

103^D CONGRESS
1ST SESSION

H. R. 1057

To protect and promote small business concerns.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 23, 1993

Mrs. MEYERS of Kansas introduced the following bill; which was referred jointly to the Committees on Ways and Means, Small Business, the Judiciary, Rules, and Education and Labor

A BILL

To protect and promote small business concerns.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Omnibus Small Busi-
5 ness Promotion and Protection Act of 1993”.

6 **TITLE I—SMALL BUSINESS TAX**
7 **INCENTIVES**

8 **SEC. 101. RESEARCH CREDIT.**

9 (a) IN GENERAL.—Section 41 of the Internal Reve-
10 nue Code of 1986 (relating to credit for increasing re-
11 search activities) is amended by striking subsection (h).

1 (b) CONFORMING AMENDMENT.—Paragraph (1) sec-
2 tion 28(b) of such Code is amended by striking subpara-
3 graph (D).

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to taxable years ending after June
6 30, 1992.

7 **SEC. 102. TARGETED JOBS CREDIT.**

8 (a) IN GENERAL.—Subsection (c) of section 51 of the
9 Internal Revenue Code of 1986 (relating to amount of tar-
10 geted jobs credit) is amended by striking paragraph (4).

11 (b) EFFECTIVE DATE.—The amendment made by
12 subsection (a) shall apply to individuals who begin work
13 for the employer after June 30, 1992.

14 **SEC. 103. QUALIFIED SMALL ISSUE BONDS.**

15 (a) IN GENERAL.—Subparagraph (B) of section
16 144(a)(12) of the Internal Revenue Code of 1986 is
17 amended to read as follows:

18 “(B) BONDS ISSUED TO FINANCE
19 MANUFACTURING FACILITIES AND FARM
20 PROPERTY.—Subparagraph (A) shall not
21 apply to any bond issued as part of an
22 issue 95 percent or more of the net pro-
23 ceeds of which are to be used to provide—

24 “(i) any manufacturing facility, or

1 “(ii) any land or property in accord-
2 ance with section 147(c)(2).”

3 (b) EFFECTIVE DATE.—The amendment made by
4 subsection (a) shall apply to bonds issued after June 30,
5 1992.

6 **SEC. 104. EMPLOYER-PROVIDED EDUCATIONAL ASSIST-**
7 **ANCE.**

8 (a) IN GENERAL.—Section 127 of the Internal Reve-
9 nue Code of 1986 (relating to educational assistance pro-
10 grams) is amended by striking subsection (d) and by re-
11 designating subsection (e) as subsection (d).

12 (b) CONFORMING AMENDMENT.—Paragraph (2) of
13 section 103(a) of the Tax Extension Act of 1991 is hereby
14 repealed.

15 (c) EFFECTIVE DATE.—The amendments made by
16 this section shall apply to taxable years beginning after
17 June 30, 1992.

18 **SEC. 105. DEDUCTION FOR HEALTH INSURANCE COSTS OF**
19 **SELF-EMPLOYED INDIVIDUALS INCREASED**
20 **AND MADE PERMANENT.**

21 (a) IN GENERAL.—Paragraph (1) of section 162(l)
22 of the Internal Revenue Code of 1986 (relating to special
23 rules for health insurance costs of self-employed individ-
24 uals) is amended by striking “25 percent of”.

1 (b) DEDUCTION MADE PERMANENT.—Paragraph (6)
2 of section 162(l) of such Code is hereby repealed.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall apply to taxable years beginning after
5 June 30, 1992.

6 **TITLE II—INCREASE OF NUMBER**
7 **OF PERMITTED S CORPORA-**
8 **TION SHAREHOLDERS**

9 **SEC. 201. INCREASE OF NUMBER OF PERMITTED S COR-**
10 **PORATION SHAREHOLDERS.**

11 (a) IN GENERAL.—Subparagraph (A) of section
12 1361(b)(1) of the Internal Revenue Code of 1986 (defin-
13 ing small business corporation) is amended by striking
14 “35 shareholders” and inserting “50 shareholders”.

15 (b) EFFECTIVE DATE.—The amendment made by
16 this section shall take effect on the date of the enactment
17 of this Act.

