IMPACT OF FEDERAL AND COMMUNITY-BASED PROGRAMS ON MAIN STREET AMERICA AND VARIOUS SEGMENTS OF THE SMALL BUSINESS COMMUNITY

FIELD HEARING

BEFORE THE

SUBCOMMITTEE ON
GOVERNMENT PROGRAMS AND OVERSIGHT

OF THE

COMMITTEE ON SMALL BUSINESS
HOUSE OF REPRESENTATIVES

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IMPACT OF FEDERAL AND COMMUNITY-BASED PROGRAMS ON MAIN STREET AMERICA AND VARIOUS SEGMENTS OF THE SMALL BUSINESS COMMUNITY

TUESDAY, APRIL 25, 2000

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON GOVERNMENT
PROGRAMS AND OVERSIGHT,
COMMITTEE ON SMALL BUSINESS,
Washington, DC.

The subcommittee met, pursuant to call, at 10 a.m., in the Banneker Room, Howard Building, 3430 Courthouse Drive, Ellicott City, Maryland, Hon. Roscoe G. Bartlett (chairman of the subcommittee) presiding.

Chairman BARTLETT. We will call our Subcommittee meeting to order. Good morning and welcome to this hearing of the Subcommittee on Government Programs and Oversight of the Committee on Small Business. A special welcome to those who have come some distance to participate.

This is one in a series of hearings begun in April of 1997 to determine the impact of Federal and community-based programs on Main Street America and various segments of the small business community. The last hearing in this series was held in Chicago, Illinois and focused on the importance of Federal procurement opportunities for small businesses.

One of the goals of these hearings is 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, in order to help others become or continue to be successful small business owners. It is important to know what works and what does not work.

Another focus of the hearing is to obtain your views as to the causes of the present economic prosperity. 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?

This hearing will provide you with a forum for expressing your views with respect to Federal Government programs for the purpose of addressing any problems, where feasible, with remedial legislation. The Federal Government should be user friendly since it

is the taxpayers who pay for every Federal program and the salaries of those that administer them. Also, your views with respect to any burden created by Federal regulations and paperwork, together with suggestions for improvements, would be most helpful.

Why the emphasis on small businesses? For the simple reason that small businesses are presently the main engine driving the economy of this country. It is a statistical fact that small businesses are the creators of new jobs and the stimulus behind our present economic prosperity.

Independently owned businesses, the free market economy in this country, with fewer than 500 employees, and many with far fewer than that, created 76 percent of the net new jobs from 1991 to 1995; employ 53 percent of the private non-farm workforce; contributed 47 percent of all sales in the country; are responsible for 51 percent of the private gross domestic product, and produced 55 percent of innovations—small businesses produce twice as many both product innovations and significant innovations per employee as large firms.

However, I have previously found almost universal agreement among small business owners that Federal Government overregulation and meddlesome approaches to the regulatory process is a pervasive problem that is detrimental to small business viability. I want to know if this has been your experience.

Those who work in Washington, D.C. need your views as to the success or failure of Federal programs in Maryland and locally here in Howard and Ellicott City.

Do Federal programs designed to help small businesses actually work? Are they helpful? Are they outdated? Should the present Federal Government programs be restructured to meet present conditions? Is the Federal Government too intrusive and meddlesome?

It is your answers to these and many other questions that are important. The Committee on Small Business welcomes your testimony. I look forward to a lively and informative discussion. Thank you again for being here today.

Our hearing today is focused on Main Street USA. Are Government programs for small business effective? What are the causes of the present economic prosperity? How can the present economic conditions be sustained?

We have two panels, and the first panel is made up of the Honorable Jere Glover, Chief Counsel, Office of Advocacy; John Howard, Executive Director, Economic Development Commission, Washington County; Richard Story, Executive Director, Economic Development Authority, Howard County; and John Lyburn, Director, Department of Economic Development, Carroll County. Thank you all very much for joining us.

There is a joke that never fails to get a response from an audience. I guess the best jokes are those that have some relevance to real life. It is about a well dressed person who shows up at the farm or the small business, and tells the hardworking farmer or small business owner, "I am from the Government and I am here to help you", at which point the farmer or the small business person bursts out laughing. This never fails to get a response from an audience because that is a generally true representation of the re-

sponse of people when somebody tells them "I am from the Government and I am here to help you".

But the four people sitting at this table don't have that experience. I know from personal experience that when the Economic Development Director comes and says "I am from the County Government and I am here to help you", that the small business person says "Thank you very much for coming". I will tell you that for Jere Glover, I know from a number of hearings and personal communications with him, that is certainly not true of him, which is quite rare for Federal employees, by the way, Mr. Glover.

You will hear in his presentation today when he uses the pronoun "them" he is talking about Federal bureaucrats, and when he uses the pronoun "us" he is talking about small business people. He truly identifies with small business people and their problems.

The Office of Advocacy is, what, 25 years old?

Mr. GLOVER. Yes, sir.

Chairman BARTLETT. And it has been reinvigorated recently with legislation that gives them some real teeth. It was created by the Small Business Committee, by the Congress, 25 years ago, in recognition of the fact that regulations that can be borne by large businesses frequently are killers for small business, that the Government agencies in the promulgation of their rules needed to consider what the effects would be on small business, and that small business people needed an advocate, and so the Office of Advocacy was created.

If you have small business people who need an ombudsman with the Federal Government, this is the office to go to. They are very effective, and I am really pleased that Jere Glover can be with us here today and will turn to him first for his testimony.

STATEMENT OF THE HONORABLE JERE W. GLOVER, CHIEF COUNSEL, OFFICE OF ADVOCACY

Mr. GLOVER. Thank you, Mr. Chairman, it's delightful to be here with you.

Chairman BARTLETT. Let me say first of all that all of your prepared statements will be made a part of the record, so you can feel free to summarize.

Mr. GLOVER. Thank you, Mr. Chairman. It is good to be here with you, and what I thought I would do is to talk about a few areas where your unique experience as a scientist, as an inventor, as an entrepreneur and a farmer, have helped the Congress better understand the issues and issues that we worked together. And what I find is that a lot of people don't understand the real significance of that unique set of skills.

The first one is the patent bill, and in this past Congress there were proposals that were going to significantly weaken the inventor's protection under the patent bill. And it is hard to find in Government, and it is hard to find in Congress, someone who has been an inventor. We have small business people in Congress, probably not enough, but we certainly have some, and we certainly have some farmers, probably not enough again, but as an inventor has a unique set of skills. Understanding that and speaking from personal experience, really helped to keep some bad things from happening in that patent legislation, and I wanted to thank you for

your efforts in that regard. It was a situation where, if we change our patent structure, we may change the fiber of how small business succeeds better in this country than anywhere else in the world, and the patent is one of those areas of unique protections that we have that is better than anywhere else in the world. Whenever that is threatened it is important that people rally to that cause, and I appreciate your efforts.

The next area again deals with innovation and invention, it is the Small Business Innovation Research Program. This is a billion dollar program that is designed to make the Federal procurement officials recognize the importance of small business. Without this, they had been ignoring small business, despite the fact that today more scientists and engineers work for small business than for big business, the Government or universities.

The marketplace has made a huge shift to small business. Large firms are now buying the technology, they are buying the innovations, in some cases buying the businesses rather doing it themselves inhouse. So, we have seen degreed scientists and degreed engineers move into small business. Despite that, Federal procurement from small business for R&D is still very low. But the innovation program which you worked to get reauthorized has not only a billion dollars nationwide, but Maryland is the fourth largest state in number of dollars received under that program, after California and Massachusetts. It received over 200 awards and over $53 million of money. That, of course, is money that is used as seed venture fund to help those companies take the technology to the next level and provides the Government with what it needs.

This economic development initiative in Maryland is putting venture capital into the right businesses at the right time, and I think that you are to be commended for your work in that regard as well.

The other area that I wanted to mention is regulatory burdens. We in Washington have, for years, heard people complain about the regulatory burdens. It is one of those things that I guess everybody says everybody talks about but nobody does anything about it. Well, in 1996, the Congress passed and the President signed legislation called the Small Business Regulatory Enforcement Fairness Act. It did several things, but it provided for judicial review of agency regulatory proceedings, and it strengthened the Office of Advocacy's power to go and work with the agencies. We have been working hard to implement that and trying to educate Government officials as to the importance of the law and importance of small business, and the ease with which they can often exempt or modify their regulations to lessen the burden on small business.

I have attached to my testimony the Executive Summary where we quantify from some independent source the amount of regulatory burdens that have been reduced for small business—$5.3 billion of regulatory burden has been eliminated, from regulations that were going to be proposed or were proposed, and how they ultimately came out, and it goes across the gamut from different—all kinds of different regulations.

Now, I am not here to tell you that we have solved the problems with this legislation, but we are beginning to change the culture so that small business is taken into consideration by the people making regulations, and we are very proud of the fact that we have

been able to do this. This is the second year that we have eliminated savings.

You will remember the Universal Service phone fight that we worked together on, where the FCC was proposing to eliminate the charges that supported universal lines. They basically said that businesses only needed one telephone line in rural America. The Federal Communications Commission had proposed to let small businesses pay full prices on all their phone lines outside of the urban areas, but they could only have one line that would fit under that. The savings from the sales charge was not counted in these, and it also doesn't include regulations that weren't proposed or the regulations that have not gone to fruition. These are the ones that simply have had final action during one fiscal year.

We often, in small business, look for the perfect world, and we look for how things should be, but we don't always take time to think about how things have improved. You cited some statistics in your opening remarks. More businesses have been started in each of the last six years than at anytime in the history of the country. So the climate for small business development has never been better.

Most people don't think about or go back to look at—as I did just recently—the number of tax bills that have been passed that changed the taxing on small business. We started off with capital gains reductions. Since the White House Conference in 1995—I use as a base point, other people use different years—we have had targeted capital gains for small business reduced by 50 percent. We have had all capital gains reduced from 28 to 20 percent. We have had estate tax improvement and reduction on estate tax for family farms and for small businesses. We have had the home office deduction restored. We have had the health insurance deduction increased for small businesses, encouraging self-employed individuals to have that. We have had direct expensing increased, the amount of money that you can write off for your capital expenditures instead of having to depreciate it over a number of years. And we have had dramatic and significant pension changes.

In this tight labor market where it is hard to find good employees, it is important for small business to have good pension plans. And here is one of the most significant regulatory changes we accomplished. What we try to do is put small business people together with the people who are making the regulations, and then facilitate coming out with good regulations. It just came out the first of the year, something we have wanted to happen for a long time. Now small businesses don't have to declare in advance that they are going to make pension contributions, they can wait until November of the year, so they know they have got the money.

The reason small businesses don't have pension plans is because we don't know until near the end of the year whether we are going to have a good year or bad year. If one of our major customers gets in financial trouble, if one of our major customers leaves—there are a variety of things that can affect whether we have money, but by changing and letting small business decide in November—so we have seen a bunch of regulatory changes and climate improvements. We have a lot more to do, and I am not here to say we have

accomplished it, but I think the goal is to continue improving the environment.

If we expect to sustain the economic growth that we have had, we are going to have to continue to have new businesses being created, new businesses growing, new ideas, and moving from one idea to the next idea, and that is a function that we have had. We have improved the climate significantly, but there is a lot more we have to do to continue that. Thank you.

[Mr. Glover's statement maybe found in Appendix.]

Chairman BARTLETT. Thank you very much.

Mr. Howard.

STATEMENT OF MR. JOHN C. HOWARD, EXECUTIVE DIRECTOR, ECONOMIC DEVELOPMENT COMMISSION, WASHINGTON COUNTY

Mr. HOWARD. Thank you, Mr. Chairman. I feel compelled to speak to the characterization of "them" and "us" that you evidenced with Mr. Glover here because I think it is an important backdrop.

I, in a former life, worked 18 years for American Telephone and Telegraph Company back when it was "the" Bell system, arguably, second only to the Federal Government in terms of span and control at that point in time, but I also owned a small business as a men's store in a very rural area of North Carolina for three years thereafter, and I believe that my understanding of both of those poles brackets me appropriately for being able to bring you comments today on the plight and needs of small business.

So, Mr. Chairman, and for those other distinguished members of your Committee as well, my name is John C. Howard, I am the Executive Director of the Hagerstown, Washington County, Maryland Economic Development Commission, and our offices are right in Hagerstown. Ours is a not-for-profit agency funded through out County Commissioners' annual budget process, using county tax proceeds exclusively. I serve at the pleasure of a 12-member Commission, all of whom are volunteers.

With members appointed by the County Commissioners representing the Chamber of Commerce, our Greater Hagerstown Committee, our principal city of Hagerstown, and the eight other incorporated municipalities in our county, we are able to offer a broad perspective to our two basic challenges: First, the retention and expansion of existing business and industry and, second, the recruitment of new business and industry.

Washington County is a mid-sized cosmopolitan area in Western Maryland. Our population is slightly in excess of 125,000 people. Hagerstown, our county seat, lies in the geographic center of the county, with a population within the city limits and contiguous areas exceeding 60,000, approximately one-half of the county's total.

Although we enjoy many quality of life features, at best we remain classified as a semi-urban area, rich in America's historic past and founded from a strong agricultural work ethic. In the 20th century, our development and commerce was spurred by our locational advantages for the nation's rail companies.

As the Director of Economic Development, I currently serve a county that is blessed by most development standards. We are

served by both north-south and east-west U.S. interstate highways, and are within approximately one hour of major economic generators in the Baltimore and Washington, D.C. areas.

We have a very diverse economy, bolstered by our service sector, and with manufacturing employment over twice the average for the State of Maryland. But we are part of a region of the state that does not enjoy all the traditional urban benefits from which continued and sustained growth just naturally evolve. We have to work at it. And a very recognizable component of our growth these days rests squarely with our success in retaining and expanding the growth of our small business sector.

Procurement opportunities abound here. It is important that small business procurement activities continue to receive your nurture and visible support. Areas such as ours require the opportunity to acquire supply-line contracts to spur our local economy, rather than see the diminution of entrepreneurial aggressiveness due to mandated national account contracting. We would ask, as well, that programs be simplified further, to the extent possible, to ease the opportunities for such competition on a local basis, rather than intimidate the small business provider.

I would also ask that the Congress continue to adequately fund the Economic Development Administration of the U.S. Department of Commerce. Related programs for small business development in the U.S. Small Business Administration and U.S. Department of Agriculture will continue to also require your support and attention for communities my size to continue to thrive, even on our currently sparkling national growth economy, for it is the small business sector that ultimately benefits the most from your attention to these programs.

Whether by definition "small business" is 100 jobs or less, or 500 jobs or less, small business remains the force that turns our County's economic engine. We must never lose sight of the fact that somewhere around 70 percent of the new jobs created in areas like mine have sprung from a small businessperson's dreams, diligence, and drive. With the exception of education, no other force in America compares with the ability of small business to foster upward mobility, but not without risktaking.

As champions of American "can-do-ism", these folks are near-miracle workers. Usually undercapitalized and frequently operating on the slimmest of margins, small business men and women are constantly beset by the never-ending woes of regulatory and employee-related impediments. Taxes, health care costs, restrictive Government standards and practices, worker's compensation—all are major issues affecting many small businesses just like the big businesses are affected.

In my region of Western Maryland, we are part of the nation's sector known as Appalachia. The Appalachian Regional Commission, in 1971, designated our Tri-County Council a Local Development District serving Washington, Allegheny and Garrett Counties in Maryland. Subsequently, the U.S. Department of Commerce designated us as an Economic Development District. Since that time, the Council has been successfully utilizing state and Federal resources to carry out an annual investment strategy across the region.

More recently, the Council has been able to expand into new economic development initiatives consistent with a regional approach to economic growth and job creation. The Tri-County Council now offers a range of business services to the region, including a Manufacturing Network that utilizes computerized data to match buyers with potential local suppliers; a Procurement Technical Assistance Center that can help small businesses successfully enter the Federal procurement system; an Export Assistance Center that can assist local businesses in developing international markets for the goods and services they produce; and, finally, a Revolving Loan Fund which can provide gap financing to encourage business development and expansion. We need your support and your Committee's support and the Congress' support for the continuation of all such programs that sustain this means of growth for us.

I also feel it essential to reinforce to you the benefits we derive from our Maryland Small Business Development Center partnership. This engagement between the U.S. Small Business Administration and the University of Maryland, College Park, links private entrepreneurs, Government, higher education, and our local economic development organizations so as to provide management training and technical assistance to Maryland's fledgling entrepreneurs and small business owners. The no-cost consulting services provided by this resource make a great impact on our economies by developing and refining business plans, solving problems, locating sources of capital, and imparting innovative strategies to support growth and profitability. Your congressional support of these programs must continue.

Now turning to some facts I have secured from the Office of Advocacy, U.S. Small Business Administration, Baltimore District Office, I think it is important for us to reflect on why hearings such as these are important, and I will be reciting some of the statistics, Mr. Chairman, that you opened with your comments.

For the record, small businesses in Maryland employ 54.6 percent of the workforce; small businesses in Maryland account for 97.8 percent of all business firms; small businesses produce 55 percent of innovations, producing twice as many product innovations per employee as large firms. Clearly, these statistics indicate that small business is the avenue by which more and more are reaching out for the American Dream.

As the Congress goes forth, please consider the importance of the global economy to the small businessperson. Trade barriers must not be restrictive as companies depend more and more on the international marketplace for their success. In my county, for example, a medical products company currently exports to over 30 foreign countries and, by any definition, is a "small" business. Companies like these need your attention. And telecommunications regulations, including Internet standards, must invite, rather than constrain, their global commerce. Your continued help in these areas will be appreciated.

