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## Activities and Summary Report on the House Committee on Small Business: 106th Congress

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## Union Calendar No. 612

106TH CONGRESS }  
*2d Session*

HOUSE OF REPRESENTATIVES

{ REPORT  
106-1050

### SUMMARY OF ACTIVITIES

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### A REPORT

OF THE

### COMMITTEE ON SMALL BUSINESS HOUSE OF REPRESENTATIVES

ONE HUNDRED SIXTH CONGRESS



JANUARY 2, 2001.—Committed to the Committee of the Whole House on  
the State of the Union and ordered to be printed

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WASHINGTON : 2001

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## LETTER OF TRANSMITTAL

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U.S. HOUSE OF REPRESENTATIVES,  
COMMITTEE ON SMALL BUSINESS,  
*Washington, DC, January 2, 2001.*

Hon. JEFF TRANDAHL,  
*Clerk, U.S. 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 106th 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, clauses 1(o), 2(b) and (c), and 3(k), 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,

JAMES M. TALENT, *Chairman.*



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# Union Calendar No. 612

106TH CONGRESS }  
2d Session } HOUSE OF REPRESENTATIVES { REPORT  
106-1050

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## SUMMARY OF ACTIVITIES

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JANUARY 2, 2001.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed.

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Mr. TALENT of Missouri, from the Committee on Small Business, submitted the following

## REPORT

### SUMMARY OF ACTIVITIES

#### CHAPTER ONE

##### INTRODUCTION

This is the thirteenth summary report of the standing Committee on Small Business. The action by the House of Representatives in adopting 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 the 106th 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

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

The Committee is bipartisan 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 106th Congress:

Republicans included:

James M. Talent (MO), Chairman; Larry Combest (TX); Joel Hefley (CO); Donald A. Manzullo (IL); Roscoe G. Bartlett (MD); Frank A. LoBiondo (NJ); Sue W. Kelly (NY), Vice Chairwoman; Steve Chabot (OH); Phil English (PA); David M. McIntosh (IN); Rick Hill (MT); Joseph R. Pitts, (PA); Michael P. Forbes (NY) (resigned July 17, 1999); John E. Sweeney (NY); Patrick J. Toomey (PA); Jim DeMint (SC); Edward A. Pease (IN); John R. Thune (SD); Mary Bono (CA).

Democrats included:

Nydia M. Velázquez (NY), Ranking Minority Member; Norman Sisisky (VA) (resigned February 22, 1999); Juanita Millender-McDonald (CA); Danny K. Davis (IL); Carolyn McCarthy (NY); Bill Pascrell, Jr. (NJ); Rubén Hinojosa (TX); Donna MC Christensen (VI); Robert A. Brady (PA); Tom Udall (NM); Dennis Moore (KS); Stephanie Tubbs Jones (OH); Charles A. Gonzalez (TX); David D. Phelps (IL); Grace F. Napolitano (CA); Brian Baird (WA); Janice D. Schakowsky (IL) (resigned March 25, 1999); Shelley Berkley (NV) (named May 25, 1999); Mark Udall (CO) (named May 25, 1999).

## 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, cur-

tailed, 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 five subcommittees as follows:

—Empowerment (five Republicans and four Democrats)

—Government Programs and Oversight (five Republicans and four Democrats)

—Regulatory Reform and Paperwork Reduction (five Republicans and four Democrats)

—Rural Enterprises, Business Opportunities and Special Small Business Problems (five Republicans and four Democrats)

—Tax, Finance and Exports (five Republicans and four Democrats)

During the 106th 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:

#### EMPOWERMENT

Promotion of business growth and opportunities in economically depressed areas.

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

General oversight of programs targeted toward urban relief.

#### GOVERNMENT PROGRAMS AND OVERSIGHT

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

Federal Government programs that are designed to assist business generally.

Small Business Innovation and Research Program.

Participation of small business in Federal procurement and Government contracts.

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

Oversight and investigative authority generally.

#### REGULATORY REFORM AND PAPERWORK REDUCTION

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.

RURAL ENTERPRISES, BUSINESS OPPORTUNITIES AND SPECIAL SMALL  
BUSINESS PROBLEMS

Promotion of business growth and opportunities in rural areas.  
Oversight and investigative authority over agricultural issues that impact small businesses.  
General promotion of business opportunities.  
Oversight and investigative authority over novel issues of special concern to small business.

TAX, FINANCE AND EXPORTS

Tax policies and its impact on small business.  
Access to capital and finance issues generally.  
Export opportunities and promotion.

1.4 DISPOSITION OF LEGISLATION REFERRED TO THE COMMITTEE

A total of 47 House bills and 3 Senate bills were referred to the Committee on Small Business during the 106th Congress. The Committee ordered 22 bills reported to the House, for which 20 reports were filed. Two bills, H.R. 4890 and H.R. 4943, were ordered reported and referred to the Committee on Government Reform for further consideration. Of the 20 bills reported, 19 passed the House, and 17 were enacted into law. Of the 26 bills considered by the Committee, 23 passed the House and 20 were enacted into law either individually or as a part of broader legislation. For a summary of the Committee's legislative activities, please refer to Chapter Five of this report.

During the first session of the 106th Congress, the Committee began a program of considering specific legislative initiatives designed to improve Small Business Administration programs. These "rifle-shot" bills were meant to allow the Committee to concentrate on each program or initiative individually on its merits rather than as part of a large complex omnibus bill. They were H.R. 68, H.R. 440, H.R. 774, H.R. 818, H.R. 1497, H.R. 2392, H.R. 2614, H.R. 2615, H.R. 3843, and H.R. 3845.

These technical corrections bills, affecting the Small Business Investment Company, Microloan, Women's Business Center, Small Business Innovation and Research, Disaster Loan, Certified Development Company and General Business Loan programs were introduced, considered, and reported by the Committee in the first session. The House also passed most of this legislation by overwhelming margins before August 15, 1999. H.R. 68, H.R. 440, H.R. 774, H.R. 818, and H.R. 1497 all became individual public laws. The remaining bills were later included in P.L. 106-554, the Consolidated Appropriations Act for 2001. Summaries of these bills may be found in Chapter 5 of this report.

Several individual initiatives were also considered during the first session of the 106th Congress, including H.R. 775, Y2K indemnity legislation, and S. 314, a Y2K loan program. Both of these programs were passed in order to assist small business in dealing with any potential adverse affects of the year 2000 rollover. The Committee also continued its efforts in aiding small business with the federal paperwork burden by passing H.R. 439, the Paperwork Elimination Act, which mandates that federal agencies began accepting, but not requiring, electronic submission of documents.

In addition, Chairman Talent authored and passed a significant veterans' assistance bill, H.R. 1568, the Veterans Entrepreneurship and Small Business Development Act, which was enacted in Au-

gust of 1999 as P.L. 106–50. The bill improved veterans’ access to small business programs and established a framework for comprehensive transition assistance for servicemen entering civilian life. A summary of H.R. 1568 can be found in Chapter 5 of this report.

In the second session the Committee dealt primary with efforts to assist underserved communities through the New Markets Venter Capital Act, H.R. 4530, and H.R. 4464, the BusinessLinc Act. This legislation along with H.R. 4923, the American Community Renewal Act, established new programs to assist low income communities through a combination of tax incentives, financing programs, faith-based drug abuse and education initiatives, and regulatory relief. This legislation was part of a bipartisan effort between Chairman Talent, Speaker Hastert, and President Clinton which was signed into law as a part of H.R. 4577, the Consolidated Appropriations Act for 2001. For a full summary of this legislation see Chapter 5 of this report.

In addition, in the second session the Committee passed and saw enacted several bills relating to small business and federal procurement. H.R. 4897, the Women’s contracting Equity Act was authorized by Ms. Velázquez and added as part of H.R. 4577. It will strengthen efforts to include women-owned small businesses in the federal process. The Committee also passed H.R. 4945, which required the federal agencies to begin collecting data on the practice of “bundling” contracts. This practice, which involves combining contracts for ease of administration, has resulted in significant hardship for small businesses unable to bid on these large consolidated offerings. This legislation as well was included in the Consolidated Appropriations Act for 2001.





## CHAPTER TWO

### THE SMALL BUSINESS ADMINISTRATION

The Committee on Small Business has both legislative and oversight jurisdiction over the Small Business Administration (SBA), an independent Federal agency chartered in 1953 to “aid, counsel, assist and protect the interests of small business.”

During the 106th Congress, the Committee conducted a series of legislative and oversight hearings focused on producing specific pieces of legislation to “fine tune” the Small Business Administration’s programs following up on the comprehensive reauthorization bill implemented in the 104th Congress. These hearings resulted in passage of a number of significant reforms in the basic operations of the SBA. This legislation is described in Chapter 5 of this report.

The major programs administered by the SBA are briefly described below.

#### 2.1 SBA PROGRAMS IN GENERAL

The SBA operates through 10 Regional offices, 85 District and Branch offices and has a staff of approximately 3,300 permanent employees and a varying number of temporary disaster employees (as many as 1,600 in 1997). It provides loans and loan guarantees, both for business purposes and disaster recovery; assistance to small business in obtaining government contract; and management and technical assistance through paid and volunteer staff. It also administers a surety bond program for contractors unable to obtain bonds, which are a prerequisite to bidding for, or performing, certain contracts. The SBA also serves as an advocate for all small businesses, conducts economic research and monitors the implementation of small business legislation and programs at other agencies, such as the Regulatory Flexibility Act and the Small Business Innovation Research Program. The SBA administers a portfolio of more than 463,000 loans for more than \$35.2 billion of which \$6.9 billion involve loans to disaster victims.

#### 2.2 SBA BUSINESS LOANS

A major function of the SBA is to make capital available to small businesses at terms and conditions that are more favorable than they can normally secure in the private sector. In addition to its general business loan program the SBA also has specialized loan programs designed to help small businesses with equity, long-term asset-based, and forms of specialized financing.

Most SBA financial assistance is provided in the form of guarantees of commercial loans. Such guarantees can be for as much as 80 percent of loans up to \$100,000 or 75 percent of loans up to the statutory maximum of \$750,000. (Guarantees of up to \$1 million can be approved for certain fixed-asset financings that promote

public policy objectives set forth in the Small Business Act.) The interest rates on guaranteed loans are negotiated between the borrower and lender subject, in most cases, to a maximum of 2.75 percent above the prime rate. In fiscal year 1996, SBA approved 45,845 7(a) guaranteed loans totaling \$7.7 billion and 6,884 504 program loans total \$2.4 billion; in fiscal year 1997 the agency approved 45,288 7(a) guaranteed loans total \$9 billion and 4,131 504 program loans totaling \$1.4 billion; in fiscal year 1998 the SBA approved 42,268 7(a) loans totaling \$8.53 billion and 4,930 504 program loans totaling \$1.77 billions, in fiscal year 1999 the SBA approved 40,477 7(a) loans totaling \$9.47 billion and 5,156 504 loans totaling \$1.96 billion, and in fiscal year 2000 the SBA approved 40,141 7(a) loans totaling \$9.54 billion and 4,455 504 loans totaling \$1.8 billion.

Certain applicants who could not obtain commercial loans, even with a government guarantee, were eligible to apply for SBA direct loans. Between October 1, 1985 and September 30, 1994, eligibility for this type of assistance was limited to qualified businesses owned by individuals with low incomes or located in areas of high unemployment, Vietnam-era or disabled veterans, the handicapped or organizations employing them, business certified under the minority business capital ownership development program and certain non-profit intermediary microlenders.

Beginning on October 1, 1994, funding for direct loans was limited to the handicapped and intermediary microlenders as part of the Administration's budget request. Funds for loans to the handicapped were eliminated in 1996 at the Administration's request. The Microloan program was made permanent in 1997 and currently includes over 110 intermediaries. Intermediaries normally borrow approximately \$1 million and relend it in amounts not to exceed \$25,000. Microloan intermediaries received 31 loans totaling \$14.5 million dollars in FY 1998. In fiscal year 1999 intermediaries received 65 loans for \$27.2 million.

### 2.3 DISASTER ASSISTANCE LOANS

The SBA provides loan assistance to disaster victims, including homeowners, businesses and non-profit institutions. When a disaster strikes it is important that damaged property be replaced or repaired and businesses be provided with adequate working capital to facilitate their recovery as quickly as possible. SBA disaster loans serve this purpose and minimize disruptions to jobs, business revenues and taxes. In so doing, they play a vital role in restoring the economic health of disaster stricken communities. Often making the difference in the survival of businesses necessary to that recovery. During fiscal year 1997, 49,515 disaster loans were approved for \$1.138 billion dollars to businesses, homeowners and others affected by hurricanes, tornadoes, floods and other disasters. During fiscal year 1998, 30,154 disaster loans were approved for \$728.1 million. In fiscal year 1999, 29,214 disaster loans were approved for \$731 million and in fiscal year 2000 21,899 disaster loans were approved for \$761 million.

#### 2.4 SMALL BUSINESS INVESTMENT COMPANIES

There is a continuing need for venture capital for new and growing small businesses. Small businesses have historically been the origin for new technological developments and expansion. An important source of this venture capital has been the SBA's Small Business Investment Company (SBIC) Program.

SBICs supply equity capital and long-term financing to small firms for expansion, modernization and initial equity financing of their operations. SBICs also often provide sophisticated technical and managerial advice. They are licensed, regulated and, in part, financed by the SBA through government backed debentures. An SBIC finances small firms in two general ways—through straight business loans or through venture capital equity type investments. In fiscal year 1997, 300 SBICs, with private capital of \$5.1 billion, provided their small clients with \$2.4 billion in 2,733 financing. During fiscal year 1998, 319 SBICs with \$6.3 billion in private capital provided \$3.2 billion in 3,456 financing, in 1999 the SBIC program provided over \$4.2 billion in small business venture capital. In fiscal year 2000 the 395 participants in the SBIC program had total resources of \$15.4 billion and provided \$5.46 billion in investments in 3,060 small businesses.

The SBA also administered the Specialized Small Business Investment Company (SSBIC) Program, which was similar to the SBIC program SSBICs agree to make investments solely in small business concerns owned by socially or economically disadvantaged individuals. However, the SSBIC program suffered from heavy losses and legislation was passed in the 104th Congress to restructure the SSBIC program. In fiscal year 1997, the SSBIC program was merged into the overall SBIC program and all existing SSBICs became SBICs. Under the combined program each SBIC, regardless of its size, will be required to invest at least 20% of its aggregate dollar investments in "smaller enterprises"—a small business with a net income of \$2 million or less and a net worth of \$6 million or less. This will enable SBICs to cover the SMA markets as SSBICs but from a more stable and financially sound basis. A reserve of debenture funding will also be available for smaller SBICs in lieu of the funding mechanism for SSBICs. In 2000 SSBICs provided \$62.8 million in investment in smaller enterprises.

#### 2.5 THE 8(a) PROGRAM

In addition to financial programs available to businesses owned by socially and economically disadvantaged individuals the SBA also administers a business development program for such concerns, the Minority Small Business and Capital Ownership Development program. Participants in this program are eligible for the preferential award of Federal contracts under the authority of section 8(a) of the Small Business Act, under which SBA acts as a "conduit" by channeling selected federal contracts to firms owned and operated by socially and economically disadvantaged individuals. In fiscal year 1997, 4,733 prime contracts with a value of \$3.7 billion were awarded to 8(a) firms. When option years on previous contracts are included the total amount rises to \$6.3 billion. In 1998, the Administration released new regulations designed to expand eligibility in the 8(a) program to more individuals, including

women. While this action was taken by the Administration in hopes of curing Constitutional questions surrounding the 8(a) program further legal challenges are expected. In fiscal year 200 the 8(a) program assisted qualified businesses in obtaining over 25,750 contract awards and options for a total of \$4.29 billion.

## 2.6 SURETY BOND GUARANTEES

Small business contractors and subcontractors who seek public and private construction contracts are often required to furnish surety bond 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 \$1,250,000. 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. 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 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 fiscal year 1997, 12,292 bid bond guarantees produced 4,021 final bond guarantees for a total contract amount of over \$818 million. In fiscal year 1998, 10,445 bid bond guarantees produced 2,860 final bond guarantees, resulting in total bond guarantees of \$531 million. In fiscal year 1999, 9,399 bid bond guarantees were issued resulting in \$ million in final guarantees, and in fiscal year 2000, 5,239 bid bond guarantees resulting in \$115 million worth of final guarantees.

## 2.7 SMALL BUSINESS DEVELOPMENT PROGRAMS

The SBA's economic development assistance programs support SBA loan recipients and other small business owners and managers through individual counseling, management training and guidance materials. These programs are keyed to furthering the establishment, growth and success of small business. It is estimated that managerial deficiencies cause nine out of ten business failures.

SBA programs can identify management problems, develop solutions and help implement and expand business plans. In addition to its own business development officers, SBA relies heavily on national organizations such as the 13,000 member Service Corps of Retired Executives (SCORE) to expand its capacity for individual counseling.

An important component of SBA's management assistance capabilities is the Small Business Development Center (SBDC) program. The SBDC program is a cooperative effort by universities, the Federal government, State and local governments and private sector organizations to provide specialized management and tech-

nical assistance to small businesses. Originating as a pilot program at one university in 1976, the SBDC program has expanded to include 56 operating SBDCs in all 50 states, Puerto Rico and the Virgin Islands. There are over 900 branch centers located throughout the States at colleges, universities, and local government offices. In fiscal year 1998, the SBDC program received \$77.8 million in Federal funds; in fiscal year 1999, the SBDC program received \$85 million in Federal funds; and in fiscal year 2000 the SBDC program received \$88 million.

## 2.8 SMALL BUSINESS INNOVATION RESEARCH

The Small Business Innovation Development Act of 1982, signed into law on July 22, 1982, provides for the establishment of Small Business Innovation Research grants programs at each of the Federal agencies with extramural research budgets in excess of 4100 million. The Act also requires the establishment of annual goals for small business research awards in all agencies with R&D budgets in excess of \$20 million. The funding level of SBIR programs is derived from statutorily fixed percentages of an agency's R&D budget.

Through the SBIR program nearly \$1 billion was awarded to small firms in fiscal year 1997. For fiscal year 1998, SBIR awards from the 11 participating agencies exceeded \$1 billion.

The SBIR program is highly competitive and provides funds for the feasibility testing of innovative ideas with Phase I and Phase II funding grant levels of \$100,000 and \$750,000 per grant, respectively. Third phase SBIR encourages the commercialization of innovative technology using private follow-on funding or government contracts when appropriate. Roughly 40 percent of SBIR projects result in commercially successful products. In fiscal year 1998, Phase I proposals resulted in 3,022 awards for \$256 million. In Phase II, 1,320 grants were awarded for \$763 million. In fiscal year 1999 there were 3,334 Phase I awards totaling \$299 million and 1,256 Phase II awards for a total of \$797 million. Final numbers for fiscal year 2000 were not available at the time of publication of this report. The SBA Office of Innovation, Research and Technology monitors the implementation of the program at each participating agency.

## 2.9 SMALL BUSINESS TECHNOLOGY TRANSFER

The Small Business Technology Transfer (STTR) program was established by Title II of Public Law 102-564, the Small Business Research and Development Enhancement Act of 1992, and authorized for an initial three year demonstration, beginning in 1994. Building upon the established model of the SBIR program, the STTR program provides the basis for structured collaboration between small technology entrepreneurs and non-profit research institutions, such as universities and Federally-funded Research and Development Centers (FFRDCs) to foster commercialization of the results of Federally-sponsored research. The STTR pilot program was made permanent in 1997 as part of the Small Business Reauthorization Act of 1997.

The STTR program seeks to stimulate technological innovation and increase private sector commercialization of innovations derived from basic research as well as mission-oriented advanced re-

search and development undertaken by Federal agencies. The program assures that small business is not excluded from the extramural research and development (R&D) activities conducted by Federal agencies, those undertaken by private sector sources and often dominated by Federally-supported institutions such as universities and FFRDCs.

To assure a baseline of small business participation and to maintain stable funding for technology commercialization, like the SBIR program the STTR program requires a participating Federal agency to reserve a small percentage of its external R&D budget for the program. The STTR program also uses the highly competitive three stage process designed to identify and nurture only the most promising technology innovations, seeking to move them to full commercialization under the technical and entrepreneurial leadership of small business owners. Unlike the SBIR program, however, the STTR program requires a small business to collaborate with a non-profit research institution. In fiscal year 1997, 1,101 Phase I proposals were submitted resulting in 260 Phase I awards for \$24 million. 165 Phase II proposals were submitted resulting in 89 Phase III awards for \$44 million. In fiscal year 1998 208 Phase I awards were made and 108 Phase II awards for a total of over \$64 million for small business research. In fiscal year 1999 251 Phase I awards were made for \$24.2 million and 78 Phase II awards for \$40.5 million. Final numbers for fiscal year 2000 were unavailable at the time of publication of this report.

#### 2.10 EXPORT ASSISTANCE

The SBA is authorized to promote the increased participation of small businesses in international trade. To offset some of the inherent disadvantages to successful small business participation in international trade, the SBA, the Department of Commerce, other government agencies and private associations work together to identify, inform, motivate and provide access to financial assistance for the small businesses seeking to enter into business transactions abroad. The goal of the SBA's program is to continue to facilitate financial assistance and other appropriate management and technical assistance to small business concerns that have the potential to become successful exporters.

The SBA's export counseling and training includes one-on-one counseling through SCORE volunteers with significant international trade expertise, access to university and counseling, assistance from professional international trade management consulting firms, referral to other public or private sector expertise, free consultation through the Export Legal Assistance Network (ELAN) program, which enables small businesses interested in starting export operations to consult with international trade attorneys from the Federal Bar Association, and access to publications on international trade and export marketing.

The SBA's financial export assistance includes several loan programs, depending upon the purpose for which the funds are to be used. Exporters may obtain funds for fixed asset acquisitions during start-up or expansion and for general working capital needs through the general 7(a) loan program. Export Trading Companies (ETCs) can qualify for SBA's business loan guaranty program, pro-

vided that they are for-profit ETCs and have no bank equity participation.

The Export Working Capital Program (EWCP) allows a guarantee on private sector loans of up to \$750,000 for working capital. The guarantee percentage for loans is 90 percent. Loans made under the EWCP program generally have a 12 month maturity, subject to two twelve-month renewal options. The loans can be for single or multiple export sales and can be extended for pre-shipment working capital and post-shipment exposure coverage, although the proceeds cannot be used to acquire fixed assets. In fiscal year 1997, the SBA approved 400 guaranteed loans under the EWCP, totaling \$140.3 million; in fiscal year 1998, the agency approved 413 loans for a total of \$158 million; and in fiscal year 1999 429 loans were approved for \$169 million.

Through the 7(a) program, the SBA also offers export assistance through guarantees of international trade loans, which provide long-term financing to small businesses engaged in international trade, as well as those businesses adversely affected by import competition. The SBA can guarantee loans up to \$1.25 million. In fiscal year 1997, the SBA made 48 international trade loans totaling \$18.1 million; in fiscal year 1998, 18 international trade loans were approved for a total of \$11.1 million.

#### 2.11 OFFICE OF ADVOCACY

The SBA Office of Advocacy was created in 1976, pursuant to Title II of Public Law 94-305, with various stated "primary functions" and other "continuing" duties. 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 other Federal departments and agencies for the purpose of enhancing small business competitiveness.

The eleven statutorily prescribed "primary functions" of the Office of Advocacy are: (1) examining the role of small business in the American economy; (2) assessing the effectiveness of all Federal subsidy and assistance programs for small business; (3) measuring the cost and impact of government regulations on small business and making legislative and non-legislative recommendations for the elimination of unnecessary or excessive regulations; (4) determining the impact of the tax structure on small business and making legislative and other proposals for reform of the tax system; (5) studying the ability of the financial markets to meet the credit needs of small business; (6) determining availability and delivery methods of financial and other assistance to minority enterprises; (7) evaluating the efforts of Federal departments and agencies, business and industry to assist minority enterprises; (8) recommending ways to assist the development and strengthening of minority and other small businesses; (9) recommending ways for small business to compete effectively and to expand, while identifying common causes for small business failures; (10) developing criteria to define small business; and (11) advising and consulting with the Chairman of the administrative Conference of the United States on the amount of fees and other expenses awarded during the fiscal year by the Federal government to plaintiffs who prevail



in administrative proceedings before Federal departments and agencies.

The law also prescribes a number of “continuing” duties of the Office of Advocacy, which include: (1) serving as a focal point for receiving complaints and suggestions regarding Federal agency policies and activities that affect small business; (2) counseling small businesses on problems in their relationships with the Federal government; (3) proposing changes in policies and activities of all Federal departments and agencies to better fulfill the purposes of the Small Business Act; (4) representing small business before other Federal departments and agencies whose policies and activities may affect small business; and (5) enlisting the cooperation of others in the dissemination of information about Federal programs that benefit small business.

In 1980, the Regulatory Flexibility Act (Public Law 96–354) enlarged the responsibilities of the Office of Advocacy to include the monitoring of federal Departments’ and agencies’ compliance with the Act’s requirements, performing regulatory impact analyses, and making annual reports to Congress. Also in 1980, Public Law 96–302 required the SBA Administrator to establish and maintain a small business economic database to provide Congress and the Administration with information on the economic condition of the small business sector. The statute prescribed twelve categories of data and required an annual report on trends. Although none of these database functions were expressly delegated to the Office of Advocacy by statute, they have historically been assigned to the Office of Advocacy by the SBA Administrator.

The Office of Advocacy also has regional advocates who monitor small business and regulatory activities at the State level and disseminate relevant information about small business issues. In fiscal year 1997, the Office of Advocacy had a budget of \$3.7 million to carry out its statutory duties and other activities; in fiscal year 1998, its budget was \$4.5 million.

Recent estimates from the Office of Advocacy show that, through its efforts in reducing unnecessary regulations, over \$20 billion has been saved by small business.

## CHAPTER THREE

### HEARINGS AND MEETINGS HELD BY THE COMMITTEE ON SMALL BUSINESS AND ITS SUBCOMMITTEES, 106TH CON- GRESS

#### 3.1 FULL COMMITTEE

Date	Subject and location
January 7, 1999 .....	Hearing, H.R. 68, The Small Business Investment Company Technical Corrections Act of 1999; Washington, DC.
February 11, 1999 .....	Hearing, SBA's Women's Business Centers Program; Washington, DC.
February 24, 1999 .....	Hearing, The Small Business Administration's FY 2000 Budget; Washington, DC.
March 10, 1999 .....	Small Business Year 2000 Readiness Act; Washington, DC.
April 29, 1999 .....	Hearing, The Kyoto Protocol—The Undermining of American Prosperity; Washington, DC.
May 26, 1999 .....	Hearing, Electronic Commerce: The Benefits and Pitfalls of Conducting Business over the Internet; Washington, DC.
June 9, 1999 .....	Hearing, SETRA, Fair and Simple Tax Relief for Small Business; Washington, DC.
June 10, 1999 .....	Hearing, Association Health Plans: Giving Small Businesses the Benefits They Need; Washington, DC.
June 23, 1999 .....	H.R. 1568, the Veterans Entrepreneurship and Small Business Development Act of 1999; Washington, DC.
June 24, 1999 .....	Hearing, Proposed Amendments to the 7(a) and 504 Loan Programs; Washington, DC.
July 22, 1999 .....	Hearing, OSHA's Draft Safety and Health Program Rule; Washington, DC.
July 29, 1999 .....	Hearing, EPA's Expansion of 112r of the 1990 Clean Air Act Amendments to include Propane; Washington, DC.
August 4, 1999 .....	Hearing, Contract Bundling and Federal Procurement Problems Facing Small Businesses; Washington, DC.
August 10, 1999 .....	Field Hearing, Small Farm Tax Burdens; Columbia, Missouri.
August 24, 1999 .....	Field Hearing, Joint House and Senate Small Business Committees, Building a Stronger Agricultural Community; Kansas City, MO.
September 2, 1999 .....	Field Hearing, H.R. 296, which will establish a Voluntary Regulatory Compliance Program Administered by the Existing Network of Small Business Development Centers (SBDCs); Hudson, New York.
September 29, 1999 .....	Hearing, Helping Agricultural Producers "Re-Grow" Rural America; Washington, DC.
October 21, 1999 .....	Hearing, The Proposed Changes to Part 9 of the Federal Acquisition Regulation Relating to Contract Responsibility ("Blacklisting"); Washington, DC.
October 28, 1999 .....	Hearing, Proposition 65's Effect on Small Business; Washington, DC.
November 4, 1999 .....	Hearing, Department of Defense's Contract Bundling Policy; Washington, DC.
February 2, 2000 .....	Hearing, The Skilled Workforce Enhancement Act; Washington, DC.
February 16, 2000 .....	Hearing, Association Health Plans—Promoting Health Care Accessibility; Washington, DC.
March 1, 2000 .....	Hearing, Reauthorization of the SBA and the Fiscal Year 2001 Budget Request; Washington, DC.

Date	Subject and location
March 15, 2000 .....	Hearing, Helping Agricultural Producers “Re-Grow” Rural America; Washington, DC.
April 5, 2000 .....	Hearing, Cash Versus Accrual: The Policy Implications of the Growing Inability of Small Businesses to Use Simple Tax Accounting; Washington, DC.
April 27, 2000 .....	Field Hearing, Economic Accomplishments of Round II Empowerment Zones; Washington, DC.
May 24, 2000 .....	Hearing, Small Business and Online Music; Washington, DC.
June 7, 2000 .....	Hearing, Regulatory Reform Initiatives and their Impact on Small Business; Washington, DC.
June 14, 2000 .....	Hearing, Rural Health Care Services: Has Medicare Reform Killed Small Business Providers?; Washington, DC.
June 21, 2000 .....	Hearing, on Improving the SBA’s Office of Advocacy; Washington, DC.

### 3.2 SUBCOMMITTEE ON EMPOWERMENT

Date	Subject and location
March 23, 1999 .....	Hearing, Barriers to Minority Enterprise; Washington, DC.
May 11, 1999 .....	Field Hearing, Small Business, Big Gains, How Economic Renewal Creates Safer Neighborhoods; The Nehemiah Cooperative Community Center, Washington, DC.
May 25, 1999 .....	Hearing, Welfare to Work: What is Working, What is next?; Washington, DC.
July 27, 1999 .....	Hearing, The Digital Divide: Bridging the Technology Gap; Washington, DC.
November 2, 1999 .....	Hearing, H.R. 2372, The Start-Up Success Accounts of 1999 (SUSA); Washington, DC.
November 3, 1999 .....	Joint Hearing, Subcommittee on Empowerment and Subcommittee on Rural Enterprises, Business Opportunities, and Special Small Business Problems, The Aging of Agriculture: Empowering Young Producers to Grow for the Future; Washington, DC.
March 28, 2000 .....	Hearing, Bridging the Technological Gap: Initiatives to Combat the Digital Divide; Washington, DC.
April 26, 2000 .....	Field Hearing on the Digital Divide; Mecca, California.

### 3.3 SUBCOMMITTEE ON GOVERNMENT PROGRAMS AND OVERSIGHT

Date	Subject and location
March 11, 1999 .....	Joint Subcommittee Hearing, Subcommittee on Regulatory Reform and Paperwork Reduction and the Subcommittee on Government Programs and Oversight, Small Business Advocacy Review Panels; Washington, DC.
March 25, 1999 .....	Hearing, Women’s Business Enterprises; Washington, DC.
April 23, 1999 .....	Hearing, Conserving Natural Resources and Examining Related Emerging Technologies; Washington, DC.
May 27, 1999 .....	Hearing, The Small Business Innovation Research (SBIR) Program; Washington, DC.
June 1, 1999 .....	Field Hearing, Electro-Magnetic Pulse (EMP)—Should this be a Problem of National Concern to Businesses Small and Large as well as Government?; The Johns Hopkins University, Laurel, Maryland.
July 27, 1999 .....	Hearing, The Burden that Needless Regulations and Lack of Common Sense in Enforcement of Regulations Place upon Small Businesses; Washington, DC.
August 18, 1999 .....	Field Hearing, Are Federal Programs Providing Effective Procurement Assistance to Small Businesses?; Chicago, IL.
October 14, 1999 .....	Hearing, Going Public—The End of the Rainbow for a Small Business?; Washington, DC.
February 29, 2000 .....	Hearing, The SBC Computerized Loan Monitoring System—A Progress Report; Washington, DC.

Date	Subject and location
March 14, 2000 .....	Joint hearing with Subcommittee on Benefits of the Veterans Affairs Committee on Public Law 105-50, "Veterans Entrepreneurship and Small Business Development Act of 1999"; Washington, DC.
April 11, 2000 .....	Hearing, The Present and Future of E-Commerce for Small Businesses in the Private Sector and with Federal Government Agencies; Washington, DC.
April 25, 2000 .....	Field Hearing on Impact of Federal and Community-Based Programs on Main Street America and Various Segments of the Small Business Community; Elliott City, Maryland.
June 8, 2000 .....	Hearing, Women in Business; Washington, DC.
September 28, 2000 .....	Hearing, The Future of Small Business: What Lies Ahead?; Washington, DC.

### 3.4 SUBCOMMITTEE ON REGULATORY REFORM AND PAPERWORK REDUCTION

Date	Subject and location
March 11, 1999 .....	Joint Subcommittee Hearing, Subcommittee on Regulatory Reform and Paperwork .
September 1, 1999 .....	Field Hearing, The Impact of Federal Regulations on Small Business in the Hudson Valley; White Plains, New York.
October 19, 1999 .....	Hearing, U.S. Postal Service's Regulations Regarding Commercial Mail Receiving Agencies (CMRAs); Washington, DC.
November 22, 1999 .....	Field hearing, Barriers and Solutions to Economic Development on Northern New Jersey; Paterson, New Jersey.
April 13, 2000 .....	Hearing, OSHA's Proposed Ergonomics Standard: Its Impact on Small Business, Washington, DC.
April 18, 2000 .....	Field Hearing, Impact of Fuel Prices on Small Business; Valhalla, New York.
April 18, 2000 .....	Field Hearing, Impact of Fuel Prices on Small Business; Castleton, New York.
June 8, 2000 .....	Hearing, The Quality of Regulatory Analysis; Washington, DC.
June 15, 2000 .....	Hearing, The National Ombudsman 2000 Report to Congress and the Regulatory Fairness Program; Washington, DC.

### 3.5 SUBCOMMITTEE ON TAX, FINANCE, AND EXPORTS

Date	Subject and location
May 13, 1999 .....	Hearing, What would Repealing the Death Tax Mean to Small Business?; Washington, DC.
May 18, 1999 .....	Hearing, What has OPIC done for Small Business Lately?; Washington, DC.
June 24, 1999 .....	Hearing Do Unilateral Economic Trade Sanctions Unfairly Penalize Small Business?; Washington, DC.
September 9, 1999 .....	Hearing, Measuring Improvements in the U.S. Export Assistance Network; Washington, DC.
May 4, 2000 .....	Hearing, Making the Work Opportunity Tax Credit a Success for Small Business; Washington, DC.
May 16, 2000 .....	Hearing, Trade with China Helps Small Business Exporters Work; Washington, DC.
July 13, 2000 .....	Hearing, The Impact of Banning Snowmobiles Inside National Parks on Small Business; Washington, DC.
July 20, 2000 .....	Hearing, Helping Small Dry Cleaners Adopt Safer Technologies: Without Losing Your Shirt; Washington, DC.
September 7, 2000 .....	Hearing, The Impact of the Complexity of the Tax Code on Small Business: What Can Be Done About It?; Washington, DC.

### 3.6 SUBCOMMITTEE ON RURAL ENTERPRISES, BUSINESS OPPORTUNITIES, AND SPECIAL SMALL BUSINESS PROBLEMS

Date	Subject and Location
April 27, 1999 .....	Hearing, H.R. 957, The Farm and Ranch Risk Management Act (FARRM); Washington, DC.
November 3, 1999 .....	Hearing, Joint Subcommittee on Empowerment and Subcommittee on Rural Enterprises, Business Opportunities, and Special Small Business Problems, The Aging of Agriculture: Empowering Young Producers to Grow for the Future; Washington, DC.
June 7, 2000 .....	Hearing, The Future of Round II Empowerment Zones; Washington, DC.
July 11, 2000 .....	Hearing, The Effects of the Roadless Policy of Rural Small Business and Rural Communities; Washington, DC.

## CHAPTER FOUR

### PUBLICATIONS OF THE COMMITTEE ON SMALL BUSINESS AND ITS SUBCOMMITTEES, 106TH CONGRESS

#### 4.1 REPORTS

House Report Number	Title and date
106-1 .....	Report to accompany H.R. 68, Small Business Investment Company Technical Corrections of 1999; January 19, 1999.
106-8 (Part 1) .....	Report to accompany H.R. 39, The Small Business Paperwork Reduction Act of 1999; February 5, 1999.
106-11 (Part 1) .....	Report to accompany H.R. 439, Paperwork Elimination Act of 1999; February 8, 1999.
106-12 .....	Report to accompany H.R. 440, Microloan Program Technical Corrections Act of 1999; February 8, 1999.
106-33 .....	Report to accompany H.R. 818, A bill to amend the Small Business Act to authorize a pilot program for the implementation of disaster mitigation measures by small businesses; March 1, 1999.
106-47 .....	Report to accompany H.R. 774, Women's Business Center Amendments Act of 1999; March 10, 1999.
106-184 (Part 2) .....	Report to accompany H.R. 413, Program for Investment in Micro-entrepreneurs Act of 1999; July 2, 1999.
106-278 .....	Report to accompany H.R. 2614, Certified Development Company Program Improvements Act of 1999; August 2, 1999.
106-279 .....	Report to accompany H.R. 2615, A bill to amend the Small Business Act to make improvements to the general business loan program, and for other purposes; August 2, 1999.
106-365 .....	Report to accompany H.R. 1497, Women's Business Centers Sustainability Act of 1999; October 5, 1999.
106-206 (Part 1) .....	Report to accompany H.R. 1568, Veterans Entrepreneurship and Small Business Development Act of 1999; June 29, 1999.
106-520 .....	Report to accompany H.R. 3845, Small Business Investment Corrections Act of 2000; March 14, 2000.
106-522 .....	Report to accompany H.R. 3843, Small business Reauthorization Act of 1999; March 14, 2000.
106-643 (Part 1) .....	Report to accompany H.R. 1882, Small Business Review Panel Technical Amendments Act of 1999; May 25, 2000.
106-706 (Part 1) .....	Report to accompany H.R. 2848, New Markets Initiative Act of 1999; June 28, 2000.
106-784 .....	Report to accompany H.R. 4464, A bill to amend the Small Business Act to authorize the Administrator of the Small business Administration to make grants and to enter into cooperative agreements to encourage the expansion of business-to-business relationships and the provision of certain information; July 25, 2000.
106-785 .....	Report to accompany H.R. 4530, A bill to amend the Small Business Act to authorize the Administrator of the Small Business Administration to establish a New Market Venture Capital Program, and for other purposes; July 25, 2000.
106-858 .....	Report to accompany H.R. 4945, Small Business Competition Preservation Act of 2000; September 18, 2000.
106-879 .....	Report to accompany H.R. 4897, A bill to amend the Small Business Act to provide Federal contracting assistance to small business concerns owned and controlled by women; September 21, 2000.
106-880 .....	Report to accompany H.R. 4944, Export Working Capital Loan Improvement Act of 2000; September 21, 2000.

House Report Number	Title and date
106-881 .....	Report to accompany H.R. 4946, National Small Business Regulatory Assistance Act of 2000; September 21, 2000.

## 4.2 HEARING RECORDS

Serial No.	Held by	Date, title, and location
106-1 .....	Full .....	January 7, 1999: H.R. 68, Amending Section 20 of the Small Business Act and Make Technical Corrections in Title III of the Small Business Investment Act; Washington, DC.
106-2 .....	Full .....	February 11, 1999: Review of Women's Business Centers; Washington, DC.
106-3 .....	Full .....	February 24, 1999: The Small Business Administration's FY 2000 Budget; Washington, DC.
106-4 .....	Joint Regulatory Government.	March 11, 1999: Joint Subcommittee Hearing, Subcommittee on Regulatory Reform and Paperwork Reduction and the Subcommittee on Government Programs and Oversight, Small Business Advocacy Review Panels; Washington, DC.
106-5 .....	Full .....	March 12, 1999: Small Business Year 2000 Readiness Act; Washington, DC.
106-6 .....	Empowerment .....	March 23, 1999: Barriers to Minority Entrepreneurship; Washington, DC.
106-7 .....	Government .....	March 25, 1999: Women's Business Enterprises; Washington, DC.
106-8 .....	Government .....	April 23, 1999: Conserving Natural Resources and Examining Related Emerging Technologies; Washington, DC.
106-9 .....	Rural .....	April 27, 1999: H.R. 957, the Farm and Ranch Risk Management Act. (FARRM); Washington, DC.
106-10 .....	Full .....	April 29, 1999: The Kyoto Protocol—The Undermining of American Prosperity; Washington, DC.
106-11 .....	Empowerment .....	May 11, 1999: Field Hearing, Small Business, Big Gains, How Economic Renewal Creates Safer Neighborhoods; The Nehemiah Cooperative Community Center, Washington, DC.
106-12 .....	Joint Tax Rural .....	May 13, 1999: What Would Repealing the Death Tax Mean to Small Business?; Washington, DC.
106-13 .....	Tax .....	May 18, 1999: What has OPIC done for Small Business Lately? Washington, DC.
106-14 .....	Empowerment .....	May 25, 1999: Welfare to Work: What is Working, What is Next? Washington, DC.
106-15 .....	Full .....	May 26, 1999: Electronic Commerce: The Benefits and Pitfalls of Conducting Business over the Internet; Washington, DC.
106-16 .....	Government .....	May 27, 1999: The Small Business Innovation Research (SBIR) Program; Washington, DC.
106-17 .....	Government .....	June 1, 1999: Field hearing, Electro-Magnetic Pulse (EMP)—Should this be a Problem of National Concern to Businesses Small and Large as well as Government?; The Johns Hopkins University, Laurel, MD.
106-18 .....	Full .....	June 9, 1999: SETRA, Fair and Simple Tax Relief for Small Business; Washington, DC.
106-19 .....	Full .....	June 10, 1999: Association Health Plans, Giving Small Business the Benefits They Need; Washington, DC.
106-20 .....	Full .....	June 23, 1999: H.R. 1568, the Veterans Entrepreneurship and Small Business Development Act of 1999; Washington, DC.

Serial No.	Held by	Date, title, and location
106-21	Full	June 24, 1999: Proposed Amendments to the 7(a) and 504 Loan Programs; Washington, DC.
106-22	Tax	June 24, 1999: Do Unilateral Economic Trade Sanctions Unfairly Penalize Small Business? Washington, DC.
106-23	Full	July 22, 1999: OSHA's Draft Safety and Health Program Rule; Washington, DC.
106-24	Government	July 27, 1999: The Burden that Needless Regulations and Lack of Common Sense in Enforcement of Regulations Place upon Small Business; Washington, DC.
106-25	Empowerment	July 27, 1999: The Digital Divide: Bridging the Technology Gap; Washington, DC.
106-26	Full	July 29, 1999: EPA's Expansion of 112r of the 1990 Clean Air Act Amendments to include Propane; Washington, DC.
106-27	Full	August 4, 1999: Contract Bundling and Federal Procurement Problems Facing Small Business; Washington, DC.
106-28	Full	August 10, 1999: Small Farm Tax Burdens; Columbia, MO.
106-29	Government	August 18, 1999: Are Federal Programs Providing Effective Procurement Assistance to Small Businesses?; Chicago, IL.
106-30	Full	August 24, 1999: Joint House and Senate Small Business Committees hearing, Building a Stronger Agricultural Community; Kansas City, MO.
106-31	Regulatory	September 1, 1999: The Impact of Federal Regulations on Small Businesses in the Hudson Valley; White Plains, NY.
106-32	Full	September 2, 1999: H.R. 296, which will establish a Voluntary Regulatory Compliance Program Administered by the Existing Network of Small Business Development Centers (SBDCs); Hudson, NY.
106-33	Tax	September 9, 1999, Measuring Improvements in the U.S. Export Assistance Network; Washington, DC.
106-34	Full	September 29, 1999: Helping Agriculture Producers "Re-Grow" Rural America; Washington, DC.
106-35	Government	October 14, 1999: Going Public—The End of the Rainbow for a Small Business?; Washington, DC.
106-36	Regulatory	October 19, 1999: U.S. Postal Service's Regulations Regarding Commercial Mail Receiving Agencies (CMRAs); Washington, DC.
106-37	Full	October 21, 1999: The Proposed Changes to Part 9 of the Federal Acquisition Regulation Relating to Contract Responsibility ("Blacklisting"); Washington, DC.
106-38	Full	October 28, 1999: Proposition 65's Effect on Small Business; Washington, DC.
106-39	Empowerment	November 2, 1999: The Start-Up Success Accounts of 1999 (SUSA), H.R. 2372; Washington, DC.
106-40	Joint Empowerment Regulatory.	November 3, 1999: Joint Subcommittee on Empowerment and Subcommittee on Rural Enterprises hearing, Business Opportunities, and Special Small Business Problems: The Aging of Agriculture: Empowering Young Producers to Grow for the Future; Washington, DC.
106-41	Full	November 4, 1999: Full Committee Hearing on Department of Defense's Contract Bundling Policy; Washington, DC.



Serial No.	Held by	Date, title, and location
106-42	Full	February 9, 2000: Hearing on the Skilled Workforce Enhancement Act; Washington, DC.
106-43	Full	February 16, 2000: Hearing on Association Health Plans—Promoting Health Care Accessibility; Washington, DC.
106-44	Government	February 29, 2000: The SBC Computerized Loan Monitoring System—A Progress Report; Washington, DC.
106-45	Full	March 1, 2000: Reauthorization of the SBA and the Fiscal Year 2001 Budget Request. Washington, DC.
106-46	Government	March 14, 2000: Public Law 105-50, “Veterans Entrepreneurship and Small Business Development Act of 1999”; Washington, DC.
106-47	Full	March 15, 2000: Helping Agricultural Producers “Re-Grow” Rural America; Washington, DC.
106-48	Empowerment	March 28, 2000: Bridging the Technological Gap: Initiatives to Combat the Digital Divide; Washington, DC.
106-49	Full	April 5, 2000: Cash Versus Accrual: The Policy Implications of the Growing Inability of Small Businesses to Use Simple Tax Accounting; Washington, DC.
106-50	Government	April 11, 2000: The Present and Future of E-Commerce for Small Businesses in the Private Sector and with Federal Government Agencies; Washington, DC.
106-51	Regulatory	April 13, 2000: OSHA’s Proposed Ergonomics Standard: Its Impact on Small Business; Washington, DC.
106-52	Regulatory	April 18, 2000: The Impact of Fuel Prices on Small Business; Castleton, NY.
106-53	Regulatory	April 18, 2000: The Impact of Fuel Prices on Small Business; Valhalla, NY.
106-54	Empowerment	April 25, 2000: Empowerment Subcommittee Field Hearing on the Digital Divide; Carson, CA.
106-55	Government	April 27, 2000: Effectiveness of Government; Ellicott City, MD.
106-56	Full	April 26, 2000: The Future of Round II Empowerment Zones; Mecca, CA.
106-57	Tax	May 4, 2000: Making the Work Opportunity Tax Credit a Success for Small Business; Washington, DC.
106-58	Tax	May 16, 2000: Trade with China Helps Small Business Exporters Work; Washington, DC.
106-59	Full	May 24, 2000: Small Business and Online Music; Washington, DC.
106-60	Full	June 7, 2000: Regulatory Reform Initiatives and their Impact on Small Business; Washington, DC.
106-61	Rural	June 7, 2000: The Future of Round II Empowerment Zones; Washington, DC.
106-62	Government	June 8, 2000: Women in Business; Washington, DC.
106-63	Regulatory	June 8, 2000: The Quality of Regulatory Analysis; Washington, DC.
106-64	Full	June 14, 2000: Rural Health Care Services: Has Medicare Reform Killed Small Business Providers?; Washington, DC.
106-65	Regulatory	June 15, 2000: Hearing on the National Ombudsman 2000 Report to Congress and the Regulatory Fairness Program; Washington, DC.
106-66	Full	June 21, 2000: Hearing on Improving the SBA’s Office of Advocacy; Washington, DC.

Serial No.	Held by	Date, title, and location
106-67 .....	Rural .....	July 11, 2000: Hearing on the Effects of the Roadless Policy of Rural Small Business and Rural Communities; Washington, DC.
106-68 .....	Tax .....	July 13, 2000: The Impact of Banning Snowmobiles Inside National Parks on Small Business; Washington, DC.
106-69 .....	Tax .....	July 20, 2000: Helping Small Dry Cleaners Adopt Safer Technologies: Without Losing your Shirt; Washington, DC.
106-70 .....	Tax .....	September 7, 2000: Hearing, The Impact of the Complexity of the Tax Code on Small Business: What Can be Done About it?; Washington, DC.
106-71 .....	Government .....	September 28, 2000: Subcommittee on Government Programs and Oversight, The Future of Small Business; What Lies Ahead?; Washington, DC.
106-72 .....	Regulatory .....	November 22, 1999: Barriers and Solutions to Economic Development on Northern New Jersey, Paterson, NJ



## CHAPTER FIVE

### LEGISLATION ACTED ON BY THE COMMITTEE ON SMALL BUSINESS IN THE 106TH CONGRESS

#### 5.1 H.R. 68—THE SMALL BUSINESS INVESTMENT COMPANY TECHNICAL CORRECTIONS ACT OF 1999, PUBLIC LAW NO. 106-9

##### LEGISLATIVE HISTORY

Date	Action
<b>H.R. 68:</b>	
January 6, 1999 .....	Referred to the House Committee on Small Business.
January 7, 1999 .....	Committee Consideration and Mark-up Session Held.
January 7, 1999 .....	Ordered to be Reported by Voice Vote.
January 19, 1999 .....	Reported by the Committee on Small Business. H. Rept. 106-1.
January 19, 1999 .....	Placed on the Union Calendar, Calendar No. 1.
February 2, 1999 .....	Mr. Talent moved to suspend the rules and pass the bill, as amended.
February 2, 1999 .....	Considered under suspension of the rules. (consideration: CR H286-288).
February 2, 1999 .....	At the conclusion of debate, the Yeas and Nays were demanded and ordered. Pursuant to the provisions of clause 5, rule I, the Chair announced that further proceedings on the motion would be postponed.
February 2, 1999 .....	Considered as unfinished business. (consideration: CR H293-294).
February 2, 1999 .....	On motion to suspend the rules and pass the bill, as amended. Agreed to by the Yeas and Nays: (2/3 required): 402-2 (Roll no. 7). (text: CR H286-287).
February 2, 1999 .....	Motion to reconsider laid on the table. Agreed to without objection.
February 4, 1999 .....	Received in the Senate.
February 22, 1999 .....	Read twice and referred to the Committee on Small Business.
March 22, 1999 .....	Senate Committee on Small Business discharged by Unanimous Consent.
March 22, 1999 .....	Measure laid before Senate by unanimous consent. (consideration: CR S3062-3063).
March 22, 1999 .....	Senate struck all after the Enacting Clause and substituted the language of S. 364.
March 22, 1999 .....	Passed Senate in lieu of S. 364 with an amendment by Unanimous Consent. (text: CR S3062-3063).
March 23, 1999 .....	Mr. Talent moved that the House suspend the rules and agree to the Senate amendment.
March 23, 1999 .....	On motion that the House suspend the rules and agree to the Senate amendment. Agreed to by voice vote. (text: CRH1490-1491).
March 23, 1999 .....	Motion to reconsider laid on the table. Agreed to without objection.
March 23, 1999 .....	Message on Senate action sent to the House.
March 23, 1999 .....	Cleared for White House.
March 25, 1999 .....	Presented to President.
April 5, 1999 .....	Signed by President.
April 5, 1999 .....	Became Public Law No. 106-9.

##### NEED FOR LEGISLATION

Congress revamped the SBIC program in the 103d Congress to provide for a new form of leverage geared specifically towards equity investment in small businesses. Over the ensuing years, as

the new program has become established, certain deficiencies have come to light; in addition, certain statutory provisions have become obsolete. Moreover, the nature of the SBIC industry has changed. The result is a participating securities industry made up primarily of smaller SBIC's. The fact that these smaller SBIC's are dominating the program points to shifting dynamics in the SBIC program. Smaller, start-up investments are more typical and, therefore, the demand for leverage has shifted to smaller individual placements.

H.R. 68 seeks to correct these deficiencies, and remove provisions that may produce confusion due to changes in law and the character of the SBIC program. First, H.R. 68 will modify the SBIC program to exclude contingent obligations from the calculation of interest in loans made by SBICs. These contingent obligations include financial tools like royalties, warrants, conversion rights and options. Many small businesses use these devices to help buy down the interest rates on their financings. Unfortunately, current law has forced SBA and the SBICs to try and include these options as part of the interest applicable for a determination of the maximum applicable interest rate. These valuations have resulted in confusion and uncertainty for all concerned and have often resulted in the loss of financing opportunities for small businesses.

Second, under H.R. 68, a provision in the Small Business Investment Act that reserves leverage for smaller SBICs will also be repealed. Changes in SBA policy regarding applications for leverage, statutory changes in the availability of commitments for SBICs, and the makeup of the industry present the possibility that that provision may, in fact, create conflicts and confusion.

Third, H.R. 68 will increase the authorization levels for the participating securities segment of the SBIC program. The authorization levels will rise from \$800 million to \$1 billion dollars in fiscal year 1999, and from \$900 million to \$1.2 billion dollars in fiscal year 2000. These increases are necessary to meet the rising demand for this section of the SBIC program.

Fourth, H.R. 68 modifies a test for determining the eligibility of small businesses for SBIC financing. Current statutory language does not account for small businesses organized in pass-through tax structures such as S corporations, limited liability companies, and certain partnerships. These organizations do not pay taxes at the enterprise level, but instead pass through income and the ensuing tax liabilities to their partners and shareholders. Consequently, many of these small businesses face difficulties when the income test is applied to them, and are often declared ineligible for financing they should receive.

Finally, H.R. 68 will allow the SBA greater flexibility in issuing trust certificates to finance the SBIC program's investments in small businesses. Current law allows fundings to be issued every six months or more frequently. This inhibits the ability of the SBICs and the SBA to form pools of certificates that are large enough to generate serious investor interest. Allowing more time between fundings will permit SBA and the industry to form larger pools for sale in the market, thereby increasing investor interest and improving the interest rates for the small businesses financed.

## SECTION-BY-SECTION ANALYSIS

*Section 1. Short Title*

Designates the bill as “The Small Business Investment Company Technical Corrections Act of 1999”.

*Section 2. SBIC Program*

(1) Paragraph (a) of section 2 modifies section 308(i)(2) of the Small Business Investment Act of 1958 to exclude contingent obligations from the calculation used to determine the maximum allowable interest rate in an SBIC financing. Contingent obligations include financial tools such as options, warrants, conversion rights and royalties. Because such devices are contingent and speculative their correct valuation has been a problem for small businesses, SBICs and the SBA.

(2) Paragraph (b) changes Section 20 of the Small Business Act to increase the authorization levels for participating securities under the SBIC program. The authorizations are increased from \$800 million to \$1 billion dollars in fiscal year 1999, and from \$900 million to \$1.2 billion dollars in fiscal year 2000.

(3) The first part of paragraph (c) removes subparagraph (13) of Section 303(g) of the Small Business Investment Act (15 U.S.C. 683(g)). That provision reserves 50% of participating securities leverage for Small Business Investment Companies with private capital of less than \$20 million until the fourth fiscal quarter. While the Committee continues to be interested that all SBICs have access to the funding needed to complete their investments, we also recognize that this provision is no longer necessary. Only 12 of the 60 SBICs in the participating leverage program have more than \$20 million in private capital, and the original concern that a few large SBICs would dominate the program has proved unfounded. It appears that most SBIC equity placements are in smaller early-stage businesses, and consequently most participating securities SBICs are established as smaller funds.

(4) The second part of paragraph (c) establishes a test for small businesses formed as tax “pass-through” entities such as S corporations or limited liability companies. Such businesses will have their small business investment eligibility determined by multiplying their net income by the combined federal and state corporate tax rate and then subtracting the result from their net income. That result will serve as the small business’ estimated “after-tax income” for the purpose of determining eligibility. This removes an uncertainty in the statute that meant a C corporation with as much as \$9 million in pretax income could be a small business but a pass-through S corporation with \$6,000,001 in income was ineligible.

(5) The final part of paragraph (c) changes Section 320 of the Small Business Investment Act to allow issuance of Small Business Administration-backed trust certificates not less than every twelve months rather than the current standard of every six months. SBA would retain the discretion to issue guarantees and trust certificates at shorter intervals if appropriate. The change will give SBA increased flexibility in negotiating the terms and costs associated with the placement of certificates, either by contract or public offering. This will ultimately benefit the small businesses seeking fi-

nancing since the rates sought by SBICs are reflected in the rates charged to small businesses.

## 5.2 H.R. 391—SMALL BUSINESS PAPERWORK REDUCTION ACT AMENDMENTS OF 1999

### LEGISLATIVE HISTORY

Date	Action
<b>H.R. 391:</b>	
January 19, 1999 .....	Referred to the Committee on Government Reform, and in addition to the Committee on Small Business, 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.
January 19, 1999 .....	Referred to House Government Reform.
February 3, 1999 .....	Committee Consideration and Mark-up Session Held.
February 3, 1999 .....	Ordered to be Reported by Voice Vote.
January 19, 1999 .....	Referred to House Small Business.
February 5, 1999 .....	Reported by the Committee on Government Reform, H. Rept. 106-8, Part I. Filed late, pursuant to previous special order.
February 5, 1999 .....	House Committee on Small Business Granted an extension for further consideration ending not later than Feb. 5, 1999.
February 5, 1999 .....	Placed on the Union Calendar, Calendar No. 7.
February 5, 1999 .....	Committee on Small Business discharged.
February 9, 1999 .....	Rules Committee Resolution H. Res. 42 Reported to House. Rule provides for consideration of H.R. 391 with 1 hour of general debate. Previous question shall be considered as ordered without intervening motions except motion to recommit with or without instructions. Measure will be considered read. Bill is open to amendments.
February 11, 1999 .....	Rule H. Res. 42 passed House.
February 11, 1999 .....	Considered under the provisions of rule H. Res. 42.
February 11, 1999 .....	House resolved itself into the Committee of the Whole House on the state of the Union pursuant to H. Res. 42 and Rule XXIII.
February 11, 1999 .....	The Speaker designated the Honorable Jo Ann Emerson to act as Chairwoman of the Committee.
February 11, 1999 .....	H.AMDT.6 Amendment (A001) offered by Mr. McIntosh. Amendment provides that a fine may be imposed for a first time paperwork violation if such violation has the potential to cause serious harm to the public interest; and adds two representatives from the Department of Health and Human Services, including a member from the Health Care Financing Administration, to the task force on streamlining paperwork requirements for small business concerns.
February 11, 1999 .....	H.AMDT.6 On agreeing to the McIntosh amendment (A001) Agreed to by voice vote.
February 11, 1999 .....	H.AMDT.7 Amendment (A002) offered by Mr. Kucinich. Amendment sought to strike provisions which waive a fine for a first time paperwork violation and require that agencies establish a policy for eliminating, delaying, or reducing fines in appropriate circumstances.
February 11, 1999 .....	H.AMDT.7 On agreeing to the Kucinich amendment (A002) Failed by recorded vote: 210-214 (Roll No. 19).
February 11, 1999 .....	The House rose from the Committee of the Whole House on the state of the Union to report H.R. 391.
February 11, 1999 .....	The previous question was ordered pursuant to the rule.
February 11, 1999 .....	The House adopted the amendment as agreed to by the Committee of the Whole House on the state of the Union.
February 11, 1999 .....	On passage Passed by recorded vote: 274-151 (Roll No. 20).
February 11, 1999 .....	Motion to reconsider laid on the table Agreed to without objection.
February 12, 1999 .....	Received in the Senate.
February 22, 1999 .....	Read twice and referred to the Committee on Governmental Affairs.
October 19, 1999 .....	Committee on Governmental Affairs. Hearings held.

The bill would amend chapter 35 of Title 44, United States Code, for the purpose of facilitating compliance with certain Federal paperwork requirements, to establish a task force to examine the feasibility of streamlining paperwork requirements applicable to small businesses, and for other purposes. The Committee did not prepare a report on this bill. Further information can be found in House Report 106–8, Part I, prepared by the Committee on Government Reform.

### 5.3 H.R. 423—PROGRAM FOR INVESTMENT IN MICRO-ENTREPRENEURS ACT OF 1999

#### LEGISLATIVE HISTORY

Date	Action
<b>H.R. 413:</b>	
January 19, 1999 .....	Referred to the House Committee on Banking and Financial Services.
February 12, 1999 .....	Referred to the Subcommittee on Financial Institutions and Consumer Credit.
May 26, 1999 .....	Subcommittee on Financial Institutions and Consumers Credit Discharged.
May 26, 1999 .....	Committee Hearings Held.
May 26, 1999 .....	Committee Consideration and Mark-up Session Held.
May 26, 1999 .....	Ordered to be Reported by Voice Vote.
June 14, 1999 .....	Reported (Amended) by the Committee on Banking and Financial Services. H. Rept. 106–184, Part I.
June 14, 1999 .....	Referred sequentially to the House Committee on Small Business for a period ending not later than July 2, 1999 for consideration of such provisions of the bill as fall within the jurisdiction of that committee pursuant to clause 1(o), rule X.
June 24, 1999 .....	Committee Consideration and Mark-up Session Held.
June 24, 1999 .....	Ordered to be Reported (Amended) by Voice Vote.
July 2, 1999 .....	Reported (Amended) by the Committee on Small Business. H. Rept. 106–184, Part II.
July 2, 1999 .....	Placed on the Union Calendar, Calendar No. 126.

#### NEED FOR LEGISLATION

One of the greatest challenges to small or micro entrepreneurs is access to capital. Often before they can grow their businesses several needs must be addressed. Traditionally, these needs are in the areas of training, education or general capacity building. The Program for Investment in Microentrepreneurs was created to assist entrepreneurs and community development through the establishment of a grant program.

The passage of the PRIME Act will create an additional federal microenterprise assistance-related program. Currently, there are a number of such programs dispersed throughout various agencies of the federal government. The SBA conducts the main program, the 7(m) Microloan program, which permanently authorized in the Fall of 1997. Through the 7(m) program, SBA provides loans and grants to nonprofit microenterprise intermediaries which, in turn, provide small loans and technical assistance to microentrepreneurs. In addition to the technical assistance with SBA's 7(m) Microloan program provides in conjunction with its loans, it provides technical assistance even without the loan component. Through its Non-lending Technical Assistance Provider ("NTAP") program, SBA can provide up to \$125,000 in capacity building grants—like the PRIME



Act—that are not tied to loans for the explicit purpose of capacity building. In addition to the 7(m) program, SBA administers other technical assistance and capacity building programs through the Small Business Development Center (“SBDC”) Program to provide technical assistance to current and prospective small business owners; and the Women’s Business Development Program, which provides technical assistance to women entrepreneurs who are economically disadvantaged. Additional microenterprise programs are administered through HHS, HUD, Labor, Agriculture and Commerce.

Because of the potential for duplication, the Committee worked to ensure that the PRIME program will work with existing federal microenterprise technical assistance and capacity building grant programs, especially those that already exist at the Small Business Administration. PRIME has the ability to make capacity building and technical assistance grants, just as the SBA Microloan program. But, in addition to the technical assistance and capacity building that both SBA and PRIME can do, the SBA 7(m) Microloan program can make loans in the area of entrepreneur development and loans that are tied to technical assistance.

The Committee believes that PRIME can play an important role in supplementing the current microenterprise technical assistance programs administered through the SBA. This is especially true given the fact that PRIME’s purpose is to focus on only technical assistance and capacity building, an area that has been historically under-funded. The PRIME program should never extend beyond the level of providing technical assistance and capacity building. Hearings and Committee action made clear that CDFI does not possess the infrastructure to support and administer a Microloan program, and that the PRIME Act is not structured in a way to create a framework to administer loans in a safe and sound manner.

#### SECTION-BY-SECTION ANALYSIS

### **Section 1. Provision of Technical Assistance to Microentrepreneurs**

Section 1 amends Title I of the “Riegle Community Development and Regulatory Improvement Act of 1994” by adding a new subtitle, “Subtitle C—Microenterprise Technical Assistance and Capacity Building Program” which includes the following sections:

#### *Section 171. Short title*

This Section designates new Subtitle C as the “Program for Investment in Microentrepreneurs Act of 1999” (PRIME Act).

#### *Section 172. Definitions*

This section defines terms as they apply to the PRIME Act.

#### *Section 173. Establishment of program*

This section requires the Treasury Secretary to establish a microenterprise technical assistance and capacity building grant program which shall provide assistance from the CDFI Fund in the form of grants to qualified organizations.

*Section 174. Uses of assistance*

This section provides that grants can be used for assistance to provide training, technical assistance, capacity building and educational assistance targeted to microenterprise and microenterprise development organizations that serve low income entrepreneurs. The Committee added language prohibiting the PRIME Act to be used as a loan program. The Committee further believes that funding for this program should be focused in manner that provides the maximum assistance directly to the microentrepreneurs and not in manner that would have only secondary or limited benefits for the microenterprise community.

*Section 175. Qualified organizations*

This section defines a qualified organization as a non-profit microenterprise development organization as one that has a demonstrated record of assisting disadvantaged entrepreneurs, an intermediary private nonprofit entity that serves microenterprise development organizations, or an Indian tribe if it can certify that a nonprofit microenterprise development program exists in the area.

*Section 176. Allocation of assistance; subgrants*

This section provides the manner in which funding is to be used and defines the parameter under which organizations will participate in the program. The Committee added language ensuring that all participants of SBA's 7(m) Microloan program will be eligible for funding under PRIME. It is critical to PRIME's success, that those participants in the SBA's 7(m) program be included in the PRIME program. CDFI should make every effort to ensure that participants of SBA's 7(m) Microloan program are included in the PRIME program. The 7(m) intermediaries have the institutional experience and expertise to help the PRIME program hit the ground running, and allow the program work efficiently and effectively.

*Section 177. Matching requirements*

This section provides matching requirements from sources other than the Federal government equal to fifty percent of each dollar provided by the CDFI Fund. Sources of matching funds may include fees, grants, gifts, funds from loan sources, or in the form of in-kind resources, grants, or loans to the organization.

In the case of an applicant with severe economic constraints on sources available for matching funds, the Administrator may reduce or eliminate the matching requirement. Not more than 10% of the total funds made available under the Act may be excepted from the matching requirements.

*Section 178. Applications for assistance*

This section requires the CDFI Fund to establish procedures for submission of applications for assistance.

*Section 179. Recordkeeping*

This section establishes record keeping requirements for organizations that receive PRIME Act grants, including an annual report in which the organization discloses its activities, financial condi-

tions, and its success in satisfying the terms and conditions of its assistance agreement.

*Section 180. Report*

This section requires the Administrator to submit to the House and Senate Small Business and Banking Committees, within one year after CDFI has awarded and funded the first grant, and annually after that, the following information: (1) the number and locations of the organizations funded under the grant program; (2) the amount of each grant made to a qualified organization; (3) a description of the matching contributions provided by each qualified organization receiving a grant; (4) the numbers and amounts of sub-grants made by qualified organizations to small business concerns; (5) each grant made under the program, the purpose for which the grant funds were used.

*Section 181. Authorization*

This section authorizes appropriations of \$15 million for fiscal year 2000, \$25 million for fiscal year 2001, \$30 million for fiscal year 2002, and \$35 million for fiscal year 2003.

*Section 182. Implementation*

This section directs the administrator to develop regulations for the implementation of the program. Prior to the development of these regulations and before any grants are awarded, the Administrator is to enter into a Memorandum of Understanding with the Small Business Administration. This should include, but not be limited to such items as outreach and information to organizations. This agreement must be completed within 60 days of enactment of the legislation. The Committee encourages both SBA and CDFI to complete this agreement quickly, and the committee will closely monitor the progress of this agreement to ensure that this is carried out in an expeditious manner. Should issues arise that make completion of the MOU by the 60 day deadline impossible, it is the Committee's hope that a third party, such as the Office of Budget and Management, would be available to assist in resolving any outstanding issues.

Prior to the issuing any proposed preliminary, interim or final regulations, the Administrator of the fund must provide the Administrator of SBA 60 days to comment and suggest changes to these regulations that reflect SBA's experience in the area of assisting micro-entrepreneurs and to ensure that the two programs do not duplicate services already provided by SBA.

**Section 2. Administrative Expenses**

Section 2 increases the CDFI Fund's authorized administrative expenses from \$5,550,000 to \$6,100,000 to accommodate administration of the PRIME Act.

**Section 3. Conforming Amendments**

This section makes technical and conforming amendments.

## 5.4 H.R. 439—PAPERWORK ELIMINATION ACT OF 1999

## LEGISLATIVE HISTORY

Date	Action
<b>H.R. 439:</b>	
February 2, 1999 .....	Referred to the Committee on Government Reform, and in addition to the Committee on Small Business, 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.
February 2, 1999 .....	Referred to House Government Reform
February 3, 1999 .....	Referred to the Subcommittee on National Economic Growth, Natural Resources and Regulatory Affairs.
February 2, 1999 .....	Referred to House Small Business.
February 3, 1999 .....	Committee Consideration and Mark-up Session Held.
February 3, 1999 .....	Ordered to be Reported by Voice Vote.
February 8, 1999 .....	Reported by the Committee on Small Business. H. Rept. 106-11, Part I.
February 9, 1999 .....	Mrs. Kelly moved to suspend the rules and pass the bill.
February 9, 1999 .....	Considered under suspension of the rules.
February 9, 1999 .....	At the conclusion of debate, the Yeas and Nays were demanded and ordered. Pursuant to the provisions of clause 5, rule I, the Chair announced that further proceedings on the motion would be postponed.
February 9, 1999 .....	Considered as unfinished business.
February 9, 1999 .....	On motion to suspend the rules and pass the bill Agreed to by the Yeas and Nays: (2/3 required): 413-0 (Roll no. 13).
February 9, 1999 .....	Motion to reconsider laid on the table Agreed to without objection.
February 11, 1999 .....	Received in the Senate.
February 22, 1999 .....	Read twice and referred to the Committee on Governmental Affairs.

## NEED FOR LEGISLATION

As part of continuing efforts to enable the Federal government to take advantage of the Information Age, the Committee recognized the need to encourage and monitor the progress of Federal agencies in their efforts to utilize new “information technology” to reduce the public cost of meeting the Federal government’s information needs. Moreover, a specific need exists to allow those small businesses, taxpayers, and others with access to computers and modems to use them when dealing with the Federal government.