18 **TITLE III—WOMEN-OWNED**
19 **SMALL BUSINESS CONCERNS**

20 **SEC. 301. PARTICIPATION IN SUBCONTRACTING PRO-**
21 **GRAMS.**

22 (a) ELIGIBILITY REQUIREMENTS.—

23 (1) DEFINITION OF SOCIALLY DISADVANTAGED
24 SMALL BUSINESS CONCERN.—Section 8(a)(5) of the
25 Small Business Act (15 U.S.C. 637(a)(5)) is amend-

1 ed by striking “racial or ethnic prejudice” and in-
2 sserting “racial, ethnic, or gender-based prejudice”.

3 (2) PRESUMPTION OF SOCIAL DISADVANTAGE
4 UNDER CONTRACT CLAUSE.—The contract clause
5 specified in section (8)(d)(3) of the Small Business
6 Act (15 U.S.C. 637(d)(3)) is amended by striking
7 “and other minorities” in subparagraph (C) of such
8 clause and inserting “other minorities, and women”.

9 (b) TREATMENT OF COMMUNITY PROPERTY LAWS.—
10 The Small Business Act (15 U.S.C. 631 et seq.) is amend-
11 ed—

12 (1) in section 8(a)(4) by adding at the end the
13 following new subparagraph:

14 “(D) The community property laws of a
15 jurisdiction shall not be applied in determining
16 whether a small business concern meets the re-
17 quirements of this paragraph with regard to
18 ownership and control.”;

19 (2) in section 8(a)(6)(E)—

20 (A) by striking the period at the end of
21 clause (ii) and inserting “; and”; and

22 (B) by adding at the end the following new
23 clause:

24 “(iii) the value of any property which
25 is owned by a disadvantaged owner solely

1 on the basis of application of the commu-
2 nity property laws of a jurisdiction.”; and
3 (3) in the contract clause specified in section
4 (8)(d)(3) by adding at the end of subparagraph (C)
5 of such clause the following new sentence: “The
6 community property laws of a jurisdiction shall not
7 be applied in determining whether a small business
8 concern meets the requirements of this subpara-
9 graph with regard to ownership and control.”.

10 **TITLE IV—PREPAYMENT OF DE-**
11 **VELOPMENT COMPANY DE-**
12 **BENTURES**

13 **SEC. 401. PREPAYMENT OF DEVELOPMENT COMPANY DE-**
14 **BENTURES.**

15 (a) IN GENERAL.—Title V of the Small Business In-
16 vestment Act of 1958 (15 U.S.C. 695 et seq.) is amended
17 by adding at the end the following new section:

18 **“SEC. 507. PREPAYMENT OF DEVELOPMENT COMPANY DE-**
19 **BENTURES.**

20 “(a) IN GENERAL.—(1) If the requirements of sub-
21 section (b) are met, the issuer of a debenture purchased
22 by the Federal Financing Bank and guaranteed by the
23 Administration under section 503 may, at the election of
24 the borrower whose loan secures such debenture, prepay
25 such debenture by paying to the Federal Financing Bank,

1 not later than 2 years after the date of the enactment of
2 this section, the amount that is equal to the sum of the
3 unpaid principal balance (plus accrued interest at the cou-
4 pon rate on the debenture) due on the debenture on the
5 date of prepayment and the amount of the penalty de-
6 scribed in paragraph (2)(A).

7 “(2)(A) The amount of the penalty described in this
8 paragraph is the amount described in subparagraph (B)
9 reduced by any fees paid pursuant to subsection (d)(2).

10 “(B) The amount described in this subparagraph is
11 the amount equal to the original principal amount of the
12 debenture—

13 “(i) multiplied by the interest rate of the debenture;
14

15 “(ii) multiplied by the number of years remain-
16 ing to maturity on the debenture; and

17 “(iii) divided by the number of years to matu-
18 rity on the debenture when the debenture was origi-
19 nally issued.

20 “(b) REQUIREMENTS.—The requirements of this sub-
21 section are met if—

22 “(1) the debenture referred to in subsection (a)
23 is outstanding on the date of the enactment of this
24 section and neither the debenture nor the borrower’s

1 loan that secures the debenture is in default on the
2 date of prepayment;

3 “(2) only non-Federal funds are used to prepay
4 the debenture;

5 “(3) the issuer extinguishes the borrower’s loan
6 which secured such debenture;

7 “(4) in the case of prepayment of a debenture
8 in which a new debenture is issued and guaranteed
9 by the Administration under section 503 and sold
10 under section 504 (or the Administration issues a
11 trust certificate representing ownership in such new
12 debenture under section 505) for the purpose of
13 such prepayment, the issuer certifies that it will
14 waive any origination fee on the new debenture to
15 which it otherwise would have been entitled; and

16 “(5) the borrower certifies that it will pay to
17 the issuer the amount of the penalty referred to in
18 subsection (a)(2)(A).