Finally, in our quest at the local level for stimulating new and existing businesses, it would be my request that this Subcommittee maintain its sensitivity to the passthroughs affecting our county levels of government which stem from federally-mandated programs or cutbacks. Main Street America provides the core strength

of our great nation, but the domino effect of passthrough actions stops with those of us who are employed not to "massage" the economy in place, but to stimulate it to new heights.

All too often, we who can provide a return on the investment from our work by way of new jobs, increased tax base, and a richer quality of life, become constrained by the losses from local funding which necessarily gets deferred to "maintenance" or caretaker programs. Since the pot is only so deep, these mandated passthroughs detract from our progressive activities, and must be curbed where at all possible.

In conclusion, I would ask for the Federal Government to be the positive force in its programs to focus on health care in America. Our aging population and its impact on older worker programs in the small business realm, alone, command new and creative resolutions to maintain a fit and ready workforce of all ages, today and in the future.

Thank you, Mr. Chairman, for providing me this opportunity to appear today.

[Mr. Howard's statement may be found in Appendix.]

Chairman BARTLETT. Thank you for your testimony.

We now turn to Mr. Story.

STATEMENT OF MR. RICHARD STORY, CHIEF EXECUTIVE OFFICER, ECONOMIC DEVELOPMENT AUTHORITY, HOWARD COUNTY

Mr. STORY. Mr. Chairman, I agree with Mr. Howard, but let me add a little bit. Mr. Chairman, I am Richard Story. I am Chief Executive Officer of the Howard County Economic Development Authority, which is a public-private partnership for economic development involving Howard County Government, as our single largest shareholder, and approximately 80 other private companies who invest in the economy of Howard County through participation in our Economic Development Authority.

I report to a 13-member Board of Directors. It is a volunteer group that gives incredible amounts of time in the name of economic development here.

Howard County, has a growing population approaching 250,000. Mr. Chairman, your question leading off dealt with continuing this period of prosperity in which Howard County certainly is fully participating.

Over the last three months for which reports are available—February, January and December, respectively—our unemployment rate was 1.5, 1.4 and 1.3. So, certainly we are fully employed in Howard County. That is not to say there aren't opportunities to do better in the job creation and other economic development activities.

Our average household income now is over $70,000. Because of these dynamics Howard County is not eligible for designation as an enterprise zone, we are too affluent. Yet there are opportunities which I have outlined in testimony that I supplied to you and to Committee staff.

Let me just summarize my five points. The single most important constraint we have on continuing our success in Howard

County is workforce. There are three points I would like to bring to the attention of the Committee.

We held our Business Appreciation Week in Howard County several weeks ago, back in March, where we visited nearly 100 companies, the overwhelming majority were small businesses, and the single theme that reoccurred in all of those meetings was "We need workers". We need people to fill jobs and we are currently turning contracts away because we can't staff up to meet the new business. We just need to find ways to solve that problem. It is a people problem and not so much training anymore.

Training, however, is still an issue. Federal resources should be available to complement a very aggressive state program both in MITP, Maryland Industrial Training Program, and the Partnership for Workforce Quality. Federal resources should be available to enhance those programs for both new employee training programs and retraining for existing workforces keeping up with evolving technology. We think training an important solution to our workforce challanges.

Workforce mobility issues are important, too. Howard County is in the middle of the Baltimore-Washington common market. We are situated between two major metropolitan areas, or the "bullseye of the target" which contains 7 million people. There are higher levels of unemployment in both core cities, certainly a lot higher than the 1.5 that we enjoy today.

We have made some fragmented attempts to reach primarily into the Baltimore Metropolitan Area where today more than 500 people are taking advantage of Federal HUD monies, through a pilot program called "Bridges to Work". It transports people out of urban areas in Baltimore who need the jobs, to places like Howard and Anne Arundel County where the jobs are being created. We can do much more to have a true suburban mass transit system. One that does not exist today. It would bring people who are willing to work to the companies who are turning work away because they can't staff up.

We are also toying with a notion, and would like for you to explore, a National Job Service Database. In Mr. Howard's community, for example, a worker can be in any one of four states within an hour's drive on Interstate 81. That is a truly regional workforce work pool. We need to have a database that defies county, and sometimes even state, lines to be able to identify who is available to new employers or growing companies in those geographic areas. We should look beyond territorial/jurisdictional boundaries when we evaluate economic areas and job pools.

Issue 2 relates to how the community college system can participate in this process. Today, employers are requiring fewer degreed people in favor of employees who are certified in certain disciplines. Howard Community College has done very well in providing customized training or retraining programs specifically designed for the businesses they serve.

In Maryland, the community college systems are coming together for a regional program that's called MarylandTraining.com. It should be up and running in September. To date all financial resources have been provided by the State of Maryland. We think there is probably a role for the Federal Government. The Federal

Government could participate in Maryland and in similar programs nationwide.

Issue number three, like Mr. Howard suggested, the Small Business Development Centers have been a wonderful way to counsel fledgling businesses or businesses who have issues, to help them past specific crises free of charge.

In the past the Small Business Administration's relationship was with the State of Maryland's Department of Business and Economic Development.

This system has been less effective over the recent past, here in Central Maryland, where it has been partnered with a variety of colleges or universities. There has been incontinuity in this program, where the contract has changed three times over that period. I would respectfully suggest that the SBDC program, at least in Central Maryland, be realigned with the State Government through DBED. This would restore a Government-to-Government partnership in serving us small businesses. I personally think that would be more effective.

Issue number four has to do with agricultural marketing. As you know Mr. Chairman, all of the counties in your district have farmland preservation programs, including Howard County, where we are approaching the 20,000 acre mark in preserving farmland and/or open space.

We have developed an agricultural marketing program within my agency to help farmers and owners of farm property in these districts to be more successful in farming. We think, therefore, that agriculture and agribusiness should be perceived by the Federal Government just like any other business, and all SBA and other Federal programs should be available to the farmers. Priority should be given to those who have participated in farmland preservation programs, who have sold their development rights and who are looking for ways to continue farming.

Startup farming practices are also a unique challenge for a young person wanting to get into farming today. Farming is the quintessential small business, and we think special attention should be given to new, first-time farmers.

My fifth point is streamlining the procedures. Mr. Howard and Mr. Glover both mentioned that, but the time that it takes dealing in SBA 504 and 7(a) programs to complete the documentation can be shortened, and therefore made much more user friendly to the business that we are trying to assist.

I do have two other points I would like to mention that are not in my written testimony. One is small business incubation. We are starting a small business incubator. We are moving in over the weekend, so next Monday we will have our first two tenants in a building that was formerly occupied by Allied Signal Technical Services, and now owned by the County. Ten percent of that building is available to the Economic Development Authority and an incubator will start there.

We think business incubators, especially technology incubators are perfect places to cluster companies. This allows us to serve more of them better, mentor them and provide them with venture capital. By having startup companies in one place, we are able to

serve more small businesses who have tremendous growth potential more frequently and in a more efficient way.

A final note, Mr. Chairman, has to do with minority businesses. We define minority businesses as businesses owned by minorities, women and persons with disabilities.

We have an equal business opportunity function in the Economic Development Authority. All economic development programs should give special emphasis to minority businesses, not at the competitive disadvantage of non-minority businesses, but in answer to one of your opening questions. Some of these companies have historically not fully participated in all the programs that are available to them. We should make an extra effort to help minority businesses. That is certainly the case in Howard County and probably an agenda of yours as well. That is my testimony.

[Mr. Story's statement may be found in Appendix.]

Chairman BARTLETT. Thank you.

Now Mr. Lyburn.

STATEMENT OF MR. JOHN T. LYBURN, JR., DIRECTOR, DEPARTMENT OF ECONOMIC DEVELOPMENT, CARROLL COUNTY

Mr. LYBURN. Congressman, I would like to thank you for all you have done for small business, especially in Carroll County. I would like to disagree with one thing you did say, though, when you said if you need to know anything you can call Mr. Glover. I can tell you, we call your office and you have given us all the answers. So, I thank you.

I am Jack Lyburn, the Executive Director of Economic Development for Carroll County. Carroll County is north of Baltimore County. We are 456 square miles, 297,000 acres. We have 33,000 acres that are Ag. Ag is our number one industry, over $100 million.

However, I believe that—and we talk about partnership is extremely important—I believe that small business economic development is a very local issue. And we have a lot of drivers of it—the Federal Government drives it, the State drives it. We are where the rubber hits the road, and I think the three of us on the right side of the table—we have to make the deals happen and we do.

I took the liberty of coming up with three problems, three examples, and I have given you the, I guess, solutions to them, as I guess economic developers usually do. The first one is the banking, I would like to talk to you about the Federal regulation in banking.

The problem that I see is that the Federal Government is really encouraging banks to get into the insurance and the brokerage business, and there is an et cetera, et cetera, after that.

This puts smaller banks at a competitive disadvantage as well as negatively impacts small local insurance agencies and stock brokers who may be put in position of selling out to a larger company or going out of business altogether, and we are seeing that, especially in Carroll County. In the last two years, we have had three of our local banks bought out by larger banks.

The local economy loses its ability to influence these newer, larger lenders. It takes the ability and decisionmaking away from local and it goes to national, and what we are trying to do is in a correc-

tive action would be an assessment or study of the impact of Federal rules and regulations and their effect on small businesses might be considered before these rules are put into effect. Please look at that before you do that, especially with—I want to say "gobbling up", but the larger banks are doing that—and we think that—I think that the rules and regulations are encouraging them to do that.

Banking with the SBA. It is a problem. The SBA must comply with standard operating procedures in order to issue a loan guarantee. However, the operating manual is extremely long, making it difficult for smaller community banks, the ones that are still left, to comply with. Sometimes, these banks must hire an outside attorney to review the documentation. I have spoken with several community banks—and a lot of banks refuse to do an SBA loan just because of the documentation. This makes it more difficult for them to compete with larger banks and can also add a significant expense to the borrower.

Corrective action: I think to create a simple one- or two-page "check list" and let people know what you need for a loan guarantee. This list can be reviewed quickly by the SBA and a lender would feel secure that the guarantee would be there for the term.

These are just a few of the examples that could be given on insurance and banking.

We talk about Main Street Revitalization. When I say it is a local issue, it is a local issue but it is a Federal funding and local and State issue. The State funds the local Neighborhood Business Development Program. We have eight towns, the same as Washington County has. These types of projects are extremely important to Carroll County. While this program has been very successful, our local Main Street in Westminster wouldn't be the success it is without these types of programs.

I feel Federal dollars could be used to increase the current funding level. In general, I feel more funds need to be put aside for startups and expansions especially in small business, and these are retails and small manufacturers that we have on Main Street. I would like to see more money fed into the State programs.

Programs that also have had a positive impact on small business, the main thrust of the Economic Development Office is to retain and attract major employers, and we have all said that—retention, retention. About 90 percent of our economic development has all been retention, especially in Carroll, and I know in Washington County and Howard County. Given this mission with the limited staff and budget, it is impossible to provide the level of assistance required to assist small businesses in our county.

For this reason, I strongly support the SBDC. They have been invaluable. I can tell you that we have seen over 200 people just in Carroll County in the last year to start up operations. We need support. In the past two years, we worked with at least eight Main Street businesses in financing programs. We need to do a lot more with that.

The public needs to be better informed on the type of assistance programs, I feel that is a problem. We don't educate the public. We have many times businesses are not fully aware of the array of services offered by the SBDC—and this is from the Federal, State

and also local level. While we make every effort at the local level to make the community more aware of our services, I would like to see more Federal environment in the promotion of these services. Education is the key to let the people know we have the programs. People walk in and say, "Gee, we are surprised, we didn't even know about these programs". I think education is important.

I agree with Dick when he talked about the SBDC works better when it is working out of a local community economic development office. I think it should be in a local community economic development office. When looking to start a business or expand, people typically contact a local economic development office, they don't call a college and they don't call universities. This applies at the state level as well. SBDCs often ask the state for matching funding. It may be easier for the state to provide SBDC funding to assure some level of control and input.

I feel also that this program would better be fit under the Maryland Department of Business and Economic Development. I have been in this position five years now, and I have seen three changes with very little continuity between the universities. This would provide a "one-stop-shop". When we talked about labor with the WEA program, it is a one-stop-shop. I think we need a one-stop-shop for business development.

We have been criticized, all of us sitting at this table, that we deal more with larger companies and not smaller companies. I feel if it comes under DBED where the consolidated programs are there, I think that is where it needs to be.

In conclusion, there are many Federal programs that have good intentions, but end up causing undue burdens on small businesses. Especially in Carroll County, where 95 percent of our businesses are small—and that is under 100—a lot of it can be devastating on the local community.

I hope my testimony today helps, and look forward to working with you. Thank you.

[Mr. Lyburn's statement may be found in Appendix.]

Chairman BARTLETT. Thank you very much. I want to thank all the witnesses. Several of you have defined "small business" by various numbers. Technically, I think Jere said it is 5,000 and under——

Mr. GLOVER. No, 500 and under.

Chairman BARLETT [continuing]. 500 and under——

Mr. GLOVER. For statistical purposes, yes.

Chairman BARTLETT. Okay. Many of you have defined it as 200 and under, 100 and under—okay—but 500 is pretty big business for a lot of people.

Who establishes the definition of a small business?

Mr. GLOVER. There are two different general parts. In the 1980 White House Conference, the delegates were asked what number made most sense for general purposes and economic analysis and all that. The answer was 500.

The SBA, for procurement purposes, has a number that depends on the size of the industry, the makeup, the characteristics, and they adjust that from time to time, and so SBA's numbers are fairly low in things like architecture and fairly high in things like manufacturing. They can go as high as 1500 employees for SBA

purposes, but for statistical purposes we look at a variety of different breaks, but generally anything under 500.

The important thing is to make sure the regulation or the program meets the size of businesses that need it. Some programs are great for startup businesses, some are great for companies who have been around for a while, and you need different definitions. And so we don't want to put a fixed number for exemptions for all businesses under ten, for example, because that is a huge incentive never to grow above ten. So those numbers jump all over the place, and that is not by accident.

Chairman BARTLETT. There are, in fact, some regulations that are limiting the growth of businesses. Restaurants, I think, when they get over 50, respond to different regulations. And I have talked to some restaurant people—I don't know what threshold they get over at 50, but some of them want to stay under 50 because when they cross that threshold they have additional regulatory burdens.

What is the size of a contracting company now that above which OSHA will come, below which they will not come?

Mr. GLOVER. OSHA does not have a fixed number. OSHA says they will go into anyplace that has a significant hazard. For example, if you have one employee and that employee is testing dynamite blasting caps, then that company would be covered. But they have changed their policy. In the old days, they used to focus primarily on small firms, now it is more evenly balanced they say.

Chairman BARTLETT. Was it just a general consensus that under ten employees they generally did not come?

Mr. GLOVER. That is the case. If they have a complaint, they will now send the company a letter asking that them to respond, but then they will send an inspector.

Chairman BARTLETT. So the only time they will visit really small companies is when there is a specific complaint?

Mr. GLOVER. They will tell you that occasionally they will do something different, but generally speaking that is correct.

Chairman BARTLETT. Okay. Mr. Glover, you mentioned the patent bill. I think I am probably the only member of Congress who has patents, and so I was much involved in that debate with some very good friends of mine who, with all the best intentions, I thought, were doing something that was counterproductive.

We were successful finally in getting an amendment through, as you noted. It was Marcy Kaptur from Ohio who was the author of that amendment because we needed to pull some Democrat votes as well, that I worked very closely with Dana Rohrabacher making sure that small businesses and individual inventors and universities were excepted from the requirements of this legislation.

Generally, what the legislation did was to require publishing of the invention. When you are a big company and you file for patents in every major jurisdiction in the world, that publishing point is moot because it is, by definition, "published" anyhow. But they wanted to start the clock running with publishing that would run for 20 years. For the average inventor, it starts with the issuance of the patent, and it runs for 17 years, and this was going to be a major detriment to small people. Half the clock would have run

out by the time you got your patent protection. So we were very pleased to get that through.

Mr. GLOVER. Mr. Chairman, when we were involved in that fight, it was pretty lonely the first few months of that fight. There were you, Congressman Rohrabacher and a few others. When I submitted my testimony early on in that debate—actually, comments to Congress—it was a pretty lonely fight. I was awfully glad when we got a good many reinforcements to come in near the end of the fight, but it was pretty lonely there for a while.

Chairman BARTLETT. Well, some of those fights are primarily a matter of education. A majority of people agreed with us when we had an adequate opportunity to articulate the problem, and you do that through protracted debates on the Floor, and we were able to do that, and we fortunately had a majority of people who agreed with us.

The sponsors of that bill were two of my best friends, Howard Coble from North Carolina, a very good guy, and his boss, Henry Hyde, who is about my favorite Congressman, and it was kind of unpleasant doing battle with these really good people, but I just felt that they didn't understand small business.

One of you mentioned the number of people in small business. We probably have about 30 people who were members of NFIB before they came to the Congress, that is about it in terms of small business representation in the Congress.

You mentioned the SBREFA Act. I wonder if you would, for the record, indicate the major advances that were—we have had your Office of Advocacy now for 25 years, but SBREFA gave you some additional teeth. I wonder if you could very succinctly indicate what those were.

Mr. GLOVER. The Office of Advocacy was created under President Carter. When it was first created, I had the privilege of serving then as Deputy Chief Counsel.