Witnesses before the Small Business Committee have estimated that the American public expends an amount of time and effort equal to 510 billion dollars, or some 9 percent of the Gross Domestic Product in 1992, in order to meet the Federal government’s information needs. Small businesses bear a disproportionate share of that cost.

The Federal government is lagging behind the rest of the nation in using new technology. Individuals can now send and receive mail, accomplish their personal banking transactions, and even read a newspaper from a personal computer or phone. Individuals should be able to conduct much of their business with the government electronically as well. Legislation is needed to seize the opportunity which the Information Age and new information technologies have presented to reduce the huge cumulative burden of meeting the Federal government’s information demands.

Clearly, the need exists to promote and monitor efforts to minimize the burdens of Federal paperwork demands upon small busi-

nesses, educational and nonprofit institutions, Federal contractors, state and local governments, and other persons through the use of alternative information technologies, including the use of electronic submission, maintenance, or disclosure of information as a substitute for paper. Congressional oversight activities will be enhanced by requiring reporting on the progress of agencies and how regulatory burdens have been reduced.

Congress took an important first step towards using this technology last year when it included in the Omnibus Appropriations Act of 1998 (P.L. 105-277) legislation sponsored by Senator Spencer Abraham which requires the development of procedures for the use and acceptance of electronic signatures by Executive agencies of the U.S. Government. This legislation was of particular importance to the Committee on Small Business because it included one provision that had been part of the previous versions of the Paperwork Elimination Act that the Committee considered in the 104th and 105th Congresses. This particular provision gave the authority to the Director of OMB to provide direction and oversee the acquisition and use of alternative technologies that provide for the electronic submission, maintenance, or disclosure of information as a substitute for paper. The Paperwork Elimination Act of 1999 (H.R. 439) complements this legislation by clarifying the authority and responsibilities of the Director of OMB, as well as placing specific requirements on Federal agencies.

The Paperwork Elimination Act of 1999 amends chapter 35, Title 44, United States Code, otherwise known as the Paperwork Reduction Act of 1995, by requiring all Federal agencies to provide the option of electronic submission of information, electronic compliance with regulations, and electronic disclosure of information to all who must comply with Federal information demands. Furthermore, Federal agencies would be prohibited from collecting information until they have first published a notice in the Federal Register detailing how the information may be maintained, submitted, or disclosed electronically. The Director of OMB would be required to oversee the implementation of electronic submission, compliance, and disclosure of information. The Director of OMB would also be required to monitor and report on the progress of Federal agencies in meeting these requirements, as well as how regulatory burdens on small businesses have been reduced.

The Paperwork Elimination Act of 1999 emphasizes that opportunities for the public to use electronic technologies for data submission should be optional. The Act will in no way hinder the ability of small businesses and individuals without access to computers and modems to comply with Federal paperwork requirements. The Act merely requires Federal agencies to consider and provide the option to those who wish and are able to use the technology.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short Title*

This legislation is entitled the 'Paperwork Elimination Act of 1999'.

### *Section 2. Promotion of Use of Electronic Technology*

The Director of the Office of Management and Budget (OMB) is required to promote the acquisition and use of electronic submission, maintenance, or disclosure of information as a substitute for paper as an option for entities complying with the regulatory information needs of Federal agencies. This provision is added to sec. 3504(h) of the Paperwork Reduction Act (44 U.S.C. 35) which outlines the Director's obligations to advance the use of information technology.

### *Section 3. Assignment of Tasks and Deadlines*

Sec. 3505(a)(3) of the Paperwork Reduction Act requires the Director of OMB, in consultation with the General Services Administration (GSA), National Institute of Standards and Technology (NIST), National Archives and Records Administration (NARA), and Office of Personnel Management (OPM), to develop and maintain a government-wide strategic plan for information resources management. This provision amends sec. 3505(a)(3) by inserting the requirement to include in this plan a progress report on the extent to which the paperwork burden on small businesses and individuals has been relieved as a result of the use of electronic submission, maintenance, or disclosure of information as a substitute for paper.

### *Section 4. Federal Agency Responsibilities*

Subsection (a) amends sec. 3506(c)(1)(B) of the Paperwork Reduction Act to require each Federal agency, when it is appropriate to provide respondents with the option of submitting, maintaining, or disclosing information electronically when complying with Federal regulations.

Subsection (b) amends sec. 3506(c)(3)(C) of the Paperwork Reduction Act to require each Federal agency to certify to the Director of OMB each collection of information that it undertakes has reduced to the extent practicable the burden of paperwork on small businesses and individuals by allowing for the optional submission, maintenance, or disclosure of information electronically.

Subsection (c) amends sec. 3506(c)(3)(J) of the Paperwork Reduction Act to require each Federal agency to certify to the Director of OMB that, to the extent practicable, it used alternative information technologies to reduce burden, improve data quality, and make agencies more efficient and responsive to the public.

### *Section 5. Public Information Collection Activities; Submission to Director; Approval and Delegation*

This provision amends sec. 3507(a)(1)(D)(ii) of the Paperwork Reduction Act to prohibit Federal agencies from collecting information until they have first published a notice in the Federal Register describing how the information may, if appropriate, be electronically submitted, maintained, or disclosed by a respondent.

### *Section 6. Responsiveness to Congress*

This provision amends sec. 3514(a)(2) of the Paperwork Reduction Act to require the Director of OMB, when responding to Congress annually or at other times, to report on how the collection of

information by electronic means has affected regulatory burdens on small businesses and other persons. This report must specifically include any instance in which the electronic maintenance, submission, or disclosure of information has added to the regulatory burden on small businesses. It should also specifically identify instances referring to the information required from small businesses by the Internal Revenue Service.

5.5 H.R. 440.—MICROLOAN PROGRAM TECHNICAL CORRECTIONS ACT OF 1999, PUBLIC LAW NO. 106–22

LEGISLATIVE HISTORY

Date	Action
<b>H.R. 440:</b>	
February 2, 1999 .....	Referred to the House Committee on Small Business.
February 8, 1999 .....	Committee Consideration and Mark-up Session Held.
February 8, 1999 .....	Ordered to be Reported by Voice Vote.
February 8, 1999 .....	Reported by the Committee on Small Business. H. Rept. 106–12.
February 8, 1999 .....	Placed on the Union Calendar, Calendar No. 10.
February 9, 1999 .....	Mr. Talent moved to suspend the rules and pass the bill, as amended.
February 9, 1999 .....	Considered under suspension of the rules. (consideration: CR H492–494)
February 9, 1999 .....	At the conclusion of debate, the Yeas and Nays were demanded and ordered. Pursuant to the provisions of clause 5, rule I, the Chair announced that further proceedings on the motion would be postponed.
February 9, 1999 .....	Considered as unfinished business. (consideration: CR H524–525)
February 9, 1999 .....	On motion to suspend the rules and pass the bill, as amended Agreed to by the Yeas and Nays: (2/3 required): 411–4 (Roll no. 12). (text: CR H492)
February 9, 1999 .....	Motion to reconsider laid on the table Agreed to without objection.
February 11, 1999 .....	Received in the Senate.
February 22, 1999 .....	Read twice and referred to the Committee on Small Business.
March 25, 1999 .....	Senate Committee on Small Business discharged by Unanimous Consent.
March 25, 1999 .....	Measure laid before Senate by unanimous consent. (consideration: CR S3554–3566)
March 25, 1999 .....	Amendment SP 248 proposed by Senator Enzi for Senator Kerry.
March 25, 1999 .....	S.AMDT.248 Proposed by Senator Enzi for Senator Kerry.
March 25, 1999 .....	S.AMDT.248 Amendment SP 248 agreed to in Senate by Unanimous Consent.
March 25, 1999 .....	Amendment SP 248 agreed to in Senate by Unanimous Consent.
March 25, 1999 .....	Passed Senate with an amendment by Unanimous Consent. (consideration: CR S3554–3566)
April 12, 1999 .....	Message on Senate action sent to the House.
April 12, 1999 .....	Mr. Pease moved that the House suspend the rules and agree to the Senate amendment.
April 12, 1999 .....	On motion that the House suspend the rules and agree to the Senate amendment Agreed to by voice vote. (text: CR H1817–1818)
April 12, 1999 .....	Motion to reconsider laid on the table Agreed to without objection.
April 12, 1999 .....	Cleared for White House.
April 15, 1999 .....	Presented to President.
April 27, 1999 .....	Signed by President.
April 27, 1999 .....	Became Public Law No. 106–22.

NEED FOR LEGISLATION

The microloan program was made permanent on December 2, 1997 as a provision of P.L. 105–135, the Small Business Reauthorization Act of 1997. At that time, changes were also implemented to modify the loan loss reserve for microloan intermediaries. The

loan loss reserve language in P.L. 105–135 specified that microloan borrowers were required to maintain a loss reserve of 15 percent of their outstanding microloans for the first five years of their participation in the program. After that, intermediaries were to be required to maintain a loss reserve equal to 10 percent of their outstanding loans or twice their loss rate, whichever was greater.

Unfortunately, this provision was interpreted by the SBA to mean an amount equal to twice an intermediary's aggregate losses. For example: If an intermediary had average annual losses of five percent over five years the SBA would *not* impose a loss reserve of ten percent (twice the annual rate) as intended by the Congress. They would instead impose a loss reserve of fifty percent (twice the aggregate annual losses over five years).

This interpretation created an immense burden on microloan intermediaries. As a result, at the end of the 105th Congress, the Senate Committee on Small Business added language similar to H.R. 440 to H.R. 3412 to remedy the situation. Unfortunately, this language, as part of the larger bill, failed to pass the Congress before adjournment.

Shortly thereafter, the Chairmen of the House and Senate Committees on Small Business, Representative James M. Talent and Senator Christopher Bond, and their colleagues, Representative Nydia Velazquez and Senator John Kerry, the Ranking Democratic Members of the Committees, wrote to SBA Administrator Aida Alvarez requesting her forbearance in applying the loan loss regulations. (A copy of that letter is attached as an Appendix).

H.R. 440 will correct this interpretation and clearly establish that the loan loss reserve will be fifteen percent for the first five years for all intermediaries, and that intermediaries may apply for a reduction of the reserve to reflect their actual annual average loss rate, but no less than ten percent.

The loan loss reserve reduction is to be based on the actual annual average loss rate over a five-year period. The Committee expects that intermediaries will request such reviews no more than annually, and that such reviews will not affect the SBA's ability to conduct further reviews for oversight and management purposes.

H.R. 440 also replaces the cap on the amount of microloan funds that can be made available to intermediaries in any one State. This cap was originally imposed to ensure that microloan funds would not be used disproportionately in those States with more aggressive microloan programs. As the program has matured, however, this restriction has become unnecessary.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short Title*

This act may be cited as the "Microloan Program Technical Corrections Act of 1999".

##### *Section 2. Technical Corrections*

This section eliminates the language in paragraph 7(m)(7)(B) restricting the amount of loan funds made available to any single state, and replaces it with language requiring SBA to maintain a minimum amount (\$800,000) of funding available each year for



each State's intermediaries. This amount is subject to available appropriations and the approval of the Small Business Administration. Any funds that are reserved by the SBA for the purposes of this provision may be released at the beginning of the third fiscal quarter.

This section also inserts language requiring SBA to not only select and approve intermediaries but also make sure that some funding is available to them.

### *Section 3. Loan Loss Reserves*

This section changes the loan loss reserve required to be established by microloan intermediaries. The loss reserve provides a hedge for the SBA against the failure of an intermediary.

Under the new language all intermediaries will be required to have a 15 percent loss reserve for their first five years. After five year intermediaries may request a review by the SBA. Existing intermediaries may request a review based on the most recent five year period. If an intermediary's five year average annual loss rate is lower than 15 percent then the SBA may reduce the loss reserve requirement for the intermediary, but no lower than 10 percent. The request for a review is to be an annual review. However, this review is not to be interpreted to preclude any reviews initiated by the SBA for the purposes of program oversight.

## 5.6 H.R. 774—WOMEN'S BUSINESS CENTERS AMENDMENTS ACT OF 1999, PUBLIC LAW NO. 106-17

### LEGISLATIVE HISTORY

Date	Action
<b>H.R. 774:</b>	
February 23, 1999 .....	Referred to the House Committee on Small Business.
February 25, 1999 .....	Committee Consideration and Mark-up Session Held.
February 25, 1999 .....	Ordered to be Reported by Voice Vote.
March 10, 1999 .....	Reported by the Committee on Small Business, H. Rept. 106-47.
March 10, 1999 .....	Placed on the Union Calendar, Calendar No. 29.
March 16, 1999 .....	Mrs. Kelly moved to suspend the rules and pass the bill, as amended.
March 16, 1999 .....	Considered under suspension of the rules. (consideration: CR H1276-1279)
March 16, 1999 .....	At the conclusion of debate, the Yeas and Nays were demanded and ordered. Pursuant to the provisions of clause 5, rule I, the Chair announced that further proceedings on the motion would be postponed.
March 16, 1999 .....	Considered as unfinished business. (consideration: (CR H1301-1302)
March 16, 1999 .....	On motion to suspend the rules and pass the bill, as amended Agreed to by the Yeas and Nays: (2/3 required): 385-23 (Roll no. 51). (text: CR H1276)
March 16, 1999 .....	Motion to reconsider laid on the table Agreed to without objection.
March 17, 1999 .....	Received in the Senate, read twice.
March 24, 1999 .....	Passed Senate without amendment by Unanimous Consent. (consideration: CR S3299-3300)
March 24, 1999 .....	Cleared for White House.
March 25, 1999 .....	Message on Senate action sent to the House.
March 26, 1999 .....	Presented to President.
April 6, 1999 .....	Signed by President.
April 6, 1999 .....	Became Public Law No. 106-17.

## NEED FOR LEGISLATION

The bill is a product of the information gathered at the hearing on the Women's Business Center Program held on February 11, 1999. Based on information gathered at the hearing, Members on both sides of the aisle and the Administration agreed that a comprehensive study of the Women's Business Center Program is needed.

Therefore, the Committee chose a two-step approach to address the issues raised at the hearing. The first step is H.R. 774, which addresses the two most immediate concerns, the funding ratio for Women's Business Centers for their fifth year of funding and the authorization of appropriations. The majority of Federally funded centers will enter their fifth and final year of funding this coming July. Currently they must raise 2 non-federal dollars to obtain 1 Federal dollar. This ratio creates an immense fund raising burden for Women's Business Centers, which will no longer receive Federal funds after July 2000. Thus, H.R. 774 changes the ratio in the fifth year to 1 non-Federal dollar for each Federal dollar.

The second step for the Committee entails a hearing to follow completion of the GAO study which is currently contemplated. It is hoped that the study will improve the Committee's understanding of where and how the program should grow as we consider additional legislation later this year.

## SECTION-BY-SECTION ANALYSIS

*Section 1. Short Title*

This act maybe cited as the "Women's Business Center Amendments Act of 1999".

*Section 2. Conditions of Participation*

This section eliminates subparagraphs (B) and (C) of Section 29(c)(1) of the Small Business Act, changing the funding ratio in the fifth year to 1 non-Federal dollar for each Federal dollar so that in the third, fourth and fifth years the ratio is 1:1.

This bill will be considered effective as of October 1, 1998.

*Section 3. Authorization of Appropriations*

This section increases the authorization of appropriations from \$8 million to \$11 million.

5.7 H.R. 775—YEAR 2000 READINESS AND RESPONSIBILITY ACT,  
PUBLIC LAW NO. 106-37

## LEGISLATIVE HISTORY

Date	Action
<b>H.R. 775:</b>	
February 23, 1999 .....	Referred to the Committee on the Judiciary, and in addition to the Committee on Small Business, 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.
February 23, 1999 .....	Referred to House Judiciary.
April 13, 1999 .....	Committee Hearings Held.
April 29, 1999 .....	Committee Consideration and Mark-up Session Held.

## LEGISLATIVE HISTORY—CONTINUED

Date	Action
May 4, 1999 .....	Committee Consideration and Mark-up Session Held.
May 4, 1999 .....	Ordered to be Reported (Amended) by the Yeas and Nays: 15–14.
February 23, 1999 .....	Referred to House Small Business.
May 7, 1999 .....	Reported (Amended) by the Committee on the Judiciary. H. Rept. 106–131, Part I. Filed late, pursuant to previous special order.
May 7, 1999 .....	House Committee on Small Business Granted an extension for further consideration ending not later than May 7, 1999.
May 7, 1999 .....	Committee on Small Business discharged.
May 7, 1999 .....	Referred sequentially to the House Committee on Commerce for a period ending not later than May 11, 1999 for consideration of such provisions of the introduced bill as fall within the jurisdiction of that committee pursuant to clause 1(f), rule X.
May 11, 1999 .....	Committee on Commerce discharged.
May 11, 1999 .....	Placed on the Union Calendar, Calendar No. 72.
May 11, 1999 .....	Rules Committee Resolution H. Res. 166 Reported to House. Rule provides for consideration of H.R. 775 with 1 hour of general debate. Previous question shall be considered as ordered without intervening motions except motion to recommit with or without instructions. After general debate the bill shall be considered for amendment under the five-minute rule. The rule makes in order as an original bill for the purpose of amendment, the Committee on the Judiciary amendment in the nature of a substitute now printed in the bill, modified by the amendments printed in part 1 of H. Rept. 106–134 accompanying the rule. Measure will be considered read. Specific amendments are in order. Makes in order only those amendments printed in part 2 of H. Rept. 106–134; provides that the amendments may be offered only by a Member designated in the report, shall be considered as read, debatable for the time specified in the report, not be subject to amendment, and not be subject to * * *
May 12, 1999 .....	Rule H. Res. 166 passed House.
May 12, 1999 .....	Considered under the provisions of rule H. Res. 166, (consideration: CR H3013–3053; text of measure as reported in House: CR H3026–3030).
May 12, 1999 .....	House resolved itself into the Committee of the Whole House on the state of the Union pursuant to H. Res. 166 and Rule XXIII.
May 12, 1999 .....	The Speaker designated the Honorable Ray LaHood to act as Chairman of the Committee.
May 12, 1999 .....	H.AMDT.80 Amendment (A001) offered by Mr. Davis (VA). Amendment changes the effective date to January 1, 1999 and defines damage to mean punitive, compensatory, and restitutionary relief.
May 12, 1999 .....	H.AMDT.80 On agreeing to the Davis (VA amendment (A001) Agreed to by voice vote.
May 12, 1999 .....	H.AMDT.81 Amendment (A002) offered by Mr. Moran (VA). Amendment clarifies that none of the provisions of the bill shall apply to any claim based on personal injury, including any claim asserted by way of counterclaim, cross claim or third party claim; and clarifies that third party defendants brought into Y2K personal injury claims are not provided with the liability protections contained in the bill.
May 12, 1999 .....	H.AMDT.81 On agreeing to the Moran (VA) amendment (A002) Agreed to by voice vote.
May 12, 1999 .....	H.AMDT.82 Amendment (A003) offered by Ms. Jackson-Lee (TX). Amendment clarifies the notification provisions of the bill to provide that the particularity requirement contained in the bill does not exclude the use of layman's terms.
May 12, 1999 .....	H.AMDT.82 On agreeing to the Jackson-Lee (TX) amendment (A003) Agreed to by voice vote.
May 12, 1999 .....	H.AMDT.83 Amendment (A004) offered by Mr. Scott. Amendment sought to delete section 304 which caps the amount that may be awarded for punitive damages in Y2K litigation.

## LEGISLATIVE HISTORY—CONTINUED

Date	Action
May 12, 1999 .....	H.AMDT.84 Amendment (A005) offered by Mr. Nadler. Amendment sought to delete title IV that covers Y2K class action lawsuits.
May 12, 1999 .....	H.AMDT.83 On agreeing to the Scott amendment (A004) Failed by recorded vote: 192–235 (Roll no. 124).
May 12, 1999 .....	H.AMDT.84 On agreeing to the Nadler amendment (A005) Failed by recorded vote: 180–244 (Roll no. 125).
May 12, 1999 .....	H.AMDT.85 Amendment (A006) in the nature of a substitute offered by Mr. Conyers. Amendment in the nature of a substitute sought to delete provisions that place a cap on punitive damages; provide for a cooling off period and alternative dispute resolution procedures; prohibit frivolous class action lawsuits; and impose a duty on plaintiffs to mitigate damages.
May 12, 1999 .....	H.AMDT.85 On agreeing to the Conyers amendment (A006) Failed by recorded vote: 190–236 (Roll no. 126).
May 12, 1999 .....	The House rose from the Committee of the Whole House on the state of the Union to report H.R. 775.
May 12, 1999 .....	The previous question was ordered pursuant to the rule.
May 12, 1999 .....	The House adopted the amendment in the nature of a substitute as agreed to by the Committee of the Whole House on the state of the Union.
May 12, 1999 .....	Mr. Conyers moved to recommit with instructions to Judiciary.
May 12, 1999 .....	The previous question on the motion to recommit with instructions was ordered without objection.
May 12, 1999 .....	On motion to recommit with instructions Failed by recorded vote: 184–246 (Roll no. 127).
May 12, 1999 .....	On passage Passed by recorded vote: 236–190 (Roll no. 128).
May 12, 1999 .....	Motion to reconsider laid on the table Agreed to without objection.
May 13, 1999 .....	Received in the Senate. Read twice. Placed on Senate Legislative Calendar under General Orders. Calendar No. 113.
June 15, 1999 .....	Measure laid before Senate by unanimous consent. (consideration: CR S6998).
June 15, 1999 .....	Senate struck all after the Enacting Clause and substituted the language of S. 96 amended.
June 15, 1999 .....	Passed Senate in lieu of S. 96 with an amendment by Yea-Nay Vote. 62–37. Record Vote No: 165.
June 16, 1999 .....	Senate insists on its amendment asks for a conference, appoints conferees McCain; Stevens; Burns; Gorton; Hollings; Kerry; Wyden From the Committee on Commerce, Science, and Transportation.
June 16, 1999 .....	Senate appointed conferees. Hatch; Thurmond; Leahy From the Committee on the Judiciary.
June 16, 1999 .....	Senate appointed conferees. Bennett; Dodd From the Special Committee on the Year 2000 Technology Problems.
June 23, 1999 .....	Message on Senate action sent to the House.
June 24, 1999 .....	Mr. Goodlatte asked unanimous consent that the House disagree to the Senate amendment, and agree to a conference.
June 24, 1999 .....	On motion that the House disagrees to the Senate amendment, and agree to a conference Agreed to without objection.
June 24, 1999 .....	Motion to reconsider laid on the table Agreed to without objection.
June 24, 1999 .....	Mr. Conyers moved that the House instruct conferees.
June 24, 1999 .....	DEBATE—The House proceeded with 1 hour of debate on the motion to instruct the managers of the part of the House at the conference on the disagreeing votes of the two houses on the amendment of the Senate to the bill to ensure that their eventual report to the House reflects due regard for the substantive concerns of the high-technology community and the possible implications of the “y2k” date change on that community and on the Nation’s economy; the substantive inputs of the Administration and of the bipartisan Leaderships in the Congress on the issues committed to conference; and the sense of the House that a decision not to follow this process will lead to a failure to enact legislation.

## LEGISLATIVE HISTORY—CONTINUED

Date	Action
June 24, 1999 .....	On motion that the House instruct conferees Agreed to by the Yeas and Nays: 426-0 (Roll no. 253).
June 24, 1999 .....	Motion to reconsider laid on the table Agreed to without objection.
June 24, 1999 .....	The Speaker appointed conferees From the Committee on the Judiciary, for consideration of the House bill and the Senate amendment, and modifications committed to conference: Hyde, Sensenbrenner, Goodlatte, Conyers, and Lofgren.
June 24, 1999 .....	The Speaker appointed conferees From the Committee on Commerce, for consideration of section 18 of the Senate amendment, and modifications committed to conference: Bliley, Oxley, and Dingell.
June 24, 1999 .....	Conference held.
June 29, 1999 .....	Conferees agreed to file conference report.
June 29, 1999 .....	Conference report H. Rept. 106-212 filed. (text: CR H5066-5073).
June 30, 1999 .....	Rules Committee Resolution H. Res. 234 Reported to House. Rule provides for consideration of the conference report to H.R. 775 with 1 hour of general debate. Previous question shall be considered as ordered without intervening motions. Rule waives all points of order against the conference report and against its consideration.
July 1, 1999 .....	Rule H. Res. 234 passed House.
July 1, 1999 .....	Mr. Goodlatte brought up conference report H. Rept. 106-212 for consideration under the provisions of H. Res. 234.
July 1, 1999 .....	The previous question was ordered without objection.
July 1, 1999 .....	On agreeing to the conference report Agreed to by the Yeas and Nays: 404-24 (Roll no. 265).
July 1, 1999 .....	Motions to reconsider laid on the table Agreed to without objection.
July 1, 1999 .....	Conference papers: message on House action held at the desk in Senate.
July 1, 1999 .....	Conference report considered in Senate.
July 1, 1999 .....	Senate agreed to conference report by Yea-Nay Vote. 81-18. Record Vote No: 196.
July 1, 1999 .....	Message on Senate action sent to the House.
July 1, 1999 .....	Cleared for White House.
July 16, 1999 .....	Presented to President.
July 20, 1999 .....	Signed by President.
July 20, 1999 .....	Became Public Law No. 106-37.

The bill establishes certain procedures for civil actions brought for damages relating to the failure of any device or system to process or otherwise deal with the transition from the year 1999 to the year 2000, and for other purposes. The Committee on Small Business did not prepare a report on this bill. Further information on the bill can be found in House Report 106-134 prepared by the Committee on the Judiciary and the report of the conferees, House Report 106-212.

#### 5.8 S. 314.—SMALL BUSINESS YEAR 2000 READINESS ACT, PUBLIC LAW NO. 106-8

## LEGISLATIVE HISTORY

Date	Action
<b>S. 314:</b>	
January 27, 1999 .....	Read twice and referred to the Committee on Small Business.
February 5, 1999 .....	Committee on Small Business. Ordered to be reported without amendment favorably.
February 23, 1999 .....	Committee on Small Business. Reported to Senate by Senator Bond without amendment. With written report No. 106-5.

## LEGISLATIVE HISTORY—CONTINUED

Date	Action
February 23, 1999 .....	Placed on Senate Legislative Calendar under General Orders. Calendar No. 18.
March 2, 1999 .....	Measure laid before Senate by unanimous consent. (consideration: CR S2059–2069)
March 2, 1999 .....	Passed Senate without amendment by Yea-Nay Vote. 99–0. Record Vote No: 28. (text: CR S2068–2069)
March 3, 1999 .....	Received in the House.
March 3, 1999 .....	Referred to the House Committee on Small Business.
March 12, 1999 .....	Committee Hearings Held.
March 3, 1999 .....	Message on Senate action sent to the House.
March 23, 1999 .....	Mr. Talent moved to suspend the rules and pass the bill.
March 23, 1999 .....	Considered under suspension of the rules. (consideration: CR H1488–1490)
March 23, 1999 .....	On motion to suspend the rules and pass the bill Agreed to by voice vote. (text: CR H1488–1489)
March 23, 1999 .....	Motion to reconsider laid on the table Agreed to without objection.
March 23, 1999 .....	Cleared for White House.
March 25, 1999 .....	Presented to President.
April 2, 1999 .....	Signed by President.
April 2, 1999 .....	Became Public Law No. 106–8.

S. 314 requires the SBA to establish a limited-term loan program (hereinafter referred to as the ‘Y2K loan program’) pursuant to which the SBA would guarantee loans made by private lenders to assist small businesses in correcting Y2K computer problems. The bill permits a financial institution originating loans under the Y2K loan program to process the loans in accordance with the requirements of any existing loan program established under the SBA’s 7(a) business loan program in which such lender is eligible to participate. The Committee did not prepare a report on this legislation. More information can be found in Senate Report 106–5 prepared by the Senate Committee on Small Business.

5.9 S. 388 (H.R. 818)—DISASTER MITIGATION COORDINATION ACT OF 1999, PUBLIC LAW NO. 106–24

## LEGISLATIVE HISTORY

Date	Action
<b>H.R. 818:</b>	
February 24, 1999 .....	Referred to the House Committee on Small Business.
February 25, 1999 .....	Committee Consideration and Mark-up Session Held.
February 25, 1999 .....	Ordered to be Reported by Voice Vote.
March 1, 1999 .....	Reported by the Committee on Small Business. H. Rept. 106–33.
March 1, 1999 .....	Placed on the Union Calendar, Calendar No. 18.
March 2, 1999 .....	Mr. Talent moved to suspend the rules and pass the bill.
March 2, 1999 .....	Considered under suspension of the rules.
March 2, 1999 .....	On motion to suspend the rules and pass the bill Agreed to by voice vote.
March 3, 1999 .....	Received in the Senate and read twice and referred to the Committee on Small Business.
<b>S. 388:</b>	
February 8, 1999 .....	Read twice and referred to the Committee on Small Business. (text of measure as introduced: CR S1370–1371)
March 25, 1999 .....	Senate Committee on Small Business discharged by Unanimous Consent.
March 25, 1999 .....	Passed Senate without amendment by Unanimous Consent. (consideration: CR S3566; text: CR S3566)
April 12, 1999 .....	Received in the House.
April 12, 1999 .....	Held at the desk.

## LEGISLATIVE HISTORY—CONTINUED

Date	Action
April 12, 1999 .....	Message on Senate action sent to the House.
April 12, 1999 .....	Mr. Thune moved to suspend the rules and pass the bill.
April 12, 1999 .....	Considered under suspension of the rules (consideration: CR H1814–1817)
April 12, 1999 .....	On motion to suspend the rules and pass the bill Agreed to by voice vote. (text: CR H1815)
April 12, 1999 .....	Motion to reconsider laid on the table Agreed to without objection.
April 12, 1999 .....	Cleared for White House.
April 15, 1999 .....	Presented to President.
April 27, 1999 .....	Signed by President.
April 27, 1999 .....	Became Public Law No. 106–24.

## NEED FOR LEGISLATION

Since 1953, the Small Business Administration has administered the disaster loan program authorized by Section 7(b) of the Small Business Act. This program provides loans to help small businesses and homeowners to rebuild after natural disasters. In past years the loan program has spent billions of dollars helping small businesses recover from natural disasters. In fiscal year 1998, the SBA lent \$728 million for 30,154 disaster loans; in 1997 it lent \$1.1 billion for 49,515 disaster loans. The SBA's highest demand for disaster loans came in 1994, when it loaned over \$4.1 billion due to the Northridge Earthquake in California.

The cost of disaster assistance has risen over the past several years due to increases in construction and other costs. By implementing a program to help small businesses use techniques that would lessen damage in the event of natural disasters the possibility exists to save millions of dollars in potential losses. The Federal Emergency Management Agency (FEMA) currently manages "Project Impact" which works in conjunction with communities and businesses on mitigation policies and techniques. Passage of H.R. 818 will complement and further these efforts at mitigation by offering small businesses low interest loans for disaster mitigation.

## SECTION-BY-SECTION ANALYSIS

*Section 1. Short Title*

This act may be cited as the "Disaster Mitigation Coordination Act of 1999".

*Section 2. Pilot Program*

(a) This paragraph authorizes the Administrator to establish a pilot program to make loans to small businesses and homeowners for the purpose of mitigating the effects of natural disasters. These loans will be made in support of a formal mitigation program established by the Federal Emergency Management Agency. These mitigation techniques will be varied and include a variety of activities including building improvements, relocation, etc.

(b) This paragraph authorizes SBA to lend up to \$15,000,000 each year through 2004 in support of the disaster mitigation pilot program. These funds will come from existing Section 7(b) disaster

loan appropriations and will be subject to appropriations available for that program.

(c) This paragraph requires the Administrator of the SBA to report to Congress on January 31, 2003. The report will document the number of loans made, the areas served by the pilot, and the estimated savings to the government as a result of the program.

S. 388 establishes a pilot program for making loans to small businesses for the purpose of implementing techniques and technologies that will mitigate the effects of natural disasters. The Small Business Administration (SBA) currently administers a disaster loan program that lends to small businesses and homeowners affected by natural disasters. Implementation of S. 388 will enable the SBA to lend to small businesses in disaster prone areas and help them avert and lessen the costs of future disaster-inflicted damages. The cost of disaster assistance has risen over the past several years due to increases in construction and other costs.

By implementing a program to help small businesses use techniques that would lessen damage in the event of natural disasters the possibility exists to save millions of dollars in potential losses. The Federal Emergency Management Agency (FEMA) currently manages "Project Impact" which works in conjunction with communities and businesses on mitigation policies and techniques.

5.10 S.791 (H.R. 1497)—WOMEN'S BUSINESS CENTER SUSTAINABILITY ACT, PUBLIC LAW NO. 106-165

LEGISLATIVE HISTORY

Date	Action
<b>H.R. 1497:</b>	
April 20, 1999 .....	Referred to the House Committee on Small Business.
September 30, 1999 .....	Committee Consideration and Mark-up Session Held.
September 30, 1999 .....	Ordered to be Reported in the Nature of a Substitute (Amended) by Voice Vote.
October 5, 1999 .....	Reported (Amended) by the Committee on Small Business. H. Rept. 106-365.
October 5, 1999 .....	Placed on the Union Calendar, Calendar No. 206.
October 19, 1999 .....	Mrs. Kelly moved to suspend the rules and pass the bill, as amended.
October 19, 1999 .....	Considered under suspension of the rules.
October 19, 1999 .....	On motion to suspend the rules and pass the bill, as amended Agreed to by voice vote.
October 19, 1999 .....	Motion to reconsider laid on the table Agreed to without objection.
October 20, 1999 .....	Received in the Senate and read twice and referred to the Committee on Small Business.
<b>S. 791:</b>	
April 14, 1999 .....	Read twice and referred to the Committee on Small Business.
September 30, 1999 .....	Committee on Small Business. Ordered to be reported with an amendment in the nature of a substitute favorably.
November 2, 1999 .....	Committee on Small Business. Reported to Senate by Senator Bond with an amendment in the nature of a substitute. With written report No. 106-214.
November 2, 1999 .....	Placed on Senate Legislative Calendar under General Orders. Calendar No. 372.
November 5, 1999 .....	Measure laid before Senate by unanimous consent. (consideration: CR S14212-14218; text as reported in Senate: CR S14212-14213).
November 5, 1999 .....	S.AMDT.2543 Proposed by Senator Domenici for Senator Kerry. Kerry amendment to S. 791 to make an amendment with respect to the funding formulas and the selection process.



## LEGISLATIVE HISTORY—CONTINUED

Date	Action
November 5, 1999 .....	S.AMDT.2543 Amendment SP 2543 agreed to in Senate by Unanimous Consent.
November 5, 1999 .....	The committee substitute as amended agreed to by Unanimous Consent.
November 5, 1999 .....	Passed Senate with an amendment by Unanimous Consent. (text: CR S14216-14218).
November 8, 1999 .....	Received in the House.
November 8, 1999 .....	Message on Senate action sent to the House.
November 8, 1999 .....	Held at the desk.
November 18, 1999 .....	Mrs. Kelly asked unanimous consent to take from the Speaker's table and consider.
November 18, 1999 .....	Considered by unanimous consent. (consideration: CR H12864-12866).
November 18, 1999 .....	On passage Passed without objection. (text: CR 11/19/99 H12864-12866).
November 18, 1999 .....	Motion to reconsider laid on the table Agreed to without objection.
November 18, 1999 .....	Cleared for White House.
December 1, 1999 .....	Presented to President.
December 9, 1999 .....	Signed by President.
December 9, 1999 .....	Became Public Law No. 106-165.

## NEED FOR LEGISLATION

The Small Business Administration's Women's Business Program provides five-year grants, matched by non-Federal dollars, to private-sector organizations to establish business-training centers for women. Depending on the needs of the community being served, centers teach women the principles of finance, management and marketing, as well as specialized topics such as how to get a government contract or how to start a home-based business. The centers are located in rural, urban and suburban areas, and direct much of their training and counseling assistance toward socially and economically disadvantaged women.

In spite of the impressive growth, according to the data from the 1998 Women's Economic Summit, women-owned businesses account for only 18 percent of all small-business gross receipts, and they are dramatically under-represented in the nation's two most lucrative markets: corporate buying and government contracting. Based on this data and hearing testimony, the Committee finds the need for the Women's Business Centers continues, and this is no time to diminish or dismantle the infrastructure we have invested in for the past decade.

This legislation draws on testimony given before the Committee over the past year. According to testimony given by a member of the Association of Women's Business Centers at a hearing held February 11, 1999, the program is in danger of losing effective centers. Many centers need every penny to run their programs and it is increasingly difficult to raise the required matching funds. Losing the matching funds would compound the problem because they would have to raise twice as much money, the competition for foundation and private-sector dollars has become scarcer with each year that government funding has diminished, and they would not have any leverage to challenge those foundations and private corporations to give/match.

H.R. 1497 seeks to improve Congressional oversight of the Women's Business Center program and balance the need for developing new centers while sustaining currently funded and graduated sites. There are four main components to this balanced approach. First, the legislation increases oversight and review of women's business centers. SBA is directed to do an annual programmatic and financial examination of each center and then to analyze the results to determine whether the center is programmatic and financially viable. The Committee recognized a need for such an examination because a GAO study on the Women's Business Centers program released on September 2, 1999, found 'limitations in SBA's records and databases' for the years 1989 through 1998. Accordingly, if centers don't provide the information required, if the information is inadequate, or if the results are poor, the SBA can withhold grant extensions or grant renewals. Second, H.R. 1497 requires the SBA to issue the requests for proposals (RFP) for new centers and centers competing for sustainability grants at the same time in order to better manage the selection and award process. Third, based on the conditions described in the bill, the Committee intends for the selection panel to judge merit on how well a center provided service to its market under its first award and how it plans to service its market in the next five years. Fourth, H.R. 1497 goes a step further by requiring the SBA as part of the final selection process to complete a site visit of each center competing for a sustainability grant. Recognizing that site visits are expensive, this bill makes available the equivalent of \$275,000 per year proportionate to appropriations to be used for site visits and other uses. Fourth, H.R. 1497 incrementally raises over four years the annual authorization levels from \$12 million in FY 2000 to \$14.5 million in fiscal year 2003. The Committee increased the authorization levels to ensure that there are adequate monies to fund 45 existing centers, an average of 8 recompeting centers, and an average of 10 new centers per year. This bill establishes very specific requirements for appropriations. First, of those amounts, the bill reserves a percentage of money each fiscal year for sustainability grants.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short Title*

The Act is entitled the "Women's Business Centers Sustainability Act of 1999".

##### *Section 2. Private Nonprofit Organizations*

This section amends the act to clarify that all Women's Business Centers must be private nonprofit organizations (501(c) organizations) instead of private organizations.

##### *Section 3. Increased Management Oversight and Review of Women's Business Centers*

This section directs the SBA to do an annual programmatic and financial examination for each center and then to analyze the results to determine whether the center is programmatic and financially viable. The Committee recognized a need for such an ex-

amination because a GAO study on the Women's Business Centers program published on September 2nd found 'limitations in SBA's records and databases' for the years 1989 through 1998. Accordingly, if centers don't provide the information required, if the information is inadequate, or if the results are poor, the SBA can withhold grant extensions or grant renewals.

*Section 4. Women's Business Centers Sustainability Pilot Program*

Subsection (a)(1) establishes four-year competitive grant program. Each grant cycle is for five fiscal years. There will be two separate selection rounds for the sustainability grants in each year of the pilot. In the first round, centers in the final year of their five-year grant project can compete. If there are funds unawarded from the first round, there will be a second round for graduated centers to compete. A graduated center is considered a center that no longer receives federal funds from the Women's Business Center Program, but is still actively providing business programs and services to its local market.

Subsection (a)(2) describes five conditions for participation. The conditions include requiring certification that the applicant is a private nonprofit organization; maintenance of records of its past performance; and submission of a plan that demonstrates a center's ability to records of its past performance; and submission of a plan that demonstrates a center's ability to better meet the needs of the market through fundraising in the next 5 years.

Subsection (a)(3) sets forth the conditions for reviewing grant applications, reporting requirements for data collection, and a ten-year record retention of applications.

Subsection (a)(4) establishes the matching requirement. Centers must raise cash or in-kind contributions from non-Federal sources. Consistent with the last three years of the initial five-year grant, centers must raise the equivalent of one non-Federal dollar to each Federal dollar.

Subsection (a)(5) requires the SBA to issue all requests for proposals (proposals to establish new centers as well as proposals seeking the sustainability pilot grants) at the same time. This provision is intended to ensure that new centers and sustained centers get equal consideration during the application review process and that funds are appropriately awarded.

Subsection (b) authorizes appropriations for the term of the pilot.

Subsection (b)(1) incrementally raises over four years the annual appropriations from \$12 million in FY2000 to \$14.5 million in fiscal year 2003. The Committee increased the authorization levels to ensure that there are adequate monies to fund 45 existing centers, an average of 8 re-competing centers, and an average of 10 new centers per year. New centers and existing centers are awarded matching grants of up to \$150,000 per year. Re-competing centers are awarded matching grants of up to \$125,000. The funds appropriated over the next four fiscal years are available until used so that if insufficient qualified applications are received, the program can carry over unawarded funds for use later in the pilot.

Subsection (b)(2) sets aside the equivalent of \$275,000 per year for the Office of Women's Business Ownership to use for selection

panel costs including site visits of all final contenders for sustainability grants, post-award conferences and oversight costs.

Subsection (b)(3) reserves specific percentages each year to fund centers with sustainability pilot grants. The subsection also sets forth exceptions for the use of unawarded funds. First, if the funds for the first round of sustainability pilot grants are not fully awarded, the money can be used for grants to graduated centers. Then, if reserved funds remain after funding sustainability grants for qualified graduated centers, the money can be used for new centers or to expand programs to better meet the needs of a market. Conversely, if the funds intended for new centers and maintenance of existing centers are not fully awarded, the funds can be used for sustainability grants.

Subsection (c) section establishes the guidelines. The SBA must issue guidelines to implement this Act within 30 days of enactment.

#### *Section 5. Effective Date*

This section establishes that this Act takes effect on October 1, 1999.

### 5.11 H.R. 1568—VETERANS ENTREPRENEURSHIP AND SMALL BUSINESS DEVELOPMENT ACT, PUBLIC LAW NO. 106–50

#### LEGISLATIVE HISTORY

Date	Action
<b>H.R. 1568:</b>	
April 27, 1999 .....	Referred to the Committee on Small Business, and in addition to the Committee on Veterans' Affairs, 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.
April 27, 1999 .....	Referred to House Small Business.
June 23, 1999 .....	Committee Hearings Held.
June 23, 1999 .....	Committee Consideration and Mark-up Session Held.
June 23, 1999 .....	Ordered to be Reported (Amended) by Voice Vote.
April 27, 1999 .....	Referred to House Veterans' Affairs.
May 20, 1999 .....	Referred to the Subcommittee on Benefits.
June 29, 1999 .....	Reported (Amended) by the Committee on Small Business. H. Rept. 106–206, Part I.
June 29, 1999 .....	House Committee on Veterans' Affairs Granted an extension for further consideration ending not later than June 29, 1999.
June 29, 1999 .....	Committee on Veterans' Affairs discharged.
June 29, 1999 .....	Placed on the Union Calendar, Calendar No. 120.
June 29, 1999 .....	Mr. Talent moved to suspend the rules and pass the bill, as amended.
June 29, 1999 .....	Considered under suspension of the rules. (consideration CR H5016–5026)
June 29, 1999 .....	On motion to suspend the rules and pass the bill, as amended Agreed to by voice vote. (text: CR H 5016–5021)
June 29, 1999 .....	Motion to reconsider laid on the table Agreed to without objection.
June 30, 1999 .....	Received in the Senate and read twice and referred to the Committee on Small Business.
July 15, 1999 .....	Committee on Small Business. Ordered to be reported with an amendment in the nature of a substitute favorably.
August 4, 1999 .....	Committee on Small Business. Reported to Senate by Senator Bond with an amendment in the nature of a substitute. With written report No. 106–136.
August 4, 1999 .....	Placed on Senate Legislative Calendar under General Orders. Calendar No. 254.

## LEGISLATIVE HISTORY—CONTINUED

Date	Action
August 5, 1999 .....	Measure laid before Senate by unanimous consent. (consideration: CR S10520–10522)
August 5, 1999 .....	Amendment SP 1617 proposed by Senator Brownback for Senator Bond.
August 5, 1999 .....	S.AMDT.1617 Proposed by Senator Brownback for Senator Bond. To make amendments with respect to the Board of Directors of the National Veterans Business Development Corporation.
August 5, 1999 .....	Amendment SP 1617 agreed to in Senate by Unanimous Consent.
August 5, 1999 .....	S.AMDT.1617 Amendment SP 1617 agreed to in Senate by Unanimous Consent.
August 5, 1999 .....	The committee substitute as amended agreed to by Unanimous Consent.
August 5, 1999 .....	Passed Senate with an amendment by Unanimous Consent.
August 5, 1999 .....	Message on Senate action sent to the House.
August 5, 1999 .....	Mr. Talent asked unanimous consent that the House agree to the Senate amendment.
August 5, 1999 .....	On motion that the House agree to the Senate amendment Agreed to without objection. (text: CR H7462–7467)
August 5, 1999 .....	Motion to reconsider laid on the table Agreed to without objection.
August 5, 1999 .....	Cleared for White House.
August 11, 1999 .....	Presented to President.
August 17, 1999 .....	Signed by President.
August 17, 1999 .....	Became Public Law No. 106–50.

## NEED FOR LEGISLATION

Over the years, the Nation has recognized the debt owed to citizens who serve in defense of our Constitution and the American ideals of free speech, personal liberty, and free enterprise. H.R. 1568 builds on the best examples of this public policy from our Nation's history. From the beginning of the Republic, when the Continental Congress provided land grants to Revolutionary War veterans, we have helped veterans with self-employment and self-sufficiency. 150 years later, the 1944 Servicemen's Readjustment Act, or "G.I. Bill of Rights of World War II" provided loan guarantees for returning World War II, and later Korean War, veterans. In the ten years following, the Federal Government provided over 280,000 small business and farm loans to veterans to help include them in the post-war boom and use their talents to propel that boom.

Unfortunately, the Nation's efforts on behalf of veterans have diminished drastically in the intervening 45 years. Over the years, the interests of veterans, particularly the service-disabled, have fallen on infertile ground. While specifically included as a priority of the SBA at its creation, the Office of Veterans Affairs and the needs of veterans have been diminished systematically at the SBA. Elimination of the direct loan program for veterans in fiscal year 1995, at then Administrator Phil Lader's request, resulted in serious diminution of financial assistance of veterans. Total loan dollars dropped from \$22 million dollars in loans in 1993 to \$10.8 million in 1998. Likewise, training and counseling for veterans dropped from 38,775 total counseling sessions for veterans in 1993 to 29,821 sessions in 1998.

While the current SBA Administrator, Aida Alvarez, has made efforts to halt this slide it is evident that more must be done. Teamwork and self-confidence are the hallmarks of our veterans. With that in mind, H.R. 1568 proposes to give veterans the goals

they need to do the job. SBA's activities and priorities will be strengthened, but a framework must be established to allow veterans and small businesses share their knowledge and skills. By establishing the National Veterans Business Development Corporation, Congress will set in place a permanent mechanism for meeting our obligations to our service men and women.

H.R. 1568 will also fulfill a long unmet need to assist our military reservists who are small business owners. Often these individuals, called to service at short notice, come back from fighting to protect our freedoms only to find their businesses in shambles. H.R. 1568 will establish loan deferrals, technical and managerial assistance, and loan programs for these citizen soldiers so that while they risk their lives they need not risk their livelihoods.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short Title*

Designates the bill as the "Veterans Entrepreneurship and Small Business Development Act of 1999".

##### *Section 2. Table of Contents*

#### TITLE I—GENERAL PROVISIONS

##### *Section 101. Findings*

This section describes Congressional findings regarding the sacrifices and efforts of veterans and their value to the American economy as small business owners.

##### *Section 102. Purpose*

Describes the purpose of the Act, to encourage the SBA and other agencies to implement further efforts to assist veterans, particularly service-disabled veterans in the formation and growth of small businesses.

##### *Section 103. Definitions*

Establishes definitions of veteran owned and service-disabled veteran owned small business concerns. The term "service-disabled veterans" is based on the definition in Title 38 of the US Code.

#### TITLE II—VETERANS BUSINESS DEVELOPMENT

##### *Section 201. Office of Veterans Business Development*

Establishes an Office of Veterans Business Development and the position of Associate Administrator for Veterans Business Development at the Small Business Administration. This position will be responsible for the formulation, execution, and promotion of programs to provide assistance for small businesses owned and controlled by veterans. There are currently at least ten Associate Administrators at the SBA. A minimum of four are required by law, and the titles of only two are specified.

##### *Section 202. National Veterans Business Development Corporation*

This section establishes a federally chartered corporation, the National Veterans Business Development Corporation, for the pur-

pose of guiding and monitoring public and private sector initiatives to assist the Nation's veterans in their efforts to form and grow small businesses. The most significant single purpose of the corporation will be to work with the public and private sectors to establish an independent nationwide network of business assistance and information centers for veterans. The Corporation will be managed by a Board of Directors appointed in a bipartisan fashion by the President based on recommendations from the Congress. It will have the power to raise and disburse funds, establish initiatives, and award grants in furtherance of its goal of establishing a cohesive assistance and information network for veteran owned business.

The NVBDC will also establish an advisory board on professional certification to work on the problems service members with military technical training face in transitioning into the private sector workforce. The board will be composed of representatives of professional certification organizations, such as the Coalition for Professional Certification and veterans organizations such as the American Legion. In addition, the Board of Directors of the NVBDC shall invite representatives of the Armed Services and the Department of Labor to participate.

While they will have no mandate to change or enforce regulations, the Committee hopes that the military and private sector will work in a cooperative fashion to satisfy both the Armed Services training requirements and the public sector's need for standard certification and provide transitioning service members with an easy entrance to civilian life. To start the NVBDC it will have an initial authorization of \$2 million in the first year and \$4 million in the second and third years, dropping back to \$2 million in the fourth and final year. After the fourth year the Corporation will be self funded from private donations and no longer be eligible for federal funds.

#### *Section 203. Advisory Committee on Veterans Affairs*

Establishes an eight member committee to provide independent advice and policy recommendations to the SBA, Congress, and the President. The committee will conduct hearings, collect information from federal agencies, develop, monitor and promote programs to aid veteran's business development, and issue an annual report to the Congress. The Committee will terminate on September 30, 2004 and its responsibilities will devolve onto the National Veterans Business Development Corporation.

### TITLE III—TECHNICAL ASSISTANCE

#### *Section 301. Score Program*

This section requires the Service Corps of Retired Executives (SCORE) and the SBA to establish a program for directing management and technical assistance to veteran-owned small business and veterans wishing to establish small business concerns. SCORE provides advice and technical assistance to small businesses free of charge through a nationwide network of volunteers.

*Section 302. Entrepreneurial Assistance*

This section requires the Small Business Development Center (SBDC) system and the SBA to establish a program for outreach and assistance to veterans and veteran-owned small businesses. SBDC's provide free management and technical assistance to small business owners through over 900 sites located at colleges and universities nationwide.

*Section 303. Military Reservists Technical Assistance*

Establishes a program of technical and managerial assistance, through the SBA, for military reservists who are self-employed or are small business owners and are called to active military duty. Requires the SBA to enhance its publicity of such assistance for the duration of Operation "Allied Force".

## TITLE IV—FINANCIAL ASSISTANCE

*Section 401. General Business Loans*

Includes service-disabled veterans with handicapped individuals in provisions requiring that loan making decisions shall be resolved in favor of the prospective borrower. H.R. 1568 also clarifies that this provision applies only to guaranteed loans and makes no requirement that the SBA reinstitute the direct loan programs eliminated in the Administration budget submission in 1995. According to the Administration's testimony on June 23, 1999 such a result was not desired by the SBA. Therefore, an amendment was offered to specify and reinforce the Administration's opposition to those programs.

*Section 402. Assistance to Active Duty Military Reservists*

Requires the SBA to establish a system for loan deferrals for small business owners called up for active duty. Also requires the SBA to make economic injury disaster loans available to self-employed individuals who are called to active duty for the National Guard and Reserves.

*Section 403. Microloan Program*

Makes veterans eligible for assistance under the SBA's microloan program which provides small loans (under \$25,000) to people seeking initial financing for small business start-up or expansion.

*Section 404. Delta Loan Program*

Includes veteran owned small businesses in the eligibility categories for assistance under the DELTA loan program at the SBA.

*Section 405. State Development Company Program*

Includes the formation and creation of veteran-owned small business in the public policy goals sought in the 504 loan program for construction and long-term equipment loans.



## TITLE V—PROCUREMENT

*Section 501. Subcontracting*

Requires the inclusion of small business concerns owned and controlled by veterans in the mandatory subcontracting clause in all government contracts that establishes subcontracting plans.

*Section 502. Procurement Assistance*

This section requires the SBA to establish a three percent goal for contracting with small business concerns owned and controlled by service disabled veterans.

## TITLE VI—REPORTS AND DATA

*Section 601. Reporting Requirements*

Requires the heads of each federal agency to report to the Small Business Administration concerning contracting with veteran owned and service-disabled veteran owned small businesses.

*Section 602. Report on Small Business and Competition*

Requires the SBA to include information on small business concerns owned by veterans and service disabled veterans in the annual report on small business participation and opportunities in federal procurement.

*Section 603. Annual Report*

This section requires the Administrator to submit an annual report to Congress on the needs of veteran owned small business and the progress of programs designed to aid and promote veterans small business ownership. The Administrator shall also provide statistical information on veterans participation in SBA programs.

*Section 604. Information Collection*

Requires the collection of procurement data on veterans and service-disabled veteran owned small businesses, and collection of information on the procurement practices of each federal agency. All such information is to be made available to any small business concern requesting it. The information is also to be distributed to federal procurement officers. Also requires the SBA and VA to work to establish a database on veteran owned small business concerns.

## TITLE VII—MISCELLANEOUS PROVISIONS

*Section 701. Administrator's Order*

Requires the administrator to strengthen and reissue the order implementing the provisions of P.L. 93-237 which requires the SBA to fully include veterans in all the programs, purposes and activities of the agency.

*Section 702. Office of Advocacy*

Requires the Chief Counsel for Advocacy of the US Small Business Administration to include an evaluation of the efforts of the federal government to assist veteran owned small business con-

cerns as one of his primary functions. The Chief Counsel is also required to provide statistical information on veterans utilizing of federal programs. Also requires the Chief Counsel to make recommendations to the Administrator of SBA and Congress on programs and efforts to assist veteran owned small business concerns.

*Section 703. Fixed Asset Small Business Loans*

Requires the Government Accounting Office to conduct a study of the feasibility of using the VA home ownership loan program as a source of fixed asset financing for veteran-owned small businesses.

5.12 H.R. 1882—SMALL BUSINESS REVIEW PANEL TECHNICAL AMENDMENTS ACT OF 1999

LEGISLATIVE HISTORY

Date	Action
<b>H.R. 1882:</b>	
May 20, 1999 .....	Referred to the Committee on the Judiciary, and in addition to the Committee on Small Business, 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.
May 20, 1999 .....	Referred to House Judiciary,
May 21, 1999 .....	Referred to the Subcommittee on Commercial and Administrative Law.
May 20, 1999 .....	Referred to House Small Business.
May 25, 1999 .....	Committee Hearings Held.
May 25, 1999 .....	Ordered to be Reported.
May 25, 2000 .....	Reported by the Committee on Small Business. H. Rept. 106-643, Part I.
July 20, 2000 .....	Referred sequentially to the House Committee on Ways and Means for a period ending not later than Sept. 15, 2000 for consideration of such provisions of the bill as fall within the jurisdiction of that committee pursuant to clause 1(s), rule X.
September 15, 2000 .....	House Committee on Ways and Means Granted an extension for further consideration ending not later than Sept. 19, 2000.
September 19, 2000 .....	House Committee on Ways and Means Granted an extension for further consideration ending not later than Sept. 25, 2000.
September 25, 2000 .....	House Committee on Ways and Means Granted an extension for further consideration ending not later than Sept. 26, 2000.
September 26, 2000 .....	House Committee on Ways and Means Granted an extension for further consideration ending not later than Sept. 29, 2000.
September 29, 2000 .....	House Committee on Ways and Means Granted an extension for further consideration ending not later than Oct. 6, 2000.
October 6, 2000 .....	House Committee on Ways and Means Granted an extension for further consideration ending not later than Oct. 13, 2000.
October 13, 2000 .....	House Committee on Ways and Means Granted an extension for further consideration ending not later than Oct. 20, 2000.
October 20, 2000 .....	House Committee on Ways and Means Granted an extension for further consideration ending not later than Oct. 25, 2000.
October 25, 2000 .....	House Committee on Ways and Means Granted an extension for further consideration ending not later than Oct. 26, 2000.
October 26, 2000 .....	House Committee on Ways and Means Granted an extension for further consideration ending not later than Oct. 27, 2000.
October 27, 2000 .....	House Committee on Ways and Means Granted an extension for further consideration ending not later than Oct. 28, 2000.
October 28, 2000 .....	House Committee on Ways and Means Granted an extension for further consideration ending not later than Oct. 29, 2000.
October 29, 2000 .....	House Committee on Ways and Means Granted an extension for further consideration ending not later than Oct. 30, 2000.
October 30, 2000 .....	House Committee on Ways and Means Granted an extension for further consideration ending not later than Oct. 31, 2000.

## LEGISLATIVE HISTORY—CONTINUED

Date	Action
October 31, 2000 .....	House Committee on Ways and Means Granted an extension for further consideration ending not later than Nov. 1, 2000.
November 1, 2000 .....	House Committee on Ways and Means Granted an extension for further consideration ending not later than Nov. 2, 2000.
November 2, 2000 .....	House Committee on Ways and Means Granted an extension for further considering ending not later than Nov. 3, 2000.
November 3, 2000 .....	House Committee on Ways and Means Granted an extension for further consideration ending not later than Nov. 4, 2000.
November 4, 2000 .....	House Committee on Ways and Means Granted an extension for further consideration ending not later than Nov. 14, 2000.
November 14, 2000 .....	House Committee on Ways and Means Granted an extension for further consideration ending not later than Dec. 5, 2000.
December 5, 2000 .....	House Committee on Ways and Means Granted an extension for further consideration ending not later than Dec. 7, 2000.
December 7, 2000 .....	House Committee on Ways and Means Granted an extension for further consideration ending not later than Dec. 15, 2000.

## NEED FOR LEGISLATION

The development of H.R. 1882 has been a two-year effort spearheaded by the work of the Subcommittee on Regulatory Reform and Paperwork Reduction and the Subcommittee on Government Programs and Oversight, which have held three joint hearings on the Small Business Advocacy Review Panel Process. The Subcommittees also commissioned a General Accounting Office (GAO) report that examined how the panel process was being implemented. The oversight hearings by the Subcommittees, as well as the GAO report, revealed several areas in which the panel proceeds could be clarified and strengthened. H.R. 1882 reflects these changes.

The General Accounting Office interviewed a number of small entity representatives who had participated in the panel process. Based on these interviews, as well as input from the participating agencies, the GAO report contained several suggestions about how the panel process could be strengthened. These suggestions primarily focused on the following four issues: (1) adjusting the time frames in which the panels are conducted, (2) ensuring that there is an adequate mix of representatives from the small entities that could be affected by the rule, (3) enhancing the methods that the panels used to gather comments, and (4) improving the background materials provided by the regulatory agencies.

Issues of panel process timing were one area that GAO highlighted. Several small entity representatives who had participated in the panel process said that they would have liked to have had more advance notice of panel meetings and telephone conference calls with the panels. Some of these representatives said that short advance notice had prevented them from participating in certain efforts. One individual, who had been identified as a possible small entity representative, said that short notice of these meetings prevented him from participating in the panel process at all. Most of those who voiced this concern said that they would have liked additional notice for panel meetings and telephone conference calls to avoid conflicts with other scheduled commitments.

Other small entity representatives that are interviewed said that they felt that they were not given enough time to study the materials that were provided to them by the covered agency. Many of these small entity representatives also said that an additional one to two weeks would have allowed them to consult with others (e.g., members of their professional associations) before providing comments.

One small entity representative said that requiring comments from the representatives shortly after they receive materials from the agencies prevents them from providing the panels with an in-depth perspective regarding the draft rule.

To address these concerns, H.R. 1882 requires the covered agency to wait at least 30 days after information is provided to the small entity representatives before convening a review panel in order to provide time to review the materials that are provided to them and to make any necessary scheduling adjustments.

Another issue raised by the GAO report was the composition of individuals who are chosen to be small entity representatives (SERs). A consensus emerged that the best mix of small entity representatives is one that includes both individual small business owners and representatives from associations and other regulatory consultants that represent the interests of small entities. The individual small business owners provide valuable 'hands-on' insights, while association representatives and other regulatory consultants generally have more resources available to devote to examining the proposed rule and have, in many cases, more expertise to understand the often technical nature of proposed regulations. H.R. 1882 addresses this by ensuring that the agency has the authority to identify both sets of individuals to participate as small entity representatives. Additionally, requiring the Chief Counsel for Advocacy to concur with each small entity representative chosen by the agency, as the legislation does, provides an added check on the selection process to help ensure that a good mix of SERs is identified.

Another issue that was raised as a result of the GAO report was the method that the review panels use to collect advice and recommendations from the small entity representatives. For the most part, the review panels have relied on telephone conference calls with the SERs to gather input during the panel process. While most SERs said that they viewed telephone conference calls as an efficient way for the review panel to gather comments, others felt that telephone conference calls limited the amount of discussion that could take place between themselves and the panel.

Most of these small entity representatives also expressed a preference for face-to-face meetings instead of telephone conference calls because they believed the discussions would be fuller and would provide greater value to the panels. When telephone conference calls were used, some small entity representatives said they found it confusing when there were numerous participants on the phone at once. One of these representatives, for example, suggested setting an agenda to clarify participation in the telephone conference calls. H.R. 1882 helps to address this issue by requiring the review panel to accommodate requests for face-to-face oral presentations. This will help to ensure that the small entity representatives who wish to devote the time and resources to making face-

to-face presentations will have the ability to participate to the fullest extent. It also recognizes that conference calls are still probably the most efficient way to gather recommendations in a timely manner, and allows review panels the ability to continue using the current method of obtaining comments from the SERs.

The final major change that H.R. 1882 makes is that it requires the Internal Revenue Service (IRS) to meet the requirements of the panel process. The addition of the IRS to this process reflects the many complaints that this Committee has received from small businesses across the nation that the IRS, when developing regulations, repeatedly ignores small businesses' unique requirements. It is also done with the understanding that the IRS has historically been abysmal in meeting the requirements of the regulatory Flexibility Act.

By extending the SBREFA panel process to the IRS, we are helping small businesses deal with one of the most troublesome agencies they face. The IRS places one of the largest burdens on small businesses. The goal of H.R. 1882 is to bring the IRS regulation-making process into the light of day, and open it up to discussion. Small businesses must be allowed to participate in the dialogue. They must be a part of the process. Anything less is unfair—especially when it involves an institution like the IRS, which has a major impact on small business.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short Title*

Designates the bill as the 'Small Business Review Panel Technical Amendments Act of 1999'.

##### *Section 2. Findings and Purposes*

(a) The Congress finds the following:

(1) A vibrant and growing small business sector is critical to creating jobs in a dynamic economy.

(2) Small businesses bear a disproportionate share of regulatory costs and burdens.

(3) Federal agencies must consider the impact of their regulations on small businesses early in the rulemaking process.

(4) The Small Business Advocacy Review Panel process that was established by the Small Business Regulatory Enforcement Fairness Act of 1996 has been effective in allowing small businesses to participate in rules that are being developed by the Environmental Protection Agency and the Occupational Safety and Health Administration.

(b) The purposes of this Act are the following:

(1) To provide a forum for the effective participation of small businesses in the Federal regulatory process.

(2) To clarify and strengthen the Small Business Advocacy Review Panel process.

(3) To expand the number of Federal agencies that are required to convene Small Business Advocacy Review Panels.

*Section 3. Ensuring Full Analysis of Potential Impacts on Small Entities of Rules Proposed by Certain Agencies*

Section 3 rewrites section 609(b) of the Regulatory Flexibility Act (Chapter 6 of Title 5, United States Code), making several technical amendments to small business advocacy review panel process. First, it clarifies who has responsibility for choosing the small entity representatives (SERs). The current statute allows both the Chief Counsel for Advocacy and the agency to identify small entity representatives. This dual appointment method causes confusion and weakens accountability over the small entity representative appointment procedure. The legislation corrects this by specifying that it is the agency's responsibility to choose the small entity representatives, but requires the Chief Counsel to concur with each SER identified by the agency. Second, it clarifies that the covered agency cannot convene the review panel until at least 30 days after the covered agency transmits information about the draft proposed rule to the small entity representatives. This is designed to address the problem that small entity representatives identified of not having enough time to review the information that was provided to them. Under this change, the small entity representatives would have at least 30 days to review the information provided to them. This change would also give the agency promulgating the rule some flexibility in deciding when to convene its review panel, while at the same time not unnecessarily delaying the process. Third, it clarifies that a small entity representative shall have the opportunity to give an oral presentation to the review panel if the small entity representative so desires. Fourth, it changes the way in which the final report of the review panel is handled. Currently, there is no requirement that the report of the review panel be printed in the Federal Register. Nor is there any requirements as to when the report of the review panel should be made public as part of the rulemaking record. As a practical matter, not everyone can come to Washington, DC, to inspect a covered agency's rulemaking record. The legislation merely requires that the report of the review panel be printed in the Federal Register within 120 days. A number of those who have participated in the panel process have complained that they did not know whether their advice and recommendations were addressed by the covered agency because the panel report was not made public in a timely manner. The legislation corrects this situation by requiring a covered agency to print the report of the review panel in the Federal Register together with the notice of proposed rulemaking, or as a separate item if the notice of proposed rulemaking occurs more than 120 days after the report is completed.

*Section 4. Definitions*

Section 4 amends section 609(d) of the Regulatory Flexibility Act (Chapter 6 of Title 5, United States Code) to include the Internal Revenue Service of the Department of the Treasury as one of the covered agencies that must convene small business advocacy review panels. Currently, the advocacy review panel requirements only apply to the Environmental Protection Agency and the Occupational Safety and Health Administration of the Department of Labor.

Section 4 also defines the term “small entity representative” to mean a small entity, which is already defined in the Regulatory Flexibility Act, or an individual or organization that represents a small entity. This clarification was made in the legislation to underscore the fact that representatives from small business associations and other trade groups, as well as regulatory consultants, often have more resources and expertise available to participate in the panel process than do individual and small entities. There is no disagreement that actual small business owners bring experience and insights that are vital to a successful review panel. However, representatives of trade associations and other regulatory consultants who represent the interests of small entities can also be valuable participants that should not be excluded from the panel process.

#### *Section 5. Effective Date*

This section states that the changes made by H.R. 1882 shall take effect ninety days after the legislation is enacted.

#### 5.13 H.R. 2392—SMALL BUSINESS INNOVATION RESEARCH PROGRAM REAUTHORIZATION ACT OF 2000, PUBLIC LAW NO. 106–554

#### LEGISLATIVE HISTORY

Date	Action
<b>H.R. 2392:</b>	
June 30, 1999 .....	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.
June 30, 1999 .....	Referred to House Small Business.
July 1, 1999 .....	Committee Consideration and Mark-up Session Held.
July 1, 1999 .....	Ordered to be Reported (Amended) by Voice Vote.
June 30, 1999 .....	Referred to House Science.
September 23, 1999 .....	Reported by the Committee on Small Business. H. Rept. 106–329, Part I.
September 23, 1999 .....	House Committee on Science Granted an extension for further consideration ending not later than Sept. 23, 1999.
September 23, 1999 .....	Committee on Science discharged.
September 23, 1999 .....	Placed on the Union Calendar, Calendar No. 193.
September 27, 1999 .....	Mrs. Kelly moved to suspend the rules and pass the bill, as amended.
September 27, 1999 .....	Considered under suspension of the rules. (consideration: CR H8762–8767).
September 27, 1999 .....	On motion to suspend the rules and pass the bill, as amended Agreed to by voice vote. (text: CR H8763).
September 27, 1999 .....	Motion to reconsider laid on the table Agreed to without objection.
September 28, 1999 .....	Received in the Senate and read twice and referred to the Committee on Small Business.
March 21, 2000 .....	Committee on Small Business. Ordered to be reported with an amendment in the nature of a substitute favorably.
May 10, 2000 .....	Committee on Small Business. Reported to Senate by Senator Bond with an amendment in the nature of a substitute. With written report No. 106–289.
May 10, 2000 .....	Placed on Senate Legislative Calendar under General Orders. Calendar No. 541.
July 19, 2000 .....	Measure laid before Senate. (consideration: CR S7285–7293; text of measure as reported in Senate: CR S7285–7287)

## LEGISLATIVE HISTORY—CONTINUED

Date	Action
July 19, 2000 .....	S.AMDT.3944 Amendment SA 3944 proposed by Senator Burns for Senator Bond. (consideration: CR S7291–7293) To provide a complete substitute.
July 19, 2000 .....	S.AMDT.3944 Amendment SA 3944 agreed to in Senate by Unanimous Consent.
July 19, 2000 .....	The committee substitute as amended agreed to by Unanimous Consent.
July 19, 2000 .....	Passed Senate with an amendment by Unanimous Consent.
July 20, 2000 .....	Message on Senate action sent to the House.
September 25, 2000 .....	House agreed to Senate amendment with an amendment pursuant to H. Res. 590.
September 26, 2000 .....	Message on House action received in Senate and at desk: House amendment to Senate amendment.
October 2, 2000 .....	Senate agreed to the House amendment to the Senate amendment with an amendment (SA 4286) by Unanimous Consent. (consideration: CR S9631–9642; text as Senate agreed to House amendments CR S9631–9639).
October 2, 2000 .....	S.AMDT.4286 Amendment SA 4286 proposed by Senator Kyl for Senator Bond. (consideration: CR S9639; text: CR S9639) To provide for a complete substitute.
October 2, 2000 .....	S.AMDT.4286 Amendment SA 4286 agreed to in Senate by Unanimous Consent.
October 3, 2000 .....	Message on Senate action sent to the House.
October 25, 2000 .....	Included in H.R. 5545.
<b>H.R. 5545:</b>	
October 25, 2000 .....	Referred to the House Committee on Small Business. (Several bills are engrossed by reference in the H.R. 2614 conference report: H.Rept. 106–1004. This includes H.R. 5538, the Minimum Wage Act of 2000; H.R. 5542, the Taxpayer Relief Act of 2000; H.R. 5543, the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000; H.R. 5544, the Pain Relief Promotion Act of 2000; and H.R. 5545, the Small Business Reauthorization Act of 2000. The bill texts are included in the conference report.)
<b>H.R. 2614:</b>	
October 26, 2000 .....	Conference report H. Rept. 106–1004 filed. (text of conference report: CR 10/25/2000 H10909–11188).
October 26, 2000 .....	Rules Committee Resolution H. Res. 652 Reported to House. Rule provides for consideration of the conference report to H.R. 2614 with 1 hour of general debate. Previous question shall be considered as ordered without intervening motions except motion to recommit with or without instructions. Waives points of order against the conference report and against its consideration.
October 26, 2000 .....	Conferees agreed to file conference report.
October 26, 2000 .....	Conference papers: Senate report and manager's statement held at the desk in Senate.
October 26, 2000 .....	Rule H. Res. 652 passed House.
October 26, 2000 .....	Mr. Talent brought up conference report H. Rept. 106–1004 for consideration under the provisions of H. Res. 652.
October 26, 2000 .....	The previous question was ordered without objection.
October 26, 2000 .....	On agreeing to the conference report Agreed to by the Yeas and Nays: 237–174, 1 Present (Roll no. 560). (consideration: CR H11243–11264)
October 26, 2000 .....	Motions to reconsider laid on the table Agreed to without objection.
October 26, 2000 .....	Motion to proceed to consideration of measure agreed to in Senate by Yea-Nay Vote. 55–40. Record Vote Number: 286. (consideration: CR S11097–11098)
October 26, 2000 .....	Motion to proceed to consideration of conference report to accompany H.R. 2614 agreed to by Unanimous Consent.
October 26, 2000 .....	Conference report considered in Senate by motion. (consideration: CR S11098–11100, S11104, S11107–11111)
October 31, 2000 .....	Motion to proceed to consideration of conference report to accompany H.R. 2614 agreed to by Unanimous Consent.



