk, President M. Davis & Sons, Inc.; Mr. John Herzog, Staff VP for Public Policy, Air Conditioning Contractors of America; Mr. Robert J. Krull, National Apprenticeship Coordinator, United Union of Roofers, et al.

Representative Wicker testified that contractors from Mississippi have had substantial difficulties in obtaining approval of apprenticeship programs. He noted that one construction company spent nearly one million dollars and five years to obtain approval of an apprenticeship program. Representative Wicker then mentioned that applicants could not even obtain a consistent answer from a SAC concerning deficiencies in the application. Representative Wicker testified that he introduced H.R. 1950 to ensure that applicants can obtain information concerning the deficiencies in the application and have an appeal right to the national office of the Department of Labor.

Mr. Dunham testified for the need to enact H.R. 1950. He noted that it in some circumstances it has taken nine years and hundreds of thousands of dollars in litigation fees to obtain approval of an open shop apprenticeship program from the Washington SAC.

Mr. Bonk testified that his company has spent large sums on training. Mr. Bonk noted that the SAC in Delaware will not approve an open shop apprenticeship program so Mr. Bonk's company has not even bothered to apply. Mr. Bonk said that H.R. 1950 would help his company obtain approval of apprenticeship programs.

Mr. Herzog first noted that heating, ventilation, and air conditioning contractors have an inordinately difficult time in getting workers. Mr. Herzog then testified about the continually shifting standards, none of which were specified in writing, that Oregon would impose on open shop air conditioning contractors seeking approval of an apprenticeship. Mr. Herzog noted that H.R. 1950 would prevent the state of Oregon from operating in this manner.

Mr. Krull testified that the apprenticeship process has worked for more than 60 years. While changes may need to be made, legislation should not be introduced that lessens the standards in apprenticeship programs. Mr. Krull recognized that some changes may be required in the approval process but those changes should occur through regulation not legislation.

For further information on this hearing, refer to Committee publication 107–25.

7.4.4 SEPTEMBER 11, 2001 PLUS 30: ARE AMERICA'S SMALL BUSINESSES STILL GROUNDED?

Background

On September 11, 2001, terrorists associated with the Al-Qaeda network founded and overseen by Osama Bin-Laden hijacked four commercial airliners. Two of the airlines were crashed into the World Trade Centers (which subsequently collapsed killing approximately 2,900 people). One was crashed into the Pentagon and the fourth crashed in rural Pennsylvania.

Immediately thereafter, and pursuant to the authority to regulate aviation in the country, the Federal Aviation Administration grounded all non-military aviation in the United States. The federal government then instituted security measures, which allowed commercial aviation to resume flying. Restrictions on general aviation were continued and only slowly removed. In the areas of impact—Washington, DC and New York, NY, greater restrictions on general aviation remain in effect.

The economic consequences of the post-September 11, 2001 events exacerbated an already weakening economy. The federal government provided financial assistance to the troubled commercial aviation business. For small businesses located in the Washington, DC and New York metropolitan areas, the Small Business Administration provided economic injury and physical disaster loans. However, many aviation-related businesses (including general aviation) and aviation-dependent businesses (including most businesses in the travel industry) suffered without the provision of governmental assistance. The hearing, by the Subcommittee on Regulatory Reform and Oversight of the Committee on Small Business was held on October 11, 2001 to examine the effect of the events of September 11 on small business and what assistance is needed to help the small businesses recover.

Summary

The first panel consisted of the Honorable James K. Coyne, United States House of Representatives (Ret.) President, National Air Transportation Association; Ms. Maureen Tarascio, President, Air East Management; Mr. David Wartofsky, Partner, Potomac Airfield; Mr. Quintin DeGroot, President, Spencer Avionics; and Mr. George Doughty, Executive Director, Lehigh Valley International Airport. The second panel consisted of Ms. Bonnie Adams, President, Lewiston Travel Bureau; Mr. William H. Swift, President, Business Traveler Services, Inc.; Mr. Hector Torres, Vice President, Capital Hotels; and Mr. David Cheseboro, President, DOTS Motorcoaches.

Mr. Coyne testified that general aviation provides an important contribution to the American economy and is often the only provider of air transportation in many rural areas. Mr. Coyne noted that general aviation, even after one month, continued to suffer dramatically due to restrictions imposed by the Federal Aviation Administration. Mr. Coyne recommended enactment of H.R. 3007, the General Aviation Small Business Relief Act of 2001, which would provide, among other things, grants to general aviation businesses that have suffered due to the restrictions on their operations.

Ms. Tarascio testified that Air East is a family run business operating within the very restrictive no-flight zone around New York City. In other words, Air East has been fundamentally been unable to operate since the events of September 11, 2001. That has resulted in a loss of $4,000 per day. Even after partial reopening on October 6, 2001, Air East continued to face substantial financial difficulties. Ms. Tarascio also supported the enactment of H.R. 3007.

Mr. Wartofsky operates an airfield in Fort Washington, Maryland not far from the Pentagon, the way the crow flies. The airfield is technically open but if any planes try to fly in or out they will be shot down. The financial losses will amount to $603,000 if the airport would reopen immediately which Mr. Wartofsky noted was not imminent. Mr. Wartofsky recommended the enactment of H.R. 3007.

Mr. Doughty testified that the small airports face three problems: (1) increased operating costs through additional security measures; (2) service reductions by major airlines into smaller markets thereby reducing landing fee revenues; and (3) fewer passengers result in less revenue from parking, concessions, and other airport businesses. Mr. Doughty noted that Lehigh Valley International Airport would lose approximately 1.8 million dollars a year if the changes wrought by the events of September 11, 2001 were permanent. Mr. Doughty made two recommendations: (a) federal financial assistance should be provided to cover financial security; and (b) reduce restrictions on the use of Airport Improvement Program and Passenger Facility Charges.

Mr. DeGroot testified that his business relies on the ability of general aviation planes to fly to his shop at the Spencer, IA airport. The restrictions on flights resulted in a 9-day loss exceeding $15,000, which continued unabated as of the hearing. Mr. DeGroot

noted that he had to cut his own pay 33 percent to keep his technicians employed. He also noted that there are substantial premium increases for insurance. Mr. DeGroot recommended that the federal government develop a plan to allow the delivery of registered aircraft (both American and foreign-owned) to repair stations. Mr. DeGroot also requested that the disaster area declared by the President be expanded to include areas outside Washington, DC and New York. Subsequent to the hearing, the Small Business Administration took action to increase the availability of economic injury disaster loans beyond the New York and Washington metropolitan areas.

Ms. Adams noted that travel agencies operated through the September 11 aftermath by helping their clients find alternative routes of getting to their destinations and rebooking flights when the government permitted the resumption of commercial aviation. Nevertheless, the events of September 11 exacerbated the unwillingness of Americans to travel resulting in the cancellation of many plans. This dramatically reduced income for travel agents. Ms. Adams noted that her travel agency has, with the cooperation of creditors, been able to continue to operate but for how long she was unsure. Travel agents need immediate cash to stabilize their businesses, expansion of the Small Business Administration's Economic Injury Disaster Loan program, low interest loans, and loan forgiveness in certain cases.

Mr. Swift testified that airport concessionaires are typically small minority or women-owned businesses and have suffered severe economic injuries. Mr. Swift recommended a number of options to assist concessionaires: (a) a set percentage of federal airport assistance be dedicated to airport concessionaires; (b) a moratorium on declaring concessionaires in default of their concession contracts; (c) restructuring existing concession contracts; and (d) allow concessionaires to restructure their pricing of goods and services.

Mr. Torres noted that the closure of Ronald Reagan National Airport had a devastating impact on the travel industry in Washington, DC because it gives the appearance that the nation's capital is closed for business. Mr. Torres testified that hospitality industry in the Washington, DC area was losing $10 million a day since the events of September 11. Mr. Torres requested that the federal government resume full operation of Ronald Reagan National Airport, expedite the launch of the General Service Administration's Premier Lodging Program, and provide tax credits to employers to maintain health care coverage for their workers.