The Regulatory Flexibility Act requires the Government agencies to look at the impact of their regulations on small business, and evaluate—if there are alternatives or options that would put less burden on small business. But they put a provision in there that prohibited judicial review, so that basically the legislation didn't have any teeth. Although, it was a laudatory, good idea, agencies sometimes complied and sometimes didn't.

The Small Business Regulatory Enforcement Fairness Act passed in 1996 put some real teeth into it. It did several things. For one, it created a national ombudsman where if you think an agency is being unfair in its enforcement against you, you can go to it. It created judicial review for the Regulatory Flexibility Act, which I think is probably the most significant part of that.

It also did something that was fairly unique. It requires two agencies, OSHA and EPA, before they have a regulation, before they even propose it, to convene a panel consisting of myself, the Chief Counsel, senior regulatory personnel at the White House, and a senior person at the agency.

We then bring in a group of small businesses—in some cases individual—but we bring them in to look at not only the proposed regulation, but the economic analysis, the cost analysis, and the justifications for the regulation. And then we have a meeting and

we discuss the information. After the small entities tell us what they think of the data information and analyses the agencies have conducted, we then prepare a report which is given to the head of the agency. While it is not binding, it has to date been very successful in having the agency adopt the recommendations in the report. So the regulations that come out are much less burdensome on small entities and small businesses.

The agencies will often even exempt small businesses so they don't even have to go through the rule making process, which is a very good outcome in many of the cases. We get into situations—and an EPA rule affecting small refiners is very clear in my mind because it is one very much before us—it turned out that all the small refiners in the country, about 25 of them, produced only 3 percent of the pollution problems among the refineries, but were going to be put out of business if the regulation was adopted as originally proposed.

So, by having EPA recognize the impact on small refineries led EPA to a decision that allowed them to wait until the technology develops to come into compliance. We are not talking about very much pollution, we are talking about de minimis when you think of 3 percent. The change in the rule enables us to sustain competition. And the important thing is that small business is not just nice people creating jobs, they provide the competitive thrust to maintain competitive low prices. This reality was an important factor in this instance.

Let me just mention a couple of things that I think are sort of important, after listening to my friends on the panel talking. One is we started a program to recognize state and local government models of excellence, and we give awards each year to programs that do something well. We can't tell people what to do because we are not smart enough to understand how a state can do something better, or how a local government can do something better. But we can pull together a panel and judge who is doing something. We share those models of excellence with the governors and we share those with various state officials. I send them a copy because they may see some ideas they like. And they also may have some programs that they want to nominate next time for that.

Bank mergers is a major concern, and I am glad to hear you folks raise that because we are really worried about what is happening. We publish banking studies in which we look even at farm loans and what is happening to farm lending. We are going to have a conference on June 15th on bank mergers, in Washington, in which we are bringing together some of the top economists in the country, with some of the top regulators in the country. We are going to ask the questions just asked about what is happening in bank consolidations and how is that affecting small business.

We did one of those three years ago, and at that point the data and evidence was inconclusive. We don't know what the data is going to show by June 15th, but we are scheduling the conference so that we will have the latest CRA data, Community Reinvestment Act data, and the latest call report data. We will also have our studies out so that we can begin to look at this question. I think there will be a time in which the large banks decide to pull out of rural America or pull out of small business or pull back, and

when that happens we need to know about it from a public policy point of view.

Chairman BARTLETT. We have been trying to add—I have been particularly personally aggressive—in trying to add IRS to the SBREFA process. Where does support for that now stand within the Administration?

Mr. GLOVER. I think that no agency ever voluntarily chooses to have a burden—in this case, regulatory burden—placed on them, and they are opposing it, the IRS. And I think that some version of it should be worked out because I think we can benefit from it.

Let me just share with you the pension example. In three different instances, we put together what is, in effect, a panel which is informal. It consists of small business people getting together, talking with the Government officials about problems. In each of those cases, to the shock and surprise of small business people, they are getting the government agency to understand their problems. They are beginning to see major changes. So, we are facilitating that dialogue informally, but I think a more formal relationship would have to happen in areas other than just pensions.

We just had a situation that developed—that I know you were involved with—on installment sales tax policy. When small businesses using the accrual basis of accounting, decide to sell your business, most times they don't get cash money up front. They get the proceeds over time—but they would not be able to pay tax on the installation basis, even though they didn't get the money for up to ten years. That was a very significant burden and at the very least depressed the value of small businesses.

When that IRS rule came out, we got the small business community together, as we often do, with all the trades, got together and talked about the issue. We then went to Treasury. They never talked to us about that issue. Now, in the pension area, we worked very well. I went to the senior person on pensions and said, "Will you give your boss this letter that I am sending, saying why this is a concern and what should happen".

We eventually got their attention at the same time Congress scheduled hearings. We find often the combination of our involvement within the Administration and congressional hearings facilitates good decisionmaking, and we ended up being able to facilitate that kind of a situation where the Administration did not oppose legislation, but immediately put an administrative fix in if you had sales of under $1 million. But that requires this combination of things. And I think if we were able to look at some of these issues in advance, we wouldn't have those problems popping up.

Chairman BARTLETT. Our legislation to include IRS in the SBREFA process along with OSHA and EPA, and one of the Committees it had sequential referral to was Ways and Means. It would be very helpful if you could help us with Bill Archer, who genuinely wants to do the right thing, to get that pried loose from Ways and Means so that we can proceed with that legislation.

Just as an example of one of the potential—one of the real problems with IRS—not a potential problem—we had a full Small Business Committee hearing on the IRS and the accounting methods that they are requiring of small businesses.

If you are a small business of less than a million dollars, you can elect any accounting method you choose. If you are between $1 million and $5 million a year, the reality is that IRS will determine what method you will use because you may use one and they will decide you should have used the other one and you will be enormously penalized for that. We had one person, a drywall contractor, who was essentially being put out of business by an $80,000 IRS lien simply because he was using cash basis, they wanted him to use accrual basis. If you are over $5 million, they are going to require that you do accrual.

I asked the IRS person who was there—and I was a small business person. When I retired, I liquidated my corporation. And I asked him would it have made any difference how much tax I would have paid at the end of the day, whether I used cash or accrual method of accounting—after I liquidated my business.

He said, "No, you would have paid exactly the same amount of money". I said, "It is not a question then of whether they paid the tax, it is simply a question of when they paid the tax, is that true?" He said, "Yes, that is true". Then I said, "Why don't you let them alone?" The small business people, you ultimately get the same amount of tax from, whether they do accounting on a cash basis or on an accrual basis".

But this is one of the instances where having IRS involved in the SBREFA process would be very helpful to small business because then you could go to bat for them. This is perfectly silly for the Federal Government to be harassing small businesses.

I carry a copy of the Constitution, I just wanted to refer to something—this also has the Declaration of Independence in it—that I thought was very interesting. One of the reasons that they felt that they had a right to declare their independence—this is one of the complaints against the King—"He has erected a multitude of new offices and sent hither swarms of officers to harass our people and eat out their substance". And I thought, what better definition could you have of our regulatory agencies—"erected a multitude of new offices", that never existed when I was a boy, "and sent hither swarms of officers that harass our people and eat out their substance", was their definition of what the King was doing to them. And I thought, you know, our Federal Government here is pretty much doing the same thing to us.

Mr. GLOVER. One of the real advantages of SBREFA is I think most Government officials are well intended. They don't go out and set out their goal is to do something bad to small business, it is they don't realize it. And when you put them in a room with the people, they begin to understand for the first time, and we don't get the unintended, accidental impacts that are negative by having that process.

So, I think the process really is an educational process, and often the individuals have no understanding at all of what this is going to do in the real world. And this education process that SBREFA forces, I think, is a very important trigger to making those changes.

Chairman BARTLETT. They have to sit and listen, and then justify their actions. You mentioned before the hearing to me that you had been effective in reducing by $5.3 billion the regulatory bur-

den. I asked you out of what total number, and the number you gave me was about $700 billion a year as the regulatory burden.

I would just like to note for the record that this consumes about 15 percent of the working time of every American just to meet this regulatory burden. You will not be free of working to support Government until about July 1. About May 10 you will have paid all of your taxes—Federal, State and local—but you are not yet free to earn a dime for yourself because for about the next six weeks you will be working full-time to pay the cost of unfunded Federal mandates.

I have a question. You know, we are all very supportive of these Government programs. Once the Government has taken your money, then everybody would like to get it back in some helpful way, but I have often asked myself the question, if you had the option of the Government not taking your money and leaving it in the private sector, or letting them take it and then getting it back from them, which would you choose?

In other words, the question I am asking is, how much of this support for these Federal programs is simply because they have already taken your money and you would like to get it back, and how much of it is because the Federal Government really does something important?

Would you be just as well off in your local communities if the Federal Government didn't take that money and you have to go on bended knee to get it back, or is there some inherent benefit in some of the Government programs that you really would ask them to take your money so that they could do these good things for you?

Mr. GLOVER. One of the things that I have found in assisting small business is that no one program helps all small businesses, and no one program helps any small business all of the time.

But having the programs there to give a lift up at the right time is something that is worthwhile. And while I think that we may go overboard from time to time, I think that there are common goals and common needs that we have. Small businesses perhaps pay far too much of a burden, their tax burden is higher than it should be, their regulatory burden certainly is higher than it should be. On the other, we need a skilled workforce, we need to educate the workforce, and quite frankly we have situations like now where certain parts of the country—in this case, in certain parts of this State—we need more help than others, I think that it is not unfair for us to be helping some of the rural parts of the State that are having a tougher time in terms of employment, in terms of education, so I think that some balancing goes on.

I think the problem perhaps is how it is allocated and the degree and the percentage, more than just saying there shouldn't be any governmental regulation, perhaps it is the question of the wisdom how we do it.

Chairman BARTLETT. All of our community development people have emphasized the usefulness of the SBDC centers, and without mentioning them, several of you mentioned the free consultation you get. How much of that was provided by SCORE?

Mr. HOWARD. None in my case.

Chairman BARTLETT. None in your case?

Mr. HOWARD. No.

Mr. STORY. The answer in Howard County is both. We provide free offices in our Business Resource Center both to SBDC and SCORE, and they complement each other.

Mr. LYBURN. We have none in Carroll County.

Chairman BARTLETT. You have no SCORE?

Mr. LYBURN. We have no SCORE at all.

Chairman BARTLETT. Well, we need to get SCORE there.

Mr. HOWARD. We have a SCORE, but they are mutually exclusive from the SBDC in terms of referrals.

Chairman BARTLETT. Is that so?

Mr. HOWARD. Yes.

Chairman BARTLETT. Why is that not coordinated?

Mr. HOWARD. It is just established as different entities, and our agency seeks to determine best which one to refer them to, or to refer them to both, but the SCORE chapter is a subagency of the Chamber of Commerce, while the SBDC is housed in our community college. And the community college, as you well know, with our incubator and technical innovation center there, has a whole higher plateau of knowledge of how to give assistance.

I would like to comment on the question here, too, Congressman, about whether it is better to take your money or whatever. I think that there are both sides to that question, I could possibly give you an argument lasting an hour and a half on each, but one program that none of us have mentioned that comes to mind that I think merits some attention on this question is the Community Development Block Grant program.

I think that it is well intended that we should socialize and make funds available to those communities that have less as the program originally was intended for, but I believe that we should be looking carefully as to whether or not we are perpetuating a low and moderate income level to the detriment of the per capita income needs of quality communities.

Case in point is my own where our per capita income average for the 24 jurisdictions in the State of Maryland is below midpoint in the State. We still enjoy the benefits of the Community Development Block Grant program, but must comply with the percentages of low to moderate income workforce.

When you are in good employment times, as we are right now, it is not a matter of having to make sure that you can supply a job to a person because most workers out there are already in some kind of job, but being forced to go find 51 percent low to moderate income in good economic times like this does nothing more than continue to constrain the per capita income level that we have. So I think maybe as we move into new times of technology and fewer jobs in the workplace in many instances because of technological innovation, we will find it tougher to comply with CDBG guidelines.

Chairman BARTLETT. I personally believe that there are some Federal Government programs that are inherently beneficial, but I think we always need to ask the question when we are coming to defend a Federal program, are we defending it because we are just happy to get some of our money back, or are we defending it because it is inherently a good program, and we need to make that differentiation.

For those who are just happy to get our money back, then I think they never should have taken it to begin with, but we need to be careful that we are supporting Government programs because they are inherently beneficial, not simply because they have already taken our money and, let us see if we can't get some of it back.

I want to thank you all very much for your testimony. Before we close, I would just like to mention the Community Reinvestment Act and the small banks. That is a burden on small banks, from my experience, which is totally unjustified and unnecessary.

The small banks in the community that I live in would advertise for customers, and their advertisement would be "You should bank with us because we invest more of our money in the community than our competitor does". Now, when a bank is getting its customers that way, why do they have to be burdened with this Community Reinvestment Act?

Mr. GLOVER. Most small banks, community banks, are exempted from the CRA.

Chairman BARTLETT. Well, the ones that I deal with—okay, you can be a small bank and be a national bank, then you are not exempted, are you?

Mr. GLOVER. It depends on asset size, and I don't remember what the break is, $20 million or $100 million in assets. I think it is $100 million.

Chairman BARTLETT. Well, you have to be pretty small then not to be exempted from it because the banks that I deal with are burdened with it because they mentioned that as one of the specific things they have to deal with. Maybe that line needs to be drawn at a different—not really so much talking about the size of the bank as where the bank is located.

A bank in Baltimore City may need community reinvestment obligation because reinvesting in that community is an economically tough thing to do. In Frederick, Maryland, reinvesting in our community is a desirable thing for the bank to do. They vie with each other to see who can reinvest a bigger percent of their money in the community because that is how they attract customers.

Mr. GLOVER. This is one thing that I think the Community Reinvestment Act data will show. It is going to be very important for us to look to see how much big bank holding companies, which bought up a bunch of local banks, are they pulling out of that local bank and how much are they putting back in loans. If they pull out too much, the data are one of the only things that we have got that monitors that.

So, the local bank information is very important for this. You don't need it to show that they lend at home that is the only market they have. But, the big banks can decide it is not economical. So, we are watching that. We have spent a good bit of time studying banking and looking at banking.

Chairman BARTLETT. You mentioned to me the reaction of large businesses and small businesses to regulations, that large businesses just consider it a part of the cost of doing business and they build it into their cost. Another incentive they have is that frequently the biggest competitor for large business is small business, and since small businesses are disproportionately affected by regulations, the large businesses actually encourage regulations, or not

discourage them, because it helps to tilt the playing field in their favor.

That is particularly true for banks. I have just had a number of small bankers come to me, showing me large stacks of regulations. They have to hire full-time people that do nothing but read these regulations and respond to them. If you have a big bank—if you have 100 people and you have to hire three to keep up with the regulations, that is not bad.

If you have four people and three of them have to keep up with the regulations, obviously that won't work, so that is where our small banks are, and I think there needs to be some way to relieve them of many of these regulatory obligations or they are simply going to cease to exist.

Mr. GLOVER. You are absolutely right. We don't see enough new banks being started to replace those that are leaving, and we don't have the community involvement when the bankers and the bank decisions are being made in North Carolina or California or New York and not in the local community, and sometimes not even the local state. And that is a real problem, it is a real concern. It is something we have got to watch for, but at the same time we need to change the regulatory burdens to encourage more new banks to be created, and you are right, the small banks are disproportionately affected by the burdens.

Chairman BARTLETT. I want to thank you all very much for your testimony. As Mr. Glover mentioned, we are continually trying to improve the legislation, and so if you have suggestions, specific suggestions, for improving the legislation, please let us know because each year we have a new or can have a new authorization bill which will include changes that would be beneficial to the small business community. It is not that the Congress is insensitive, we just generally are somewhat ignorant, and so we need your help.

Thank you all very much for your testimony.

Chairman BARTLETT. I thank the members of our second panel. This is where the rubber hits the road. These are the small business people. Our first witness is Randall Nixon of Nixon's Farm. I have had the privilege of visiting his farm, and thank you very much for being a witness.

Our second witness is not Robert Schulze, it is John Schulze, and we visited your organizations, and thank you very much for being a witness.

And Ken Williams, CEO Director, Howard County Chamber of Commerce. Thank you very much, and we will start with Mr. Nixon. By the way, your full written testimony, without objection, is made a part of the record, so you can feel free to summarize, and in our discussion and questions and answers which follows you will have ample opportunity to expand on issues that are of importance.

STATEMENT OF MR. RANDALL NIXON, NIXON'S FARM

Mr. NIXON. Thank you, Congressman. I first want to thank you and the members of the Committee for giving us an opportunity to testify and getting outside of the bubble which is known as Washington, D.C. and actually coming to Main Street.

I was very pleased to see Major Clark, my former immediate boss, who is the Assistant Chief Counsel for Advocacy for the Small Business Administration, and Major and I actually worked on the Small Business Committee together several decades ago. In another life, I was a Legislative Assistant to a Congressman and actually served on the Committee that you now sit on. And I learned several things when I worked in Washington.

One was that everyone thinks that every other Congressman is a bum except their Congressman, and the other thing is that most people really don't know very much about what Congress does, and I am very pleased to say that I have observed you in action, and I do follow Congress very closely. I am one of the few people I know that actually subscribes to the Congressional Record and actually reads it. I think it is the greatest unedited newspaper in America. And I know what kind of work you do, and I am very, very pleased that you represent us in Howard County and in the Western part of the State.