## LEGISLATIVE HISTORY—CONTINUED

Date	Action
October 31, 2000 .....	Conference report considered in Senate by motion. (The H.R. 2614 conference report [H. Rept. 106–1004] incorporated several bills. This included H.R. 5538—Minimum Wage; H.R. 5542—Taxpayer Relief; H.R. 5543—Medicare, Medicaid, and SCHIP Benefits Improvement and Protection; H.R. 5544—Pain Relief Promotion; and H.R. 5545—Small Business Reauthorization. H.R. 5661 is a subsequent Medicare, Medicaid and SCHIP Benefits Improvement and Protection bill. H.R. 5667 is a subsequent Small Business Reauthorization bill. H.R. 4577, Consolidated Appropriations Act 2001, incorporates by reference the provisions of H.R. 5661, H.R. 5667, and other bills. The text of these bills is printed in the H.R. 4577 conference report: H. Rept. 106–1033 [text of conference report: CR 12/15/2000 H12100–12439].)
<b>H.R. 5667:</b>	
December 15, 2000 .....	Referred to the House Committee on Small Business incorporating the provisions of H.R. 2392.
December 15, 2000 .....	Enacted by reference in H.R. 4577 (H. Conf. Rept. 106–1033)
<b>H.R. 4577:</b>	
December 15, 2000 .....	Conference report H. Rept. 106–1033 filed.
December 15, 2000 .....	Mr. Young (FL) brought up conference report H. Rept. 106–1033 by previously agreed to special order.
December 15, 2000 .....	The previous question was ordered without objection.
December 15, 2000 .....	On agreeing to the conference report Agreed to by the Yeas and Nays: 292–60 (Roll no. 603).
December 15, 2000 .....	Motions to reconsider laid on the table Agreed to without objection.
December 15, 2000 .....	Senate agreed to conference report by Unanimous Consent.
December 15, 2000 .....	Message on Senate action sent to the House.
December 15, 2000 .....	Cleared for White House.
December 15, 2000 .....	Presented to President.
December 21, 2000 .....	Signed by the President as Pub. L. No. 106–554 (H.R. 4577, Consolidated Appropriations Act 2001, incorporates the provisions of several bills by reference. This includes H.R. 5656—Labor HHS Education Appropriations; H.R. 5657—Legislative Branch Appropriations; H.R. 5658—Treasury Appropriations; H.R. 5666—Miscellaneous Appropriations—except section 123 relating to the enactment of H.R. 4904; H.R. 5660—Commodity Futures Modernization; H.R. 5661—Medicare, Medicaid and SCHIP Benefits Improvement and Protection; H.R. 5662—Community Renewal Tax Relief and Medical Savings Accounts; H.R. 5663—New Markets Venture Capital Program; and H.R. 5667—Small Business Reauthorization. The text of these bills is printed in the H.R. 4577 conference report: H. Rept. 106–1033 [text of conference report: CR 12/15/2000 H12100–12439].)

## NEED FOR LEGISLATION

The Small Business Innovation Research Program Reauthorization Act of 2000 (H.R. 2392) was introduced on June 30, 1999, and referred to the House committees on Small Business and Science. Both Committees held hearings and the House Committee on Small Business reported H.R. 2392 on September 23, 1999 (H.Rept. 106–329). The purpose of the bill was to reauthorize the program and improve certain technical areas concerning right to data, reporting requirements. In the interest of moving the bill to the floor of the House of Representatives promptly, the Committee on Science agreed not to exercise its right to report the legislation, provided that the House Committee on Small Business agreed to add the selected portions of the Science Committee version of the legislation, as Sections 8 through 11 of the House floor text of H.R.

2392. H.R. 2392 passed the House without further amendment on September 27.

On March 21, 2000, the Senate Committee marked-up H.R. 2392 and on May 10, 2000, reported the bill (S.Rept. 106–289). The Senate Committee struck several of the sections originating from the House Committee on Science and added sections not in the House-passed legislation, including a requirement that Federal agencies with Small Business Innovation Research (SBIR) programs report their methodology for calculating their SBIR budgets to the Small Business Administration (SBA) and a program to assist states in the development of small high-technology businesses. Negotiations then began among the leadership of the Senate and House Committees on Small Business and the House Committee on Science (hereinafter referred to as the three committees). The resultant compromise text contains all major House and Senate provisions, some of which have been amended to reflect a compromise position. A section-by-section explanation of the revised text follows. For purposes of this statement, the bill passed by the House of Representatives is referred to as the “House version” and the bill reported by the Senate Committee on Small Business is referred to as the “Senate version.”

#### SECTION-BY-SECTION ANALYSIS

##### *Section 101. Short Title; Table of Contents*

The compromise text uses the Senate short title: “Small Business Innovation Research Program Reauthorization Act of 2000.” The table of contents lists the sections in the compromise text.

##### *Section 102. Findings*

The House and Senate versions of the findings are very similar. The compromise text uses the House version of the findings.

##### *Section 103. Extension of the SBIR Program*

The House version extends the SBIR program for seven years through September 30, 2007. The Senate version extends the program for ten years through September 30, 2010. The compromise text extends the program for eight years through September 30, 2008.

##### *Section 104. Annual Report*

The House version provides for the annual report on the SBIR program prepared by the SBA to be sent to the Committee on Science, as well as to the House and Senate Committees on Small Business that currently receive it. The Senate version did not include this section. The compromise text adopts the House language.

##### *Section 105. Third Phase Assistance*

The compromise text of this technical amendment is identical to both the House and Senate versions.

##### *Section 106. Report on Programs for Annual Performance Plan*

This section requires each agency that participates in the SBIR program to submit to Congress a performance plan consistent with

the Government Performance and Results Act. The House and Senate versions have the same intent. The compromise text uses the House version.

*Section 107. Output and Outcome Data*

Both the House and Senate versions contain sections enabling the collection and maintenance of information from awardees as is necessary to assess the SBIR program. Both the Senate and House versions require the SBA to maintain a public database at SBA containing information on awardees from all SBIR agencies. The Senate version adds paragraphs to the public database section dealing with database identification of businesses or subsidiaries established for the commercial application of SBIR products or services and the inclusion of information regarding mentors and mentoring networks. The House version further requires the SBA to establish and maintain a government database, which is exempt from the Freedom of Information Act and is to be used solely for program evaluation. Outside individuals must sign a non-disclosure agreement before gaining access to the database. The compromise text contains each of these provisions, with certain modifications and clarifications, which are addressed below.

With respect to the public database, the compromise text makes clear that proprietary information, so identified by a small business concern, will not be included in the public database. With respect to the government database, the compromise text clarifies that the inclusion of information in the government database is not to be considered publication for purposes of patent law. The compromise text further permits the SBA to include in the government database any information received in connection with an SBIR award the SBA Administrator, in conjunction with the SBIR agency program managers, consider to be relevant and appropriate or that the Federal agency considers to be useful to SBIR program evaluation.

With respect to small business reporting for the government database, the compromise text directs that when a small business applies for a second phase award it is required to update information in the government database. If an applicant for a second phase award receives the award, it shall update information in the database concerning the award at the termination of the award period and will be requested to voluntarily update the information annually for an additional period of five years. This reporting procedure is similar to current Department of Defense requirements for the reporting of such information. When sales or additional investment information is related to more than one second phase award is involved, the compromise text permits a small business to apportion the information among the awards in any way it chooses, provided the apportionment is noted on all awards so apportioned.

*Section 108. National Research Council Reports*

The House version requires the four largest SBIR program agencies to enter into an agreement with the National Research Council (NRC) to conduct a comprehensive study of how the SBIR program has stimulated technological innovation and used small businesses to meet Federal research and development needs to make recommendations on potential improvements to the program. The Sen-

ate version contains no similar provision. The study was designed to answer questions remaining from the House Committees' reviews of these programs and to make sure that a current evaluation of the program is available when the program next comes up for reauthorization.

The compromise text makes several changes to the House text. The compromise text adds the National Science Foundation to the agencies entering the agreement with the NRC and requires the agencies to consult with the SBA in entering such agreement. It also expands on the House version, which requires a review of the quality of SBIR research, to require a comparison of the value of projects conducted under SBIR with those funded by other Federal research and development expenditures. The compromise text further broadens the House version's review of the economic rate of return of the SBIR program to require an evaluation of the economic benefits of the SBIR program, including economic rate of return, and a comparison of the economic benefits of the SBIR program with that of other Federal research and development expenditures. The compromise text allows the NRC to choose an appropriate time-frame for such analysis that results in a fair comparison.

The three committees believe that a comprehensive report on the SBIR program and its relation to other Federal research expenditures will be useful in program oversight and will provide Congress with an understanding of the effects of extramural Federal research and development funding provided to large and small businesses and universities.

#### *Section 109. Federal Agency Expenditures for the SBIR Program*

The Senate version requires each Federal agency with an SBIR program to provide the SBA with a report describing its methodology for calculating its extramural budget for purposes of SBIR program set-aside and requires the Administrator of the SBA to include an analysis of the methodology from each agency in its annual report to the Congress. The House version has no similar provision. The compromise text follows the Senate text except that it specified that each agency, rather than the agency's comptroller, shall submit the agency's report to the Administrator. The three committees intend that each agency's methodology include an itemization of each research program that is excluded from the calculation of its extramural budget for SBIR purposes as well as a brief explanation of why the agency feels each excluded program meets a particular exemption.

#### *Section 110. Policy Directive Modifications*

The House version includes policy directive modifications in Section 9 and the requirement of a second phase commercial plan in Section 10. The Senate version includes policy directive modifications in Section 6. The Senate version and now the compromise text require the Administrator to make modifications to SBA's policy directives 120 days after the date of enactment rather than the 30 days contained in the House version. The compromise text drops the House policy directive dealing with awards exceeding statutory dollar amounts and time limits because this flexibility is already

being provided administratively. Addressed below is a description of the policy directive modifications contained in the compromise text that were not included in both the Senate version and the House version.

Section 10 of the House version requires the SBA to modify its policy directives to require that small businesses provide a commercial plan with each application for a second-phase award. The Senate version does not contain a similar provision. The compromise text requires the SBA to modify its policy directives to require that a small businesses provide a "succinct commercialization plan for each second phase award moving towards commercialization." The three committees acknowledge that commercialization is a current element of the SBIR program. The statutory definition of SBIR, which is not amended by H.R. 2392, includes "a second phase, to further develop proposals which meet particular program needs, in which awards shall be made based on the scientific and technical merit and feasibility of the proposals, as evidenced by the first phase, considering among other things the proposal's commercial potential \* \* \*", and lists evidence of commercial potential as the small business's commercialization record, private sector funding commitments, SBIR Phase III commitments, and the presence of other indicators of the commercial potential. The three committees do not intend that the addition of a commercialization plan either increase or decrease the emphasis an agency places on the commercialization when reviewing second-phase proposals. Rather, the commercialization plan will give SBIR agencies a means of determining the seriousness with which individual applicants approach commercialization.

The commercialization plan, while concise, should show that the business has thought through both the steps it must take to prepare for the fruits of the SBIR award to enter the commercial marketplace or government procurement and the steps to build business expertise as needed during the SBIR second phase time period. The three committees intend that agencies take into consideration the stage of development of the product or process in deciding whether an appropriate commercialization plan has been submitted. In those instances when at the time of the SBIR Phase II proposal, the grantee cannot identify either a product or process with the potential eventually to enter either the commercial or the government marketplace, no commercialization plan is required.

The compromise text also adds new provisions that were not contained in either the Senate version or the House version. Current law (Section 9(j)(3)(C) of the Small Business Act) requires that the Administrator put in place procedures to ensure, to the extent practicable, that an agency which intends to pursue research, development or production of a technology developed by a small business concern under an SBIR program enter into follow-on, non-SBIR funding agreements with the small business concern for such research, development, or production.

The three committees are concerned that agencies sometimes provide these follow-on activities to large companies who are in incumbent positions or through contract bundling without written justification or without the statutorily required documentation of the impracticability of using the small business for the work. So

that the SBA and the Congress can track the extent of this problem, the compromise text requires agencies to record and report each such occurrence and to describe in writing why it is impractical to provide the research project to the original SBIR company. Additionally, the compromise text directs the SBA to develop policy directives to implement the new subsection (v), Simplified Reporting Requirements. This subsection requires that the directive regarding collection of data be designed to minimize the burden on small businesses; to permit the updating the database by electronic means; and to use standardized procedures for the collection and reporting of data.

Section 103(a)(2) of P.L. 102-564, which reauthorized the SBIR program in 1992, added language to the description of a third phase award which made it clear that the third phase is intended to be a logical conclusion of research projects selected through competitive procedures in phases one and two. The Report of the House Committee on Small Business (H. Rept. 102-554, Pt. I) provides that the purpose of that clarification was to indicate the Committee's intent that an agency which wishes to fund an SBIR project in phase three (with non-SBIR monies) or enter into a follow-up procurement contract with an SBIR company, need not conduct another competition in order to satisfy the Federal Competition in Contracting Act (CICA). Rather, by phase three the project has survived two competitions and thus has already satisfied the requirements of CICA, set forth in section 2302(2)(E) of that Act, as they apply to the SBIR program. As there has been confusion among SBIR agencies regarding the intent of this change, the three committees reemphasize the intent initially set forth in H. Rept. 102-554, Pt. 1, including the clarification that follow-on phase III procurement contracts with an SBIR company may include procurement of products, services, research, or any combination intended for use by the Federal government.

#### *Section 111. Federal and State Technology Partnership Program*

This section establishes the FAST program from the Senate version, which is a competitive matching grant program to encourage states to assist in the development of high-technology businesses. The House version does not contain a similar provision. The most significant changes from the Senate version in the compromise text are an extension of the maximum duration of awards from three years to five and the lowering of the matching requirement for funds assisting businesses in low income areas to 50 cents per federal dollar, as advocated by Ranking Member Velazquez of the House Small Business Committee. The compromise text combines the definitions found in the Senate version of this section and the mentoring networks section.

#### *Section 112. Mentoring Networks*

The Senate version sets forth criteria for mentoring networks that organizations are encouraged to establish with matching funds from the FAST program and creates a database of small businesses willing to act as mentors. The compromise text, except for relocating the program definitions to Section 111, is the same as the Senate text. The House version did not contain a similar provision.

*Section 113. Simplified Reporting Requirements*

This section is not in either the House or the Senate versions. It requires the SBA Administrator to work with SBIR program agencies on standardizing SBIR reporting requirements with the ultimate goal of making the SBA's SBIR database more user friendly. This provision requires the SBA to consider the needs of each agency when establishing and maintaining the database. Additionally, it requires the SBA to take measures to reduce the administrative burden on SBIR program participants whenever possible including, for example, permitting updating by electronic means.

*Section 114. Rural Outreach Program Extension*

This provision, which was not in either the House or the Senate versions, extends the life and authorization for appropriations for the Rural Outreach Program of the Small Business Administration for four additional years through fiscal year 2005. It is the intent of the three committees that this program be evaluated on the same schedule and in the same manner as the FAST program. Among other things, the evaluation should examine the extent to which the programs complement or duplicate each other. The evaluation should also include recommendations for improvements to the program, if any.

5.14 H.R. 2614 THE CERTIFIED DEVELOPMENT COMPANY PROGRAM IMPROVEMENT ACT OF 1999, PUBLIC LAW NO. 106-554

## LEGISLATIVE HISTORY

Date	Action
<b>H.R. 2614:</b>	
July 27, 1999 .....	Referred to the House Committee on Small Business.
July 29, 1999 .....	Committee Consideration and Mark-up Session Held.
July 29, 1999 .....	Ordered to be Reported by Voice Vote.
August 2, 1999 .....	Reported by the Committee on Small Business. H. Rept. 106-278.
August 2, 1999 .....	Placed on the Union Calendar, Calendar No. 166.
August 2, 1999 .....	Mrs. Kelly moved to suspend the rules and pass the bill.
August 2, 1999 .....	Considered under suspension of the rules. (consideration: CR H6789-6792)
August 2, 1999 .....	On motion to suspend the rules and pass the bill Agreed to by voice vote. (text: CR H6789-6791)
August 2, 1999 .....	Motion to reconsider laid on the table Agreed to without objection.
August 3, 1999 .....	Received in the Senate and read twice and referred to the Committee on Small Business. 3/21/2000: Committee on Small Business. Ordered to be reported with an amendment in the nature of a substitute favorably.
May 9, 2000 .....	Committee on Small Business. Reported to Senate by Senator Bond with an amendment in the nature of a substitute. With written report No. 106-280.
May 9, 2000 .....	Placed on Senate Legislative Calendar under General Orders. Calendar No. 531.
June 14, 2000 .....	Measure laid before Senate. (consideration: CR S5154-5159; text of measure as reported in Senate: CR S5154-5155)
June 14, 2000 .....	S.AMDT.3431 Amendment SA 3431 proposed by Senator Allard for Senator Bond. (consideration: CR S5156) To make an amendment with respect to timely Administration action on geographic expansion applications, use of unobligated funds, and the HUBZone program, and for other purposes.
June 14, 2000 .....	S.AMDT.3431 Amendment SA 3431 agreed to in Senate by Unanimous Consent. (text CR S5156)

## LEGISLATIVE HISTORY—CONTINUED

Date	Action
June 14, 2000 .....	The committee substitute as amended agreed to by Unanimous Consent.
June 14, 2000 .....	Passed Senate with an amendment by Unanimous Consent.
June 15, 2000 .....	Message on Senate action sent to the House.
June 27, 2000 .....	House agreed to Senate amendment with an amendment pursuant to H. Res. 533. (consideration: CR H5190–5194)
June 28, 2000 .....	Message on House action received in Senate and at desk: House amendment to Senate amendment.
July 25, 2000 .....	Senate disagreed to House amendment requested conference and appointed conferees. Bond, Burns and Kerry. (consideration: CR S7574–7575; text as Senate disagreed to House amendment: CR S7574–7575)
July 26, 2000 .....	Message on Senate action sent to the House.
October 11, 2000 .....	Mrs. Kelly asked unanimous consent that the House insist upon its amendment to the Senate amendment, and agree to a conference.
October 11, 2000 .....	On motion that the House insist upon its amendment to the Senate amendment, and agree to a conference Agreed to without objection. (consideration: CR H9796)
October 11, 2000 .....	The Speaker appointed conferees: Talent, Army, and Velazquez.
October 11, 2000 .....	Motion to reconsider laid on the table Agreed to without objection.
October 26, 2000 .....	Conference report H. Rept. 106–1004 filed. (text of conference report: CR 10/25/2000 H10909–11188)
October 26, 2000 .....	Rules Committee Resolution H. Res. 652 Reported to House. Rule provides for consideration of the conference report to H.R. 2614 with 1 hour of general debate. Previous question shall be considered as ordered without intervening motions except motion to recommit with or without instructions. Waives points of order against the conference report and against its consideration.
October 26, 2000 .....	Conferees agreed to file conference report.
October 26, 2000 .....	Conference papers: Senate report and manager's statement held at the desk in Senate.
October 26, 2000 .....	Rule H. Res. 652 passed House.
October 26, 2000 .....	Mr. Talent brought up conference report H. Rept. 106–1004 for consideration under the provisions of H. Res. 652.
October 26, 2000 .....	The previous question was ordered without objection.
October 26, 2000 .....	On agreeing to the conference report Agreed to by the Yeas and Nays: 237–174, 1 Present (Roll no. 560). (consideration: CR H11243–11264)
October 26, 2000 .....	Motions to reconsider laid on the table Agreed to without objection.
October 26, 2000 .....	Moton to proceed to consideration of measure agreed to in Senate by Yea-Nay Vote. 55–40. Record Vote Number: 286. (consideration: CR S11097–11098)
October 26, 2000 .....	Motion to proceed to consideration of conference report to accompany H.R. 2614 agreed to by Unanimous Consent.
October 26, 2000 .....	Conference report considered in Senate by motion. (consideration: CR S11098–11100, S11104, S11107–11111)
October 31, 2000 .....	Motion to proceed to consideration of conference report to accompany H.R. 2614 agreed to by Unanimous Consent.



## LEGISLATIVE HISTORY—CONTINUED

Date	Action
October 31, 2000 .....	Conference report considered in Senate by motion. (consideration: CR revisions of H.R. 5661, H.R. 5667, and other bills. The text of these bills is printed in the H.R. 4577 conference report: H. Rept. 106-1033 [text of conference report: CR 12/15/2000 H12100-12439].) (The H.R. 2614 conference report [H. Rept. 106-1004] incorporated several bills. This included H.R. 5538—Minimum Wage; H.R. 5542—Taxpayer Relief; H.R. 5543—Medicare, Medicaid, and SCHIP Benefits Improvement and Protection; H.R. 5544—Pain Relief Promotion; and H.R. 5545—Small Business Reauthorization. H.R. 5661 is a subsequent Medicare, Medicaid and SCHIP Benefits Improvement and Protection bill. H.R. 5667 is a subsequent Small Business Reauthorization bill. H.R. 4577, Consolidated Appropriations Act 2001, incorporates by reference the provisions of H.R. 5661, H.R. 5667, and other bills. The text of these bills is printed in the H.R. 4577 conference report: H. Rept. 106-1033 [text of conference report: CR 12/15/2000 H12100-12439].)
<b>H.R. 5667:</b>	
December 15, 2000 .....	Referred to the House Committee on Small Business incorporating the provisions of H.R. 2614.
December 15, 2000 .....	Enacted by reference in H.R. 4577 (H. Conf. Rept. 106-1033)
<b>H.R. 4577:</b>	
December 15, 2000 .....	Conference report H. Rept. 106-1033 filed.
December 15, 2000 .....	Mr. Young (FL) brought up conference report H. Rept. 106-1033 by previously agreed to special order.
December 15, 2000 .....	The previous question was ordered without objection.
December 15, 2000 .....	On agreeing to the conference report Agreed to by the Yeas and Nays: 292-60 (Roll no. 603).
December 15, 2000 .....	Motions to reconsider laid on the table Agreed to without objection.
December 15, 2000 .....	Senate agreed to conference report by Unanimous Consent.
December 15, 2000 .....	Message on Senate action sent to the House.
December 15, 2000 .....	Cleared for White House.
December 15, 2000 .....	Presented to President.
December 21, 2000 .....	Signed by President as Pub. L. No. 106-554 (H.R. 4577, Consolidated Appropriations Act 2001, incorporates the provisions of several bills by reference. This includes H.R. 5656—Labor HHS Education Appropriations; H.R. 5657—Legislative Branch Appropriations; H.R. 5658—Treasury Appropriations; H.R. 5666—Miscellaneous Appropriations—except section 123 relating to the enactment of H.R. 4904; H.R. 5660—Commodity Futures Modernization; H.R. 5661—Medicare, Medicaid and SCHIP Benefits Improvement and Protection; H.R. 5662—Community Renewal Tax Relief and Medical Savings Accounts; H.R. 5663—New Markets Venture Capital Program; and H.R. 5667—Small Business Reauthorization. The text of these bills is printed in the H.R. 4577 conference report: H. Rept. 106-1033 [text of conference report: CR 12/15/2000 H12100-12439].)

## NEED FOR LEGISLATION

It has been ten years since the Committee acted to increase the maximum guarantee amount in the 504 program. To keep pace with inflation, the maximum guarantee amount should be increased to approximately \$1,250,000. However, the Committee believes that a simple increase to \$1,000,000 is sufficient. This increase is especially needed in the 504 program because it is primarily a real estate based program, and the cost of commercial real estate has increased markedly in the last several years.

The 504 program currently operates with a zero subsidy rate. Like other credit programs, pursuant to the Budget Act of 1990, the 504 program is funded according to Office of Management and Budget calculations of the annual taxpayer subsidy cost of the program. This subsidy cost is calculated by an estimation of the net present value of one year's loans plus fees and recoveries from defaulted loans minus losses. Losses are estimated based on historical assumptions. The fees in the 504 program cover all these costs resulting in a program that operates at no cost to the taxpayer. H.R. 2614 will reauthorize these fees.

H.R. 2614 adds women-owned businesses to the current list of businesses eligible for the larger public policy oriented loans of up to \$1,300,000. This continues the Committee's efforts to increase SBA's assistance to women-owned businesses. The Committee has noted the increasingly important role women-owned businesses play in the economy and believes this change is needed to ensure the expansion of this sector of our economy.

The legislation makes the Premier Certified Lender Program pilot and the Liquidation Pilot Program permanent. Both of these programs have shown the benefits of granting increased lending and liquidation authority to the CDCs.

In response to SBA's plans to implement asset sales, H.R. 2614 includes language requiring the SBA to notify CDCs prior to including a 504 loan in an asset sale. The committee takes this action in order to ensure there is adequate cooperation. The Committee supports the SBA's intent to move forward with the asset sales program, but does not wish this action to come at the expense of the SBA's partners.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short Title*

This Act may be cited as the "Certified Development Company Program Improvements Act of 1999."

##### *Section 2. Maximum Debenture Size*

Maximum loan/debenture size is increased from \$750,000 to \$1,000,000 for regular debentures. Public policy loan/debentures are increased from \$1,000,000 to \$1,300,000 for public policy debentures. This increase is commensurate with inflation since the current debenture levels were established.

##### *Section 3. Women-owned Businesses*

Women-owned businesses are added to the list of concerns eligible for the higher debentures available for the policy concerns. Current policy goals include lending to low-income and rural areas, and loans to businesses owned by minorities.

##### *Section 4. Fees*

Currently, the 504 program levies fees on the borrower, CDC, and the participating bank. The bank pays a one-time fee whereas the borrower and CDC pay a percentage of the outstanding balance annually in order to provide operational funding for the 504 pro-

gram. Currently these fees sunset on October 1, 2000. This legislation would continue the fees through October 1, 2003.

*Section 5. Premier Certified Lenders Program*

The Preferred Certified Lenders Program is granted permanent status. The current demonstration program terminates at the end of FY 2000.

*Section 6. Sale of Certain Defaulted Loans*

SBA is required to give any certified lender with contingent liability 90 days notice prior to including a defaulted loan in a bulk sale of loans. No loan may be sold without permitting prospective purchasers to examine SBA records on the loan.

*Section 7. Loan Liquidation*

Section 510 is added to the Small Business Investment Act of 1958 in order to create a program permitting CDCs to handle the liquidation of defaulted loans. This program replaces the pilot program authorized by PL 105-135, the Small Business Reauthorization Act of 1997. A permanent program would permit OMB to score savings achieved by the program when computing the subsidy rate for the 504 program.

In order to participate in the liquidation program, a CDC must have made at least 10 loans per year for the past three years and have at least one employee with 2 years of liquidation experience or be a member of the Accredited Lenders Program with at least one employee with 2 years of liquidation experience. Both groups are required to receive training. PCLP participants and current participants in the pilot program automatically qualify.

CDCs have the authority to litigate as necessary to foreclose and liquidate, but SBA could assume control of the litigation if the outcome might adversely affect SBA's management of the program or if SBA has additional legal remedies not available to the CDC. All Section 510 participants are required to submit a liquidation plan to SBA for approval, and SBA has 15 days to approve, deny, or express concern with the plan. Further SBA approval of routine liquidation activities is not required.

CDCs are able to purchase indebtedness with SBA approval, and SBA is required to respond to such a request within 15 days. Likewise, CDCs are required to seek SBA approval of any workout plan, and SBA must respond to that request within 15 days. With SBA approval, a CDC may compromise indebtedness. Such approval must be granted, denied, or explained within 15 days of receipt by SBA.

5.15 H.R. 2615—TO AMEND THE GENERAL BUSINESS LOAN PROGRAM, PUBLIC LAW NO. 1066-554

LEGISLATIVE HISTORY

Date	Action
July 27, 1999 .....	Referred to the House Committee on Small Business.
July 29, 1999 .....	Committee Consideration and Mark-up Session Held.
July 29, 1999 .....	Ordered to be Reported by Voice Vote.
August 2, 1999 .....	Reported by the Committee on Small Business. H. Rept. 106-279.

## LEGISLATIVE HISTORY—CONTINUED

Date	Action
August 2, 1999 .....	Placed on the Union Calendar No. 167.
August 2, 1999 .....	Mr. Talent moved to suspend the rules and pass the bill.
August 2, 1999 .....	Considered under suspension of the rules.
August 2, 1999 .....	On motion to suspend the rules and pass the bill Agreed to by voice vote.
August 2, 1999 .....	Motion to reconsider laid on the table Agreed to without objection.
August 3, 1999 .....	Received in the Senate and read twice and referred to the Committee on Small Business.
October 25, 2000 .....	Included in H.R. 5545.
<b>H.R. 5545:</b>	
October 25, 2000 .....	Referred to the House Committee on Small Business. (Several bills are engrossed by reference in the H.R. 2614 conference report: H. Rept. 106–1004. This includes H.R. 5538, the Minimum Wage Act of 2000; H.R. 5542, the Taxpayer Relief Act of 2000; H.R. 5543, the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000; H.R. 5544, the Pain Relief Promotion Act of 2000; and H.R. 5545, the Small Business Reauthorization Act of 2000. The bill texts are included in the conference report.)
<b>H.R. 2614:</b>	
October 26, 2000 .....	Conference report H. Rept. 106–1004 filed (text of conference report: CR 10/25/2000 H10909–11118)
October 26, 2000 .....	Rules Committee Resolution H. Res. 652 Reported to House. Rule provides for consideration of the conference report to H.R. 2614 with 1 hour of general debate. Previous question shall be considered as ordered without intervening motions except motion to recommit with or without instructions. Waives points of order against the conference report and against its consideration.
October 26, 2000 .....	Conferees agreed to file conference report.
October 26, 2000 .....	Conference papers: Senate report and manager's statement held at the desk in Senate.
October 26, 2000 .....	Rule H. Res. 652 passed House.
October 26, 2000 .....	Mr. Talent brought up conference report H. Rept. 106–1004 for consideration under the provisions of H. Res. 652.
October 26, 2000 .....	The previous question was ordered without objection.
October 26, 2000 .....	On agreeing to the conference report Agreed to by the yeas and nays: 237–174, 1 Present (Roll no. 560). (consideration; CR H11243–11264)
October 26, 2000 .....	Motions to reconsider laid on the table Agreed to without objection.
October 26, 2000 .....	Motion to proceed to consideration of measure agreed to in Senate by Yea-Nay Vote. 55–40. Record Vote Number: 286. (consideration: CR S11097–11098)
October 26, 2000 .....	Motion to proceed to consideration of conference report to accompany H.R. 2614 agreed to by Unanimous Consent.
October 26, 2000 .....	Conference report considered in Senate by motion. (consideration: CR S11098–11100, S11104, S11107–11111)
October 31, 2000 .....	Conference report considered in Senate by motion. (The H.R. 2614 conference report [H. Rept. 106–1004] incorporated several bills. This included H.R. 5538—Minimum Wage; H.R. 5542—Taxpayer Relief; H.R. 5543—Medicare, Medicaid, and SCHIP Benefits Improvement and Protection; H.R. 5544—Pain Relief Promotion; and H.R. 5545—Small Business Reauthorization. H.R. 5661 is a subsequent Medicare, Medicaid and SCHIP Benefits Improvement and Protection bill. H.R. 5667 is a subsequent Small Business Reauthorization bill. H.R. 4577, Consolidated Appropriations Act 2001, incorporates by reference the provisions of H.R. 5661, H.R. 5667, and other bills. The text of these bills is printed in the H.R. 4577 conference report: H. Rept. 106–1033 [text of conference report: CR 12/15/2000 H12100–12439].)
<b>H.R. 5667:</b>	
December 15, 2000 .....	Referred to the House Committee on Small Business incorporating the provisions of H.R. 2615.
December 15, 2000 .....	Enacted by reference in H.R. 4577 (H. Conf. Rept. 106–1033)

## LEGISLATIVE HISTORY—CONTINUED

Date	Action
<b>H.R. 4577:</b>	
December 15, 2000 .....	Conference report H. Rept. 106–1033 filed.
December 15, 2000 .....	Mr. Young (FL) brought up conference report H. Rept. 106–1033 by previously agreed to special order.
December 15, 2000 .....	The previous question was ordered without objection.
December 15, 2000 .....	On agreeing to the conference report Agreed to by the Yeas and nays: 292–60 (Roll no. 603).
December 15, 2000 .....	Motions to reconsider laid on the table Agreed to without objection.
December 15, 2000 .....	Senate agreed to conference report by Unanimous Consent.
December 15, 2000 .....	Message on Senate action sent to the House.
December 15, 2000 .....	Cleared for White House.
December 15, 2000 .....	Presented to President.
December 15, 2000 .....	Signed by President as Pub. L. No. 1096–554 (H.R. 4577, Consolidated Appropriations Act 2001, incorporates the provisions of several bills by reference. This includes H.R. 5656—Labor HHS Education Appropriations; H.R. 5657—Legislative Branch Appropriations; H.R. 5658—Treasury Appropriations; H.R. 5666—Miscellaneous Appropriations—except section 123 relating to the enactment of H.R. 4904; H.R. 5660—Commodity Futures Modernization; H.R. 5661—Medicare, Medicaid and SCHIP Benefits Improvement and Protection; H.R. 5662—Community Renewal Tax Relief and Medical Savings Accounts; H.R. 5663—New Markets Venture Capital Program; and H.R. 5667—Small Business Reauthorization. The text of these bills is printed in the H.R. 4577 conference report: H. Rept. 106–1033 [text of conference report: CR 12/15/2000 H12100–12439].)

## NEED FOR LEGISLATION

It has been ten years since the Committee acted to increase the maximum guarantee amount in the 7(a) program. To keep pace with inflation, the maximum guarantee amount should be increased to approximately \$1,250,000. However, the Committee believes that a simple increase to \$1,000,000 is sufficient. This allows room for the few larger loans made under the 7(a) program while not encouraging lending that may be better served through other avenues. The legislation also institutes a cap prohibiting loans with a gross amount of \$2 million.

The 7(a) program also faces a problem regarding early repayment of large loans, which jeopardizes the subsidy rate. H.R. 2615 will remedy this problem by assessing a fee to the borrower for prepayment within the first 3 years of a loan with a term in excess of 15 years. The increase in prepayments is due to a variety of factors. There have been some instances of misuse of the program by businesses seeking bridge financing. There have been cases where, due to the strong economy, lenders have approached borrowers offering improved terms, effectively “skimming” loans and avoiding the need to process credit analyses. This effectively removes authorization dollars from the program which could have been used for other loans.

Congress has, over the past several years, been concerned with the availability of loans of the lower end of the 7(a) spectrum and has made changes in order to accommodate the making of such loans. As a result, since 1994, the number of loans made under \$100,000 have increased significantly. In 1998 alone, 53% of the

7(a) loans made were under \$100,000. This compares with only 37% in 1994. While this figure fluctuates, the general trend is most definitely upward. Consistent with previous efforts H.R. 2615 includes a number of provisions designed to encourage lenders to make these loans and to encourage small business borrowers to seek them.

Finally, H.R. 2615 recognizes that current 7(a) program rules prohibit loans for passive investment. When Congress last reauthorized the 504 program, it modified a similar restriction in order to permit the financing of projects where less than 20% of a business space will be rented out when the small business borrower in question will occupy the remaining space. The Committee believes that it is time that we provide similar options to 7(a) borrowers.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Levels of Participation*

Increases the guarantee percentage on loans of \$150,000 or less to 80%. The 80% guarantee level currently extends only to loans of \$100,000 or less. This guarantee increase is one of the changes proposed to encourage the availability of smaller loans.

##### *Section 2. Loan Amounts*

This provision will increase the maximum guarantee amount to 1 million dollars. The maximum gross loan amount will be capped at 2 million dollars. The language would prohibit SBA from placing a guarantee on any loan over 2 million dollars regardless of the guaranteed amount. Consequently, the largest loan available would be a 2 million dollar loan with a 50% guarantee. The largest loan available at the maximum guarantee rate of 75% would be \$1,333,333. The cap on loans over 2 million dollars will effectively remove a number of large loans that have been made with only a minimal guarantee, loans which use up loan authority at a disproportionate rate. In 1998, roughly thirty loans over 2 million dollars were made.

##### *Section 3. Interest on Defaulted Loans*

This will remove the provision that reduced SBA's liability for accrued interest on defaulted loans. This provision was added to the program in 1996 as a method of reducing the subsidy cost of the program. It has come to the Committee's attention that the expected savings have not materialized.

##### *Section 4. Prepayment of Loans*

This provision will reduce the incentive for early prepayment of 7(a) loans. It will assess a fee to the borrower for early prepayment of any loan with a term in excess of 15 years. Early prepayment will be defined as any prepayment within the first three years after disbursement. The prepayment fee will be determined by the date of the prepayment—5% in the first year, 3% in the second year, 1% in the third year. The fee will be based on "excess prepayment" which is defined as prepayment of more than 25% of the outstanding loan amount. In the event of an excess prepayment the fee would be assessed on the entire outstanding loan amount.

### Section 5. Guarantee Fees

This section changes the guarantee fee for loans of \$150,000 or less to 2%. Currently, the guarantee fee of 2% is only for loans under \$100,000. Loans over \$100,000 currently have a guarantee fee of 3%. The section also provides for an incentive for lenders to make smaller loans (under \$150,000) by allowing them to retain ¼ of the guarantee fee.

### Section 6. Lease Terms

Under existing 7(a) rules, loan proceeds may not be used for investment purposes. This includes purchase or construction of property to be leased to others. Currently, 7(a) loans may be used to construct property which will be used solely by the borrower.

In 1997, Congress modified this rule for the 504 program to allow for projects where a small portion of a property might be rented out permanently, but the borrower's main focus was the construction of a permanent location. This provision would allow the same authority for 7(a) loans. Borrowers would be allowed to lease up to 20% of a property in which they will occupy the remaining 80%.

## 5.16 H.R. 2848—NEW MARKETS INITIATIVE ACT OF 1999, PUBLIC LAW NO. 106-554

### LEGISLATIVE HISTORY

Date	Action
<b>H.R. 2848:</b>	
September 13, 1999 .....	Referred to the Committee on Banking and Financial Services, and in addition to the Committees on Ways and Means and Small Business, 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.
September 13, 1999 .....	Referred to House Banking and Financial Services.
September 24, 1999 .....	Referred to the Subcommittee on Housing and Community Opportunity.
April 12, 2000 .....	Subcommittee on Housing and Community Opportunity Discharged.
April 13, 2000 .....	Committee Consideration and Mark-up Session Held.
April 13, 2000 .....	Ordered to be Reported (Amended) by Voice Vote.
September 13, 1999 .....	Referred to House Ways and Means.
September 13, 1999 .....	Referred to House Small Business.
June 28, 2000 .....	Reported (Amended) by the Committee on Banking and Financial Services. H. Rept. 106-706, Part I.
June 28, 2000 .....	House Committee on Ways and Means Granted an extension for further consideration ending not later than July 28, 2000.
June 28, 2000 .....	House Committee on Small Business Granted an extension for further consideration ending not later than July 28, 2000.
July 28, 2000 .....	Committee on Ways and Means discharged.
July 28, 2000 .....	Committee on Small Business discharged.
July 28, 2000 .....	Placed on the Union Calendar, Calendar No. 464.
<b>H.R. 4530:</b>	
May 24, 2000 .....	Referred to the House Committee on Small Business.
May 25, 2000 .....	Committee Consideration and Mark-up Session Held.
May 25, 2000 .....	Ordered to be Reported by Voice Vote.
July 25, 2000 .....	Reported by the Committee on Small Business. H. Rept. 106-785.
July 25, 2000 .....	Placed on the Union Calendar, Calendar No. 452.
October 25, 2000 .....	Included in H.R. 5545

## LEGISLATIVE HISTORY—Continued

Date	Action
<b>H.R. 5545:</b>	
October 25, 2000 .....	Referred to the House Committee on Small Business. (Several bills are engrossed by reference in the H.R. 2614 conference report: H. Rept. 106–1004. This includes H.R. 5538, the Minimum Wage Act of 2000; H.R. 5542, the Taxpayer Relief Act of 2000; H.R. 5543, the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000; H.R. 5544, the Pain Relief Promotion Act of 2000; and H.R. 5545, the Small Business Reauthorization Act of 2000. The bill texts are included in the conference report.)
<b>H.R. 2614:</b>	
October 26, 2000 .....	Conference report H. Rept. 106–1004 filed. (text of conference report: CR 10/25/2000 H10909–11188).
October 26, 2000 .....	Rules Committee Resolution H. Res. 652 Reported to House. Rule provides for consideration of the conference report to H.R. 2614 with 1 hour of general debate. Previous question shall be considered as ordered without intervening motions except motion to recommit with or without instructions. Waives points of order against the conference report and against its consideration.
October 26, 2000 .....	Conferees agreed to file conference report.
October 26, 2000 .....	Conference papers: Senate report and manager's statement held at the desk in Senate.
October 26, 2000 .....	Rule H. Res. 652 passed House.
October 26, 2000 .....	Mr. Talent brought up conference report H. Rept. 106–1004 for consideration under the provisions of H. Res. 652.
October 26, 2000 .....	The previous question was ordered without objection.
October 26, 2000 .....	On agreeing to the conference report Agreed to by the Yeas and Nays: 237–174, 1 Present (Roll no. 560). (consideration: CR H11243–11264)
October 26, 2000 .....	Motions to reconsider laid on the table Agreed to without objection.
October 26, 2000 .....	Motion to proceed to consideration of measure agreed to in Senate by Yea-Nay Vote. 55–40. Record Vote Number: 286. (consideration: CR S11097–11098)
October 26, 2000 .....	Motion to proceed to consideration of conference report to accompany H.R. 2614 agreed to by Unanimous Consent.
October 26, 2000 .....	Conference report considered in Senate by motion. (consideration: CR S11098–11100, S11104, S11107–11111)
October 31, 2000 .....	Motion to proceed to consideration of conference report to accompany H.R. 2614 agreed to by Unanimous Consent.
October 31, 2000 .....	Conference report considered in Senate by motion. (The H.R. 2614 conference report [H. Rept. 106–1004] incorporated several bills. This included H.R. 5538—Minimum Wage; H.R. 5542—Taxpayer Relief; H.R. 5543—Medicare, Medicaid, and SCHIP Benefits Improvement and Protection; H.R. 5544—Pain Relief Promotion; and H.R. 5545—Small Business Reauthorization. H.R. 5661 is a subsequent Medicare, Medicaid and SCHIP Benefits Improvement and Protection bill. H.R. 5667 is a subsequent Small Business Reauthorization bill. H.R. 4577, Consolidated Appropriations Act 2001, incorporates by reference the provisions of H.R. 5661, H.R. 5667, and other bills. The text of these bills is printed in the H.R. 4577 conference report: H. Rept. 106–1033 [text of conference report: CR 12/15/2000 H12100–12439].)
<b>H.R. 5667:</b>	
December 15, 2000 .....	Referred to the House Committee on Small Business.
December 15, 2000 .....	Enacted by reference in H.R. 4577 (H. Rept. 106–1033)
<b>H.R. 4577:</b>	
December 15, 2000 .....	Conference report H. Rept. 106–1033 filed.
December 15, 2000 .....	Mr. Young (FL) brought up conference report H. Rept. 106–1033 by previously agreed to special order.
December 15, 2000 .....	The previous question was ordered without objection.
December 15, 2000 .....	On agreeing to the conference report Agreed to by the Yeas and Nays: 292–60 (Roll no. 603).



## LEGISLATIVE HISTORY—Continued

Date	Action
December 15, 2000 .....	Motions to reconsider laid on the table Agreed to without objection.
December 15, 2000 .....	Senate agreed to conference report by Unanimous Consent.
December 15, 2000 .....	Message on Senate action sent to the House.
December 15, 2000 .....	Cleared for White House.
December 15, 2000 .....	Presented to President.
December 21, 2000 .....	Signed by President. (H.R. 4577, Consolidated Appropriations Act 2001, incorporates the provisions of several bills by reference. This includes H.R. 5656—Labor HHS Education Appropriations; H.R. 5657—Legislative Branch Appropriations; H.R. 5658—Treasury Appropriations; H.R. 5666—Miscellaneous Appropriations—except section 123 relating to the enactment of H.R. 4904; H.R. 5660—Commodity Futures Modernization; H.R. 5661—Medicare, Medicaid and SCHIP Benefits Improvement and Protection; H.R. 5662—Community Renewal Tax Relief and Medical Savings Accounts; H.R. 5663—New Markets Venture Capital; and H.R. 5667—Small Business Reauthorization Act. The text of these bills is printed in the H.R. 4577 conference report: H. Rept. 106-1033 [text of conference report: CR 12/15/2000 H12100-12439].

## NEED FOR LEGISLATION

In an era of unprecedented economic growth and prosperity, there remain many economically distressed communities, both rural and urban, where many people have not benefited to any great degree from the most recent economic expansion enjoyed by our Nation. In these communities, levels of unemployment, poverty, and other indicia of social distress, remain stubbornly high—yet untapped market opportunities exist to establish and expand businesses and to develop jobs and community assets.

There is bipartisan consensus in Congress that the federal government can and should play a role in encouraging investments in these communities. For several years both Republicans and Democrats have proposed and supported granting tax and regulatory relief, including capital gains tax relief to businesses operating within distressed areas. Many of these proposals were part of H.R. 815, the ‘American Community Renewal Act,’ introduced by Representatives Jim Talent and J.C. Watts, which would have designated a number of these areas as ‘renewal communities’ eligible for such benefits. The House has already passed the tax provisions of H.R. 815, and this Committee has passed provisions relating to HUD property disposition within these communities as part of H.R. 1776, the American Homeownership and Economic Opportunity Act of 2000.’

The Administration has also proposed a series of programs, collectively known as the “New Markets Initiative,” also intended to foster economic development in low-income communities. These proposals include tax credits for businesses in these areas (‘New Markets Tax Credits’), a small business component (establishing a ‘New Markets Venture Capital Program’), and the formation of a number of companies intended to make relatively large scale equity and credit investments in distressed areas—APICs. The FY 2000 VA/HUD Appropriations Act provided that \$20 million in credit subsidy would be available for use by APICs for Fiscal Year 2000

if the program was authorized by June 30, 2000. If the program is not authorized by that date, the funding reverts to the Community Development Financial Institutions program administered by the Department of the Treasury.

The APIC portion of the New Markets Initiative falls under the jurisdiction of this Committee. The proposal is closely related in concept to the Small Business Investment Companies ("SBIC") program currently administered by the Small Business Administration (SBA), except that the SBIC program is limited in the size of projects it can serve and that SBICs invest in ventures only, not real estate. Community development organizations maintain that the infusion of additional amounts on equity capital is especially vital for enabling large-scale investments to occur in distressed areas. Importantly, these investments would be economically viable as freestanding business entities, providing a profitable return to investors. However, because the costs of establishing these businesses in some of these distressed areas are higher relative to other areas due to a variety of factors (remediation of environmental contamination, for example), the return on investors equity is not as high as demanded by these investors. APICs are intended to lessen the cost of capital so that these large-scale investments would be made.

APICs are not intended to fund or subsidize the operations of businesses, that are not economically viable. On the contrary, the goal of these entities is to encourage the establishment of fundamentally sound businesses in certain locations. Possible uses for APICs' funds include the establishment of a new facility, such as a call center, data processing "back office," or factory, by a large company (or a small company joint venturing with a large one). In addition, a mid-size manufacturing company seeking to increase production could use APIC investments for expansion of an existing facility, the upgrading equipment or the hiring of new employees. Other uses could include expansion of the service area of a mid-size service company, such as a trucking company, building contractor, or home health care firm; development of a multi-tenant shopping center; or opening or expanding a large retail company in a new geographic area. Buyout of a company to be revitalized in its existing facility, acquisition of the property of a departing large company, and development of an incubator or industrial park, or investment in another fund that invests in businesses locating or expanding in targeted low-to-moderate income areas are all methods whereby an APIC could fulfill its public purpose investment role.

By passing this APIC legislation, the hope and expectation of this Committee is that a bipartisan, comprehensive package of measures to help revitalize America's distressed urban and rural communities, which would include the best elements of the American Community Renewal Act and the New Markets Initiative, be enacted this year.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 301. Short Title*

The act may be cited as the "America's Private Investment Companies Act".

*Section 302. Findings and Purpose*

Section 302 finds that: (1) people living in distressed areas, both urban and rural, characterized by high levels of joblessness, poverty, and low incomes, have not adequately benefited from economic expansion experienced by the Nation as a whole; (2) the costs of joblessness and poverty to our Nation are very high; and (3) there are significant untapped markets in our Nation, and many of these are in areas that are underserved by institutions that can make equity and credit investments.

Purposes of this title are to: (1) license private for-profit community development entities that will focus on making equity and credit investments for large-scale business developments that benefit low-income communities; (2) provide credit enhancement for those entities for use in low-income communities; and (3) provide a vehicle under which the economic and social returns on financial investments made pursuant to this Act may be available both to the investors in these entities and to the residents of the low-income communities.

*Section 303. Definitions*

Defines terms used in legislation, including “Administrator”, “agency”, “APIC”, “community development entity”, “HUD”, “license”, “low-income community”, “low-income person”, “private equity capital”, “qualified active business”, “qualified debenture”, “qualified low-income community investment”, and “Secretary”.

*Section 304. Authorization*

Authorizes the Secretary of HUD to license and regulate America’s Private Investment Companies (‘APICs’). The number of APICs licensed at any one time would depend upon the amount of budget authority available to support the total credit subsidy provided to the APICs, subject to a first year limitation of 15 APICs. After the initial appropriation, the Secretary is authorized to license and allocate credit subsidy to additional APICs, or, as provided, increase the credit subsidy allocated to an APIC as reward for high performance. Any such credit subsidy increase shall be provided only to an APIC that has been licensed for not less than two years, and pursuant to a competition among eligible APICs. The Secretary shall establish criteria for selecting among APICs eligible for a credit subsidy increase, which criteria shall include such factors as the financial soundness and performance of the APICs as measured by achievement of the public performance goals required under the Act.

Requires that the HUD Secretary consult with the Administrator of the Small Business Administration and the Secretary of the Treasury in establishing regulations, requirements or procedures regarding the financial soundness and management of APICs. Authorizes budget authority of \$36 million in credit subsidy for Fiscal Year 2000 to guarantee an estimated \$1 billion in debt. An additional \$36 million would be authorized to be appropriated for each of Fiscal Years 2001–2003, with an additional \$1 million authorized for the administrative expenses incurred in carrying out the Act for FY 2000–FY 2003. Requires APICs to be regulated by HUD in cooperation with SBA and the Department of the Treasury. The

Secretary is authorized to impose fees and charges for the operation of APICs.

*Section 305. Selection of APICs*

Establishes procedures for selection of APICs, sets forth minimum eligibility requirements, and sets forth selection criteria to be used by the Secretary in selecting among applicants for licensing as APICs. An entity applying for an APIC license must: (1) be a private, for-profit entity that qualifies as a 'community development entity' as defined in the legislation; (2) have a minimum private equity capital of \$25 million; (3) have qualified financial management, with experience in direct equity investment and portfolio management and expertise in community development settings, as determined by the Secretary; (4) be structured to preclude financial conflict of interests between the APIC and its manager or investors; (5) submit an investment strategy with evaluation benchmarks; (6) submit a statement of public purpose goals, examples of which are delineated in the statute; (7) agree to comply with other federal requirements imposed from time to time (i.e., Executive Orders or OMB circulars); and (8) satisfy any other application criteria that the Secretary may impose by regulation or notice.

The Secretary shall select eligible entities for licensing based on a competition. Selections shall be made on the basis of the extent to which the entity is expected to meet or exceed the selection criteria set forth in the legislation. Selection criteria include factors such as the APICs capacity, investment strategy, public purpose goals, and other criteria the Secretary may establish to carry out the purposes of this Act. To the extent practicable, in selecting APICs the Secretary shall strive for geographic diversity and a diversity of the types of APICs chosen so that both rural and urban communities are served by the program. Of those APICs selected in the first year, at least one must be devoted primarily to making investments on Native American lands.

*Section 306. Operations of APICs*

Set forth the requirements for the operation of APICs. Requires that substantially all APIC investments that use government-guaranteed proceeds be in qualified low- to moderate-income (LMI) areas, and prohibits an APIC from having an investment in any one business that would amount to more than 35% of the APIC's equity capital plus the limit of outstanding debt allowable (the leverage limit) under Section 306(c)(2) of this title.

Provides that an APIC may issue debentures guaranteed by the Secretary pursuant to the provisions of the Act. The total amount of debentures that an APIC may have outstanding at any one time shall not exceed 200% of the equity capital of the APIC. An APIC may not have more than \$300 million in face value of debentures issued at any one time. Sets forth requirements for repayment by APIC of debt.

Includes an "anti-pirating" provision prohibiting APICs from using funds to make an investment that would assist directly in the relocation of any industrial or commercial plant, facility or operation from one area to another if such relocation would result in a significant loss of employment in the labor area from which the

relocation occurs. Also provides for reuse of debenture proceeds of sale of Treasury securities and excludes APIC from the definition of debtor under bankruptcy provisions.

*Section 307. Credit Enhancement by the Federal Government*

Authorizes HUD to make commitments to guarantee the timely payment of all principal and interest on qualified debentures issued by the APICs. The qualified debentures guaranteed by HUD would be senior to any other debt or equity. The qualified debentures could be issued by APICs for up to 21 years and could be pooled and sold.

*Section 308. APIC Requests for Guarantee Actions*

Set forth procedures for APICs to request loan guarantees from HUD, which shall include a description of the manner in which the APIC intends to use the proceeds from such debentures and a certification from the APIC that it is in substantial compliance with: (1) the terms of this Act and applicable laws; (2) the terms and conditions of its license; (3) requirements relating to the allocation and use of New Market Tax Credits. The APIC must also provide any other requirements established by the Secretary. Sets forth procedures for compliance with provisions of the National Environmental Policy Act of 1969 regarding environmental reviews.

*Section 309. Examination and Monitoring of APIC*

Requires that the Secretary examine and monitor the activities of APICs for compliance with sound financial management practices and for satisfaction of program goals. Requires the Secretary to establish annual or more frequent reporting requirements for APICs. Requires that each APIC have an independent annual audit conducted annually. The Secretary, in consultation with the Administrator of the SBA and the Secretary of the Treasury, shall establish requirements and standards for such audits. Not less than every two years, the Secretary shall examine the operations and portfolio of each APIC to assure compliance with sound financial management practices.

Provides that in carrying out its monitoring of HUD's responsibilities under this Act, the Inspector General of HUD shall consult, as appropriate, with the Inspectors General of the Department of the Treasury or the Small Business Administration, and may enter into memoranda of understanding as may be necessary to carry out this function. Requires the Secretary to report to Congress annually regarding the operations, activities, financial health and achievements of APICs, listing each investment made by each APIC. Requires the General Accounting Office not later than two years after the date of enactment of the Act, to submit a report to Congress regarding the operation of the APIC program.

*Section 310. Penalties*

Authorizes the Secretary to impose penalties on any APIC that commits an act of fraud, mismanagement or noncompliance with regulations. Penalties include civil monetary penalties not to exceed \$10,000 cease-and-desist orders, suspension or revocation of an APIC's license for very serious infractions, or other penalties

that the Secretary determines to be less burdensome than the aforementioned penalties.

*Section 311. Effective Date*

Provides that the Act shall take effect six months after the date of enactment. Authority of the Secretary to issue regulations, standards, guidelines or licensing requirements, and the authority of any official to enter into agreements or memoranda of understanding regarding such issuances, shall take effect upon enactment of the legislation.

*Section 312. Sunset*

Provides that the Secretary may not license any APIC, nor provide credit subsidy for any APIC, after the expiration of the five-year period beginning upon the date the Secretary awards the first APIC license. The section does not affect any license or credit subsidy provided for an APIC before the expiration of such period.

5.17 H.R. 3843—SMALL BUSINESS REAUTHORIZATION ACT OF 2000,  
PUBLIC LAW NO. 106-554

LEGISLATIVE HISTORY

Date	Action
<b>H.R. 3843:</b>	
March 8, 2000 .....	Referred to the House Committee on Small Business.
March 14, 2000 .....	Reported by the Committee on Small Business. H. Rept. 106-522.
March 14, 2000 .....	Placed on the Union Calendar, Calendar No. 291.
March 14, 2000 .....	Rules Committee Resolution H. Res. 439 Reported to House. Rule provides for consideration of H.R. 3843 with 1 hour of general debate. Previous question shall be considered as ordered without intervening motions except motion to recommit with or without instructions. Measure will be read by section. Bill is open to amendments. At the conclusion of consideration, H. Res. 432 is laid on the table.
March 15, 2000 .....	Rule H. Res. 439 passed House.
March 15, 2000 .....	Considered under the provisions of rule H. Res. 439 (consideration: CR H1032-1039; text of measure as reported in House: CR H1038).
March 15, 2000 .....	House resolved itself into the Committee of the Whole House on the state of the Union pursuant to H. Res. 439 and Rule XXIII.
March 15, 2000 .....	The Speaker designated the Honorable Ray LaHood to act as Chairman of the Committee.
March 15, 2000 .....	H.AMDT.595 Amendment (A001) offered by Mr. Traficant. (consideration: CR H1038-1039) Amendment requires the SBA to conduct a study to determine the average time that the SBA requires to process an application for each type of loan or loan guarantee made under the Small Business Act.
March 15, 2000 .....	H.AMDT.595 On agreeing to the traficant amendment (A001) Agreed to by voice vote. (text: CR H1038)
March 15, 2000 .....	The House rose from the Committee of the Whole House on the state of the Union to report H.R. 3843.
March 15, 2000 .....	The previous question was ordered pursuant to the rule.
March 15, 2000 .....	The House adopted the amendment as agreed to by the Committee of the Whole House on the state of the Union.
March 15, 2000 .....	On passage Passed by the Yeas and Nays: 410-11 (Roll no. 49).
March 15, 2000 .....	Motion to reconsider laid on the table Agreed to without objection.
March 20, 2000 .....	Received in the Senate and Read twice and referred to the Committee on Small Business.
October 25, 2000 .....	Included in H.R. 5545.

## LEGISLATIVE HISTORY—CONTINUED

Date	Action
<b>H.R. 5545:</b>	
October 25, 2000 .....	Referred to the House Committee on Small Business. (Several bills are engrossed by reference in the H.R. 2614 conference report: H. Rept. 106–1004. This includes H.R. 5538, the Minimum Wage Act of 2000; H.R. 5542, the Taxpayer Relief Act of 2000; H.R. 5543, the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000; H.R. 5544, the Pain Relief Promotion Act of 2000; and H.R. 5545, the Small Business Reauthorization Act of 2000. The bill texts are included in the conference report.)
<b>H.R. 2614:</b>	
October 26, 2000 .....	Conference report H. Rept. 106–1004 filed. (text of conference report: CR October 25, 2000 H10909–11188)
October 26, 2000 .....	Rules Committee Resolution H. Res. 652 Reported to House. Rule provides for consideration of the conference report to H.R. 2614 with 1 hour of general debate. Previous question shall be considered as ordered without intervening motions except motion to recommit with or without instructions. Waives points of order against the conference report and against its consideration.
October 26, 2000 .....	Conferees agreed to file conference report.
October 26, 2000 .....	Conference papers: Senate report and manager's statement held at the desk in Senate.
October 26, 2000 .....	Rule H. Res. 652 passed House.
October 26, 2000 .....	Mr. Talent brought up conference report H. Rept. 106–1004 for consideration under the provisions of H. Res. 652.
October 26, 2000 .....	The previous question was ordered without objection.
October 26, 2000 .....	On agreeing to the conference report Agreed to by the Yeas and Nays: 237–174, 1 Present (Roll no. 560). (consideration: CR H11243–11264)
October 26, 2000 .....	Motions to reconsider laid on the table Agreed to without objection.
October 26, 2000 .....	Motion to proceed to consideration of measure agreed to in Senate by Yea-Nay Vote. 55–40. Record Vote Number: 286. (consideration: CR S11097–11098)
October 26, 2000 .....	Motion to proceed to consideration of conference report to accompany H.R. 2614 agreed to by Unanimous Consent.
October 26, 2000 .....	Conference report considered in Senate by motion. (consideration: CR S11098–11100, S11104, S11107–11111)
October 31, 2000 .....	Motion to proceed to consideration of conference report to accompany H.R. 2614 agreed to by Unanimous Consent.
October 31, 2000 .....	Conference report considered in Senate by motion. (The H.R. 2614 conference report [H. Rept. 106–1004] incorporated several bills. This included H.R. 5538—Minimum Wage; H.R. 5542—Taxpayer Relief; H.R. 5543—Medicare, Medicaid, and SCHIP Benefits Improvement and Protection; H.R. 5544—Pain Relief Promotion; and H.R. 5545—Small Business Reauthorization. H.R. 5661 is a subsequent Medicare, Medicaid and SCHIP Benefits Improvement and Protection bill. H.R. 5667 is a subsequent Small Business Reauthorization bill. H.R. 4577, Consolidated Appropriations Act 2001, incorporates by reference the provisions of H.R. 5661, H.R. 5667, and other bills. The text of these bills is printed in the H.R. 4577 conference report: H. Rept. 106–1033 [text of conference report: CR October 15, 2000 H12100–12439].)
<b>H.R. 5667:</b>	
December 15, 2000 .....	Referred to the House Committee on Small Business incorporating the provisions of H.R. 3843.
December 15, 2000 .....	Enacted by reference in H.R. 4577 (H. Conf. Rept. 106–1033).
<b>H.R. 4577:</b>	
December 15, 2000 .....	Conference report H. Rept. 106–1033 filed.
December 15, 2000 .....	Mr. Young (FL) brought up conference report H. Rept. 106–1033 by previously agreed to special order.
December 15, 2000 .....	The previous question was ordered without objection.

## LEGISLATIVE HISTORY—CONTINUED

Date	Action
December 15, 2000 .....	On agreeing to the conference report Agreed to by the Yeas and Nays: 292–60 (Roll no. 603).
December 15, 2000 .....	Motions to reconsider laid on the table Agreed to without objection.
December 15, 2000 .....	Senate agreed to conference report by Unanimous Consent.
December 15, 2000 .....	Message on Senate action sent to the House.
December 15, 2000 .....	Cleared for White House.
December 15, 2000 .....	Presented to President.
December 21, 2000 .....	Signed by President as Pub. L. No. 106–544 (H.R. 4577, Consolidated Appropriations Act 2001, incorporates the provisions of several bills by reference. This includes H.R. 5656—Labor HHS Education Appropriations; H.R. 5657—Legislative Branch Appropriations; H.R. 5658—Treasury Appropriations; H.R. 5666—Miscellaneous Appropriations—except section 123 relating to the enactment of H.R. 4904; H.R. 5660—Commodity Futures Modernization; H.R. 5661—Medicare, Medicaid and SCHIP Benefits Improvement and Protection; H.R. 5662—Community Renewal Tax Relief and Medical Savings Accounts; H.R. 5663—New Markets Venture Capital Program; and H.R. 5667—Small Business Reauthorization. The text of these bills is printed in the H.R. 4577 conference report: H. Rept. 106–1033 [text of conference report: CR December 15, 2000 H12100–12439].)

## NEED FOR LEGISLATION

The Small Business Administration provides a variety of services for small business—financial assistance, technical assistance, and disaster assistance.

*Financial Assistance*

The Small Business Administration provides approximately \$11 billion in financing to small business annually. This financing is made available through a variety of programs.

SBA's largest financial program is the Section 7(a) general business loan program. The 7(a) program offers loans to small businesses through local lending institutions. These loans are provided with an SBA guarantee of up to 80 percent and are limited to a maximum of \$750,000. The 7(a) program has a subsidy rate of 1.16% for fiscal year 2000 and an appropriation of \$107 million, permitting \$9.8 billion in lending.

The Section 504 loan program provides construction, renovation and capital investment financing to small businesses through certified development companies (CDCs). These CDCs are SBA licensed, local business development organizations which provide loans of up to \$750,000 for small businesses, in cooperation with local banks. CDCs provide 40% of the financing package, while the bank provides 50%, and the small business provides a 10% down payment. CDC funding is obtained through issuance of an SBA guarantee debenture. The 504 program currently operates at no cost to the taxpayer but does require authorization.

The microloan program provides small loans of up to \$25,000 to borrowers in low-income areas. In fiscal year 1999 the program provided \$29 million in loans. In addition, the program has a technical assistance aspect that provides managerial and business expertise to microloan borrowers. Microloans are made by inter-



mediary organizations that specialize in local business development. The program has a subsidy rate of 8.54%.

The Small Business Investment Company (SBIC) program provides over \$1.5 billion in long term and venture capital financing for small business annually. SBICs are venture capital firms that leverage private investment dollars with SBA guaranteed debentures or participating securities. The SBIC debenture program currently operates at a zero subsidy rate and requires no taxpayer subsidy. The participating securities program has a 1.8% subsidy rate.

#### *Technical Assistance*

The SBA provides technical and managerial assistance to small businesses through four primary programs—Small Business Development Center (SBDCs), the Service Corps of Retired Executives (SCORE), the 7(j) technical assistance program, and the Women's Business Center program.

SBDCs are located primarily at colleges and universities and provide assistance through 51 center sites and approximately 970 satellite offices. Through a formula of matching grants and donations SBDCs offer small businesses guidance on marketing, financing, start-up, and other areas. The program currently receives \$84 million in appropriations.

SCORE provides small business assistance on-site through the volunteer efforts of its members. SCORE volunteers are retired business men and women who offer their expertise to small businesses. SCORE volunteers are reimbursed for their travel expenses and SCORE receives funding as well as a website and offices in Washington, DC.

The 7(j) program provides financing for technical assistance to the minority contracting community primarily through courses and direct assistance from management consultants. In addition, the program provides assistance for participants to attend business administration classes offered through several colleges and universities.

The Women's Business Center program provides five year grants matched by non-federal funds to private sector organizations to establish business training centers for women. Depending on the needs of the community, centers teach women the principles of finance, management and marketing as well as specialized topics such government contracting or starting home-based businesses. There are currently 81 centers in 47 states in rural, urban and sub-urban locations.

#### *Disaster Assistance*

The Small Business Administration also provides disaster loan assistance to homeowners and small businesses nationwide. This program is a key component of the overall Federal recovery effort for communities struck by natural disasters. This assistance is authorized by section 7(b) of the Small Business Act which provides authority for reduced interest rate loans. Currently the interest rate fluctuate according to the statutory formula—a lower rate, not to exceed four percent is offered to applicants with no credit avail-

able elsewhere, while a rate of a maximum of eight percent is available for other borrowers.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short Title*

This Act may be cited as the “Small Business Reauthorization Act of 2000”.

##### *Section 2. Reauthorization of Small Business Programs*

This section provides the authorized appropriation levels for the following programs: Section 7(a) general business loans, Section 504 Certified Development Company loans, direct microloans, guaranteed microloans, microloan technical assistance, Defense Transition (DELTA) loans, Small Business Investment Company debentures, Small Business Investment Company participating securities, Surety Bonds guarantees, SCORE, disaster loans, and salaries and expenses. The following are the authorization levels for the financial programs:

[In millions]			
	2001	2002	2003
7(a) .....	\$14,500	\$15,000	\$16,000
504 .....	4,000	4,500	5,000
Microloan .....	60	80	100
Microloan TA .....	50	70	90
Microloan gty .....	200	250	300
SBIC debentures .....	1,500	2,500	3,000
SBIC part. Securities .....	2,500	3,500	4,000
Surety bonds .....	4,000	5,000	6,000

This section also authorizes the Service Corps of Retired Executives (SCORE). SCORE will be authorized at 5, 6, and 7 million dollars for fiscal years 2001, 2001, and 2003, respectively.

Section 2 also contains provisions authorizing funding for salaries and expenses at the Small Business Administration. These authorizations are established as “such sums as may be necessary”. However, separate authorizations are established for direct administration of the 7(a), 504 and microloan programs and for the operations of the Office of Investment. The committee intends that the funds authorized for the direct administration of the loan programs be used solely for headquarters operations and not field services. These operations are authorized at 14, 16 and 17 million dollars for fiscal years 2001, 2002, 2003, respectively.

##### *Section 3. Additional Reauthorizations*

This section reauthorizes six programs:

(a) *Small Business Development Centers Program*—Increases the authorization level from \$95,000,000 to \$125,000,000.

(b) *Drug Free Workplace*—Extends authorization through fiscal year 2003 at \$5,000,000 per year.

(c) *HUBZones*—Authorizes appropriations of \$10,000,000 per year through fiscal year 2003.

(d) *National Women's Business Council*—Increases reauthorization to \$1,000,000 per year and extends authorization through fiscal year 2003.

(e) *Very Small Business Concerns*—Extends authorization through September 30, 2003.

(f) *SDB Certification*—Extends authorization through September 30, 2003.