Mr. Cheseboro testified that intercity motor coach operators are typically small businesses with about ten buses in operation. Mr. Cheseboro noted that his primary source of income is providing transportation from Daytona Beach, FL to the Orlando airport for businesses. Due to the events of September 11 and the subsequent unwillingness of people to fly, Mr. Cheseboro expected that his revenue will be reduced by about 25 percent but he still must cover all of his costs, including payments on motor coaches and salaries for employees. Like the other witnesses, Mr. Cheseboro requested federal financial assistance for those travel businesses harmed by the events of September 11.

For further information on this hearing, refer to Committee publication 107–31.

7.4.5 SMALL BUSINESS ACCESS TO COMPETITIVE TELECOMMUNICATION SERVICES

Background

On November 1, 2001, the Subcommittee on Regulatory Reform and Oversight of the Committee on Small Business held a hearing to examine Federal Communications Commission (FCC) implementation of the Telecommunications Act of 1996. In particular, the hearing examined whether the implementation of the Act was inhibiting the ability of firms competing with incumbents to serve small business customers. The genesis of the hearing stems from the FCC's failure to comply with the Regulatory Flexibility Act and Small Business Act when it made the determination that switching would not be available as an unbundled network element for carriers serving customers with 4 or more telephone lines.

In 1996, Congress passed the Telecommunications Act. The Act was designed to remove the barriers that prevented competition in the local telephone market. The Act mandates incumbent local telephone companies (those that were members of the National Exchange Carriers Association as of February 8, 1996) to offer competitors unbundled network elements. The FCC was charged with determining which elements the incumbents had to offer and develop an appropriate pricing scheme for state commissions to implement. In *Iowa Utilities Board* v. *FCC,* the Supreme Court held that the FCC improperly determined which elements needed to be unbundled for purposes of the Act and remanded the case to the FCC for reconsideration. The FCC reexamined that decision and in November of 1999, issued an order limiting the availability of switching (the functionality that routes telephone calls) as an unbundled network element to those competitors serving customers with less than four telephone lines. The former Chairman of the Committee on Small Business, the Honorable James Talent (R–MO), sent an ex parte communication to the FCC noting that the decision on the availability of switching as an unbundled network element violated the Regulatory Flexibility Act and the size standard determination provisions of the Small Business Act. The FCC failed to take any action, which demonstrated its intention to comply with the law so the Subcommittee convened this hearing.

Summary

The panelists were Mr. Joseph A. Gregori, CEO, InfoHighway Communications Corp.; Mr. Richard Burk, President & CEO, NII Communications; Mr. Robert A. Curtis, President, Z–Tel Network Services, Inc; and Laurence May, Esq., Partner, Angel & Frankel.

Mr. Gregori testified that InfoHighway is a small business trying to serve small business customers who are often overlooked by the incumbent local telephone companies. While InfoHighway is interested in building its own network, it is taking a smart build approach to that process by constructing only when it is certain that it has the customer base needed to support the considerable capital investment required for network construction. In the interim,

InfoHighway uses something called UNE–P or unbundled network element—platform to offer service. It takes certain unbundled network elements that it needs to provide service and combines that with its own facilities to offer service. One of the requirements that it needs is unbundled switching service because it does not have the customer base to invest in a switch to serve all of the customers in a particular area. Furthermore, it cannot obtain switching service for many small business customers from existing competitors that might have a switch in the area.

Mr. Burk testified that his company is breaking even which is unusual for a start-up telecommunications provider. His company has $20 million in revenue, which may seem like a lot of money but is very small for the telecommunications business. Mr. Burk's small business customers are spread out over 250 small Texas towns and it would be prohibitively expensive for him to install switches to serve these customers given their geographic breath throughout Texas. If the Commission eliminates switching as an unbundled network element, he will not be able to provide UNE–P service and his customers, such as Longmeyer Plumbing in Abilene, will have no competitive choice.

Mr. Robert Curtis testified about the explosive growth of Z–Tel, which in the last two years went from a company with no revenue to one with $300 million in revenue and 250,000 customers in 35 states. That growth has occurred because of the availability of switching as a component in the UNE–P. Without it, Z–Tel would have faced the financially impossible task of constructing a network to serve its far-flung customers. Z–Tel, which wants to offer a telecommunications solution to insurance agents of a big insurance company, is unable to do so because they cannot get switching capacity that they need in large metropolitan areas. Absent economies of size and scale, it is impossible for Z–Tel to compete without access to unbundled network elements. Mr. Curtis concluded that it discriminates against small business providers and small business users of telecommunication services.

Mr. May testified that he is partner in a small (for New York) law firm that employs 20 people. Mr. May relies heavily on telecommunication services for legal research and, because his firm does bankruptcy work, for electronic filing of court papers. Mr. May switched carriers to InfoHighway because they provided service better tailored to the firm's needs at a lower price than the incumbent. Mr. May concluded that maintenance of choice for local telephone service was important to his firm.

For further information on this hearing, refer to Committee publication 107–34.

7.4.6 EPA RULEMAKING: DO BAD ANALYSES LEAD TO IRRATIONAL RULES?

Background

On November 8, 2001, the Subcommittee on Regulatory Reform and Oversight of the Committee on Small Business held a hearing to examine whether Environmental Protection Agency (EPA) regulations have sufficient grounding in economics and science. The genesis of the hearing was a roundtable of small business groups

convened by the Subcommittee in June, 2001. One of the primary issues raised by small business groups was the inadequacy of EPA scientific and economic analyses.

The polestar of the rulemaking process is that regulations must be rational. When Congress passed the Administrative Procedure Act in 1946, it believed that the process of notice and comment rulemaking would be sufficient to insure a rational outcome. After the regulatory onslaught of the 1970s, which saw the creation of the EPA and the enactment of many statutes that EPA implements by rulemaking, Congress and the executive branch determined that further refinements were necessary. Congress imposed new analytical requirements through the Paperwork Reduction Act and the Regulatory Flexibility Act to assess the impact of regulations on small businesses and other small entities. Presidents Reagan, Bush, and Clinton also imposed cost-benefit analysis requirements through Executive Orders. The hearing addressed whether EPA's analysis under these various requirements were adequate.

Summary

The panelists were Mr. Randall Lutter, Ph.D., Resident Scholar, AEI-Brookings Joint Center for Regulatory Studies; Ms. Fern Abrams, Director of Environmental Policy, IPC—Association Connecting Electronics Industries; Mr. Andrew Bopp, Executive Director, Society of Glass & Ceramic Decorators; James Conrad, Esq., Counsel, American Chemistry Council; Ms. Anne Giesecke, Ph.D., Director, Environmental Activities, American Bakers Association.

Dr. Lutter stated that the primary reason for poor analyses from EPA was the lack of incentive for better research. EPA's analyses are rarely peer-reviewed and courts almost always defer to EPA on these matters. Furthermore, most statutes that EPA implements do not require any sort of cost-benefit analysis and courts will not impose one if Congress did not. Dr. Lutter made four recommendations for improving EPA's analyses: (1) Congress should create a separate Office of Policy Analysis within EPA and charge that office with doing all risk assessments and cost-benefit analyses; (2) Congress should require that EPA cost-benefit analyses adhere to established principles of high quality; (3) Congress should ask an agency other than EPA to conduct peer review of their analyses; and (4) Congress should fund the office within the General Accounting Office created by the Truth in Regulating Act.

Ms. Abrams testified about the impacts that EPA's proposed Metal Processing & Machining rule would have on small businesses, including most members of her trade association. According to Ms. Abrams, the Clean Water Act requires that effluent limits be based on best available technology that is economically achievable but the proposed limits are neither achievable nor economical. For example, EPA assumed that there will be no increase in monitoring costs when many small businesses will face costs of $1,000 to $350,000 per facility. Furthermore, EPA considered that the compliance costs, which often exceed a firm's profits, would still be profitable by passing on costs to customers even though competition in the circuit board industry would prevent that.