For the record, my name is Randall Nixon. I own Nixon's Farm which is located in West Friendship. As a business, we are both a farm and an entrepreneurial business. We are in the agri-tourism business. We provide services ranging from large corporate picnics and parties to wedding receptions, bar mitzvahs, conferences, retreats, we do a great many church events, and we essentially keep the land "pretty" so that people can come and eat our food. And by the way, I am going to summarize most of my testimony. I am going to read part of it because I want to emphasize some of it and articulate from some of it.

We, as one of the State's oldest minority businesses, are interested in expanding our business. We think we have some very unique opportunities that are available to us both by virtue of geography and of extremely hard work and perseverance, and just plain, sheer pigheadedness. We just are not going anywhere else. And I have summarized some of our history and our business. We are in the midst of a million-dollar expansion.

Congressman, you haven't been to the Farm since last August, so you have got to come back and look at our new ballroom. We just redesigned and expanded our 137-year-old barn, it is now a gorgeous, what I call, a 19th century country ballroom. I literally take brides in there and they look at it and they say, "Oh, my God, how much is the deposit". So, we have done very, very well with it so far.

We are in the midst of completing a large commercial commissary from which we hope to expand dramatically and become the dominant caterer in Western Howard County and beyond. So we have some very substantial plans for expansion.

We currently have 15 full-time employees, and about 30 part-time employees, and our aspiration is to grow quite dramatically. We think we can actually grow to be one of those larger small businesses with 400–500 employees over the next ten years. We think the opportunities are that great.

I have to say that Isaac Newton, when he was elected to the Royal College of Sciences, said, "If I see farther than other people, it is because I have stood on the shoulders of giants". And it is because of the dedication and passion that my parents have had in

literally keeping the farm when land really wasn't worth very much in the 1950s. My parents purchased the farm in 1956 for about $150 an acre, and I have since had it reassessed and it has appreciated about 15,000 percent, so I would say it was a very good return on investment.

I want to highlight some of the things that we have experienced with respect to the Federal Government and how we think the Federal Government both helps and has hurt us, and what things we think need to change in that process.

I first want to talk about the SBA Guaranteed Loan process and our experience in it, and I am pleased to say that for the most part it has been a pleasant experience. As I said, we are one of Maryland's oldest and most successful minority businesses. When I say successful, I mean we survived. The vast majority of minority businesses do not survive, and that is a great tragedy. It is an unspoken tragedy in America. So we have gone through the process of trying to expand.

And we always thought—because up until relatively recently we have been a debt-free business. We have run on cashflow, like a lot of small businesses do. And we thought that when it came time to borrow money, that it would be a relatively simple process because we are sitting on over $4 million worth of real estate, we have impeccable credit, we have positive cashflow.

We said, well, when we are ready to expand, we will simply go expand. And we found that banks were quite reluctant to talk to us, and we were astonished. And we said, well, wait a minute, we are the Nixons, don't you know who we are? We have done all kinds of charitable activities in the community. We support the community. We are fixtures in the community, we are an icon. And their response was, "Well, we think you are not collateral short, but cash short". And we said, look at these rosy projections. Look at all these wonderful things we are doing. Look at what we have done in the past. And the banks were quite reluctant to make that leap.

And so the SBA has been very instrumental in, number one, providing the loan guarantees and, number two, helping to clear the path. Bankers and entrepreneurs speak a different language, as I have often said, it is sort of a private language issue, and entrepreneurs see things that can happen, as you know, and make them happen one way or the other, and bankers tend to be very risk averse people, which is not to denigrate them. Government lawyers tend to be risk averse people, and I was one of those once, but I got over it. I improved.

But the SBA really did help us in giving us the credibility that we needed to overcome the reluctance of the banks, and we have been able to—we told the banks what we would do, precisely how we would do it, we had a superb business plan—and, parenthetically, there are basically two kinds of business plans. There is the business plan that you write to give to the bank, and you say, boy, done with that, and you are finished with it.

And there is what I call the "battle plan", and the battle plan is my real passion in the business, and that is the plan that you actually work from, and I use a very crass and mundane example and it is one I use all the time, and I say, how do we clean the bath-

rooms here? How do we do that? What is the system? What is the methodology? How do we do it? How was it done? How was it checked? And Mr. Schulze might—and his passion for cleanliness in his establishments is well known.

So that is the kind of detail that we work on. It is very important to us. It is as much a moral issue as it is a cleanliness issue. So, the SBA has helped us in that process, and I want to publicly thank Allen Stevenson, who is the District Director of the SBA in Baltimore, and his assistants, Frank Henson and Rick Miller, who are just outstanding public servants, people who have a passion for small business and really want small business succeed.

I do have several criticisms of the process, of the SBA Guaranteed Loan process. It is very expensive, and it is expensive because of the regulatory requirements that it entails. You have to spend a great deal of time and money in the process, and in order to do that—very few minority businesses can do that because it is just very pricey. You have to have a lot of cash to be able to go out and borrow cash.

And because we have always been a profitable business, we were able to do that, but it takes a lot of time. You have to hire accountants and attorneys and you have to go through the process. And I am sure that there is a better way that it can be done, something which would be less costly and less timely. We have literally been in this process—it took us about a year to go through the entire process, and a lot of businesses, a lot of business people, don't believe that we can actually—they are amazed that it has taken us, with our reputation and our collateral, that it has taken us as long as it has to actually obtain the cash that we needed to expand. So, I do think that there is room for improvement there.

You did mention the Community Reinvestment Act. I do think that with respect to the banks that we spoke to, that the Community Reinvestment Act is both a burden and a benefit to banks, depending on whom you speak to, and I do think—and we did speak to several small rural banks, and they have a very different view of CRA than large urban banks—and there has to be some way to rationalize the process so that—and let me say parenthetically that the small rural banks have been far more cooperative in talking to us than the large urban banks, I think, partly because they understand land as collateral, and a lot of large urban banks do not.

They are not looking for that. And I think small rural banks are much more hungry for customers who can actually produce the goods. And so I think they have a very different view of things.

And I have anecdotally, from Major Clark and from other people who are involved in small business, heard some real horror stories about small rural banks that are put in the position where they have to make loans that they really don't know very much about because of CRA. So I think that is something that needs to be looked at in a rational way as opposed to a regulatory way.

I do want to talk about the Federal 8(a) application process which we are currently involved in. As a former staffer on this Committee, I have heard and seen very many horror stories regarding the 8(a) loan process, the time that it takes. Again, you have to be a very successful business to apply for the 8(a) process because it is extremely expensive.

It is very costly. To date, we have spent over $10,000 in administrative and professional costs, just to be eligible to apply for the 8(a) process. And I recognize and I have always applauded the goals of the 8(a) program because it is very important that we grow, all business in all sectors of the country, and minority business in particular has been left behind in these prosperous times. And I recognize the need to police the process.

The phenomenon we experience in minority business of businesses that masquerade as minority businesses and in fact aren't is a terrible blight on the process, and I think it is a wonderful concept that we try to ferret out those people that are trying to defraud the taxpayer.

By the same token, it is a very expensive and elaborate and sometimes mindless process as you go through the regulatory issues which we are currently going through. We are in the throes of this right now. We expect to be finished in the next several weeks, and we are looking forward to competing, and we are looking forward to having the opportunity to receive procurement opportunities.

And let me say again parenthetically, Congressman, that the 8(a) program and the prospects of our getting to the program were a significant carrot in attracting lenders to us, enabling us to do what we are currently doing now.

And I am going to read this last paragraph of my testimony, and it is called The Final Plea for Small Business As A Vehicle For Social Change. And I feel privileged to sit beside John Schulze today, who has done a great deal for young people in this County and throughout the State and in his own very quiet way—he doesn't know I know this—in his own very quiet way has been a tremendous advocate for social change and for opportunities for young people and young people of color in the State of Maryland.

And I say that the story of Nixon's Farm is an aspiring one. We have always aspired to be the small business that could and did. Profitability and quality for our family are major motivations for us, but our social mission is also very important. As a third generation entrepreneur, I have always held that Thomas Jefferson's observation, God save us from governments that would save us from ourselves. Government cannot be called upon to save every social ill, nor can it be all things to all people. Government is at its best, it seems to me, when it facilitates the process of people trying to live their lives better. Government is at its worst when it tries to live their lives for them.

Our mission, the Nixon's Farm mission, is to touch people in extraordinary ways, and it has applications that far transcend government. I am always deeply suspicious of young people when they get into government, particularly on the regulatory side—but I have seen it when I was a young staffer in Congress as well—people love government so much that they want to do it all the time, and I think that my journey is instructive.

I went to Capitol Hill, I learned all about Washington and, like Cincinnatus, I left and I came home to run my family business, and I think that is a good migration to take place. We need to understand government and the apparatus of government, how it works, and then we need to go home and earn a living.

I know of no better way of helping someone improve his life than by giving him a job and pointing him toward a morally sound environment. We do this at Nixon's Farm all the time. Every small business does it. It is slow, it is incremental, and it is messy, but it is the most effective method I know of.

Winston Churchill once said, "Some think that industry should be exploited, others think it should be punished, but they do not see it for what it is, the sturdy horse that pulls the plow". When we think about small business and we think about how we can affect social change, and when you think about the mission of government versus the mission of small business, we really don't see the remarkable little stories—and I have dozens of them to tell you, and I would probably tell you ad nauseam if I didn't constrain myself—about young people who have come to me or come to John Schulze and have said, "I need a job", and in the process of taking this young person, you literally teach them how to work. You teach them how to conduct themselves. You help them get through high school or college.

It is a wonderful, fulfilling transcendent process, and it is as much a part of our vision about what we do as a minority business, as a small business, as making a profit. And as you know, our political views are similar, Congressman, and I have long said that the difference between Conservatives and Liberals is that Liberals want to constrain people because they are afraid people are going to fly off and do terrible things. The Conservatives believe that people should be set free. And as a general rule of thumb, I do think that we need to liberate small business in America, constrain government, and let small business do what it does best.

Thank you, Congressman.

[Mr. Nixon's statement may be found in Appendix.]

Chairman BARTLETT. Thank you very much for your testimony. Mr. Schulze.

STATEMENT OF MR. JOHN SCHULZE, VICE PRESIDENT, PIZZA HUT OF MARYLAND

Mr. SCHULZE. Thank you. I won't be nearly as long, I'm not nearly as eloquent. I have to read a lot of what I am going to say here.

Pizza Hut of Maryland was started back in 1969 by my dad, and we took over an area that had no stores in it, no development, and we have several counties, Howard and Carroll in your district, and then Baltimore all the way to Delaware. We presently have 49 stores. We have 1,400 employees and, coincidentally, before I came over here, I left a meeting we were having in our office with all of our management people. I was put on the agenda first so I could get over here to speak.

And one of the things I said to them, which may sound a little corny—but I think it is true of anybody who has a business—I feel a very keen responsibility to all 1,400 that tomorrow morning I can open the doors to my business and they have a place to work. Is it self-serving? Yes, sure it is. But it is what I think drives most people that are in business.

I sat here listening to the last segment of the previous testimony, and I was struck by two comments that were made. One was the unintended consequences of regulatory burdens—and I don't re-

member, which gentleman actually said it. People of good mind try to do something and they mess it up because they don't know enough about your business to really do it right. And that is taking it out of context a little bit, what I heard, but it is exactly what they said.

And the other thing that I thought was kind of humorous was the IRS is being asked to take on a regulatory burden and they are fighting it. I almost started laughing, and I realized I shouldn't be laughing back there while somebody was testifying.

In small business, regulatory burdens just come at us. We accept it. Small business accepts it as a part of doing business. We accept it because we don't have the time nor the energy nor the money to fight it, and we know that.

And based on that statement—I will probably read a lot of this because I don't want to miss—I have gone over it several times, but I don't want to just ad lib it and miss something.

When I received the request to testify, I was concerned and expressed that concern to Phil Straw of your office, that possibly there was not a great deal for me to add to the agenda, as there was no pending, current legislation that we were, per se, looking at. I did advise Mr. Straw that I was one of those people who believe very strongly that any time Government, be it Federal or State, involves themselves in my business to any extent, it is never good. They don't know it like we know it, they just can't possibly do it.

There is a need for Government and I don't want anything that is said during this testimony to be misconstrued on that subject. When it comes to the general welfare of its citizens, the Government does have a role, and that role, I believe, is very clearly stated in the Constitution. However, as each Congress is elected, there is a desire of legislators to continually add to the regulatory bureaucratic burden that is carried by small businesses.

In reviewing our files on various legislation that we have commented on, I think an excellent example of the point I am trying to make is the action that was issued by President Clinton to the Department of Labor to enact regulations allowing states to pay persons up to 12 weeks for parental leave.

In a letter to the entire Maryland delegation dated December 2, 1999, I asked each member if, indeed, this issue does get to them, to vote against it. It does, however, point up exactly what happens to small business when some good-intentioned ideas are made into law and government does this believing they have to be the sole arbiter of what is in the employees' and businesses' best interests.

The Parental Leave Act may have been a good idea to protect an employee from not having the ability to care for a loved one during a time of crisis. Possibly during the Industrial Revolution this type of legislation may have been needed but in all the years I have been involved with Pizza Hut of Maryland, employees are not only assets to our company but, as time goes by, they almost become part of our family. I know of no employer who doesn't believe this and who hasn't tried to do everything they can for their employees.

Let me stop right there and say something else. Congress is now passing, or just currently passed, I believe, an increase of the minimum wage. We are paying $8.00 an hour. You guys have to hurry

to catch up. And I think that ought to explain exactly what we are talking about. We don't need Congress to tell us what we have to pay to get people because we know. We know how bad it is right now to hire people, how difficult it is to find employees.

I have served on several committees in Howard County, and everyone who has been in those rooms have heard me say this—we are going to choke on our own prosperity. We continually build and build and build service-related industry at the same time refusing to build the infrastructure of blue collar, industrial, the type that gives you the employees necessary.

Well, at the same time, in Howard County up until a few years ago, the only lots you could build on were 3-acre lots. People couldn't afford to live where they worked, which is here in Howard County, because they couldn't find a place to live.

Therefore, we can argue the merits of the Family Leave Act, but that is not the point of my testimony. The point is that as soon as the Family Leave Act was passed, then we have in this case a President, or it could have been a Senator or Congressman, who sees a way to try and buy more votes by giving 12 weeks of paid leave. This cannot happen under the law through the Federal Government, so we have a back door approach through the States.

Whether or not this passes the Congress again is not the point of my testimony. The fact is, the effort to do it is the point—who is going to pay for it? Certainly not the insurance companies. Who is going to pay for the replacement of the employee for 12 weeks? Not the insurance companies and not the Federal or State Government.

And who is going to handle the separation of the new employee when the original employee comes back? It is just one question after another because of one original piece of legislation, and how long will it take the same legislators to mandate that the same businesses compensate the employees that are leaving? Left alone, businesses will do this on their own. It is a precious commodity to any employer you can talk to.

Consider this, over time, when any regulation or law is passed, it significantly ties our hands as responsible people to fairly treat and adequately compensate our employees.

My dad—and I hate to sound like Brett Maverick, but some of us in this room probably remember who Brett Maverick is and some of you probably don't—my dad used to say certain things that I have grown up with, and as I have gotten older I found out he was right. He said, when you define, you limit, and when you limit, you constrain, and that is what is happening, and it happens to us every day.

I would ask in the deliberations of this Subcommittee that you use the premise that the law of supply and demand works. It works at every level. It works for every instance and, if left alone, small business will do the right thing many more times than not which—here again not trying to be judgmental—I doubt the Department of Labor or any other department of the Federal Government can say. These are our interests. I thank you for your time.

[Mr. Schulze's statement may be found in Appendix.]

Chairman BARTLETT. Thank you very much for your testimony.

Mr. Williams.

STATEMENT OF MR. KEN WILLIAMS, CEO DIRECTOR, HOWARD COUNTY CHAMBER OF COMMERCE

Mr. WILLIAMS. Mr. Chairman, thank you very much for having me here this morning, and I feel quite honored and privileged to work with gentlemen like Mr. Nixon and Mr. Schulze with small business.

As President and CEO of the Howard County Chamber of Commerce, we have a membership of 850 businesses in Howard County, 85 percent of our membership is 50 employees or less. So, when I talk about small business, I am really talking about the small businesses that make up business in not only Howard County, but my experience as a Chamber professional over the last seven years where I have served as a Chamber executive in both Martha's Vineyard and Geneva, New York in Central New York.

I am pleased to present testimony on the subject of the success of Federal and community-based small business assistance programs and their impact on various segments of the small business community.

As I said, as a Chamber professional, I have seven years of experience in serving what I feel is the backbone of our economy, community-based small business. It is from that perspective that I have outlined my comments in the following categories: What small businesses want, what they need to succeed, and the Federal assistance picture and how best to create successful public-private partnerships.

What businesses want: A successful public-private partnership designed to meet small business startup and growth needs must start here. When I talk about public-private partnership, I am not talking about big Government programs that help small business, but where small businesses need assistance, and that is with counseling such as the Small Business Development Centers and SCORE programs run through SBA, Economic Development Authorities and Chambers of Commerce.

Businesses need easy access to information, a streamlined business registration system, low interest loans and financial assistance—and what Mr. Nixon was talking about—take away some of the burden of the paperwork and the financial requirements it takes to go out and get the funding that you need to start a business. There are many people out there with terrific ideas on businesses that will enhance and grow a community, but are burdened by too much paperwork. It is not easy to find information and not too easy to apply and get to.