5.18 H.R. 3845—SMALL BUSINESS INVESTMENT CORRECTIONS ACT OF 2000, PUBLIC LAW 106–554

LEGISLATIVE HISTORY

Date	Action
<b>H.R. 3845:</b>	
March 8, 2000	Referred to the House Committee on Small Business.
March 14, 2000	Reported by the Committee on Small Business. H. Rept. 106–520.
March 14, 2000	Placed on the Union Calendar, Calendar No. 289.
March 14, 2000	Mrs. Kelly moved to suspend the rules and pass the bill, as amended.
March 14, 2000	Considered under suspension of the rules. (consideration: CR H940–942)
March 14, 2000	On motion to suspend the rules and pass the bill, as amended Agreed to by voice vote. (text: CR H940–941)
March 14, 2000	Motion to reconsider laid on the table Agreed to without objection.
March 20, 2000	Received in the Senate and Read twice and referred to the Committee on Small Business.
October 25, 2000	Included in H.R. 5545.
<b>H.R. 5545:</b>	
October 25, 2000	Referred to the House Committee on Small Business. (Several bills are engrossed by reference in the HR. 2614 conference report: H.Rept. 106–1004. This includes H.R. 5538, the Minimum Wage Act of 2000; H.R. 5542, the Taxpayer Relief Act of 2000; H.R. 5543, the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000; H.R. 5544, the Pain Relief Promotion Act of 2000; and H.R. 5545, the Small Business Reauthorization Act of 2000. The bill texts are included in the conference report.)
<b>H.R. 2614:</b>	
October 26, 2000	Conference report H. Rept. 106–1004 filed. (text of conference report: CR 10/25/2000 H10909–11188)
October 26, 2000	Rules Committee Resolution H. Res. 652 Reported to House. Rule provides for consideration of the conference report to H.R. 2614 with 1 hour of general debate. Previous question shall be considered as ordered without intervening motions except motion to recommit with or without instructions. Waives points of order against the conference report and against its consideration.
October 26, 2000	Conferees agreed to file conference report.
October 26, 2000	Conference papers: Senate report and manager's statement held at the desk in Senate.
October 26, 2000	Rule H. Res. 652 passed House.
October 26, 2000	Mr. Talent brought up conference report H. Rept. 106–1004 for consideration under the provisions of H. Res. 652.
October 26, 2000	The previous question was ordered without objection.
October 26, 2000	On agreeing to the conference report. Agreed to by the Yeas and Nays: 237–174, 1 Present (Roll no. 560). (consideration: CR H11243–11264)
October 26, 2000	Motions to reconsider laid on the table Agreed to without objection.
October 26, 2000	Motion to proceed to consideration of measure agreed to in Senate by Yea-Nay Vote. 55–40. Record Vote Number: 286. (consideration: CR S11097–11098)
October 26, 2000	Motion to proceed to consideration of conference report to accompany H.R. 2614 agreed to by Unanimous Consent.

## LEGISLATIVE HISTORY—CONTINUED

Date	Action
October 26, 2000 .....	Conference report considered in Senate by motion. (consideration: CR S11098–11100, S11104, S11107–11111)
October 31, 2000 .....	Motion to proceed to consideration of conference report to accompany H.R. 2614 agreed to by Unanimous Consent
October 31, 2000 .....	Conference report considered in Senate by motion. (The H.R. 2614 conference report [H. Rept. 106–1004] incorporated several bills. This included H.R. 5538—Minimum Wage; H.R. 5542—Taxpayer Relief; H.R. 5543—Medicare, Medicaid, and SCHIP Benefits Improvement and Protection; H.R. 5544—Pain Relief Promotion; and H.R. 5545—Small Business Reauthorization. H.R. 5661 is a subsequent Medicare, Medicaid and SCHIP Benefits Improvement and Protection bill. H.R. 5667 is a subsequent Small Business Reauthorization bill. H.R. 4577, Consolidated Appropriations Act 2001, incorporates by reference the provisions of H.R. 5661, H.R. 5667, and other bills. The text of these bills is printed in the H.R. 4577 conference report: H. Rept. 106–1033 [text of conference report: CR 12/15/2000 H12100–12439].)
<b>H.R. 5667:</b>	
December 15, 2000 .....	Referred to the House Committee on Small Business incorporating the provisions of H.R. 3845.
December 15, 2000 .....	Enacted by reference in H.R. 4577 (H. Conf. Rept. 106–1033)
<b>H.R. 4577:</b>	
December 15, 2000 .....	Conference report H. Rept. 106–1033 filed.
December 15, 2000 .....	Mr. Young (FL) brought up conference report H. Rept. 106–1033 by previously agreed to special order.
December 15, 2000 .....	The previous question was ordered without objection.
December 15, 2000 .....	On agreeing to the conference report Agreed to by the Yeas and Nays: 292–60 (Roll no. 603).
December 15, 2000 .....	Motions to reconsider laid on the table Agreed to without objection.
December 15, 2000 .....	Senate agreed to conference report by Unanimous Consent.
December 15, 2000 .....	Message on Senate action sent to the House.
December 15, 2000 .....	Cleared for White House.
December 15, 2000 .....	Presented to President.
December 21, 2000 .....	Signed by President. (H.R. 4577, Consolidated Appropriations Act 2001, incorporates the provisions of several bills by reference. This includes H.R. 5656—Labor HHS Education Appropriations; H.R. 5657—Legislative Branch Appropriations; H.R. 5658—Treasury Appropriations; H.R. 5666—Miscellaneous Appropriations—except section 123 relating to the enactment of H.R. 4904; H.R. 5660—Commodity Futures Modernization; H.R. 5661—Medicare, Medicaid and SCHIP Benefits Improvement and Protection; H.R. 5662—Community Renewal Tax Relief and Medical Savings Accounts; H.R. 5663—New Markets Venture Capital Program; and H.R. 5667—Small Business Reauthorization. The text of these bills is printed in the H.R. 4577 conference report: H. Rept. 106–1033 [text of conference report: CR 12/15/2000 H12100–12439].)

## NEED FOR LEGISLATION

*Definition of Small Business Concern*

SBA regulations currently prohibit an SBIC from owning a controlling interest in the voting stock of a small business or otherwise exercising control of the small business.

These regulations were put in place to ensure that SBICs did not become holding companies and to protect small business from over aggressive investment. During the life of the program several exceptions have been put in place recognizing the reality of equity investment. These include control for a start-up company, when a

major investment is undertaken, for a troubled company, breach of agreement, and most recently for those businesses that are located in low and moderate income area (LMIs). Through the administering and oversight of these regulations the Committee believes the result has been to create a complicated and sometimes burdensome process for both SBA and SBICs.

While the intent of the regulation was the protection of small business it has resulted in keeping parties to an SBIC investment from structuring the investment in ways that may be most reasonable and acceptable from both operating and market perspective. The Committee made these changes recognizing the reality of venture capital investment, however the amendment is not intended to foster SBICs becoming holding companies for operating small business concerns. In today's venture capital world venture funds may act as incubators of business ideas by creating and capitalizing small businesses to nurture technology in the early stages of its development. In such cases SBICs may need to create, capitalize and operate small business concerns in the early years.

Furthermore, the Gramm-Leach-Bliley Bank Modernization Act—which grants banks authority to conduct venture capital operations without an SBIC license—does not prohibit control. To the contrary, it explicitly permits control during the investment period. The proposed amendment would make the Small Business Investment Act consistent with the new banking law and would serve as an incentive for banks to retain their SBIC operations—to the benefit of U.S. small businesses.

#### *Definition of Long Term*

The term “long-term” as found in Section 102 of the Act has been interpreted to mean a period of time equal to a minimum of five years for all SBIC investments other than those made in “Disadvantaged Businesses.” For the latter, the minimum period is four years.

This interpretation does not allow SBICs and small businesses to fashion investment agreements that are flexible enough to meet the needs of both parties in accordance with the dictates of the commercial marketplace.

This interpretation has no counterpart in any other area of business commerce. To the contrary, Generally Accepted Accounting Principles (GAAP) define “long-term” as any period of time greater than one year in duration. Likewise, tax law defines “long-term” for capital gains purposes as a period greater than one year. The proposed amendment would make SBIC law consistent with GAAP and tax law and apply the same standard for all SBIC investments.

The Gramm-Leach-Bliley Bank Modernization Act—which gives banks authority to conduct venture capital operations without an SBIC license—places no restrictions on the period of time for investments. The proposed amendment will be consistent with the new bank law and would serve as an important incentive for banks to retain their SBIC operations—to the benefit of U.S. small businesses seeking financing. Without the amendment, many banks may choose to operate all their venture capital operations outside the SBIC program—to the detriment of small businesses served by the SBIC program.

### *Subsidy Fees*

An additional 1 percent interest obligation was imposed on SBICs in 1996 in order to reduce the Small Business Administration's appropriated cost, as determined by the Administration's subsidy model, for supporting the SBIC program. Since then changes in the program coupled with a stricter examination and licensing program at SBA have significantly reduced the subsidy cost of both the Debenture and Participating Securities programs. At least part of the 1 percent in additional interest is no longer required in the Debenture program to keep the subsidy rate at zero. The same may soon be true for the Participating Securities program as well. In fact, current estimates show that the 1 percent fee is overcharging the SBICs (and their small business clients), resulting in a hidden tax on the program.

Changing the law as proposed would allow the Administration to adjust the additional interest and prioritized payment rates annually based on annual subsidy rate calculations. A similar approach is already in place for the SBA's 504 loan program which operates at no cost to the taxpayer and has consistently reduced its fees.

### *Distribution*

Under current law, SBICs may make prioritized payment distributions, profit distributions, and other optional distributions (e.g., distributions of capital on any date with prior SBA approval). Tax distributions, however, may only be made at the end of calendar year quarters.

The practical impact of this restriction is that SBICs are forced to either delay otherwise permitted interim distributions (that would include tax distributions) to the end of a quarter or split their distributions into two distributions—tax distributions (made at the end of a quarter) and all other distributions (made at any time during a quarter).

Postponing an entire distribution to the end of a quarter has negative cash flow and internal rate of return (IRR) implications for SBICs. Consequently, most SBICs will opt to split their distributions. Splitting distributions requires the preparation, submission, and SBA review of two sets of documents when one would otherwise suffice. This results in inefficient use of both SBA and SBIC time and resources.

The proposed amendment is technical in nature and will have no substantive impact on the SBIC program. However, it will save time and expense for both SBA and SBICs by eliminating duplicative filings and inefficient use of SBA resources.

## SECTION-BY-SECTION ANALYSIS

### *Section 1. Short Title*

This Act may be cited as the "Small Business Investment Corrections Act of 2000".

### *Section 2. Definitions*

#### *(a) Small Business Concern*

Inserts the following language in section 103(5)(A)(i) of the Small Business Investment Act—"regardless of the allocation of control

during the investment period under any investment agreement between the business concern and the entity making the investment”. This phrase clarifies that a venture capital investment agreement from an SBIC may cause a change in control of a small business, but that such a change will not affect the eligibility of the small business concern. The Committee does not intend that SBICs become holding companies hence the language references the period of the investment agreement. Further, the Committee retains the authority for SBIC examinations to inquire into “illegal control” by SBICs, though the committee expects such control to be that exercised outside an investment agreement.

*(b) Long Term*

Inserts the following paragraph in section 103 of the Small Business Investment Act.

“(17) The term long term, when used in connection with equity capital or loan funds invested in any small business concern or smaller enterprise, means any period of time not less than 1 year.” The language changes the definition of a long term investment to harmonize it with the tax and banking laws.

*Section 3. Subsidy Fees*

This provision amends sections 303(b) and 303(g)(2) of the Small Business Investment Act to allow the Administration to adjust the fee assessed on debentures and participating securities up to a maximum of one percent. The fee will be adjusted to keep the subsidy cost of the programs at zero or as close as possible to zero.

*Section 4. Distributions*

This section amends section 303(g)(8) of the Small Business Investment Act in order to allow SBICs to make distributions at any time during a calendar quarter based on the maximum estimated tax liability.

*Section 5. Conforming Amendments*

H.R. 3845 streamlines the successful Small Business Investment Company (SBIC) program. The SBIC program allows private companies with SBA approval to provide venture and start up financing to small businesses.

First, the bill modifies the definition of control for SBIC investment in small business, eliminating a cumbersome five prong test and setting a clear statutory standard. H.R. 3845 was also modify the definition of long term investment under the Act, changing it from five years to one year, in order to harmonize that definition with accepted business practice and the tax and banking laws. Third, the bill allows the Administration to adjust the subsidy fee for the SBIC program to maintain the subsidy rate of the program at zero. Finally, the bill makes a change to the distribution language in the Investment Act, allowing the SBICs more flexibility in making distributions to their investors and will simplify the accounting and tax procedures at SBICs.

5.19 H.R. 4464—BUSINESSLINC ACT OF 2000, PUBLIC LAW NO.  
106-554

LEGISLATIVE HISTORY

Date	Action
<b>H.R. 4464:</b>	
May 16, 2000 .....	Referred to the House Committee on Small Business.
May 25, 2000 .....	Committee Consideration and Mark-up Session Held.
May 25, 2000 .....	Ordered to be Reported in the Nature of a Substitute (Amended) by Voice Vote.
July 25, 2000 .....	Reported (Amended) by the Committee on Small Business H. Rept. 106-784
July 25, 2000 .....	Placed on the Union Calendar, Calendar No. 451.
October 25, 2000 .....	Included in H.R. 5545.
<b>H.R. 5545:</b>	
October 25, 2000 .....	Referred to the House Committee on Small Business. (Several bids are engrossed by reference in the H.R. 2614 conference report: H. Rept. 106-1004. This includes H.R. 5538, the Minimum Wage Act of 2000; H.R. 5542, the Taxpayer Relief Act of 2000; H.R. 5543, the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000; H.R. 5544, the Pain Relief Promotion Act of 2000; and H.R. 5545, the Small Business Reauthorization Act of 2000. The bill texts are included in the conference report).
<b>H.R. 2614:</b>	
October 26, 2000 .....	Conference report H. Rept. 106-1004 filed. (text of conference report: CR 10/25/00 H10909-11188).
October 26, 2000 .....	Rules Committee Resolution H. Res. 652 Reported to House. Rule provides for consideration of the conference report to H.R. 2614 with 1 hour of general debate. Previous question shall be considered as ordered without intervening motions except motion to recommit with or without instructions. Waives points of order against the conference report and against its consideration.
October 26, 2000 .....	Conferees agreed to file conference report.
October 26, 2000 .....	Conference papers: Senate report and manager's statement held at the desk in Senate.
October 26, 2000 .....	Rule H. Res. 652 passed House.
October 26, 2000 .....	Mr. Talent brought up conference report H. Rept. 106-1004 for consideration under the provisions of H. Res. 652.
October 26, 2000 .....	The previous question was ordered without objection.
October 26, 2000 .....	On agreeing to the conference report Agreed to by the Yeas and Nays: 237-174, 1 Present (Roll no. 560). (consideration: CR H11243-11264).
October 26, 2000 .....	Motions to reconsider laid on the table Agreed to without objection.
October 26, 2000 .....	Motion to proceed to consideration of measure agreed to in Senate by Yea-Nay Vote. 55-40. Record Vote Number: 286. (consideration: CR S11097-11098).
October 26, 2000 .....	Motion to proceed to consideration of conference report to accompany H.R. 2614 agreed to by Unanimous Consent.
October 26, 2000 .....	Conference report considered in Senate by motion. (consideration: CR S11098-11100, S11104, S11107-11111).
October 31, 2000 .....	Motion to proceed to consideration of conference report to accompany H.R. 2614 agreed to by Unanimous Consent.



## LEGISLATIVE HISTORY—CONTINUED

Date	Action
October 31, 2000 .....	Conference report considered in Senate by motion. (The H.R. 2614 conference report [H. Rept. 106–1004] incorporated several bills. This included H.R. 5538—Minimum Wage; H.R. 5542—Taxpayer Relief; H.R. 5543—Medicare, Medicaid, and SCHIP Benefits Improvement and Protection; H.R. 5544—Pain Relief Promotion; and H.R. 5545—Small Business Reauthorization. H.R. 5661 is a subsequent Medicare, Medicaid and SCHIP Benefits Improvement and Protection bill. H.R. 5667 is a subsequent Small Business Reauthorization bill. H.R. 4577, Consolidated Appropriations Act 2001, incorporates by reference the provisions of H.R. 5661, H.R. 5667, and other bills. The text of these bills is printed in the H.R. 4577 conference report: H. Rept. 106–1033 (text of conference report: CR 12/15/2000 H12100–12439).)
<b>H.R. 5667:</b>	
December 15, 2000 .....	Referred to the House Committee on Small Business.
December 15, 2000 .....	Enacted by reference in H.R. 4577 (H. Rept. 106–1033).
<b>H.R. 4577:</b>	
December 15, 2000 .....	Conference report H. Rept. 106–1033 filed.
December 15, 2000 .....	Mr. Young (FL) brought up conference report H. Rept. 106–1033 by previously agreed to special order.
December 15, 2000 .....	The previous question was ordered without objection.
December 15, 2000 .....	On agreeing to the conference report Agreed to by the Yeas and Nays: 292–60 (Roll no. 603).
December 15, 2000 .....	Motions to reconsider laid on the table Agreed to without objection.
December 15, 2000 .....	Senate agreed to conference report by Unanimous Consent.
December 15, 2000 .....	Message on Senate action sent to the House.
December 15, 2000 .....	Cleared for White House.
December 15, 2000 .....	Presented to President.
December 21, 2000 .....	Signed by President. (H.R. 4577, Consolidated Appropriations Act 2001, incorporates the provisions of several bills by reference. This includes H.R. 5656—Labor HHS Education Appropriations; H.R. 5657—Legislative Branch Appropriations; H.R. 5658—Treasury Appropriations; H.R. 5666—Miscellaneous Appropriations—except section 123 relating to the enactment of H.R. 4904; H.R. 5660—Commodity Futures Modernization; H.R. 5661—Medicare, Medicaid and SCHIP Benefits Improvement and Protection; H.R. 5662—Community Renewal Tax Relief and Medical Savings Accounts; H.R. 5663—New Markets Venture Capital Program; and H.R. 5667—Small Business Reauthorization. The text of these bills is printed in the H.R. 4577 conference report: H. Rept. 106–1033 [text of conference report: CR 12/15/2000 H12100–12439].)

## NEED FOR LEGISLATION

Despite the unprecedented economic prosperity we are experiencing in this country, there are several areas of the country that have still not achieved parity. These areas are primarily inner cities, rural areas, and Native American communities. BusinessLINC will enable business opportunities for small businesses who would otherwise have no access to outside larger markets. While these small businesses have strong potential, they are located in communities where corporate America would not necessarily look. BusinessLINC will break that barrier. When the BusinessLINC model has been applied in the past, small businesses have seen growth as much as 45 percent. With this assistance, the local community will be charting its own path to recovery. The “LINC” in BusinessLINC stands for “Learning, Information, Networking, and Collaboration.”

## SECTION-BY-SECTION ANALYSIS

*Section 1. Short Title*

Designates the bill as the “BusinessLINC Act of 2000.”

*Section 2. Authorization*

This Section amends the Small Business Act by Adding a new paragraph (m), “BusinessLINC grants and cooperative agreements.”

Paragraph (1) allows the Administrator to make grants or enter into cooperative agreements with any coalition/combination of private and/or public entities to (a) promote business-to-business relationships between large and small businesses and (b) to provide on-line information and a database of companies that are interested in mentor-protege programs.

Paragraph (2) specifies that the Administrator may make grants as long as the coalition/combination of public and/or private entities provides an amount, either in kind or in cash, equal to the grant amount for the purposes delineated in paragraph (1) above.

Paragraph (3) specifies the authorization for the program for fiscal years 2001 through 2003. This amount shall be \$6,600,000 for each of the three fiscal years.

5.20 H.R. 4530—NEW MARKETS VENTURE CAPITAL PROGRAM ACT OF 2000, PUBLIC LAW NO. 106–554

## LEGISLATIVE HISTORY

Date	Action
<b>H.R. 4530:</b>	
May 24, 2000 .....	Referred to the House Committee on Small Business.
May 25, 2000 .....	Committee Consideration and Mark-up Session Held.
May 25, 2000 .....	Ordered to be Reported by Voice Vote.
July 25, 2000 .....	Reported by the Committee on Small Business. H. Rept. 106–785.
July 25, 2000 .....	Placed on the Union Calendar, Calendar No. 452.
October 25, 2000 .....	Included in H.R. 5545.
<b>H.R. 5545:</b>	
October 25, 2000 .....	Referred to the House Committee on Small Business. (Several bills are engrossed by reference in the H.R. 2614 conference report: H. Rept. 106–1004. This includes H.R. 5538, the Minimum Wage Act of 2000; H.R. 5542, the Taxpayer Relief Act of 2000; H.R. 5543, the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000; H.R. 5544, the Pain Relief Promotion Act of 2000; and H.R. 5545, the Small Business Reauthorization Act of 2000. The bill texts are included in the conference report).
<b>H.R. 2614:</b>	
October 26, 2000 .....	Conference report H. Rept. 106–1004 filed. (text of conference report: CR October 25, 2000 H10909–11188)
October 26, 2000 .....	Rules Committee Resolution H. Res 652 Reported to House. Rule provides for consideration of the conference report to H.R. 2614 with 1 hour of general debate. Previous question shall be considered as ordered without intervening motions except motion to recommit with or without instructions. Waives points of order against the conference report and against its consideration.
October 26, 2000 .....	Conferees agreed to file conference report.
October 26, 2000 .....	Conference papers: Senate report and manager’s statement held at the desk in Senate.
October 26, 2000 .....	Rule H. Res. 652 passed House.
October 26, 2000 .....	Mr. Talent brought up conference report H. Rept. 106–1004 for consideration under the provisions of H. Res. 652.

## LEGISLATIVE HISTORY—CONTINUED

Date	Action
October 26, 2000 .....	The previous question was ordered without objection.
October 26, 2000 .....	On agreeing to the conference report Agreed to by the Yeas and Nays: 237–174, 1 Present (Roll no 560). (consideration: CR H11243–11264).
October 26, 2000 .....	Motions to reconsider laid on the table Agreed to without objection.
October 26, 2000 .....	Motion to proceed to consideration of measure agreed to in Senate by Yea-Nay Vote. 55–40. Record Vote Number: 286. (consideration: CR S11097–11098).
October 26, 2000 .....	Motion to proceed to consideration of conference report to accompany H.R. 2614 agreed to by Unanimous Consent.
October 26, 2000 .....	Conference report considered in Senate by motion. (consideration: CR S11098–11100, S11104, S11107–11111)
October 31, 2000 .....	Motion to proceed to consideration of conference report to accompany H.R. 2614 agree to by Unanimous Consent.
October 31, 2000 .....	Conference report considered in Senate by motion. (The H.R. 2614 conference report [H. Rept. 106–1004] incorporated several bills. This included H.R. 5538—Minimum Wage; H.R. 5542—Taxpayer Relief; H.R. 5543—Medicare, Medicaid, and SCHIP Benefits Improvement and Protection; H.R. 5344—Pain Relief Promotion; and H.R. 5545—Small Business Reauthorization. H.R. 5661 is a subsequent Medicare, Medicaid and SCHIP Benefits Improvement and Protection bill. H.R. 5667 is a subsequent Small Business Reauthorization bill. H.R. 4577, Consolidated Appropriations Act 2001, incorporates by reference the provisions of H.R. 5661, H.R. 5667, and other bills. The text of these bills is printed in the H.R. 4577 conference report: H. Rept. 106–1033 [text of conference report: CR December 15, 2000 H12100–12439].).
<b>H.R. 5667:</b>	
December 15, 2000 .....	Referred to the House Committee on Small Business.
December 15, 2000 .....	Enacted by reference in H.R. 4577 (H. Rept. 106–1033).
<b>H.R. 4577:</b>	
December 15, 2000 .....	Conference report H. Rept. 106–1033 filed.
December 15, 2000 .....	Mr. Young (FL) brought up conference report H. Rept. 106–1033 by previously agreed to special order.
December 15, 2000 .....	The previous question was ordered without objection.
December 15, 2000 .....	On agreeing to the conference report Agreed to by the Yeas and Nays: 292–60 (Roll no. 603).
December 15, 2000: .....	Motions to reconsider laid on the table Agreed to without objection.
December 15, 2000 .....	Senate agreed to conference report by Unanimous Consent.
December 15, 2000 .....	Message on Senate action sent to the House.
December 15, 2000 .....	Cleared for White House.
December 15, 2000 .....	Presented to President.
December 21, 2000 .....	Signed by President as Pub. L. No. 106–554 (H.R. 4577, Consolidated Appropriations Act 2001, incorporates the provisions of several bills by reference. This includes H.R. 5656—Labor HHS Education Appropriations; H.R. 5657—Legislative Branch Appropriations; H.R. 5658—Treasury Appropriations; H.R. 5666—Miscellaneous Appropriations—except section 123 relating to the enactment of H.R. 4904; H.R. 5660—Commodity Futures Modernization; H.R. 5661—Medicare, Medicaid and SCHIP Benefits Improvement and Protection; H.R. 5662—Community Renewal Tax Relief and Medical Savings Accounts; H.R. 5663—New Markets Venture Capital Program (incorporating the provisions of H.R. 4530); and H.R. 5667—Small Business Reauthorization. The text of these bills is printed in the H.R. 4577 conference report: H. Rept. 106–1033 [text of conference report: CR December 15, 2000 H12100–12439].)

## NEED FOR LEGISLATION

The purpose of H.R. 4530 the “New Markets Venture Capital Program Act of 2000,” is to promote economic development, wealth and job opportunities in low income (LI) areas by encouraging venture capital investments and offering technical assistance to small enterprises. The central goal of the legislation is to fulfill the unmet equity investment needs of small enterprises primarily located in LI areas.

The bill creates a development venture capital program by amending the Small Business Investment Act to authorize the U.S. Small Business Administration (SBA) to enter into participation agreements with 10 to 20 New Markets Venture Capital (NMVC) companies in a public/private partnership. It further authorizes SBA to guarantee debentures of NMVC companies to enable them to make venture capital investments in smaller enterprises in LI areas. And it authorizes SBA to make grants to NMVC companies, and to other entities, for the purpose of providing technical assistance to smaller enterprises that are financed, or expected to be financed, by such companies.

The Act will also enhance the ability of existing Small Business Investment Companies (SBICs) to invest in LI areas. It allows them to have access to the leverage capital authorized under the program, without entering into a participation agreement with SBA to act as an NMVC company. H.R. 4530 also enhances the ability of existing Specialized Small Business Investment Companies (SSBICs) to invest in LI areas. It allows them to have access to the operational assistance grant funds authorized under the program, also without entering into a participation agreement with SBA to act as an NMVC company.

## SECTION-BY-SECTION ANALYSIS

*Section 1. Short Title*

Designates the bill as the “New Markets Venture Capital Program Act of 2000.”

*Section 2. New Markets Venture Capital Program*

This Section amends Title III of the Small Business Investment Act of 1958 by adding new Sections 351 through 368 to establish the “New Markets Venture Capital Program.”

H.R. 5545 will add the following new sections to the Small Business Investment Act:

*Section 351. Definitions*

Establishes definitions for developmental venture capital, New Markets Venture Capital Companies, low- or moderate-income geographic area, operational assistance, participation agreement, and Specialized Small Business Investment Companies as used in the legislation.

“Developmental venture capital” is defined as equity capital investment in small businesses, with a primary objective of fostering economic development in low income geographic areas. For the purposes of this Act, the Committee considers equity capital investments to mean stock of any class in a corporation, stock options,

warrants, limited partnership interests, membership interests in a limited liability company, joint venture interests, or subordinated debt with equity features if such debt provides only for interest payments contingent upon earnings. Such investments must not require amortization. They may be guaranteed; but neither the Equity capital investment nor the guaranteed may be secured.

A "New Markets Venture Capital Company" is defined as a company that has been approved by the Administration to operate under the New Markets Venture Capital Program, and has entered into a participation agreement with the Administration to make equity investments and provide technical assistance to small enterprises located in low- or moderate-income areas.

The term "low income geographic area" means a census tract, or the equivalent county division as defined by the Bureau of the Census for purpose of defining poverty areas, in which the poverty rate is not less than 20 percent. In those areas in a metropolitan area 50 percent or more of the households must have an income equal to less than 60 percent of the median income for the area. In rural areas the median household income for a tract must not exceed 80 percent of the statewide median household income. This definition also includes any area located within a HUBZone, an Urban Empowerment Zone or an Urban Enterprise Community, or a Rural Empowerment Zone or a Rural Enterprise Community.

The term "low income individual" is included for the purpose of allowing waivers of the low income area requirement for areas of significant economic disadvantage that may not otherwise qualify. A low income individual is defined as someone whose income does not exceed 80 percent of the area median income in metropolitan areas, or 80 percent of either the area or statewide median income in rural areas.

The term "operational assistance" is defined as management, marketing, and other technical assistance that assists a small business concern with business development.

"Participation agreement" is defined as an agreement between the Administration and an NMVC Company detailing the company's operating plan and investment criteria; and requiring that investments be made in smaller enterprises at least 80 percent of which are located in low income geographic areas.

"Specialized Small Business Investment Company" means any small business investment company that was licensed under section 301(d) as in effect before September 30, 1996.

#### *Section 352. Purposes*

Describes the purposes of the Act, which are:

- (1) to promote economic development and the creation of wealth and job opportunities in low- or moderate-income geographic areas and among individuals living in such areas by encouraging developmental venture capital investments in smaller enterprises primarily located in such areas; and
- (2) to establish a developmental venture capital program, with the mission of addressing the unmet equity investment needs of small entrepreneurs located in low- or moderate-income areas; to be administered by the Small Business Administration; to enter into a participation agreement with NMVC

companies; to guarantee debentures of NMVC companies to enable each such company to make developmental venture capital investments in smaller enterprises in low- or moderate-income geographic areas; and to make grants to NMVC companies for the purpose of providing operational assistance to smaller enterprises financed, or expected to be financed, by such companies.

*Section 353. Establishment*

Authorizes the SBA to establish the NMVC Program, under which the SBA may form New Markets Venture Capital companies by entering into participation agreements with firms that are granted final approval under the requirements set forth in Section 354 and formed for the purposes outlined in Section 352.

This Section also authorizes SBA to guarantee the debentures issued by the NMVC Companies as provided in Section 355; and to make operational assistance grants to NMVC Companies and other entities in accordance with Section 358.

*Section 354. Selection of the New Markets Venture Capital Companies*

Establishes the criteria to be followed by SBA in selecting the NMVC Companies. This section provides for specific selection criteria to be developed by the SBA—based on the criteria enumerated in this legislation—and designed to ensure that a variety of investment models are chosen and that appropriate public policy goals are addressed. Geographic dispersion must also be taken into account in the selection process.

H.R. 5455 requires Program participants to satisfy the following application requirements:

(1) Each NMVC must be a newly formed, for-profit entity with at least \$5 million of contributed capital or binding capital commitments from non-Federal investors, and with the primary objective of economic development in low- or moderate-income geographic areas.

(2) Each NMVC's management team must be experienced in some form of community development or venture capital financing.

(3) Each NMVC must concentrate its activities on serving its investment areas, and submit a proposal that will expand economic opportunities and address and the unmet capital needs within the investment areas.

(4) Each applicant must submit a strong proposal to provide operational assistance, including the possible use of outside, licensed professionals.

(5) Each NMVC must have binding commitments (in cash or in-kind) for operational assistance and overhead, payable or available over a multi-year period not to exceed 10 years, in an amount equal to 30% of its committed and contributed capital. These commitments may be from any non-SBA source and the cash portion may be invested in an annuity payable semi-annually over a multi-year period not to exceed 10 years.

The Committee is well aware that it will be difficult for some NMVCs to raise their entire operational assistance match during

the application stage. Those NMVCs that are unable to raise the required match, but have submitted a reasonable plan to the Administrator to meet the requirement, may be granted a conditional approval from the Administrator and be allowed to draw one dollar of federal matching funds for every dollar of private funds raised provided that (for the purpose of final approval) they raise at least 20 percent of the required matching funds, and have at least 20 percent of the match on hand when applying for additional grant funds.

The Committee believes that it is important to give NMVCs the flexibility to obtain the required private operational assistance funds, however, from a safety and soundness standpoint, federal assistance funds should not be placed at greater risk than private assistance funds.

This conditional approval shall be made with the expectation that the required capital funding commitments will be obtained within two years of the conditional approval.

The bill also authorizes SBA to select firms that have experience with investing in enterprises located in low income areas to participate as NMVCs. SBA will enter into an agreement with each NMVC setting forth the specific terms of that firm's participation in the program. Each agreement will be tailored to the particular NMVC's operations and will be based on the NMVC's own proposal, submitted as part of the NMVC's application form. The agreement will require that investments be made by the NMVC in smaller enterprises, at least 80% of which are located in low income geographic areas.

In order for an investment to be counted toward the 80% goal under H.R. 5545, the investment must be made in a small business concern located in an LI area. This ensures that the New Markets Venture Capital Company Program will focus investment capital where it is most needed, rather than duplicating existing SBA programs.

#### *Section 359. Bank Participation*

Allows any national bank, and any member bank of the Federal Reserve System to invest in an NMVC company formed under this legislation so long as the investment would not exceed 5 percent of the capital and surplus of the bank.

Banks that are not members of the federal Reserve system are allowed to invest in an NMVC company formed under this legislation so long as such investment is allowed under applicable State law, and so long as the investment would not exceed 5 percent of the capital and surplus of the bank.

#### *Section 360. Federal Financing Bank*

Establishes that Section 318 of the Small Business Investment Act does not apply to any NMVC Company created under this legislation.

#### *Section 361. Reporting Requirements*

Establishes reporting requirements for the NMVC Companies. Specifically, the NMVC companies are required to provide to SBA such information as the Administration requires, including: infor-

mation related to the measurement criteria that the NMVC proposed in its program application; and, for each case in which the NMVC makes an investment or a grant to a business located outside of an LMI area, a report on the number and percentage of employees of the business who reside in an LMI area.

*Section 362. Examinations*

Requires that each NMVC company shall be subjected to examinations made at the direction of the Investment Division of SBA. This section allows for examinations to be conducted with the assistance of a private sector entity that has both the necessary qualifications and expertise.

It is the intent of the Committee that the oversight of the NMVC program be modeled after that developed for the SBIC program and administered by SBA's Investment Division. Oversight should include a close working relationship between SBA analysts and NMVC management teams, detailed reporting requirements, frequent on-site examinations to evaluate performance and conformance with the operating plan, and careful analysis of the firm's economic impact.

*Section 363. Injunctions and Other Orders*

Grants SBA the power of injunction over NMVC companies and the authority to act as a trustee or receiver of a company if appointed by a court.

This section of the legislation closely tracks the existing injunction provision (Section 311) of the Small Business Investment Act of 1958. Again, it is the Committee's intent that oversight of the NMVC program be modeled after that developed for the SBIC program and administered by SBA's Investment Divisions. This oversight should include a close working relationship between SBA analysts and NMVC management teams, detailed reporting requirements, frequent on-site examinations to evaluate performance and conformance with the operating plan, and careful analysis of the firm's economic impact.

*Section 364. Additional Penalties for Noncompliance*

Grants SBA or the Attorney General the authority to file a cause of action against an NMVC company for non-compliance. Should a court find that a company violated or failed to comply with provisions of this legislation or other provisions of the Small Business Investment Act of 1958, this section grants SBA the authority to void the participation agreement between the company and the SBA.

*Section 365. Unlawful Acts and Omissions; Breach of Fiduciary Duty*

Defines what is to be considered as a violation of this legislation, who is considered to have a fiduciary duty, and who is ineligible to serve as an officer, director, or employee of any NMVC company because of unlawful acts.

This section of the legislation closely tracks the unlawful acts provision (Section 314) of the Small Business Investment Act of 1958. It is the Committee's intent to grant SBA the same authority



over NMVC companies that it has over Small Business Investment Companies with respect to unlawful acts and the breach of fiduciary responsibility.

*Section 366. Removal or Suspension of Directors or Officers*

Grants SBA the authority to use the procedures set forth in Section 313 of the Small Business Investment Act of 1958 to remove or suspend any director or officer of an NMVC company.

*Section 367. Regulations*

Authorizes the Small Business Administration to issue such regulations as it deems necessary to carry out the provisions of the legislation.

*Section 368. Authorization of Appropriations*

Authorizes appropriations for the Program for Fiscal Years 2001 through 2006. This section authorizes such subsidy budget authority as necessary to guarantee \$150,000,000 of debentures and \$30,000,000 to make operational assistance grants.

The Committee estimates that the Program will only require a one-time appropriation of \$45 million—\$15 million for loan guarantees and \$30 million for operational assistance grants. This \$15 million will allow SBA to back \$150 million in loans to small business in low- or moderate-income areas.

*Section 368(c). Conforming Amendment*

Makes a conforming change to the Small Business Investment Act of 1958 to account for the changes made by this legislation.

*Section 368(d). Calculation of Maximum Amount of SBIC Leverage*

Allows Small Business Investment Companies (“SBICs”) to obtain additional access to leverage outside the statutory caps. The exemption of the SBICs, however, is limited only to investments they make in LMI areas.

This section provides that investments made in LI areas will not apply against the leverage cap of the individual SBIC as long as the total amount invested through the program does not exceed 50% of the SBIC’s paid-in-capital.

*Section 368(e). Bankruptcy Exemption for New Markets Venture Capital Companies*

Adds NMVC companies to the list of entities that may not be considered a debtor under a Title 11 bankruptcy proceeding.

*Section 368(f). Federal Savings Associations*

Amends the “Home Owners Loan Act” to allow federal savings associations to invest in an NMVC company formed under this legislation so long as the investment would not exceed 5 percent of the capital and surplus of the savings association.

## 5.21 H.R. 4890—THE SMALL BUSINESS CONTRACT EQUITY ACT OF 2000

## LEGISLATIVE HISTORY

Date	Action
<b>H.R. 4890:</b>	
July 19, 2000 .....	Referred to the Committee on Small Business, and in addition to the Committee on Government Reform, 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.
July 19, 2000 .....	Referred to House Small Business.
July 27, 2000 .....	Committee Consideration and Mark-up Session Held.
July 27, 2000 .....	Ordered to be Reported by Voice Vote.
July 19, 2000 .....	Referred to House Government Reform.
July 21, 2000 .....	Referred to the Subcommittee on Government Management, Information and Technology.

The Small Business Reauthorization Act of 1997 requires federal agencies wishing to consolidate two or more procurement requirements in a bundled contract to analyze whether the savings from the bundle will be substantial and measurable. The Small Business Administration developed regulations to implement this requirement. Despite these efforts, contract bundling continues unabated and it remains unclear whether the government actually is achieving measurable savings or other benefits from the bundling of contracts. For example, testimony before the Committee raised serious concerns whether the Marine Corps regional cook and chill contract for food service constitutes an improvement over the existing base-by-base food service arrangements.

The Small Business Reauthorization Act of 1997 was a start but did not provide sufficient teeth to prevent procuring agencies from bundling contracts unwisely. The Small Business Contract Equity Act of 2000 is an effort to provide the Small Business Administration with the teeth necessary to stop unwarranted contract bundling. The SBA will be given the authority to approve the bundling analyses that the procuring agency must perform pursuant to the Small Business Reauthorization Act of 1997. If the SBA finds the study to be inadequate, the agency is not permitted to issue the solicitation until it has obtained the approval of the Administrator. The bill further provides that the Administrator may not approve any agency study for any bundled contract for one fiscal year if the procuring agency has not met one or more of the small business prime contract utilization goals set forth in section 15(g)(2) of the Small Business Act (20% for small businesses, 5% for socially and economically disadvantaged businesses, and 5% for women-owned businesses).

## 5.22 H.R. 4897—EQUITY IN CONTRACTING FOR WOMEN ACT OF 2000, PUBLIC LAW NO. 106-554

## LEGISLATIVE HISTORY

Date	Action
<b>H.R. 4897:</b>	
July 19, 2000 .....	Referred to the House Committee on Small Business.
July 27, 2000 .....	Committee Consideration and Mark-up Session Held.

## LEGISLATIVE HISTORY—CONTINUED

Date	Action
July 27, 2000 .....	Ordered to be Reported by Voice Vote.
September 21, 2000 .....	Reported by the Committee on Small Business. H. Rept. 106–879.
September 21, 2000 .....	Placed on the Union Calendar, Calendar No. 530.
October 25, 2000 .....	Included in H.R. 5545.
<b>H.R. 5545:</b>	
October 25, 2000 .....	Referred to the House Committee on Small Business. (Several bills are engrossed by reference in the H.R. 2614 conference report: H.REPT. 106–1004. This includes H.R. 5538, the Minimum Wage Act of 2000; H.R. 5542, the Taxpayer Relief Act of 2000; H.R. 5543, the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000; H.R. 5544, the Pain Relief Promotion Act of 2000; and H.R. 5545, the Small Business Reauthorization Act of 2000. The bill texts are included in the conference report.).
<b>H.R. 2614:</b>	
October 26, 2000 .....	Conference report H. Rept. 106–1004 filed. (text of conference report: CR 10/25/2000 H10909–11188) Rules Committee Resolution H. Res. 652 Reported to House. Rule provides for consideration of the conference report to H.R. 2614 with 1 hour of general debate. Previous question shall be considered as ordered without intervening motions except motion to recommit with or without instructions. Waives points of order against the conference report and against its consideration.
October 26, 2000 .....	Conferees agreed to file conference report.
October 26, 2000 .....	Conference papers: Senate report and manager's statement held at the desk in Senate.
October 26, 2000 .....	Rule H. Res. 652 passed House.
October 26, 2000 .....	Mr. Talent brought up conference report H. Rept. 106–1004 for consideration under the provisions of H. Res. 652.
October 26, 2000 .....	The previous question was ordered without objection.
October 26, 2000 .....	On agreeing to the conference report Agreed to by the Yeas and Nays: 237–174, 1 Present (Roll no. 560). (consideration: CR H11243–11264).
October 26, 2000 .....	Motions to reconsider laid on the table Agreed to without objection.
October 26, 2000 .....	Motion to proceed to consideration of measure agreed to in Senate by Yea-Nay Vote. 55–40. Record Vote Number: 286. (consideration: CR S11097–11098).
October 26, 2000 .....	Motion to proceed to consideration of conference report to accompany H.R. 2614 agreed to by Unanimous Consent.
October 26, 2000 .....	Conference report considered in Senate by motion. (consideration: CR S11098–11100, S11104, S11107–11111).
October 31, 2000 .....	Motion to proceed to consideration of conference report to accompany H.R. 2614 agreed to by Unanimous Consent.
October 31, 2000 .....	Conference report considered in Senate by motion. [The H.R. 2614 conference report (H. Rept. 106–1004) incorporated several bills. This included H.R. 5538—Minimum Wage; H.R. 5542—Taxpayer Relief; H.R. 5543—Medicare, Medicaid, and SCHIP Benefits Improvement and Protection; H.R. 5544—Pain Relief Promotion; and H.R. 5545—Small Business Reauthorization. H.R. 5661 is a subsequent Medicare, Medicaid and SCHIP Benefits Improvement and Protection bill. H.R. 5667 is a subsequent Small Business Reauthorization bill. H.R. 4577, Consolidated Appropriations Act 2001, incorporates by reference the provisions of H.R. 5661, H.R. 5667, and other bills. The text of these bills is printed in the H.R. 4577 conference report: H. Rept. 106–1033 [text of conference report: CR 12/15/2000 H12100–12439].]
<b>H.R. 5667:</b>	
December 15, 2000 .....	Referred to the House Committee on Small Business incorporating the provisions of H.R. 4897.
December 15, 2000 .....	Enacted by reference in H.R. 4577 (H. Conf. Rept. 106–1033).
<b>H.R. 4577:</b>	
December 15, 2000 .....	Conference report H. Rept. 106–1033 filed.

## LEGISLATIVE HISTORY—CONTINUED

Date	Action
December 15, 2000 .....	Mr. Young (FL) brought up conference report H. Rept. 106–1033 by previously agreed to special order.
December 15, 2000 .....	The previous question was ordered without objection.
December 15, 2000 .....	On agreeing to the conference report Agreed to by the Yeas and Nays: 292–60 (Roll no. 603).
December 15, 2000 .....	Motions to reconsider laid on the table Agreed to without objection.
December 15, 2000 .....	Senate agreed to conference report by Unanimous Consent.
December 15, 2000 .....	Message on Senate action sent to the House.
December 15, 2000 .....	Cleared for White House.
December 15, 2000 .....	Present to President.
December 21, 2000 .....	Signed by President. (H.R. 4577, Consolidated Appropriations Act 2001, incorporates the provisions of several bills by reference. This includes H.R. 5656—Labor HHS Education Appropriations; H.R. 5657—Legislative Branch Appropriations; H.R. 5658—Treasury Appropriations; H.R. 5666—Miscellaneous Appropriations—except section 123 relating to the enactment of H.R. 4904; H.R. 5660—Commodity Futures Modernization; H.R. 5661—Medicare, Medicaid and SCHIP Benefits Improvement and Protection; H.R. 5662—Community Renewal Tax Relief and Medical Savings Accounts; H.R. 5663—New Markets Venture Capital Program; and H.R. 5667—Small Business Reauthorization. The text of these bills is printed in the H.R. 4577 conference report: H Rept. 106–1033 [text of conference report: CR 12/15/2000 H12100–12439].)

## NEED FOR LEGISLATION

There are approximately nine million women-owned businesses according to the statistics of the United States Small Business Administration. Women-owned businesses employ over 27 million people and are a vital element in the unprecedented growth and productivity of the American economy. Nearly half of the business owned by women provide goods and services to the federal government according to the National Foundation for Women Business Owners.

From 1997 to 1999, the number of federal government contracts awarded to women decreased by more than 38 percent. So while the private sector was increasing the use of women-owned small businesses, the federal government utilization was decreasing.

Congress recognized the valuable contribution of women-owned businesses when it established a five percent procurement goal in the Federal Acquisition Streamling Act of 1994 ('FASA'). However, data from the Federal Procurement Data System shows that the highest utilization of women-owned businesses was 2.47 percent in 1999—not even half of the statutory goal. The Committee finds that this simply is unacceptable.

The Committee has heard testimony concerning the reasons for the failure of the federal government to achieve the five percent goal. Contract bundling, or the consolidation of smaller contract requirements into larger contracts, makes it difficult for women-owned small businesses to file responsive bids to bundled solicitations. The federal government also is increasing the use of the Federal Supply Schedule which increases the efficiency for purchasing commercial off-the-shelf items. However, only 30 percent of the contractors on Federal Supply Schedules are small businesses and an

even smaller amount are women-owned small businesses. Nothing in the Federal Supply Schedule contracting process mandates that a contracting officer select specific contractors for an award. Thus, being on the Federal Supply Schedule does not guarantee that the contractor will be used for the purchase of goods and services. The Federal Supply Schedule, while increasing the efficiency of government procurements for commercially available items, also may perpetuate the use of well-known firms that are not women-owned businesses.

As the Committee has seen on numerous occasions, the drive for efficiency in procurement often places Congressionally-mandated contracting goals for small businesses in general, and women-owned businesses in particular, in jeopardy. Current procurement practices enable contracting officers to reserve competition among small businesses for contracts in value between \$2,500 and \$100,000 if the contracting officer finds that there will be at least two responsible small businesses to bid on the contract. The Committee believes that a similar mechanism should be established for women-owned small businesses in historically underrepresented industries. This would help contracting officers meet the procurement goal for women established in FASA while still ensuring that government receives the benefits of competitive bidding for goods and services.

The Committee believes that this action is necessary even though the President issued Executive Order 13,157 on May 23, 2000 affirming the Administration's goal of increasing opportunities for women-owned small business. The Executive order provides a mechanism by which the Small Business Administration and the Office of Federal Procurement Policy within the Office of Management and Budget can monitor and measure compliance with the women-owned procurement goal in FASA. The Executive Order also would authorize the collection and dissemination of best practices among agencies for achieving the procurement goal established in FASA. However, the Executive order does not provide any tool by which contracting officers can identify and utilize women-owned small business. The Committee believes that the goals expressed in FASA and reaffirmed in the Executive Order will not be achieved without the use of some mandatory tool which enables contracting officers to identify women-owned small businesses and establish competition among those businesses for the provision of goods and services to the federal government.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short Title*

Designates the bill as the 'Equity in Contracting for Women Act of 2000'.

##### *Section 2. Procurement Program for Women's Small Business Concerns*

This section modifies section 8 of the Small Business Act by adding a new subsection (m) to establish a procurement program for Women's Small Business Concerns.

Paragraph (1) gives the same definition to a “contracting officer” as provided under the Office of Federal Procurement Policy Act.

Paragraph (1) also defines a ‘small business concern owned and controlled by women’ as one that is at least 51 percent owned and controlled by women who are economically disadvantaged. The Committee intends that the Small Business Administration develop standards for the determination of economic disadvantage which are consistent with other Small Business Administration programs designed to assist ‘economically disadvantaged’ small business concerns.

Paragraph (2) authorizes federal agencies to reserve any contract for competition by small business concerns owned and controlled by women if the following criteria are satisfied: (a) the firm is a responsible bidder; (b) the contracting officer expects that two or more small business concerns owned and controlled by women will submit bids on the contract; (c) the contract is for the procurement of goods and services in an industry identified by the Administrator of the Small Business Administration as one in which small business concerns owned and controlled by women are historically underrepresented; (d) if the anticipated award amount of the contract does not exceed \$5,000,000 for a manufacturing business or \$3,000,000 for all other contracts; (e) if the contracting officer can anticipate that the award will be made at reasonable price; and (f) if the concern is certified as a small business concern owned and controlled by women.

The Committee intends that a certification by any federal, state or local governmental entity should satisfy this last criterion as long as the certification tracks the definition of small business concern owned and controlled by women as used in this Act. However, the Committee does not intend for the Administrator to establish a certification program for small business concerns owned and controlled by women.

In addition, the Committee expects that the contracting officers will accept self-certification so long as the documentation provided along with the response to the solicitation enables the contracting officer to determine that the bidder is a small business concern owned and controlled by women as used in this Act. The Committee expects that the Administrator will develop documentation standards that will be utilized by all contracting officers. For purposes of developing standards of documentation, the Committee does not expect that the Administrator should duplicate the documentation requirements for its 8(a) program. Nevertheless, the documentation should be sufficiently demanding so that a contracting officer can pierce the veil of various business enterprises to ensure that the bidder meets the definition set forth in this Act. Thus, the Committee expects that documentation would enable the contracting officer to apply attribution rules set forth in Title 13 of the Code of Federal Regulations to determine whether the bidder is a small business concern owned and controlled by women.

The Committee does not intend that the contracting program established in this Act provide a basis for contracting officers to award contracts on a sole-source basis to small business concerns owned and controlled by women. Rather, the Committee intends that contracting officers utilize the contracting mechanism estab-

lished in this Act to identify small business concerns owned and controlled by women in industries in which they are historically represented as prime contractors and competitively bid those contracts. Ultimately, the Committee expects that the process for identifying these small business concerns owned and controlled by women will lead to greater utilization of small business concerns owned and controlled by women throughout the federal government and not just in contracts designated in this Act.

Paragraph (3) requires that the Administrator conduct a study in order to identify those industries in which small business concerns owned and controlled by women are underrepresented in obtaining federal contracts. The Committee expects the Administrator's study to focus on those industries in which small business concerns owned and controlled by women are underrepresented at the prime contractor level. The study shall evaluate, on an industry-by-industry basis the specific industries and regions of the United States that are underrepresented. In order for the program established in this Act to conform with *Adarand Constructors v. Peña*, 515 U.S. 200 (1995), the Committee expects that the Administrator's study will mirror the 'benchmarking' study performed by the Department of Commerce for small disadvantaged businesses.

Paragraph 4 requires the Administrator to establish procedures for verifying the eligibility of businesses for the program established by this Act. The Committee reiterates its intent that the Act not be used by the Administrator to establish a certification program. Instead, the Committee expects the Administrator to develop regulations which will efficiently and rapidly resolve disputes over eligibility without unduly burdening small businesses.

Paragraph 4 also requires the Administrator to develop regulations by which the Small Business Administration can quickly and in a cost-effective manner verify the accuracy of any certification, such as, but not limited to, the development of lists of other federal, state, and local certifications that it will accept.

Paragraph 4 also authorizes, but does not mandate, the Administrator to provide for periodic examinations of the program including random program examinations in order to determine that respondents to solicitations are businesses eligible under this Act. The Committee expects that such examinations will not be intrusive but will be sufficient to determine that other governmental organizations are providing adequate certifications and that self-certification is not being abused. The Committee does not intend that these periodic or random examinations be transformed into an ongoing certification program.

Paragraph 4 also requires government agencies, including those specified in the Act, to provide information and assistance to the Administrator in order to carry out the purposes of the Act.

Paragraph (4) also makes clear that small business concerns will be subject to penalties beyond those set forth in the Small Business Act should they misrepresent their status under this Act.

5.23 H.R. 4923—COMMUNITY RENEWAL AND NEW MARKETS ACT  
OF 2000, PUBLIC LAW NO. 106–554

LEGISLATIVE HISTORY

Date	Action
<b>H.R. 4923:</b>	
July 24, 2000 .....	Referred to the Committee on Ways and Means, and in addition to the Committees on Banking and Financial Services, Small Business, and Commerce, 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.
July 24, 2000 .....	Referred to House Ways and Means
July 24, 2000 .....	Referred to House Banking and Financial Services.
July 31, 2000 .....	Referred to the Subcommittee on Housing and Community Opportunity.
July 24, 2000 .....	Referred to House Small Business.
July 24, 2000 .....	Referred to House Commerce.
July 25, 2000 .....	Mr. English moved to suspend the rules and pass the bill.
July 25, 2000 .....	Considered under suspension of the rules. (consideration: CR H6797–6841).
July 25, 2000 .....	On motion to suspend the rules and pass the bill Agreed to by the Yeas and Nays: (2/3 required): 394–27 (Roll no. 430). (text: CR H6797–6816).
July 25, 2000 .....	Motion to reconsider laid on the table Agreed to without objection.
July 26, 2000 .....	Received in the Senate.
July 27, 2000 .....	Read the first time. Placed on Senate Legislative Calendar under Read the First Time.
September 5, 2000 .....	Read the second time: Placed on Senate Legislative Calendar under General Orders. Calendar No. 780.
<b>H.R. 5542:</b>	
October 25, 2000 .....	Referred to the Committee on Ways and Means, and in addition to the Committees on Education and the Workforce, Banking and Financial Services, and the Budget, 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.
October 25, 2000 .....	Referred to House Ways and Means.
October 25, 2000 .....	Referred to House Education and the Workforce.
November 14, 2000 .....	Referred to the Subcommittee on Employer-Employee Relations. (Several bills are incorporated in the H.R. 2614 conference report: H.Rept. 106–1004. This includes H.R. 5538, the Minimum Wage Act of 2000; H.R. 5542, the Taxpayer Relief Act of 2000; H.R. 5543, the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000; H.R. 5544, the Pain Relief Promotion Act of 2000; and H.R. 5545, the Small Business Reauthorization Act of 2000. The bill texts are included in the conference report.)
October 25, 2000 .....	Referred to House Banking and Financial Services.
October 25, 2000 .....	Referred to the Subcommittee on Financial Institutions and Consumer Credit.
October 25, 2000 .....	Referred to the Subcommittee on Housing and Community Opportunity.
October 25, 2000 .....	Referred to House Budget.
<b>H.R. 5545:</b>	
October 25, 2000 .....	Referred to the House Committee on Small Business. (Several bills are engrossed by reference in the H.R. 2614 conference report: H. Rept. 106–1004. This includes H.R. 5538, the Minimum Wage Act of 2000; H.R. 5542, the Taxpayer Relief Act of 2000; H.R. 5543, the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000; H.R. 5544, the Pain Relief Promotion Act of 2000; and H.R. 5545, the Small Business Reauthorization Act of 2000. The bill texts are included in the conference report.)



## LEGISLATIVE HISTORY—CONTINUED

Date	Action
<b>H.R. 2614:</b>	
October 26, 2000 .....	Conference report H. Rept. 106–1004 filed. (text of conference report: CR 10/25/2000 H10909–11188).
October 26, 2000 .....	Rules Committee Resolution H. Res. 652 Reported to House. Rule provides for consideration of the conference report to H.R. 2614 with 1 hour of general debate. Previous question shall be considered as ordered without intervening motions except motion to recommit with or without instructions. Waives points of order against the conference report and against its consideration.
October 26, 2000 .....	Conferees agreed to file conference report.
October 26, 2000 .....	Conference papers: Senate report and manager's statement held at the desk in Senate.
October 26, 2000 .....	Rule H. Res. 652 passed House.
October 26, 2000 .....	Mr. Talent brought up conference report H. Rept. 106–1004 for consideration under the provisions of H. Res. 652.
October 26, 2000 .....	The previous question was ordered without objection.
October 26, 2000 .....	On agreeing to the conference report Agreed to by the Yeas and Nays: 237–174, 1 Present (Roll No. 560) (consideration: CR H11243–11264).
October 26, 2000 .....	Motions to reconsider laid on the table Agreed to without objection.
October 26, 2000 .....	Motion to proceed consideration of measure agreed to in Senate by Yea-Nay Vote 55–40. Record Vote Number: 286. (consideration: CR S11097–11098).
October 26, 2000 .....	Motion to proceed to consideration of conference report to accompany H.R. 2614 agreed to by Unanimous Consent.
October 26, 2000 .....	Conference report considered in Senate by motion. (consideration: CR S11098–11100, S11104, S11107–11111).
October 31, 2000 .....	Motion to proceed to consideration of conference report to accompany H.R. 2614 agreed to by Unanimous Consent.
October 31, 2000 .....	Conference report considered in Senate by motion. (The H.R. 2614 conference report [H. Rept. 106–1004] incorporated several bills. This included H.R. 5538—Minimum Wage; H.R. 5542—Taxpayer Relief; H.R. 5543—Medicare, Medicaid, and SCHIP Benefits Improvement and Protection; H.R. 5544—Pain Relief Promotion; and H.R. 5545—Small Business Reauthorization. H.R. 5661 is a subsequent Medicare, Medicaid and SCHIP Benefits Improvement and Protection bill. H.R. 5667 is a subsequent Small Business Reauthorization bill. H.R. 4577, Consolidated Appropriations Act 2001, incorporates by reference the provisions of H.R. 5661, H.R. 5667, and other bills. The text of these bills is printed in the H.R. 4577 conference report: H. Rept. 106–1033 [text of conference report: CR 12/15/2000 H12100–12439].).
<b>H.R. 5662:</b>	
December 14, 2000 .....	Referred to the House Committee on Ways and Means. (Incorporated by reference and text printed in the H.R. 4577 conference report: H. Rept. 106–1033 [text of conference report: CR 12/15/2000 H12100–12439]. H.R. 4577 is the Consolidated Appropriations Act 2001.).
<b>H.R. 4577:</b>	
December 15, 2000 .....	Conference report H. Rept. 106–1033 filed.
December 15, 2000 .....	Mr. Young (FL) brought up conference report H. Rept. 106–1033 by previously agreed to special order.
December 15, 2000 .....	The previous question was ordered without objection.
December 15, 2000 .....	On agreeing to the conference report Agreed to by the Yeas and Nays: 292–60 (Roll No. 603).
December 15, 2000 .....	Motions to reconsider laid on the table Agreed to without objection.
December 15, 2000 .....	Senate agreed to conference report by Unanimous Consent.
December 15, 2000 .....	Message on Senate action sent to the House.
December 15, 2000 .....	Cleared for White House.
December 15, 2000 .....	Presented to President.

## LEGISLATIVE HISTORY—CONTINUED

Date	Action
December 21, 2000 .....	Signed by President as Pub. L. No. 106-554 (H.R. 4577, Consolidation Appropriations Act 2001, incorporates the provisions of several bills by reference. This includes H.R. 5656—Labor HHS Education Appropriations; H.R. 5657—Legislative Branch Appropriations; H.R. 5658—Treasury Appropriations; H.R. 5666—Miscellaneous Appropriations—except section 123 relating to the enactment of H.R. 4904; H.R. 5660—Commodity Futures Modernization; H.R. 5661—Medicare, Medicaid and SCHIP Benefits Improvement and Protection; H.R. 5662—Community Renewal Tax Relief and Medical Savings Accounts; H.R. 5663—New Markets Venture Capital Program; and H.R. 5667—Small Business Reauthorization. The text of these bills is printed in the H.R. 4577 conference report: H. Rept. 106-1033 [text of conference report: CR 12/15/2000 H12100-12439].

To amend the Internal Revenue Code of 1986 to provide tax incentives for the renewal of distressed communities, to provide for 9 additional empowerment zones and increased tax incentives for empowerment zone development, to encourage investments in new markets, and for other purposes.

#### 5.24 H.R. 4943—THE SMALL BUSINESS FEDERAL ACQUISITION SIMPLIFICATION ACT OF 2000

## LEGISLATIVE HISTORY

Date	Action
<b>H.R. 4943:</b>	
July 25, 2000 .....	Referred to the Committee on Small Business, and in addition to the committee on Government Reform, 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.
July 25, 2000 .....	Referred to House Small Business.
July 27, 2000 .....	Committee Consideration and Mark-up Session Held.
July 27, 2000 .....	Ordered to be Reported by Voice Vote.
July 25, 2000 .....	Referred to House Government Reform.
July 31, 2000 .....	Referred to the Subcommittee on Government Management, Information and Technology.

## NEED FOR LEGISLATION

The Committee has held a number of hearings concerning the inability of the Federal government to meet small business contracting objectives and to treat small businesses fairly in the procurement process. In addition, the Committee and its members often hear complaints from small businesses who are subcontractors that they are unable to obtain prompt reimbursement from prime contractors for goods and services provided directly, or indirectly through the prime contractor, to Federal agencies.

The Act would encourage the use of Federal governmentwide commercial purchase cards, instead of the present lengthy paper-based process, in making small purchases up to \$100,000 from small businesses. An annual report on the use of Federal governmentwide commercial purchase cards would be submitted to the Office of Advocacy.

The General Accounting Office is required to perform a one-time audit of the use of Federal governmentwide commercial purchase cards by the ten largest procuring agencies to determine the number and amount of acquisitions from small businesses. The report is to be made to the House and Senate Committees on Small Business.

The Act would improve the subcontracting process for small businesses by mandating that the failure to pay a subcontractor (absent a failure to perform on the part of the subcontractor) constitutes a material breach of the prime contract with the Federal government. Upon the determination of such a breach, the Federal government is authorized to make direct payment to the small business from amounts withheld from the prime contractor.

In addition, the Act would require that prime contractors certify that they will obtain goods and services from subcontractors who are small businesses and who were used in preparing the bid submitted to the Federal government. Finally, the Act mandates that prime contractors announce on the Internet subcontracting opportunities contained in small business subcontracting plans required under 8(d) of the Small Business Act. Previously such opportunities were not widely circulated.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short Title*

Designates the bill as the "Small Business Federal Acquisition Simplification Act of 2000."

##### *Section 2. Procurement Using Government-wide Commercial Purchase Cards*

This section amends the Small Business Act by adding a new subsection (p) pertaining to procurements using government-wide commercial purchase cards. The words "authorized individual," "goods or services," and "government-wide commercial purchase card" are defined.

Goods and services purchased by an authorized individual using a government-wide commercial purchase card shall be from a small business unless no small business concern: (1) provides goods or services of the same kind or a comparable nature; (2) can provide the goods or services within the required time schedule; or (3) can meet the quality standards.

Nothing in the subsection would change or modify the Javits-Wagner-O'Day Act with respect to goods and services acquired from the blind and the several disabled. If goods or services available from a small business are purchased from a large business using a government-wide commercial purchase card, the transaction must be reported to the chief procurement official for the agency and the reasons for the purchase documented.

Before purchasing goods and services of a value of \$2,500 or less with a government-wide commercial credit card the buyer need not obtain a plethora of price information or price quotations. Instead, the buyer may consider: (1) the competitive nature of the marketplace in which the goods or services are sold; (2) recent acquisition of similar goods and services; (3) dollar amount of the proposed ac-

quisition; and (4) past experience concerning the prices of specific vendors.

When purchasing goods and services of a value of more than \$2,500 but less than \$25,000 with a government-wide commercial purchase card, the buyer must obtain pricing information from two or more small businesses who deal in the type of goods and services sought. The pricing information can come from printed price lists or catalogs, oral or written price quotations, and prices obtained from the Internet. In addition to price, the buyer may also consider previous experience with the vendor, customer surveys, and other reasonable information.

Large-value acquisitions, \$25,000 to \$100,000, using a government-wide commercial purchase card, the buyer must advertise the procurement, consider price quotations received, and solicit price quotations or offers from at least 3 small businesses concerns, including at least one of the following: (1) a small business concern owned and controlled by socially and economically disadvantaged individuals; (2) a small business concern owned and controlled by women; and (3) a small business concern owned and controlled by veterans. In addition, the buyer may consider, besides price, the competitive nature of the market place, the vendor's past performance, and the urgency of the proposed acquisition.

Each Federal agency is required to maintain, or contribute to the maintenance of, a comprehensive source list of small business concerns that are vendors of goods and services of the kind the Federal agency purchases. Each list is to identify whether a vendor is: (1) a small business concern owned and controlled by socially and economically disadvantaged individuals; (2) a small business concern owned and controlled by women; or (3) a small business concern owned and controlled by veterans.

Not later than 90 days after the end of each fiscal year, each Federal agency is required to publish a report concerning the use of government-wide commercial purchase cards during the previous year. The information reported by each Federal agency with respect to the use of purchase card acquisitions is to include the following: (1) the total dollar value of such acquisitions; (2) the total dollar value purchased from small business concerns; (3) the total dollar value purchased from large businesses; (4) the total dollar value purchased from small business concerns owned and controlled by socially and economically disadvantaged individuals; (5) the total dollar value of acquisitions from small business concerns owned and controlled by women; and (6) the total dollar value of acquisitions from small business concerns owned and controlled by veterans.

### *Section 3. Procurement Audit and Report to Congress*

The General Accounting Office is required to conduct an audit and make a report to Congress, not later than January 1, 2002, concerning the purchase by the 10 largest Federal agencies of goods and services from small businesses using governmentwide commercial purchase cards.

The report is to provide information concerning: (1) the total dollar amount of goods and services purchased in acquisitions of \$100,000 or less that were acquired from small business concerns

and from other than small business concerns; (2) the total dollar amount of goods and services acquired in acquisitions of \$2,500 or less that were acquired from small businesses and from other than small business concerns using a government-wide commercial purchase card; and (3) the total dollar amount of goods and services acquired in acquisitions of \$100,000 or less using, and not using, a government-wide commercial purchase card from small business concerns owned and controlled by socially and economically disadvantaged individuals, small business concerns owned and controlled by women, and small business concerns owned and controlled by veterans.

The report is to evaluate the comprehensive nature and accuracy of the source lists of small businesses that Federal agencies are required by the Act to maintain. Further, the report is to provide information concerning the rules and regulations promulgated to implement the Act, and, where applicable, to make recommendations to minimize noncompliance and to increase Federal acquisitions from small businesses in accordance with the Act.

#### *Section 4. Direct Payment to Subcontractors*

This subsection makes the failure of a prime contractor to make payment to a subcontractor that is a small business and that has performed as required by the subcontract a material breach of the contract with the Federal agency. Thirty days after payment is due the small business, the Federal agency may withhold the amount due the subcontractor from payment due the prime contractor and the Federal agency can make direct payment to the small business. Within 180 days after the passage of the Act the Federal Acquisition Regulation and the Defense Acquisition Regulation is to be amended to implement the provisions of this subsection.

#### *Section 5. Subcontracting Certification*

This subsection amends the Small Business Act to require that a bidder must pledge to acquire articles, equipment, supplies, services, or materials or obtain the performance of construction work from subcontractors who are small businesses named in the bid or proposal in the amount and quality used in preparing the bid or proposal unless the subcontractor is no longer in business or can no longer meet the quality, quantity, or delivery date.

#### *Section 6. Internet Announcement of Certain Subcontracting Opportunities*

The subsection requires the offer or bidder to pledge to provide information on the Internet concerning subcontracting opportunities under small business utilization plans required by section 8(d) of the Small Business Act. Not later than 10 days after the award of a contract for which a section 8(d) subcontracting plan is required, the winning bidder or offeror is required to provide on the Internet information concerning the name and address of the offeror or bidder, the individual within the employ of the offeror or bidder who is responsible for administering the subcontracting program; and, a list of anticipated subcontracting opportunities.

In order to ensure that small businesses have an equitable opportunity to complete for subcontracts, not less than 30 days before

the award of a contract with respect to each section 8(d) subcontracting opportunity, each bidder or offeror is required to provide on the Internet: (1) the name and address of the offeror or bidder; (2) information concerning the individual who is the buyer; (3) a description of the quality, quantity, and anticipated delivery date of the goods or services to be acquired; (4) the procurement procedures to be followed in awarding the subcontract; and, a statement that all responsible sources that are small business concerns may submit a bid, proposal, or quotation, as appropriate.

*Section 7. Definition of Internet*

In the Act, the term “Internet” has the same meaning as in section 230(f)(1) of the Communications Act of 1934.

**5.25 H.R. 4944—EXPORT WORKING CAPITAL LOAN IMPROVEMENT ACT OF 2000, PUBLIC LAW NO. 106–554**

LEGISLATIVE HISTORY

Date	Action
<b>H.R. 4944:</b>	
July 25, 2000 .....	Referred to the House Committee on Small Business.
July 27, 2000 .....	Committee Consideration and Mark-up Session Held.
July 27, 2000 .....	Ordered to be Reported by Voice Vote.
September 21, 2000 .....	Reported by the Committee on Small Business. H. Rept. 106–880.
September 21, 2000 .....	Placed on the Union Calendar, Calendar No. 531.
September 26, 2000 .....	Mr. Manzullo moved to suspend the rules and pass the bill.
September 26, 2000 .....	Considered under suspension of the rules. (consideration: CR H8084–8086).
September 26, 2000 .....	On motion to suspend the rules and pass the bill Agreed to by voice vote. (text: CR H8084).
September 26, 2000 .....	Motion to reconsider laid on the table Agreed to without objection.
September 27, 2000 .....	Received in the Senate and Read twice and referred to the Committee on Small Business.
October 25, 2000 .....	Included in H.R. 5545.
<b>H.R. 5545:</b>	
October 25, 2000 .....	Referred to the House Committee on Small Business. (Several bills are engrossed by reference in the H.R. 2614 conference report: H. Rept. 106–1004. This includes H.R. 5538, the Minimum Wage Act of 2000; H.R. 5542, the Taxpayer Relief Act of 2000; H.R. 5543, the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000; H.R. 5544, the Pain Relief Promotion Act of 2000; and H.R. 5545, the Small Business Reauthorization Act of 2000. The bill texts are included in the conference report).
<b>H.R. 2614:</b>	
October 26, 2000 .....	Conference report H. Rept. 106–1004 filed. (text of conference report: CR 10/25/2000 H10909–11188) Rules Committee Resolution H. Res. 652 Reported to House. Rule provides for consideration of the conference report to H.R. 2614 with 1 hour of general debate. Previous question shall be considered as ordered without intervening motions except motion to recommit with or without instructions. Waives points of order against the conference report and against its consideration.
October 26, 2000 .....	Conferees agreed to file conference report.
October 26, 2000 .....	Conference papers: Senate report and manager’s statement held at the desk in Senate.
October 26, 2000 .....	Rule H. Res. 652 passed House.
October 26, 2000 .....	Mr. Talent brought up conference report H. Rept. 106–1004 for consideration under the provisions of H. Res. 652.
October 26, 2000 .....	The previous question was ordered without objection.