19 “(c) TRANSFER OF GUARANTEE.—

20 “(1) IN GENERAL.—Notwithstanding any other
21 law, in the case of prepayment of a debenture under
22 subsection (a) in which a new debenture is issued by
23 a qualified State or local development company and
24 guaranteed by the Administration under section 503
25 and sold under section 504 (or the Administration

1 issues a trust certificate representing ownership in
2 such new debenture under section 505) for the pur-
3 pose of such prepayment, the guarantee by the Ad-
4 ministration under section 503 of the original deben-
5 ture shall transfer to the new debenture, and the
6 transfer of such guarantee shall not be treated as
7 new credit authority.

8 “(2) FULL FAITH AND CREDIT OF THE UNITED
9 STATES.—The full faith and credit of the United
10 States shall continue to be pledged to the payment
11 of all amounts which may be required to be paid
12 under any guarantee of a new debenture or trust
13 certificate referred to in paragraph (1).

14 “(d) FEES.—

15 “(1) IN GENERAL.—Notwithstanding any other
16 law and subject to paragraph (2), no fees or pen-
17 alties other than those specified in this section may
18 be imposed as a condition of prepayment under sub-
19 section (a) against the issuer, the borrower, or the
20 Administration.

21 “(2) OPTIONAL FEES.—The issuer may require
22 the borrower to pay a fee to the issuer in an amount
23 equal to—

24 “(A) in cases other than the case described
25 in subparagraph (B), 1 percent of the sum of

1 the unpaid principal balance and the accrued
2 interest (at the coupon rate on the debenture)
3 due on the debenture on the date of prepay-
4 ment; and

5 “(B) in the case of prepayment of a deben-
6 ture under subsection (a) in accordance with
7 the method described in subsection (c)(1), one-
8 half of 1 percent of the sum of the unpaid prin-
9 cipal balance and the accrued interest (at the
10 coupon rate on the debenture) due on the de-
11 benture on the date of prepayment.

12 “(e) DEFAULT OF LOAN SECURING DEBENTURE.—
13 If a borrower defaults on a loan securing a debenture is-
14 sued under section 503, including a default which occurred
15 before the date of the enactment of this section, the Ad-
16 ministration’s guarantee under section 503 shall be extin-
17 guished by payment by the Administration to the Federal
18 Financing Bank of the remaining principal balance plus
19 accrued interest at the coupon rate on the debenture.

20 “(f) DEFINITIONS.—For purposes of this section, the
21 following definitions apply:

22 “(1) BORROWER.—The term ‘borrower’ means
23 a small business concern.

24 “(2) CREDIT AUTHORITY AND NEW BUDGET
25 AUTHORITY.—The terms ‘credit authority’ and ‘new

1 budget authority' have the meanings given such
2 terms in section 3 of the Congressional Budget Act
3 of 1974.

4 “(3) ISSUER.—The term ‘issuer’ means a quali-
5 fied State or local development company.

6 “(4) QUALIFIED STATE OR LOCAL DEVELOP-
7 MENT COMPANY.—The term ‘qualified State or local
8 development company’ has the meaning given such
9 term in section 503(e).”.

10 (b) CLERICAL AMENDMENT.—The table of contents
11 of title V of the Small Business Investment Act of 1958
12 is amended by adding at the end the following new item:

“Sec. 507. Prepayment of development company debentures.”.

13 **TITLE V—CABINET LEVEL STA-**
14 **TUS FOR SBA ADMINIS-**
15 **TRATOR**

16 **SEC. 501. PARTICIPATION IN CABINET.**

17 It is the sense of the Congress that the Administrator
18 of the Small Business Administration should be des-
19 ignated by the President—

20 (1) as a member of, and a full participant in
21 activities of, the Cabinet; and

22 (2) as the President’s principal adviser on all
23 matters relating to small business.

1 **SEC. 502. PAY STATUS COMMENSURATE WITH CABINET**
2 **STATUS.**

3 (a) EXECUTIVE LEVEL I.—Section 5312 of title 5,
4 United States Code (relating to executive level I), is
5 amended by adding at the end the following new item:

6 “Administrator of the Small Business Adminis-
7 tration.”.