Many small businesses also need access to micro-loans for startup costs, particularly related to technology. They might just need a computer, some computer training, computer hardware, and web development—a startup cost in the range of $5,000–$10,000 for some of these small home-based businesses that are beginning that banks won't traditionally make loans for. They will say, "Go ahead and put it on your credit card", at 19.9 percent, and that is not helpful or assisting with small business needs.

Small businesses want a map for taking their idea to the marketplace, to be a success, their vision needs to be successful and guidance to that vision. And I think one thing that both Mr. Nixon and Mr. Schulze were discussing, to be left unfettered in their efforts

to start and grow their business. That means keep Government away from adding new programs and new things that slows their growth and development.

Paying $8.00 an hour. It takes Government longer to catch up where small business is and knowing the marketplace of supply and demand than will be of assistance to helping business grow.

What business needs. Simply understanding what small business owners want and delivering it will not help them achieve success. Often there are a number of unidentified needs to be met on the path to achieving a vision of success. They include the ability to test their assumptions, coaching and expertise from a mentor, access to best practice information about small business and their business interests, technical assistance, and a trained and educated workforce.

Many of those topics I just covered really come into play through Small Business Development Centers and SCORE programs where just some coaching and basic information to test their assumptions on what it takes to get a business up and going can be extremely helpful.

Programs designed to assist small business development. I think one of the critical areas—and both Mr. Story and Mr. Nixon discussed it—was continuing assistance for women and minority owned businesses. In communities that I have worked in, those have been some of the main areas where small retail shops and other businesses have been opening, and they need to have guidance. They need to have information provided to them, and we need to continue to enhance those programs because it does do a social good for a community and enhances the growth of a community.

I think one of the key things about Government programs, and particularly SBDC—and I keep going back to this because I have worked with it in three different areas of the country and they have been successful in the three areas of the country that I have been in—and that is the value at the local level, having a point of contact that can help them navigate through local, State and Federal landscape, but here locally is of great assistance, helping them not only design a business plan, but design a business plan that will help them get the money they need to start up a business, to grow their business, or take their business to the next level—and to reiterate, the delivery of service at the local level, to me, is of the utmost importance.

One of your questions was talking about the current economic prosperity that we have. I am certainly not an expert in that area, why we have the prosperity that we do. There are a number of factors and a number of statistics out there pointing to it, but I think the discussion cannot go along without the discussion of technology and the importance of technology and ebusiness.

Now, I will go off-track just a little bit and make a statement that we hope that we have continued support of Congress for a moratorium on new taxes, particularly on Internet taxes. I think one of the reasons why we have been growing is that business has been successful and technology has been successful, that the marketplace is really taking hold and really guiding the prosperity that we have.

Mr. Chairman, thank you for having me this morning, and thank you for listening to me ramble a little bit.

Chairman BARTLETT. Thank you. Thank you all very much for your testimony.

Mr. Nixon, you quoted Thomas Jefferson. He is perhaps my favorite President, and the quote that I like best of his is, "The Government which governs best is the Government which governs least", and all of you have expressed that in one way or another, but he expressed it very succinctly at the very beginning of our country.

You also mentioned helping young people, and your industry, the restaurant industry, the food industry in general, does a very, very good job of doing that. I know personally the managers of several different kinds of fast food establishments that have a real commitment to young people, incenting them to go to school, sometimes even providing scholarships when they go to school.

Not everybody will be flipping hamburgers all their life, or making pizzas, but what you learn there as a young person is invaluable later on. You learn to show up for work when you are supposed to be at work. You learn to do what you are told. You learn to work with your colleagues. You learn to interface with customers frequently. These are skills that will serve you well no matter where you go.

Mr. Schulze, you mentioned the reasons for regulation. I remember eight years ago when I first started running for this office, that I mentioned the two premises that I thought were the basis of most regulations. One premise is that you, as an employer, are inherently evil and greedy and you are going to take advantage of your employees, or if you are dealing with the public you are going to take advantage of your customers unless "Big Brother" prevents you from doing that.

The other premise, the other basis for regulations, is that every citizen, every consumer, is incredibly stupid, and they are going to do something to hurt themselves unless Big Brother has lots of regulations to prevent them from hurting themselves.

I personally reject both of those hypotheses. I think they are both false. And I think that your assertions, all three of you, that small business people really do care about their employees—I was a small business person—more than any other person in all the world, I was affected when one of my employees got hurt. They were my friends as well as my employees. I lost them as a part of the team. They could not be replaced.

I did homebuilding, and you really have a team when you are building homes. They learn to work together. And I lost them as a member of the team, and I couldn't replace them. I couldn't go to the local "job shop" and get somebody to come in and replace them as a member of that team. They would work all day and hardly speak to each other about the job because they didn't need to, because they had worked together, they knew what the next step was and what they needed to be doing.

Family leave, you mentioned. I remember I protested that, Mr. Schulze, when we first debated it in the Congress. I pointed out to them then that what we really were saying was that we had the ability in the Congress to mandate prosperity. Of course you are

prosperous enough to give your employees family leave. And I pointed out to them that if we really have that kind of power, then I would like that we mandate some other things, like happiness. If we can mandate prosperity, you can just as well mandate happiness. And from a personal perspective, I would be very interested in mandating longevity. And I think that both of these are just as doable as mandating prosperity.

Just a few weeks ago when the minimum wage came up—and you mentioned that, Mr. Schulze—I went to the Floor, and Bill Goodling from Pennsylvania, Chairman of the Education and Work Force Committee, was managing the bill, and I asked him if he had any time. And he said, "You can have all the time you want".

Ordinarily, you can't get time because the Committee members—and I am not on that Committee—consume all the time, but he said they were afraid to come down and talk about minimum wage. Well, I wasn't afraid to talk about minimum wage, and so I took five minutes of time. And what I did was to point out that what we were really trying to do in that bill was to mandate prosperity, that that was manifestly impossible to do because if we really wanted to help these entry level workers who were heads of family—and very few of them are, over 85 percent of all the people making minimum wage are either seniors who just want something to do or they are kids, young people, who just need some more spending money—for those who are heads of family, I want to give them back all their payroll taxes.

I am delighted they are working rather than on welfare. I want to give them health care insurance also, and if they need additional help I want to give them that because you should live just as well when you are working as you do when you are on welfare, and the average family of four on welfare lives as well as if they made $22,600 a year. You are not going to make entry level $11.00 an hour gross, over $7.00 an hour net, which is the equivalent. You have to earn to live as well as you live on welfare, and I figure that when you are working, you ought to live at least as well as you do on welfare. So I have no problem helping these people who want to get off welfare and want to work.

I, of course, voted against minimum wages, it is not an issue in our district. They are hanging out signs at Sheets, $7.50 an hour. Mr. Schulze, you say you are offering $8.00 an hour to try to get employees for your business. But I will tell you where it really is important, is in those few places in our country where what you are doing is cutting off the bottom rung of the economic ladder.

You cannot mandate—what I pointed out in my testimony was, there when I was debating this—that if we really do have the power to mandate prosperity, why are we so stingy? Why only another dollar an hour? Why don't we make minimum wage $10 an hour, or even $20 an hour, if we have the power to mandate? Why would we want to be so stingy.

The response was, "Oh, we would kill jobs if you do that". You are right. You also kill some jobs when you make it $6.15 an hour rather than $5.15—not in our district, but in those places where these young people desperately need that bottom rung of the economic ladder.

You cannot, in Congress, determine what a job is worth, the marketplace does that. All we can do in Congress is to help those where the marketplace has set a remuneration which is not equivalent to what it takes to live, then we have an obligation to help them. They will not always be there. They stay very short time at minimum wage. They get seniority, they get experience, they move up, and soon they won't need our help. We have been having far too many handouts, we need to give some hand-ups, and that is what we tried to do in our Welfare Reform. It was enormously successful.

Mr. Schulze, you also mentioned service industry versus manufacturing. We have, I think, far too big a focus on service industries rather than manufacturing. Our balance of trade deficit now is about $300 billion. There is no way of looking at that, I think, but that that is $300 billion of wealth every year leaving our country. We are a very wealthy country. How long can we continue to do that and still be a wealthy country?

One of my staff members who is here with me today, John Darnell, pointed out to me several years ago that if you push to the ultimate this service-based industry, you come to the point that all we do is cut each other's hair. Obviously, we can't have a viable economy if all we do is cut each other's hair.

Manufacturing produces wealth. Farming produces wealth. I am a wealth consumer now. I used to be a wealth producer, but now I am a wealth consumer. All of the other industries simply consume wealth or are a part of the structure necessary for producing wealth, but they don't produce wealth. You produce wealth only by manufacturing and only by farming where the cost, the value, of what goes into the process is less than the value of what comes out of the process, and most of our industries, as a matter of fact, don't produce wealth, and what we are doing is systematically moving the wealth producing industries overseas, and we need to reverse that process.

Mr. Williams, you mentioned the Internet tax and your hope that we wouldn't have one. You won't with my vote. That doesn't mean we won't have one because Congress loves to spend money, and if you are going to spend it you have got to get it somewhere, and we now have a commitment not to go into debt again, not to have a deficit, so there are going to be increasing pressures to tax the Internet because ecommerce is growing very, very, very rapidly.

In closing, let me ask you if you have suggestions for changes in legislation that would be helpful to small business, please let us know. I am very pleased that Mr. Nixon worked as a staffer on the Small Business Committee a number of years ago. You don't look old enough to have done that really in another life.

Mr. NIXON. I have heard that before, Congressman. I tell people I am like Dorian Gray, I have got a picture in my closet that looks like him.

Chairman BARTLETT. When were you on the Hill?

Mr. NIXON. From 1978 to 1982.

Chairman BARTLETT. Okay. That was a couple of decades ago.

Mr. NIXON. It was a while ago.

Chairman BARTLETT. Okay.

Mr. NIXON. Congressman, if I may, the idea—this idea has been bandied about for about 40 years now, and it shows no more chance of passing than it did four years ago, but I have long supported the concept of a wage differential, a youth wage differential, a senior wage differential. When you look at the commitment that we here, John and I, go through to hire a young person, to train that person, to literally in some instances—I mean, you literally have to train this young person how to talk, and let me give you an anecdote, and I will try and be brief.

A few years ago, one of my employees came to me and said, "I really don't know what to do with my son. He is growing up, and we live in a very rough section of Baltimore, and I just can't leave it at home anymore because he is starting to associate with the older boys and he is starting to get in with a rough crowd. Would you mind if he came out here to work with me at the Farm?" And she was one of my best employees, and I said, "Sure, you can".

Well, we are talking about a young man who literally had never learned how to talk. He had never learned how to dress appropriately for work. And I literally had to stand behind him for three months, throughout the summer months, and mimic the things that I wanted him to say. I would stand behind him and I would say, "Hello, how are you?" And he would say, "Hello, how are you?" And I would say, "Would you like some fries with that?" "Would you like some fries with that?"

And it literally took this young man about 18 months to get up to speed, and I want to tell you, he was not worth what I was paying him. And if we had a youth differential and if we had some sort of program in place where I would not have to come out of my pocket to train this young man, I would have taken on five or six young men that summer instead of the one project that I had to take on, and five or six young men would have been helped, five or six young people would have been able to get out of their rough neighborhood and come to my beautiful Farm and work for me. And I am very pleased to say that that young man now is very interested in going to the culinary college in Baltimore, and perhaps one day he will be able to come back to me and I can hire him as a chef for $40,000.

So that is the kind of thing that Congress needs to take a real world look at. One of the things that we—because we tend to put labels on and we tend to get focused on whether we are black or white, or Republican or Democrats or Liberals or Conservatives—and many of your colleagues tend to think so much in terms of labels that they really don't think in terms of helping people, and this is one area we can help vast numbers of people while we help the productivity of our businesses.

Chairman BARTLETT. Of course, from a personal perspective, what I would like to do is abolish the minimum wage and recognize the reality that the marketplace determines the wage, not some bureaucrat sitting in Washington, or some Congressman or some Senator. Then I think that society—and a part of that society is Government—has an obligation that once the marketplace has determined the value of a job, that nobody will be hungry, that nobody will be cold, that nobody will be on the street in this great country, but I do not think that it is a rational function of Government for

us to pretend that we can mandate prosperity and determine what the minimum wage ought to be.

And you have made a very effective argument that establishing minimum wage is hurting two groups of people, one are seniors who want to come back—emotionally, psychologically, they need to be involved in the workforce, they want to come back—and young people that are not worth the minimum wage, but they need training, and you would be happy to work with several of those where now you are limited to working with one, if you didn't have this constraint imposed on you.

I just think that everybody would be better off if we saw Government's role as supporting the private sector rather than mandating what the private sector does. And you can't mandate prosperity, that is manifestly impossible. As long as we are lagging what is actually happening—and we are doing that certainly in your district, Mr. Schulze, where you have your stores, and if you are paying $8.00 an hour, $6.15 is not going to be relevant at all—but there are some places where that is relevant, and in those few places it will really raise the minimum wage, you are simply hurting the people that you are pretending that you want to help.

I tell audiences that I know that Liberals love poor people because they keep making more of them.

Well, thank you all very much for your testimony. Again, if you have suggestions for changes that we can make in legislation that are going to be beneficial to the small business community, please let us know. Thank you for your testimony, and our Subcommittee hearing is in adjournment.

[Whereupon, at 12:20 p.m., the Subcommittee was adjourned.]

Testimony

Of

Jere W. Glover

Chief Counsel for Advocacy

U.S. Small Business Administration

Before the

Subcommittee on Government Programs and Oversight

Committee on Small Business

Ellicott City, Maryland

April 25, 2000

Good morning, Mr. Chairman. My name is Jere W. Glover. I am Chief Counsel for Advocacy with the U.S. Small Business Administration. The Office of Advocacy was established by Congress almost 25 years ago as an independent entity to be a spokesperson for small business in the formulation of public policy. The Chief Counsel is, by law, appointed by the President from the private sector and confirmed by the Senate.

At the outset, let me say that is a special pleasure to be here today for several reasons. As an adopted Marylander, I am glad to be here in beautiful and historic Ellicott City. I know that we will see right here another example of the wonderful resiliency of small business as recovery grows out of the ashes of the tragic fire that struck the business of the community last year.

Equally important, I especially enjoy the opportunity to talk about small business concerns and successes with you, Mr. Chairman. You are clearly one of the most active and involved members of the House Small Business Committee. The unique background and experience that you bring to the discussion of small businesses issues offers insight that has greatly contributed to the debate and resolution of very important legislative proposals with which the House of Representatives has grappled in the past several years.

For example, the patent legislation that was so important to protect small business contributions to innovation was extremely controversial and complex. Your background, as a scientist and inventor as well as small businessperson and farmer, helped Congress to sort through this morass and keep focus on the very real small business concerns. There

is no doubt that small business had better results in this legislation than would have been the case otherwise.

Likewise, you have seen the value of the Small Business Innovative Research (SBIR) program and have been a defender and supporter of that program over the years. You recognized the importance of this law in preserving the leadership role of small business in the development of new products, processes and technologies. You also appreciate the role of SBIR in encouraging small businesses to turn research and development activities into viable commercial products.

Since this program first came into being seventeen years ago, there have been over 50,000 awards to small businesses with a value of about $8.6 billion. The most recent available numbers for Maryland show that the state ranks fourth—exceeded only by California, Massachusetts, and Virginia—with over 200 awards with a value of $53.4 million for Fiscal Year 1998 alone.

Of course, I would be completely remiss if I also didn't thank you for all your strong support and leadership in the area of regulatory reform. That, as you might well suspect, is a subject that is especially near and dear to my heart since it goes to the core of what advocacy is all about.

You were not a Member of Congress in 1976 when the Office of Advocacy was originally created nor in 1980 when Congress enacted the Regulatory Flexibility Act (RFA), with its mandate to federal regulatory agencies to analyze the impact of their regulations on small entities and to consider alternatives that would be equally effective in achieving public policy goals without unduly burdening small entities. You were, however, actively involved in 1996 when Congress passed the Small Business Regulatory

Enforcement Act Fairness(SBREFA) which amended the RFA in several important ways that greatly strengthen the capacity of the Office of Advocacy in carrying out its duties.

We all know the horror stories about people having to deal with a frightening number of government agencies in order to get the necessary permits for even the most simple task. The regulatory process can be long and arduous and can mean the difference between success and failure for small businesses with thin—or sometimes nonexistent—profit margins. The past few years have seen a concerted effort to do away with unnecessary and excessively burdensome government programs and regulations. I am proud that the Office of Advocacy—with a lot of help from Congress and leaders like you—has been a major player in that effort.

We estimate that small firms have been the beneficiaries of $5.3 billion in regulatory savings in FY1999 due to the Regulatory Flexibility Act as amended by the Small Business Regulatory Enforcement Fairness Act and our interventions in the regulatory process. These interventions have included negotiations and comment letters to other federal agencies, panels mandated by SBREFA, and testimonies by the Chief Counsel. This is important because some of the Office of Advocacy's studies show that the average regulatory cost per employee for firms with fewer than 20 people is $3,400—a staggering amount that could easily be the difference between success or failure for many small businesses.