## LEGISLATIVE HISTORY—CONTINUED

Date	Action
October 26, 2000 .....	On agreeing to the conference report Agreed to by the Yeas and Nays: 237–174, 1 Present (Roll no. 560). (consideration: CR H11243–11264).
October 26, 2000 .....	Motions to reconsider laid on the table Agreed to without objection.
October 26, 2000 .....	Motions to proceed to consideration of measure agreed to in Senate by Yea-Nay Vote. 55–40. Record Vote Number: 286. (consideration: CR S11097–11098).
October 26, 2000 .....	Motion to proceed to consideration of conference report to accompany H.R. 2614 agreed to by Unanimous Consent.
October 26, 2000 .....	Conference report considered in Senate by motion. (consideration: CR S11098–11100, S11104, S11107–11111).
October 31, 2000 .....	Motion to proceed to consideration of conference report to accompany H.R. 2614 agreed to by Unanimous Consent.
October 31, 2000 .....	Conference report considered in Senate by motion. (The H.R. 2614 conference report [H. Rept. 106–1004] incorporated several bills. This included H.R. 5538—Minimum Wage; H.R. 5542—Taxpayer Relief; H.R. 5543—Medicare, Medicaid, and SCHIP Benefits Improvement and Protection; H.R. 5544—Pain Relief Promotion; and H.R. 5545—Small Business Reauthorization. H.R. 5661 is a subsequent Medicare, Medicaid and SCHIP Benefits Improvement and Protection bill. H.R. 5667 is a subsequent Small Business Reauthorization bill. H.R. 4577, Consolidated Appropriations Act 2001, incorporates by reference the provisions of H.R. 5661, H.R. 5667, and other bills. The text of these bills is printed in the H.R. 4577 conference report: H. Rept. 106–1003 [text of conference report: CR 12/15/2000 H12100–12439].)
<b>H.R. 5667:</b>	
December 15, 2000 .....	Referred to the House Committee on Small Business incorporating the provisions of H.R. 4944.
December 15, 2000 .....	Enacted by reference in H.R. 4577 (H. Conf. Rept. 106–1033).
<b>H.R. 4577:</b>	
December 15, 2000 .....	Conference report H. Rept. 106–1033 filed.
December 15, 2000 .....	Mr. Young (FL) brought up conference report H. Rept. 106–1033 by previously agreed to special order.
December 15, 2000 .....	The previous question was ordered without objection.
December 15, 2000 .....	On agreeing to the conference report Agreed to by the Yeas and Nays: 292–60 (Roll no. 603).
December 15, 2000 .....	Motions to reconsider laid on the table Agreed to without objection.
December 15, 2000 .....	Senate agreed to conference report by Unanimous Consent.
December 15, 2000 .....	Message on Senate action sent to the House.
December 15, 2000 .....	Cleared for White House.
December 15, 2000 .....	Presented to President.
December 21, 2000 .....	Signed by President as Pub. L. No. 106–554 (H.R. 4577, Consolidated Appropriations Act 2001, incorporates the provisions of several bills by reference. This includes H.R. 5656—Labor HHS Education Appropriations; H.R. 5657—Legislative Branch Appropriations; H.R. 5658—Treasury Appropriations; H.R. 5666—Miscellaneous Appropriations—except section 123 relating to the enactment of H.R. 4904; H.R. 5660—Commodity Futures Modernization; H.R. 5661—Medicare, Medicaid and SCHIP Benefits Improvement and Protection; H.R. 5662—Community Renewal Tax Relief and Medical Savings Accounts; H.R. 5663—New Markets Venture Capital Program; and H.R. 5667—Small Business Reauthorization. The text of these bills is printed in the H.R. 4577 conference report: H. Rept. 106–1033 [text of conference report: CR 12/15/2000 H12100–12439].)

## NEED FOR LEGISLATION

According to the Department of Commerce, between 1987 and 1997, the number of small business exporters tripled, going from

66,000 to 202,000. Small businesses now account for 31 percent of total merchandise export sales spread throughout every industrial classification. The fastest growth among small business exporters has been with companies employing fewer than 20 employees. These very small businesses represented 65 percent of all exporting companies in 1997.

Even though the number of small business exporters tripled, they form less than one percent of all small businesses in the United States. Among these firms, nearly two-thirds of small business exporters sold to just one foreign market in 1997. In fact, 76 percent of small business exporters sold less than \$250,000 worth of goods abroad. In other words, these are “casual” exporters. The key is to encourage more small businesses to enter the trade arena and to encourage “casual” small business exporters into becoming more active. Improving and increasing the availability of financing for export transactions is one way to help ease the anxiety expressed by many small businesses fearful of selling abroad.

In response to this data, complaints from small business exporters about the lack of trade financing, and several hearings on the problems faced by small business exporters and improvements to the various small business export promotion programs of the federal government, Representative Donald Manzullo, Chairman of the Subcommittee on Tax, Finance & Exports of the Small Business Committee, introduced H.R. 4944, the Export Working Capital Loan Improvement Act of 2000.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short Title*

Designates the bill as the “Export Working Capital Improvement Act of 2000”.

##### *Section 2. Sale of Guaranteed Loans Made for Export Purposes*

This section amends Section 5(f)(1)(C) of the Small Business Act by exempting loans made under section 7(a)(14) of the aforementioned Act from the disbursement requirement. Section 7(a)(14) of the Small Business Act is the provision in law that governs the EWCP loan program. This change will allow EWCP loans to be sold on the secondary market prior to full disbursement.

Secondary market sales of guaranteed loans are conducted every six months. This bill will exempt Export Working Capital Loans from the requirement that all 7(a) loans be disbursed to the borrower prior to being included in a secondary market sale. EWC loans are often approved, disbursed and repaid so quickly that they miss the window for inclusion. The change will allow their inclusion prior to disburse to make sure they can be included in the secondary market sale.



5.26 H.R. 4945—THE SMALL BUSINESS COMPETITION PRESERVA-  
TION ACT OF 2000, PUBLIC LAW NO. 106-554

LEGISLATIVE HISTORY

Date	Action
<b>H.R. 4945:</b>	
July 25, 2000 .....	Referred to the House Committee on Small Business.
July 27, 2000 .....	Committee Consideration and Mark-up Session Held.
July 27, 2000 .....	Ordered to be Reported by Voice Vote.
September 18, 2000 .....	Reported by the Committee on Small Business. H. Rept. 106-858.
September 18, 2000 .....	Placed on the Union Calendar, Calendar No. 514.
September 19, 2000 .....	Rules Committee Resolution H. Res. 582 Reported to House. Rule provides for consideration of H.R. 4945 with 1 hour of general debate. Previous question shall be considered as ordered without intervening motions except motion to recommit with or without instructions. Measure will be considered read. Bill is open to amendments.
September 20, 2000 .....	Rule H. Res. 582 passed House.
September 20, 2000 .....	Considered under the provisions of rule H. Res. 582. (consideration: CR H7876-7885)
September 20, 2000 .....	House resolved itself into the Committee of the Whole House on the state of the Union pursuant to H. Res. 582 and Rule XXIII.
September 20, 2000 .....	The Speaker designated the Honorable John Cooksey to act as Chairman of the Committee.
September 20, 2000 .....	The House rose from the Committee of the Whole House on the state of the Union to report H.R. 4945.
September 20, 2000 .....	The previous question was ordered pursuant to the rule.
September 20, 2000 .....	On passage Passed by the Yeas and Nays: 422-0 (Roll no. 482). (text: CR H7884)
September 20, 2000 .....	Motion to reconsider laid on the table Agreed to without objection.
September 21, 2000 .....	Received in the Senate and Read twice and referred to the Committee on Small Business.
October 25, 2000 .....	Included in H.R. 5545
<b>H.R. 5545</b>	
October 25, 2000 .....	Referred to the House Committee on Small Business. (Several bills are engrossed by reference in the H.R. 2614 conference report: H. Rept. 106-1004. This includes H.R. 5538, the Minimum Wage Act of 2000; H.R. 5542, the Taxpayer Relief Act of 2000; H.R. 5543, the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000; H.R. 5544, the Pain Relief Promotion Act of 2000; and H.R. 5545, the Small Business Reauthorization Act of 2000. The bill texts are included in the conference report.)
<b>H.R. 2614</b>	
October 26, 2000 .....	Conference report H. Rept. 106-1004 filed. (text of conference report: CR 10/25/2000 H10909-11188)
October 26, 2000 .....	Rules Committee Resolution H. Res. 652 Reported to House. Rule provides for consideration of the conference report to H.R. 2614 with 1 hour of general debate. Previous question shall be considered as ordered without intervening motions except motion to recommit with or without instructions. Waives points of order against the conference report and against its consideration.
October 26, 2000 .....	Conferees agreed to file conference report.
October 26, 2000 .....	Conference papers: Senate report and manager's statement held at the desk in Senate.
October 26, 2000 .....	Rule H. Res. 652 passed House.
October 26, 2000 .....	Mr. Talent brought up conference report H. Rept. 106-1004 for consideration under the provisions of H. Res. 652.
October 26, 2000 .....	The previous question was ordered without objection.
October 26, 2000 .....	On agreeing to the conference report Agreed to by the Yeas and Nays: 237-174, 1 Present (Roll no. 560). (consideration: CR H11243-11264)
October 26, 2000 .....	Motions to reconsider laid on the table Agreed to without objection.

## LEGISLATIVE HISTORY—CONTINUED

Date	Action
October 26, 2000 .....	Motion to proceed to consideration of measure agreed to in Senate by Yea-Nay Vote. 55–40. Record Vote Number: 286. (consideration: CR S11097–11098)
October 26, 2000 .....	Motion to proceed to consideration of conference report to accompany H.R. 2614 agreed to by Unanimous Consent.
October 26, 2000 .....	Conference report considered in Senate by motion. (consideration: CR S11098–11100, S11104, S11107–11111)
October 31, 2000 .....	Motion to proceed to consideration of conference report to accompany H.R. 2614 agreed to by Unanimous Consent.
October 31, 2000 .....	Conference report considered in Senate by motion. (The H.R. 2614 conference report [H. Rept. 106–1004] incorporated several bills. This included H.R. 5538—Minimum Wage; H.R. 5542—Taxpayer Relief; H.R. 5543—Medicare, Medicaid, and SCHIP Benefits Improvement and Protection; H.R. 5544—Pain Relief Promotion; and H.R. 5545—Small Business Reauthorization. H.R. 5661 is a subsequent Medicare, Medicaid and SCHIP Benefits Improvement and Protection bill. H.R. 5667 is a subsequent Small Business Reauthorization bill. H.R. 4577, Consolidated Appropriations Act 2001, incorporates by reference the provisions of H.R. 5661, H.R. 5667, and other bills. The text of these bills is printed in the H.R. 4577 conference report: H. Rept. 106–1033 [text of conference report: CR 12/15/2000 H12100–12439].)
<b>H.R. 5667</b>	
December 15, 2000 .....	Referred to the House Committee on Small Business incorporating the provisions of H.R. 4945.
December 15, 2000 .....	Enacted by reference in H.R. 4577 (H. Conf. Rept. 106–1033)
<b>H.R. 4577</b>	
December 15, 2000 .....	Conference report H. Rept. 106–1033 filed.
December 15, 2000 .....	Mr. Young (FL) brought up conference report H. Rept. 106–1033 by previously agreed to special order.
December 15, 2000 .....	The previous question was ordered without objection.
December 15, 2000 .....	On agreeing to the conference report Agreed to by the Yeas and Nays: 292–60 (Roll no. 603).
December 15, 2000 .....	Motions to reconsider laid on the table Agreed to without objection.
December 15, 2000 .....	Senate agreed to conference report by Unanimous Consent.
December 15, 2000 .....	Message on Senate action sent to the House.
December 15, 2000 .....	Cleared for White House.
December 15, 2000 .....	Presented to President.
December 21, 2000 .....	Signed by President as Pub. L. No. 106–554 (H.R. 4577, Consolidated Appropriations Act 2001, incorporates the provisions of several bills reference. This includes H.R. 5656—Labor HHS Education Appropriations; H.R. 5657—Legislative Branch Appropriations; H.R. 5658—Treasury Appropriations; H.R. 5666—Miscellaneous Appropriations—except section 123 relating to the enactment of H.R. 4904; H.R. 5660—Commodity Futures Modernization; H.R. 5661—Medicare, Medicaid and SCHIP Benefits Improvement and Protection; H.R. 5662—Community Renewal Tax Relief and Medical Savings Accounts; H.R. 5663—New Markets Venture Capital Program; and H.R. 5667—Small Business Reauthorization. The text of these bills is printed in the H.R. 4577 conference report: H. Rept. 106–1033 [text of conference report: CR 12/15/2000 H12100–12439].)

## NEED FOR LEGISLATION

Contract bundling is one of the most important issues facing small business today. The federal government spends nearly 200 billion dollars a year procuring goods and services. Although Congress has made it a goal for federal agencies to spend at least 20 percent of their procurement dollars with small businesses, the federal government has not met that objective. Federal government

procurement policies apparently place a greater premium on efficiency and the reduction of workload for contracting officers than the goals of a diverse, competitive industrial base. The ultimate losers will be the American taxpayer who will face the long-term prospect of procuring lower quality goods and services at higher prices.

Bundling of contracts is performed by all federal agencies but one agency, the Department of Defense, stands out as the agency with the most adverse impact on small business participation as prime contractors. To the extent that the Department actually achieves substantial cost savings or significant improvements in the quality of goods and services procured, bundling is at least defensible. However, the Committee has examined a number of contracts and has not found supportable justifications for these contracts.

For example, the Department of Defense issued a contract for the provision of telecommunication services to the three largest long-distance carriers in the United States who would provide, on a competitively-bid task order arrangement, interstate interexchange (long-distance) circuits for the transmission of voice and data between various Department installations. Ostensibly, the limitation on the number of firms eligible to bid was necessitated by security concerns. However, an examination of the task order requests reveals that the need for security was not an issue in many of the task orders. Thus, the Department, at substantial expense to the taxpayers (competition under the prior system was significantly greater resulting in substantially lower prices for telecommunication services), bundled a contract without any clear need to do so.

The Committee has also examined the consolidation of Marine Corps mess hall services. The Department of the Navy currently provides messhall services on a base-by-base contract. Many current providers are small businesses. Despite evidence that demonstrates improvements in quality of both the food and the service, the Department of Navy decided to consolidate these messhall contracts into two large regions utilizing central kitchen preparation techniques known as "cook and chill." The Department of Navy has not been able to justify that the contract will save money or provide higher quality meals to Marine Corps personnel.

Numerous other examples of bundling exist at the Department of Defense and other government agencies. At a Committee hearing on the Department of Defense's bundling policies, the Principal Deputy Under Secretary for Acquisition, Mr. David Oliver, promised that he would commission a study of the effects of bundling on small business. Some months later, Mr. Oliver admitted that the Department lacked the data needed to conduct an appropriate study of bundling.

The absence of data on bundling also affects the Administrator's ability to implement the Small Business Reauthorization Act of 1997. That legislation required federal agencies not to bundle contracts unless the procuring agency could demonstrate that the bundle would result in measurably substantial benefits, such as cost savings, quality improvements, reduction in acquisition cycle times, or better terms and conditions. The procuring agency then must identify those benefits to be derived from contract bundling and

that the anticipated benefits of the proposed bundled contract justify the use of bundling. Should the Administrator of the Small Business Administration disagree with the conclusions of the procuring agency, the Administrator is entitled to file an appeal contesting the procuring agency's bundle to the head of the agency. The Administrator has never won such an appeal.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short Title*

Designates the bill as the "Small Business Competition Preservation Act of 2000."

##### *Section 2. Database, Analysis, and Annual Report with Respect to Bundled Contracts*

This section amends section 15 of the Small Business Act by adding a new subsection (p) to establish the requirements for maintenance of a contract bundling database, analysis of bundled contracts, and reporting requirements to the House and Senate Small Business Committees.

Paragraph (1) defines the term bundled contract. In the Small Business Reauthorization Act of 1997, the term "bundled contract" was defined as a contract that consolidated existing contract requirements. This definition is adopted by H.R. 4945.

Paragraph (2) mandates that the Administrator establish a database no later than 180 days after the effective date of the statute. The database will contain information on each bundled contract awarded by a federal agency as defined in paragraph (1) and the number of small businesses that used to provide services as prime contractors but are no longer doing so as a result of the bundled contract. The Committee expects that the Administrator will receive data from its Procurement Center Representatives as well as the Directors of the Office of Small and Disadvantaged Business Utilization. Furthermore, the Committee expects that the Administrator will construct this database with already existing funds and does not believe that a separate authorization or appropriation is needed to maintain this database because maintenance of the database constitutes a vital adjunct to the Administrator's responsibilities under subsection (a) of section 15.

Paragraph (3) requires that the Administrator analyze bundled contracts that are recompeteted as bundles when their initial terms expire. The Committee expects that the Administrator will use the database of bundled contracts established in paragraph (2) to determine which contracts need to be analyzed pursuant to this paragraph. However, if a recompeteted bundle somehow is not included in the database established pursuant to paragraph (2), the Committee expects that the Administrator will undertake the analysis mandated by this paragraph.

For each contract recompeteted as a bundled contract, the Administrator will be required to calculate the amount of savings and benefits from the bundled contract. The Administrator also will be required to estimate whether the savings and benefits will continue and whether such savings and benefits would be greater if the contract was divided into separate solicitations more suitable for

award to small businesses. The Committee expects that the Administrator will utilize this analysis in pursuing any appeal of a bundling contract as set forth in subsection (a) of section 15.

Paragraph (4) requires the Administrator to file an annual report on contract bundling with the House and Senate Small Business Committees. The report is required to contain data on the number of small businesses displaced as prime contractors as a result of contract bundling sorted by industrial classification. The Committee expects that the report will utilize the new North American Industrial Classification rather than the old Standard Industrial Classification.

The report also shall contain a description of the bundling activity for each federal agency during the preceding fiscal year including the number of contracts bundled, the total dollar value of the bundled contracts, the justification for each bundled contract, the cost savings realized by the contract, the Administrator's estimate of whether the savings will continue for any recompeted bundled contract, the extent to which the bundled contract complied with agency's subcontracting plan, the total dollar value awarded to small business subcontractors, the total dollar value previously awarded to small business prime contractors prior to the bundling of the contract, the impact that bundling has on the ability of small business to compete as prime contractors, and the effect that has on the industry.

#### 5.27 H.R. 4946—THE NATIONAL SMALL BUSINESS REGULATORY ASSISTANCE ACT OF 2000

##### LEGISLATIVE HISTORY

Date	Action
<b>H.R. 4946:</b>	
July 25, 2000 .....	Referred to the House Committee on Small Business.
July 27, 2000 .....	Committee Consideration and Mark-up Session Held.
July 27, 2000 .....	Ordered to be Reported (Amended) by Voice Vote.
September 21, 2000 .....	Reported (Amended) by the Committee on Small Business. H. Rept. 106-881.
September 21, 2000 .....	Placed on the Union Calendar, Calendar No. 532.
September 26, 2000 .....	Mr. Sweeney moved to suspend the rules and pass the bill, as amended.
September 26, 2000 .....	Considered under suspension of the rules. (consideration: CR H8081-8084).
September 26, 2000 .....	On motion to suspend the rules and pass the bill, as amended Agreed to by voice vote. (text: CR H8081-8083).
September 26, 2000 .....	Motion to reconsider laid on the table Agreed to without objection.
September 27, 2000 .....	Received in the Senate and Read twice and referred to the Committee on Small Business.

##### NEED FOR LEGISLATION

During the past twenty years, the Federal Register—the compendium of federal regulatory initiatives and changes—ballooned from 42,000 pages to a record 73,879 pages in 1999. This crush of federal dictates is particularly troubling to small businesses who find it increasingly difficult to meet these burgeoning regulatory requirements 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 business owners.

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 ten or eleven pages of text, but the explanation for what those ten or eleven pages mean may encompass as much as three 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 program. Operated in conjunction with colleges and universities, the small business development centers 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 small business development centers utilize the resources and the expertise of colleges and universities. In addition, the small business development centers, 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, the small business development centers have focused on financial, management, and marketing activities of small businesses.

The Committee believes that small business development centers 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, the Committee believes that a pilot program to examine how the regulatory compliance assistance will operate in selected small business development centers is a preferred strategy to simply authorizing all small business development centers to provide regulatory compliance assistance.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short Title*

Designates the bill as the “National Small Business Regulatory Assistance Act of 2000.”

##### *Section 2. Purpose*

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

##### *Section 3. Small Business Regulatory Assistance Pilot Program*

This section establishes the pilot program by creating a new Section 34 of the Small Business Act.

Section 34(a)(1) defines the term “Association” to be the association established pursuant to Section 21 of the Small Business Act which represents the majority of small business development centers. That organization is the Association of Small Business Development Centers.

Section 34(a)(2) defines the term “Participating Small Business Development Center” as a small business development center selected to participate in the pilot program established under this section.

Section 34(a)(3) defines the term “Regulatory Compliance Assistance” as assistance provided by a participating small business development center to a small business concerning compliance with federal regulations.

Section 34(a)(4) defines the term “Small Business Development Center” means a small business development center described in section 21 of the Small Business Act.

Section 34(a)(5) defines the term “State” to include all fifty states and the District of Columbia, the Virgin Islands, and Guam.

Section 34(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 34(c)(1) authorizes the Administrator to enter into arrangements with the small business development centers selected under this section for the provision of regulatory compliance assistance. The participating small business development centers 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 and the Committee expects that the participating small business development centers will maintain all necessary contact information with those federal and state agencies.

Section 34(c)(1) also requires that the selected small business development centers 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.

Section 34(c)(1) also mandates that the selected small business development centers 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 34(c) prohibits any regulatory compliance counseling that would be considered the practice of law in the jurisdiction in which the small business development center is located or in which such counseling is conducted.

Section 34(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. For example, the participating small business development center may arrange a meeting with a professor of engineering to discuss the best way that the particular small business might be able to comply with regulations promulgated pursuant to the Clean Water Act.

Section 34(c)(2) requires each participating center to file a quarterly report with the Association of Small Business Development Centers. 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 small business development center from a federal agency concerning compliance which the federal agency intends to be disseminated to small business concerns.

Section 34(c)(2) requires that reports be filed with the Association in an electronic format. The Committee expects the Administrator to promulgate regulations, which 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 34(c)(2) also permits, but does not require, participating small business development centers to make interim reports if such reports are necessary or useful. For example, a participating small business development center may receive inconsistent compliance information from a federal agency. By alerting the Association 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. The Committee recognizes this and 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 small business development centers will only respond to formal agency requests such as civil investigative demands, subpoenas, and the like. The Committee does not expect that the participating small business development centers will accede to simple verbal requests from federal or state agencies.

Section 34(d) requires the Administrator and the Association to enter into a contract for the Association to act as repository of data and information submitted by the participating small business development centers. 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.

Section 34(d) also requires that the Association transmit an annual report to the President, the Small Business and Agriculture Regulatory Enforcement Ombudsman, and the House and Senate Small Business Committees. The report will contain: (a) data on the types of information provided by the participating small business development centers; (b) the number of small businesses that contacted the participating small business development centers; (c) the number of small businesses assisted by participating small business development centers; (d) information on the outreach activities of the participating small business development centers; (e) information regarding each case known to the Association in which participating small business development centers 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.

Section 34(d) also requires the Association 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 Association should provide its opinion concerning whether the program should be continued and expanded to include more small business development centers. It is the expectation of the Committee that the pilot program will be sufficiently successful to expand the program to other small business development centers.

Section 34(e) requires the Administrator to select two participating centers 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 prohibited from selecting two small business development centers from the same state. The Committee expects that the selected development centers will be open to serve any small business located in that state.

*Section 4. Promulgation of Regulations*

Section 4 authorizes the Administrator to promulgate regulations to implement that 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.



## **CHAPTER SIX**

### **SUMMARY OF OTHER LEGISLATIVE ACTIVITIES OF THE COMMITTEE ON SMALL BUSINESS**

#### **6.1 COMMITTEE MEETINGS**

##### **6.1.1 ORGANIZATIONAL MEETING**

On January 6, 1999, the Committee on Small Business held an organization meeting. The purpose of this meeting was three-fold: (1) to consider and adopt the Committee rules for the 106th Congress, (2) to consider and adopt the Committee's oversight plan for the 106th Congress, and (3) to approve the subcommittee assignments for Members of the Committee. The Committee accomplished these three tasks in record time (less than 20 minutes) with little discussion. Both the Committee rules and oversight plan were adopted, without amendment, by voice vote.

The text of the Committee's oversight plan follows:

##### **6.1.2 OVERSIGHT PLAN FOR THE COMMITTEE ON SMALL BUSINESS**

###### **106TH CONGRESS**

###### **U.S. HOUSE OF REPRESENTATIVES**

###### **CONGRESSMAN JAMES M. TALENT, 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 106th 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. Particular emphasis will be placed on improving the economic efficiency of these programs. A number of the SBA's key programs will be the subject of oversight hearings by the Committee. These include:

**7(a) General Business Loan Programs** (Spring, 1999)**Certified Development Company Program** (Spring, 1999)**SBIC Program** (Winter, 1999)**Microloan Program** (Winter, 1999)**SBDC** (Spring, 1999)**Disaster Loan** (Winter, 1999)**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. (summer, 1999)

**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. (Summer, 1999)

**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 investigate the implementation of recent legislation dealing with "bundling" and the effect it is having on small businesses involved in government contracting. (Ongoing)

**GOVERNMENT & 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. (Winter, 2000)

**REGULATORY FLEXIBILITY**

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

**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. (Ongoing)

**PAPERWORK REDUCTION**

The Committee will continue its oversight of agency implementation of the Paperwork Reduction Act, as amended. (Ongoing)

**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 DEREGULATION**

The Committee will conduct oversight hearings on the potential effects of electric utility deregulation on small business. (Summer, 1999)

**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 under the Government Performance and Results Act. (Ongoing)

**EMPOWERMENT**

The Committee will conduct oversight hearings over 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. (Ongoing)

**6.2 BUDGET VIEWS AND ESTIMATES**

Pursuant to Section 301(c) 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 2000 and 2001 budgets with respect to matters under the Committee's jurisdiction.

**6.2.1 FISCAL YEAR 2000 BUDGET**

The President's proposed budget for FY 2000 requested an increase of \$41 million dollars over FY 1999, for a total request of \$761 million dollars. It also requested contingency emergency appropriations in the amount of \$233 million. These contingency amounts would be for anticipated disaster loan spending. On February 25, 1999, the Committee on Small Business met to approve views and estimates for the Small Business Administration for submission to the Committee on the Budget.

While the Committee believed that many of the provisions of the budget were reasonable, it could not agree with all of the spending proposed in the FY 2000 budget submission. The views and estimates divided the Small Business Administration into five areas; (1) Financial Program, (2) Assistance Programs, (3) Disaster Assistance, (4) Salaries and Expenses, and (5) Office of Inspector General.

**SMALL BUSINESS FINANCIAL PROGRAMS***Summary*

The FY 2000 SBA proposed budget for small business financial assistance discussed building a twenty-first century financial management organization and providing assistance for small business. The President's Budget requested a total of \$200,118,000 in subsidy budget authority for financial programs.

**7(a) LOANS**

This is the SBA's leading loan guarantee program. The Administration proposal for appropriations for this program was based on an estimated program demand of \$10.5 billion in loans, requiring \$155 million in budget authority. The Committee believed that request to be adequate. Recent SBA estimates for demand for 7(a) had proved accurate. However, industry estimates place demand at a level of \$11 billion dollars.

The Committee was more concerned over reports from the GAO that SBA subsidy cost estimates were inflated. This has the potential to lead to overcharging of small business borrowers, and reduced subsidy costs would allow the Congress greater flexibility in budgeting.

**504 LOANS**

Thanks to legislation passed in the 104th Congress, the 504 program has 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 subsidy rate.

The Administration believed that the Section 504 loan program would not require appropriations for FY 2000, and would also be able to lower fees to the program's borrowers. However, larger improvements were yet to appear in the program's liquidation performance, the largest single factor in the subsidy rate equation. The Committee also had concerns that subsidy estimate problems exist in the 504 as well as the 7(a) program.

The Committee agreed that no appropriation would be needed for this program but was concerned with the apparent uncertainty in the subsidy rates.

**SMALL BUSINESS INVESTMENT COMPANY PROGRAM**

The SBA proposed a significantly increased program level for the SBIC program, but also projected a decrease in appropriations due to revisions in the subsidy rate. The Committee supported the requested budget amount.

The Administration anticipated a demand for \$1.5 billion in participating securities leverage at a subsidy cost of \$25.8 million. They also anticipated \$800 million in demand for debenture leverage at no cost due to a zero subsidy rate. This rate was based in large part on the absence of default on any SBIC debenture since 1992.

**MICROLOAN PROGRAM**

The SBA requested a 100% increase in funding for the microloan program for FY 2000. The SBA believed that program demand would increase by an overwhelming amount. This increase reflected the Administration's desire to expand this program into all sectors of the country. However, the Committee was troubled by the SBA's simultaneous support for the PRIME/CDFI microloan proposed for the Treasury Department. If the microloan program at SBA was, in fact, highly effective at assisting entrepreneurs in underserved areas, why was PRIME/CDFI necessary? If the SBA program was not effective then why was such a dramatic increase requested?

The Committee believed this estimate might have been valid, but not in light of the conflicting and duplicative PRIME/CDFI program.

The Committee also continued to urge greater efforts by the SBA to make the guaranteed microloan program a viable option; current regulations appear to have been drafted in a fashion that discourages participation.

#### **TECHNICAL ASSISTANCE PROGRAMS**

##### *Summary*

The FY 2000 SBA budget submission proposed some significant increases in spending on its non-credit business assistance programs. While these programs represent well-intentioned efforts to aid small business, there is an increased tendency to fragment rather than consolidate these efforts. In addition, areas of proven value appeared to be targeted for cuts to support other initiatives that might have been redundant.

#### **MICROLOAN TECHNICAL ASSISTANCE**

The microloan program requested \$32 million in technical assistance funds. These funds represent a hidden subsidy cost to the microloan program. While the reported subsidy rate of this program was relatively low, there was evidence that the technical assistance grants to the microlenders were, in fact, going to support operational expenses of the lenders rather than counseling. The Committee reserved judgment on the need for this additional funding. The Committee was particularly concerned that the need for this funding was duplicative of funding proposed in the PRIME/CDFI program, and vice versa.

#### **BUSINESS INFORMATION CENTERS/USEACs**

The SBA proposed level funding for these programs. However, the agency failed to explain whether it intended 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 tentatively supported these projects but would like the SBA to provide more substantial information.

#### **SMALL BUSINESS DEVELOPMENT CENTERS (SBDCs)**

The SBA proposed a significant (nearly 25%) cut in funding for the SBDC program. This proposal was unacceptable. The SBA proposed stripping a quarter of the funding from this program and asked the SBDCs to institute fees instead. SBDCs are currently statutorily prohibited from charging fees. Fees are allowed in other programs; but if the statutory prohibition was lifted and the draconian cuts implemented, SBDCs would become the only program forced to charge fees.

#### **ONE STOP CAPITAL SHOPS**

The SBA FY 2000 budget proposed a significant (210%) increase in funding for this program, from \$3.1 million to \$10 million. The



SBA proposed to open the shops in each of the newly declared Empowerment Zones. The Committee noted that information regarding the use, services and merits of One Stop Capital Shops is limited. The Committee was also concerned that the efforts of this program and Business Information Centers was duplicating efforts best left to other more established programs.

#### **NEW MARKET VENTURE CAPITAL COMPANIES**

The Administration proposed \$15 million in subsidy budget authority to support \$100 million in lending from these NMVCCs. The Administration's FY 2000 budget also proposed \$30 million in grant money for New Markets Venture Capital Companies. These NMVCCs would make SBIC loans in Low & Moderate Income areas. This meant the Administration planned to spend \$45 million in order to make \$100 million in loans in LMI areas.

The Committee found this unjustified, particularly in light of the fact that regular SBICs did \$660 million in lending to LMI areas in the previous year without this program. While the Committee supported the goal of increasing lending in LMI areas, it could not support the inordinately high cost of this proposal.

#### **DISASTER ASSISTANCE**

The President's FY 2000 SBA budget submission asked for authority for \$934 million in disaster loans, representing the ten-year average of disaster loan needs. However, the budget requested only \$39.4 million in budget authority. The Administration requested that the remaining \$158 million in appropriations be allocated on an emergency off-budget basis. The SBA based this request on the fact that disaster loan funds were frequently provided through supplemental appropriations. This explanation was only partially correct.

Disaster loans have been supplemented with emergency funds over the years. This has come in response to situations of extreme need, to what SBA has called "mega-disasters," like the Northridge, CA Earthquake. In addition, Congress has often segregated funds to be used on a contingency basis, often representing carryover from previous appropriations.

The Committee disagreed with the SBA's plan to place nearly 80% of the anticipated appropriations off-budget. While the Committee agreed that all of the requested ten-year average might not be needed it is "budget-busting" at its worst to place 80% of the anticipated loans off-budget.

The budget also placed a large portion of the required administrative costs off-budget. \$934 million in loans would require approximately \$116 million in loan administration funds. The SBA also anticipated approximately \$45 million in general S&E costs from disaster loans for a total of \$161 million in administrative costs. The Committee noted that the SBA has requested \$86 million (more than 50%) of these funds on budget. The Committee believed that release and use of administrative funds should track the loan demand. Consequently, if SBA saw fit to request only 20% of the loan funds then they would need only 20% of the administrative funds.

### SALARIES AND EXPENSES

For FY 2000 the SBA requested an increase in non-disaster staffing and expenses. In the previous two years full-time equivalents have grown from the FY 1997 actual of 2,915 to an FY 1999 estimate of 3,133. This was an eight percent increase.

With more functions being outsourced, privatized and automated it was difficult to comprehend the need for staffing increases. SBA's staffing efforts needed rethinking. If SBA was truly to become a cutting edge financial services agency with high-tech facilities it should have required *fewer* employees due to increased productivity.

The FY 1999 proposal showed an increase of 16 net FTEs over FY 1998. The FY 2000 budget showed that there was in fact a 154 FTE increase. In the FY 2000 budget the number of FTEs would rise again by 42 FTES.

In addition, the number of positions at the agency had risen 97 positions beyond what was requested in the FY 1999 budget. How were they justified as part of the FY 2000 base request when they were not part of the FY 1999 increase request. The Committee understood that there was a hiring freeze at the SBA; its continuation was encouraged until those hiring discrepancies were explained.

The Committee also noted that the SBA requested an additional \$5 million for retraining and relocating employees and buying out employees. However, no detail was forthcoming on the nature of this retraining, or the destination of the relocated employees.

### OFFICE OF INSPECTOR GENERAL

The Committee generally supported the proposed increase for the Office of Inspector General. The Committee agreed that further vigilance was required not only for the loan programs but also for the myriad grant-based assistance programs which require more scrutiny due to their less easily quantifiable parameters. The Committee also believed that funding was 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. However, SBA's FY 2000 budget was, unfortunately, lacking in consistency. There was an increase in new unjustified programs at the expense of proven, popular programs. \$233 million of reasonable disaster spending was masked by budget gimmicks. Meanwhile, federal employment was increased without accounting for performance or effectiveness. Streamlining and productivity enhancing technology appeared to be used to support bureaucratic growth.

Minority views were also submitted.

### 6.2.2 FISCAL YEAR 2001 BUDGET

The President's proposed budget for FY 2001 requested \$1.062 billion for the Small Business Administration, an increase of \$336 million over FY 2000. On February 16, 2000 the Committee on Small Business met to consider and approve views and estimates on the fiscal year 2001 budget for the Small Business Administra-

tion. These views and estimates were then submitted to the Committee on the Budget.

While the Committee believed that many of the provisions of the budget were reasonable, it could not agree with all of the spending proposed in the FY 2001 budget proposal. The views and estimates divided the Small Business Administration into five areas; (1) Financial Programs, (2) Assistance Programs, (3) Disaster Assistance, (4) Salaries and Expenses, and (5) Office of Inspector General.

#### **SMALL BUSINESS FINANCIAL PROGRAMS**

##### *Summary*

The FY 2001 SBA proposed budget for small business financial assistance discussed building a twenty-first century financial management organization and providing assistance for small business. The President's Budget requested a total of \$332.25 million in subsidy budget authority for financial programs, an increase of \$65.45 million over FY2000 levels.

##### **7(a) LOANS**

This is the SBA's leading loan guarantee program. The Administration proposal for appropriations for this program was based on an estimated program demand of \$11.5 billion in loans, requiring \$142.6 million in budget authority. The Committee believed this request was adequate. Recent SBA estimates of demand for 7(a) have proved accurate.

##### **504 LOANS**

The Administration believed that the Section 504 loan program would not require appropriations for FY 2001, and would 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.

The Committee agreed that no appropriation would be needed for this program but was concerned that a report on recoveries within the program has not yet been completed.

#### **SMALL BUSINESS INVESTMENT COMPANY PROGRAM**

The Administration proposed an increased program level for both parts of the SBIC program. The Administration requested a \$1.9 million increase in subsidy budget authority for the participating securities program. This would increase subsidy budget authority from \$24.3 million to \$26.2 million and increase the program level to \$2 billion. The Committee supported the requested budget amount of \$26.2 million.

The Administration also requested an increase in subsidy budget authority for the debenture program. In FY 2000 the debenture program operated at a zero subsidy rate and required no appropriations and provided up to \$800 million dollars in leverage. The FY 2001 request would be \$500 million in debenture leverage, an amount higher than the estimated FY2000 demand of \$450 million. However, the request came with an increased cost in subsidy budget of \$3.9 million because the subsidy rate has increased to 0.78%.

SBA informed the Committee that this estimate was in error. Consequently, the request for subsidy budget authority was inflated. While the Committee supported the requested program level it had concerns over the change in subsidy costs. The Committee reserved judgment on the need for appropriations absent a full accounting.

#### **MICROLOAN PROGRAM**

The SBA requested a more than 100% increase in funding for the microloan program for FY 2001. The program level would increase from \$29 million to \$60 million, and subsidy budget authority would increase from \$2.5 million to \$5.3 million.

The Committee expressed its desire that a portion of the requested increase be channeled to the guaranteed microloan program. SBA had continuously frustrated this program through lack of effort and regulations drafted in a fashion to discourage participation. That program offers an opportunity to expand the program at a reduced subsidy rate through established local lenders. This would not only provide a reduced cost to the taxpayer, but would provide microloan clients with exposure to traditional lending outlets.

#### **ASSISTANCE PROGRAMS**

##### *Summary*

The FY 2001 SBA budget submission proposed significant increases 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 proposed or increased several new, unauthorized programs at a cost of millions. The Committee had concerns over how these funds would be spent.

#### **DRUG-FREE WORKPLACE**

The Administration requested no funding for this program. Further, it listed the program, fully authorized in Section 27(g) of the Small Business Act, as a Congressional Initiative. This, in spite of the fact that the Public Law authorizing this program passed the House of Representatives and Senate with overwhelming support and was enthusiastically signed by the President.

The Committee objected to this budget position which ignored concrete and significant efforts to improve the small business climate and workplace conditions.

#### **MICROLOAN TECHNICAL ASSISTANCE**

The Administration requested \$45 million in technical assistance funds for the Microloan program. The Committee reserved judgment on the need for this additional funding. The Committee was particularly concerned that the need for this funding was duplicative of funding proposed in the PRIME/CDFI program, and vice versa.

**ADVOCACY DATABASE**

The Administration proposed \$1.5 million for the Office Advocacy to support research and economic analysis. The Committee supported this proposal.

**WOMEN'S BUSINESS COUNCIL**

The Administration proposed increasing funding for the Women's Business Council from \$400,000 to \$1 million. The Committee supported the work of the Council but believed this request required further justification.

**WOMENS BUSINESS CENTERS**

The Administration proposed increasing funding of this program to \$12 million. The Committee supported this proposal and the excellent work performed by the centers.

**BUSINESS INFORMATION CENTERS/USEACs**

The Administration proposed increased funding for these programs. BICs would increase from \$500,000 to \$700,000. USEACs would increase from \$3.1 million to \$3.5 million. However, the agency still failed to explain whether it intends to co-locate any of these centers with existing Small Business Development Centers.

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

**SMALL BUSINESS DEVELOPMENT CENTERS (SBDCs)**

The Administration proposed \$85 million in funding for the SBDC program. This proposal was a vast improvement over previous requests. The Administration also proposed \$3 million to establish Native American SBDCs. The Committee supported that request.

**HUBZONES**

The Administration requested increased funding for this program from \$3 million to \$5 million. The Committee believed that, rather than pursuing staffing and funding increases, the SBA could better serve HUBZones businesses by implementing a simplified, on-line application process and outreach through established programs. Such an approach, combined with auditing support, would enable the program to reach far more small businesses than the 800 reached to date. This approach should be promoted in the final regulations for full implementation of this program.

**ONE STOP CAPITAL SHOPS**

The SBA FY2001 budget proposed a significant (210%) increase in funding for this program, from \$3.1 million to \$10 million. The Committee notes that information regarding the use, services and merits of One Stop Capital Shops is limited. SBA reported that OSCS counseled 53,000 people last year and yet this resulted in only 530 loans. One percent was not an impressive return for a program designed to provide access to capital.

**E-COMMERCE**

The Administration requested \$5 million to fund a new, unauthorized, program designed to teach small business about doing business over the Internet. While the Committee appreciated the SBA's belated interest in this area it was reluctant to fund a program of this cost without significant information regarding its application and availability.

**BUSINESS-LINC**

This was another unauthorized program. The Administration proposed increasing this program from an initial \$1.5 million to \$6.6 million. The Committee received no information regarding the operation and organization of this program and, therefore, opposed any increased funding.

**SBIR PHASE III**

The Administration proposed \$15 million in unauthorized grants for Phase III SBIR participants. The Committee made clear that the original intent of the SBIR program was to provide grants for ONLY the first two phases of SBIR participation. At that point the participant is expected to have developed outside sources of financing and support for Phase III. The Committee strongly opposed this proposal.

**NEW MARKET VENTURE CAPITAL COMPANIES**

The Administration proposed \$21 million in subsidy budget authority to support \$150 million in lending by these NMVCCs. The Administration's FY 2001 budget also proposed \$30 million in technical assistance grant funding for New Markets Venture Capital Companies. These NMVCCs will make SBIC loans in Low & Moderate Income areas. This meant the Administration planned to spend \$51 million in order to make \$150 million in loans in LMI areas.

The Committee found this questionable, particularly in light of the fact that regular SBICs made \$800 million in investments in LMI areas in the previous year—without this program. The Committee doubted that the SBA could implement this program quickly enough to justify any further appropriations.

**DISASTER ASSISTANCE**

The President's FY 2001 SBA budget submission asked for authority for \$871 million in disaster loans, representing the ten-year average of disaster loan needs. The budget requested \$142.1 million in subsidy budget authority to support these loans.

The budget also requested administrative costs of \$154 million. The SBA anticipated that \$30 million in general S&E costs would derive from disaster loan administrative costs. The Committee believed that release and use of these administrative funds should track loan demand. Consequently, if SBA uses only 20% of the loan funds then they should need only 20% of the administrative funds transferred to general S&E.

The Committee supported this request and is pleased that the Administration ceased manipulating disaster loan funding requests in order to shelter increases in other programs.

**SALARIES AND EXPENSES**

For FY 2001 the Administration requested an increase in SBA non-disaster staffing and expenses. In FY1997–FY1999 full-time equivalents grew from the FY 1997 actual of 2,915 to an FY 1999 estimate of 3,133. That was an eight percent increase.

The FY 2000 budget submission showed an increase of 54 FTEs over FY 1998, with a request for a further 42 FTEs. In FY2001 there was no mention of FTEs in the budget submission. Why was that information missing?

The number of positions at the agency 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 positions number would still be 63 “slots” below FY1999. However, without the FTE count it is difficult to judge actual employment. 20 of these positions would serve the new NMI program.

The Committee noted that the Administration requested an additional \$4 million for retraining and relocating employees and buying out employees. However, no details were forthcoming regarding the nature of this retraining, or the destination of the relocated employees. This is the second year that was proposed with no explanation of the retraining required.

**OFFICE OF INSPECTOR GENERAL**

The Committee generally supported the proposed increase for the Office of Inspector General to \$14.1 million. The Committee agreed that further vigilance will be required not only for the loan programs but also for the myriad grant-based assistance programs. The Committee suggested that additional funding be allocated evenly between audit and investigative uses.

*Conclusion*

The SBA continues to provide important services to the small business community. However, SBA’s FY 2001 budget is, unfortunately, lacking in consistency. There is an increase in new unjustified programs at the expense of proven, useful programs. The unfortunate result is a budget document that is more of a wishlist than a serious or significant planning document.

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 January 6, 1999, an oversight agenda for the 106th 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 summarizes 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.

#### **7.1.1 OVERSIGHT OF THE U.S. SMALL BUSINESS ADMINISTRATION**

##### **106TH CONGRESS**

##### **U.S. HOUSE OF REPRESENTATIVES**

##### **JAMES M. TALENT, CHAIRMAN**

#### **OVERSIGHT OF THE SMALL BUSINESS ADMINISTRATION**

The Committee conducted 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 conducted hearings on the effectiveness and efficiency of the SBA's major programs. Particular emphasis will be placed on improving the economic efficiency of these programs. A number of the SBA's key programs were the subject of oversight hearings by the Committee. These included:



**7(a) General Business Loan Programs**  
**Certified Development Company Program**  
**SBIC Program**  
**Microloan Program**  
**SBDC**  
**Disaster Loan 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.

**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.

**Small Business Technology Transfer**

Committee oversight focused 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 examined needed changes in federal procurement. The Committee investigated the implementation of recent legislation dealing with "bundling" and the effect it is having on small businesses involved in government contracting.

**GOVERNMENT & NON-PROFIT COMPETITION**

The Committee examined the extent to which non-profit organizations and the Federal Government itself competes with small business. Our focus included activities in both the private sector and government procurement.

**REGULATORY FLEXIBILITY**

The Committee continued its oversight of agency compliance with the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act.

**SBREFA**

The Committee conducted 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.

**PAPERWORK REDUCTION**

The Committee continued its oversight of agency implementation of the Paperwork Reduction Act, as amended.

**GOVERNMENT REGULATION**

The Committee continued to examine the regulatory activities of various federal agencies and assess the impact of regulations on the small business community.

**TAXATION**

The Committee continued to conduct oversight hearings into ways to reduce the tax burden on small business. These hearings included not only the fiscal but also the paperwork burden of the federal tax system and federal enforcement efforts.

### **ELECTRIC UTILITY DEREGULATION**

The Committee conducted oversight hearings on the potential effects of electric utility deregulation on small business.

### **GOVERNMENT PERFORMANCE AND RESULTS ACT**

The Committee continued consultations with the SBA regarding the preparation and implementation of strategic plans and performance plans as required by the Government Performance and Results Act.

### **EMPOWERMENT**

The Committee conducted oversight hearings on regulations and licensing policies that impact small businesses located in high-risk communities. The Committee also examined the promotion of business growth and opportunities in economically depressed areas, and examined programs targeted towards relief for low-income communities.

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

### **7.2.1 H.R. 68, THE SMALL BUSINESS INVESTMENT COMPANY TECHNICAL CORRECTIONS ACT OF 1999**

#### *Background*

The purpose of H.R. 68 is to make certain amendments to Title III of the Small Business Investment Act of 1958 and amend Section 20 of the Small Business Act. The technical corrections proposed by H.R. 68 would improve the flexibility of the SBIC program and allow program by small businesses.

Congress revamped the SBIC program in the 103d Congress to provide for a new form of leverage geared specifically towards equity investment in small businesses. Over the ensuing years, as the new program has become established, certain deficiencies have come to light; in addition, certain statutory provisions have become obsolete. H.R. 68 will modify the SBIC program to exclude contingent obligations from the calculation of interest in loans made by SBICs; repeal provisions in the Small Business Investment Act that reserves leverage for smaller SBICs; increase the authorization levels for the participating securities segment of the SBIC program; modify a test for determining the eligibility of small businesses for SBIC financing; and allow the SBA greater flexibility in issuing trust certificates to finance the SBIC program's investments in small businesses.

#### *Summary*

On Thursday, January 7, 1999, the Committee on Small Business held a brief hearing to consider the provisions of H.R. 68. Testifying at the hearing was Mr. Lee Mercer, President of the National Association of Small Business Investment Companies. Mr. Mercer reiterated his testimony from the 105th Congress regarding the beneficial effects that H.R. 68 would have on the SBIC program. He recognized the improvements in management that occurred in the program over recent years and strongly recommended the corrections contained in H.R. 68. Mr. Mercer explained the five provisions and the effect they would have in detail. The hearing

was in essence a reprise of the hearing held the previous year to discuss the provisions of H.R. 3412.

Mr. Hinojosa asked questions concerning the establishment of the cost of money for the SBIC program through the secondary market. Mr. Mercer explained that the cost was variable and fluctuated in correspondence with changes in the 10-year Treasury rate and the varying spread requirements of institutional investors. Ms. Napolitano also asked Mr. Mercer about the various examples of the effect and impact of the SBIC program.

For further information on this hearing, refer to Committee publication 106-1.

### 7.2.2 REVIEW OF WOMEN'S BUSINESS CENTERS

#### *Background*

The Committee met on February 11, 1999 to discuss the administration of the SBA's Women's Business Centers Program and what obstacles it faces. Women's Business Centers provide courses, workshops, mentor services and access to financing designed for women building businesses. These centers often target-low-income women.

#### *Summary*

The witnesses at this hearing included: Lori Smith, founder and chairman of the board of the Oklahoma Women's Business Center, also representing the Association of Women's Business Centers; Linda Wharton, Small Business Owner and Client, Philadelphia Women's Business Development Center; and Betsy Myers, Associate Deputy Administrator, Office of Entrepreneurial Development of the Small Business Association.

Ms. Smith spoke of her worries regarding the sustainability of the Women's Business Centers program. She believes the program was instrumental in her own success as a small business owner, and she does not want to see the program phased out. She stated that in order to sustain the growth of women business owners, Congress must maintain and sustain the infrastructure of women's business centers nationwide; incorporate flexibility into the program by allowing Women's Business Centers to re-compete for funding; strengthen the association between the Women's Business Centers; support the expansion of the program but not at the expense of the program's successes; reconsider the match requirement, especially in the fifth year for an initial grant; and increase the authorization for the Women's Business Centers to \$12 million.

Ms. Wharton spoke of the help she received from her local Women's Business Center. She stated that this program was instrumental in her ability to launch HerSport, the company she owns with two women partners. She stated that the needs of men and women differ when starting a business, and that the Women's Business Centers program provides essential help in leveling the playing field.

Ms. Myers testified that the Women's Business Centers program is essential. She stated that they are certainly filling a need in communities across America, and that the Small Business Administration should do everything possible to sustain the program.

For further information on this hearing, refer to Committee publication 106-2.

### 7.2.3 REVIEW OF SBA'S FY 2000 BUDGET REQUEST

#### *Background*

The Small Business Administration provides a variety of services for small businesses—financial assistance, technical assistance, and disaster assistance.

#### **Financial Assistance**

The Small Business Administration provides approximately \$11 billion in financing to small businesses annually. This financing is made available through a variety of programs.

SBA's largest financial program is the Section 7(a) general business loan program. The 7(a) program offers loans to small businesses through local lending institutions. These loans are provided with an SBA guarantee of up to 80 percent and are limited to a maximum of \$750,000. The 7(a) program has a subsidy rate of 1.16% for fiscal year 2000 and an appropriation of \$107 million, permitting \$9.8 billion in lending.

The Section 504 loan program provides construction, renovation and capital investment financing to small businesses through certified development companies (CDCs). These CDCs are SBA licensed, local business development organizations which provide loans of up to \$750,000 for small businesses, in cooperation with local banks.

The Microloan program provides small loans of up to \$25,000 to borrowers in low-income areas. In fiscal year 1999 the program provided \$29 million in loans. In addition, the program has a technical assistance aspect that provides managerial and business expertise to microloan borrowers. Microloans are made by intermediary organizations that specialize in local business development.

The Small Business Investment Company (SBIC) program provides over \$1.5 billion in long term and venture capital financing for small businesses annually. SBICs are venture capital firms that leverage private investment dollars with SBA guaranteed debentures or participating securities. The SBIC debenture program currently operates at a zero subsidy rate and requires no taxpayer subsidy. The participating securities program has a 1.8 percent subsidy rate.

#### **Technical Assistance**

The SBA provides technical and managerial assistance to small businesses through four primary programs—

Small Businesses Development Centers (SBDCs) are located primarily at colleges and universities and provide assistance through 51 center sites and approximately 970 satellite offices and offer small businesses guidance on marketing, financing, start-up, and other areas.

The Service Corps of Retired Executives (SCORE) which provides small business assistance on-site through the volunteer efforts of

its members. SCORE volunteers are retired businessmen and women who offer their expertise to small businesses.

The 7(j) technical assistance program provides financing for technical assistance to the minority contracting community primarily through courses and direct assistance from management consultants and assistance for participants to attend business administration classes offered through several colleges and universities.

The Women's Business Center program provides business training centers for women and teach women the principles of finance, management and marketing as well as specialized topics such as government contracting or starting home-based businesses. There are currently 81 centers in 47 states in rural, urban and suburban locations.

#### **Disaster Assistance**

The Small Business Administration also provides disaster loan assistance to homeowners and small businesses nationwide. This program is a key component of the overall Federal recovery effort for communities struck by natural disasters. This assistance is authorized by section 7(b) of the Small Business Act which provides authority for reduced interest rate loans. Currently the interest rates fluctuate according to the statutory formula—a lower rate, not to exceed four percent is offered to applicants with no credit available elsewhere, while a rate of a maximum of eight percent is available for other borrowers.

#### *Summary*

On February 24, 1999 at 10:00 a.m., the Committee on Small Business convened a hearing to discuss the Administration's budget submission for fiscal year 2000, their legislative proposals, and the reauthorization of the SBA's programs. The Committee received testimony from one witness: Hon. Aida Alvarez, Administrator of the Small Business Administration.

Ms. Alvarez's testimony outlined the Administration's request, and concentrated on the Administration's "New Markets Initiative". She was joined in some of her responses by Mr. Greg Walter, Deputy Chief Financial Officer of the SBA, and Mr. John Gray, Associate Administrator for Investment.

During the hearing Chairman Talent questioned Administrator Alvarez on the lack of funding for the Veterans Business Outreach program. The Chairman also raised questions about an apparent rise in the request for administrative expenses in the budget submission.

Ranking Member Velázquez questioned the Administrator on the New Markets Initiative. Representatives Kelly and Forbes questioned the Administration's proposal to mandate that Small Business Development Centers charge fees. Mr. Forbes expressed concern that the Administration's proposal would effectively reduce funding for SBDCs by 25%, and those commensurate cuts were not being imposed on other programs.

Representative Pascrell questioned the Administrator on the efforts to improve lending to African-American and Latino-American small businesses and expressed concern over the drop in lending to those groups.

Representative Udall questioned the Administrator regarding assistance for Native American communities.

Representatives Tubbs-Jones and Schakowsky questioned the Administrator on efforts to increase lending in low-income communities.

Representative Forbes closed the hearing with questions about the Administration's proposal to take disaster assistance funding off budget.

For further information on this hearing, refer to Committee publication 106-3.

#### 7.2.4 THE SMALL BUSINESS YEAR 2000 READINESS ACT

##### *Background*

The full Committee on Small Business met to review the Small Business Year 2000 Readiness Act (S. 314), which passed the Senate on March 2, 1999 and became Public Law 106-8 on April 5, 1999.

The bill requires the Small Business Administration to establish a limited-term loan program whereby the agency guarantees the principal amount of a loan made by a private lender to assist small businesses in correcting Y2K computer problems. The program's start-up phase would be expedited by making each lender that currently participates in the SBA's 7(a) business loan program eligible to participate in the Y2K loan program.

##### *Summary*

One panel testified at the hearing: Ms. Jeanne Sclater, Deputy Associate Deputy Administrator, Office of Capital Access, Small Business Administration (SBA); Mr. David Schaefer, Vice President, Armfield, Harrison & Thomas, Inc.; Mr. Todd McCracken, President, National Small Business United; and Mr. Harris Miller, President, Information Technology Association of America.

Ms. Sclater testified that the proposed loan program would authorize SBA to guarantee loans outside its normal credit criteria, thus broadening the band of potentially eligible small businesses. While she agreed that the concept of targeted funding to small businesses to meet the Y2K threat is a laudatory objective, she mentioned concerns about how some of the bill's provisions could adversely impact SBA's ability to meet borrowers' needs under the regular 7(a) business loan program could hurt small businesses by mandating a balloon payment loan structure.

Mr. Schaefer testified about the impact the Y2K problem is having on his small business and he included some anecdotal evidence from other businesses. As a property and casualty insurance agent, he also provided insight on the awareness and preparedness of his clients.

Mr. McCracken testified about National Small Business United (NSBU) data that although the computer revolution has taken hold within the small business community, thirty-eight percent had not yet begun to address the Y2K issue. Smaller companies with fewer than 20 employees are even less likely to be addressing the Y2K problem.

Mr. Miller testified that because the bill provides much needed assistance to small businesses, and, through the very existence of such a program, serves a powerful channel of awareness and outreach to the small business community, the Small Business Year 2000 Readiness Act, in combination with other Y2K legislation, will further the maximum correction of systems in the less than 300 days remaining before the rollover.

For further information on this hearing, refer to Committee publication 106-5.

#### 7.2.5 THE EFFECT OF THE KYOTO PROTOCOL ON AMERICAN SMALL BUSINESS

##### *Background*

Countries completed negotiations on the Kyoto Protocol to the United Nations Framework Convention on Climate Change on December 11, 1997, committing industrialized nations to specified, legally binding “greenhouse gas” emission targets. The United States agreed to reduce greenhouse gases to 7% below the 1990 levels during the 2008 to 2012 commitment period. On November 12, 1998, U.S. United Nations Ambassador Peter Burleigh signed the Kyoto Protocol. The Administration has yet to submit the treaty to the U.S. Senate for ratification.

The Administration indicated that absent developing countries (i.e., Mexico, China and Brazil), commitment to reduce greenhouse gases, it will not submit the protocol to the Senate. Last November, at the latest conference of the parties in Buenos Aires, Argentina, most developing countries declined to accept binding emission reduction goals.

Ratification of the Kyoto Protocol will immediately impact energy intensive small businesses such as bakeries, dry cleaners, auto repair shops, small manufacturers, and, ironically, recycling businesses. The Kyoto Protocol will force small businesses to operate much smaller, less useful vehicles, and to pay higher gas taxes and utility bills.

If the Senate ratifies the Kyoto Protocol, the Administration plans to domestically enforce the Protocol through a credit system. Companies will sell greenhouse gas emissions on an open market. Firms that achieve greater than national reductions may sell to non-compliant businesses—allowing U.S. firms to profit for moving their operations to developing countries, i.e., Mexico, that reject binding reductions. It is more disastrous for small entities and start-up firms that exponentially use more energy than 1990 levels.

##### *Summary*

The Committee examined the Kyoto Protocol to the United Nations Framework Convention on Climate Change. The Clinton Administration signed the Protocol in November 1998, but has not submitted it to the Senate for ratification. The hearing focused primarily on the Protocol’s economic impacts on American small businesses. Specifically, the hearing questioned the ability to successfully implement the Protocol absent developing country (i.e., China and India) participation. The hearing challenged previous assertions by Dr. Janet Yellen, Chair for the President’s Council of Eco-

conomic Advisers, that while domestic reduction in greenhouse gases would significantly impact the U.S. economy, the United States could purchase credits in an international market that would permit it to comply with its Protocol obligations without a negative impact on the U.S. economy. In addition to Dr. Yellen, Mr. Robert Reinstein, President, Reinstein & Associates International, Inc. provided testimony.

For further information on this hearing, refer to Committee publication 106-10.

#### 7.2.6 ELECTRONIC COMMERCE: THE BENEFITS AND PITFALLS OF CONDUCTING BUSINESS OVER THE INTERNET

##### *Background*

On May 26, 1999, the Committee met to discuss the benefits and pitfalls of Electronic Commerce. According to projections by IDC, by 2000, 46 million American consumers will be buying on-line, each spending an average of \$350. Yet, E-marketer reported that fewer than 2 percent of the 7 million U.S. small businesses with fewer than 100 employees conduct on-line transactions. Furthermore, the problems of Internet tax and increased Federal regulation of the Internet are barriers to electronic commerce.

##### *Summary*

A diverse panel of witnesses provided the Committee Members with valuable insight into this timely issue: Mr. Daniel O. Hill, Deputy Assistant Administrator for Technology, Small Business Administration (SBA); Mr. Harris Miller, President, Information Technology Association of America; Professor Andrew B. Whinston, Director, Center for Research in Electronic Commerce, University of Texas at Austin; Mr. Alan Anderson, Senior Vice President, American Institute of Certified Public Accountants; and Mr. Brian Hanson, Founder & Owner, Hanson Bros. Fresh Seafood, Portland, ME.

Mr. Hill testified about ways the SBA is working to encourage small business involvement in electronic commerce, both as users and as developers and innovators of the technology.

Mr. Miller argued that even with a successful web site, the benefits of e-commerce are not inevitable. E-commerce must be supported with sound public policy. Mr. Miller argued four challenges could harm small business access to e-commerce, including: increased federal Internet regulation; limited small business access to high speed telecommunications; lack of digital trust and security; and e-commerce taxation.

Mr. Whinston testified about barriers to small business on-line success and said the government should conduct more research to better understand how businesses on the Internet will operate. Then, small businesses may draw upon that pool of information to be effective competitors in the Internet world.

Mr. Anderson testified about online security and how the American Institute of Certified Public Accountants created CPA Web Trust, a seal that verifies to consumers that the organization conducted an audit of a business' integrity, the web-site's transaction integrity, and the web-site's protection of on-line privacy.



Mr. Hanson testified that many small businesses face serious obstacles. He successfully incorporated e-commerce into his business and estimates his on-line sales will reach 20–30% of his annual sales this year. However, while researching his company's Internet potential he found several small business errors that keep many small businesses from functioning effectively in the "e-world."

Mr. Hanson also argued that poorly designed web sites, lack of traffic and exposure to the site, and a lack of functionality all must be rectified to succeed on the Internet. Small businesses often lack the technical skills, large capital for equipment and advertising, and the time necessary to manage their sites. Mr. Hanson said that without addressing these concerns, his on-line venture would not have succeeded as well.

For further information on this hearing, refer to Committee publication 106–15.

#### 7.2.7 SETRA: FAIR AND SIMPLE TAX RELIEF FOR SMALL BUSINESS

##### *Background*

Introduced by Chairman Talent, H.R. 2087, the Small Employer Tax Relief Act of 1999 (SETRA) would provide fair and simple tax relief for small business. For SETRA purposes, the category "small business" generally includes C corporations, S corporations, partnerships, limited liability companies, and sole proprietorships averaging five million dollars (\$5,000,000) or less in annual gross receipts for the three preceding years.

First, the bill would increase the deduction for the health insurance costs of self-employed individuals to 100 percent immediately. Current law allows the self-employed to deduct 60 percent in 1999; 70% in 2002; and 100% in 2003. SETRA also would clarify that an individual can lose his or her self-employed health insurance deduction only if he or she actually participates in another plan.

Second, the bill would increase the meal and entertainment expenses for small business taxpayers from 50 percent to 80 percent. The bill would extend to small businesses a tax law change provided in the Taxpayer Relief Act of 1997 for workers with federally mandated periods of rest. The provision increases the meal deduction incrementally by 5 percent to 80 percent by the year 2009. In 1986, all businesses could deduct 100 percent of business and travel meals as ordinary and necessary business expenses. Congress lowered the deduction to 80 percent in 1987 and to 50 percent in 1994.

Third, the bill would increase expenses for small business. Current law allows taxpayers to expense the cost of tangible, depreciable personal property purchased for use in the active conduct of a trade or business up to \$19,000 in 1999; \$20,000 in 2000; \$24,000 in 2001 and 2002; and \$25,000 in 2003. SETRA would increase expensing for small businesses to \$35,000 immediately.

Fourth, the bill would lower the top individual tax rate on small business from 39.6 percent to 34 percent. The lower tax rate would apply to the net income of a small business attributable to the active conduct of a trade or business (up to \$5,000,000) and currently taxable above 34 percent.

Fifth, the bill would repeal the Federal Unemployment surtax of 0.2 percent under current law. Specifically, the bill amends Section 3301 of the Internal Revenue Code to provide a Federal unemployment excise tax of 6.0 percent instead of 6.2 percent. Congress added the 0.2% surtax temporarily in 1976 to repay government loans from the federal unemployment trust funds. While Congress fully repaid the loans in 1987, it continues to extend the temporary surtax.

Finally, the bill would clarify that small business taxpayers with average annual gross receipts of \$5,000,000 or less for the three preceding years can use the cash method of accounting without limitation, even if they use merchandise or inventory.

#### *Summary*

James Wordsworth on behalf of the National Restaurant Association; Frank Joseph on behalf of the National Association for the Self-employed; Eric Wallace on behalf of the Associated Builders and Contractors; Terry Neece on behalf of the National Association of Women Business Owners; Brian Reardon of the National Federation of Independent Business; Martin Regalia of the Chamber of Commerce of the United States; and Dorothy Coleman of the National Association of Manufacturers provided testimony at the hearing.

Among other findings, the testimony at the hearing established that:

- Accelerating the 100 percent health insurance deduction for the self-employed immediately would make health care more accessible and affordable for at least 5 million self-employed Americans, children and dependents.
- Reductions in the business meal expense deduction resulted in a disproportionate tax increase on the restaurant and entertainment industries and on business meal users—the majority of which are self-employed or small business customers;
  - Expensing limits are too low. Increased expensing lowers the cost of capital and would help small business taxpayers update business equipment and keep pace with rapidly changing technologies;
  - Recent increases in the top individual tax rate to 39.6 percent affect two-thirds of all small businesses—forcing them to pay a higher tax rate than the top 34 percent tax rate Fortune 500 companies pay.
- Repealing the FUTA 0.2 percent surtax would reduce payroll taxes on small business taxpayers without affecting Social Security.
- Legislative history indicates Congress intended certain small entities to use the cash method of accounting without limitation. In contrast, an Internal Revenue Service (IRS) audit guide and recent IRS audit activities demonstrate a broad effort to force small businesses to change from the cash method to the accrual method of accounting.

For further information on this hearing, refer to Committee publication 106–18.

7.2.8 ASSOCIATION HEALTH PLANS: GIVING SMALL BUSINESSES  
THE BENEFITS THEY NEED

*Background*

On June 10, 1999, the Committee on Small Business held a hearing to consider how Association Health Plans will assist various segments of the small business population to get health insurance. There are currently 43 million Americans without health insurance and over 60 percent have one thing in common: they, or a family member, are employed by a small business. A recent study by the CONSAD Research Corporation, estimated that as many as eight million uninsured would gain access to health coverage through AHPs.

Historically, health insurance has been too expensive for the average small business owner to purchase. Thus many of those employed by small businesses are left without access to affordable health care options. AHPs allow small employers to join together through their trade associations to offer affordable and quality health insurance to their employees. AHPs ensure that small businesses are afforded the same economies of scale, purchasing clout, and administrative efficiency as large employers, when purchasing health insurance. Chairman Jim Talent (R-MO) and Rep. Cal Dooley (D-CA) introduced the Access and Choice for Entrepreneurs Act (ACE), H.R. 1496, which would give small business owners the opportunity to offer employees the most basic patient protection, access to health care, through AHPs.

*Summary*

The hearing consisted of one panel: Ms. Terry Neese, CEO and Founder, Terry Neese Personnel Services, and Corporate and Public Policy Advisor, National Association of Women Business Owners (NAWBO); Ms. Mary Nell Lehnhard, Senior Vice President, Policy and Representation, BlueCross BlueShield Association; Mr. Jesse Coleman, Vice President and Owner, Coleman's Hamilton Supply Company; Ms. Patricia Gagne, Vice President, Claims Technologies, Inc.; Mr. Joseph E. Rossman, Vice President, Employee Benefits Operations, Associated Builders and Contractors, Inc.; Mr. John B. Nicholson, Proprietor, Company Flowers.

Ms. Neese testified that AHPs are especially important to women business owners, as they are the fastest growing segment of small business owners. She noted that while 82 percent of all women business owners offer health coverage, only 25 percent of women-owned small businesses are able to offer coverage and; the smaller the business the less likely it is to offer health benefits.

Ms. Mary Nell Lehnhard testified about Blue Cross Blue Shield's concern that AHPs would not provide comprehensive coverage since they are exempt from covering state-mandated benefits. She also expressed concern that plans the Department of Labor does not have the resources necessary to regulate AHPs.

Mr. Coleman testified that in his industry where he must compete with large companies for employees, providing health care is crucial in attracting and retaining good employees. He told of his own experience as a small business owner trying to self-insure and

being unable to find affordable rates. Mr. Coleman said that being able to participate in an ERISA plan would help level the playing field.

Ms. Gagne testified that the Boys and Girls Clubs Workers Association had to cease coverage in certain areas because of rising health care costs that their members could not afford. She noted that compliance costs, carrier fees, and insurance company profit margins led B&GCWA to self-insure in order to offer affordable benefits to their members. Additionally, B&GCWA was able to provide coverage that was portable across state lines, which benefited many of their members who moved to start clubs in other areas. Ms. Gagne testified that AHPs build on current ERISA framework to allow small businesses to access affordable health care options.

Mr. Rossman testified that ABC's Insurance Trust provides a crucial service to its small business members by negotiating cost and coverage options on their behalf. He mentioned that due to state reforms, ABC is being forced to increase rates, reduce benefits, or stop coverage altogether in certain areas. He said that AHP legislation would help ABC continue to serve their members by providing affordable, quality health care.

Mr. Nicholson testified that his HMO recently stopped covering him and his employees because they no longer wanted to provide service to groups with less than ten people. He noted that he would like to be able to look to his trade association for guidance on this matter and that AHP legislation would give him that resource.

For further information on this hearing, refer to Committee publication 106-19.