Mr. Bopp testified that EPA failed to adequately assess the economic impact of changes to the lead Toxic Release Inventory (TRI)

rule. Despite EPA's finding that stone, clay, glass, and concrete products was among the five largest lead reporting groups under its TRI rules, EPA did not perform a separate assessment of the impact on glass and ceramic decorators. Mr. Bopp went on to state that large manufacturers may only use a few lead-based colors because they have manufacturing runs of the same item in hundreds of thousands or millions while smaller manufacturers use dozens of lead-based colors for runs in the single digits. EPA also assumed, incorrectly according to Mr. Bopp, that there would be no first time filers even though EPA's new rule reduced the threshold reporting requirement to 100 pounds from 10,000.

Mr. Conrad expressed significant concerns over the failure of EPA to assess the economic impact of its proposed Cross Media Electronic Reporting and Recordkeeping Rule (CROMERR). For example, utilizing EPA's own data, the American Chemistry Council estimated that the cost of compliance for all industries would be $48 billion. EPA did not consider these costs because EPA concluded that CROMERR implementation would be voluntary—a conclusion disputed by Mr. Conrad. Mr. Conrad also noted that the proposed regulation was based on a similar rule adopted by the Food and Drug Administration (FDA) for pharmaceutical manufacturers. As Mr. Conrad concluded, the purposes of the FDA rule and the EPA proposal are quite different—one protects the environment; the other is designed to ensure that drugs taken by sick people will actually have the prescribed prophylactic effect. The risks associated with the latter are sufficient to warrant a costly electronic reporting and recordkeeping requirement. EPA failed to recognize this in its analysis according to Mr. Conrad.

Dr. Giesecke testified that EPA's total maximum daily load rule (TMDL) seriously misconstrued the available science and severely underestimated the impacts on small businesses and small governmental entities. Dr. Giesecke noted that EPA estimated the economic cost for establishing TMDLs on an annual basis at between $63 and $69 million. In contrast, the state regulators who would actually have to develop the TMDLs calculated that the cost would be between $1 and $2 billion annually. Dr. Giesecke did not take account of the fact that most states did not have the data needed to construct a scientifically sound TMDL. Finally, Dr. Giesecke stated that EPA severely underestimated the cost to industry of compliance with the TMDL program. Even the National Academy of Sciences found numerous methodological, scientific and economic errors in EPA's analysis, according to Dr. Giesecke.

For further information on this hearing, refer to Committee publication 107–35.

7.4.7 ISSUES IN THE TRAVEL AGENCY BUSINESS

Background

On May 2, 2002, the Subcommittee on Regulatory Reform and Oversight of the Committee on Small Business held a hearing to address issues affecting travel agencies. In particular, the hearing examined the impact of changes in the distribution and sale of airline tickets.

Travel agents play a vital role in ensuring that Americans reach their intended destinations. Their necessary role was evident in the aftermath of the events of September 11, 2001 when travel agents were in their offices trying to help stranded air travelers get to their destinations. Travel agents, who used to rely on commissions from airlines for a large segment of their revenue, are facing economic change forced by reductions and eliminations of those commissions. Travel agents are now facing competition from on-line services, such as Onetravel.com and Orbitz. Customers are also using the Internet to investigate travel options besides airline tickets and are doing there own travel reservations and booking. These profound changes will require travel agencies to readjust. However, to the extent that travel agencies are being forced out of business by unfair trade practices of airlines trying to extend their market power from air transportation to the travel agencies, the government may need to take action particularly in light of the funds that Congress has committed to rescuing the commercial airline industry after September 11.

Summary

There were two panels. The first panel consisted of The Honorable Mark Foley, the United States House of Representatives (R–FL). On the second panel were: Mr. Lou Fenech, General Manager, Royal Holiday Travel; Celeste Siemsen, President, Empress Travel; Mr. Stanley Morse, President, Marstan Travel; Ms. Jacquelyn Alton, Owner, CWT/Almeda Travel; Gary Doernhoefer, Esq., Vice President & General Counsel, Orbitz, Inc.; and Mr. Michael Thomas, President, OneTravel.com.

Mr. Foley testified that he was troubled by the bailout of the airlines because that the funds used to bail them out would not filter down to the airline's employees or the many businesses that rely on airline travel, such as travel agents. Mr. Foley testified the cancellation of commissions by airlines bore out his concern. Mr. Foley concluded by noting that the ratcheting down and cancellation of commissions did not stem from the events of September 11, 2001 but had been going on for a number of years.

Mr. Fenech testified that most travel agencies are small businesses with a majority owned by women. He went on to state that travel agencies are suffering as a result of a downturn in the economy, changes in how airlines do business, and the lingering effects of September 11, 2001. Mr. Fenech noted that airlines received an estimated $15 billion from the government as a result of the economic fallout from September 11, 2001. Nevertheless, the airlines have gone on to cut commissions from travel agents, boost their own on-line web service (Orbitz), and raise prices. Mr. Fenech further noted that the cancellation of commissions is not happening in other countries, just in the United States. Mr. Fenech concluded with a plea to enact H.R. 1734, which would give travel agents access to all fares established by airlines, including exclusive web-based fares.

Ms. Siemsen testified about two threats to travel agents. The first is unfair commission policies and the second is restrictions on selling airline tickets over the Internet. According to Ms. Siemsen, the airlines took their taxpayer-funded bailout monies and then

proceeded to eliminate commissions paid to travel agents in an attempt to drive them out of business. Ms. Siemsen opined that travel agents should get some form of antitrust immunity to level the playing field in bargaining with commercial airlines.

Mr. Morse commenced his testimony with the statistic that travel agents played a key role in the increase in air travel during the previous decade by producing over 80 percent of the airline tickets for the traveling public from 1991 to 2000. Despite this, airlines have cut commissions resulting in a loss of more than 5,000 travel agencies since 1995. The elimination of airline fees has caused many travel agents to start charging fees for their travel planning services. Mr. Morse noted that travel agents cannot book airlines' web-based fares and this inability reduces the likelihood that a customer would use a travel agent for obtaining air travel. In turn, that traveler is more likely to make other travel arrangements by themselves further impinging on travel agency revenue.

Ms. Alton testified that travel agents do not have sufficient opportunities to bid on and retain federal contracts. There are few small business set-asides for travel agents. Ms. Alton further mentioned that federal agencies contracting officers are bundling travel management and information technology services making it nearly impossible for small businesses to bid. Ms. Alton noted that federal agencies must perform A–76 studies (to assess whether they can save money by contracting out services) before issuing travel management contracts. Delays in payment from the federal government have only exacerbated the financial predicament of travel agencies caused by the elimination of commissions from commercial airlines. Ms. Alton summarized her testimony with the conclusion that small travel agents remain at a serious disadvantage in bidding for federal contracts, an arena that they could move to in order to replace the lost commissions from commercial airlines.

Mr. Doernhoefer testified that the airlines created Orbitz because the existing distribution system for tickets was inefficient and expensive. The distribution costs included computerized reservation systems which charged the airlines for each ticket booked not the travel agents for supplying the system. If airlines could find a way to reduce their distribution costs, that would result in lower fares to consumers. Mr. Doernhoefer suggested consumers would be willing to pay for good service by travel agents and travel agents have started requiring customers to pay for their reservation services. Mr. Doernhoefer testified that the real problems faced by travel agents are not competition from Orbitz but the spiraling costs incurred by airlines through the operation of independent computer reservation systems. Mr. Doernhoefer noted that Orbitz was designed to promote competition among computer reservation systems. The system is not selective but allows any airline into the distribution system. Mr. Doernhoefer expects that the Internet will ultimately force computerized reservation systems out of business and allow travel agents to focus on providing a fee-based service to their customers.

Mr. Thomas owns a computerized travel agency and raised two primary concerns about Orbitz. First, Mr. Thomas noted that Orbitz has a most-favored nations clause in its contracts. This requires airlines to offer to Orbitz any fare that they offer elsewhere

even those on their own websites that are special promotional Internet fares. Without access to these fares, Orbitz's competitors, like OneTravel.com, cannot hope to compete. Second, Orbitz requires each airline to meet certain promotional support mandates, which can be satisfied by developing Orbitz-only fares. Even if the difference in fares is only a few dollars, Mr. Thomas believes that customers will seek out those Internet sites, such as Orbitz, that consistently have the lowest fares. Mr. Thomas rejected contentions that Orbitz's spectacular growth was because of a better search-engine technology. Rather, Mr. Thomas believes that Orbitz has grown because of the anti-competitive nature of its contracts with airlines. Mr. Thomas concluded that Orbitz competitors must have access to all airline fares.