Equally important as these individual, regulation-by-regulations successes, is the fact that SBREFA is having a major impact on the regulatory culture. Of this, we have no doubt. There is a marked increase in requests for Advocacy's assistance prior to publication of a rule for public comment. Further, we are playing a more important role

in the 90-day review of major rules conducted by Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget, a review that is mandated by Executive Order 12866. This is a change from Advocacy's pre-SBREFA experience. There is also increased willingness on the part of regulatory agencies to participate in our *ad hoc* industry roundtables, where discussions focus on current problems. These roundtables play an important role in opening up dialogue between small entities and government regulators. Undoubtedly, this changing culture is also a result of the SBREFA amendment that authorizes the courts to review agency compliance with the RFA. This change in the law provides a significant incentive for agencies to do what they can to avoid legal challenges to their rules.

I am attaching a copy of the Executive Overview of my annual report on the implementation of the Regulatory Flexibility Act which I think you will find interesting.

Mr. Chairman, I don't want you to think that with all of the gains we have made in the past few years that either of us is in danger of working ourselves out of a job. The SBREFA panel process still applies to only two agencies—OSHA and EPA. Agencies vary widely in their sensitivity to small business concerns and problems. The small business view that government regulations are too often simply a "gotcha" game is not going away anytime soon.

Neither of us has time to rest on our oars. Whether we are speaking of regulatory reform, paperwork reduction (another area where there has been progress—but far more to go), or taxation, access to qualified workers, market access, or any of the other myriad

of small business concerns, the plate is still full. We must continue to do all that we can to ensure that the Federal government is not an impediment to small business growth and success.

The past few years have been incredibly successful ones for small business. The statistics on small growth in this country are very well known and in a few minutes I will offer some data that reflect on how well Maryland small businesses are doing. I do want to say, however, that there are pockets where small businesses are not doing as well. I am particularly concerned that the rural areas of our country and rural small businesses are still facing hard times. Your district is a very large and diverse one. I am sure that you encounter this fact as you travel throughout this area. I would like to do more to see what can be done to help re-vitalize this sector of your economy. I do have a Regional Advocate who focuses on rural issues, and hope to spend more time looking at this issue.

I know that you will have other witnesses on this panel and on the one following who will be able to offer personal stories of their own success. I would like to take some of the same type of data that I just offered and put it into a Maryland context. The Office of Advocacy puts out an annual reference guide to current data on small business activity on a state-by-state basis called Small Business Profiles. The most recent edition (compiled in 1999, using 1998 data) shows:

- There were 126,300 businesses with employees (an increase of 0.4% from 1997) of which 97% were small businesses. In addition there were 183,000 self-employed persons in 1998.
- There were 79,000 self-employed women in 1998, representing 43.2% of tota self-employment in the state.

- There were 55,587 minority-owned businesses in 1992 of which 6,397 had employees.
- In 1996, businesses with fewer than 500 employees accounted for 54% of the state's 1.8 million private-sector non-farm employment. Between 1995 and 1996 small business accounted for 99% of the total private non-farm sector employment growth in the state.
- There is no single measure of small business profitability because firms may operate as sole proprietorships, partnerships, or corporations. However, a partial measure—non-farm proprietors' income—totaled $8.6 billion in Maryland in 1998, an increase of 6.2% over 1997.

Given the focus of your hearing, I do want to mention the SBA 504 program, knowing that several of your other witnesses will do so in greater detail. In fact, one of your witnesses—Randall Nixon—is a great example of how this program can help further economic development. Mr. Nixon obtained his loan by working with MidAtlantic Business Finance Company, which is the largest SBA lender in this area. It is responsible for providing more than $475 million in loans to small businesses and creating more than 7,400 new jobs throughout its service area. This is just one of many examples of how private-public partnerships can be productive to further economic development. In fact, in Fiscal Year 1999 in your district there were thirteen 504 loans with a total value of just over $6 million. They led to the creation on 118 new jobs.

I also want to mention procurement as an important issue for small business growth potential as well. I regret very much that my own schedule prevented me from

testifying personally at your recent hearing on the subject, but I know that the Office of Advocacy was well represented.

In 1998 the Office of Advocacy released a report, "Federal Procurement from Small Firms". This report revealed that in Fiscal Year 1998, small firms received just 18.3%--$33.2 billion—of the $181.7 billion spent by the Federal government in prime contracts over $25,000. Overall, the Federal Procurement Centers with the most to spend spent the least on small business. Of the 2,235 procurement centers studied, 213 -- or 9.5% -- awarded 100% of their prime contract dollars to small firms.

Here in your Congressional district there are five Federal Procurement Centers. One of these -- the Department of Justice in Cumberland, Maryland -- was one of the few that awarded 100% to small firms. In the aggregate, these Maryland centers engaged in $125.1 million in procurement activities in Fiscal Year 1998.

In conclusion, Mr. Chairman, I would like to thank you again for holding this hearing. I share your view that the best way to find out what is happening with the small business sector of our economy is to go out to where the small businesses are actually operating and ask them. Field hearings such as this one are invaluable in taking the pulse and measuring the concerns of small business in a way that you cannot duplicate when you are behind a desk in Washington, D.C.

ANNUAL REPORT OF THE CHIEF COUNSEL FOR ADVOCACY ON IMPLEMENTATION OF THE REGULATORY FLEXIBILITY ACT FISCAL YEAR 1999

EXECUTIVE OVERVIEW

Introduction

In 1980 Congress enacted the Regulatory Flexibility Act (RFA) with a mandate to federal regulatory agencies to analyze the impact of their regulations on small entities and to consider alternatives that would be equally effective in achieving public policy goals without unduly burdening small entities.

In 1996 Congress enacted the Small Business Regulatory Enforcement Fairness Act (SBREFA) which amended the RFA in several significant ways. First, it gave the courts jurisdiction to review agency compliance with the RFA, thus providing for the first time an enforcement venue to ensure agency compliance with the law. Second, it mandated that the Environmental Protection Agency (EPA) and the Occupational Safety and Health Administration (OSHA) convene Small Business Advocacy Review Panels to consult with small entities on the impact of regulations before the regulations are published for public comment. This formalized for these two agencies a process for involving small entities in the agencies' deliberations on the effectiveness of regulations that would impose mandates on them. Third, it reaffirmed the authority of the Chief Counsel of Advocacy to file *amicus curiae* (friend of the court) briefs in appeals brought by small entities from agency final actions.

By the end of Fiscal Year 1999, SBREFA had been in effect for a little over three years. It is clear that the 1996 amendments are having a major impact on the work of federal agencies. According to agency records and/or trade association data, the changes made to regulations in order to comply with RFA reduced their cost by almost $5.3 billion during Fiscal Year 1999. Moreover, there is a beneficial impact from small entities increasingly seeking judicial review of agency compliance with the RFA, often with significant success. Agencies are watching court decisions closely and are increasingly seeking assistance from the Office of Advocacy in the earliest stages of regulatory development, thus expanding the work of Advocacy in pre-proposal activities to minimize harmful small business impacts.

The Role of the Office of Advocacy

Congress created the Office of Advocacy within the U.S. Small Business Administration in 1976 to be an *independent* voice for small business in the formulation of public policy. The office was given, among others, very specific statutory mandates to:

- examine and report on the constantly changing role of small business in the economy;

- measure the direct costs and other effects of government regulation on small business;
- determine the impact of the tax structure on small businesses;
- study the ability of financial markets and institutions to meet small business credit needs; and
- recommend specific measures for creating an environment in which all businesses will have the opportunity to compete on a level playing field.

The RFA requires the Chief Counsel to report annually to the President and the Congress on agency compliance with the law and the SBREFA made the Chief Counsel a statutory member of the EPA and OSHA Small Business Advocacy Review Panels.

Essential to these mandates:

- research on small business trends in the economy;
- independent analyses of the impact of regulations on small business;
- two-way communications with small business trade associations and leaders throughout the country on regulatory impacts and emerging issues;
- *ad hoc*, industry-specific roundtables to discuss small business concerns; and
- meaningful small business participation in the development of public policy.

Regulatory Issues—More Diverse and More Complex

In recent years, the economy has been extremely dynamic—constantly churning—with technology changing industry structure at an extremely rapid pace, creating new challenges for analyses of regulatory impacts on small business. Small business is a major force in the changing economic landscape, contributing major technological innovations that are spurring growth in the economy and creating most of the new jobs. As such, the continued viability of small business must be ensured.

As the economy becomes more technology based, not surprisingly regulations are dealing with more and more complex societal issues. If regulations are unduly burdensome, however, they could dampen the economic growth experienced in recent years. Therefore, regulatory impact analyses are taking on an ever increasingly important role in public policy deliberations.

Data Sources—Statistical As Well As Anecdotal

Policy makers are increasingly aware that the key to rational decision making is data. To provide answers to inquiries about small business issues, the Office of Advocacy contracts with independent entities for research on a wide range of emerging public policy issues, such as the cost of regulation, contract bundling, etc., as well as research on industry specific economic impacts. It also maintains a database, unique in the federal government, on small business characteristics. It has recently designed a new database—the Business Information Tracking Series (BITS)—in cooperation with the Bureau of the Census, that allows researchers to track specific companies through various stages of growth. This database will provide some important insights on public policy needs. For information on Advocacy's most recent research reports and papers visit Advocacy's home page at www.sba.gov/advo.

In addition to this unique *statistical* data which provides an historical perspective on small business trends, current or *anecdotal* data are compiled through discussions with small businesses, their representatives and economic experts. *Ad hoc* industry specific roundtables and conference calls are held periodically to identify emerging issues and small business impacts. The Office of Advocacy has also hosted focus group discussions on emerging trends with leading futurists, prominent small business leaders, banking experts and researchers, and industrial organization economists.

Impact of SBREFA—The Role of Data and Savings Achieved

SBREFA is having a major impact on the regulatory culture. Of this, Advocacy has no doubt. There is a marked increase in requests for Advocacy's assistance prior to publication of a rule for public comment. And Advocacy is playing a more important role in the 90-day review of major rules conducted by the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget, a review that is mandated by Executive Order 12866. This is a change from Advocacy's pre-SBREFA experience. There is also increased willingness on the part of regulatory agencies to participate in Advocacy's *ad hoc* industry roundtables where discussions focus on current problems. These roundtables play an important role in opening up dialogue between small entities and government regulators. There is little doubt that this changing culture is the result of the SBREFA amendment that authorizes the courts to review agency compliance with the RFA. This change in the law provides a significant incentive for agencies to do what they can to avoid legal challenges to their rules.

A few agencies, such as the National Marine Fisheries Service (NMFS), the Health Care Finance Administration (HCFA) and the Agricultural Marketing Services (AMS), have instituted some changes in response to RFA mandates but the impact of the changes is not yet clear. However, any change could be significant since industries regulated by these agencies are part of the basic structure of the economy and are industries dominated by small entities. While regulations affecting these industries are not front page news, regulatory impacts can often mean the difference between survival and extinction.

Having said this, it is important to note that this cultural change is by no means uniform among regulatory agencies. The largest hurdle to overcome remains agency resistance to the concept that regulatory alternatives that are less burdensome on small business may, in fact, be equally effective in achieving public policy objectives. Economic data thus become the *force majeure* in overcoming this resistance. And the value of economic data has been demonstrated time and again in the work of the Small Business Advocacy Review Panels where data has resulted in creative solutions to public policy mandates.

Small Business Advocacy Review Panels—Lessons Learned

Since enactment of SBREFA, work has been completed on 18 Small Business Advocacy Review Panels: 15 EPA panels and 3 OSHA panels. Approximately 300 small entities have been consulted on a very diverse range of rules. Independent data on the impact of regulatory proposals have played an important role in the deliberations of the panels. The additional input from small entity representatives spotlighted real life consequences of proposals under consideration. Regulations that emerged from this process have been changed in response to the information provided and are, for the most part, less burdensome than the regulations originally considered. In one instance, a regulation was withdrawn entirely because the data clearly demonstrated that there was no need for national regulation.

It is important to emphasize that, although the regulations that emerged from the panels' deliberations were less burdensome on small entities, *public policy objectives were not compromised.* The lessons learned are the importance of data to rational decision making in solving societal problems *and* how valuable information on real world small business impacts can be in identifying equally effective regulatory alternatives.

Although work on the panels has been productive, it has also been labor intensive. It is estimated that Advocacy alone has spent an average of 500 to 600 hours on each panel for a total of between 3,500 and 4,000 hours on the panels completed in Fiscal Year 1999. Work on two OSHA panels completed this year—given the scope of the regulations considered—probably consumed more than the average.

Regulatory Savings

The impact of SBREFA goes beyond just modifications to the rules considered by the EPA and OSHA panels. As stated earlier, agencies logically wish to avoid judicial challenges to their rules and are taking greater care to comply with the RFA. The potential for judicial review provides a great incentive for agencies to integrate the comments of Advocacy and others into their deliberations. Agencies, to their credit, have changed rules to minimize burdens on small entities and the changes made in FY 99 reduced the potential cost of regulations by almost **$5.3 billion.** The specific cost savings are detailed in the attached table.

Advocacy Activities in Fiscal Year 1999

Advocacy's activities primarily take the form of public record communications with agencies on the impact of their regulations on small business and whether their regulatory justifications and analyses of alternatives comply with the RFA. This is in addition to Advocacy's work on EPA and OSHA panels and to its increasing workload involving pre-proposal consultations with regulatory agencies. This year's report highlights some of those public record communications to illustrate the range of issues Advocacy must address. Advocacy targets its resources to those regulations where it can make a difference or where the small business interest is significant but underrepresented in the regulatory process. To accomplish this, Advocacy reviewed over 1,300 proposed and final rules and submitted 76 formal comments for the public record.

Advocacy also testifies before Congress and agencies on public policy issues such as agency compliance with the RFA. Finally, this year's report contains a description of Advocacy's activities involving two entities not subject to the RFA—the Internet Corporation of Assigned Domain Names and Numbers (ICANN) and the U.S. Postal Service. Advocacy became involved with these two entities because of their market dominance and because their activities are having a major impact on small businesses. Advocacy is of the view that small businesses need a spokesperson to represent them in the proceedings of these two entities.

Conclusion

This is the nineteenth report submitted by a Chief Counsel for Advocacy since enactment of the RFA in 1980. It is the fourth report since enactment of the 1996 SBREFA amendments. It should be noted that this year's report is on a fiscal year basis rather than on a calendar year basis. This change was made in order to be consistent with the information that must be reported each year under the Government Performance and Results Act of 1993 (GPRA).

Even a cursory review of the earlier reports will reveal differences. The main differences are the increasingly important role of data in regulatory development and the impact of judicial review. Cost savings can now be documented using the data generated by the regulatory agencies themselves and/or by other third party sources. These savings are the true measure of the RFA's impact.

While the savings are, on the one hand, *good news*, they are at the same time, *bad news*—meaning agencies are still proposing regulations that are burdensome on small business. It is for this reason that Advocacy continues to maintain that the biggest hurdle to overcome is agency resistance to the notion that less burdensome alternatives can be equally effective in accomplishing public policy objectives. It is this concept that needs to be inculcated into regulatory agency deliberations. And it is the concept that will remain the focus of Advocacy's work in the coming years.

March 2000

IMPACT OF SBREFA AND ADVOCACY ACTIVITIES: REGULATORY COST SAVINGS FOR FISCAL YEAR 1999

The following details rulemaking activities that the Office of Advocacy was involved in during Fiscal year 1999 which resulted in cost savings to small businesses. The combination of yearly savings and one-time savings during this period totals almost $5.3 billion.

AGENCY	SUBJECT DESCRIPTION	COST SAVINGS (ANNUAL OR ONE-TIME)
EPA	*Air Pollution Control from Recreational Marine Engines* This Environmental Protection Agency rule established emissions limits for recreational marine boats. A five year delay was adopted for small mariners to allow them to annualize investments and to take advantage of other cost savings technology.	**$3,000,000 in annual savings** Source: The Office of Advocacy, based on EPA's economic analysis in the rulemaking record.
EPA	*Effluent Limitations Guidelines for Industrial Laundries* Rule attempted to reduce toxic discharges from industrial laundries, an industry dominated by small entities. After extensive panel discussions and subsequent public comments, EPA withdrew the proposal because the discharges did not warrant national regulation.	**$103,000,000 in annual savings** Source: The Office of Advocacy, based on EPA's economic analysis in the rulemaking record. The industry estimate, according to the Uniform and Textiles Service Association, is $200 to $450 million per year.
EPA	*Inventory Update Rule* Rule imposed reporting requirements on chemical manufacturers and importers. Modifications adopted during the regulatory review process resulted in significant changes and exempted natural gas and inorganic chemicals from certain portions of the reporting requirements.	**$13,000,000 in annual savings** Source: The Office of Advocacy, based on EPA's economic analysis in the rulemaking record, July 29, 1999.