#### 7.2.9 H.R. 1568, THE VETERANS ENTREPRENEURSHIP AND SMALL BUSINESS DEVELOPMENT ACT OF 1999

##### *Background*

In July 1998, Small Business Administration Administrator Aida Alvarez established the SBA Veterans' Affairs Task Force for Entrepreneurship. The Task Force included representatives from the major veterans service organizations and veterans advocacy groups, veteran-owned businesses, SBA management board members, and SBA resource partners. H.R. 1568, the Veterans Entrepreneurship and Small Business Development Act of 1999 implements the Task Force's "high priority" recommendations which the SBA failed to implement.

First, the bill makes veterans eligible for funds under the microloan program which enables veterans to access capital markets currently available to other business owners possessing the capability to operate successful business concerns.

Second, the bill amends the Small Business Development Act to require the Secretary of Veterans' Affairs, the Administrator of the Small Business Administration, and the small business development center associations to train all veterans, including disabled veterans, in business training and management assistance, procurement opportunities, and other business areas.

Third, the bill creates the National Veterans Business Development Corporation. This Corporation will coordinate private and public resources from Federal organizations to establish and main-

tain a network of information and assistance centers for use by veterans and the public.

Finally, the bill equates veteran-owned small business competitive opportunities to those provided to small business concerns owned and controlled by socially and economically disadvantaged individuals, including procurement contract opportunities.

#### *Summary*

In July 1998, Small Business Administration Administrator Aida Alvarez established the SBA Veterans' Affairs Task Force for Entrepreneurship. The Task Force examined SBA's efforts to assist veteran entrepreneurs. The SBA, however, failed to implement the Task Force's recommendations. H.R. 1568, the Veterans Entrepreneurship and Small Business Development Act of 1999 implements the Task Force's "high priority" recommendations. Betsy Myers, SBA representative; Anthony Baskerville, Disabled American Veterans; Valerie Callaway, a disabled veteran; John K. Lopez, Association for Service Disabled Veterans; Emil W. Naschinski, The American Legion; William Elmore, Data Forces Associates; Charles Foster, SBC Telecommunications; and Steve White & Co.; provided testimony.

For further information on this hearing, refer to Committee publication 106-20.

#### 7.2.10 PROPOSED AMENDMENTS TO THE 7(a) AND 504 LOAN PROGRAMS

#### *Background*

On June 24, 1999, the Committee on Small Business met to discuss proposed changes to the 7(a) and 504 loan programs, the major lending programs supported by the Small Business Administration.

#### **The 7(a) Program Proposals**

Increase the maximum guarantee amount of a 7(a) loan to \$1 million from the current limit of \$750,000 in order to keep pace with inflation, and institute a cap prohibiting loans with a gross amount in excess of \$2 million.

Remove a provision that reduced SBA's liability for accrued interest on defaulted loans since the provision's intended savings failed to materialize.

Three changes designed to encourage the making of smaller loans. The 80 percent guarantee rate will be expanded from loans under \$100,000 to loans under \$150,000. Likewise, the two percent guarantee fee will now apply to loans up to \$150,000, which represents a significant savings for these small borrowers. Finally, for small loans, a provision allowing lenders to retain one quarter of the guarantee fee on loans under \$150,000 as an incentive to make these loans.

The last proposal modifies an SBA regulatory restriction which prohibit loans for passive investment, and permits the financing of projects where no more than 20% of a business location will be rented out provided the small business borrower in question occupies the remaining space.

#### 504 Program Proposals

It has been ten years since any increase in the maximum guarantee amount in the 504 program. To keep pace with inflation, the maximum guarantee amount should be increased to approximately \$1,250,000. The Committee proposes a simple increase to \$1,000,000.

The 504 program currently operates with a zero subsidy rate. The Committee proposed reauthorizing these fees.

The Committee also proposed adding women-owned businesses to the current list of businesses eligible for the larger public policy oriented loans of up to \$1,300,000; and making the Premier Certified Lender pilot program and the Liquidation Pilot Program permanent.

#### *Summary*

On June 24, 1999, at 9:30 a.m., the Committee on Small Business convened a hearing to discuss legislative proposals for the 7(a) and 504 programs. The Committee received testimony from four witnesses Mr. Fred Hochberg, Deputy Administrator of the Small Business Administration; Mr. Anthony Wilkinson, President of the National Association of Government Guaranteed Lenders; Ms. Donna Faulk, Vice President for Mortgage Backed Securities of Prudential Securities; and Mr. John Geigel of the Wisconsin Development Finance Corporation representing the National Association of Development Companies.

Mr. Hochberg's testimony generally supported both the 7(a) and 504 provisions in the legislative proposal which later became H.R. 2615 and H.R. 2614. He expressed the Administration's opposition to the proposed 7(a) subsidy floor provision which was removed from the final version. However, the Committee believes this provision merits further examination. Mr. Hochberg also expressed reservations regarding increasing the guarantee amount; however, he stated that those concerns were based on the draft of the bill without any provisions to encourage smaller loans. Such provisions were later added.

He expressed the SBA's support for reauthorizing the fees which support the 504 program, making the Pilot Liquidation Program permanent and making the Premier Certified Lender Program permanent as well. Mr. Hochberg expressed the SBA's concerns over the language regarding the treatment of 504 loans in the SBA's planned asset sales. These concerns were later addressed by the Committee and changes were incorporated into H.R. 2614.

Mr. Wilkinson testified in support of the 7(a) provisions proposed. He stated that the 7(a) lenders were particularly supportive of some form of prepayment penalty in order to add stability to the program. He stated that recent prepayments raised significant concern over the effect to the program as a whole. He also expressed support for the provisions raising the guarantee amounts, saying that such an increase was needed to provide some growth due to inflation. Mr. Wilkinson stated that he did not believe that the increases in average loan size were significant, and he noted that they fluctuated regularly.

Ms. Faulk testified in support of the prepayment penalty provision. She testified that the commercial investors who purchase

pools of SBA guaranteed loans have faced problems due to prepayments. Early prepayments require that loans be stripped from pools, with a corresponding loss in income. This results in a loss of investor confidence and interest in SBA backed pools and a loss in credit availability for small businesses.

Mr. Geigel's testimony concerned the provisions affecting the 504 program. He expressed the Certified Development Company industry's strong support of the legislative language, which became the body of H.R. 2614. In particular, he supported the language providing qualified development companies with the ability to liquidate defaulted loans with minimal SBA oversight. He expressed the 504 industry's belief that the lenders, who had intimate knowledge of the loans, were in a superior position to either liquidate or restructure loans. In addition, he expressed strong support of the provisions increasing the maximum loan/debenture size and the inclusion of women-owned businesses as a group eligible under the public policy lending provisions of the 504 program.

For further information on this hearing, refer to Committee publication 106-21.

#### 7.2.11 OSHA'S SAFETY AND HEALTH PROGRAM RULE

##### *Background*

On Thursday, July 22, 1999, the Committee on Small Business held a hearing to examine the Occupational Safety and Health Administration (OSHA) Draft Safety and Health Program Rule. OSHA officials have publicly stated that the Draft Rule is the most important element of OSHA's regulatory agenda. In its current form, the Draft Rule would require all private-sector businesses (aside from those in the agriculture and construction industry) to implement a safety and health program—meeting certain enumerated requirements such as “management leadership,” “employee participation,” and “hazard assessment.” Proponents of the Draft Rule contend that it takes a preventative approach to worker accidents and provides flexibility in implementation. Opponents of the rule contend that the terms of the rule are so vague as to preclude honest businesses from knowing how to comply. Moreover, opponents claim, mandatory safety programs imposed at the state level have failed.

Concurrent with the Draft Rule, OSHA also released a Preliminary Initial Regulator Flexibility Act (“PIRFA”) analyzing the costs and benefits of the measure. This PIRFA served as the basis upon which small entities provided feedback during the Small Business Regulatory Flexibility Act (SBREFA) panel review process. The Small Business Administration's Office of Advocacy commissioned an independent contractor, Policy Planning & Evaluation, Inc., to produce an independent analysis of the methodology and rigor of the PIRFA. This rule was docketed in the formal rulemaking process.

The hearing was convened in order to explore the merits of the Draft Rule and the rigor of OSHA's underlying cost-benefit analysis.

*Summary*

The hearing comprised three panels. The Honorable Charles N. Jeffress, Assistant Secretary of Labor for Occupational Safety and Health, constituted the first panel. Mr. Jasbinder Singh, President of Policy Planning & Evaluation, Inc., and Dr. Henry Beale, Principal Economist of Macroeconomic Applications, Inc., composed the second panel. Mr. Baruch Fellner, a partner at Gibson Dunn & Crutcher, and Mr. Larry Halprin, a Partner at Keller and Heckman, composed the third panel.

Secretary Jeffress cited the results of various voluntary safety and health programs adopted in private industry as providing probative evidence of the likely effectiveness of safety and health standards mandated by the Draft Rule. Chairman Talent contended that the success of such voluntary programs did not provide strong evidence that a mandatory program would work given the results. Chairman Talent cited a recent study by a senior OSHA economist which concluded that mandatory safety and health programs are no more effective than voluntary programs. Chairman Talent and Representative Kelly also asserted that the terms of the draft rule were so vague as to invite arbitrary enforcement.

Mr. Singh contended that the cost-benefit analysis used by OSHA in its PIRFA accompanying the Draft Rule was methodologically flawed. Mr. Singh claimed that, in reviewing the PIRFA, it was apparent that OSHA overstated the benefits and underestimated the costs of the Draft Rule. Dr. Beale claimed that, although the PIRFA was poorly drafted, OSHA possessed sufficient underlying analysis and data to support the rule.

Misters Halprin and Fellner both criticized the vague terms of the Draft Rule, contending that they invited arbitrary ex post enforcement and precluded honest businesses from effectively discerning their compliance obligations. Mistery Fellner and Halprin also derided the Draft Rule as a violation of OSHA's statutory authority. Moreover, both asserted that the "record keeping exemption" and "grandfather clause" touted by OSHA as affording regulatory relief to small business were specious and deficient.

For further information on this hearing, refer to Committee publication 106-23.

7.2.12 EPA'S EXPANSION OF 112(r) OF THE 1990 CLEAN AIR ACT  
AMENDMENTS TO INCLUDE PROPANE

*Background*

In December 1984, storage tank in Bhopal, India accidentally released a toxic chemical into the atmosphere killing over 3,000, and injuring more than 200,000, individuals. In response, Congress amended the Clean Air Act to require the EPA to promulgate a "list of 100 substances which in the case of an accidental release, are known to cause or may reasonably be anticipated to cause death, injury, or serious adverse effects to human health or the environment." Congress required the EPA to include 16 toxic chemicals on the list. In January 1993, the Bush Administration EPA proposed to expand the law to include propane within section 112(r). However, propane is not toxic.



The EPA regulation, as originally drafted, would have covered any business that stored more than 10,000 pounds or 2,300 gallons—including the average family farmer, greenhouse, or restaurant using propane as well as small propane distributors and dealers. Notwithstanding propane’s regulation by OSHA, DOT, and every state and local fire department, EPA would have required these businesses, at minimum, to develop a “worst-case” scenario impact of a propane explosion and a plan for dealing with that scenario, and to bring equipment and personnel up to EPA standards for executing such a plan. Furthermore, it would have given propane users the perverse incentive to do one of two things: switch to an environmentally unfriendly fuel, like fuel oil, or store less than the threshold 10,000 pounds on site, which would have required more frequent deliveries of propane and therefore more transportation of flammable fuels on the highways.

As a result of these obvious problems with the regulation, and following six years of extreme Congressional pressure, the EPA finally raised the threshold for the application of its regulations from 10,000 pounds to 67,000 pounds, thus exempting most small business end users. The EPA could have avoided this problem in the first instance if it took the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) seriously.

#### *Summary*

The Full Committee questioned the Environmental Protection Agency’s expansion of section 112(r) of the 1990 Clean Air Act Amendments to include propane. According to EPA, the 1990 Clean Air Act Amendments allowed it to require propane dealers to comply with regulations corresponding to section 112(r). However, the United States District Court for the District of Columbia enjoined the EPA’s enforcement. Furthermore, Congress enacted legislation that expressly exempted propane from section 112(r). Chairman Talent questioned the EPA’s failure to obtain input from small businesses.

Congressman Roy Blunt (R–MO); Mr. James Makris, Director, Chemical Emergency Preparedness and Prevention Office, U.S. Environmental Protection Agency; Mr. and Mrs. John and Mary Densmore, Geldbach Petroleum; and Mr. Paul Lindsey, All Star Gas, provided testimony.

For further information on this hearing, refer to Committee publication 106–26.

#### 7.2.13 HEARING ON CONTRACT BUNDLING AND FEDERAL PROCUREMENT PROBLEMS FACING SMALL BUSINESSES

#### *Background*

On August 4, 1999 the Committee on Small Business held a hearing to address the impact of contract bundling on small businesses. The purpose of the hearing was to examine whether contract bundling prevented small businesses from obtaining prime contracts from the federal government.

Contract bundling is the consolidation of two or more procurement requirements into one contract. The consolidation of procurement requirements can result in contract solicitations that are so

complex and large that small businesses do not have the resources to be considered responsive to the solicitation. Even if contracting officers consider the small business responsive, the size of the solicitation is likely to result in a determination that the small business bidders do not have the technical and financial resources to meet the conditions of the contract. For example, if the federal government requires that an office supply contractor be able to deliver office supplies anywhere in the United States within 24 hours, small businesses with only a few selected outlets probably would be considered a non-responsible contractor and therefore would not win the contract.

The use of contract bundling has increased substantially during the past eight years as the federal government tries to emulate the volume-discount practices in normal commercial contracting. However, the federal government is not a commercial enterprise and the procurement process is used to accomplish social and economic goals such as participation by small businesses that commercial enterprises can ignore. In 1997, Congress passed the Small Business Reauthorization Act which require procuring agencies to demonstrate that contract bundling will result in measurable substantial benefits and enables the Small Business Administration to contest the procuring agency's conclusion.

#### *Summary*

The first panel consisted of Honorable Deidre Lee, Administrator of the Office of Federal Procurement Policy; Dr. Richard Hayes, Associate Deputy Administrator, United States Small Business Administration; and Robert Neal, Director, Office of Small and Disadvantaged Business Utilization, Office of the Under Secretary for Acquisition and Technology, Department of Defense.

Ms. Lee testified that the government is interested in obtaining the best value for the federal government and, within this requirement, trying a variety of tools to increase small business participation. Ms. Lee also testified that the Office of Federal Procurement Policy was working with federal agencies to finalize rules to implement the Small Business Reauthorization Act of 1997.

Dr. Hayes noted that the federal government was ahead of its goal for small business utilization despite efforts at streamlining that might lead to utilization of large businesses for the purchase of goods and services. Dr. Hayes further noted that the Small Business Administration worked with federal agencies to develop alternative strategies that will increase utilization of small businesses in the federal procurement process. Finally, Dr. Hayes noted that the Small Business Administration was working on finalizing regulations to implement the contract bundling provisions of the Small Business Reauthorization Act of 1997.

Mr. Neal testified contract bundling has occurred, at least in part, due to contraction of the federal acquisition workforce. Mr. Neal then discussed initiatives put in place by the Defense Department to increase the opportunity for small businesses through joint venturing and teaming of interested small businesses. Mr. Neal also noted that the Defense Department was promoting the utilization of small business subcontractors by its prime contractors.

The second panel consisted of Mr. Terry Head, President, Household Goods Forwarder Association; Mr. James Smith, Owner, United Janitorial Services, Inc.; Phyllis Hill Slater, President of Hill Slater, Inc. on behalf of the National Association of Women Business Owners; Cathy S. Ritter, President, Constellation Design Group on behalf of the American Consulting Engineers Council; and Dan Moore, President of Moore's Cafeteria Services, Inc.

Mr. Head testified that the Defense Department procurement policy has resulted in severe reductions of the number of firms that provide moving and storage services to military bases. Mr. Head then noted that the reduction in the number of movers has resulted in an increase in the cost of each move of military personnel without any increase in the quality of service provided to the military personnel.

Mr. Smith testified that bundling of contracts reduce the number of janitorial contracts awarded to 8(a) contractors. Mr. Smith went on to note that the trend for contract bundling will hurt many small and disadvantaged businesses and the communities that rely on those businesses.

Ms. Hill Slater noted that women-owned businesses have problems with obtaining federal contracts and getting work as subcontractors on federal projects even though the women-owned businesses are qualified. Ms. Hill Slater then noted that bundling simply erects another barrier that women-owned businesses will have to overcome in their effort to obtain a fair share of federal government procurement dollars.

Ms. Ritter noted that many small businesses would not have the resources to provide services for indefinite quantity contracts in excess of five million dollars (\$5,000,000), which is becoming the norm in federal government solicitations for architect and engineering services. According to Ms. Ritter, the situation is exacerbated by including diverse engineering services in the same contract because small architecture and engineering firms do not have the resources to handle multiple disciplines.

Mr. Moore testified that mess hall services for the United States Marine Corps improved dramatically after the Defense Department privatized that service. Mr. Moore went on to note that this improvement is in jeopardy because the Marine Corps intends to regionalize food preparation through the use of central kitchens and eliminate small businesses from bidding on these contracts.

For further information on this hearing, refer to Committee publication 106-27.

#### 7.2.14 SMALL FARM TAX BURDENS

##### *Background*

Chairman Talent, joined by Representative Kenny C. Hulshof (R-MO) of the Committee on Ways and Means, held a field hearing in Columbia, Missouri to explore the tax burdens on farmers and ranchers.

Increasing tax burdens hinder the present and future viability of American farmers and ranchers—the overwhelming number of which are small businesses. Of the 2 million farms in America, 94 percent are small farms. In addition, families own and operate ap-

proximately 98 percent of the nation's farms and ranches. Estate and gift (death) taxes as high as 55 percent drain capital from—and too often force the sale of part or all of—farm and ranch operations.

The nature of farming and ranching intensifies the burden of high taxes. Farming and ranching is capital intensive. In addition, farmers and ranchers hold their assets for long periods of time. According to the United States Department of Agriculture (USDA), agricultural assets total \$1,140 billion with real estate accounting for 79 percent of the assets. On average, farmers and ranchers hold real estate for 30 years with farmland increasing in value 5 to 6 times over that period. Consequently, inflation has increased the value of farmland and equipment dramatically.

Farming and ranching is cyclical in nature. The income of farmers and ranchers can change dramatically due to circumstances beyond their control. Weather disasters, downturns in overseas markets, and the price volatility inherent in commodity markets can lead to wild fluctuations in farm income from one year to the next. A bill sponsored by Representative Hulshof, the *Farm and Ranch Risk Management (FARRM) Act* (H.R. 957), would allow farmers and ranchers to make tax-deductible contributions of up to 20 percent of their annual income into a FARRM Account (for distribution within 5 years). FARRM Account income would be taxed as ordinary income.

#### *Summary*

David Blakemore of B&B Cotton Company; Ronald, McNeill, President of the Missouri Corn Growers Association; Dale Ludwig, Executive Director of the Missouri Soybean Association; Richard Erisman on behalf of the Missouri Farm Bureau; John Cauthon, President Elect of the Missouri Cattlemen's Association; Rick Rehmeier on behalf of the Missouri Pork Producers Association; and Rich Palmer, President of the Missouri Dairy Association; provided testimony at the hearing.

The witnesses testified that they are in crisis. In addition, they stated that the average age of the nation's producers is over 55. The transfer of many farms and ranches to younger generations, therefore, is fast approaching. Yet, the witnesses revealed that fathers and mothers cannot in good conscience advise their children to stay on the family farm.

Today, 70 percent of family-owned businesses fail to make it to a second generation, and 87 percent fail to make it to a third generation. Eliminating death and capital gains taxes would reduce the heavy tax burden on farmers and ranchers directly, and would make successful transfers of small, family-held farms and ranches to future generations more feasible. In particular, death tax repeal is the single most fundamental act Congress can take to protect the long-term viability of families in agriculture.

Coupled with agricultural assistance and reform, the FARRM Act is an exciting new tool that could help American farmers and ranchers through a second year of crisis. Low crop yields, low commodity prices, natural disasters, persistent trade barriers, government regulation, and burdensome tax policies are hurting agriculture severely.

Finally, agriculture is a business. American taxpayers in agriculture deserve the same ability to deduct 100 percent of their health insurance costs immediately as large companies. Commonly, a spouse must work outside of the family farm to obtain the benefit of health insurance coverage because of the high, out-of-pocket cost of health insurance for the self-employed.

For further information on this hearing, refer to Committee publication 106-28. For related hearings, refer to Committee publications 106-30, 106-34, and 106-40.

#### 7.2.15 "BUILDING A STRONGER AGRICULTURAL COMMUNITY"

##### *Background*

On August 24, 1999, the Committee on Small Business of the United States Senate and the Small Business Committee of the United States of Representatives held a joint field hearing in Kansas City, Missouri to explore issues critical to the agricultural community in Missouri and across rural America.

The hearing was organized as a roundtable discussion and explored the tax, regulatory, and trade policies affecting farmers and ranchers. Substantially declining commodity prices and tightening trade markets are hurting family farms and ranches, and heighten the need for emergency relief and for tax, regulatory, and trade reforms. Legislative initiatives discussed included H.R. 2743, the *Farm and Ranch Emergency Assistance Act*, and H.R. 2488, the *Taxpayer Refund and Relief Act of 1999*.

##### *Summary*

Participants included: Julie Baker, Legislative Director and Membership Coordinator, Missouri Farm Union, Shelbina, Missouri; Gina Bowman-Morrill, Director of Government Relations, Farmland Industries, Inc., Kansas City, Missouri; Dan Cassidy, Director of National Legislative Programs, Missouri Farm Bureau, Jefferson City, Missouri; David Drennan, Executive Director, Missouri Dairy Association Chesterfield, Missouri, David Durham, Producer, Missouri Soybean Merchandising Council, Jefferson City, Missouri; Terry Ecker, Farmer, and Member, Missouri Farm Bureau, Jefferson City, Missouri; Richard Fordyce Farmer, and Member, Missouri Farm Bureau, Jefferson City, Missouri; Ben Griffith, General Manager, Central Co-op, Pleasant Hill, Missouri; Jim Guest, President, Missouri Pork Producers Association, Columbia, Missouri; Dale Ludwig, Executive Director and Chief Executive Officer, Missouri Soybean Association and Merchandising Council, Jefferson City, Missouri; Ronald McNeall, President, Missouri Corn Growers Association, Jefferson City, Missouri; Ed Nierman, Treasurer and Member of the Board, Missouri Dairy Association, Concordia, Missouri; Don Nikodim, Executive Director, Missouri Pork Producers Association, Columbia, Missouri; Wes Shoemeyer, President, Missouri National Farmers Organization, Clarence, Missouri; Don Shriver, Executive Vice President, Dairy Farmers of America, Inc., Kansas City, Missouri; Sam Stone, Vice President, Government and Member Relations, Dairy Farms of America, Kansas City, Missouri; Jay Truitt, Executive Vice President, Missouri Cattlemen's Association, Columbia, Missouri; Tom Waters, Chair-

man, Missouri Levee and Drainage District Association, Orick, Missouri; Bob Wollenman, Representative, St. Joseph Area Chamber of Commerce, St. Joseph, Missouri; Abner Womack, Executive Director, Food Agricultural Policy Research Institute, Columbia, Maryland; and Robert Young, Co-Director, Food Agriculture Policy Research Institute, Columbia, Missouri.

The witnesses discussed repealing the death tax; accelerating the 100% health insurance deduction for the self-employed; reducing capital gains taxes; indexing capital assets for inflation; increasing Section 179 expensing; the effects of increasing consolidation of farming operations; providing investment tax incentives for farmer-owned new general cooperatives, including value-added production; Farm, Fish and Ranch Risk Management (FFARM) Accounts; crop insurance reform; commodity prices fluctuations, and models; impact of accession of China into the World Trade Organization (WTO); the Regulatory Flexibility Act; the United States Department of Agriculture (USDA) Federal Milk Market Order proposal; effects of Environmental Protection Agency (EPA) water quality and waste management regulations on small business farmers; and certain trade barriers and restrictions.

For further information on this hearing, refer to Committee publication 106-30.

#### 7.2.16 HEARING ON H.R. 296—THE NATIONAL SMALL BUSINESS REGULATORY ASSISTANCE ACT

##### *Background*

On September 2, 1999, the Subcommittee on Regulatory Reform and Paperwork Reduction held a field hearing at Columbia Green Community College in Hudson, NY to address H.R. 296—the National Small Business Regulatory Assistance Act. The purpose of the hearing was to determine whether Small Business Development Centers should obtain funding from regulatory agencies and provide regulatory counseling to small businesses.

Regulatory compliance remains one of the most challenging tasks for small businesses. Since 1980, the federal government's yearly compendium of rules and regulations—the Federal Register—has increased from approximately 42,000 pages to almost 74,000 pages. The complexity of the regulations has increased as well. Small businesses often learn about the failure to comply with a regulation when an inspector walks through the door. This places small businesses owners in the position of reacting after the fact rather than complying before a problem arises.

Small Business Development Centers are operated by various colleges and universities with oversight by the United States Small Business Administration. The Small Business Development Centers currently provide an array of small business counseling advice. H.R. 296, introduced by Congressman Sweeney, would authorize the Small Business Development Centers to establish a system of voluntary regulatory compliance assistance. The Small Business Development Centers would form partnerships to work with various federal agencies to make non-punitive compliance assistance accessible to small business owners.

*Summary*

Individuals providing testimony were Mr. Henry F. Zwack, County Executive; Mr. Art DeCoursey, Small Business Liaison, Occupational Safety and Health Administration, United States Department of Labor, Mr. Jim King, State Director for the New York State Small Business Development Centers; Mr. David Bradley, Acting Director, New York State Office of Regulatory Reform; Eric Ooms, Chairperson, Columbia County Farm Bureau Dairy Committee; and Lars Andersen, Owner, Anderson International Marketing.

Mr. Zwack testified that government over-regulation was a hindrance to economic development in Rensselaer County. Mr. Zwack then noted that regulations often set forth the mechanisms for regulatory compliance in great detail. Voluntary regulatory compliance assistance would alleviate this problem according to Mr. Zwack. Finally, Mr. Zwack suggested that any voluntary program operated through the Small Business Development Centers also provide a link with state and local governmental organizations that are providing regulatory compliance assistance. Mr. DeCoursey testified about the changing culture at the Occupational Safety and Health Administration ("OSHA"). Mr. DeCoursey noted that OSHA appointed a small business liaison. Mr. DeCoursey also mentioned that OSHA has written a new compliance guide in plain English, developed a small business web page, and created an ongoing dialogue with the United States Small Business Administration. Mr. DeCoursey stated that OSHA was seeking to fund a pilot project in which 10 OSHA employees would be based in various Small Business Development Centers around the country.

Mr. King testified that Small Business Development Centers are already helping 35,000 New York small business owners every year. Mr. King noted that three of the most significant regulatory agencies, EPA, OSHA, and the IRS, were beginning to focus on compliance by smaller businesses. Mr. King noted that small business owners were members of the community and did not want to injure their workers or create environmental hazards. However, Mr. King noted that fear often prevents the small business owner from obtaining compliance assistance. Mr. King noted that H.R. 296 would allay the fear and provide an avenue for small business owners to obtain the type of compliance assistance they need.

Mr. Bradley testified that he is responsible for uncovering unnecessary New York state regulations that inhibit economic growth. In addition, he testified that his office maintains data on permits that may be required for opening a business in New York. Mr. Bradley testified that H.R. 296 is needed because a beauty salon operator is an expert in cutting hair not in environmental regulations or tax law.

Mr. Ooms testified that farmers are also subject to regulation. He noted that fruit growers have to comply with immigration regulations. As a dairy farmer, he had to comply with clean water regulations concerning concentrated animal feedlot operations. Mr. Ooms believes that H.R. 296 would prove useful to farmers and others in agribusinesses.

Mr. Andersen testified that his business has received substantial and valuable assistance from Small Business Development Centers. Mr. Andersen noted that one substantial fine from OSHA could put him out of business. Thus, Mr. Andersen opined that any assistance, such as that provided for in H.R. 296, would be useful to many small business owners whose expertise is running a business not complying with complex, and often obscure, government regulations.

For further information on this hearing, refer to Committee publication 106-32.

#### 7.2.17 "HELPING AGRICULTURAL PRODUCERS "RE-GROW" RURAL AMERICA"

##### *Background*

Farmers and ranchers feed and clothe America and much of the world. On average each and every American farmer and rancher feeds and clothes himself and 126 other people. These agricultural producers work hard in providing the United States with the most affordable, most abundant, and safest food supply in the world.

Yet, record high disasters and record low commodity prices are hurting farmers and ranchers. Current world demand for American agricultural products is down. For example, historically the southeastern region of Missouri, due to the availability of river transportation to the world market, has enjoyed, at worst, a neutral basis (difference between cash price and futures price), and often a positive basis on corn during August. In August 1999, corn producers in southeast Missouri faced cash, farm-gate prices as much as \$0.50 below futures prices. The Federal government must help producers through the tough times with both near term assistance and future opportunities, including lifting trade barriers, expanding export markets for U.S. farm products, and developing new and innovative producer-owned marketing systems. Exploring how agricultural producers can develop new, innovative, vertically-integrated marketing systems for their products is essential. By ensuring America's agricultural system remains viable and profitable, Congress can help "re-grow" rural America for generations to come.

##### *Summary*

Witnesses at the hearing included: Charles E. Kruse, President of the Missouri Farm Bureau Federation; Dale Ludwig, Executive Director of the Missouri Soybean Association; Bruce Stockman, Executive Director of the Minnesota Corn Growers Association; Jeff Ward, Director of Producer Education for the National Pork Producers Council; Virgil Flanigan, University of Missouri-Rolla, Director of the Center for Environmental Science and Technology; Nickolas G. Kalaitzandonakes, University of Missouri-Columbia, Agricultural Economics Department; Rodney Christianson, CEO of the South Dakota Soybean Processors; and Dayton Watkins, Rural Business-Cooperative Services Administrator for the United States Department of Agriculture, Rural Development/Cooperative Development testified at the hearing.

The hearing explored the opportunities and the needs of agricultural producers in developing value-added enterprises. Producers,



family farmers, and educators specializing in value-added processing testified on the future of agriculture and the benefits of value-added production. Agricultural producers—America’s original small business owners—must reach up the agricultural marketing chain and capture some of the profits generated by processing their raw commodities. To do so, producer need access to technical and business assistance.

Witnesses stressed that producers are facing the second year of the worst farm crisis in recent memory. As a result they are looking at creative and entrepreneurial opportunities for the future, and they expressed frustration at the inability of producers to pool together their resources and share ideas about value-added ventures. Witnesses, therefore, unanimously recommended the creation of “one-stop-shops” to provide business, marketing, engineering, and legal expertise to producers in developing value-added processing and products.

At the conclusion of the hearing, producers stated they are hopeful that Congress and federal agencies will collaborate with producers to establish value-added projects benefiting producer-owned groups. They highlighted a variety of value-added products currently being produced through existing producer-owned value-added endeavors, including ethanol plants, processing pork for pet toys, and processing soybeans into high-grade vegetable oils.

For further information on this hearing, refer to Committee publication 106–3.

#### 7.2.18 PROPOSED CHANGES TO PART 9 OF THE FEDERAL ACQUISITION REGULATION RELATING TO CONTRACTOR RESPONSIBILITY

##### *Background*

On October 21, 1999, the Committee on Small Business held a hearing to address the proposed changes to Part 9 of the Federal Acquisition Regulations (“FAR”). The purpose of the hearing was to examine the impact that the change might have on opportunities small businesses have to obtain federal government contracts.

On July 9, 1999, the agencies with primary jurisdiction for drafting regulations governing federal procurement published a proposed rule in the Federal Register that would “clarify” the existing standards for contractor responsibility determinations. In particular, the proposed rule would amend section 9.104–1(d) of the FAR which currently requires that a contracting officer, before awarding a contract, determines that the prospective contractor has integrity and business ethics. The proposed rule seeks to clarify this requirement by authorizing the contracting officer to make a determination of negligence. This would be accomplished if the contracting officer uncovered persuasive evidence that the bidder had a lack of compliance with the tax laws or was in substantial non-compliance with labor laws, employment laws, environmental laws, antitrust laws, or consumer protection laws.

##### *Summary*

The first panel of witnesses included the Honorable Tom Davis, III (R–VA), Honorable Deidre Lee, Administrator of the Office of

Federal Procurement Policy, James Ballentine, Acting Deputy Associate Administrator for Government Contracting and Minority Enterprise Development, and Ms. Eleanor Spector, Director, Defense Procurement, Department of Defense.

Representative Davis testified that the proposed rule was ill-conceived because it was vague and permitted contracting officers to eliminate potential contractors from obtaining a particular contract based on mere allegations. Representative Davis also noted the substantial number of allegations and violations lodged against the federal government by the Environmental Protection Agency, the Occupational Safety Health Administration, and the Federal Labor Relations Authority. Representative Davis summed up his testimony by noting that he agrees with the principle that the government should only do business with responsible contractors but that the proposed rule could have severe unintended consequences of excluding many small contractors from participating in the federal government market for information technology products.

Administrator Lee noted that the proposal was drafted to clarify existing guidelines for contracting officers. It was not designed to implement any changes in current government procurement law. Nor was it designed to adversely affect the ability of small businesses to participate in the government contracting arena, since the Administration is committed to vigorous competition provided by small businesses. Administrator Lee concluded that the proposed rule is a work in progress. He is looking forward to comments from interested entities, including small businesses, and he is willing to work with the Committee members to craft a sound rule.

Director Spector's testimony described responsibility determinations for lack of integrity and business ethics by contracting officers in the Defense Department. He explained that these are based on fraud or other criminal violations that relate to the honesty of the prospective contractor. Director Spector then noted that, except in rare circumstances, the Defense Department does not conduct complete investigations of a contractor's responsibility and when it does, the investigation is substantially broader than simply the contractor's integrity and business ethics. Director Spector noted that Defense Department contracting officers would need the assistance of other agencies in determining whether persuasive evidence existed of non-compliance with the laws listed in the proposed rule.

Deputy Associate Administrator Ballentine explained how the Certificate of Competency works as an appeal process for small businesses who have had adverse responsibility determinations made by contracting officers. Deputy Associate Administrator Ballentine also noted that the Small Business Administration's Certificate of Competency program only has received 16 appeals related to integrity and business ethics in the past three fiscal years.

The second panel included Harry Alford, President of the National Black Chamber of Commerce, William Kovacic and Steven Schooner, Professors of Law at George Washington University Law School, and Phyllis Hill Slater, Owner of Hill Slater, Inc. and testifying on behalf of the National Association of Women Business Owners ("NAWBO").

Professors Schooner and Kovacic both noted that the proposed rule does not represent a clarification of existing law but instead represents a substantial change in federal procurement policy. They also noted that the vague standards in the proposed rule could lead to what amounts to a “de facto” debarment by the ad hoc determinations of contracting officers without appropriate due protections for debarment, a thesis fully supported by Mr. Alford. Mr. Alford also noted that the proposed rule could be used as a pretext by contracting officers to reward those in the “old boy” network of government contracting. Ms. Hill Slater echoed Mr. Alford’s sentiment and also noted that the proposed rule, rather than ensuring that federal agencies meet the goal of 5 percent participation by women-owned businesses, will simply impose greater costs on women-owned businesses as they may have to spend more time and resources fighting adverse responsibility determinations. None of the witnesses objected to the aim of the government only dealing with law-abiding enterprises but all concluded that the potential adverse consequences on small business outweighed any tangible benefits.

For further information on this hearing, refer to Committee publication number 106–37.

#### 7.2.19 PROPOSITION 65’S EFFECT ON SMALL BUSINESSES

##### *Background*

In 1986, California passed Prop. 65 generally requires warnings for environmental, consumer and occupational exposure to particular chemicals the State of California has determined may cause cancer or reproductive toxicity. If a manufacturer, either in State or out-of-state, fails to display the requisite warnings, Prop. 65 empowers private attorneys to enforce the statute in place of the California Attorney General.

In 1960, Congress passed the Federal Hazardous Substances Act (FHSA) to provide for nationally uniform consumer product labeling requirements. In passing the FHSA, Congress recognized that uniform labeling benefits the public. For example, “[s]uch a labeling program would facilitate the education of the public in the cautionary use of these products. Informative, uniform labeling would enable physicians to administer antidotes immediately rather than waste precious time in determining the active ingredients of the products.” Absent federal legislation, Congress feared states would enact their own labeling statutes “leading to a multiplicity of requirements and creating unnecessary confusion in labeling, to the detriment of the public.”

To facilitate the national uniform labeling requirements, Congress expressly provided that the FHSA preempts State cautionary labeling requirements. Congress empowered the Consumer Product Safety Commission to enforce the statute, including its preemption clause. The CPSC could use this authority to work with California to ensure that lawsuits are not used to force settlements out of small businesses from around the country who have not violated the law.

*Summary*

The Committee on Small Business addressed California Prop. 65's effect on small businesses. In 1986, California passed Prop. 65—the Safe Drinking Water and Toxic Enforcement Act of 1986—that requires in-state and out-of-state manufacturers to label products that contain products known to the state of California known to cause cancer or reproductive toxicity. If a manufacturer fails to label the product, private lawyers can enforce the statute against it. This statute, however, appears to conflict with the Federal Hazardous Substances Act (FHSA) passed by Congress in 1960 that requires nationally uniform cautionary labeling for consumer products. California courts, however, determined that Prop. 65 does not constitute cautionary labeling. Marianne LaMura, Chemcoat Labs, Inc.; Robert Klein, Lemnar, Inc.; Mark Golden, Golden Artists Colors; Frank Strauss, Activa Products, Inc.; Sandra Skommesa, Ellis Paint Company; Ann Brown, Chairwoman of the Consumer Product Safety Commission; Ed Weil, Esq., Deputy Attorney General of the State of California; Shawn Khorrami, Attorney; Jeffrey Margulies, Attorney; discussed how the Federal government and California can harmonize the two statutes to eliminate abusive lawsuits.

For further information on this hearing, refer to Committee publication 106-38.

7.2.20 THE DEPARTMENT OF DEFENSE'S CONTRACT BUNDLING POLICY

*Background*

On November 4, 1999, the Committee on Small Business held a hearing to address the contract bundling policy of the Department of Defense. The purpose of the hearing was to examine how this bundling policy adversely affected the ability of small businesses to win their fair share of prime contracts from the Department of Defense.

Contract bundling involves the consolidation of two or more previously separate procurement requirements into one contract. Federal agencies that utilize contract bundling claim that they receive higher quality goods and services delivered in a more efficient manner. The largest practitioner of contract bundling also is the largest procurer of goods and services in the federal government—the Department of Defense. If the Defense Department does not obtain higher quality goods and services from contract bundling or reap significant cost savings, then the purposes of contract bundling are not met. Small businesses are hurt because they no longer are prime contractors. In the long-run costs to the taxpayers may go up because of lessened competition in the defense industrial base.

*Summary*

The first panel consisted of the Honorable David R. Oliver, the Principal Deputy Undersecretary for Acquisition, Technology, and Logistics at the Department of Defense. Mr. Oliver testified that the primary objective of the Department's acquisition policy was to enhance its war-fighting capabilities. Bundling allows the Depart-

ment to do that by reallocating military personnel away from non-core functions (oversight of the procurement of goods and services) to their core function—fighting wars. Contract bundling enables the Department of Defense to take advantage of economies of size and scope; in essence, getting the best value at a lower cost. Mr. Oliver also addressed specific contracts and explained that certain contracts required bundling because of the size of the good or service being procured. Finally, Mr. Oliver promised the Committee to undertake a sound statistical analysis of contract bundling and its effect on small businesses.

The second panel consisted of Mr. Paul Murphy, President of Eagle Eye Publishers, Inc., Fairfax, VA; Mr. Craig Brooks, President of Electra International Telecommunications, Bethesda, MD; Ms. Josephine Ursini, Counsel to the Society of Travel Agents in Government, Virginia Beach, VA; and Maurice Allain, President and CEO of Phoenix Scientific Corp., Warner Robins, GA.

Mr. Murphy testified about the study of contract bundling he was performing under contract to the Office of Advocacy of the United States Small Business Administration. Mr. Murphy determined that one proposed bundled contract, the Flexible Acquisition and Sustainment Tool (“FAST”), a bundled Air Force contract, could lead to the displacement of numerous small businesses as prime contractors. The database modeling done by Mr. Murphy could be utilized in examining the impact of other bundled contracts on the potential displacement of small businesses as prime contractors for the Department of Defense.

Mr. Brooks testified about the bundling of telecommunications services and the impact that it has had on his business. Mr. Brooks noted that multiple competing contractors, including many small telecommunications companies, were displaced from bidding by new requirements that the Defense Department imposed on the provision of point-to-point long-distance telecommunication services. This displacement occurred due to a bundled contract that provided no better service at far higher prices than that provided by small businesses.

Ms. Ursini testified about the bundling of personal (leisure and holiday travel) with business travel services for military and civilian Defense Department personnel. Ms. Ursini noted that this bundling requirement excluded many small travel agencies from participating in the provision of travel services to the government. Ms. Ursini also noted that the Defense Department considers the amount of travel purchased through a travel agency as revenue going to the travel agency for purposes of calculating whether the Department is meeting its small business procurement goals. However, Ms. Ursini pointed out that the travel agencies are merely conduits for that money and should not be considered in calculating whether the Department has met its small business objectives.

Mr. Allain testified about the impact of the new proposed Flexible Acquisition and Sustainment tool or FAST that the Department of the Air Force was preparing for use at the Warner Robins AFB and which would be used to oversee maintenance of planes, weapons systems, and communications at Warner Robins and two other air bases. Mr. Allain noted that no small business could hope to bid on such a project. He further noted that there are numerous small

businesses who are currently prime contractors that would be displaced if the FAST contract was adopted.

For further information on this hearing, refer to Committee publication 106-41.

7.2.21 EXAMINING THE NEED FOR THE SKILLED WORKFORCE  
ENHANCEMENT ACT

*Background*

Despite growing economic prosperity, and in part because of it, employers in various trade industries face an increasing shortage of skilled workers. According to the results of a study conducted in 1999 by the National Association of Counties, seventy-five percent of the largest counties in America report they face a shortage of skilled workers. Eighty-five percent stated the shortage increased over the last five years, and ninety-seven percent characterize the shortage as serious to very serious. Officials cited manufacturing and construction as the sectors of the U.S. economy most heavily affected by the shortage of skilled workers.

Introduced by Chairman Talent, H.R. 1824 entitled the Skilled Workforce Enhancement Act (SWEA) would provide small employers with a tax credit to offset the costs of training employees in highly skilled small business trades. Specifically, the bill provides small employers (defined for purposes of the bill as employers with 250 employees or less) with a \$15,000 annual tax credit per trainee. To insure training is effective, eligible employers must provide an employee with 2,000 hours of on-the-job training and necessary classroom training each year (for up to four years) in exchange for the tax credit.

The bill enumerates the “highly skilled trades” to include: metalworking, roofing, masonry, heating, ventilating, air conditioning, refrigeration (HVACR), plumbing, and electrical contracting. Originally limited to precision machinists, die makers, and tool and die designers, the expanded bill includes other trades for which highly skilled workers are in short, even shrinking, supply.

*Summary*

The Honorable Mike DeWine, United States Senate; William G. Bachman, St. Louis, Missouri, on behalf of the National Tooling and Machining Association; Thomas Bettcher, on behalf of the Air-Conditioning and Refrigeration Institute; Chris Leto, on behalf of the American Foundrymen’s Society; John Gooding, on behalf of the National Roofing Contractors Association; Thomas W. Holdsworth, Director of Communications and Public Affairs, Skills-USA-VICA; Patrick Murphy, on behalf of the Mechanical-Electrical-Sheet Metal Alliance; and Randall G. Pence, on behalf of the National Concrete Masonry Association; testified at the hearing.

The witnesses testified on the shortage of skilled workers; its effects on small business, the aging population of workers, the high costs small employers incur in training highly skilled workers, and the benefits of the proposed changes to SWEA.

For further information on this hearing, refer to Committee publication 106-42.

## 7.2.22 ASSOCIATION HEALTH PLANS—PROMOTING HEALTH CARE ACCESSIBILITY

*Background*

The Committee met on February 16, 2000 to explore ways in which Congress can work to expand access to employer-based health insurance so it better serves small business owners and employees, and their dependents. Specifically, the Committee considered how Association Health Plans (AHPs) are part of the solution that will meet the health care needs of the small business community, which represents over 60 percent of the 44 million uninsured individuals in the United States. The Members discussed the need for Congress to focus not only on managed care reform, but also on access provisions, in order to help make the nation's healthcare system more accessible and affordable to those who work for or own a small business. The hearing was a continuation of a dialogue on the same topic, which began on June 10, 1999. For information on the first hearing, refer to Committee publication 106–19.

*Summary*

The one panel hearing consisted of: Dr. Paul Wilson, Executive Director, North American Equipment Dealers Association (NAEDA) Group Insurance Trust; Mr. James R. Baumgardner, Acting Deputy Assistant Director for Health Policy, Congressional Budget Office; Mary Nell Lehnhard, Senior Vice-President, Blue Cross and Blue Shield Association; Dr. Mark Joensen, Vice-President and Director of Health Care Analysis, CONSAD Research Corporation; Ms. Arlene Kaplan, CEO & Founder, Heart-to-Home; and Mr. Richard Gallo, Owner, The Office Outlet.

Mr. Wilson testified that AHP legislation is necessary in order to allow existing association health plans to continue to provide affordable coverage to their members and to allow other associations the opportunity to begin providing this crucial benefit. He explained that NAEDA's AHP, established in 1949, was going to be dropped by its carrier, UniCare, for groups under 50. He added that he had contacted over 50 insurance carriers, but none wanted association business.

Mr. Baumgardner testified about the findings reported in a CBO paper entitled "Increasing Small Firm Health Insurance Through Association Health Plans and HealthMarts." The CBO found that AHP and HealthMart legislation would result in only 330,000 previously uninsured people getting coverage.

Ms. Lehnhard testified that AHP legislation would not result in a significant increase in small business owners and employees with health coverage. She added that other problems, including increased risk for state-regulated insurance pools, would follow the enactment of AHP legislation.

Mr. Joensen testified on the result of a study, conducted by the CONSAD Research Corporation, which showed AHPs would result in an increase of 4.5 million newly insured individuals. He added that significant savings resulting from administrative efficiencies and economies of scale will help lower the cost of coverage for those participating in an AHP.

Ms. Kaplan testified that, as a former member of the Hospital Workers Union in New York, she enjoyed comprehensive health benefits and that, now, as a small business owner, she wishes her trade association, National Association of Women Business Owners could help her provide quality benefits to her employees. She pointed out that the Union and NAWBO exist as member-service organizations and that AHP legislation would allow trade associations to provide health benefits to their members in the way unions are allowed to under current law.

Mr. Gallo told the Members about his personal experience as a small business owner who is unable to offer health insurance to his employees due to high costs estimated at \$40,000 annually. He and his wife do not have insurance. He hopes that AHPs will allow his small business to one day offer comprehensive benefit packages similar to those large companies are permitted to offer under ERISA.

For further information on this hearing, refer to Committee publication 106-43.

#### 7.2.23 THE SMALL BUSINESS ADMINISTRATION'S FY 2001 BUDGET REQUEST

##### *Background*

The Small Business Administration provides a variety of services for small businesses—financial assistance, technical assistance, and disaster assistance.

##### **Financial Assistance**

The Small Business Administration provides approximately \$11 billion in financing to small businesses annually. This financing is made available through a variety of programs.

SBA's largest financial program is the Section 7(a) general business loan program. The 7(a) program offers loans to small businesses through local lending institutions. These loans are provided with an SBA guarantee of up to 80 percent and are limited to a maximum of \$750,000. The 7(a) program has a subsidy rate of 1.16% for fiscal year 2000 and an appropriation of \$107 million, permitting \$9.8 billion in lending.

The Section 504-loan program provides construction, renovation and capital investment financing to small businesses through certified development companies (CDCs). These CDCs are SBA licensed, local business development organizations, which provide loans of up to \$750,000 for small businesses, in cooperation with local banks.

The Microloan program provides small loans of up to \$25,000 to borrowers in low-income areas. In fiscal year 1999 the program provided \$29 million in loans. In addition, the program has a technical assistance aspect that provides managerial and business expertise to microloan borrowers. Microloans are made by intermediary organizations that specialize in local business development.

The Small Business Investment Company (SBIC) program provides over \$1.5 billion in long term and venture capital financing for small businesses annually. SBICs are venture capital firms that leverage private investment dollars with SBA guaranteed deben-



tures or participating securities. The SBIC debenture program currently operates at a zero subsidy rate and requires no taxpayer subsidy. The participating securities program has a 1.8% subsidy rate.

#### **Technical Assistance**

The SBA provides technical and managerial assistance to small businesses through four primary programs:

Small Business Development Centers (SBDCs) are located primarily at colleges and universities and provide assistance through 51 center sites and approximately 970 satellite offices and offer small businesses guidance on marketing, financing, start-up, and other areas.

The Service Corps of Retired Executives (SCORE) which provides small business assistance on-site through the volunteer efforts of its members. SCORE volunteers are retired businessmen and women who offer their expertise to small businesses.

The 7(j) technical assistance program provides financing for technical assistance to the minority contracting community primarily through courses and direct assistance from management consultants and assistance for participants to attend business administration classes offered through several colleges and universities.

The Women's Business Center program provides business training centers for women and teaches women the principles of finance, management and marketing as well as specialized topics such as government contracting or starting home-based businesses. There are currently 81 centers in 47 states in rural, urban and suburban locations.

#### **Disaster Assistance**

The Small Business Administration also provides disaster loan assistance to homeowners and small businesses nationwide. This program is a key component of the overall Federal recovery effort for communities struck by natural disasters. This assistance is authorized by section 79(b) of the Small Business Act which provides authority for reduced interest rate loans. Currently the interest rates fluctuate according to the statutory formula—a lower rate, not to exceed four percent is offered to applicants with no credit available elsewhere, while a rate of a maximum of eight percent is available for other borrowers.

#### *Summary*

On March 1, 2000 at 10:00 a.m., the Committee on Small Business convened a hearing to discuss the Administration's budget submission for fiscal year 2001, their legislative proposals, and the reauthorization of the SBA's programs. The Committee received testimony from five witnesses: Hon Aida Alvarez, Administrator of the Small Business Administration; Mr. Anthony Wilkinson, President of the National Association of Government Guaranteed Lenders; Mr. Lee Mercer, President of the National Association of Small Business Investment Companies; Mr. Woody McCutchen, Executive Director of the Association of Small Business Development Centers; Ms. Caroline Hayashi, representing the Association for Enterprise

Opportunity; and Mr. John Geigel, Vice President for Government Relations of the National Association of Development Companies.

Ms. Alvarez's testimony supported the Administration's request, and concentrated on the Administration's "New Markets Initiative".

Mr. Wilkinson testified in support of the proposed 2001 budget. He also expressed his organization's support for increase authorization levels for fiscal years 2001, 2002, and 2003. He suggested authorization levels of 14.5, 15 and 16 billion dollars for fiscal years 2001, 2002 and 2003 respectively.

Mr. Mercer testified in support of the Administration's budget request for the SBIC program and recommended participating securities program levels of 2.5, 3.25, and 4 billion dollars for fiscal years 2001, 2002, 2003 respectively. He also recommended debenture program levels of 1, 1.5, and 2 billion dollars for fiscal years 2001, 2002, and 2003, respectively.

Mr. Geigel generally supported the SBA budget for 2001. On behalf of NADCO he suggested 504 program authorizations of 3.75, 4.5, and 5 billion dollars for fiscal years 2001, 2002, and 2003, respectively.

Mr. McCutchen discussed the needs of the Small Business Development Center (SBDC) program and expressed support for the Administration's request for fiscal year 2001. However, he asked that the committee consider reauthorizing the SBDC program at \$100 million per year.

During the hearing Chairman Talent questioned Administrator Alvarez on the proliferation of unauthorized programs at the SBA. In particular, he questioned the requests for \$6.6 million for the Business Linc program and \$5 million for the e-commerce initiative. The Chairman expressed doubts on the efficiency of operating technical assistance programs at so many levels versus a consolidation of effort and services. He was particularly concerned that the Administrator could not provide the Committee with a clear explanation of purpose and operation of the Business Linc program or the e-commerce initiative.

Ranking Member Velazquez questioned the Administrator on the status of the procurement center representatives (PCRs) at the SBA's Office of Government Contracting. PCRs are SBA employees stationed at major procurement centers in order to assist in identifying and advertising procurement opportunities for small business. Ms. Velazquez questioned why the SBA had failed to assign PCRs to several major procurement centers and had not requested any funding for PCR staffing in the 2001 budget. Ms. Velazquez was concerned that, for example, there were no PCRs stationed in Virginia, a state with a large percentage of federal procurement activity.

Representative Pascrell questioned the Administrator on the efforts to implement the HUBZone program. Mr. Pascrell was concerned that SBA had drafted the regulations in an overly restrictive fashion which had caused anomalies in the program's application. Of particular concern were instances where small businesses were not being considered eligible for the HUBZone program because they were literally across the street from the designated HUBZone. Mr. Pascrell expressed his belief that these businesses, which hired significantly from the HUBZone communities, were

being denied opportunities to participate even though they were fulfilling the goal of the program—employment in low income areas.

For further information on this hearing, refer to Committee publication 106-45.

7.2.24 HELPING AGRICULTURAL PRODUCERS “RE-GROW”  
RURAL AMERICA: PROVIDING THE TOOLS

*Background*

In September 1999, the Committee held a hearing (106-34) entitled “Helping Agricultural Producers ‘Re-Grow’ Rural America.” The hearing explored the opportunities and the needs of agricultural producers in developing value-added enterprises. In particular, witnesses addressed the current crisis in the agricultural community, what could be done to lift rural America out of recession, and how agriculture could prepare itself to weather any future down turn in prices and production conditions. Witnesses stressed the desire of producers to become vertically intergrated—capturing more of the consumer dollar by adding value to their commodities—and recommended “one-stop-shops” to provide business, marketing, engineering, and legal expertise to producers in developing value-added processing and products.

In response and working closely with the agricultural community, Chairman Jim Talent (R-MO) and Representative John Thune (R-SD) introduced legislation (H.R. 3513 and H.R. 3996), entitled the “Value-added Agriculture Development Act for American Agriculture” (VADAA). The legislation would create ‘Agriculture Innovation Centers’ to provide producers with the business, marketing, engineering, and legal assistance they need to develop value-added agriculture.

*Summary*

Panelists included: Charles E. Kruse, President, Missouri Farm Bureau Federation, Jefferson City, Missouri; J. Gary McDavid, Attorney at Law, Chair, Legal, Tax & Accounting Subcommittee on Tax Legislation, National Council of Farmer cooperatives; Rick Vallery, Executive Director, South Dakota Wheat, Inc.; Brooks Hurst, Vice-President, Missouri Soybean Association; John Haverhals, Former President, South Dakota Cattlemen’s Association; and Gerald Tumbleson, Past-President, Minnesota Corn Growers’ Association; testified at the hearing.

Witnesses praised the Talent-Thune VADAA legislation, and recommended additional solutions to compliment the bill and to provide producers with a broad-based value-added package. Specifically, the hearing explored a 50 percent tax credit for producers for value-added production to provide them with access to cutting edge processing and manufacturing technologies and help them implement these technologies in their own plants to manufacture high value products. Chairman Talent and Representative Thune were developing and later introduced legislation (H.R. 4497) which would provide a 50 percent investment tax credit to producers for value-added production. Noting this is the third year of the worst farm crisis in recent memory, the witnesses discussed the severe

down turns in prices and production conditions leaving agriculture in a rural recession.

For further information on this hearing, refer to Committee publication 106-47.

7.2.25 CASH VERSUS ACCRUAL: THE POLICY IMPLICATIONS OF THE GROWING INABILITY OF SMALL BUSINESSES TO USE SIMPLE TAX ACCOUNTING

*Background*

The United States Department of the Treasury (Treasury) and the Internal Revenue Service (IRS) increasingly are litigating against and auditing small builders, contractors, and service providers for using the cash method of accounting. While this seems cost ineffective and unreasonable, it forces small business taxpayers who regularly and consistently use the cash method of accounting for years (even decades) to pay unfair assessments of back taxes, interest and penalties.

In addition, the Ticket to Work and work Incentives Improvement Act of 1999 (H.R. 1180), signed into law on December 17, 1999 (Public Law 106-170), included a revenue provision in the Clinton Administration FY 2000 budget. The provision repeals the installment method of accounting for asset sales by accrual basis taxpayers (except sales of farming property, timeshares or residential lots). This change is blocking the sale of small and closely-held businesses, and is devaluing them between 5 and 20 percent (8.2 percent on average).

In both the cash method controversy and the recent repeal of the installment method of accounting, the Treasury Department takes the position that the mathematically precise matching of income and expenses from an accounting perspective supersedes all other tax policy considerations—including tax simplification and burden. Congress specifically intended to allow some distortion of income and expenses under the cash and the installment methods of accounting.

Introduced by Chairman Jim Talent (R-MO), H.R. 2273 would provide that small business taxpayers with average annual gross receipts of \$5,000,000 or less, are permitted to use the cash method of accounting without limitation. Introduced by Representative Wally Herger (R-CA), H.R. 3594 would restore the installment method of accounting for accrual basis taxpayers.

Issue guidance regarding the rules related to the cash, accrual, and installment methods of accounting. Linking the threshold issue of which taxpayers are required to use the accrual method of accounting to the recent installment change, the Treasury stated in part that: "Part of this planned guidance generally will allow a qualified taxpayer with average annual gross receipts of \$1 million or less to use the cash method, and thus, the installment method."

The hearing explored the policy and regulatory implications—and likely effects on small businesses—of Treasury's anticipated guidance.

*Summary*

Joseph M. Mikrut, Tax Legislative Counsel, United States Department of the Treasury, Washington, DC; Shane Mieras, Project Manager, Mid-Ceiling and Drywall, Rockford, Michigan; David E. Wulkopf, CPA, Treasurer, Beckner Painting Midwest, Inc., St. Louis, Missouri; Roger Harris, President, Padgett Business Services, Athens, Georgia; Pamela F. Olson, Chair-Elect, Section of Taxation, American Bar Association; John S. Satagaj, Managing Partner, London and Satagaj, Washington, DC; and Abraham L. Schneier, McKevitt & Schneier, Washington, DC; testified at the hearing.

In summary, the testimony at the hearing revealed that Treasury's policy position on the cash and installment methods of accounting, and the IRS' corresponding legal and audit positions, are flawed and are hurting small businesses and taxpayers. Allowing small businesses to use the cash method of accounting without limitation would yield substantial tax simplification and fairness. Therefore, witnesses believe that Congress should pass legislation such as H.R. 2273 to remedy recent Treasury and IRS policy changes on the ability of small entities to use the cash method of accounting. Similarly, the hearing disclosed there is no justifiable policy or enforcement rationale for reversing decades of established law on the ability of taxpayers to use the installment method of accounting. Witnesses urged Treasury to support H.R. 3594 to immediately restore the installment method of accounting for all taxpayers.

For further information on this hearing, refer to Committee publication 106-49.

#### 7.2.26 ECONOMIC ACCOMPLISHMENTS OF ROUND II EMPOWERMENT ZONES

*Background*

On April 26, 2000, the Committee on Small Business met in Mecca, CA to discuss the development and progress that has been made in the Desert Communities Empowerment Zone and in Round II Empowerment Zones in general.

In 1993, the Empowerment Zone/Empowerment Communities (EZ/EC) program was enacted, providing Federal grants to economically distressed rural and urban communities over a 10-year period. In what is now referred to as Round I of the program, 104 EZ/ECs were created and each urban and each rural zone received \$100 million and \$40 million respectively in flexible Social Services Block Grant funds, over a ten-year period. Additionally, qualifying EZ employers were entitled to a 20 percent tax credit on the first \$15,000 of wages paid to certain qualified Zone employees.

The Taxpayer Relief Act of 1997 authorized a second round of EZ designations, known as Round II EZs. Designated in 1999, Round II Zones are unable to benefit from the wage tax credit like the Round I EZs. Additionally many EZs have not received the funding promised to them and thus find it difficult to carry out their economic plans for community revitalization.

*Summary*

Panel I consisted of Celeste Cantu, State Director (CA) of Rural Development, U.S. Department of Agriculture; Roy Wilson, Riverside County (CA) Supervisor; and Mark Benitez, Chairman of the Desert Community Rural Empowerment Zone.

Ms. Cantu testified that the Desert Communities Empowerment Zone (DCEZ) has made substantial progress since its designation. The DCEZ has: appointed a Board of Directors and elected officers, incorporated a community-based nonprofit corporation, adopted a two-year, \$4 million budget, established 501(C)(3) tax status, established banking and financial services, developed a Sponsorship Agreement for the use of DCEZ funds, and executed a Memorandum of Agreement with the USDA. She acknowledged that the lack of full funding for the Round II EZs are forcing them to scale back efforts set forth in their strategic plans and secure non-EZ resources.

Mr. Wilson testified that direct government funding of Empowerment Zones is critical for them to carry out their intended purpose. He added that the extension of the Work Opportunity Tax Credit to Round II EZs would be very helpful in encouraging employment of EZ residents.

Mr. Benitez testified that full funding for Round II EZs is necessary for the DCEZ, which is in need of infrastructure development such as water systems. He also added that matching and start-up funds for business development is also crucial to the strategic plan. For instance, Allied Digital Communications, maker of CD-rom disks is hoping to relocate to the DCEZ, creating approximately 130 new jobs.

Panel II was comprised of Mike Bracken, Director, Coachella Valley Economic Partnership; Harley Knox, Developer, Harley Knox and Associates; Larry Chank, CEO, JPH Enterprises, Inc.; and Harold Joseph, Executive Director of the Coachella Valley Enterprise Zone Authority.

Mr. Bracken testified that he has had numerous inquiries from Fortune 500 companies about relocating to the DCEZ area to set up distribution centers, which would create lots of new jobs. He noted that full funding for Round II EZs and the hiring tax credit would make the area look even more attractive to these businesses.

Mr. Knox testified that in his work with small manufacturing companies who need low-cost, long term financing for manufacturing facilities and equipment, find Empowerment Zones appealing areas for expansion due to the tax exempt Industrial Development Bonds and hiring tax credits. Mr. Knox encourages full funding for Round II EZs so that companies have incentive to move into those areas, bringing with them the opportunity for economic prosperity.

Mr. Chank testified that funding is necessary to entice businesses to relocate to the Cochella-Thermal area. He noted that many companies are often reluctant to be the first to move into an area that thus need the extra incentive provided by the tax benefits of EZs.

Mr. Joseph spoke about the successes of the Coachella Valley Enterprise Zone in attracting new business. He attributed this cycle

of business relocation, expansion, and job creation to the financial incentives mandated by the state of California, including credits against state income tax, hiring tax credits, credits for new machinery and parts, nontaxable investments.

For further information on this hearing, refer to Committee publication 106-56.

#### 7.27 SMALL BUSINESS AND ONLINE MUSIC

##### *Background*

On May 24, 2000, the Committee held a hearing to examine the new market possibilities for small music labels and entrepreneurs created by the Internet. According to Forrester Research, the market for downloadable music is projected to expand from virtually nothing in 1999 to over \$1.1 billion in 2003. However, different witnesses were not in agreement over the future of the new market. Several entities and artists are currently suing a popular file-sharing program, Napster, that creates a network allowing users to swap possibly illegal downloaded music files.

##### *Summary*

The hearing consisted of one panel of witnesses: Mr. Ric Dube, Senior Editor/Analyst, Webnoize, Cambridge, MA; Mr. Tom Silverman, Founder and CEO, Tommy Boy Records, New York, NY; Mr. Peter Harter, Vice-President, Global Public Policy & Standards, EMusic.com, Redwood City, CA; and Chuck D. Founder, Rapstation.com.

Mr. Dube testified that although currently on-line music sales only account for about 1 percent of CD sales, he anticipates as Internet capabilities become more commonplace, digital music will garner a larger percentage of the market. He said that current on-line companies, such as Napster, are valuable because they investigate the commercial demand for Internet services.

Mr. Silverman testified on behalf of the Recording Industry Association of America (RIAA). Although his label, Tommy Boy Records is smaller and independent from the four major music labels that dominate the industry, he said he shares their view that file swapping programs, like Napster, are a conduit for piracy.

Mr. Harter represents EMusic.com and testified how the company's business model sells on-line music content while still respecting the intellectual property rights of artists by paying the royalties on each transaction. He said that because the music industry is a "\$100 billion industry trapped inside a \$40 billion straitjacket," digital music can fill the gap of the demand not satisfied by the four major labels.

Chuck D of the rap-group Public Enemy and founder of Rapstation.com testified he thinks file swapping and online opportunities create a new market that circumvents the current power of music distribution, which he believes has been held for too long by a small number of people. The existing industry, according to Chuck D, stifles the flow of creative works into the marketplace: "I'm looking forward to the day when there are 1 million labels and 1 million artists on the Internet."

For further information on this hearing, refer to Committee publication No. 106-59.

7.2.28 REGULATORY REFORM INITIATIVES AND THEIR IMPACT  
ON SMALL BUSINESS

*Background*

On June 7, 2000, the Committee on Small Business held a hearing to address efforts to reforming the regulatory process. The hearing addressed efforts by the Clinton Administration to reduce regulatory burdens on small business with a special focus on the activities taken since 1995.

In 1993, President Clinton initiated the National Performance Review in an effort to reinvent how government operates. One aspect of that reinvention process was the issuance of Executive Order 12,866 which was designed to ensure that the federal agencies properly assessed their regulatory initiatives and only issued those regulations that achieved statutory objective in the most cost-effective manner. Two and a half years later, President Clinton issued another directive that all federal agencies perform a page-by-page analysis of the Code of Federal Regulations for purposes of eliminating unnecessary and duplicative federal regulations. At the White House Conference on Small Business in 1995, President Clinton announced that the federal government dramatically reduced the size of the Code of Federal Regulations. More recently, President Clinton directed federal agencies to issue their regulations in plain English. The hearing was the first in a series to be held by the Committee examining amendments to the Paperwork Reduction Act (which is to be reauthorized in 2001) that might reduce the cumulative regulatory impact of recordkeeping and reporting requirements on small business.

*Summary*

The first panel consisted of the Honorable John T. Spotila, Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget. Mr. Spotila recognized that regulatory burdens can impose substantial burdens on small business and the Office of Information and Regulatory Affairs is sensitive to that issue. According to Mr. Spotila, it regularly reviews regulations to see whether the burdens on small businesses can be reduced and tries to reduce the cumulative impact of regulation on small businesses. Mr. Spotila recognized that the job of reducing regulatory burdens on small business is an ongoing process and more needs to be done. Mr. Spotila stated that Office of Information and Regulatory Affairs stands ready to work with the Small Business Committee in finding solutions to reduce even further the impact of recordkeeping and reporting requirements on small business.

The second panel consisted of Congressman James Coyne (Ret.), President of the National Air Transportation Association; Alexandria, VA; Mr. Duncan Thomas, President and Chief Executive Officer of Q-Markets, Inc., Richmond, VA on behalf of the National Association of Convenience Stores; and Mr. Kenneth O. Selzer, Owner



of Kenneth O. Selzer Construction Co., Cedar Rapids, IA on behalf of the National Association of Home Builders.

Congressman Coyne first noted that the members of his association are generally small, provide critical aviation services from medical rescue flights to maintenance, and are subject to regulation by numerous federal agencies—the most significant being the Federal Aviation Administration. Congressman Coyne noted that there seems to be a trend among all federal agencies, but especially the Federal Aviation Administration, to substitute regulations with informal guidance that is binding on neither the agency nor members of his industry. This imbues the inspectors with substantial discretion that may be exercised arbitrarily, thereby significantly increasing the regulatory burdens on the small business community. This occurs without the agency undertaking the proper analysis of those impacts as would be required had the agency undertaken rulemaking pursuant to the Administrative Procedure Act.

Mr. Thomas owns a number of convenience stores in inner city Richmond, VA. Instead of focusing on improving the operation of his stores and expanding his business, Mr. Thomas must devote substantial management resources to reviewing over 250 pages of instructions for the completion of numerous forms associated with the retailing of petroleum products. By his estimates, regulatory burdens, through formal regulations or through informal guidance, have increased by 25% since President Clinton called for the elimination of unnecessary regulations in 1995.

Mr. Selzer noted that homebuilders are among the most regulated enterprises in the United States. They must contend with a plethora of federal regulations including tax rules, occupational safety and health guidelines, and wetland requirements. In addition, they also must comply with various state rules and must comply with local zoning codes. Mr. Selzer noted that the combination of these regulatory efforts drive up the cost of housing. Of particular note were the constant modifications to the forms associated with obtaining a permit to construct in a wetland. Mr. Selzer noted that the definition continues to shift but the definition is not set out in any rules but in guidance for the completion of a permit to construct in a wetland. This enables EPA to continually modify its interpretation without going through the analysis that would be attendant to rulemaking such as those mandated by Executive order 12,866 and the Regulatory Flexibility Act.

For further information on this hearing, refer to Committee publication 106-60.

#### 7.2.29 RURAL HEALTH CARE SERVICES; HAS MEDICARE REFORM KILLED SMALL BUSINESS PROVIDERS?

##### *Background*

##### **The Balanced Budget Act of 1997**

The 1997 Balanced Budget Act (BBA '97) made a number of significant changes to Medicare service delivery, particularly for services provided by ancillary providers. Ancillary providers are companies that offer a variety of health care services outside of those provided at skilled nursing facilities (SNFs), physician's offices or hospitals: Visiting Nurses; Home I.V. care; Oxygen services; Portable

EKG; Portable X-rays; etc. These providers are especially necessary in rural areas where hospitals and medical centers are few and far between and SNFs and physician's offices do not have equipment.

Under BBA '97 reimbursement for the transportation for many ancillary providers was eliminated. The purpose was to eliminate waste, fraud, and abuse. At the same time, the Health Care Financing Administration (HCFA) decided to eliminate coverage for a number of previously covered medical services, primarily services offered by ancillary providers. The result has been devastating for the small businesses who make up the bulk of the ancillary care providers. There is little home health care service, or ancillary care service available now in rural areas. Providers of services like in-home I.V., oxygen, EKG, and visiting nurses are out of business or restrict their service to urban and suburban areas.

#### **Prospective Payment and Consolidated Billing**

As part of BBA '97 the new concepts of "consolidated billing" and "prospective payment" were introduced. These essentially establish SNFs and Hospitals and large providers as gatekeepers. Services are provided to gatekeepers who submit consolidated bills to HCFA and then pay their providers. The idea is to use the services of the private sector to reduce fraud and over-billing. Prospective payment (PPS) went into effect in 1998 for Medicare B and required all ancillary providers to submit their bills to the nursing or other care facility. HCFA is currently working with a consultant to figure out exactly how to implement consolidated billing.