For further information on this hearing, refer to Committee publication 107–55.

7.4.8 THE COST OF REGULATION TO SMALL BUSINESS

Background

On June 6, 2002, the Subcommittees on Regulatory Reform and Oversight and Workforce, Empowerment, and Government Programs held a joint hearing on the cost of regulation to small business.

The purpose of the hearing was to discuss the disproportionate burden of regulations to many small businesses. Current efforts to take small businesses into account when federal agency rules are drafted as well as future regulatory reform initiatives were discussed.

Two reports were the background for the hearing. First, the SBA Office of Advocacy's report entitled "The Impact of Regulation on Small Firms" by Drs. Crain and Hopkins, which estimated that small firms pay 60 percent more per employee for regulations than large firms. The second, "Draft Report to Congress on the Costs and Benefits of Federal Regulations" written by Dr. John Graham and his staff at the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget detailed the net loss and net benefit to the country from regulation.

Summary

The first panel consisted of the Honorable John Graham, Ph.D., Administrator of the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget and the Honorable David McIntosh, former Member of Congress (R–IN) and a partner at Mayer, Brown, Rowe, and Maw. The second panel included: Robert Hahn, Ph.D., Director of the AEI-Brookings Joint Center on Regulatory Studies, Mr. Andrew Langer, Manager of Regulatory Affairs at the National Federation of Independent Business, and Raymond Arth, President, Phoenix Products who also represented National Small Business United.

Dr. Graham discussed OIRA's progress on holding agencies accountable to the Regulatory Flexibility Act (RFA). He touted his 20 returned regulations as serious progress. He also made special note of his partnership with SBA's Office of Advocacy on implementing the RFA and taking into account the effects of regulation on small

businesses. Dr. Graham noted that his staff is sufficiently small to require the expertise of the Office of Advocacy to communicate to OIRA when an agency has violated the RFA and SBREFA requirements in writing regulations.

Representative McIntosh discussed future regulatory reform initiatives including: improvements to the Regulatory Flexibility Act and SBREFA to ensure agency compliance and expansion of Executive Order 12360 to provide greater protection against private property takings by the federal government. He also noted that in his time at the White House Council of Competitiveness chaired by then Vice President Quayle, that oftentimes larger firms saw federal regulation as a competitive advantage against smaller firms because it created an increased cost to entry in certain businesses.

Dr. Hahn discussed OIRA's current analytical work and its efforts to improve analyses in federal agencies. He recommended making regulatory impact analyses publicly available on the Internet; providing a regulatory impact summary table for each regulatory impact analysis that includes information on costs, benefits, technical information, and whether the regulation is likely to pass a benefit-cost test; establishing an agency or office outside the executive branch to independently assess the economic merits of existing and proposed federal rules; requiring that the head of a regulatory agency balance the benefits and costs of a proposed regulation; and requiring that all regulatory agencies adhere to established principles of economic analysis when doing a regulatory impact analysis.

Mr. Langer testified that federal policy makers often view the business community as a monolithic enterprise that is capable of passing taxes and regulatory costs onto consumers without suffering negative consequences. He argued that for small businesses that is not the case. They are small entities without payroll departments, tax departments or attorneys on staff. He identified tax related paperwork burdens as greatest to his members as well as health, environment, safety, and employment regulations like the Family and Medical Leave Act.

Mr Arth discussed agency non-compliance with the Regulatory Flexibility Act and the importance of legislative changes including adding the IRS to the SBREFA process. Full Committee Chairman Manzullo was praised for his Small Business Advocacy Improvement Act and Ranking Member Velázquez gets praise for her act aimed at tracking the paperwork burden to small businesses. He also stressed the importance of better cost-benefit analysis and risk assessment in determining regulatory priorities.

The hearing concluded with a consensus on improvements to the regulatory process and enhancing its sensitivity to the disproportionate burden on small business.

For further information on this hearing, please refer to Committee Publication 107–60.

7.4.9 THE TRI LEAD RULE: COSTS, COMPLIANCE, AND SCIENCE

Background

On June 13, 2002, the Subcommittee on Regulatory Reform and Oversight held a hearing to examine the impact on small busi-

nesses of EPA's final rule lowering the threshold for reporting releases of lead and lead compounds.

The purpose of the hearing was to discuss the Environmental Protection Agency's rule for lead and lead compounds on the Toxic Release Inventory (TRI). The new lower threshold for lead reporting set July 1, 2002 as the due date for 2001 reporting. Thousands of small businesses were required to report for the first time under the TRI regime. EPA had undertaken several efforts to inform and guide newly regulated businesses. The hearing sought to investigate the cost and burden of compliance to small businesses as well as the science behind the rule's designation of lead as a persistent, bioaccumulative, and toxic (PBT) chemical.

Summary

The first panel consisted of the Honorable Kim Nelson, Assistant Administrator for Environmental Information, U.S. Environmental Protection Agency. The second panel included: Mr. Dennis McGuirk, President of the IPC-Association Connecting Electronics Industries; James Mallory, Executive Director of the Non-Ferrous Founders' Society; Ms. Nancy Klinefelter, President of the Baltimore Glassware Decorators for the Society of Glass and Ceramic Decorators; and Mr. Hugh Morrow, President of the North American Office of the International Cadmium Association. Written testimony was also submitted from the SBA's Office of Advocacy, the National Association of Manufacturers, and the Mercatus Center.

Administrator Nelson defended the EPA's TRI Lead rule and the process by which it was promulgated. She felt there were few scientific issues in question and that her office had done an unprecedented amount of outreach and compliance assistance on this rule. Representatives from regulated industries would later disagree. She also discussed an upcoming Science Advisory Board review of an agency-wide framework for characterizing and ranking metals. During questioning, she disagreed with Committee Members on doing the science review before the rule was finalized and rejected criticism of her outreach to small businesses as inadequate. She also downplayed the primacy of science in agency policymaking until confronted with quotes from Administrator Christine Todd Whitman's confirmation hearing where she stated that "science would drive policy" at the EPA.

Mr. McGuirk discussed the impact of the rule on small circuit board makers who use lead solder in their products. He suggested that EPA failed in its SBREFA responsibilities by certifying that this rule would not have a significant impact on small businesses. He showed the panel EPA's compliance guide and other information that run to 746 pages. He also shared EPA's own estimate for compliance in the first year, which was $7,000 per facility.

Mr. Mallory presented testimony on the uniqueness of some industries affected by the TRI Lead rule. He showed that EPA failed to account or take into consideration the effects its rule would have on the foundry industry in particular. Commercial grade aluminum contains trace quantities of lead, which are not measured or calculated currently. Each of 70 different aluminum alloys would have to be tested to find their exact trace lead content to comply with

the new EPA rule. Under past iterations of the rule a *de minimis* exemption was allowed for reporting.

Ms. Klinefelter, a small business owner, described the process by which she has to attempt to calculate her lead usage in her ceramic mug decorating shop. Each colored dye she uses has trace amounts of lead in different quantities. She estimated that it will take hundreds of hours per year to accurately track and report lead usage in her shop that will ultimately include zero releases of the substance. She also expressed concern that in the first reporting year she was being retroactively required to account for four months before the rule was actually finalized.

Mr. Morrow discussed the scientific problems behind the rule. He mentioned the fact that in both EPA sponsored workshops and from the House Science Committee, questions have been raised about the validity of applying PBT methodology to metals. He argued that even the criteria themselves are inappropriate for metals such as persistence. Persistence is an appropriate criterion for organic chemicals but all metals by their nature are persistent. Also the uses of bioaccumulation or bioconcentration factors are not useful indicators of hazard for metals. In fact, he stated, higher BAFs/BCFs may indicate a lower risk for toxicity. He cited the same EPA Metals Framework Document that Administrator Nelson cited as evidence that EPA has called these same criteria into question.

The hearing concluded with calls for further investigation and additional questions for Administrator Nelson and EPA to answer.

For further information on this hearing, please refer to Committee Publication 107–62.