8 (b) CONFORMING AMENDMENT.—Section 5314 of
9 such title (relating to executive level III) is amended by
10 striking the following item:

11 “Administrator of the Small Business Adminis-
12 tration.”.

13 **TITLE VI—ASSISTANT UNITED**
14 **STATES TRADE REPRESENTA-**
15 **TIVE FOR SMALL BUSINESS**

16 **SEC. 601. SENSE OF CONGRESS.**

17 It is the sense of Congress that the United States
18 Trade Representative should establish a new position of
19 Assistant United States Trade Representative for Small
20 Business to promote exports by small businesses and to
21 remove foreign impediments to the success of such under-
22 takings.

1 **TITLE VII—JUDICIAL REVIEW**
2 **UNDER REGULATORY FLEXI-**
3 **BILITY ACT**

4 **SEC. 701. JUDICIAL REVIEW UNDER REGULATORY FLEXI-**
5 **BILITY ACT.**

6 (a) IN GENERAL.—Section 611 of title 5, United
7 States Code, is repealed.

8 (b) CLERICAL AMENDMENT.—The table of sections
9 at the beginning of chapter 6 of title 5, United States
10 Code, is amended by striking the item relating to section
11 611.

12 **TITLE VIII—CONGRESSIONAL**
13 **BUDGET OFFICE SMALL BUSI-**
14 **NESS LEGISLATIVE COST**
15 **ANALYSIS**

16 **SEC. 801. CONGRESSIONAL BUDGET OFFICE COST ANALY-**
17 **SIS.**

18 (a) CBO ANALYSIS.—Title IV of the Congressional
19 Budget Act of 1974 (2 U.S.C. 651 et seq.) is amended
20 by inserting after section 403 the following new section:

21 “SMALL BUSINESS COST ANALYSIS BY CONGRESSIONAL
22 BUDGET OFFICE

23 “SEC. 404. (a) The Director of the Congressional
24 Budget Office shall, to the extent practicable, prepare for
25 each bill or resolution of a public character reported by

1 any committee of the House of Representatives or the Sen-
2 ate (except the Committee on Appropriations of each
3 House), and submit to such committee—

4 “(1) an estimate of the costs which would be in-
5 curred in carrying out such bill or resolution in the
6 fiscal year in which it is to become effective and in
7 each of the 4 fiscal years following such fiscal year,
8 together with the basis for each such estimate;

9 “(2) an estimate of the cost which would be in-
10 curred by small businesses in carrying out or com-
11 plying with any significant bill or resolution in the
12 fiscal year in which it is to become effective and in
13 each of the 4 fiscal years following such fiscal year,
14 together with the basis for each such estimate; and

15 “(3) a comparison of the estimates of costs de-
16 scribed in paragraphs (1) and (2) with any available
17 estimates of costs made by such committee or by a
18 Federal agency.

19 The estimates, comparison, and description so submitted
20 shall be included in the report accompanying such bill or
21 resolution if timely submitted to such committee before
22 such report is filed.

23 “(b) For purposes of subsection (a)(2), the term
24 ‘small business’ has the same meaning as the term ‘small-

1 business concern' in section 3(a) of the Small Business
2 Act (15 U.S.C. 632(a)).

3 “(c) For purposes of subsection (a)(2), the term ‘sig-
4 nificant bill or resolution’ is defined as any bill or resolu-
5 tion which in the judgment of the Director of the Congres-
6 sional Budget Office is likely to result in an average an-
7 nual cost to a small business of \$1,000 or more, or is likely
8 to have exceptional fiscal consequences for a geographic
9 region or a particular industry segment.”.

10 (b) CONFORMING AMENDMENT.—The table of con-
11 tents set forth in section 2(b) of the Congressional Budget
12 and Impoundment Control Act of 1974 is amended by in-
13 serting after the item relating to section 404 the following
14 new item:

“Sec. 403. Small business cost analysis by Congressional Budget Office.”.

15 **TITLE IX—RELIEF FROM RETRO-**
16 **ACTIVE APPLICATION OF**
17 **TREASURY DEPARTMENT**
18 **REGULATIONS AND RULINGS**

19 **SEC. 901. RULES AND REGULATIONS.**

20 (a) IN GENERAL.—Subsection (b) of section 7805 of
21 the Internal Revenue Code is amended to read as follows:

22 “(b) RETROACTIVITY OF REGULATIONS OR RUL-
23 INGS.—

24 “(1) IN GENERAL.—All final, temporary, or
25 proposed regulations and rulings issued by the Sec-

1 retary shall apply prospectively from the date of
2 publication of such regulation or ruling in the Fed-
3 eral Register.