As HCFA requires reimbursement, the providers pass the cost on to the small business suppliers, demanding unrealistic discounts or delayed reimbursement. Under PPS, SNFs are demanding large discounts from their ancillary providers and often delaying payment. This is especially true when the SNF is in bankruptcy. Many ancillary providers are concerned that consolidated billing, which covers Medicare A, will only exacerbate this problem.

This hearing provided a forum for a variety of ancillary health care providers to discuss the problems occurring in their industries and possible solutions.

#### *Summary*

The hearing convened at 10 a.m., June 14, 2000. The first witness was Ms. Kathy Buto, Deputy Director of Health Plans and Services at HCFA. Ms. Buto testified concerning the various initiatives HCFA has started to improve health service in rural areas. Ms. Buto was followed by Mr. Zach Evans, President of Mobile Medical Services, a portable EKG provider. Mr. Evans testified about the continuing inability of providers, like himself, to serve rural areas. He testified specifically about the numbers of towns and counties in Missouri that no longer receive ancillary services due to BBA '97.

The third witness was Ms. Karen Woods, Executive Director of the Hospice Association of America. Ms. Woods testified about the continuing difficulties faced by the hospice organizations under BBA '97. She specifically cited information concerning the loss of service to a large number of rural patients who rely on hospice care for assistance in coping with chronic, fatal illness. She was followed

by Mr. Norm Goldhecht, vice-president of Diagnostic Health Systems, a portable x-ray provider. Mr. Goldhecht testified about the inability of his business to continue service to rural and even suburban areas. He testified about the failure of nursing facilities or physicians to provide care for the niche his company fills, and the resultant disruption in care for rural Medicare recipients.

The final witness was Mr. William A. Dombi, Vice President of the National Association for Home Care. Mr. Dombi discussed the details of the extensive additional costs of providing health care in rural areas. In particular, he discussed how home health agencies have been unable to meet the needs of patients in rural areas because of definitional problems. He cited examples of disparities in the reimbursement system that fail to take into account the vast differences in distances covered by home health agencies in each state.

After the testimony of the witnesses the Members asked a number of questions. Chairman Talent raised a concern about the treatment of branch offices under the Medicare reimbursement for home health care. The Chairman also questioned the wisdom of a single set reimbursement for ancillary services regardless of the distances covered by the provider. Finally, he discussed the possibility of creating a voucher system for small businesses to ease transition into the PPS system.

Ms. Velazquez questioned HCFA's apparent inequity in the treatment of rural areas and also raised the issue of HCFA compliance with the Regulatory Flexibility Act, in light of the obvious disparate effect on small business.

Ms. McCarthy and Ms. Christian-Christensen both questioned HCFA's treatment of small providers seeking reorganization and also expressed concern over the failure of HCFA to show flexibility in dealing with the hospice industry.

For further information on this hearing, refer to Committee publication 106-64.

#### 7.2.30 HEARING ON IMPROVING THE OFFICE OF ADVOCACY

##### *Background*

On June 21, 2000, the Committee on Small Business held a hearing on improving the operations of the Office of Advocacy. The purpose of the hearing was to examine ways to increase the independence and power of the Office of Advocacy.

The Office of Advocacy, headed by a Chief Counsel appointed by the President and confirmed by the United States Senate, was created in 1976 to represent the interests of small business in the federal regulatory process. In 1980, the Office's portfolio was increased to include monitoring agency compliance with the Regulatory Flexibility Act—a statute requiring that agencies assess the impact of their proposed and final rules and, if they are significant, examine alternatives that will be less burdensome. That Act also authorized the Chief Counsel to file an amicus brief in court addressing an agency's noncompliance with the Regulatory Flexibility Act during the rulemaking process. The Office's power was increased again in 1996 by the Small Business Regulatory Enforcement Fairness Act. That Act required the Chief Counsel to obtain the views of industry

on significant proposed rules issued by EPA and OSHA and then transmit them to those agencies prior to publication of the proposal in the Federal Register.

Some concern exists that the Office of Advocacy is not sufficiently independent from the President and the Administrator of the SBA. One possible solution would be to have a separate line item for salaries and expenses of the office of Advocacy. Another is the creation of a three-member commission along the lines of the Federal Trade Commission that would operate outside the authority of the Executive Branch of government.

### *Summary*

The hearing consisted of one panel: the Honorable Jere W. Glover, Chief Counsel for Advocacy, Office of Advocacy in the United States Small Business Administration; Mr. Todd McCracken, President of National Small Business United, Washington, DC; Karen Kerrigan, President of the Small Business Survival Committee, Washington, DC; Daniel R. Mastromarco, Esq., President of The Argus Group, Alexandria, VA; Mr. Jim Morrison, Senior Policy Advisory for the National Association for the Self-Employed; and Keith Cole, Partner, Swidler, Berlin, Shereff Freedman.

Mr. Glover testified that he has exercised his independence from the President on a frequent basis. In addition, he noted that he has been able to persuade the Administration to take positions that are beneficial to small businesses on a number of occasions. Mr. Glover also testified that the decision in *American Trucking Association v. EPA* does not undercut his authority with respect to oversight of agency compliance with the Regulatory Flexibility Act. Nevertheless, Mr. Glover objected to the creation of a Small Business Advocacy Commission. Mr. Glover concluded his testimony by rejecting the notion that the Office of Advocacy or a Commission should write government-wide regulations on implementing the Regulatory Flexibility Act.

Mr. Mastromarco, as a former Assistant Chief Counsel in the Office of Advocacy, noted that the Chief Counsel could never be truly independent. The Chief Counsel serves at the pleasure of the President and can be fired by the President. True independence will not happen until the Chief Counsel is severed from the jurisdiction of the Administrator and the Administration, budget requests are filed directly with Congress (as occurs with independent regulatory agencies), removing the Office of Advocacy from the location of the United States Small Business Administration, and appointing a Chief Counsel or commissioners in an Advocacy Commission for a set term.

Ms. Kerrigan noted that the Office of Advocacy appears to focus its energy more on being reactive, i.e., what happens after an agency issues a proposed rule. Yet, because of its position within the Administration, Ms. Kerrigan noted that it cannot aggressively take positions on legislation that might contradict those of the President. Ms. Kerrigan supported initiatives to make the Office of Advocacy more independent but noted that her organization was still studying the costs and benefits of transferring the functions to an independent commission.

Mr. McCracken testified that an effective Chief Counsel working inside the Administration may be beneficial for small business. However, that benefit must not be sacrificed at the cost of the Chief Counsel's independence. Mr. McCracken noted that the scales may be tipping too far away from independence. Mr. McCracken and his organization support a Senate effort to provide the Office with a separate line item in the President's budget. He raised some concerns about the tradeoffs associated with creating an Advocacy Commission outside of the Executive Branch. He stated that his organization would have to consider this issue in more depth.

Mr. Morrison concurred with Mr. McCracken in supporting the need for a truly independent office of advocacy within the Administration. His organization also supported the Senate's effort to create a separate line item in the budget for the office. Mr. Morrison also testified that the Office of Advocacy had to be given the authority to write government-wide guidance in order to overcome the decision in *American Trucking Association v. EPA*.<sup>o</sup>

Mr. Cole noted that the Office of Advocacy must carefully select which regulatory battles it fights to its full ability. While resource constraints certainly play a role, Mr. Cole noted that conflict with the Administration could lessen the Chief Counsel's influence within the Administration. The Chief Counsel is part of the President's team and, if the Chief Counsel goes too far off that path, the Chief Counsel could find itself marginalized in debates within the Administration. Mr. Cole notes that the Commission represents an excellent mechanism for ensuring the true independence of the Office of Advocacy.

### 7.3 SUMMARIES OF THE HEARINGS HELD BY THE SUBCOMMITTEE ON EMPOWERMENT

#### 7.3.1 BARRIERS TO MINORITY ENTREPRENEURSHIP

##### *Background*

The Committee held a hearing on March 23, 1999 examining the fact that economic opportunities are minimal to minorities. This lack of opportunity stems from the fact that there is a disproportionate amount of taxes and regulations placed on small businesses. This hearing also focused on the streamlining of zones, business codes, and other regulations necessary for small businesses to survive—and further, necessary for the revitalization of America's most economically strapped communities.

The hearing was found to be necessary because of the still-pressing issues facing minority-owned and operated small businesses. There are more than 2 million minority-owned businesses in the United States. Even so, companies owned and operated by minorities are faced with bigger challenges than other companies, and the hearing was held to investigate this specific discrepancy.

##### *Summary*

The witnesses for this hearing included Stella Horton, Director of Entrepreneurship at EDTEC; Yvonne Simpson, Vice President of the Small Business Services for the Greenville, SC Chamber of Commerce; Shelia Brooks, President and CEO of SRB Productions,

Inc.; William Mellor, President and General Counsel for the Institute for Justice; and Hector Ricketts, President and CEO of Queens Van Plan.

Dr. Horton stated that her belief is that with proper education and opportunities, youth can benefit from entrepreneurial skills, and eventually aid in the economic development of their cities and towns. Dr. Horton described EDTEC's "new youth entrepreneur" program, one which provides opportunities for youth to have hands-on entrepreneurial experiences, as well as entrepreneurial teaching in the classroom. Dr. Horton emphasized that beginning with youth is important; for learning entrepreneurial skills as an adult is too late in the process. The skills learned, such as: setting goals, thinking logically and sequentially, and the importance of academic education, lead to a productive youth with high potential in society. Dr. Horton asked that the committee continue to move forward in its investigation of minority entrepreneurship by developing legislation promoting entrepreneurship training, support schools in adopting entrepreneurial education programs, and oversee the development of outreach programs to minorities.

Ms. Simpson's testimony described her home of Greenville County, NC. Ms. Simpson explained that even though there has been an almost 98 percent increase in the number of Black-owned businesses in Greenville County, NC, the sales and receipts of black-owned businesses has increased by only 30 percent. Ms. Simpson said this discrepancy is unnecessary and urged the committee to continue to delve into this issue, and to insure a more level playing field for minority entrepreneurs through tax incentives.

Ms. Brooks, national board member of the National Association of Women Business Owners (NAWBO), spoke about specific obstacles which face minority entrepreneurs, in particular, women business owners of color. Ms. Brooks explained that women-owned and operated businesses, while vital to the economy, are faced with increasingly difficult obstacles, specifically in the arena of accessing capital. Ms. Brooks explained the "Master Plan," a comprehensive plan commended by U.S. Small Business Administration's Aida Alvarez. Ms. Brooks stressed the importance and effectiveness of this plan, and that it should be implemented in order to alleviate problems incurred by minority entrepreneurs.

Mr. Mellor testified that the spirit of America is embodied in entrepreneurial endeavors, and that minorities are missing out on the realization of the American Dream. People who want to earn a living for themselves and their families are faced with countless obstacles. These factors disobey the aims of our Founding Fathers, he explained. Mr. Mellor concluded that the creation of jobs should be of highest priority to the nation.

Mr. Ricketts, the President and CEO of Queens Van Plan, Inc., a commuter van service authorized by the State of New York and the New York City Taxi and Limousine Commission, also testified. Mr. Ricketts spoke of his difficulties dealing with the bureaucracy associated with any kind of change he wants to make in his business. He stated the endless processes he had to go through to expand or change his business. Mr. Ricketts recommended that the committee, and the government as a whole, set the pace in eliminating government-imposed barriers to entrepreneurs. Mr. Ricketts

requested that regulations be based on safety issues and not on the fact that a minority seeks to compete and compete successfully.

For further information on this hearing, refer to Committee publication 106-6.

### 7.3.2 SMALL BUSINESS, BIG GAINS: HOW ECONOMIC RENEWAL CREATES SAFER NEIGHBORHOODS

#### *Background*

The Subcommittee on Empowerment held a hearing on May 11, 1999 concerning economic renewal. Specifically, the committee wished to examine how economic renewal helps to create safer neighborhoods in our nation's cities. Although communities with little economic growth, high crime rates and high unemployment rates often deter business owners from settling in certain areas, these communities offer distinct business advantages. These usually include: locations near public transportation; high population density, leading to substantive purchasing power; and a vast, untapped labor pool. When business flourishes in an area, the crime rate tends to fall, and the previous hardships felt by a community are eased. Therefore, business success will lead to economic renewal for America's struggling communities. The committee sought to further this search into the correlation between a community's success and the growth of small businesses.

#### *Summary*

Robert L. Moore, President of the Development Corporation of Columbia Heights; Todd Mosley, Executive Director of Thumbs Up Youth Enterprises; Curtis Watkins, Director of the East Capitol Center for Change; Albert R. Hopkins, Jr., President and CEO of the Anacostia Economic Development Corporation; and Celina Treviño Rosales, Executive Director of the Latino Economic Development Corporation all testified at the hearing.

Mr. Moore focused on the evolution of the Columbia Heights area. He stated that the area, once a profitable commercial center, had fallen victim to a massive relocation of city residents to rural outlying areas of Virginia and Maryland in the early 1960's. In addition, the community experienced rioting and damage due to the assassination of Martin Luther King, Jr. in 1968. These factors contributed to the decision by the federal government to buy and later level the 62-acre area. Though they were hoping for new commercial development, the area remained clear, and crime and drugs took over the neighborhood. Mr. Moore stated that, if businesses would open in the area, it would help to create jobs and thus decrease crime and violence.

Mr. Mosley spoke of his proposed tax credit to businesses as one way to help youth in impoverished areas. His idea is to give a 100-percent tax credit to local employers to hire local teenagers for part-time apprenticeships. This proposal would broaden the tax base by placing money into the hands of youth in the form of wages, and by providing that the same amount of money to businesses in the form of a tax credit. Mr. Mosley stated that this would be the way to help a community become profitable and successful again.

Mr. Watkins spoke of his East Capitol Center for Change, a non-profit organization serving youth and adult residents of the 577 unit East Capitol Public Housing Development. Through his work with this center, Mr. Watkins has seen that it is important to expose young people to business development skills from a young age, give tax incentives to community businesses as well as associations and corporations who develop programs for youths.

Mr. Hopkins, Jr. testified that he has seen a significant change in the mindset of residents in the Anacostia/far Southeast area since the Good Hope Marketplace was opened in December of 1997. He used this as a concrete example to show that business renewal creates renewal on a broader scale for an entire community. Ms. Treviño Rosales stated that the community of Mount Pleasant has also enjoyed a surge of confidence and economic revitalization due to recent store openings and construction.

For further information on this hearing, refer to Committee publication 106-11.

### 7.3.3 WELFARE TO WORK: WHAT IS WORKING, WHAT IS NEXT?

#### *Background*

On May 25, 1999, the Subcommittee on Empowerment met to discuss various strategies geared to facilitate the transition from welfare to gainful employment. The Subcommittee examined the accomplishments of several welfare-to-work programs and the lessons learned during this welfare reform transitional period. The Subcommittee heard input from the witnesses regarding the steps that should be taken to ensure the long-term success of welfare reform initiatives and what strategies are successful in moving people from dependency on public assistance, to gainful employment and ultimately self-sufficiency.

A study conducted by the Economic and Social Research Institute surveyed 500 small businesses and found that small employers are seeking reliable, motivated workers with positive attitudes, and are less concerned with the limited education and job training of many welfare recipients. Additionally, 62% of the employers surveyed had hired someone who was on welfare and, of this percentage, 94% were willing to hire a welfare recipient again. These findings suggest that since there is no shortage of employers to hire welfare recipients, perhaps welfare-to-work-programs are part of the solution to facilitating the job search for welfare recipients. These programs provide training that will help welfare recipients portray themselves as successful candidates to prospective employers.

The past few years have been a transitional period for welfare reform, following the passage of the Personal Responsibility and Work Opportunity Reconciliation Act, in 1996. This law established the *Temporary Assistance for Needy Families* (TANF) program which mandates that after two years of receiving welfare assistance, recipients must have a job or be participating in some type of work activity or job training. This welfare-to-work initiative ensures that welfare recipients have the opportunity to make a long-term life improvement, by sustaining a job, in hopes that eventually they will become independent of government assistance. This is especially important since participation in the TANF program



limits the receipt of welfare benefits, in most cases, to no more than 60 months in one's lifetime.

#### *Summary*

The hearing consisted of one panel: Mr. Charles A. Ballard, Founder and CEO, Institute for Responsible Fatherhood and Family Revitalization; Mr. Robert F. Powelson, President, Chester County (PA) Chamber of Commerce and Industry; Mr. Peter Cove, Founder, America Works; Mr. Eric Yergan, Owner, The Yergan Agency.

Mr. Ballard testified that his program since its inception in September 1998, has placed over 230 fathers and mothers in full-time jobs. He also noted that they have a 72 percent retention rate.

Mr. Powelson testified about his program which pairs welfare recipients seeking job training, or entering jobs, with a mentor in the business community. Mentors serve in a number of capacities from helping create or fine tune résumés to discussing daycare options. He added that this mentoring relationship helps increase the rate of job retention and that several other counties in Pennsylvania have expressed interest in creating similar programs.

Mr. Cove testified about his program, America Works, operates in seven cities and in 15 years, has placed over 20,000 welfare recipients in jobs. He added that the government should not pay for the process for welfare-to-work programs, rather they should pay for the results. He believes the Department of Labor should only pay a welfare-to-work program when a participant has worked for more than six months.

Mr. Yergan testified about his experience in hiring a welfare recipient from Mr. Cove's program to work in his insurance agency. He told the panel that he was most impressed with Anna Rodriguez, a single mother of three, who was on welfare for more than five years, finding her very competent and eager to learn. He noted that she progressed quickly in her job, passing classes and tests required to obtain her real estate license. Mr. Yergan added that being able to speak with an America Works counselor when there is a problem with a participant in the beginning stages of employment, is invaluable in creating a strong working relationship.

For further information on this hearing, refer to Committee publication 106-14.

#### 7.3.4 THE DIGITAL DIVIDE: BRIDGING THE TECHNOLOGY GAP

##### *Background*

The Subcommittee on Empowerment met on July 27, 1999, to discuss the Digital Divide, its impact on disadvantaged groups, and initiatives to close the gap. The Digital Divide refers to the recent trend or demographic differences in the groups that are taking full advantage of innovative technology such as personal computers and the Internet. A study released in July, 1999 by the U.S. Department of Commerce, National Telecommunications and Information Administration, entitled "Falling Through the Net: Defining the Digital Divide," finds evidence of a distinct dichotomy between those who avail themselves of electronic resources and those who

do not. The study examines the prevalence of telephones, personal computers, and Internet access in households nationwide using data from the Census Bureau. The analysis showed that although connectivity in America has increased, access trends seem to be affected by factors such as race, socioeconomic status, geographic region, and education. The study showed that minorities, low income families, single parent families, and those living in rural areas have less access to the technological tools of the Information Age.

The lack of computer proficiency and Internet access by members of disadvantaged groups hinders their employment prospects. The ability to successfully compete for the increasing number of entry level, high tech jobs, requiring a computer background, is decreased for those without access to technology. Even an initial job search, is facilitated by the electronic job banks found on the Internet. Further, the Internet benefits entrepreneurs seeking to start or grow a small business, by serving as a research tool to probe new products, processes, and technologies. Universal access to electronic technology will also help improve the labor pool, creating well-prepared, technologically adept employees.

As computer and Internet technology are rapidly being integrated into the classroom, students lacking access to electronic resources at home, school, the library, or another community center, may lag behind peers in their ability to embrace and utilize these technologies. This is further complicated by the lack of teachers possessing the skills necessary to successfully integrate technology in the classroom. Online classrooms are yet another educational benefit of the Internet, allowing people to conveniently enhance their education and even work toward post-secondary degrees. In fact, the NTIA study found that minorities, when using the Internet at home, are taking courses or conducting school research online at rates higher than the national average.

#### *Summary*

Panel I consisted of: Honorable Larry Irving, Assistance Secretary for Communications and Information, National Telecommunications and Information Administration (NTIA), U.S. Department of Commerce; Ms. Maureen Lewis, General Counsel, Alliance for Public Technology; Mr. Harris Miller, President, Information Technology Association of America.

Mr. Irving testified on the findings of the U.S. Department of Commerce's 1999 report "Falling Through the Net: Defining the Digital Divide." He noted that while Americans are have advanced with respect to connectivity, there exists a disparity in this progress on the basis of income, education, race, and geographic location.

Ms. Lewis testified that the Alliance for Public Technology (APT) thinks one way to combat the Digital Divide is for the FCC to eliminate certain rules that inhibit large telephone companies from deploying broadband infrastructure. She also suggested that the FCC should forge partnerships with community organizations that can pool their demand for telecommunications services and service providers. She added that education, training, and recognition of the economic incentive existing in information technology, are important steps toward bridging the gap.

Mr. Miller testified that the Information Technology Association of America prefers to use the term “digital opportunity” rather than digital divide since there is an expected doubling of e-commerce expected in the next six months, and that suggests opportunity, both in terms of empowerment and economic performance. He noted that in time market forces would level rate of access to technology since typical technology cycles take 20 years and the World Wide Web is only six years old. He added that the ITAA has been working with the industry groups and the White House on incentives to attract minorities, low-income women, and those with disabilities to IT jobs.

Panel II consisted of: Mr. B. Keith Fulton, Director, Technology Programs and Policy; Mr. Tim Robinson, Legislative attorney; Ameritech Corporation; Jack Krumholtz, Director, Federal Government Affairs, Microsoft Corporation; Mr. Thomas Coleman, President and CEO, Technical Career Institute, Inc.

Mr. Fulton testified about the partnerships the Urban League has with IT companies such as Bell Atlantic, EDS, Microsoft, and Ameritech, to build 115 technology education and access centers, “digital campuses” around the country. He added that programs like e-rate have been beneficial in getting Internet access into schools and libraries.

Mr. Robinson testified that Ameritech wants to work with the FCC to rethink restrictive interpretation of telecommunications law that prevents companies from transferring information efficiently. He encouraged support of H.R. 2420 and H.R. 1686, which would remove some of these barriers. He added that the retail buying power of the inner cities, where many minorities live, amounts to over \$100 billion per year and that by providing the tools and IT resources an underserved market can be tapped.

Mr. Krumholtz testified about steps Microsoft is taking to work toward its vision of a computer and connectivity in every household. He described programs from Libraries Online, operating in public libraries across the country and targeting everyone from school children to senior citizens, to Working Connections, a partnership with American Association of Community Colleges to provide education and workforce training in disadvantage in distressed communities.

Mr. Coleman testified that his program, Technical Career Institute, trains economically and socially disadvantaged individuals for technology jobs. He added that TCI has incorporated components targeting women and at-risk high school students in the New York City public school system.

For further information on this hearing, refer to Committee publication 106–25.

### 7.3.5 H.R. 2373, THE START-UP SUCCESS ACCOUNTS ACT OF 1999

#### *Background*

On November 2, 1999, The Empowerment Subcommittee met to discuss H.R. 2373, the Start-Up Success accounts act of 1999. Introduced by Subcommittee member Jim DeMint (R-SC) and full Committee Member Brian Baird (D-WA), the bill allows start-up,

small enterprises to save their money in tax deferred savings accounts, giving new small businesses a tool to manage their income and avoid the excessive tax burden. The term “start-up,” for purposes of this bill, is defined as a business in its’ first five years of existence. A small business owner may put up to 20% of his taxable annual income, up to \$200,000, into a SUSA. One may draw from the account five years from the date of deposit, so the account can remain active for up to ten years, but one can make tax free contributions to the account for five years (while their business is still a “start-up”).

Small business owners are often counseled to reinvest their profit into the business, thereby avoiding taxation on the business’ profits. H.R. 2373 would allow new small businesses an alternative opportunity to use a tax deferred saving account for profits. These savings accrued at a time when business is profitable, could help many small businesses withstand slow periods or periods of increased competition.

#### *Summary*

The hearing consisted of one panel: Ms. Karen Kerrigan, Chairman, Small Business Survival Committee; Mr. Erik R. Pages, Policy Director, National Commission on Entrepreneurship, and Mr. Pepper Horton, CPA.

Ms. Kerrigan testified that the SUSA Act of 1999 addresses a major problem facing many small businesses, lack of access to capital. She noted that in 1995, delegates from the White House Conference on Small Business ranked this issue a top priority and that 15 out of its 60 recommendations related to access to capital.

Mr. Pages spoke about the challenges of getting funding for start-ups. He noted that start-ups with projected expenses of under \$50,000 can usually get needed funding through small-scale investors, often family members, and credit cards. He described the toughest group of start-ups to find funding for is the \$50,000–\$2 million bracket, since venture capitalists usually come through for the big dollar prospects, leaving the medium sized businesses with the most problems accessing funds. Mr. Pages testified that the SUSA Act would be a useful tool for start-ups to grow using their own hard-earned money.

Mr. Horton testified that the SUSA Act would be an effective tool in helping small business owners manage their cash flows and avoid tax-motivated spending. He said that currently, the tax code contains few incentives to help small businesses get off the ground and that the SUSA Act is a step in the right direction.

For further information on this hearing, refer to Committee publication 106–39.

#### 7.3.6 THE AGING OF AGRICULTURE: EMPOWERING YOUNG FARMERS TO GROW FOR THE FUTURE

#### *Background*

On November 3, 1999, the Subcommittee on Empowerment and the Subcommittee Rural Enterprises, Business Opportunities and Special Small Business Problems met in a joint hearing to discuss

an issue that is of great concern in the agricultural community—the lack of young people entering production agriculture. According to the most recent Census of Agriculture, the average age of American farmers is 54.3 years; and there seems to be a shortage of young people waiting to succeed our aging farmers as they prepare for retirement. This shortage means that many seasoned farmers, with decades of farming experience, have fewer people to pass their legacy on to and benefit from their accumulated years of agriculture experience. Older farmers who are looking toward retirement often find their children are not interested in taking over the family farm, or if they are interested, they are discouraged by the difficulties inherent in the transfer of a farm from one generation to the next. The estate tax, lack of access to capital, long hours of work with marginal return on investment, regulatory barriers, and reduced access to the global market are some factors that dissuade aspiring young producers from entering the field of agriculture.

#### *Summary*

Panel I consisted of: Dr. D. Scott Brown, Program Director, Food and Agriculture Policy Research Institute (FAPRI); Mr. John Young, Farmer, Groffton, NH; Mr. Lynn Cornwell, Vice President, National Cattleman's Beef Association; Mr. Terry Ecker, Farmer, Elmo, Missouri; Mr. Steve Gross, Farmer, Manchester, Pennsylvania; Mr. Bruce Cobb, Farmer, Bridgeton, New Jersey; and Mr. Baron Johnson, Farmer, Inman, South Carolina.

Dr. Brown testified on the state of U.S. agriculture. He reported that many commodities' prices are falling due to changing supply and demand for the commodities. He expects the 2000 farm income to decline about 15 percent over the previous year.

Mr. Young, a fourth-generation apple farmer, whose family's orchard used to cover 600 acres is now reduced to 57, testified that problems including financing, labor shortage, tax complexities, and paperwork burden are contributing to the demise of the family farm. He also mentioned the growing necessity of an "off-farm" income to sustain the family.

Mr. Cornwell spoke about three factors that inhibit prospective young farmers and ranchers from entering the profession: the lack of return on investment, the estate tax, and regulatory burdens.

Mr. Ecker testified about the factors he, as a young farmer, must consider as he contemplates taking over his family's farm. These include the cost of land and the lack of availability of affordable land for expansion, risk management and problems with the Federal crop insurance program, and the lack of helpful tax incentives for producers.

Mr. Gross cited the estate tax, lack of federal and state assistance programs, health insurance costs, and competition with foreign producers as barriers to young people entering production agriculture.

Mr. Cobb testified about several ways to make agriculture an attractive business venture for aspiring young producers: increase access to capital for start-up costs, eliminate the estate tax, eliminate reduction in Social Security wages that discourage older Americans from working on farms, make INS regulation fair and clear.

Mr. Johnson spoke about the difficulty of making arming a profitable endeavor, citing the increased cost of land and equipment and the lack of low-interest loans available to young farmers.

The second panel consisted of Mr. Gary Smith, Executive Director, Chester County Development Council; Mr. John Baker, Beginning Farm Center at Iowa State University; and Ms. Susan Offutt, Administrator, Economic Research Service, U.S. Department of Agriculture.

Mr. Smith spoke about the Next Generation Farm Loan Program, a low-interest loan program operated by the state of Pennsylvania, a low-interest loan program operated by the state of Pennsylvania. He testified that permitting Farm Service Agency guarantees on aggie bonds and exempting aggie bonds from the volume cap on industrial development bonds would help make financing available to young farmers.

Mr. Baker spoke about the programs of the Beginning Farm Center which include seminars on how to plan an estate and make a business succession plan, geared toward retiring farmers, and programs to help young farmers organize their operation so it has greater potential to be a successful business. Mr. Baker suggested that the USDA provide matching funds to state organizations such as his.

Ms. Offutt testified that the method of census data collection, in which only the primary owner's age is counted, may be partially responsible for the increase in the average age of farmers, since the farm may actually be operated by a much younger farmer whose age is not recorded. She added that over the last five years, FSA has provided over \$2.5 billion in loans to over 34,000 beginning farmers and ranchers.

For further information on this hearing, refer to Committee publication 106-40.

#### 7.3.7 BRIDGING THE TECHNOLOGICAL GAP: INITIATIVES TO COMBAT THE DIGITAL DIVIDE

##### *Background*

On March 28, 2000, the Empowerment Subcommittee met to discuss the various strategies geared toward bridging the technological gap created by the Digital Divide. Specifically, the Subcommittee examined initiatives that have been successful in ensuring that everyone is able to access the technological advances that are driving our information age. This hearing furthered the Subcommittee's discussion of this matter and charted the progress that has been made since our first hearing on the digital divide last July. For information on the first hearing on the Digital Divide, refer to Committee publication 105-25.

##### *Summary*

This one panel hearing consisted of: Dale Mitchell, Executive Director, Delaware Valley Grantmakers; Leslie A. Steen, president, Community Preservation and Development Corporation; Scott Mills, Executive Vice President and Chief Operating Officer, BET.com, LLC; Darrien Dash, CEO, DME Interactive Holdings, Inc.; Harris N. Miller, President, Information Technology Associa-

tion of America; Katherine Bushkin, Senior Vice President and Chief Communications Officer, America Online, Inc.

The Mr. Mitchell testified that sometimes the most effective solutions must come from those closest to the problem. He spoke about the funding that his association's members have given to community programs, which seek to shrink the Digital Divide. For instance, the Free Library of Pennsylvania's Bits and Bytes Project, funded by the William Penn foundation, sponsors computer clubs and classes. The CIGNA Corporation funds computer learning centers in Philadelphia and Hartford, CT. The Pennsylvania Humanities Council, with funding from the Howard Heinz Endowment, sponsors technology centers at 10 community sites.

Ms. Steen testified that the "Community Preservation and Development Corporation (CPDC) has been actively bridging the Digital Divide for over four years in seven low income communities in Washington, DC. She illustrated this with the example of the Edgewood Terrace community, which was comprised of 884 HUD subsidized apartments. The residents of Edgewood Terrace needed jobs and the CPDC knew that information technology was going to foster many new employment opportunities, so they set up technology-based job training programs. Ms. Steen described Edgewood Terrace as an electronic village using technology as a community building tool. The CPDC now has partnerships with local universities and corporations to promote higher education goals and employment.

Mr. Mills testified that Bet.com, as a company serving the online needs of the African American population, has developed several strategies to combat the Digital Divide. The company plans to offer a free Internet Service Provider (ISP) for those who have a computer and a Personal Computer (PC)/ISP package for those who don't. Mr. Mills noted that cost is only one factor contributing to the Digital Divide and that the lack of appealing content and target marketing to the African American community also must be addressed.

Mr. Dash testified that his company, the first publicly traded African American Internet Company, seeks to enhance the perception in the African American and other minority communities that the Internet has a value for them. He added that he is Chairman of District 5 for Technology Committee in Harlem, which promotes the Internet to young children through both public and private partnerships.

Mr. Miller testified that the absence of minorities in the IT field is due in part to lack of education and training in this area. The ITAA is working to filter a more diverse cross-section Americans into the IT community. He noted that the Digital Divide can be seen as a "digital opportunity" and that the challenge to attract underrepresented groups to the IT field can be met through outreach, education, and internships.

Mr. Bushkin testified that America OnLine is committed to ensuring that everyone has the chance to be part of the digital economy. She referred to a Department of Commerce study that reported that in two years, about 60 percent of jobs will require high tech skills. She mentioned several factors that would help bridge the digital divide: (1) availability of hardware, software and afford-

able connectivity, (2) appropriate skills training, (3) Internet content useful to traditionally underserved communities, and (4) public awareness programs to educate people on how the Internet is valuable in their lives.

For further information on this hearing, refer to Committee publication 106-48.

### 7.3.8 THE DIGITAL DIVIDE

#### *Background*

On April 25, 2000, the Subcommittee on Empowerment met in the Carson City Council Chambers, Carson City Hall, 701 East Carson Street, Carson, CA to discuss the digital divide formed in low-income communities when they lack adequate resources to participate in the Internet and electronic commerce. Ms. Bono presided over the field hearing located in Ranking Member Millender-McDonald's district.

A study released by the Commerce Department's National Telecommunication and Information Administration found evidence of a widening digital divide. Data from the studies show significant differences between those groups with access to the basic components of e-commerce, personal computers, telephones and Internet service providers.

The Subcommittee looked at mostly non-governmental proposals to increase access to technology coupled with proper instruction to enhance the possibility that those who are currently not computer and Internet proficient will come to embrace these resources.

#### *Summary*

The hearing consisted of two panels. On the first panel, three witnesses provided testimony: Francisco Mora, Co-Author, "On-line Content for Low-Income & Underserved Americans;" Warren Ashley, Director, Distance Learning, California State University; and Jack Sutton, Executive Officer, UCLA Outreach Steering Committee, Office of the President.

Mr. Mora shared information from his study supporting that less than 1 percent of the information important to underserved areas, such as local jobs, local housing, limited literacy content, multi-lingual content and cultural content, is available on the Internet. Because his study is the first of its kind, he recommended more research in the phenomenon. He also recommended invested in a nationwide network of community technology centers as hubs to help residents produce and use relevant content.

Mr. Ashley testified about the six-degree programs and five certificate programs that can be completed without ever physically attending California State University. He said that when people feel they need the Internet to do business and stay in touch with their friends they will get the equipment, access and any help they need to use this technology.

Mr. Sutton testified on behalf of the UCLA Outreach Steering Committee, an organization that works with fifth-eight high schools and feeder schools in designated outreach programs as a result of California Proposition 409 and the regent's action on Affirmative Action. He provided his experiences with how electronic infra-



structure, computers, data communication and other new media enable a strong economy.

Four witnesses testified on the second panel: Lynnejoy Rogers, Director, Brown Business Center, Urban League; Sam Covington, Director, Information Vortex, Inc.; John Bryant, Founder and CEO, Operation Hope, Inc.; Perry Parks, Vice-President, Government and Public Relations, Media One.

Ms. Rogers testified that as corporations become more global in focus, they will become less supportive of urban issues and as businesses use more automation for production, the role of the human is bound to diminish as did the role of the horse in the agricultural age. She said that as technological advancement increases, people who have been historically disenfranchised from the economic process which develops ownership and wealth, will continue to drift towards an existence mirroring the survival of the fittest.

Mr. Covington testified that the digital divide really is only a reflection of the other divides that exist in the economy. He said that competition is stymied in areas such as education or business preventing African-Americans from success. He said that society needs to halt these monopolistic practices in order to allow everyone equal opportunity to succeed.

Mr. Bryant testified about the Inner City Cyber Cafe, an organization sponsored by Operation Hope designed to literally bridge the technological and prospective gaps separating inner city and mainstream communities. It provides the local community with a comfortable, relaxed and positive atmosphere in which to meet to conduct e-commerce related business and research, to hold one on one business meetings, and to unleash the enormous power of the Internet and world wide web.

Mr. Parks testified that as competition begins to take hold, prices for Internet access lowers and more access will be made available to the people in low-income communities. He also stated that the technological infrastructure is in place to bridge the digital divide.

For further information on this hearing, refer to Committee publication 106-54.

#### 7.4 SUMMARIES OF THE HEARINGS HELD BY THE SUBCOMMITTEE ON GOVERNMENT PROGRAMS AND OVERSIGHT

##### 7.4.1 JOINT HEARING WITH THE SUBCOMMITTEE ON REGULATORY REFORM AND PAPERWORK REDUCTION ON SMALL BUSINESS ADVOCACY REVIEW PANELS

###### *Background*

On March 11, 1999, the Subcommittee on Regulatory Reform and Paperwork Reduction and the Subcommittee on Government Programs and Oversight of the Committee on Small Business held a hearing on small business advocacy review panels created by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). This hearing was in many respects a continuation of joint hearings the two subcommittees held in April 1997 and March 1998 in which was addressed the need for common sense in rule-making and the unfair financial burdens borne by small businesses

all over this Nation as a result of unscientific, impractical and unnecessary regulations

These same hearings also examined the implementation and performance by the Environmental Protection Agency (EPA) and the Occupational Safety and Health Administration (OSHA) of the panel process added by SBREFA. The panel process requires these two agencies—EPA and OSHA—to consider and to respond fairly to the advice and recommendations of small businesses concerning the impact upon small businesses of proposed regulations. In a study done for Committees of both the House and the Senate, the General Accounting Office concluded that: “Agency officials and small entity representatives generally agreed that the panel process is worthwhile, providing valuable insight and opportunities for participation in the rulemaking process.” The hearing considered adding the Internal Revenue Service as one of the agencies, in addition to OSHA and EPA, covered by the panel process.

#### *Summary*

The hearing was comprised of a single panel, which included: Keith Cole, Partner, Swindler Berlin Shereff Friedman; Katherine Gekker, Owner, Huffman Press; Jack Waggener, Resource Consultants/Dames and Moore; and James Morrison, Senior Policy Advisor, Association for the Self-Employed. The view was expressed that the Internal Revenue Service (IRS) should be added as an agency that must convene a panel. The panel process was considered an achievement by Congress in providing a voice to small businesses in expressing concerns with respect to proposed regulation that could adversely impact the small business community and the nation as a whole. However, it is necessary that participants have sufficient information concerning the intent of a rulemaking in order to effectively comment on the proposed rule.

Better economic analyses and environmental assessments were attributed to the panel process which was said to overall have a positive impact on the rulemaking where panels were convened. Through the panel process have caused rulemaking to take on a more rational and fair approach, more work needs to be done to make the process even better. Though it was hoped that the IRS would look at the panel process in a favorable light, this has not been the case and the IRS has opposed being included in the process. A draft bill was considered that would have added the IRS to the panel process.

For further information on this hearing, refer to Committee publication 106-4.

#### 7.4.2 WOMEN’S BUSINESS ENTERPRISES

##### *Background*

On October 8, 1997, the subcommittee on Government Programs and Oversight held a hearing to showcase Women’s Business enterprises on a national level and to examine issues of concern to women entrepreneur—such as the availability of capital. This was the first hearing in almost a decade devoted to women in business.

This second hearing, held on March 25, 1999, was a continuing commitment to spotlight the vital nature of women’s business en-

terprises to the economy of this nation as a whole and to the communities in which we live. The hearing provided, as did the last one, a forum for learning how the private sector is succeeding or failing to meet the needs of women in business and to focus attention on any existing deficiencies.

The hearing provided an opportunity for women business owners to express their views on the effectiveness of federal government programs designed to help small business owners and those who aspire to go into business for themselves. Lastly, this hearing provided a vantage point for identifying problems that women business owners encounter as the result of over-regulation and burdensome government paperwork. The hearing posed the question: Is the federal government a friend or foe?

#### *Summary*

The hearing was comprised of two panels. The first panel included the Hon. Sue Kelly, a Representative from the State of New York and the Hon. Jennifer Dunn, a Representative from the State of Washington. The second panel included Terry Neese, CEO, Terry Neese Personnel Services, Inc.; Georgette Mosbacher, President, Georgette Mosbacher Enterprises, Inc.; Paula Miller-Lester, Chairman/Publisher/Editor, Minorities and Women in Business; Barbara Hayward, Hayward International, Inc.; and Colleen Anderson, Executive Vice President, Wells Fargo Bank San Francisco.

Major problems facing women in business were cited as the need to: (1) simplify and make the tax code more fair, (2) make sure that women have access to capital, (3) eliminate the bias that women in business often face, (4) improve the ability of women to receive Federal procurement contracts, and (5) continue to reduce paperwork and burdensome regulatory requirements. Three areas of tax relief for small businesses were cited as immediate concerns: i.e. elimination of the death tax, reduction in capital gains and increased deductibility of health insurance for small, self-employed business people.

The National Association of Women Business Owners, NAWBO, expressed concern about issues surrounding government contracting and certification. Too little capital and too much Federal regulation was cited by one witness as the biggest road blocks to real success for women in business. As to the growth of women business enterprises, a witness stated that it is estimated that by the year 2000, women will own 40 to 50 percent of all U.S. businesses. One witness financed the start-up of a business using a retirement fund and credit cards and found bankers reluctant to lend to new businesses. However, an executive of a large national bank testified that the bank had established a \$10 billion, ten-year women's loan fund and that on the third anniversary of the fund's existence over \$3.7 billion had been lent to women-owned businesses.

For further information on this hearing, refer to committee publication 106-7.

### 7.4.3 CONSERVING NATURAL RESOURCES AND EXAMINING RELATED EMERGING TECHNOLOGIES

#### *Background*

The hearing held on April 23, 1999, highlighted the growing need to conserve natural resources. This is because of the limited nature of these resources and the consequences of depending heavily, as in the case of oil imports, upon foreign suppliers. The hearing also explored some of the new technologies and inventions that businesses, both large and small, are using to improve the well-being of individuals and the planet by conserving resources and preserving and protecting the environment. Technology and invention have been the keystones in making the United States the world leader it is.

A further focus of the hearing was the role of government, and Federal regulations and paperwork in helping or inhibiting scientific invention and technology. This hearing provided an opportunity to evaluate whether the Federal government was a friend or foe when it comes to research, invention, technological change, and the introduction of new goods and services designed to preserve our environment.

#### *Summary*

The hearing was comprised of one panel, and the witnesses included: Dr. Albert Bartlett, Professor Emeritus, University of Colorado; Dr. Harvey Forest, Advisor to the President, Solarex Corporation; Mr. Robert P. Purcell, Director, Advanced Technology Vehicles, General Motors Corporation; Mr. Edward Clerico, President, Applied Water Management, Inc.; and Mr. Douglas Durante, Executive Director, Clean Fuels Development Coalition. It was projected that the world has consumed 75% of the discovered and undiscovered petroleum that was ever in the ground, which has left only 25% of this important resource. It was advocated that steps be taken to tell the American people the true state of the present oil production in the United States and the world.

As a means of conserving petroleum, it was pointed out that Germany and Japan have policies to encourage the use of solar energy. It was testified that the United States was in a race with foreign competitors to keep solar technology in the United States where it was developed. Another impact of diminishing petroleum reserves was that automobile manufacturing companies in the future could not depend on the internal combustion engine, but had to consider a number of alternatives. Research was on-going in advanced vehicle technologies including electric, hybrid, and fuel cell.

Turning to another area of conservation, our heavily subsidized waste water and water systems were created in a manner that has caused secondary impacts that have negated many of the environmental benefits. It was proposed for the future that more attention be given to planning for indirect use rather than proceeding haphazardly. Again in the field of energy conservation, it was pointed out that a number of alternatives to petroleum-based fuels existed, e.g., alcohol, ethanol, and methanol, natural gas, propane, and electricity, but that further development in these technologies would be

accelerated by a more forward-looking and consistent national energy policy.

For further information on this hearing, refer to Committee publication 106–8.

#### 7.4.4 THE SMALL BUSINESS INNOVATION RESEARCH (SBIR) PROGRAM

##### *Background*

On May 27, 1999, the Subcommittee on Government Programs and Oversight held a hearing that examined the performance of the Small Business Innovation Research (SBIR) program which was established in 1982 and was reauthorized in 1992 to extend through the end of fiscal year 2000. The SBIR program fosters innovative research and development by small businesses and strengthens the country's technology base. The program has been credited with creating new jobs, increasing productivity and economic growth and helping combat inflation and stimulating exports. Small high-tech companies, as a group, have shown an ability unequalled by large businesses to produce new products, processes and technologies. The program has found widespread support among members of both parties. The hearing provided program oversight and a basis for legislation reauthorizing the program. The hearing examined recommendations for legislative and administrative changes offered as a part of the hearing record.

##### *Summary*

The hearing was comprised of two panels, the first panel included: Mr. Al Behar, President and CEO, Personal Improvement Computer Systems, Inc.; Dr. Jacqueline Haynes, Vice President/Owner, Intelligent Automation, Inc.; Dr. Arvid Larson, Co-Chairman, AAES R&D Task Force. The members of the panel were of the view that the SBIR program was a success and should be continued. It was reported that efforts were being made to streamline the application process and modernize the review process. As evidence of the innovative nature of the program, one company had received nine patents and had a further patent pending as a result of its participation in the program. One witness viewed the program as an engine of growth, contributing to increasing the company's business. Another witness had been at the first hearing that authorized the program and was of the view that the program was far more of a success than initially envisioned.

The second panel included: Mr. Chris W. Busch, Ronan, Montana and Mr. Daniel Hill, Assistant Administrator, Office of Technology, Small Business Administration (SBA). It was pointed out that rural areas have a special need for technology-based businesses fostered by the SBIR program. One witness cited a Harvard University study, which found that SBIR awardees grew significantly faster—whether measured by sales or by employment—than a matched set of firms over a 10-year period. The Administration expressed the view that the SBIR program is working and achieving its congressionally assigned objectives.

For further information on this hearing, refer to Committee publication 106–16.

7.4.5 ELECTRO-MAGNETIC PULSE (EMP)—SHOULD THIS BE A PROBLEM OF NATIONAL CONCERN TO BUSINESSES SMALL AND LARGE AS WELL AS GOVERNMENT?

*Background*

On June 1, 1999, the Subcommittee on Government Programs and Oversight held a field hearing at the Applied Physics Laboratory, Johns Hopkins University that examined the potential damage to our economy and national security of Electro-Magnetic pulse (EMP). To date, the EMP threat has been ignored by government and was not well publicized. Concerns about the proliferation of nuclear weapons, and the possession of such weapons by rogue nations, make the discussion of problems associated with EMP and the magnitude of those problems a most timely topic. Previously, few Congressional hearings had been devoted to this topic.

*Summary*

The hearing was comprised of one panel that included: Ronald J. Wilsie, Program Manager, Strategic Systems, Applied Physics laboratory, Johns Hopkins University; Gordon K. Soper, Group Vice President, Defense Group, Inc.; Lowell Wood, Senior Staff Member, Lawrence Livermore National Laboratory; Col. Richard W. Skinner, Principal Director, Command, Control, Communications, Intelligence, Surveillance, Reconnaissance, and Space, Office of the Assistant Secretary, Department of Defense. The EMP threat resulting from a nuclear weapon explosion was characterized as unique because: (1) its peak field amplitude and rise rate are high and, (2) the area covered by an EMP signal can be immense. The U.S. military systems and infrastructure have been designed and built to survive and operate effectively in an EMP environment. However, the effects upon the civilian infrastructure could be extensive.

The view was expressed that EMP was not being considered in the ongoing infrastructure protection program and that, except for hearings such as this one, the federal government was devoting relatively little attention to this problem. It was stated that EMP-generated high-altitude nuclear explosions have riveted the attention of the military nuclear technical community for thirty-five years, ever since the first comparatively modest one very unexpectedly and abruptly turned off the light over an extensive area in the mid-Pacific. It was reported that the President's Commission on Critical Infrastructure Protection found that an EMP event would potentially devastate portions of the national infrastructure.

Robert D. Walpole, National Intelligence Officer for Strategic and Nuclear programs, Central Intelligence Agency, submitted a statement for the record which may be found in the appendix of the hearing. A videotape of the hearing may be obtained from the Library of Congress.

For further information on this hearing, refer to Committee publication 106-17.

7.4.6 THE BURDEN THAT NEEDLESS REGULATIONS AND LACK OF COMMON SENSE IN ENFORCEMENT OF REGULATIONS PLACE UPON SMALL BUSINESSES

*Background*

This hearing provided a national forum for small businesses to express their views on whether present federal regulatory programs are stimulating or deterring job growth and economic development. The hearing also explored the issue of whether Federal and State regulatory agencies in the enforcement of regulations have lost sight of the need to be fair and to use common sense. Is there a double standard applied in the enforcement of regulations when the violation is caused by government itself?

In the course of the hearing, the Subcommittee viewed and took testimony concerning the lower step on the East front of the Capitol which is in violation of code requirements. The reason for pointing out the code violation with respect to the Capitol step was not to have the step replaced at great expense, but for the purpose of bringing reason and fairness to the regulatory process.

*Summary*

The hearing consisted of one panel that included: Jay Gullo, Mayor, New Windsor, Maryland; Michael T. Rose, National Association of Home Builders; Kenneth Boehm, Chairman, National Legal and Policy Center; and Alan Hantman, AIA, Architect of the Capitol. One witness testified that he was required a substantial expense to rip out and rebuild a wheelchair ramp that was found to be a fraction of an inch too short. Another witness was of the view that burdensome regulations and excessive enforcement policies were barriers to affordable housing. It was brought to the attention of the Subcommittee that private enforcement groups were receiving federal funding from HUD to bring actions against builders.

Instances were cited of regulatory abuses by federal agencies that violated the principles of fairness and common sense as well as the clear intent of Congress. The loss of the apple industry and employment from apple growing in Western Maryland was attributed to the arbitrary activities on the part of the Legal Services Corporation. A view of the Capitol revealed that the bottom step on the East front was two inches higher than the other steps. There was testimony that no specific building codes have been applied to congressional construction projects in light of the effort to comply with national standards. However, the Congressional Accountability Act requires Congress to comply with OSHA.

For further information on this hearing, refer to Committee publication 106-24.

7.4.7 ARE FEDERAL PROGRAMS PROVIDING EFFECTIVE PROCUREMENT ASSISTANCE TO SMALL BUSINESSES?

*Background*

The hearing was held on August 18, 1999 at the Urban League, 4510 South Michigan Avenue, Chicago, Illinois. The hearing exam-

ined the performance of the Small Business Administration (SBA) in administering procurement and other programs designed to assist persons to start a small business and to grow an established small business. A number of important issues were raised. Have SBA's and similar programs succeeded in achieving their stated objectives? Have these programs benefited the communities in which the small businesses are located and in which the employees live? Have private sector efforts proved more successful than government sponsored programs?

The hearing also provided oversight of SBA's entrepreneurial programs and a forum for recommendations offered for improving SBA's performance in aiding small businesses that want to enter the Federal procurement arena and to take advantage of new domestic and export business opportunities.

#### *Summary*

The hearing was comprised of two panels, the first of which included: Ms. Ruth Sandoval, Deputy Director, Minority Business Development Agency, Department of Commerce; Mr. Ted Cowen, Director, Region V, SCORE; Ms. Hedy Ratner, Co-President, Women's Business Development Center; and, Mr. Richard Hayes, Associate Deputy Administrator, SBA. The second panel was comprised of the following: Ms. Charlotte Harrison-Smith, President and CEO, Millennium Data Systems; Mr. Obie Wordlaw, CEO, Jero Medical Equipment & Supplies; Mr. Paul Lumpkin, President, Plexus Scientific Corporation; and, Mr. Sam Johnson, President, Best Metal Fabricators.

There was a discussion of the Phoenix System operated by the Department of Commerce which provides minority businesses an opportunity to register on the system and to automatically receive contract opportunities. SCORE stated that the Chicago chapter held two procurement workshops a year and that these workshops included SBA, the city of Chicago the State of Illinois, and GSA. The problems presented by contract bundling in excluding small businesses in Federal procurements was pointed out. The SBA discussed the PRO-NET Internet System which allows Federal buyers to identify small businesses, but does not, as does the Phoenix System, match buyers and sellers or provide small businesses with procurement opportunities.

The view was expressed that the 8(a) contracting program did not provide procurement opportunities for many businesses that were certified 8(a) small businesses. The 8(a) and HUBzone programs were not reaching a large percentage of those small businesses eligible for these programs, and as a result these programs were not providing the procurement opportunities and businesses development intended. It was pointed out that the area in which the hearing was held contained visual proof that many of the programs intended to bring about positive changes had failed to achieve their intended results.

For further information on this hearing, refer to Committee publication 106-29.



## 7.4.8 GOING PUBLIC—THE END OF THE RAINBOW FOR SMALL BUSINESS?

*Background*

The purpose of the hearing was to provide information to small businesses about “going public”—the process of selling the securities of a corporation on a stock exchange. For many small businesses, or a company that has begun as a small business, “going public” can be the end of the rainbow—the culmination of years of hard work and substantial monetary reward for the business owners. A number of factors need to be considered by businesses considering whether to “go public.” The hearing provided some of the answers to those questions. In addition, both public and private assistance is available to businesses considering “going public” and the hearing provided a public forum for identifying sources of information and assistance.

*Summary*

The hearing consisted of one panel which included Brian Lane, Director, Division of Corporate Finance, U.S. Securities and Exchange Commission (SEC); John T. Wall, President, and Chief Operating Officer, NASDAQ-AMEX International, National Association of Securities Dealers, Inc.; Michael T. Moe, CFA, Director of Global Growth and Stock Research, Merrill Lynch; Keith D. Ellison, Interim Director, Wharton Small Business Development Center; and, Mark Dankberg, President and Chief Executive Officer, VIASAT, Inc. It was noted that the SEC has a regulation called the Seed Capital Rule, Rule 504, that permits entrepreneurs to raise up to one million dollars free from Federal registration. However, state registration requirements would have to be satisfied and Federal anti-fraud rules would apply.

The strength of U.S. financial markets was testified to by the fact that since 1989, Nasdaq alone has brought over 4,200 new companies into the public markets and has raised over \$154 billion in capital to support new businesses. In addition, U.S. equity capital markets experienced dramatic growth during the 1990s and have gone from \$3.1 trillion in 1990 to nearly \$13 trillion in 1999. Technology has been the leader of the new economy. Since 1990, there have been over 5,000 initial public offerings (IPOs) that have raised \$329 billion. One witness testified that the characteristics that investors are looking for in an IPO is “high earnings growth” and “performance against expectations.” Another witness testified that “a successful IPO means different things to different people.” Lastly, it was testified “that public and private resources available to entrepreneurs, combined with hard work, dedication, and at least a little bit of luck, offers real opportunities to live the American dream, starting a business and taking it public.”

For further information on this hearing, refer to Committee publication 106–35.

#### 7.4.9 THE SBA COMPUTERIZED LOAN MONITORING SYSTEM—A PROGRESS REPORT

##### *Background*

On February 29, 2000, a hearing was held to determine the progress the Small Business Administration (SBA) was making in developing its 7(a) loan monitoring system. Section 233 of the Small Business Reauthorization Act of 1997 (Public Law 105-135) requires that SBA complete eight mandated planning actions before the agency obligates or expends any funds for the development and implementation of the proposed new, automated 7(a) loan monitoring system. The proposed new automated loan monitoring system for the 7(a) loan program was the subject of a prior hearing of this Subcommittee held on July 16, 1998.

This hearing focused on the progress SBA has made, since the July 16, 1998 hearing, in performing and completing the planning needed to serve as the basis for funding the development and implementation of the 7(a) loan program computerized loan monitoring system including the eight planning steps required by the Act. The hearing addressed the issues: (1) whether any planning was completed as of the hearing, (2) the management decisions made as a result of that planning, (3) the planning remaining to be completed, and (4) the management decisions remaining to be made.

##### *Summary*

The hearing was comprised of one panel, which included: Mr. Fred P. Hochberg, Deputy Administrator, SBA; Mr. Anthony R. Wilkinson, President and CEO, The National Association of Guaranteed Lenders, Inc.; and, Mr. Joel C. Willemsen, Director, Civil Agencies Information Systems, Accounting and Information Management Division, U.S. General Accounting Agency. The need for a loan monitoring system was underscored by the fact that the SBA loan portfolio grew over a ten year period from \$17.5 billion in 1990 to over \$50 billion. However, SBA's computer systems have not fully evolved with the growth in the loan portfolio and are unable to meet the challenges and the way SBA's loan products are now structured.

In 1999, 75% of all 7(a) loans were processed under the PLP program or other limited review procedures, evidencing the important change in SBA's role from that of a loan approver to that of a lender regulator. SBA need timely and complete information to fulfill its new role, while not creating a reporting burden on either the borrower or the lender. Nevertheless, SBA had not completed any of the eight planning actions mandated by the Reauthorization Act, but had made substantial progress. There was agreement among the witnesses that planning actions needed to be taken to meet the statutory requirements.

For further information on this hearing, refer to Committee publication 106-44.

## 7.4.10 PUBLIC LAW 106-50, "VETERANS ENTREPRENEURSHIP AND SMALL BUSINESS DEVELOPMENT ACT OF 1999"

*Background*

On March 14, 2000, the Subcommittee on Government Programs and Oversight of the Committee on Small Business and the Subcommittee on Benefits of the Committee on Veterans Affairs held a joint hearing. The joint hearing examined the implementation of Public Law 106-50, the "Veterans Entrepreneurship and Small Business Development Act of 1999," signed into law by the President on August 17, 1999. The law requires that specific technical, financial and procurement assistance be provided to veterans. The Department of Veterans Affairs, the Small Business Administration (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. The hearing provided oversight as to the progress that had been made in implementing the provisions of the law.

SBA is required by statute to provide special consideration to veterans. 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 small businesses. The hearing provided a forum for evaluating present performance and for recommendations for improving the future delivery of entrepreneurial and other services to veterans.

*Summary*

The hearing was comprised of two panels, the first of which included: Emile Naschinski, Assistant Director, The American Legion; Rick Weidman, Director, Government Relations, Vietnam Veterans of America; Geoffrey Hopkins, Member, Paralyzed Veterans of America; Anthony Baskerville, Deputy National Services Director, Disabled Veterans of America; and, Joseph Forney Founder/Coordinator, Disabled Veteran Business Enterprise Business Network. There was consensus that little had been done at SBA to assist veterans and that veterans were not a high priority at SBA. Continual monitoring of SBA was necessary to see that P.L. 106-50 was followed and implemented.

Funding was necessary to get the National Veterans Business Development Corporation up and running. The ability of veterans to become small business owners is important to the nation as a whole since small businesses are at the core of the American dream. It was underscored that the unemployment rate for paralyzed veterans was 80% and that small business ownership was vital. Business programs for veterans is not new since the first GI bill passed by Congress in 1944, the Department of Veterans Affairs, then the Veterans Administration, was given the authority to guarantee loans made to eligible veterans.

The second panel consisted of: Woodrow C. McCutchen, Executive Director, Association of Small Business Development Centers; W. Kenneth Yancey, Executive Director, National SCORE Office; Darryl Dennis, Associate Deputy Administrator, SBA. It was noted that veterans should be given an opportunity to fully participate in

the free enterprise system that their service has preserved. Military training and discipline give veterans important tools for starting small businesses. SCORE provides no-cost assistance to separating military personnel through Transition Assistance Programs on more than 15 military bases across the country. Implementation of the law was delayed and a great deal of progress needed to be made to implement the provisions of the law.

For further information on this hearing, refer to Committee publication 106-46.

7.4.11 THE PRESENT AND FUTURE OF E-COMMERCE FOR  
SMALL BUSINESSES IN THE PRIVATE SECTOR AND WITH  
FEDERAL GOVERNMENT AGENCIES

*Background*

This hearing, held April 11, 2000, discussed the present progress and future potential of e-commerce and its impact on doing business in the private and public sectors. The dollar volume of business being conducted by means of e-commerce is increasing at an unprecedented rate. An article in the Wall Street Journal of Wednesday, April 5th, quoted a source that estimated the volume of online sales as increasing by 53 percent this year to \$23 billion, after doubling the previous year to \$15 billion. The same article quoted a trade association that estimated that there were 30,000 or more web sites on the Internet selling merchandise to consumers.

The passage of the Federal Acquisition Streamlining Act of 1994 provided an impetus to Federal agencies to use the Internet as the preferred method of procurement. There are few, if any, major Federal agencies that do not acquire a large dollar volume of goods and services through e-commerce transactions. The hearing examined both the commercial and Federal use of e-commerce technologies such as the creation of electronic shopping malls, in the transition to largely paperless transactions. The hearing also looked at the training and acquisition assistance that small businesses need or are receiving to compete in e-commerce both in the commercial and Federal sectors. Lastly, the hearing provided some answers to the questions: Where are we going in e-commerce? What are the implications of doing business in the private and public sectors?

*Summary*

The hearing was comprised of two panels. The first panel was made up of The Honorable Deidre A. Lee, Administrator for Federal Procurement Policy, Office of Management and Budget. The second panel was comprised of the following: Mr. Max E. Summers, State Director, Small Business Development Centers; Ms. Claudia Knott, Director, Joint Electronic Program Office, Department of Defense (DOD), Mr. Major Clark, Assistant Advocate, Office of Advocacy, Small Business Administration; and Mr. Tony Bansal, President and CEO, Digital Commerce Corporation. The Federal government is working on creating a single, government-wide point of entry for electronic commerce and for accessing business opportunities. The Administration's strategic plan calls for reliance

wherever possible, and cost-effectiveness on commercial products and services.

It was reported that a majority of small businesses have not learned to use the Internet effectively to sell goods and services by means of e-commerce. Small business will need a support structure to help them keep pace with the technological changes in business practices. DOD has created a program office for accelerating the application of electronic business practices and associated information technologies. DOD has created a central processing registry which permits small businesses to list their products and services. The information is available to all 800 contracting offices in DOD.

The view was expressed that Congress passed the Federal Streamlining Act in response to the criticism that the Federal procurement system was inefficient, too bureaucratic, and too costly. PRO-NET was created by the Office of Advocacy to provide information on-line about small businesses' services and products as well as data concerning their ability to perform. If the laws passed by Congress require that Federal agencies use the e-commerce for procurement, it follows that vendors in the private sector be prepared to sell electronically. However, it is necessary to provide assistance to small businesses to compete in the new arena of electronic procurement.

For more information on this hearing, refer to Committee publication 106-50.

#### 7.4.12 EFFECTIVENESS OF GOVERNMENT PROGRAMS

##### *Background*

This hearing, held April 25, 2000, was one in a series of hearings begun in April 1997 to determine the impact of Federal and community-based programs on Main Street America and various segments of the small business community. One of the goals of these hearings was to learn how small business owners have succeeded and continue to grow—whether by reliance solely upon the private sector or with assistance by Federal, State and local programs.

Another purpose of these hearings was to obtain views as to the causes of the present economic prosperity and to ask, and hopefully provide answers, to a number of related questions. How can the present economic conditions be sustained? Has the prosperity touched every segment of the small business community or are there segments of the small business community that need assistance? If so, what kind of assistance? Small businesses have been leading the economy both in innovation and job creation. What is needed to maintain this record well into the 21st century?

##### *Summary*

The hearing was comprised of two panels. The first panel included: Honorable Jere Glover, Chief Counsel, Office of Advocacy; Mr. John C. Howard, Executive Director, Economic Development Commission, Washington County; Mr. Richard Story, Executive Director, Economic Development Authority, Howard County; and, Mr. John T. Lyburn, Jr., Director, Department of Economic Development, Carroll County. It was pointed out that if we expect to sustain the present economic prosperity there is a need to continue to

create new small businesses and to provide an economic climate in which new ideas can come to fruition. The Congress and the Federal government should nurture and visibly support procurement opportunities for small businesses.

In order to continue to fuel the present prosperity small businesses need to use trained workers and Federal resources to complement state training programs. A supporting element has been the Small Business Development Centers that have provided free business counseling to aspiring entrepreneurs and have provided advice to established small businesses. A danger was seen in the competitive disadvantage small, hometown banks and local enterprises were facing vis-a-vis large regional and national banks that offered related services, e.g., insurance and securities.

The second panel was comprised of: Mr. Randall Nixon, Nixon's Farm; Mr. John Schulze, Vice President, Pizza Hut of Maryland; Mr. Ken Williams, CEO and Director, Howard County Chamber of Commerce. Some favorable comments were made about the Small Business Administration's loan guarantee program. However, there was dissatisfaction with the expense as well as the regulatory requirements. There was further dissatisfaction with the increasing regulatory burden that the Federal government places on small businesses without consideration of the monetary consequences. The view was offered that what small businesses need is access to information, a modern business registration system, low interest loans, and financial assistance.

For further information on this hearing, refer to Committee publication number 106-55.

#### 7.4.13 WOMEN IN BUSINESS

##### *Background*

On October 8, 1997 and March 25, 1999, the Subcommittee on Government Programs and Oversight held hearings to showcase Women's Business Enterprises on a national level and to examine issues of concern to women entrepreneurs such as the availability of capital. This hearing, held June 8, 2000, was a continuing commitment to spotlight the vital nature of women's business enterprises to the economy of this nation as a whole and to the communities in which we live. This hearing provided, as did the previous ones, a forum for learning how the private sector is succeeding or failing to meet the needs of women in business and to focus attention on those deficiencies that may exist.

The hearing, also, provided an opportunity for women business owners to express their views as to the effectiveness of federal government programs designed to help small business owners and those who aspire to go into business for themselves. Lastly, this hearing provided a vantage point for identifying problems that women business owners encounter as the result of over-regulation and burdensome government paperwork.

##### *Summary*

The hearing was comprised of a single panel, which included: Laura Henderson, President and CEO, Prospect Associates, and member, National Women's Business Counsel; Suzane Ward

Parker, President and CEO, Ward Global Enterprises, and board member, National Black Chamber of Commerce; Linda Keenan, Director, Association Marketing, Lucent Technologies; Terry Neese, President and CEO, Terry Neese Personnel Services, Inc., and Co-founder, Grassroots Impact, Inc; Diane Wirth, President, The Solution Works, Inc., and Board secretary, Women's Business Institute; and, Glen Mayer, Corporate Supplier, Diversity Coordination, United Parcel Service.

Emphasis was placed on the value of the National Women's Business Counsel as an effective advisor to Congress and the President, and as catalyst for making the American dream come true for women. It was projected that by 2005 women owned businesses would increase 77 percent and generate close to \$4 trillion in revenue. It was pointed out that large businesses can be successful mentors of women owned small businesses and that they can be successful working partners.

Two problems facing women owned small businesses was the death tax which it was advocated should be repealed and the change in requirements with regard to cash versus accrual accounting for tax purposes. Access to resources, such as obtaining a needed license, was cited as an impediment to women starting and owning their own business. The recent growth in women owned small businesses indicated a potential for continued impressive growth in the future.

For further information on this hearing, refer to Committee publication number 106-62.

#### 7.4.14 THE FUTURE OF SMALL BUSINESS: WHAT LIES AHEAD

##### *Background*

On September 28, 2000, the Subcommittee on Government Programs and Oversight held a hearing to review those issues of vital concern to the small business community and main street America. It is small businesses that are the engine driving the present economic prosperity by spurring the creation of new enterprises, by producing new job opportunities, and by being leaders in technology and innovation. This hearing provided an opportunity to learn of those issues of most concern and those that will affect the future of small business in the United States.

Another purpose of the hearing was to obtain recommendations about how best to promote and sustain an enterprise-friendly economy that rewards those who start and grow small businesses. Suggestions were invited with respect to legislation to assist small businesses. Also, views were sought with respect to burdens created by Federal regulations and paperwork—together with suggestions for improvements.

A number of questions were asked. How can the present economic conditions be sustained? Has the prosperity touched every segment of the small business community or are there segments of the small business community that need assistance? If so, what kind of assistance? Should the assistance come from the private or public sectors? How effective are the private solutions and government programs in addressing these needs? It was hoped that the

hearing would help to answer these and other questions, e.g.,—  
What is needed to maintain this record well into the 21st century?

### *Summary*

The hearing was comprised of a single panel which included: James Blann, Senior Vice-President, American Express Company; John Hexter, Chairman, National Small Business United; Woodrow McCutchen, Executive Director, Association of Small Business Development Centers; Giovanni Coratolo, Director of the Small Business Council, U.S. Chamber of Commerce; Ken Yancey, Executive Director, Service Core of Retired Executives; and, Anthony Raimondo, Chairman and CEO, Behlen Manufacturing Company. Small businesses employ about one half the nations work force and have been the source of a majority of the new jobs. It was reported that small businesses were having a difficult time finding a sufficient number of skilled employees and the lack of such employees was deterring growth. Too often job-seekers lack basic written and verbal communication skills. The installment sales tax provision was cited as substantial barrier to small businesses who wanted to expand through acquisitions.

The need for a quality work force and for work force development was underscored as well as the need for small business owners to solve the succession problem. The present tax structure inhibits turning over a small business to ones children. The Nation should have a tax policy that permits small businesses to reinvest in their own enterprises rather than the growth of government. The present Federal tax code was cited as the single most important impediment to continued economic growth. It was also noted that the expansion of small businesses is hampered by needless burdensome regulations promulgated by Federal agencies. The proposed ergonomic regulation proposed by the Department of Labor was cited as an example of a regulation that would adversely effect small businesses. Access to capital still continues to be a problem for small businesses outside the telecommunications sector.

For further information on this hearing, refer to Committee publication number 106-71.

## 7.5 SUMMARIES OF THE HEARINGS HELD BY THE SUBCOMMITTEE ON REGULATORY REFORM AND PAPERWORK REDUCTION

### 7.5.1 THE IMPACT OF FEDERAL REGULATIONS ON SMALL BUSINESSES IN THE HUDSON VALLEY

#### *Background*

On September 1, 1999, the Subcommittee on Regulatory Reform and Paperwork Reduction held a field hearing at the Westchester County Association, White Plains, NY to consider the problems of federal regulations and the burdens they impose on small businesses in the Hudson Valley. Specifically, the hearing was held to determine the scope of the regulatory impediments to small business growth in the Hudson Valley and potential solutions to the problem.

Small businesses are a key element of economic growth in America. Nevertheless, small businesses with between 20 and 499 em-



ployees have regulatory costs averaging about \$5,000 per employee. The regulatory climate is not necessarily conducive to fostering small business growth.

#### *Summary*

The first panel consisted of Mr. Vincent Tamagna, County Legislator, Putnam County, NY; Mr. Lawrence Dwyer, President, Westchester County Association; and Mr. Philip Scarano, Westfair Communications. Mr. Tamagna testified that small businesses require regional training resources to make small businesses aware of regulatory requirements and available assistance programs. Mr. Tamagna then noted that the Hudson Valley requires high speed Internet access to enhance the viability of the Valley as a business location. Finally, Mr. Tamagna noted that the elimination of redundant paperwork and creating greater flexibility for the Occupational Safety and Health Administration would be helpful to small businesses. Mr. Dwyer testified that there was a need to reduce excessive regulation through the imposition of cost-benefit criteria, periodic review of all regulations, and reduction in the regulations imposed by the Occupational Safety and Health Administration. Mr. Scarano testified about restrictions on advertising in non-profit publications.