7.4.10 THE SMALL BUSINESS HEALTH MARKET: BAD REFORMS, HIGHER PRICES, AND FEWER CHOICES

Background

On July 11, 2002, the Subcommittee on Regulatory Reform and Oversight held a hearing to examine the small group health care reforms of the 1990s that have led to exceedingly high rates for small employers. According to Milliman USA (the nation's largest health care actuarial company) the small group market no longer exists in 41 states. The hearing would explore the problems of access to small group coverage as well as proposed solutions.

Summary

The hearing comprised one panel of witnesses including: Mr. Mark Litow, Consulting Actuary for Milliman USA; Mr. Ray Keating, Chief Economist for the Small Business Survival Committee; Merrill Matthews, Ph.D., Director of the Council for Affordable Health Insurance; Wayne Nelson, President of Communicating for Agriculture and the Self-Employed; and Mr. Robert de Posada, President of the Latino Coalition.

Mr. Litow discussed the small group health market and how guaranteed issue and community rating legislation at the federal and State level have driven up prices and driven out competition in many markets. He suggested that limited rating bands or community rating force prices up for healthy customers and eventually drive them out of the market. The development of state based high-

risk pools or health insurance safety nets as some are called would help to alleviate such problems. Guaranteed issue provisions in HIPAA and other State legislation have given healthy people incentives not to buy coverage until they are sick, thus driving up prices further. The small group market functions the same way as the individual market

Mr. Keating noted the dramatically escalating price of insurance premiums for small businesses. He cited New Jersey's experiment with guaranteed issue in 1994 that led four of the biggest family coverage plans to increase costs by 344–612 percent by 2002. Kentucky passed similar legislation and 45 insurers left the market. Mr. Keating recommended Medical Savings Accounts as one option to help restore sanity to the health marketplace. Vouchers or tax credits should be used to help those who truly can not afford health insurance rather than expanding government provided health care.

Dr. Matthews compared guaranteed issue regulation to allowing a person to purchase auto insurance after being involved in a car wreck. He described community rating as against our country's strong belief in the marketplace. Dr. Matthews said that we don't allow the poor to just walk into supermarkets and take whatever they want or raise the price of those goods to provide for the free food; instead we provide vouchers or food assistance to allow them to pay for the same food in a market. He suggested premium assistance plans like the Armey/Lipinski Fair Care bill were on track and state established high-risk pools with some federal assistance would provide corrections to current market trends.

Mr. Nelson expressed concern about similar state and federal regulation and noted particularly some state rules that required serving groups as small as one in group insurance. Mr. Nelson expressed the satisfaction of small businesses with 100 percent deductibility for the self-employed for insurance premiums, but that deductibility is important for individuals who are not self-employed and purchase their own insurance.

Mr. de Posada discussed the high-uninsured population of Hispanics in the United States. Over one third of Hispanics were uninsured compared to 12 percent of non-hispanic whites. Hispanic workers are disproportionately employed in the service industry or in small businesses that can not afford health insurance for their employees. He suggested legislation already introduced on Individual Membership Associations and Association Health Plans that can dramatically reduce the cost to individuals and small businesses. He also discussed tax law changes to help low-income individuals have access to affordable health insurance.

For further information on this hearing, please refer to Committee Publication 107–64.

7.4.11 FEDERAL FARM PROGRAMS: UNINTENDED CONSEQUENCES OF FAV RULES

Background

On September 19, 2002, the Subcommittee on Regulatory Reform and Oversight held a hearing to examine the dramatic effects that prohibitions on the planting of fruits and vegetables (FAVs) will have on small growers and food processors in the Midwest.

The Farm Security and Rural Investment Act of 2002 added soybeans as a program crop for subsidy. Rules prohibiting the growing of FAVs on program acreage were retained from the previous farm legislation. The net result of these two choices meant that large amounts of acreage would now be off limits for the planting of fruits and vegetables for processing and could have particularly dramatic effects on growers and processors in the Midwest who rely heavily on rotating FAVs with soybeans and other crops. The U.S. Department of Agriculture was in the process of promulgating implementing regulations for these rules when the hearing took place.

Summary

The hearing comprised one panel of witnesses including: Mr. Dave Howell, President, Howell Farms; Brian Reichart, President and CEO, Red Gold, Inc.; Dan Hartung, President of Hartung Brothers; Mr. Paul Palmby, Vice President of Manufacturing, Seneca Foods Corporation.

Mr. Howell, a farmer in Indiana, discussed the FAV rule restrictions and how it would affect his business. He derives 50 percent of his gross revenue and a larger share of the profits from fruit and vegetable production. He described the difficulty of the regulations, which would potentially penalize him in multiple ways for rotating his crops through program acreage. Not allowing crop rotation because of these restrictive rules would lead to a greater need for insecticides, fungicides, and bactericides. These rules prevent diversification, which is often necessary to fight off difficult economic times for certain crops. It also makes passing on assets to family members more difficult because of the way FAV production history is calculated.

Mr. Reichart, head of tomato processing business, noted that in a state like Indiana where 100 percent of tillable acres are planted in corn or soybeans, then all land is legislatively unavailable for fruit and vegetable production unless a farmer removes himself from the federal farm program permanently. One problem, as he sees it, is that there is no way under the current rules to replace acreage lost when a farmer closes up shop or changes to other crops. He made clear that he did not support growing fruits and vegetables on acres that receive a government payment. They advocate an acre for acre reduction in federal payments for those acres planted in FAVs.

Mr. Hartung, a Wisconsin grower, argued that the true consequences of this rule would be to increase the amount of acreage dedicated to soybeans and increase the cost to taxpayers for that program. It will also reduce the amount of acres available to processed FAVs and will in turn make canned and processed fruits and vegetables more expensive to the consumer.

Mr. Palmby, a Wisconsin-based processing executive, discussed the unanimity of the Canned, Frozen Food and Grower coalition which includes Seneca, Del Monte Foods, Chiquita Processed Foods, Allen Canning, Lakeside Foods and many other companies. He stressed the difference between the kind of fruits and vegetables grown for processing from those that are grown for fresh consumption. Many who favor these restrictive rules believe it benefits

fresh fruit and vegetable growers. Often processing companies contract with growers ahead of time for these crops. One of the more immediate impacts he noted is that renters of land have stopped allowing those that rent from them to grow FAVs on those acres.

The hearing concluded with calls to watch the USDA regulations as they are promulgated and investigate ways to recalculate base acreage through legislative corrections.

For further information on this hearing, please refer to Committee Publication 107–69.

7.5 Summaries of the Hearings Held by the Subcommittee on Rural Enterprises, Agriculture, and Technology

7.5.1 Regrowing Rural America through Value-Added Agriculture

Background

The Subcommittee on Rural Enterprises, Agriculture and Technology held this hearing on the issue of value-added agriculture on July 17, 2001.

This hearing was called to discuss how Congress could help regrow rural America by providing opportunities for farmers to create new value-added ventures. Farmers and ranchers want to become "price makers" instead of just "price takers," and value-added enterprises will give them the ability to reach up the agricultural marketing chain and capture profits generated from processing their raw commodities. Agriculture is the life-blood of many rural state's economies, and allowing producers to participate in more value-added enterprises will greatly aid the revitalization of rural communities.

The hearing also focused on two pieces of legislation introduced by the Subcommittee Chairman. The first bill, H.R. 1093, The Value-Added Development Act for American Agriculture, would provide $50 million in grant money to states to form agriculture innovation centers. These centers would provide desperately needed technical advise (engineering, business, research, and legal services) to assist producers in forming producer-owned value-added endeavors.

The second piece of legislation, H.R. 1094, The Value-Added Agriculture Investment Tax Credit Act, would allow producers to receive a 50 percent tax credit on investments in producer-owned value-added enterprises. The bill provides a maximum tax credit of up to $30,000 per year per producer, and the tax credits may be applied over 20 years.

Summary

The subcommittee heard from a panel of four witnesses, including: Mr. Wayne Nelson, President, Communicating for Agriculture and the Self-Employed; Ms. Terry Jorde, President and CEO, Country Bank USA; Mr. David Reis, President-elect; Illinois Pork Producers Association; Mr. Jay Truitt, Executive Director for Legislative Affairs, The National Cattlemen's Beef Association.