4 “(2) CONGRESSIONAL AUTHORIZATION.—The
5 prospective only treatment of paragraph (1) may be
6 superseded by a specific legislative grant from Con-
7 gress authorizing the Secretary to prescribe the ef-
8 fective date with respect to a statutory provision.”.

9 (b) EFFECTIVE DATE.—The amendment made by
10 this section shall apply to any temporary or proposed regu-
11 lation published as a final regulation after the date of the
12 enactment of this Act.

13 **TITLE X—STUDY OF IMPACT OF**
14 **REGULATORY ANALYSIS**
15 **UPON SMALL BUSINESS**

16 **SEC. 1001. STUDY.**

17 The Chief Counsel for Advocacy of the Small Busi-
18 ness Administration shall conduct a study of the impact
19 of all Federal regulatory paperwork and tax requirements
20 upon small business and report its findings to the Con-
21 gress within one year of the date of the enactment of this
22 Act.

1 **TITLE XI—FAIR LABOR**
2 **STANDARDS ACT**

3 **SEC. 1101. APPLICATION OF FAIR LABOR STANDARDS ACT**
4 **OF 1938.**

5 (a) MINIMUM WAGE.—

6 (1) SPECIAL INDUSTRY COMMITTEES.—Section
7 5(a) of the Fair Labor Standards Act of 1938 (29
8 U.S.C. 205(a)) is amended—

9 (A) by striking out “engaged in commerce
10 or in the production of goods for commerce, or
11 employed in any enterprise engaged in com-
12 merce or in the production of goods for com-
13 merce” and inserting in lieu thereof the follow-
14 ing: “who are (1) engaged in industrial home-
15 work subject to 11(d), or (2) either engaged in
16 commerce or engaged in the production of
17 goods for commerce or employed in an enter-
18 prise engaged in commerce or in the production
19 of goods for commerce”; and

20 (B) by striking out “engaged in commerce
21 or in the production of goods for commerce in
22 particular industries” and inserting in lieu
23 thereof “so engaged”.

24 (2) MINIMUM WAGE.—Section 6(a) of the Fair
25 Labor Standards Act of 1938 (29 U.S.C. 206(a)) is

1 amended by striking out “who in any workweek is
2 engaged in commerce or in the production of goods
3 for commerce, or is employed in an enterprise en-
4 gaged in commerce or in the production of goods for
5 commerce” and inserting in lieu thereof the follow-
6 ing: “who in any workweek is engaged in industrial
7 homework subject to 11(d) or either engaged in com-
8 merce or engaged in the production of goods for
9 commerce or employed in an enterprise engaged in
10 commerce or in the production of goods for com-
11 merce”.

12 (3) WAGE ORDERS.—Section 8(a) of the Fair
13 Labor Standards Act of 1938 (29 U.S.C. 208(a)) is
14 amended by striking out “employers in American
15 Samoa engaged in commerce or in the production of
16 goods for commerce or in any enterprise engaged in
17 commerce or in the production of goods for com-
18 merce” and inserting in lieu thereof “employers in
19 American Samoa”.

20 **SEC. 1102. MAXIMUM HOURS.**

21 Paragraphs (1) and (2) of section 7(a) of the Fair
22 Labor Standards Act of 1938 (29 U.S.C. 207(a)) are each
23 amended by striking the phrase “who in any workweek
24 is engaged in commerce or in the production of goods for
25 commerce, or is employed in an enterprise engaged in

1 commerce or in the production of goods for commerce”
2 and inserting in lieu thereof the following: “who in any
3 workweek is (A) engaged in industrial homework subject
4 to 11(d), or (B) either engaged in commerce or engaged
5 in the production of goods for commerce or employed in
6 an enterprise engaged in commerce or in the production
7 of goods for commerce”.

8 **TITLE XII—INDEPENDENT**
9 **CONTRACTORS**

10 **SEC. 1201. SENSE OF CONGRESS.**

11 It is the sense of Congress that the Internal Revenue
12 Service, in conjunction with the Office of Advocacy of the
13 Small Business Administration, and in cooperation with
14 the appropriate committees of Congress, should adopt ob-
15 jective, reasonable standards to determine independent
16 contractor status.

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