The second panel consisted of Mr. David Feldman, President, Feldman Dry Cleaning; Mr. Scott Wexler, Executive Director, Empire State Restaurant and Tavern Association; Dr. Stephen Pomeroy, President, Schatz Bearing Corp.; and Mr. George Russel, President and CEO, HQ Global Workplaces. Mr. Feldman testified that he still faces substantial costs in complying with regulations promulgated by the Occupational Safety and Health Administration and the Environmental Protection Agency. Mr. Wexler testified about the restaurant industry's concern over reports about dioxin in food. Mr. Wexler also expressed reservations about potential regulations from the Occupational Safety and Health Administration concerning ergonomics and indoor air quality. Dr. Pomeroy testified concerning the problems associated with potential legal liability of small businesses who have made de minimis contributions to hazardous waste sites. Dr. Pomeroy noted that the litigation surrounding legal liability imposes substantial costs on small businesses without resulting in a speedier clean up of the hazardous waste site. Mr. Russell testified about the proposed changes by the United States Postal Service to the handling of first-class delivered to commercial mail receiving agencies. Mr. Russell testified that these regulations would discriminate against commercial mail receiving agencies to the benefit of the Postal Service and create substantial costs for many small business owners that utilize commercial mail receiving agencies.

For further information on this hearing, refer to Committee publication 106-31.

7.5.2 THE UNITED STATES POSTAL SERVICE'S REGULATIONS  
REGARDING COMMERCIAL MAIL RECEIVING AGENCIES  
(CMRAS)

*Background*

The Subcommittee on Regulatory Reform and Paperwork Reduction investigated how recent United States Postal Service (USPS) regulations on commercial mail receiving agencies (CMRAs) impact small and home-based business private mail box (PMB) subscribers and CMRA franchisees. Because USPS is a “quasi-governmental” agency, the Subcommittee also investigated whether USPS uses its regulatory powers to reduce competitors’ market advantage in non-monopolistic markets and how its exemption from the Administrative Procedure Act and Regulatory Flexibility Act allows it to create regulations without administrative procedure. Furthermore, because the regulations reformed the privacy safeguards in the existing regulations, Members showed concern for boxholders that use CMRA boxes for safety and privacy.

*Summary*

The hearing consisted of two panels of witnesses. The first panel consisted of Mr. Anthony Crawford, Inspector, Mid-Atlantic Division, United States Postal Service accompanied by Mr. Mike Spates, Manager, Delivery, United States Postal Service; Ms. Rachel Heskin, Communications Director, Mail Boxes Etc.; Ms. Sandi Taylor, Strategic Technologies; and Ms. Juley Fulcher, Public Policy Director, National Coalition Against Domestic Violence.

Mr. Crawford and Mr. Spates testified that USPS issued the final rule to deter mail fraud and identity theft within the CMRA industry and to improve the safety and security of the mail. However, USPS admitted it acted without conducting analyses on the extent of the problem or the effectiveness or costs of the solution.

Ms. Heskin testified that MBE, the largest CMRA franchise, although initially opposed to the initial rulemaking, favored an agreement it negotiated between USPS and several CMRA franchises.

Ms. Taylor testified on behalf of her home-based business that because of safety, privacy and service, receives mail at a Mail Boxes Etc. since 1988. She said the onerous nature of the regulations would cripple her business. Due to the nature of her business, her address, phone and fax number are essential to her operation because a large amount of her business comes from word of mouth. For instance, when regulators changed her area code, her revenue declined by 30%. Furthermore, she spends about \$10,000 a year advertising in trade magazines. She also testified that she has a computer database of over 50,000 names of people she has worked with over the years and does not have time to update this database, much less notify every person about her address change. Most of these people will probably think she closed her business when they receive their letters, “Returned as Addressed.”

Ms. Fulcher testified on behalf of the National Coalition Against Domestic Violence that the regulations jeopardize the privacy and safety of domestic violence victims. Because CMRAs protect the

identity of their boxholders and USPS, prior to the regulation, could not divulge private information, people concerned with safety and privacy use CMRAs for mail receiving. Furthermore, both victims and shelters use private mail boxes solely for the confidentiality and safety a CMRA provides.

The second panel consisted of Mr. James Morrison, Senior Policy Advisor, National Association for the Self Employed (NASE); Mr. Michael Mansfield, Assistant District Attorney, Queens, NY, Chief of Economic Crimes Bureau; Mr. Rick Merritt, Executive Director, Postal Watch Incorporated; Mr. Edward L. Hudgins, Director of Regulatory Studies, CATO Institute.

Mr. Morrison testified on behalf of the NASE membership that use CMRAs. He said USPS worked arbitrarily to create regulations detrimental to home-based businesses. In changing the rule to include the “#” sign instead of just “PMB,” USPS’s rationale for the rule changed from improving the security of the mail to eliminating “misleading” addresses. If that is a major concern for USPS, it should clean up all “misleading” addresses and no single out an industry predominantly made up of small businesses. Furthermore, Mr. Morrison testified that USPSs should subject itself to the Regulatory Flexibility Act in instances where its rules impact small business.

Mr. Mansfield endorsed the regulation. His office investigates the type of fraud and identity theft cases USPS claimed it hoped to deter. He provided anecdotal evidence of the types of crimes the regulations hoped to address.

Mr. Merritt testified on behalf of Postal Watch, a grassroots USPS watchdog. He published a CATO report to address the costs of compliance with the USPS regulations. He testified about what compliance with the rule means for the average small business CMRA or PMB.

Mr. Hudgins previously published a book on the privatization of USPS. He testified about USPS’s financial need to expand its operations outside its monopoly on first class mail. In this instance, USPS used its regulatory power to influence a competing market.

### 7.5.3 HEARING TO EXAMINE BARRIERS AND SOLUTIONS TO ECONOMIC DEVELOPMENT

#### *Background*

On November 22, 1999, the Committee on Small Business Subcommittee on Regulatory Reform and Paperwork Reduction held a field hearing in the Paterson Museum, 2 Market Street, Paterson, New Jersey to examine barriers and solutions to economic development in northern New Jersey. Held in Subcommittee Ranking Member Bill Pascrell’s Congressional District, the hearing investigated government programs to assist the revitalization of areas like Paterson—that historically were at the nexus of industrialization and manufacturing during the Industrial Revolution. Witnesses specifically testified about the Historically Under-Utilized Business Zone (HUBZone) program and Foreign Trade Zone program.

*Summary*

The hearing consisted of two panels. Mr. Francisco Marrero, District Director, New Jersey District Office, U.S. Small Business Administration; Mr. Dennis Puccinelli, Acting Executive Secretary, Department of Commerce FTZ Board; Ms. Deborah Hoffman, Executive Director, Paterson Economic Development Corporation; Mr. Charles Miller, Associate Director, Greater Paterson Chamber of Commerce; and Mr. Daniel Jara, President/CEO, Statewide Hispanic Chamber of New Jersey testified on the first panel.

Mr. Marrero testified about the SBA's efforts in New Jersey to assist the economic development of small businesses. He said maintaining high quality customer service, improving small business access to capital through lending programs, increasing the level of participation in government procurement and encouraging economic development of socially and economically disadvantaged businesses are ways the SBA became a recognized leader in stimulating economic growth and development in New Jersey.

Mr. Puccinelli testified about the Foreign Trade Zone program and how it encourages domestic activity by affording special Customs advantages to offset duty advantages available in overseas plants.

Ms. Hoffman testified on behalf of the Paterson Economic Development Corporation, which assists companies to relocate and expand in the City of Paterson. Because of the city's need for future employment opportunities, Ms. Hoffman said she believes the HUBZone and Foreign Trade Zone programs are catalysts to maintain an aggressive stance in identifying incentives for business relocation into Paterson.

Mr. Miller testified on behalf of the Greater Paterson Chamber of Commerce and supported the efforts of the HUBZone and Foreign Trade Zone programs. Specifically, Mr. Miller said the Foreign Trade Zone program evens the playing field between U.S. businesses and foreign competitors, enables companies to lower costs and raise profits, entices the development and growth of international trade, and spurs state and local economic development to create jobs.

Mr. Jara testified on behalf of the New Jersey Hispanic Chamber of Commerce. He said new changes within the Administration are opening more borders for trade with Mexico and Latin America and enabling Latino companies to become involved in federal procurement opportunities.

The second panel consisted of Mr. Ron Gross, Vision 2020 President; Mr. Philip Russo, Time Zero/PPI Corporation; Mr. George Waitts, President, Crown Roll Leaf, Inc.; and Ms. Deborah Dotoli, President, Geneva Metal Products Company.

Mr. Gross testified about how foreign the Foreign Trade Zone program is a prime economic vehicle to spur the Passaic County economy by providing jobs and revenue and will afford occupants with certain federal tax and tariff benefits.

Mr. Russo testified about how his business' competition against larger government contractors forced it out of the government procurement market. He said the HUBZone program would create certain areas that enable his company—that moved to Paterson 12

years ago—to become more competitive with other businesses in government contracting.

Mr. Waitts testified on behalf of Crown Roll Leaf Inc., a company that prospered in Paterson since 1971. He said that although he realized a global market was forming, instead of starting a foreign operation, the company decided to stay in the United States. Because 17½ percent of his company's \$13 million in intentional business goes towards taxes and duty fees, the playing field is not level. He also said foreign trade zones would be helpful in maintaining a more level playing field to allow businesses to grow, expand or jump into the global market.

For further information on this hearing, refer to Committee publication 106-72.

#### 7.5.4 OSHA'S PROPOSED ERGONOMICS STANDARD: ITS IMPACT ON SMALL BUSINESS

##### *Background*

On April 13, 2000, the Subcommittee on Regulatory Reform and Paperwork Reduction of the Committee on Small Business held a hearing to address the impact on small business of the Occupational Safety and Health Administration's (OSHA) proposed ergonomics standard. The purpose of the hearing was to examine whether small businesses could understand the proposed standard and cost-effectively comply, or whether a new proposed standard was needed that small businesses could efficiently implement.

On November 23, 1999, OSHA published a proposed standard for reducing ergonomic hazards and concomitant musculo-skeletal disorders (MSDs) in the workplace. The proposed standard places employees into three generic categories: (a) employees engaged in manufacturing; (b) employees involved in manual handling; and (c) all other employees who are referred to as "general industry" employees. The proposed standard applies to all three types of workers. However, employers are required to treat these categories of employees differently with respect to the implementation of an ergonomics program. Employers who have employees engaged in manufacturing or manual handling jobs must install a management leadership program to prevent MSDs, educate employees on the hazards of MSDs, and establish a reporting system for employees to utilize when they get a MSD. Employers with employees in general industry jobs need to institute these three elements only if an employee incurs a covered MSD. For all types of jobs, a covered MSD is one incurred because of bio-mechanical stresses that represent a core element of the employee's job. Once an employee incurs a covered MSD, the employer is required to assess the causes of the condition, fix the job (and all similarly situated jobs) so the condition does not recur, and provide worker restriction protection (by either transferring the employee to a different job or allow the employee to rest at home with 90% pay) until the employee's condition permits returning to the job or six months which ever comes first. In lieu of this complex program, employers may conduct "quick fixes" which entail the provision of engineering or other controls that immediately eliminate the hazard giving rise to the MSD.

*Summary*

The first panel consisted of the Honorable Charles N. Jeffress, the Assistant Secretary of Labor in charge of OSHA. Mr. Jeffress testified that the proposal was necessary to reduce and eliminate the debilitating effects of MSDs. Mr. Jeffress also noted that the proposed standard could be easily implemented by small business without expending substantial resources or hiring outside consultants and experts. Mr. Jeffress expected that OSHA would undertake a substantial small business outreach effort to assist them in complying with the standard.

The second panel consisted of small business representatives: Laura O'Shaughnessy, Corporate Secretary for Revere Copper Products on behalf of the National Association of Manufacturers; Mr. Charles Kremp, III, President/CEO of Kremp Florists on behalf of the Society of American Florists; Mr. Edward Saxon, President Conco Systems, Inc. on behalf of National Small Business United; Mr. Leonard Russ, Bayberry Care Center Administrator on behalf of the American Health Care Association; and Mr. Brian Landon, Owner of Landon's Car Wash & Laundry on behalf of the National Federation of Independent Business.

Ms. O'Shaughnessy testified that Revere Copper Products already has an excellent safety program protecting its workers and that ergonomics is an infant industry in which consultants may provide poor advice to unsophisticated small business owners. In addition, she stated that some of the proposed fixes that might be required would be unduly costly given the capital expense of modifying very large manufacturing equipment.

Mr. Kremp testified that the proposed standard is not easy to understand, that it is hard to find replacement workers for skilled artisans, and that the implementation of engineering controls may be difficult or impossible in those instances in which the business owner is a lessee and does not have legal control over the workspace.

Mr. Russ testified about the difficulty of installing mechanical lifts for long-term care facilities, the apparent conflict between the OSHA proposed standard and Health Care Financing Administration regulations concerning patient care, and the inability of his business to pass the costs of compliance on to customers given that rates for patient care are set by the government.

Mr. Saxon testified that small business owners do not have the legal resources necessary to contest what might be numerous invalid claims under the proposed standard given his experience with worker compensation claims.

Mr. Landon reiterated the concerns of Mr. Kremp and Ms. O'Shaughnessy concerning the difficulty in understanding the proposed standard and noted that OSHA could tell him whether his business was manufacturing and thus immediately covered by the proposed standard or general industry in which case he would delay implementation until a covered MSD occurs.

The third panels consisted of: Jennifer Woodbury, Esq., McDermott, Will & Emery, Ms. Jacqueline Nowell, Director of the Occupational Safety and Health Office, United Food and Commercial Workers Int'l Union; Frank Mirer, Ph.D., Director, Health and

Safety Dept., UAW Int'l Union; Lawrence P. Halprin, Esq., Keller & Heckman; and John P. Cheffer, CSP, PE, on behalf of the American Society of Safety Engineers.

Ms. Woodbury noted that although written in plain English the rule left much unclear including such standards as what constitutes a "material reduction" in MSDs.

Ms. Nowell testified that the proposed standard was absolutely necessary because of the debilitating effects on employees and that the standard, as had been done by businesses working closely with UFCW, could be cost-effectively implemented.

Dr. Mirer echoed those sentiments and noted that UAW has negotiated a substantial number of agreements with small businesses that allocate employees for ergonomic hazard analysis and control.

Mr. Halprin noted that the proposed rule was based on poor science, did not provide an adequate mechanism for solving problems associated with MSDs, was overly broad, and he stated that OSHA should first try additional pilot programs like those utilized in the meatpacking industry.

Mr. Cheffer concurred with sentiments of Ms. Woodbury concerning lack of clarity, noted that most small businesses would have to hire expensive consultants to implement the proposed standard, and that a middle ground standard providing more specific guidance would be a better approach.

For further information on this hearing, refer to Committee publication 106-51.

#### 7.5.5 THE IMPACT OF FUEL PRICES ON SMALL BUSINESS, VALHALLA, NY

##### *Background*

The Subcommittee on Regulatory Reform and Paperwork Reduction met in Valhalla, NY to discuss the impact of the price hike on fuel on small businesses. U.S. production of oil has dropped by nearly 20 percent since the last oil crisis in the country. During this time, the country's reliance on foreign oil has increased from 37 percent to nearly 57 percent today. This has had a profound effect on districts in New York.

##### *Summary*

The witnesses for the hearing included: Robert W. Gee, Assistant Secretary for Fossil Energy, U.S. Department of Energy; Ms. Debra Martinez, Chairwoman and Executive Director, New York State Consumer Protection Board; Mr. William Flynn, Vice President, New York State Energy Research & Development Authority; Mr. Todd Spencer, Owner-Operator, Independent Drivers Association; Mr. Stanley Morse, Chapter President, American Society of Travel Agents; and Mr. Joe Fanelli, Owner, Joe's Body Shop.

Mr. Gee testified that he was aware of the difficulties encountered by small businesses as a result of the rising costs of fuel. He stated that the goal of the U.S. Department of Energy was to lessen the market's volatility. Part of this solution includes diversifying the international sources of oil supply. He also stated that the Administration has made more SBA loans available for heating oil distributors. Mr. Gee additionally noted that he supports President

Clinton's call to establish a regional reserve in the northeast. Mr. Gee noted that Congress should extend the Energy Policy and Conservation Act to ensure organic authority for strategic petroleum reserves. For long term aid, Mr. Gee highlighted the important role of technology in the quest for oil alternatives.

Ms. Martinez spoke of the many hardships endured by small businesses in New York State. She stated that Governor George E. Pataki had worked to protect consumers and small businesses in New York by securing the release of essential funding for the Home Energy Assistance Program (HEAP). This will assist the state's low income families.

Mr. Flynn stated that New York relies on heating oil more than any other state in the nation for meeting its heating needs. New York uses 20 percent of the total U.S. distillate demand, and the state is the largest consumer of heating oil and kerosene in the nation. 43 percent of New York State's households use oil for space heating, which is over 2.9 million households. He restated the productive efforts of Governor Pataki, although he believes more still needs to be done.

Mr. Spencer spoke on behalf of small business truckers. He stated that the rising cost of diesel fuel and the inability of small business truckers to pass on those costs to customers causes financial distress. He testified that most truckers are having difficulty to simply break even. He warned that if something wasn't done soon, the country will be in crisis.

Mr. Morse testified on behalf of both airline consumers and travel agents. He spoke about how both travel agents and consumers are negatively affected by the rising prices of fuel due to the airlines themselves. Because airlines do not post their fuel surcharges with their fares, consumers feel as though they have been 'tricked' by their travel agents when their total price changes at the end of the transaction. Thus, both the airline consumers and the travel agents are affected by this rise in fuel prices.

Mr. Fanelli testified about his small gas station. He stated that the rise in fuel prices is especially difficult on small gas station owners. This is because it is easier for the big gas stations to keep their prices down for a longer period of time. Mr. Fanelli said that because he only has two gas pumps at his station, he needs to keep making a profit, so he has to raise the price.

For further information on this hearing, refer to Committee publication 106-52.

#### 7.5.6 THE IMPACT OF FUEL PRICES ON SMALL BUSINESS, CASTLETON, NY

##### *Background*

The Subcommittee on Regulatory Reform and Paperwork Reduction met in Castleton, NY to discuss the impact of the price hike on fuel on small businesses. The price hike of fuel has resulted in significant problems for small business, especially in New York State.



*Summary*

The witnesses for the hearing included: Mr. Robert W. Gee, Assistant Secretary for Fossil Energy, U.S. Department of Energy; Mr. Tim Hulbert, President & CEO, Rensselaer County Chamber of Commerce; and Mr. Dan O'Connell, Center Director, Small Business Administration on the first panel. The second panel consisted of: Ms. Dantaida DeGuzman, Owner, Pioneer Fuels, Inc; Mr. Marshal Stevens, Assistant Manager, Warren County Airport; Mr. Tom LeGrand, Owner, LeGrand Construction; Mr. Jim Czub, National Corn Growers Association; and Mr. James Buhrmaster, Empire State Petroleum Association, Inc.

Mr. Gee began the testimony portion of the hearing. Mr. Gee stated that he realizes the Department does not focus on the impacts of fuel supply problems on specific business sectors, small businesses in particular. He outlined the major actions the Administration was taking in hopes to alleviate the situation for small businesses. For the immediate future, Mr. Gee stated that the diversification of the international sources of oil supply will greatly impact the prices of oil. Also, Mr. Gee noted that the Administration will focus on greater diplomacy efforts in order to attain their goals. Mr. Gee stated that the country must focus on domestic policy in regards to oil, as will. He testified that the United States should focus on helping low-income persons through further funding of the Low Income Home Energy Assistance Program and through SBA loans. Mr. Gee explained that authorizing a regional heating oil reserve in the Northeast as well as extending the Energy Policy and Conservation Act would help the problem.

Mr. Hulbert described how every single business is affected by a price hike in fuel. Because every business receives goods and services through road travel, increases in prices eventually affect every part of running and maintaining a business.

Mr. O'Connell explained the January cold snap in the northeast, and the additional problems it caused on the fuel prices. When there is a cold snap, the natural gas companies requires big businesses and federal buildings to convert to a different type of fuel source or they will suffer a penalty. The demand caused by these customers ultimately increased the price of oil by 50 to 60 cents per gallon. Mr. O'Connell stated that the cold snap also caused the river to freeze, which lengthened the travel time for oil barges, thus increasing the cost of transportation. Mr. O'Connell stated that the main way to combat this is through the strategic oil reserves.

The first witness from the second panel of the hearing was Ms. DeGuzman. She spoke of her own small fuel business in New York, and how the prices of fuel were affecting her so badly, that it was not even a profitable business for herself and her husband. She has another job with the State, and she and her husband are able to live off of that. Unfortunately, Mr. DeGuzman has not felt in control of her business this past year, because of the fuel price hike.

Mr. Stevens testified on behalf of the aviation industry. He stated that because every single aspect of aviation relies on fuel, it is impossible for the aviation industry not to be affected by rising fuel prices. He also stated that there are industries and businesses that one does not always think about in concordance with the aviation

industry, but that are equally affected by rising fuel prices. For instances, the fixed based operators of the aviation industry, are most affected. These are the businesses which service the airplanes, provide the air charter and the flight instruction services to the customers.

Mr. LeGrand testified that his budget for fuel throughout a year was five percent of the gross cost. However, that was going to increase to between nine and 10 percent this year, amounting to a monetary difference of between 12 and \$18,000. He stated that this cost increase is not something he can pass on to his customers, so, as a small business, he must absorb that loss.

Mr. Czub testified that the fuel price increase will raise his costs an additional \$12,000 this year. He stated that his main concern is the prices of next year, and he urged the government to help agriculture secure new and untraditional markets. Additionally, Mr. Czub explained that incentives to produce value-added products will help farmers transition and gain more of the commodity value.

Mr. Buhrmaster explained that there were three main reasons to the oil trouble in New York during the winter. These included: the low inventories as a result of the OPEC nations; the 'backwardization' of the industry, where prices in future months were less than in the current month; and the interruptible situation, as explained in Mr. O'Connell's testimony.

For further information on this hearing, refer to Committee publication 106-53.

#### 7.5.7 THE QUALITY OF REGULATORY ANALYSIS

##### *Background*

On June 8, 2000, the Subcommittee on Regulatory Reform and Paperwork Reduction held a hearing to address the quality of regulatory analyses prepared by federal agencies in compliance with various federal statutes and executive orders. The purpose of the hearing was to assess the content of and reason for the inadequacies and what steps, if any, Congress needed to take to improve agency analyses.

Congress enacted the Administrative Procedure Act in 1946 with the expectation that agencies would undertake rational rulemaking. Rational rulemaking presumes that the agency would ascertain the scope of the problem to be addressed, design potential solutions to the problem, seek public comment on those solutions, and craft a final rule to address relevant statutory criteria. By its nature, rational rulemaking requires the use of various analytical techniques, such as cost-benefit or cost-effective analyses, to assess various regulatory alternatives. Subsequent to the enactment of the Administrative Procedure Act, Congress imposed additional analytical requirements including examination of the environmental and small business impacts. These statutory analytical mandates have been supplemented from time to time by Presidential executive orders.

Despite these efforts, Congress has not been satisfied with the regulatory analyses generated by federal agencies in recent years. A number of reforms have been suggested to improve the regulatory output of federal agencies, including the establishment of an

office within the General Accounting Office, to provide Congress with an unbiased assessment of the regulatory analyses currently required by statute and executive order.

### *Summary*

The panelists were Mr. Robert W. Hahn, Director, AEI-Brookings Joint Center on Regulatory Studies; Mr. Robert P. Murphy, General Counsel, General Accounting Office; Mr. David S. Addington, Senior Vice President, American Trucking Association; Mr. Sal Ricciardi, President, Purity Wholesale Grocers, Inc. on behalf of the Pharmaceutical Distributors Association; and Ms. Kathleen Wallman, President and CEO of Wallman Strategic Consulting, LLC.

Mr. Hahn first testified that compliance with regulations has an approximately \$200 billion impact on the American economy. Mr. Hahn then noted that this drag on the economy can be alleviated by improving the quality of regulations. Improving the quality of regulations requires an improvement in the quality of regulatory analyses. And Mr. Hahn noted that federal agency regulatory analyses, particularly benefit-cost analyses, were simply inadequate to support a rational decision-making process. Mr. Hahn finally noted that regulatory impact analyses do not summarize their results in any standard systematic method.

Mr. Murphy testified that the General Accounting Office has examined a number of analyses developed in support of various agency rulemakings. The General Accounting Office found that many of the analyses did not incorporate the best practices set forth by the Office of Management and Budget for conducting regulatory impact analyses. Mr. Murphy also noted that agency explanations of statutory exemptions from analytical requirements, such as certification pursuant to the Regulatory Flexibility Act or good cause to forgo notice and comment under the Administrative Procedure Act. Mr. Murphy suggested additional Congressional oversight might correct some of these problems but also believed that additional guidance on unclear statutory requirements is necessary.

Mr. Addington testified about the failure of the Department of Transportation to perform satisfactory risk assessments and cost-benefit analyses. Mr. Addington also noted that the Department failed to comply with the statutory requirements set forth in the Regulatory Flexibility Act. Mr. Addington concluded that the Department would have issued a substantially different rule had it complied with these analytical requirements.

Mr. Ricciardi testified that the Food and Drug Administration had failed to properly assess the impact of a regulatory change on the wholesale pharmaceutical industry. Mr. Ricciardi noted that the Food and Drug Administration underestimated the economic impact of the proposal for purposes of complying with a Presidential executive order. Mr. Ricciardi also testified that the Food and Drug Administration did not comply with the provisions of the Regulatory Flexibility Act by failing to comprehend the adverse impact of the proposal on the four thousand small businesses that perform wholesale pharmaceutical sales.

Ms. Wallman first noted that the Federal Communications Commission, unlike other agencies, is not subject to analytical require-

ments imposed by the President. Ms. Wallman then testified that the Federal Communications Commission's implementation of the Regulatory Flexibility Act, especially with respect to small rural telephone companies, could be improved. In particular, Ms. Wallman testified that the Federal Communications Commission might require more resources strictly dedicated to compliance with the Regulatory Flexibility Act. Finally, Ms. Wallman suggested that Federal Communications Commission establish a standing advisory committee of small rural telephone companies upon which the Commission staff could rely for advice on the impact of a proposed regulation.

For further information on this hearing, refer to Committee publication 106-63.

#### 7.5.8 THE NATIONAL OMBUDSMAN'S 2000 REPORT TO CONGRESS AND THE REGULATORY FAIRNESS PROGRAM

##### *Background*

On June 15, 2000, the Subcommittee on Regulatory Reform and Paperwork Reduction held a hearing to review the United States Small Business Administration's Small Business and Agriculture Regulatory Enforcement Ombudsman report for the Year 2000. The purpose of the hearing was to allow the Ombudsman to highlight activities undertaken in the past year and make recommendations to strengthen the office and the program.

In 1996, Congress enacted the Small Business Regulatory Enforcement Fairness Act ("SBREFA"). Among other things, SBREFA established a Small Business and Agriculture Regulatory Enforcement Ombudsman within the Small Business Administration. Ten regional fairness boards, consisting of small business owners, also were created by SBREFA. The Ombudsman is charged with gathering and recording comments from small businesses in order to form an evaluation of each agency's enforcement performance. The regional fairness boards provide small business owners a convenient forum through which they can make known their problems with federal agency enforcement activities. The Ombudsman is required to compile these comments into an annual report and provide an annual evaluation of the customer satisfaction rating of different agencies and their regional or local offices.

##### *Summary*

The first panel consisted of Ms. Gail McDonald, the National Ombudsman for Small Business and Regulatory Enforcement, United States Small Business Administration. Accompanying Ms. McDonald were Hatem H. El-Gabri, Senior Counsel to the Ombudsman and John T. Greiner, Director of Regulatory Review. Ms. McDonald noted that the Year 2000 report reveals that the tide is beginning to turn, i.e., federal regulatory agencies are becoming more sensitive to the needs of small business owners. Ms. McDonald, however, noted that more work must be done including encouraging increased small business feedback; promoting of greater agency accountability; developing more small business-agency communication; and fostering creative partnerships between small business and Federal regulatory agencies.

The second panel consisted of Ann Parker Maust, President, Research Dimensions; Giovanni Coratolo, Director of Small Business Policy, United States Chamber of Commerce; John Hexter, President, Hexter & Associates, Inc., on behalf of National Small Business United; and Scott Lara, Director, Government Affairs, Home Care Association of America. Ms. Maust testified that a strong national infrastructure was needed to ensure the success of the Ombudsman and Fairness Boards. Ms. Maust noted that this not only entailed the efforts of the Ombudsman but also the cooperation and assistance of other Small Business Administration personnel including the Administrator. Mr. Coratolo testified that the Ombudsman program has resulted only in marginal changes to federal agency compliance activities. In order to improve the effectiveness of the program, Mr. Coratolo testified that the ombudsman function should be transferred to the Office of Advocacy and both offices should receive a budgetary increase. Mr. Hexter believes that Congress must increase the resources of the Ombudsman and grant the Ombudsman greater authority to respond to enforcement complaints filed by small businesses. Mr. Lara testified that the fairness boards offered home health care providers the opportunity to voice their concerns about the enforcement actions of the Health Care Financing Administration. In particular, Mr. Lara noted that home health care providers complained about the Outcome and Assessment Information Set and the 50-50 payment method.

For further information on this hearing, refer to Committee publication 106-65.

#### 7.6 SUMMARIES OF THE HEARINGS HELD BY THE SUBCOMMITTEE ON RURAL ENTERPRISES, BUSINESS OPPORTUNITIES, AND SPECIAL SMALL BUSINESS PROBLEMS

##### 7.6.1 H.R. 957, THE FARM AND RANCH RISK MANAGEMENT ACT

###### *Background*

America's farmers are overwhelmingly small businesses. Of the more than 2 million farms in this country, 94 percent are 'small' and 98 percent are 'family' farms. Recently, farmers nationwide have been forced to endure severe financial hardships caused by flooding, drought, and low commodity prices in world markets. These small farmers are suffering an economic crisis and are struggling to make ends meet. Compounding this serious problem, farmers experience a higher degree of price and income fluctuations than any other sector of our economy. They need the opportunity and the tools to manage the unique and often severe risks associated with farming and ranching more efficiently.

Introduced by Representatives Kenny Hulshof (R-MO) and Karen Thurman (D-FL), the bipartisan bill H.R. 957, entitled the Farm and Ranch Risk Management Act, would allow eligible farmers to contribute part of their taxable income into tax-deferred FARRM Accounts. Contributions may remain in the account tax-free for a maximum of five years and are taxable as ordinary income upon withdrawal. The FARRM Accounts would encourage farmers and ranchers to save up to 20 percent of their income an-

nually during good years to help supplement their income during bad years.

#### *Summary*

The Honorable Kenny Hulshof (R–MO), United States House of Representatives; Wayne Nelson, President, Communicating for Agriculture; Ed Bergamo, Farmer, Vineland, New Jersey; Marlene Brown, Director, Women’s Committee, Iowa Farm Bureau Federation, West Des Moines, Iowa; and Stephen Appel, President, Washington State Farm Bureau, Olympia, Washington; testified at the hearing.

Representative Hulshof, raised on a family farm, stressed the importance of agriculture as the cornerstone of our economy and of the world’s food supply. Due to weather conditions, commodity price swings, and changes in markets abroad, farmers and the rural communities that depend on these farmers, face adverse economic consequences that FARRM Accounts would improve. For example, in the three years period to the current downturn, farmers and ranchers in the state of Missouri were profitable. Had FARRM Accounts been in place in 1994, those feeling the economic pinch of the farm crisis today could have access in 1999 to the equivalent of 60 percent of a profitable year’s income.

Similarly, the farm witnesses expressed unanimous support for H.R. 957 as an effective and promising risk management tool for farmers and ranchers. Intense commodity fluctuations, market fluctuations, distribution and supply costs, and increased volatility, plague today’s farmers, including dairy, fruit, and vegetable farmers.

For further information on this hearing, refer to Committee publication 106–9.

#### 7.6.2 WHAT WOULD REPEALING THE DEATH TAX MEAN FOR SMALL BUSINESS?

#### *Background*

On May 13, 1999, a joint hearing was held between the Subcommittee on Tax, Finance, and Exports, and the Subcommittee on Rural Enterprises, Business Opportunities, and Special Small Business Problems of the impact of the estate or “death” tax farms, ranches, and small businesses. The purpose of the hearing was to learn of the devastation impact of the death tax on the longevity of small, family-owned businesses.

#### *Summary*

The Hearing consisted of two panels. The first panel allowed the co-authors of the main death tax repeal bill of the 106th Congress (the Death Tax Elimination Act—H.R. 8) to testify about the rationale for their legislation. The Subcommittees then heard from an academic expert and several diverse small business witnesses about both the theoretical and the real-life impact of the death tax on small business owners.

The first panel consisted of two witnesses—Representatives Jennifer Dunn (R–WA) and John Tanner (D–TN), both who serve on

the House Ways and Means Committee. On February 25, 1999, both introduced the Death Tax Elimination Act (H.R. 8), which would gradually eliminate the death tax by five percent each year over the period of the next 10 years, eventually bringing it down to zero by 2009. By the time of the Subcommittee hearing, H.R. 8 had gained 180 bipartisan cosponsors. Eventually, over a majority of the House of Representatives, including two-thirds of the Members of the Small Business Committee, formally endorsed the legislation.

The second panel included six witnesses beginning with Dr. Aldona Robbins, an academic expert from the Institute for Policy Innovation (IPI). To put the hearing in perspective, Dr. Robbins summarized for the subcommittee a study she recently completed for IPI on how the estate tax negatively affects the economy.

The next set of witnesses told real-life stories that verified the statistics and the analyses of Dr. Robbins. Jay Platt, a rancher from Saint Johns, Arizona, and Roger Ruske, a nursery owner from Millville, New Jersey, testified about the impact of the death tax on agriculture.

Kevin O Sdhea, Chief Financial Officer of Shamrock Electric in Elk Grove, Illinois and Arlene Kaplan, owner and operator of three small home health companies in Long Island, added a non-agricultural small business perspective. Both spoke of the personal dimension of the death tax issue on their families.

Finally, Stephen Breitstone brought a unique perspective to the hearing as an estate planning attorney from Mineola, Long Island, New York. Mr. Breitstone believes that even if the death tax is repealed, he is resourceful enough to find other lines of work. He argued that the public policy priority should be enhancing small business development and growth.

Thus, all the witnesses concluded that the estate or "death" tax places a huge burden on any small business owner wishing to pass down the company to his or her children. Several testified about the emotional pain the death tax inflicts on families, causing them to make heart-wrenching decisions about the future. Complying with the death tax takes away from investments that could be used to expand a small business or hire more employees. In addition, the death tax poses a potential harmful impact on the environment and Rural communities if larger farms and ranches are broken up into smaller "ranchettes" in order for their heirs to pay their obligations to the government. Finally, even estate planning lawyers do not relish their job. Most would rather engage in other legal pursuits because of the heavy toll the death tax places on many local small business owners and their families.

It was the opinion of all the witnesses that, at a minimum, the death tax exemption should be dramatically raised. Most agreed that the death tax should be repealed, preferably immediately or as part of a gradual phase-out.

For further information about this hearing, refer to Committee publication 106-12.

## 7.6.3 THE FUTURE OF ROUND II EMPOWERMENT ZONES

*Background*

The Subcommittee on Rural Enterprises, Business Opportunities, and Special Small Business Problems met to discuss the future of Round II Empowerment Zones. In 1993, the Empowerment Zone/Empowerment Communities (EZ/EC) program was enacted, providing Federal grants to economically distressed rural and urban communities over a 10-year period. In what is now referred to as Round I of the program, 104 EZ/ECs were created and each urban and each rural zone received \$100 million and \$40 million respectively in flexible Social Services Block Grant funds, over a ten-year period. Additionally, qualifying EZ employers were entitled to a 20 percent tax credit on the first \$15,000 of wages paid to certain qualified Zone employees.

The Taxpayer Relief Act of 1997 authorized a second round of EZ designations, known as Round II EZs. Designated in 1999, Round II Zones are unable to benefit from the wage tax credit like the Round I EZs. Additionally many EZs have not received the funding promised to them and thus find it difficult to carry out their economic plans for community revitalization.

*Summary*

Panel one consisted of the Honorable Mary Bono (R-CA) and the Honorable Mike Capuano (D-MA).

Ms. Bono testified about the problems experienced by the Desert Communities, a designated rural EZ located in Mecca, CA, due to the government's unfulfilled funding obligation. She highlighted H.R. 4463, legislation she introduced to provide title 20 funding to the Round II EZs and to extend to them the hiring tax credit.

Mr. Capuano noted that Boston, like many other Round II EZs, has only received one third of the funds promised. He testified that implementation of the EZs' economic renewal plans depends largely on the funds that were promised to them. He pointed out that it seems unfair to move on to Round III EZs when the funding for Round II is incomplete.

Panel II consisted of Maria Matthews, Deputy Administrator for Rural Development, Office of Community Development, U.S. Department of Agriculture; Gerard Valazquez, Executive Director, Cumberland County Empowerment Zone; Reverend James Dunkins, Vice Chairman, Cumberland County Empowerment Zone. [Reverend James Dunkins, Vice Chairman, Cumberland County Empowerment Zone.]

Ms. Matthews testified that despite the fact that Round II EZs have not received full funding, the rural EZs have managed to successfully leverage the funds they did get and combine them with other resources in order to have an impact on the community.

Mr. Valazquez testified that the lack of funding for EZs leads to deficits in the education, training, and transportation of residents and thus slows the employment process. He added that the progress of his EZ, once flourishing, has slowed, as people are disappointed that the resources promised to them have not been delivered.



Rev. Dunkins testified that his community's empowerment zone works to provide stability in an area plagued by high crime, low employment, and welfare dependency. He said that EZs are weakened by the lack of funding because residents become discouraged and less supportive of programs.

For further information about this hearing, refer to Committee publication 106-61.

#### 7.6.4 HEARING ON THE EFFECTS OF THE ROADLESS POLICY ON RURAL SMALL BUSINESS AND RURAL COMMUNITIES

##### *Background*

On July 11, 2000, the Subcommittee on Rural Enterprises, Business Opportunities and Special Small Business Problems held a hearing to address the impact on small businesses and small rural communities of the Clinton Administration's roadless policy for the National Forests. The purpose of the hearing was to determine whether the United States Forest Service adequately considered the economic impact that its policies will have on those businesses and communities that rely on the National Forests for their economic well-being.

Since their inception in 1897, the National Forests have been managed for a variety of uses including wilderness protection, timber production, mineral extraction, and outdoor recreation. In 1960, Congress codified this multiple use principle in the Multiple Use Sustained Yield Act. The forests are managed for these multiple uses according to forest management plans developed by the United States Forest Service pursuant to the National Forest Management Act.

The United States Forest Service has proposed a number of modifications to its policies for managing the forests that, when implemented in each of the forest management plans, will reduce the amount of acres that would be eligible for the construction of roads. By doing so, the Forest Service reduces the ability to use these roadless areas for any thing other than wilderness protection despite the mandate from Congress to manage the National Forests for multiple uses.

##### *Summary*

The first panel consisted of the Honorable Charles Rawls, the General Counsel of the United States Department of Agriculture. He was accompanied by James R. Furnish, the Deputy Chief of the United States Forest Service. Mr. Rawls testified that the Service was in compliance with the Regulatory Flexibility Act because the Service had prepared a regulatory flexibility analysis in which it concluded that the proposal would not have a significant economic impact on a substantial number of small entities since no small entities are directly regulated by the proposals. Mr. Rawls went on to testify that the Service was open to comments on the impact of the proposal on small entities.

The second panel consisted of Ms. Adena Cook on behalf of the Blue Ribbon Coalition; Laura Skaer, Esq., Executive Director of the Northwest Mining Association; and Mr. Frank Gladics, President of the Independent Forest Products Association. Ms. Cook testified

that the proposal would inhibit both on-road and off-road recreational vehicle use in the forests. In turn, this would directly affect the numerous small entities, such as campgrounds, motels, restaurants, and dealers that rely on vehicular recreation in the national forests. Ms. Skaer testified that the proposal would dramatically reduce the ability of thousands of small businesses to extract hardrock minerals from the forests. Furthermore, it would limit the ability of these businesses to find new minerals in the forests. Mr. Gladics testified that the National Forests are critical to supply of timber for small businesses. The proposals would dramatically reduce the amount of timber harvested and could lead to the shut-down of many small mills in rural communities throughout the Intermountain west. All three concurred that the proposal would have a dramatic and adverse impact on small entities, especially small businesses.

The third panel consisted of Ms. Cheryl Larson on behalf of the L.T. Logging; Mr. Stephen Steed, Owner of Utah Forest Products; Mr. Bruce Vincent on behalf of Communities for a Great Northwest; Dr. Carl Fiedler, Associate Professor of Silviculture and Forest Ecology at the University of Montana; and Dr. Charles Keegan, Director of the Forest Industry and Manufacturing Research at the University of Montana.

Ms. Larson testified concerning the reduction in economic value that will be derived from the forests and how that will hurt companies like L.T. Logging, which will be forced to reduce employment. Ms. Larson then noted that these reductions hurt the ability of small governments, such as those in Eureka, to finance improvements to the school systems. Mr. Steed testified that his company relies on the access to nearby National Forests for his lumber. The inability to obtain lumber from the National Forests will hinder his ability to provide good paying jobs in remote rural areas such as Escalante. Mr. Vincent testified how the town of Libby was working with its business community to develop a ski resort in order to rely less forestry and mining. However, Mr. Vincent noted that the community's effort was stymied by the development of the roadless policy and potential subsequent implementation in forest management plans. Mr. Vincent summed up his testimony by noting that the town leaders in Libby were trying to do exactly what the government wanted—develop a less intrusive means of extracting the economic benefits from the National Forests. Dr. Fiedler testified about the current state of the health of the National Forests in Montana and noted that the increase in the roadless areas could make it more difficult to manage the forests properly. Dr. Keegan noted that the proposal will have a significant economic impact on a wide variety of businesses and communities.

For further information on this hearing, please see committee publication 106-67.

## 7.7 SUMMARIES OF HEARINGS HELD BY THE SUBCOMMITTEE ON TAX, FINANCE, AND EXPORTS

### 7.7.1 WHAT HAS OPIC DONE FOR SMALL BUSINESS LATELY?

#### *Background*

On May 18, 1999, the Subcommittee on Tax, Finance, and Exports held a hearing examining the impact of the Overseas Private Investment Corporation (OPIC) on small business. OPIC provides political risk insurance, in addition to project finance, for U.S. investments overseas in developing nations and emerging economies. OPIC needed to be re-authorized by September 30, 1999. Thus, the hearing provided an opportunity to review OPIC's programs for small business and encourage support for the Export Enhancement Act of 1999 (HR 1993), which would reauthorize OPIC for another four years.

#### *Summary*

The hearing consisted of one panel of six witnesses, including George Munoz, President and Chief Executive Officer of OPIC; four small businesses that directly used OPIC programs; and one small business supplier that indirectly benefited from OPIC programs.

Mr. Munoz outlined the history and performance of OPIC. He then explained what OPIC plans to do to encourage more small businesses to use OPIC's programs. Mr. Munoz announced that OPIC declared 1999 as the "Year of Small Business." This program included 12 initiatives to promote small business utilization of OPIC, including a special small business phone hotline and web page link; a streamlined application process; and a reduction in the standard loan size from \$2 million to \$250,000.

The next witness was Jane Dauffenbach, President of Aquarius Systems, which manufactures aquatic weed harvesters, located in North Prairie, Wisconsin. She testified how foreign governments constantly try to undermine her small company's export prospects, even to the point of competing against free donations of similar equipment. With an OPIC insurance guarantee, she was able to win export opportunities in Africa and Asia.

Vikram "Raj" Rajadhuaksah, Chairman of DLZ of Columbus, Ohio testified about his experience with OPIC in receiving a loan for various small hydroelectric energy projects in India. While none of these projects would have happened without OPIC, he encouraged the Subcommittee to press for further reforms in OPIC to help make it more user-friendly to small business exporters.

William Silverman of the First Republic Corporation of New York, which owns a shellfish company that is an international distributor of shrimp, spoke about the environmental export opportunities to Ecuadorian shrimp farms that were created through OPIC programs. The endeavor produced a solution to a pollution problem (Tauro Syndrome) affecting aquaculture around the world.

Peter Bowe, President of Ellicott International of Baltimore, Maryland, which manufactures dredging equipment, testified about how OPIC intervention was able to help his company solve a problem affecting an investment in Egypt. In Mr. Bowe's opinion, no private sector insurer could have accomplished the same result.

Finally, Bill Herbert, Sales Manager of Johnson March Systems of Warminster, Pennsylvania, which manufactures custom engineered products for electric power and petrochemical plants, presented a small business supplier perspective. Because their main customer, the Fuller Corporation, was able to win export opportunities because of OPIC and the Export-Import Bank, sales and employment grew at their company despite a significant downturn in the U.S. market.

In conclusion, the hearing determined that OIC helps small business, both directly and indirectly. There is still room for improvement, but the hearing reaffirmed the need to retain OPIC as one tool in our government's trade arsenal.

For further information about this hearing, refer to Committee publication 106-13.

#### 7.7.2 DO UNILATERAL ECONOMIC TRADE SANCTIONS UNFAIRLY PENALIZE SMALL BUSINESS?

##### *Background*

On June 24, 1999, the Subcommittee on Tax, Finance, and Exports held a hearing to learn whether unilateral economic trade sanctions imposed for foreign policy reasons bear a disproportionate negative impact on small business exporters. Most economic studies conclude that economic sanctions pose some cost on the U.S. economy. The purpose of this hearing was to determine if small businesses are unfairly penalized—not intentionally but by practical effect—by unilateral economic trade sanctions and to educate Members about the Enhancement of Trade, Security, and Human Rights through Sanctions Reform Act (H.R. 1244).

##### *Summary*

The hearing included two panels—first, a panel of Members of Congress and second, a panel of private sector experts on the topic of sanctions.

The main sponsors of H.R. 1244 were invited to testify before the Subcommittee. Unfortunately, at the last minute, the main Democrat author of the bill, Representative Cal Dooley, had a change of plans. His written statement, however, is part of the record. Representative Phil Crane—the Chairman of the Trade Subcommittee of the Ways and Means Committee, and the other Republican author of H.R. 1244—spoke before the committee. Both Members agreed that H.R. 1244 was needed to bring about responsible reform to the sanctions decision making process so that the U.S. government could weigh in advance the cost of possible sanctions to our economy against the probability of success of the sanctions. Chairman Crane also brought to the Subcommittee's attention a similar hearing held before his panel where Peter Bowe, president of Ellicott Machine Corporation, a small dredging company in Baltimore, Maryland, testified how his firm lost \$10 million in sales over the last few years because of various sanctions imposed on five countries.

The second panel began with an academic perspective presented by Professor Gary Clyde Hufbauer with the Institute for International Economics (IIE). He presented the conclusions of his study

on the economic and foreign policy impact of sanctions. He found that sanctions have been declining in effectiveness over the past three decades and imposes a larger cost to the economy—about \$15 to \$19 billion per year—than originally thought. Dr. Hufbauer found that small businesses are hit particularly hard by sanctions. Sanctions hurt large firms and cost them money, but they can shift production or make up the losses in other areas. For small firms, which may be doing business with one or two products in a handful of countries, sanctions could be their death knell.

The next two witnesses provided case studies about the negative impact of sanctions on small business exporters. First, Steen Ledger, president of ROTEC Industries, located in Elmhurst, Illinois, testified about what happened to his 100-employee, family-run business when the Export-Import Bank of the United States (Ex-Im) declined to support their efforts to win contracts associated with the Three Gorges Dam project in China. The Clinton Administration sanctioned China for vague environmental reasons associated with this project.

ROTEC hoped to supply \$130 million worth of concrete placing equipment to China. Because of Ex-Im's decision, they were only able to sell \$31 million of their product, \$13 million of which had to be subcontracted to South Korea. In addition, prior to Ex-Im's negative decision, ROTEC was the only manufacturer of this specialized equipment. Because of this sanction, a Japanese-French consortium copies ROTEC's concepts on paper and is now a new, vigorous competitor worldwide. Thus, not only did Ex-Im's decision lose \$112 million in immediate export sales for ROTEC but it also jeopardized their long-term viability by creating another foreign competitor. And, construction at the Three Gorges Dam site is proceeding according to schedule, using products and services from all over the world except the United States.

Second, Varghese George, president of the Westex Group in Washington, DC, testified that sanctions cost his company, which was responsible for over \$80 million in exports over the last 16 years, about \$25 million in sales over the past few years. Mr. George felt misled by the U.S. government, which promised to help him win export deals in emerging markets like India, only to have the rug pulled from underneath him when sanctions were imposed.

In conclusion, the hearing found that small business exporters bear a disproportionate cost of the impact of unilateral economic trade sanctions. At the same time, these sanctions have been less and less successful over the years in changing the behavior of the offending foreign government. Thus, all the hearing participants encouraged support for the enhancement of Trade, Security, and Human Rights through Sanctions reform Act (H.R. 1244) to allow more input from the business community so that decision makers in both the Executive and Legislative Branches can make better foreign economic policy.

For further information about this hearing, refer to Committee publication 106-22.

### 7.7.3 MEASURING IMPROVEMENTS IN THE U.S. EXPORT ASSISTANCE CENTER NETWORK

#### *Background*

On September 9, 1999, the Subcommittee held a hearing examining the role of U.S. Export Assistance Centers (USEACs) in helping small business exporters find trade opportunities overseas. USEACs were created in 1994 in response to a Congressional mandate to bring greater cohesion to the delivery of export promotion services among the 19 federal agencies that have some jurisdiction in this area. In 1996, the Subcommittee held its first oversight hearing on this topic and discovered that while there was a vast improvement in the delivery of export promotion services, there was still a need for further internal reforms (Hearing Report No. 104-90). The purpose of this second oversight hearing was to determine if the USEACs followed through on its promises to adopt the reforms suggested by the Subcommittee in 1996 and see if there are areas in need of further reform.

#### *Summary*

The hearing was comprised of one panel of four government witnesses including Benjamin Nelson of the General Accounting Office (GAO); Johnnie Frazier, Inspector General (IG) of the Department of Commerce; Awilda Marquez, Director-General of the U.S. & Foreign Commercial Service (US&FCS); Joseph Sachs, of the Small Business Administration (SBA) and Director of the USEAC in Long Beach, California.

Benjamin Nelson testified that the USEACs have made remarkable improvements since 1996, particularly in the area of coordination of the activities of the three agencies (US&FCS, the Export-Import Bank of the United States (Ex-Im), and SBA) that are part of the USEAC network. However, the GAO identified one area for improvement—helping non-export ready small businesses become exporters. Mr. Nelson commended the SBA's Export-Trade Assistance Partnership (E-TAP) program as one solution to educate and assist more small businesses about exporting.

Johnnie Frazier provided the Subcommittee with an informal "report card" to grade the effectiveness of USEACs. On balance, Mr. Frazier gave them a solid "B" because USEACs are continuing to demonstrate their ability and potential to better meet the needs of U.S. exporters. While there are still areas in need of improvement, U.S. exporters are being better served through the USEAC program than through the previously existing programs.

Director-General Awilda Marquez described for the Subcommittee all of the many reforms the US&FCS undertook to further improve the delivery of export promotion services to small businesses. As evidence of their success, she cited internal statistics showing that in addition to almost *doubling* the number of their clients since 1997, going from 44,000 to 81,000, the dollar value of the exports helped by USEAC action more than *quadrupled*, going from \$1 billion to \$4.5 billion.

Finally, Joseph Sachs of the SBA detailed for the Subcommittee the E-TAP program. This program is designed to serve previously

ignored small business owners who know little or nothing about exporting. E-TAP is a trade educational program that operates in almost half of the 19 USEACs.

In conclusion, the hearing demonstrated the effectiveness of good legislative oversight. USEACs are now better able to serve small business exporters than they were in 1996 because of these reviews. The recommendations of the GAO and IG audits were also incorporated into the *Export Enhancement Act of 1999* (H.R. 1993), which reauthorized the programs of the International Trade Administration (ITA), including the USEAC network.

For further information about this hearing, refer to Committee publication 106-33.

#### 7.7.4 MAKING THE WORK OPPORTUNITY TAX CREDIT A SUCCESS FOR SMALL BUSINESS

##### *Background*

On May 4, 2000, the Subcommittee on Tax, Finance, and Exports held a hearing on the subject of the Work Opportunity Tax Credit (WOTC). The WOTC offers employers a tax credit for hiring hard-to-place employees, mostly former welfare recipients. The purpose of this hearing was to examine why more small businesses do not take advantage of this tax credit and to explore various solutions to help make this tax credit user-friendly for small business.

##### *Summary*

The hearing was comprised of two panels. The first panel allowed the main cosponsors of legislation to make the WOTC a permanent tax credit—Representatives Jerry Weller (R-IL) and Charles Rangel (D-NY)—to discuss the need and rationale for this bill. On June 9, 1999, Representatives Rangel, Weller, and Amo Houghton introduced the *Work Opportunity Tax Credit Reform and Improvement Act* (H.R. 2101), which would make the WOTC permanent. By the time of the Subcommittee hearing, H.R. 2101 had gained 37 bipartisan cosponsors. Unfortunately, due to other pressing legislative matters, Representative Rangel was unable to personally testify before the Subcommittee but he submitted his remarks for the record.

The second panel was comprised of four witnesses beginning with Roger Littlejohn, who is the coordinator for the WOTC program in the State of Tennessee. He provided a unique perspective of what he does as a state official to lower the fear factor among small business owners about participating in the WOTC program. Mr. Littlejohn also called for making the WOTC permanent because periodic breaks in legislative authority creates enormous paperwork backlogs for states.

Rodney Carroll, as Chief Operating Officer for the Welfare to Work Partnership, spoke about his role as a motivator to encourage more small businesses to participate in the WOTC and the difficulties he encounters by having the WOTC program lapse every few years.

Ron English, owner of 10 Burger King restaurants in Abilene, Texas and Fred Kramer, of the Marriott hotel chain, gave an on-the-ground perspective of how the WOTC actually works in prac-

tice. They also called for passage of H.R. 2101 because periodic disruptions in the WOTC program disadvantages former welfare recipients they would like to hire.

It was the opinion of all the witnesses that the WOTC program should become permanent. While in the question and answer period there was some discussion about some of the specifics of H.R. 2101 (most particularly, there was concern expressed about extending this tax credit to employer contributions to Social Security—the FICA tax—of non-profits), the overall consensus of the hearing was to encourage greater use of the WOTC by small businesses and in support of the goals and aims of HR 2101.

For further information about this hearing, refer to Committee publication 106–57.

#### 7.7.5 TRADE WITH CHINA HELPS SMALL BUSINESS EXPORTERS WORK

##### *Background*

On May 16, 2000, the Subcommittee on Tax, Finance, and Exports held a hearing to determine whether or not trade with China, and, more specifically, the recently negotiated U.S.-China World Trade Organization (WTO) Access Agreement, benefits small business exporters. The purpose of the hearing was to demonstrate the value of granting China Permanent Normal Trade Relations (PNTR) for small business exporters.

##### *Summary*

The hearing was comprised of two panels. On the first panel was the Chairman of the Trade Subcommittee of the House Ways and Means Committee, Representative Phil Crane of Illinois, and the Administrator of the Small Business Administration (SBA), Aida Alvarez, to talk about the broad outline of the benefits of the U.S.-China WTO Agreement for small business exporters. At the time of the hearing, the finalized House version of the PNTR legislation had not been introduced yet (H.R. 4444) but the general framework of the bill was open for discussion.

The second panel was comprised of five small business exporters who have experience in doing business with customers in China. Sharon DeDoncker of Aqua-Aerobic Systems in Rockford, Illinois (a manufacturer of wastewater treatment equipment with 135 employees) was the first to testify. She said that passage of PNTR for China would increase her company's sales to China by 20 percent per year.

James Olson of Olson Technologies in Allentown, Pennsylvania (a manufacturer of large valves to water treatment plants with 47 employees represented by the United Steelworkers of America) believes that PNTR with China would increase production at Olson Technologies between 25 percent to 150 percent over the next 20 to 25 years, which would mean new hires of union workers in Allentown.

Jeffrey Gabbour of Prestige Enterprise International in Cincinnati, Ohio (the export arm of Robbins, Inc., which manufactures quality residential/commercial hardwood floors, with 14 employees) said even though exports to China makes up less than one percent



of their overall business, this agreement wipes away many trade restrictions, which will help them win more sales opportunities in China.

Keith Parker of Summit Environmental Corporation in Longview, Texas (an environmental services company specializing in fire extinguisher equipment with eight employees) has tried but failed to export to China. PNTR for China would be good for his small business because the agreement ensures better protection of their patented goods.

Finally, Robert “Bob” Phelps, owner-operator of Phelps Farms in Rockton, Illinois (a 2,300-acre family farm which raises corn, soybeans, wheat, and cattle) provided an agricultural perspective. While he does not directly export, the vast majority of his grain and oilseed products enter the international marketplace. Mr. Phelps said that if PNTR for China can generate a modest five cent increase in the price of a bushel of corn and a 10 cent increase in the price of a bushel of soybeans, it would pay for one year of his daughter’s college education.

It was the opinion of all the witnesses that the U.S.-China WTO Accession Agreement was good for small business exporters and that Members of Congress should support PNTR for China (H.R. 4444).

For further information about this hearing, refer to Committee publication 106–58.

#### 7.7.6 THE IMPACT OF BANNING SNOWMOBILES INSIDE NATIONAL PARKS ON SMALL BUSINESS

##### *Background*

On July 13, 2000, the Subcommittee on Tax, Finance, and Exports held a hearing to examine the impact on small business of a Department of Interior proposal to ban snowmobiles inside most of our national parks. The purpose of the hearing was to demonstrate the negative impact of this new policy on small business and on the tax base of local communities surrounding national parks, which depend on winter tourism.

##### *Summary*

The hearing was comprised of two panels. The first witnesses were three bipartisan Members of Congress—Representatives Bart Stupak (D–MI), Collin Peterson (D–MN), and Senator Craig Thomas (R–WY). Representative Stupak spoke of the need to resolve this issue with the input of snowmobilers on the local level with each individual park superintendent. Rep. Peterson focused his remarks of the negative impact this ban would have on businesses throughout his rural Minnesota district, whose economy has improved in recent years thanks, in part, to increased snowmobile manufacturing. Finally, Senator Thomas testified as to the devastating impact this snowmobile ban would have on the “gateway” communities surrounding national parks, of which Yellowstone is the most important for his home state of Wyoming.

The second panel consisted of an advocate for the national parks, a local economic development expert, and three small business witnesses. Kevin Collins of the National Parks Conservation Associa-

tion led off with a vigorous defense of the effort to significantly reduce snowmobiling in most national parks. Mr. Collins stated that the protection of the national parks should be the top priority because he believes snowmobiles are extraordinarily polluting and noisy machines. Second, he believes the alleged negative impact of this new policy on small businesses is outlandishly exaggerated. He cited a petition signed by 150 businesses and residents in West Yellowstone, Montana in support of phasing-out snowmobiles in Yellowstone National Park. Mr. Collins also cited a recent economic study concluding that a snowmobile ban would only cause \$5 million negative impact on West Yellowstone, which, in his view, was inconsequential. In the opinion of Mr. Collings, banning snowmobiling on just 700 miles of road nationwide (out of approximately 130,000 miles) will not create winter ghost towns around the country.

Dr. James Abbott of Vermillion, South Dakota presented a broader rural economic development perspective to the Subcommittee. While Vermillion is not near a major national park, tourism is the second most important industry in South Dakota. Many people traveling to snowmobile in other national parks stop in South Dakota on their way to their final destination, spending an average of \$281 per day (as opposed to summer travelers who spend \$144 per day). In addition, Vermillion is home to a snowmobile manufacturing facility owned by Polaris, employing 153 workers (including 55 students from the University of South Dakota) and contributing \$32 million directly to the local economy (\$52 million indirectly). This represents 10 percent of the commercial tax base of Vermillion. Dr. Abbott is concerned about this snowmobile ban because generally factories in rural areas are the first to be phased out in any economic downturn.

The final three witnesses were small business owners who would be directly impacted by a snowmobile ban. Clyde Seely, who owns or is the principal of seven small businesses employing 220 people in West Yellowstone, Montana, testified that a ban on snowmobiles in Yellowstone would result in a loss of winter tourism revenue for his businesses of between 60 to 70 percent. He specifically discussed why he believes the snowcoach alternative promoted by the National Park Service and Mr. Collins is not a viable alternative to snowmobiles.

Bob Stein, owner of the Alger Falls Motel in Munising, Michigan, testified how this snowmobile ban, as applied to Pictured rocks National Lakeshore, would break up his family by undermining the plans of his daughter and son-in-law to purchase his motel when he retires. Closing just ten miles of the Miners Castle trail is enough to eliminate the rationale to visit Picture Rocks in the wintertime, thus leading to a decline of at least 30 percent of Mr. Stein's winter business.

Finally, John Lyon, owner of J & J Sports in Sycamore, Illinois spoke of the indirect impact this proposed snowmobile ban would have on recreational equipment dealers like himself. Snowmobiles account for one-third of his annual revenue and a snowmobile ban in national parks would cut directly into the bottom line of his seven-person store.

In the question and answer period, the other witnesses on the second panel effectively rebutted the main arguments of Mr. Collins. First, Mr. Seely pointed out that only seven West Yellowstone businesses signed the overly vague petition cited by Mr. Collins. All this petition said was that a healthy park creates a healthy economy. It was silent on the snowmobile issue. Most of the rest of the 150 signatories were West Yellowstone residents, not small business owners, some who signed twice. He also mentioned that two other surveys conducted by the West Yellowstone Chamber of Commerce found that 90 percent of the local respondents favored snowmobiling in Yellowstone. Second, Mr. Seely cited a more comprehensive economic impact study recently completed by the State of Wyoming. This study documented that a snowmobile ban in national parks would have a \$130 to \$150 million negative impact on the five county area surrounding Yellowstone, not the \$5 million figure cited by Mr. Collins. Third, Mr. Seely discussed the recent advances in snowmobile technology (quieter and more fuel-efficient four-stroke models that burn gasoline, instead of oil) that will be in fully in place in this rental fleet over the next two winters.

In conclusion, the hearing ended on a positive note with Chairman Manzullo encouraging all interested in this debate to keep an open mind on this issue. Instead of an outright ban on snowmobiles in national parks, the Chairman suggested that further restrictions on their use should be considered in order to protect the environment and the interests of small business.

For further information about this hearing, refer to Committee publication 106-68.

#### 7.7.7 HELPING DRY CLEANERS ADOPT SAFER TECHNOLOGIES: WITHOUT LOSING YOUR SHIRT!

##### *Background*

On July 20, 2000, the Subcommittee on Tax, Finance, and Exports held a hearing on the subject *Dry cleaning Tax Credit Act* (HR 1303), which would provide a 20 percent tax credit for those businesses that purchase environmentally-friendly dry cleaning equipment. The purpose of this hearing was to see if this legislation would benefit the 35,000 small dry cleaning establishments and the small manufacturers of environmentally-friendly dry cleaning equipment.

##### *Summary*

The hearing was comprised of two panels. The first panel allowed the two main bipartisan authors of the legislation, Representatives Dave Camp (R-MI) and David Price (D-NC) to discuss the need and rationale for H.R. 1303. Both spoke of the need to address the concerns of small dry cleaners who wish to transition to this new technology but because of the cost they cannot afford these new machines. The purpose of H.R. 1303 is to partially offset the high cost of liquid carbon dioxide machines, which range in price from \$100,000 to \$150,000 (most dry cleaners own machines use the hazardous perchloroethylene (perc) chemical, which cost between \$50,000 to \$70,000).

The Members also made it quite clear that H.R. 1303 does not favor one non-hazardous dry cleaning technology over another—H.R. 1303 applies to both liquid carbon dioxide and wet cleaning machines, which cost about \$35,000 (however, wet cleaning machines cannot be used in every dry cleaning application). H.R. 1303 could also apply to even newer technologies such as silicone and Rinex (a glycol-ether compound) provided that overwhelming scientific evidence shows these technologies are non-toxic and environmentally-friendly.

The second panel consisted of five private sector witnesses. The first two witnesses were small dry cleaners. Tom Ustanik of Lansing, Illinois, provided a unique perspective of one of the very few dry cleaners in the nation who purchased and uses a liquid carbon dioxide machine in his business. He testified about the many benefits of this machine, both in terms of the environment and in creating better working conditions for his employees. Mr. Ustanik supports H.R. 1303 because he would like to speed up the purchase of more liquid carbon dioxide machines to replace the remaining dry cleaning machines in his shop that use perc.

Gordon Shaw of La Jolla, California testified as a former dry cleaner who got out of the business because of the Superfund liability fears of perc. He would like to get back into the business but will only do so if his facilities use liquid carbon dioxide machines. H.R. 1303 would provide a great incentive for him to start anew and purchase this new dry cleaning technology.

The next witness represented the national association of dry cleaners, wet cleaners, and launderers. William Fisher, Chief Executive Officer of the International Fabricare Institute (IFI) of Silver Spring, Maryland, believes that H.R. 1303 is more likely to damage than help existing small dry cleaners. He argued that liquid carbon dioxide machines are too expensive, up to \$800,000 when combined with a franchise agreement, which he contends is well-beyond the reach of most dry cleaners in his association. He suggested changes to the bill to make it more acceptable to the members of his association.

The fourth witness was Dr. Joseph DeSimone of Raleigh, North Carolina who successfully commercialized liquid carbon dioxide technology for dry cleaning applications. He talked about the process by which he successfully commercialized this technology. However, because there are no large businesses that can license this technology from his laboratory (unlike when Dupont licensed his carbon dioxide technology to make teflon), H.R. 1303 is needed, Dr. DeSimone urged, in order to encourage the spread of this technology to small dry cleaners.

The final witness provided the Subcommittee with an expert opinion on the need for dry cleaners to transition from perc to other environmental-friendly technology. Dr. Henry Cole, representing the environmental group, Clean Water Action, spoke to the dangers of perc and the need to phase-out its use. In Dr. Cole's opinion, H.R. 1303 deserves support because it will help dry cleaners switch from perc, which are highly toxic, to liquid carbon dioxide and wet-cleaning machines. H.R. 1303 provides substantial long-term environmental, health and economic benefits to the nation at a fraction of the cost of a hazardous waste clean up.

For further information about this hearing, refer to Committee publications 106–69.

7.7.8 THE IMPACT OF THE COMPLEXITY OF THE TAX CODE ON  
SMALL BUSINESS: WHAT CAN BE DONE ABOUT IT?

*Background*

On September 7, 2000, the Subcommittee on Tax, Finance, and Exports held a hearing on the impact of the complexity of the tax code on small business. The purpose of the hearing was to determine if small businesses have particularly high tax compliance costs and discuss what can be done to alleviate this burden.

*Summary*

The hearing was comprised of two panels. The first panel allowed two Members of Congress to discuss competing versions of comprehensive tax reform. Representative John Sununu of New Hampshire articulated the reasons why a flat tax (H.R. 1040) would benefit small business owners. Representative Billy Tauzin of Louisiana, the author of H.R. 2001, spoke of the need to totally revamp the tax code by replacing it with a national sales tax. Both set the stage for the Subcommittee by documenting that the current tax code is massively complex and that their ideas would help small businesses the best.

The second panel allowed Val Oveson, the National Taxpayer Advocate at the Internal Revenue Service (IRS) of the U.S. Department of the Treasury and five private sector experts on the issue of the complexity of the tax code to discuss this problem and offer suggestions for reform. First, Martin Davidoff, a tax consultant from Dayton, New Jersey representing the National Federation of Independent Business (NFIB) spoke about two specific tax problems facing small business owners: the constant change of phase-outs of certain tax credits or deductions based on income and the complexity of the meals and entertainment expense deduction. Mr. Davidoff reminded the Subcommittee that a 100 percent deduction for meals and entertainment expenses was rated the second most important issue at the 1995 White House Conference on Small Business.

Second, Mr. Oveson testified about his work as the National Taxpayer Advocate and addressed some specific tax areas in need of reform and simplification to benefit small business. The top areas he talked about before the Subcommittee included:

- (1) reform how the IRS administers its penalties (specifically, he called for repealing the “failure to pay” penalty);
- (2) reform and simplify capitalization and depreciation schedules (specifically, allow Section 179 expense deduction for all capital assets purchased); and
- (3) reform and simplify the independent contractor definition.

Pamela Olson of the American Bar Association (ABA) addressed the Subcommittee next to discuss her work along with the American Institute of Certified Public Accountants (AICPA) and the Tax Executives Institute (TEI) on their tax simplification proposals. The recommendations she highlighted to the Subcommittee included:

(a) Allow small businesses with gross receipts of less than \$5 million per year to use the cash method of accounting (as opposed to the accrual method);

(2) Simplify rules governing pension plans (specifically, minimum distribution rules and “top heavy” rules);

(3) Reform the definition of an independent contractor;

(4) Simplify rules limiting the ability of taxpayers to deduct losses; and

(5) Simplify international tax rules because more and more small businesses are becoming exporters.

David Lifson of AICPA identified for the Subcommittee several key elements necessary to create a simpler tax system, most important of which is to consider simplification at all stages of the legislative and regulatory process. In addition, he referred Subcommittee Members to the list of harmonized tax simplification proposals submitted to Congress last February by the AICPA, ABA, and TEI.

Scott Moody, an economist with the Tax Foundation, provided a more academic perspective to the hearing. In his opinion, a good tax system should be as simple as possible; not be retroactive; be neutral in regards to economic activities; and be stable. According to the Tax Foundation, our current code falls far short of these goals, with the frequent changes to the tax code and the increase in the number of words and forms. Plus, the tax compliance burden falls disproportionately on small businesses. In 1996, small companies with less than \$1 million in assets spent at least 27 times more on compliance as a percent of assets than larger U.S. corporations with assets of \$10 billion or more.

Finally, Todd McCracken, President of National Small Business United, testified in favor of the Fair Tax (H.R. 2525), which is a competing national sales tax plan introduced by Representative John Linder of Georgia. The benefits of the Fair Tax, in Mr. McCracken’s opinion, for small business include increasing savings, eliminating the payroll tax; removing the hidden tax on exports; and repealing the self-employment tax.

In the question and answer period, all witnesses agreed (despite having different views on the solution to this problem) that at a minimum Members of Congress should resist the temptation to change the tax laws even for the best of reasons, because it, in the words of Mr. Oveson, “geometrically complicates the tax code.”

For further information about this hearing, refer to the Committee publication 106–70.