The witnesses were all very supportive of value-added agriculture, and stated that Congress needs to ensure that producers

are able to enter into value-added ventures. The witnesses testified that developing new value-added agriculture enterprises is vital part of Congress' efforts to improve the economic standing of rural America. Value-added agriculture helps farmers plan for the future by providing long-term opportunities to market their products, and will help create more jobs in rural areas. Witnesses involved in cattle and hog production testified that the only way for family farmers to survive in an era of consolidation among agriculture companies is by creating value-added enterprises, allowing them to capture more profits as they process their commodities into value-added products.

All of the witnesses were very supportive of both H.R. 1093 and H.R. 1094, stating that government support in the form of tax credits and research money would allow producers to create new value-added businesses that would become self-sustaining. In addition, the witness expressed their concerns about the decline in rural America's economic situation, and testified that value-added agriculture can be a great help in ending rural America's declining economic fortunes.

For further information on this hearing, refer to Committee publication 107–18.

7.5.2 RENEWABLE FUELS

Background

The Subcommittee on Rural Enterprises, Agriculture and Technology held a hearing on renewable fuels, on July 17, 2001.

The hearing was called to discuss the issue of renewable energy and its importance in solving our nation's energy crisis, and to explore ways in which Congress can help create a more productive environment for the use of renewable fuels. Renewable energy can take many forms, including ethanol, biodiesel, wind, hydroelectric, and power generated by the earth and sun. Increased use of renewable energy sources is crucial to building a stronger domestic energy policy, and will provide a positive economic impact to many rural areas.

The hearing also focused on two pieces of legislation introduced by the Subcommittee Chairman. The first, H.R. 2423, The Renewable Fuels for Energy Security Act of 2001, calls for renewable fuels to play a larger role in America's transportation market. The bill sets a national fuel standard, gradually increasing the market share for renewable fuels to 2 percent by the year 2008, 3 percent by 2011, and 5 percent by 2016. A 3 percent market share for ethanol and biodiesel in the U.S. would displace about 9 billion gallons of gasoline annually, or between 500,000 and 600,000 barrels of crude oil per day—the amount we now import from Iraq. H.R. 2423 sets a nation-wide fuel standard, not a gallon-by-gallon mandate, and will not force a level of compliance in places where compliance may be difficult.

The second bill, H.R. 1636, would make ethanol cooperatives eligible for the current small producer ethanol tax credit. Under current law, a small ethanol producer is eligible for an income tax credit of 10 cents per gallon, up to 15 million gallons of production. H.R. 1636 expands eligibility for the credit to producers whose an-

nual ethanol production capacity is below 60 million gallons. New cooperative ethanol processing plants that are coming on line will have production capacities of 40 to 60 million gallons per year, and this legislation will ensure that small producers continue to be eligible for the ethanol tax credit.

Summary

The subcommittee heard from one panel of witnesses, including: Mr. Ron Heck, Member of the American Soybean Association; Mr. Guy Donaldson, President of the Pennsylvania Farm Bureau and member of the Board of Directors of the American Farm Bureau; Mr. Robert Dinneen, Vice President, Renewable Fuels Association; Mr. Conn Abnee, Executive Director, Geothermal Heat Pump Consortium; Ms. Megan Smith, Co-Director, American Bioenergy Association.

All of the witnesses testified about the benefits of renewable fuels for meeting our nation's future energy needs, and the importance of exploring new ways to meet the energy demands of consumers. The witnesses stated that the public wants alternative energy sources, and that the government can help provide a boost to research and production by rewarding companies that develop and/or produce different types of renewable energy. The initial costs for producing renewable energy sources can be high compared to current forms of energy, and government help by tax credit or subsidy would help new enterprises get a foothold in the market. In addition, all of the witnesses testified about the environmental benefits renewable energy sources provide, especially when ethanol and biodiesel are used as additives to gas and diesel fuel.

The witness also discussed the importance of renewable fuels to the farm economy. Many farmers are looking for new markets for their products, and an increased use of renewable energy would provide them with a large market for their products. Some of the witnesses testified that the infrastructure is in place to supply renewable fuel, particularly ethanol, across the country. The witnesses also discussed the problem of getting more renewable fuels accepted by the petroleum refining industry, and stated that government regulations setting standards for using additives are very helpful.

For further information on this hearing, refer to Committee publication 107–21.

7.5.3 SMALL BUSINESS ACCESS TO TECHNOLOGY

Background

The Subcommittee on Rural Enterprises, Agriculture and Technology held this hearing on small business access to technology on February 7, 2002.

The hearing was called to discuss the U.S. Department of Commerce Study entitled "Main Street and the Digital Age: How Small and Medium-Sized Businesses are Using the Tools of the New Economy." The study examines the differences in technology investment and usage by small, medium and large companies. The hearing explored how small businesses are using new technologies to their advantage, difficulties they might be experiencing in gaining

access to new and necessary technologies, and how employees of small businesses are utilizing new technology skills at their jobs.

In addition, the subcommittee examined how small business owners in rural areas are utilizing new technologies. Job creation is vital to the small communities and rural areas of our country, and access to technology will help stem population loss in rural areas. Farmers and ranchers, health care workers and retail store owners realize that if they want to keep and attract quality employees, they need to have better access to technology. These entrepreneurs understand that in order to remain competitive in an increasingly consolidated marketplace, they need reliable and affordable access to technology. Small business owners are looking at technology to better manage inventory and customer needs, allow the business to purchase and sell online, and help consolidate the massive amounts of paperwork owners are faced with on a daily basis.

The Commerce Department study found that small employers are investing less in technology on a per employee basis than their larger competitors, and in two crucial Information Technology (IT) categories, computers and communications, the difference is pretty significant. The study also found that small businesses are less likely than larger firms to buy or sell over the Internet, and that their employees are much less likely to regularly use a computer at work.

Summary

The subcommittee heard from one panel of witnesses, including: The Honorable Kathleen Cooper, Undersecretary for Economic Affairs, U.S. Department of Commerce.; Mr. Tim Aughenbaugh, President and CEO of IdentityPreserved.com; Mr. Ralph Richmond, President of USA Cartage; Mr. Per Hugh-Jensen, Owner, Bowhe & Pear; and Mr. Steve Pequigney, President of I–CUBE, Inc.

Undersecretary Cooper discussed the Commerce Department study and the administration's agenda for improving access to technology. She stated that the department intends to complete follow up studies on the issue of small business investment in technology, so that they can begin to get a clearer picture of what policies the government should pursue to provide incentives for small businesses to access the technology they need. She noted that while the data is preliminary, it seems to indicate that small businesses recognize the need to invest in technology, and are trying to close the gap with their larger competitors.

The other witnesses, all small business owners, talked about how they have successfully incorporated new technologies into their businesses, and how crucial new technology is to their continued prosperity and growth. All the witnesses indicated that access to broadband Internet service is vital to small business, especially in rural areas. In addition, Mr. Aughenbaugh testified that it is hard to get good employees to relocate to small, rural towns, but that technology, especially broadband, enables employees to work from anywhere in the country. Broadband access and new technology is also helping to keep rural residents from leaving their communities, especially as younger generations become more comfortable and knowledgeable about technology.

For further information on this hearing, refer to Committee publication 107–42.

7.5.4 ACCESS TO HEALTH CARE IN RURAL AMERICA

Background

The Subcommittee on Rural Enterprises, Agriculture and Technology held this hearing on access to health care in rural America on March 19, 2002.

The hearing was called to discuss the concerns of farmers and other small business owners in rural areas as they struggle to provide health insurance for their families and employees. Small business owners, employees, and their families account for over 60 percent of the uninsured population, and this problem greatly impacts rural small businesses. Of added importance for rural states, the ability of small business owners to obtain and provide affordable health insurance for their employees is a crucial component to rural states' efforts to attract new jobs and prevent population loss.

The hearing also focused on the President's recently released plan to help small businesses create new jobs, support their workers, and improve the nation's economy. The President made health security a major part of his plan, and urged Congress to: (1) dramatically improve Medical Savings Accounts by eliminating the current cap on the number of MSAs allowed nationwide, and lowering the deductible for individuals and families; and (2) permitting industry associations to provide health insurance for their members through Association Health Plans.