EPA	*Radon Health Risk Reduction* Rule established a radon water emission standard for community water systems. Rule was changed to reduce costs to small systems participating in community programs to reduce radon in air.	**$275,000,000 in annual savings** Source: The Office of Advocacy, based on EPA's economic analysis in the rulemaking record.
FCC	*Customer Proprietary Network Information* The Federal Communications Commission proposed burdensome requirements on local telephone companies for the maintenance of customer information. A coalition supported by Office of Advocacy submitted alternative recommendation, which was adopted by FCC.	**$476,000,000 in one-time savings** Source: FCC, Independent Alliance, and National Telephone Cooperative Association. Estimate reflects the average of the cost savings estimates provided by trade associations.
FCC	*Truth-In-Billing and Billing Format* Rule was proposed allegedly to simplify and clarify telephone bills. Proposals not only did not clarify bills, they were costly to implement. FCC postponed enforcement of two of the most costly changes, resulting in significant savings.	**$431,460,000 in one-time savings** Source: FCC and National Telephone Cooperative Association.
FTC	*Children's Online Privacy Protection* This Federal Trade Commission rule was certified without consideration of alternative regulatory options. After conducting an initial regulatory flexibility analysis, FTC adopted an alternative that resulted in savings.	**$75,000,000 in one-time savings** Source: The Office of Advocacy. FTC estimates that as a result of the rule change, 300 small businesses are excluded from having to comply with the requirements that would have cost each company $250,000.
HCFA	*Competitive Bidding for Medical Equipment Suppliers* The Health Care Financing Administration proposed bidding forms for Medicare contracts, which were burdensome. The new process limited small suppliers' ability to compete for bids. The forms and process were simplified.	Cost savings estimate not available

HCFA	*Interim Payment System for Home Health Agencies* Pursuant to congressional mandate, HCFA proposed changes to the reimbursement formulas, which harmed home health agencies. After the Office of Advocacy and others—relying on Advocacy's critique of the rules—intervened, HCFA relented and Congress enacted legislation to correct the problem caused by earlier legislation.	**$1,000,000,000 in one-time savings plus $260,000,000 in annual savings** Source: Bureau of National Affairs (Nov. 19, 1999). The legislation saves $1 billion during the first year, and $1.3 billion additionally over 5 years, which averages out per year to $260 million in annual savings.
HCFA	*Prospective Payment System for Hospital Outpatient Services* Rule would have imposed new payment system for hospital outpatient services, resulting in significantly reduced payments for low-volume rural hospitals and others. Advocacy recommended changes to the proposal, which Congress considered in crafting a remedy.	**$1,440,000,000 in annual savings** Source: Bureau of National Affairs (Nov. 19, 1999). The legislation saves $7.2 billion over 5 years, which averages out per year to $1.44 billion in annual savings.
ICANN	*Internet Domain Name Dispute Resolution* The Internet Corporation for Assigned Names and Numbers proposed a burdensome policy to resolve disputes over "cybersquatting." Advocacy recommended changes to minimize burden on small entities, which were adopted.	Cost savings estimate not available
MMS	*Determination of Need for the Royalty-In-Kind Program* The Minerals Management Service proposed elimination of the mining royalty-in-kind program due to lack of participation by small refiners. Office of Advocacy provided information that indicated small refiners did not participate due to inefficiencies in the program. MMS decided to maintain the program, and make 100,000 barrels of oil available to small refiners.	Cost savings estimate not available

NARA	*Agency Records Center* This National Archives and Records Administration rule would have imposed strict dimensions on size of storage units for federal records in order for firms to be eligible for government contracts. Would have caused major impact on existing small storage companies.	**$1,076,000,000 in one-time savings** Source: NARA.
NMFS	*Amendment 7 to the Atlantic Sea Scallop Fishery Management Plan* This National Marine Fisheries Service rule would have reduced scallop fishing. Industry submitted alternative that Advocacy recommended for agency to consider. Commerce Secretary ordered NMFS to implement alternative.	**$40,000,000 in annual savings** Source: David Frulla, Esq., counsel to the scallop industry. The estimate reflects the expected revenue that the industry will gain from scallop fishing in the George's Bank area.
NPS	*Commercial Fishing in Glacier Bay* This National Park Service rule would have prohibited fishing in Glacier Bay, Alaska. Agency provided no information on impact, even though impact was known. Congress provided a buy-out option that NPS then considered in a subsequent analysis.	Cost savings estimate not available
Treasury	*Small Business Pension Plans* This Department of the Treasury rule would have imposed significant paperwork burdens on small pension plans. After consultations, paperwork was reduced to one simple form, complicated tests were eliminated, and compliance burden was shifted to third parties.	**$83,400,000 in annual savings** Joint Committee on Taxation, United States Congress, H. Report 104-737 at 364. The rule saves $834 million over 10 years, which averages out per year to $83.4 million in annual savings.

SUBTOTALS:	**$2,239,400,000** in annual cost savings, and **$3,058,460,000** in one-time cost savings
GRAND TOTAL COST SAVINGS:	**$5,297,860,000 (almost $5.3 Billion)**

JOHN C. HOWARD, CED
Before the
Subcommittee on Government Programs and Oversight
Committee on Small Business
U.S. House of Representatives
Ellicott City, Maryland
April 25, 2000

Mr. Chairman, other distinguished members of Congress, my name is John C. Howard and I am the Executive Director of the Hagerstown-Washington County, Maryland Economic Development Commission. Our offices are at 100 West Washington Street, in Hagerstown, Maryland, 21740.

Ours is a not-for-profit agency funded through our County Commissioner's annual budget process, using county tax proceeds exclusively. I serve at the pleasure of a twelve member Commission, all of whom are volunteers. With members appointed by the County Commissioners, representing the Chamber of Commerce, our Greater Hagerstown Committee, our principal City of Hagerstown, and the eight other incorporated municipalities in our County, we are able to offer a broad perspective to our two basic challenges: 1) the retention and expansion of existing business and industry, and 2) the recruitment of new businesses and industry.

Washington County is a mid-sized cosmopolitan area in Western Maryland. Our population is slightly in excess of 125,000 people. Hagerstown, our county seat, lies in the geographic center of the county, with a population within the city limits and contiguous areas exceeding 60,000, approximately one-half of the county's total.

Although we enjoy many quality of life features, at best we remain classified as a semi-urban area, rich in America's historic past and founded from a strong agricultural work ethic. In the twentieth century our development, and commerce, was spurred by our locational advantages for the nation's rail companies.

As the Director of Economic Development, I currently serve a county that is blessed by most development standards. We are served by both north-south and east-west U.S. Interstate highways, and are within approximately one hour of major economic generators in the Baltimore and Washington, D.C. areas.

We have a very diverse economy, bolstered by our service sector, and with manufacturing employment over twice the average for the State of Maryland. But, we are a part of a region of the state that does not enjoy all the traditional urban benefits from which continued and sustained growth just naturally evolve. We have to work at it. And, a very recognizable component of our growth these days rests squarely with our success in retaining and expanding the growth of our small business sector. Procurement opportunities abound, here. It is important that small business procurement activities continue to receive your nurture and visible support. Areas such as ours require the opportunity to acquire supply-line contracts to spur our local economy, rather than see the diminution of entrepreneurial aggressiveness due to mandated national account contracting. We would ask, as well, that programs be simplified further, to the extent possible, to ease the opportunities for such competition on a local basis, rather than intimidate the small-business provider.

I would also ask that the Congress continue to adequately fund the Economic Development Administration of the U.S. Department of Commerce. Related programs for small business development in the U.S. Small Business Administration and U.S. Department of Agriculture will continue to also require your support and attention for communities my size to continue to thrive, even on our currently sparkling national growth economy. For it is the small business sector that ultimately benefits the most from your attention to these programs.

Whether by definition "small business" is 100 jobs or less, or 500 jobs or less, small business remains the force that turns our County's economic engine. We must never lose sight of the fact that somewhere around seventy percent of the new jobs created in areas like mine have sprung from a small businessperson's dreams, diligence, and drive. With the exception of education, no other force in America compares with the ability of small business to foster upward mobility. But, not without risktaking. As champions of American "can-do-ism", these folks are

near-miracle workers. Usually undercapitalized and frequently operating on the slimmest of margins, small business men and women are constantly beset by the never-ending woes of regulatory and employee-related impediments. Taxes, health-care costs, restrictive government standards and practices, worker's compensation – all are major issues affecting many small businesses just like the big businesses are affected.

In my region of Western Maryland we are part of the nation's sector known as Appalachia. The Appalachian Regional Commission, in 1971, designated our Tri-County Council (TCC) a Local Development District serving Washington, Allegany, and Garrett Counties in Maryland. Subsequently, the U.S. Department of Commerce designated us as an Economic Development District. Since that time, the Council has been successfully utilizing state and federal resources to carry out an annual investment strategy across the region. More recently, the Council has been able to expand into new economic development initiatives consistent with a regional approach to economic growth and job creation. TCC now offers a range of business services to the region, including:

- A Manufacturing Network that utilizes computerized data to match buyers with potential local suppliers
- A Procurement Technical Assistance Center that can help small businesses successfully enter the federal procurement system
- An Export Assistance Center that can assist local businesses in developing international markets for the goods and services they produce
- A Revolving Loan Fund which can provide gap financing to encourage business development and expansion

We need support for the continuation of all programs that sustain this means of growth for us.

I also feel it essential to reinforce to you the benefits we derive from our Maryland Small Business Development Center partnership. This engagement between the U.S. Small Business Administration and the University of Maryland, College Park links private entrepreneurs, government, higher education, and our local economic development organizations so as to provide management training and technical assistance to Maryland's fledging entrepreneurs and small business owners. The no-cost consulting services provided by this resource make a great

impact on our economies by developing and refining business plans, solving problems, locating sources of capital, and imparting innovative strategies to support growth and profitability. Your Congressional support of these programs must continue.

Now turning to some facts I have secured from the Office of Advocacy, U.S. Small Business Administration, Baltimore District Office, I thank it is important for us to reflect on why hearings such as these are important.

- Small businesses in Maryland employ 54.6% of the work force.
- Small businesses in Maryland account for 97.8% of all business firms.
- Small businesses produce 55% of innovations, producing twice as many product innovations per employee as large firms.

Clearly, these statistics indicate that small business is the avenue by which more and more are reaching out for the American Dream.

As the Congress goes forth, please consider the importance of the global economy to the small businessperson. Trade barriers must not be restrictive as companies depend more and more on the international marketplace for their success. In my county, for example, a medical products company currently exports to over thirty foreign countries and, by any definition, is a "small" business. Companies like these need your attention. And, telecommunications regulations – including Internet standards – must invite, rather than constrain, their global commerce. Your continued help in these areas will be appreciated.

Finally, in our quest at the local level for stimulating new and existing businesses, it would be my request that this Subcommittee maintain its sensitivity to the passthroughs affecting our county levels of government which stem from federally-mandated programs or cutbacks. Main Street America provides the core strength of our great nation; but, the domino effect of passthrough actions stops with those of us who are employed not to "massage" the economy in place, but to stimulate it to new heights. All too often, we who can provide a return on the investment from our work by way of new jobs, increased tax base, and a richer quality of life, become constrained by the losses from local funding which necessarily gets deferred to

"maintenance" or caretaker programs. Since the pot is only so deep, these mandated pass-throughs detract from our progressive activities, and must be curbed where at all possible.

In conclusion, I would ask for the federal government to be the positive force in its programs to focus on health care in America. Our aging population and its impact on older-worker programs in the small business realm, alone, command new and creative resolutions to maintain a fit and ready workforce of all ages, today and in the future.

Thank you for providing this opportunity to me to appear before you today.

Howard County
Economic Development Authority

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CHIEF EXECUTIVE OFFICER

Richard W. Story, CED

April 25, 2000

The Honorable Roscoe G. Bartlett, Chairman
Subcommittee on Government Programs and Oversight
Committee on Small Business
Congress of the United States
B-363 Rayburn House Office Building
Washington, DC 20515-6316

Dear Congressman Bartlett:

Thank you for the opportunity to testify before this important Subcommittee. As Chief Executive Officer of the Howard County Economic Development Authority, I am responsible for programs to facilitate business growth in this jurisdiction.

Over the past ten years, Howard County has led the State of Maryland in job creation. Between the years 1990 and 1999, 40,000 net new jobs were created in Howard County, an increase of 50 percent. The majority of this job growth has been from the business sector that falls under the SBA definition of small business.

In Maryland, Howard County has the lowest unemployment rate, 1.5 percent in February 2000, following rates of 1.3 percent in December 1999 and 1.4 percent in January 2000. Median Household Income in Howard County is over $70,000 and County government is one of only 14 counties nationwide that enjoy Triple-A ratings from all three New York bond rating agencies.

It is within the framework of this robust local economy that I submit my testimony to the Subcommittee on Government Programs and Oversight. The following are answers to the questions contained in the invitation to testify before your Subcommittee dated April 4, 2000. Please note that I have taken some minor liberties in restating the questions posed in the letter of invitation.

6751 COLUMBIA GATEWAY DRIVE COLUMBIA, MARYLAND 21046
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Question 1: How have small business owners succeeded and continue to grow – whether by reliance solely upon the private sector or with assistance by Federal, State and local programs?

> Because of a strong national economy, small businesses have largely been successful on their own. It is my experience that some have taken advantage of government programs at the Federal, State or local levels. However, the overwhelming majority have succeeded without assistance.

Questions 2 and 3: What are the causes of the present economic prosperity? How can the present economic conditions be sustained?

> I cannot testify on the causes of the present economic prosperity. I support the notion that a continuation of a strong business climate is good for the Nation, State and Howard County. While I am sure there are many theories for extending our prosperity, I would point to just one: continuing to maintain a low rate of inflation. It is my opinion that Chairman Alan Greenspan has done an excellent job of controlling inflation by strategic adjustments to interest rates. This is the single most important factor in continuing the present economic prosperity.

Question 4: Has the prosperity touched every segment of the small business community, or are there segments of the small business community that need assistance?

> In general, all segments of the small business community have benefited from the present economic prosperity. Because this period of prosperity has been over such a long period of time, new business opportunities have been available to most small businesses.
>
> However, access to these opportunities has been uneven. Businesses owned by minorities, women and persons with disabilities face unique challenges. Not all of these businesses have shared equally in this economic prosperity.

Question 5: Small businesses have been leading the economy both in innovation and job creation. What is needed to maintain this record?

> All efforts to maintain a strong national economy is the most important component to the continued innovation and job creation witnessed by the small business community.

Question 5 (continued):

My experience with programs of the Federal government has been positive. In terms of the purposes of today's hearing for this Subcommittee, I make the following suggestions and observations:

1. Workforce – Finding workers continues to be the greatest challenge facing small business today. I have heard from many companies that have reported the inability to accept new business, simply because they cannot find sufficient workers. As a result, good contracts are being lost. In my opinion, there are three areas where Federal programs can be helpful:

    a) Training – More resources should be dedicated to the training of new workers and for the retraining (upgrade skills) of existing workforces. This is the most important assistance we can provide.

    Additionally, because of Howard County's relative affluence, fewer funds are available for training programs here. We should not be penalized for our success. In fact, greater resources should be invested in communities where greater success is possible.

    b) Job Service Database – There should be a national standard for sharing information and referral data on new job seekers, displaced workers and others not currently employed. Such a database should be transferable across jurisdictional boundaries, whether they are state borders or county lines. More emphasis should be put on regional labor pools regardless of political subdivisions.

    c) Workforce Mobility – More mass transit initiatives should be developed to transport people who need jobs to communities where jobs are being created. This is especially important in suburban jurisdictions. Howard County can draw from areas of high unemployment in both Baltimore and Washington, DC. More Federal and State funds should be made available to qualified "Smart Growth" regional transportation initiatives.

Question 5 (continued): Suggestions

2. Community College Support – In line with the comments in item 1.a) (above), Howard Community College has been very active in delivering customized training to the small business community. Much of this training has been for technical or professional certifications and/or specific skills training. New programs should be developed to provide additional, targeted Federal support for the community college network.

   In Maryland the community colleges will complete the formation of a consortium by September 2000 to create a searchable Internet website for customized training programs for small businesses. Named MarylandTraining.com, the creation of this website has been funded by State grant programs. Federal assistance could enhance this small business training infrastructure initiative and extend the concept to neighboring states.

3. Small Business Development Centers (SBDC) – The U.S. Small Business Administration (SBA) has had an active and successful SBDC program in Central Maryland and presumably elsewhere. However, over the past several years, the management of the program has moved from State government to a series of university-based relationships. In my opinion, the State model has been more effective and I respectfully suggest SBA consider a standard policy of administration of these programs through State governments. Short of a national policy, SBA should review the effectiveness of the SBDC program in Maryland/Central Maryland over the recent past.

4. Agricultural Marketing – In growing suburban communities, sophisticated agricultural marketing programs have been developed to complement farmland preservation programs. Federal support should be available to qualifying jurisdictions that have implemented programs that sustain and enhance farmland preservation by facilitating active, profitable traditional and non-traditional agricultural practices on these properties.

   New farming operations and agri-business activity, whether in preservation programs or not, should be considered in the same light at traditional small businesses and should qualify for all SBA programs.

Question 5 (continued): Suggestions

5. Streamline Procedures – Continual and ongoing improvements to the application and approval processes should always be made. Every attempt should be made to make State and Federal programs "user-friendly". Although considerable improvements have been made to the applications and approvals processes, the total amount of time it takes to complete transactions is still a challenge to small business.

Thank you for the opportunity to submit this testimony. I would be pleased to elaborate on any of these issues, as appropriate.

Sincerely,

Richard W. Story, CED
Chief Executive Officer

Honorable Congressmen Roscoe Bartlett and members of the Committee on Small Business:

My name is Jack Lyburn, and I am the Director of Economic Development for Carroll County. My job is to facilitate business development in Carroll County, creating an environment conducive to business. I thank you for the opportunity to address you today regarding the impacts of federal rules and regulations on small business. On this issue, there are 3 areas that I would like to address with you today:

I. The impact of federal rules and regulation on small businesses:

A. Banking

Problem:

- Federal rules encourage banks to get in to the insurance and/or brokerage business, etc.
- This puts smaller banks at a competitive disadvantage as well as negatively impacts smaller local insurance agencies and stock brokers who may be put in position of selling out to a larger company or going out of business altogether

Specifics:

- For example in the last 2 years, in our local community alone, larger banks have bought out 3 local banks. This may remove the decision-making authority from local citizens who live and work in our county and who may be more aware of local market issues and concerns. Furthermore, the local county may also lose its ability to influence these newer, larger lenders because the decision-makers may no longer be local. In my experience, smaller

community banks are generally more aggressive lenders than larger banks. They are willing to do smaller loans and offer more attractive interest rates, and they do not rely solely on credit scoring to make credit decisions. Fewer lenders also make the market less competitive.