Summary

The subcommittee heard from one panel of witnesses, including: Ms. Mary DeVany, manager, Avera McKennan Telehealth Services; Mr. Ron Hatch, owner of Hatch Furniture; Mr. Wayne Nelson, President, Communicating for Agriculture and the Self-Employed; and J. Edward Hill, M.D., Chair-Elect of the American Medical Association's Board of Trustees, and a family physician.

All of the witnesses testified about the health care access problems facing rural states, especially states such as Mississippi and South Dakota. South Dakota, for example, has only ten communities with a population over 10,000, and health care specialists are concentrated on the eastern (Sioux Falls) and western (Rapid City) edges of the state, with about 350 miles separating these two communities. According to the 1990 Census, 61.7 million Americans (24.8 of the population) live in rural areas, and 14.3 of rural Americans live in poverty. In addition, the Centers for Disease Control recently reported that most rural counties have a statistically higher percentage of uninsured than nonrural counties, and that there remains a relative scarcity of health care resources in rural areas.

The witnesses voiced their support for various proposals to increase access to health care, including: Association Health Plans; refundable tax credits for individuals to purchase health insurance; and permanently extending and expanding eligibility for Medical Savings Accounts. In addition, some of the witnesses voiced their strong support for increasing Medicare reimbursement rates to physicians and hospitals in rural areas, which have been dispropor-

tionately hurt by rate cuts. The reimbursement rates have been declining more and more each year, and rural hospitals and physicians are finding it difficult to stay in business, and find themselves in the position of reducing their Medicare patient loads and cutting back on the services they provide. This hits rural areas particularly hard, since many rural residents are elderly who rely on Medicare.

For further information on this hearing, refer to Committee publication 107–48.

7.6 Summaries of Hearings Held by the Subcommittee on Tax, Finance, and Exports

7.6.1 Access to Capital: Proposed Solutions for the Capital Funding Needs of Start-Up and Emerging Growth Businesses

Background

The Subcommittee on Tax, Finance, and Exports and the Subcommittee on Workforce, Empowerment, and Government Programs conducted this joint hearing on access to capital on June 26, 2001. This hearing followed the Full Committee hearing on access to capital conducted on May 17, 2001. Attracting outside capital is difficult not only because of the uncertainties related to new and growing small businesses, but also because of the high cost of financing these small transactions.

The purpose of this hearing was to allow small businesses to testify as to how they address this important issue and their recommendations for a solution. Additionally, the Subcommittees examined two pieces of legislation introduced by Subcommittee Chairman DeMint, which would assist small businesses as they address this problem. H.R. 1923, the Start-Up Success Accounts (SUSA) Act of 2001 would allow small businesses with gross receipts of up to $2 million to deduct and place up to 20 percent of taxable income into a SUSA account for each of the first five years of business operation.

Representative DeMint has also proposed the Business Retained Income During Growth and Expansion (BRIDGE) Act. The BRIDGE Act would allow a firm that has experienced a sales growth of 10 percent or more above the average gross receipts for the prior two taxable years to temporarily defer a portion of its Federal income tax liability.

Summary

The hearing comprised of one panel, including: Mr. John Brinson, President, Lehigh Valley Racquet & Fitness Centers; Mr. Ed Rankin, Founder & CEO, People Solutions, Inc.; Mr. Doug Tatum, Chief Executive Officer, Tatum CFO Partners; Ms. Karen Kerrigan, Chair, Small Business Survival Council; Mr. Bob Morgan, President, Council of Growing Companies; and Mr. Lee Mercer, President, National Association of Small Business Investment Companies (NASBIC). A number of the witnesses acknowledged that finding adequate financing at a reasonable cost and in a timely manner is a critical problem for small, emerging growth businesses. Lack

of capital financing restricts growth potential for these businesses, which also limits new employment opportunities.

A number of witnesses advocated on behalf of both the SUSA Act and the BRIDGE Act. Mr. Rankin opined that if he had been able to take advantage of the tax deferral provisions of the proposed BRIDGE Act, he would have been able to retain enough capital to be more self-sufficient, and could have gotten out of the financial "no man's land" much faster. Ms. Kerrigan advised that, because the tax code discourages capital retention, many small businesses are often faced with cash shortfalls at critical phases. The SUSA option, whereby new small businesses would be allowed to place up to 20 percent of taxable income into tax-deferred savings accounts for each of the first five years of operation, opens up new financial planning and financing opportunities for small firms most in need of these tools.

Additionally, the witnesses agreed that meaningful capital gains relief would help provide a remedy to the current cash shortage. Capital gains relief would provide investors more incentive to invest in both new and emerging growth businesses through an increased return on their risk.

The hearing concluded with an expression of concern over the impact of lack of capital on new and emerging growth businesses, and the need for a prompt resolution to this problem.

For further information about this hearing, please refer to Committee publication 107–15.

7.6.2 TRADE PROMOTION AUTHORITY AND TRADE ADJUSTMENT ASSISTANCE: HOW WILL SMALL BUSINESS EXPORTERS AND FARMERS BENEFIT?

Background

The Subcommittee on Tax, Finance, and Exports conducted this hearing on Trade Promotion Authority and Trade Adjustment Assistance on on July 24, 2001. The purpose of this hearing was to allow small business exporters to testify as to how Presidential Trade Promotion Authority would affect their businesses as well as to examine the reauthorization of the Trade Adjustment Assistance (TAA) program.

The President was granted fast-track authority almost continuously from 1974 to 1994. Unfortunately, the authority lapsed after the 1994 passage of the Uruguay Round legislation that established the World Trade Organization (WTO), and has not been renewed. Renewal of the President's trade promotion authority is critical to U.S. leadership and negotiating credibility in the global market.

Additionally, in a more open trade environment, some firms and industries will grow; others will contract, merge, or perhaps fail. The Trade Adjustment Assistance (TAA) program provides assistance to eligible workers and firms disadvantaged by reduction in U.S. trade barriers. Authorization for the TAA program expired September 30, 2001. Consequently, the Subcommittee will examine legislation introduced by Representative Phil English (R–PA), which reauthorizes the TAA program through 2006.

Summary

The hearing comprised of two panels. The first panel included: The Honorable Grant Aldonas; Undersecretary for International Trade, U.S. Department of Commerce; Mr. Don Lloyd Williams; President & CEO; Princeton Medical Enterprises; Mr. Paul Hartman; and Mr. Suresh K. Gursahaney; MicroAutomation, Inc. The second panel, which focused on Trade Adjustment Assistance reauthorization, included: Mr. William Bujalos; Mid-Atlantic Trade Adjustment Assistance Center Director; and Ms. Denise Froning, Policy Analyst; The Heritage Foundation.

During the first panel, the witnesses unanimously agreed that Trade Promotion Authority is a valuable tool for the President, and would result in an expanded international market. Mr. Williams advised the Committee that he is at a disadvantage with his European counterparts because the United States does not have an existing trade agreement in Brazil. He believes if the President had the power to negotiate trade agreements on a more expedited basis, his business would experience a more level playing field in the international market. Additionally, Mr. Hartman expressed his desire to see the President use Trade Promotion Authority to obtain more favorable trading conditions for farm commodities.

In the second panel, Mr. Bujalos expressed his support for the continued authorization for the Trade Adjustment Assistance program, and provided several examples of the assistance he has provided to businesses in the Mid-Atlantic area, which have been negatively affected by trade agreements. However, Ms. Froning pointed out there have been numerous problems with the Trade Adjustment Assistance program for workers, including, its ineffectiveness in retraining impacted workers. Instead, Ms. Froning suggested replacing the Trade Adjustment Assistance program with a wage insurance program.

The hearing concluded with the acknowledgment of the need to further review the TAA program and the upcoming debate on Trade Promotion Authority.

For further information about this hearing, please refer to Committee publication 107–22.

7.6.3 FARM AND RANCH RISK MANAGEMENT ACCOUNTS (FARRM): HOW WILL LEHIGH VALLEY FARMERS BENEFIT?

Background

This field hearing on Farm and Ranch Risk Management Accounts was conducted on August 9, 2001, in Pen Argyl, Pennsylvania. The purpose of this hearing was to allow farmers in Lehigh Valley, inform the Subcommittee how this risk management tool would provide them additional financial security during years in which their profits fall.

Farmers and ranchers face almost constant uncertainty from the weather and the markets. The Farm and Ranch Risk Management Act, if enacted, would allow farmers and ranchers to put up to 20 percent of their annual income derived from farming and ranching into a tax deferred trust account. Money would not be allowed to remain in a FARRM account for more than five years. However, at

any time during this period, money could be withdrawn to help stabilize an individual's income during a bad year of low crop prices or harsh weather. The FARRM account proposal, which was included in the President's initial broad tax cut proposal, was originally introduced by The Honorable Kenny Hulshof. The FARRM account proposal passed both the House and Senate during the 106th Congress

Summary

The hearing comprised of one panel, including: Mr. Kenneth R. Wedde, Mr. Brian Dietrich, Mr. Arland Schantz, and Ms. Cheryl Bennecoff.

During the first panel, the witnesses unanimously agreed that Trade Promotion Authority is a valuable tool for the President, and would result in an expanded international market. Mr. Williams advised the Committee that he is at a disadvantage with his European counterparts because the United States does not have an existing trade agreement in Brazil. He believes if the President had the power to negotiate trade agreements on a more expedited basis, his business would experience a more level playing field in the international market. Additionally, Mr. Hartman expressed his desire to see the President use Trade Promotion Authority to obtain more favorable trading conditions for farm commodities.

In the second panel, Mr. Bujalos expressed his support for the continued authorization for the Trade Adjustment Assistance program, and provided several examples of the assistance he has provided to businesses in the Mid-Atlantic are that have been negatively impacted by trade agreements. However, Ms. Froning pointed out there have been numerous problems with the Trade Adjustment Assistance program for workers, including, its ineffectiveness in retraining impacted workers. Instead, Ms. Froning suggested replacing the Trade Adjustment Assistance program with a wage insurance program.

The hearing concluded with the acknowledgment of the need to further review the TAA program and the upcoming debate on Trade Promotion Authority.

For further information about this hearing, please refer to Committee publication 107–24.

7.6.4 TAX RELIEF: THE REAL ECONOMIC STIMULUS FOR AMERICA'S ECONOMY

Background

The Subcommittee on Tax, Finance, and Exports, conducted a hearing on December 6, 2001, to address a number of economic stimulus proposals, and their possible impacts on the nation's economy.

Heightened concerns about an economic slowdown have spawned a number of proposals, ranging from tax relief to spending increases, to stimulate the economy. Despite the passage of an economic stimulus package by the House, the Senate considered its own version of this legislation. Unfortunately, this inaction has consequences, as it was recently announced the economy has now slowed to an annual rate of negative 1.1 percent.

At a time when the nation is struggling to jump-start the economy, the most viable remedy is to provide meaningful tax relief to stimulate long-term growth. This hearing focused on the positive impacts meaningful tax relief would have on the nation's immediate and long-term economic growth, and for small businesses in particular.

Summary

The hearing consisted on one panel, including Mr. Chris Edwards, Director of Fiscal Policy Studies, CATO Institute, Mr. Stephen Moore, Senior Fellow, CATO Institute, Mr. William Beach, Center for Data Analysis, The Heritage Foundation, Mr. Charles M. Lauster, Lauster & Radu Architects, P.C.

During the hearing, Mr. Edwards, Mr. Moore, and Mr. Beach all agreed that, in order for an economic stimulus package to be effective, it should include an immediate personal rate reduction. Across the board tax reductions are one of the strongest tonics for an ailing economy. It is particularly important to reduce the top tax rate, since it is this levy that imposes the greatest disincentive on investors, entrepreneurs, and small business owners. Additionally, there should be firm limits on the growth of domestic spending since a bigger government is likely to harm economic performance. In times of war, it is both necessary and desirable to increase spending on programs that help defend the nation. However, government spending, even for legitimate purposes, diverts resources from the productive sectors of the economy.

Mr. Lauster disagreed, stating that capital gains cuts and a reduction of the alternative minimum tax do little to assist small businesses. Conversely, Mr. Lauster proposed additional small business loans, tax credits for hiring, and federal support for local efforts to provide manufacturing space and empowerment zones are programs that can serve as examples for new legislation. He believes these efforts will get contracts and money directly to small businesses, especially if aimed at areas that are particularly hard hit.

For further information about this hearing, please refer to Committee publication 107–38.

7.6.5 HOW CAN TECHNICAL ASSISTANCE STIMULATE NEW JERSEY'S MANUFACTURING BASE?

Background

The Subcommittee conducted a field hearing on February 20, 2002, concerning the impact of the New Jersey Manufacturing Extension Program, The New Jersey Institute of Technology's Defense Procurement Technical Assistance Center, and the SBA's Small Business Development Center program on New Jersey's small and medium sized manufacturers. The hearing was conducted at the Passaic City Hall, 330 Passaic Street, Passaic, New Jersey.

Small business manufacturers throughout the nation work to compete in the global market place. A number of these programs have provided New Jersey's manufacturers valuable technical assistance as they search for additional procurement opportunities,

employee training, and strive to improve quality of their existing business practices.

Summary

The hearing consisted of two panels. The first panel included Mr. Mike Patel, President & CEO, PPI/Time Zero; Mr. John Watson, President, Premium Color Graphics Company; Mr. Jack Yecies, President, Herman W. Yecies, Inc.; and Mr. Cliff Lindholm, III, The Folstrum Company. The second panel included Mr. Robert Loderstedt, N.J. Manufacturing Extension Program; Mr. James Mitchell, N.J. Procurement Assistance Center; and Mr. Burt Rashkow, N.J. Small Business Development Center.

During the first panel, the small business witnesses expressed their gratitude toward the assistance provided by the Manufacturing Extension Program, which is administered in New Jersey by Rutgers University. They advised that without assistance by MEP and the New Jersey Small Business Development Centers, their attempts to grow would be stunted by the overwhelming task of navigating the federal procurement process.

The second panel expressed their concerns about the possibility of funding cuts to the MEP program in the Commerce-Justice-State Appropriations bill. They advised that their resources are already spread thin, and if anything, they are in need of a funding increase to help facilitate their assistance to the manufacturing community.

For further information about this hearing, please refer to Committee publication 107–44.

7.6.6 PAYROLL INDUSTRY AT RISK DUE TO ACH SYSTEM USED FOR DIRECT DEPOSIT

Background

The Subcommittee conducted a hearing on the subject of small payroll-processing companies on April 9, 2002. The purpose of this hearing was to discuss the concerns of small payroll-processing companies as they face increasing costs of operations at the hands of large banks that hold them liable for the transacted funds. The Subcommittee examined alternatives and solutions to this problem, including the promotion of real-time automated clearinghouse services, regulation of bank fees, and relaxing regulations on payroll processors.

Summary

This hearing consisted of one panel, including Mr. Chip Dawson; Payroll 1; Mr. Nick Antich; AD Computer; Ms. Dena Brunskill, President, IPPA; Mr. Gene Krause; ACH Direct; and Ms. Rita Zeidner; American Payroll Association.

Throughout the hearing, all witnesses agreed that, as a result of "direct deposit", the payroll process has been made simpler for both employees and employers. Typically, employees who use direct deposit have their pay available to them on the morning of payday, and there is no waiting for checks to clear. NACHA statistics indicate that the chance of having a problem with a negotiable check is 20 times greater than with direct deposit. However, the existing

system was designed in the 1970s, and has not been updated to coincide with the upgraded technology of today. Consequently, many small businesses find it too expensive to participate in direct deposit and many payroll-processing companies cannot afford to assume the liability, which goes along with these transactions.

Several solutions were offered at the hearing, including the regulation of fees banks could charge for direct deposit and allowing companies to do reversals from employee accounts when an employer does not fund its account. A long-term solution is to change the ACH system to a debit card network, with real time electronic authorization.

For further information about this hearing, please refer to Committee publication 107–52.

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