Corrective action:

- An assessment or study of the impact of federal rules and regulations and their effect on small businesses might be considered before these rules are put into effect. In addition, smaller businesses should be consulted and notified of any pending legislation or regulatory changes that may impact them. They should be offered a voice in crafting changes in these rules or legislation.

B. Banking with the SBA

Problem:

- The SBA must comply with standard operating procedures in order to issue a loan guarantee. However, the operating manual is extremely long and onerous – making it difficult for smaller community banks to comply with. Sometimes, these banks must hire an outside attorney to review the documentation. I have spoken with several community banks that refuse to do a SBA loan guarantee without using outside counsel to protect them against potential liability. This makes it more difficult for them to compete with larger banks and can also add a significant expense to the borrower who will end up paying attorney fees.

Corrective action:

- Create a simple 1 or 2 page "check list" of the items needed to get a loan guarantee. This list could be

reviewed quickly by the SBA and the lender would feel secure that the guarantee would be there for them. While rules and regulations are needed, simplifying them will make the process more efficient and level the playing field so smaller banks can compete fairly.

These are just several of the examples that could be given on how federal rules and regulation disproportionately hurt small businesses. Smaller businesses just do not have the staff to keep up with frequent changes in federal rules and regulations or to go into additional fields such as insurance, stock brokerage, etc.

II. Main Street Revitalization
Problem:

- The state funds the Neighborhood Business Development Program which is used to fund "main street" type projects that revitalize downtown neighborhoods. While this program has been very successful in revitalizing our local Main Street in Westminster, this program needs to expanded. Federal dollars could be used to increase the current funding level. In general, I feel more federal funds need to be set aside for start up and expansion of small businesses.

III. Programs that have had a positive impact on small business:

- The main thrust of county economic development offices is to retain and attract major employers. Given this mission, with a limited staff and budget, it is impossible to provide the level of assistance required to assist small businesses in our County. For this reason, I strongly support the SBDC. They have been invaluable in providing direct technical assistance to small businesses in Carroll County. In an average year, the local office sees about 200 people, in addition to providing training courses

for start up or existing operations. The local offices also provide critical services to small businesses (such as marketing and business plan development) that otherwise may not be affordable to the new business operator. Locally, there are many examples that reflect the positive impact this service has provided to local business. For example, the participation of our local SBDC representative has been an important factor in the revitalization of Main Street in Westminster. In the past two years, the SBDC officer has worked with at least eight Main Street businesses to locate or obtain financing assistance. Without this assistance, Westminster's Main Street might not be as successful as it is today. Recently, our local SBDC representative was elected to chair the Main Street Advisory committee. This is a testament to his efforts because he doesn't even reside in Carroll County.

- The public needs to be better informed of the type of assistance programs available to them. Many times, businesses are not fully aware of the array of services offered through SBDC. While we make every effort at the local level to make the community more aware of our services, I would like to see more federal involvement in the promotion of these services. – Education is the key.

IV. It is my opinion that SBDC's work best when operating out of the local county economic development offices. When looking to start or expand a business, people typically contact local economic development offices, not colleges or universities. This applies to the state level as well. SBDC's often ask the state for matching funds. It may be easier for the state to provide SBDC funding if it was assured of some level of control and input. This program would fit better under the Maryland Department of Business and Economic Development. This would provide a "one-stop-shop" for businesses assistance – no matter what their size.

In conclusion, many there are many federal programs that have good intentions, but end up causing undue burdens on small businesses. Especially in Carroll County, where 95 percent of our businesses are small businesses, this can be devastating on the local community. I hope my testimony today will help you streamline current programs in order to cut paperwork and delay while creating new structures that will promote a positive business environment in which small businesses can flourish.

Thank you.

Testimony of Randall K. Nixon, President of Nixon's Farm and Principal, Nixon Limited Partnership

I want to begin my testimony by thanking Congressman Roscoe Bartlett and his staff for the opportunity to present to you the challenges and opportunities of small business, and the impact that the federal government has on that business.

Having served as a legislative assistant on a congressional staff and a staff member of this very committee, I can say that all Americans should be so blessed as to have a Member of Congress like Roscoe Bartlett representing them. Our government would run much more smoothly.

I. First, an overview.

We are in the business of touching customers in extraordinary ways with innovative and unsurpassed service in the food service and special events industry.

Nixon's Farm is a breathtaking facility. We are currently renovating and building physical structures consistent with its physical beauty, including a breathtaking converted barn for special events, a state-of-the-art commercial commissary, access to a golf course, a clubhouse designed to our specifications, and a stunning, chapel-like wedding grove. We also be will be the exclusive caterer and event planner for the golf course facility.

Our markets include companies, government, non-profit associations, brides, and consumer families.

Our products and services consist of onsite catering, offsite catering, home meal replacement, institutional food service, snack bars and convenience food facilities, and facility rental. Facility rentals will consist of conferences, retreats, and teambuilding activities. Through alliances, we will also offer meeting planning, event planning and destination management.

A division of Nixon's Farm will operate convenience food facilities, dining halls, and cafeteria operations for non-profit associations such as the Maryland state government, the U.S. government, and nursing and senior care facilities.

Within 10 years, we expect to be a leader a regional leader in offsite and onsite catering, institutional catering, home meal replacement, cafeteria and snack bar management, and special events. Our growth rate will be 50% annually while maintaining a profit margin exceeding 24%. We will have a total of 500 employees. We plan on having retail foodservice outlets in Washington DC, Baltimore, and northern Virginia.

II. A short history of Nixon's Farm

The property known as Nixon's Farm was purchased in 1956. But the story begins much earlier.

Roosevelt and Mildred Nixon both came from North Carolina, in a hostile and segregated south. The opportunities for success were very limited for ambitious, young blacks and so they headed north immediate after World War II, met and married in Baltimore, and began raising a family.

Both we highly entrepreneurial, and by 1953, they had a successful grocery store, a gypsy cab service, and several rental properties. But they hungered for land.

In 1952, they met and befriended Johnny Howard, a prominent Howard County farmer and illegitimate black descendant of John Howard, founder of Howard County. Howard encouraged the couple to take a land contract on the property known as Nixon's Farm, while encouraging the owner, John Arrington, to accept the land contract with the near certainty that an uppity young buck like dad would default with the payments.

Johnny Howard then proceeded to make clear to dad, that he had to make the payments at any cost.

Only too late, after the checks had been cashed, did John Arrington realize he had been hoodwinked by two uppity black men.

Nixon's Farm was originally a traditional farm, with livestock, silage, and produce. Then, however, destiny began to play its hand.

In the 1950's, there was no place for blacks and Jews to go. Every place was segregated or restricted. So dad's business associates – most of whom were black or Jewish – urged him to renovate for the recreational use of their families. Roosevelt was the founder of the Small Businessmen's League in Baltimore, a group of blacks and Jews who had been denied membership in other business clubs. As a result of this encouragement, Nixon's Farm turned its focus to recreational use. Corporations, private groups, and families now hold events on this famous property.

After father's death in 1972, the business expanded to include hosting corporate picnics, retreats, wedding receptions, and family reunions. Until 1978, however, Mildred Nixon only rented the grounds and allowed caterers to use her property. She had several disturbing experiences, however, which made her reach some conclusions:

- That substandard food reflects poorly on the location, and that consumers do not distinguish between food and facility.
- That caterers make the lion's share of the revenue for an event.
- That, whosoever controls the land has all of the liability, so all of the profit should accrue to the property owner as well.

Fortunately, Mildred Nixon is an excellent cook with a passion for food. Soon, her signature dish, southern fried chicken, was developing an enviable reputation.

In 1987, Randall Nixon, disillusioned with the prospects of practicing law, joined the family firm, carving out a role in the areas of marketing, sales, and non-food operations. He also began the process of systematizing the business with computer automation, job descriptions and a coordinated schedule of work.

In addition, the system was put in place to create a mechanism whereby sales and operations could work cooperatively.

In addition, an alliance was formed with Event Planning Resources, Inc., an entertainment consulting group. The result was been 4 consecutive years of growth, enhanced market presence, and dramatically higher levels of customer satisfaction.

All great businesses share have three characteristics: vision, people, and systems.

Our vision is that we work at touching people in extraordinary ways through compassion, food, facility, and technology. We are both "high tech" and "high touch". Our approach is to provide the Best Total Solution. BTS is a concept by which value-based businesses can differentiate themselves from their competition. We intend to envelop the customer with a comprehensive range of services, either directly or through leveraging alliances. While our competition may be selling features, or price, we sell the proposition that, all other factors being equal, we provide the best total solution to the customer's problems.

Our people are outstanding, and we seek to learn take advantage of the skills they possess while providing a nurturing, family-oriented Christian environment. We also glean the skills that our employees have into the process of continuous improvement, producing a more consistent product.

Our systems are what set us apart from our competitors and place us in the front ranks of outstanding businesses. Principal influencers have been impressed by the systemic, orchestrated management system of Nixon's Farm. Our objective is, through continuous effort, to be actively involved in systemically improving the quality of the product. They understand that every frustration is the result of the absence of a system, and that orchestrated patterns are natural and organic.

Restrooms, for example, are checked every 30 minutes while an event takes place through the use of an egg timer. Similarly, buffet food temperatures are checked every 20 minutes.

Signage and careful landscaping guide guests to their appropriate locations. At critical checkpoints, Nixon's Farm personnel provide guest information through rehearsed scripts. Literature is placed at these checkpoints detailing guest services, and function locations. State-of-the-art communications devices insure that key personnel are in contact with one another at all times.

Our objective is to train new employees so well and so systemically that they are able to perform relatively complex tasks within three hours of their arrival. This enables us to hire young people, and give them the opportunity to develop employment skills. Many of our former employees have returned as customers, and have provided a steady stream of prospective employees and referrals.

Increasingly, people say, "I want a *Nixon's* quality event". Events and food service have a warmth and comfort intuitively communicated that is not experienced anywhere else. The goal is always to touch people in extraordinary ways. We do this by having astonishingly efficient operations, cutting edge technology, rich, tasteful appointments, and unfailingly courteous, caring service. Customers, employees, lenders, and vendors always feel that it was a privilege to touch the Nixon's Farm name in some way. It will be a mark of prestige and good taste.

One customer said, "I determined years ago that when I wanted to host an event, I would do it at Nixon's Farm. I thought of no other place".

III. Our Experience in the SBA Loan Guarantee Process

I am pleased to say, that, on the whole our experience in the SBA guarantee loan process has been very positive. Several steps, led up to the necessity of using the SBA.

As one of Maryland's oldest and most successful minority businesses, we always assumed that it would be a relatively process to expand and to borrow money. After all, a profitable business with a perfect credit rating, $4.2 million in collateral, and hands-on, owners deeply committed to community charities and associations should have no problems expanding. This was our theory.

The reality was quite different. We were turned down by several banks, first, because our accountant was incompetent and submitted the wrong financials, and second, because we were determined to be "cash short". Typically, small businesses that might otherwise qualify for a loan are collateral short, or they have past credit problems. This was not the case with Nixon's Farm.

We had an excellent business plan. We had the best collateral on the planet. We had a superb track record, both financially and morally. And we had proven ourselves to the community. But banks would not lend to us.

We projected that that our annual revenues would double when our renovations to our new ballroom and kitchen were complete. Moreover, in the subsequent year, we predicted revenues would roughly double after that. All of this was clearly articulated, and we were willing to stake our reputations, our businesses, and our $4.2 million farm on it.

The SBA came to our rescue. The loan guarantee we secured gave us real leverage our negotiations, and gave us credibility we needed. I want to give Alan Stevenson, the District Director of the SBA in Baltimore, and Fran Henson of the SBA a great deal of credit in helping us to facilitate the process.

I am pleased to say that, despite problems in the construction process, our revenue projections are precisely on target. We expect to double our 1999 revenues from $455,000 to $1 million. With the addition of commercial kitchen, we expect to increase revenues from $1 million in year 2000 to $1.6 million in 2001. In the process, we are adding 15 new full-time jobs.

Wolfgang Von Goethe once said that the great joy in life is accomplishing something others say cannot be done. We at Nixon's Farm are doing just that. And in the process, we get to fulfill our dreams.

IV. The Federal 8(a) application process

I wish I could say that our foray into the Federal 8(a) application process has been as successful as our SBA loan experience. But it has been more problematic than that.

My experience with the 8(a) program goes back 22 years, when I was a young staffer on Congressman Parren Mitchell's personal staff. I heard many a horror story about the 8(a) program and the difficulties associated with both qualifying for the program and utilizing it to help grow your business.

My experience in business and as a staffer have convinced me that the 8(a) program and programs like are necessary as long as racial discrimination is an accepted way of doing business. I have struggled with the concept philosophically, since in a perfect world we would have no need for preferential programs. But my experience in the marketplace and with lending institutions has forced me to deal with some of America's ugly realities.

Admission into the 8(a) program is arduous and expensive. The process has taken us almost one year and $10,000 in professional fees. The investigation has been exhaustive, with no stone unturned in our professional and personal lives.

We are nearing the end of that process. We expect to receive our notification within the next 2 weeks, and we are hopeful about the outcome. Our expectation is that we will be given the opportunity to present our products to a new marketplace.

V. A final plea for small business as a vehicle for social change

The story of Nixon's Farm is an inspiring one. We have always aspired to be the small business that *could* and *did*. Profitability and quality of life for our family are major motivations for us. But our social mission is also very important.

As a third generation entrepreneur, I have always held to Thomas Jefferson's observation: "God save us from governments who would save us from ourselves". Government cannot be called upon to save every social ill, nor can it ever be all things to all people. Government is at its best when it facilitates the process of people trying to live their lives *better*. It is at its worst when it tries to live their lives *for them*. Our mission – to touch people in extraordinary ways – has applications that transcend government. I know of no better way of helping someone improve his life than by giving him a job and pointing them toward a morally sound life. We do this at Nixon's Farm all the time. Every small business does it. It is slow, incremental, and messy. But it is the most effective method available.

Winston Churchill once said, "Some think that industry should be exploited. Others think it should be punished. But they do not see it for what it is – the sturdy horse that pulls the plow".

Government attempts to do this, and in general, it does it poorly. Please prevail upon your colleagues to rethink how to best effectuate social justice by supporting the social mission of small business.

Hearing held by the Subcommittee on Government Programs and Oversight

Testimony of John F. Schulze, Vice President, Pizza Hut of Maryland, Inc.
Tuesday, April 25, 2000
Banneker Room, Howard County Council Building
3430 Court House Drive, Ellicott City, Maryland

When I received this request to testify before this Subcommittee, I was concerned and expressed that concern to Phil Straw of Congressmen's Bartlett's office, that possibly there was not a great deal for me to add to the agenda of this Subcommittee on any pending, current legislation. I did advise Mr. Straw that I was one of those people who believed very strongly that any time the government, be it federal or state, involves themselves in my business to any extent, it is never good.

There is a need for government and I don't want anything that is said during this testimony to be misconstrued on that subject. When it comes to the general welfare of it's citizens, the government does have a role and that role, I believe, is very clearly stated in the Constitution.

However, as each Congress is elected, there is a desire of legislators to continually add to the bureaucratic burden that is carried by small businesses. In reviewing our files on various legislation that we have commented on, I think an excellent example of the point I am trying to make is the action that was issued by President Clinton to the Department of Labor to enact regulations allowing states to pay persons up to 12 weeks for parental leave.

In a letter to our entire Maryland delegation dated December 2, 1999, I asked each member, if indeed this issue does get to them, to vote against it. It does, however, point up exactly what happens to small businesses when some good-intentioned ideas are made into law and government does this believing they have to be the sole arbiter of what is in the employees' and businesses' best interest.

The parental leave act may have been a good idea to protect an employee from not having the ability to care for a loved one during a time of crisis. Possibly during the Industrial Revolution this type of legislation may have been needed but in all the years I have been involved with Pizza Hut of Maryland, employees are not only assets to our company but, as time goes by, they almost become part of our family. I know of no employer who doesn't believe this and who hasn't tried to do everything they can for their employees. Therefore, we can argue the merits of the family leave act but that's not the point of my testimony. The point is that as soon as the family leave act was passed, then we have, in this case a President or it could have been a senator or congressman, who sees a way to try and buy more votes by giving 12 weeks of paid leave. This cannot happen under the law through the federal government so we have a back door approach through the states. Whether or not this passes the Congress again is not the point of my testimony. The fact is the effort to do it is the point - - who is going to pay for it? Certainly not the insurance companies. Who is going to pay for

the replacement of the employee for 12 weeks? Not the insurance companies and not the federal or state government. And who is going to handle the separation of the new employee when the original employee comes back and how long will it take the same legislators to mandate that the same businesses compensate the employees that are leaving? Left alone, businesses will do this on their own.

Consider this, over time when any regulation or law is passed, it significantly ties our hands as responsible people to fairly treat and adequately compensate our employees.

I would ask in the deliberations of this Subcommittee that you use the premise that the law of supply and demand works. It works at every level. It works for every instance and if left alone, small business will do the right thing many more times then not, which, here again not trying to be judgmental, I doubt the Department of Labor or any other department in the federal government can say.

JFS/lbg