S. HRG. 107–710

MARKUP OF PROCUREMENT, TRAINING AND COUNSELING, DROUGHT RELIEF, AND OTHER SMALL BUSINESS LEGISLATION

MARKUP

BEFORE THE

COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP UNITED STATES SENATE

ONE HUNDRED SEVENTH CONGRESS

SECOND SESSION

JULY 24, 2002

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MARKUP OF PROCUREMENT, TRAINING AND COUNSELING, DROUGHT RELIEF, AND OTHER SMALL BUSINESS LEGISLATION

WEDNESDAY, JULY 24, 2002

UNITED STATES SENATE,
COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP,
Washington, D.C.

The Committee met, pursuant to notice, at 9:03 a.m., in room SR–428A, Russell Senate Office Building, The Honorable John F. Kerry (Chairman of the Committee) presiding.

Present: Senators Kerry, Levin, Lieberman, Wellstone, Cleland, Landrieu, Edwards, Cantwell, Carnahan, Bond, Burns, Bennett, Snowe, Enzi, Crapo, Allen, and Ensign.

OPENING STATEMENT OF THE HONORABLE JOHN F. KERRY, CHAIRMAN, SENATE COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP, AND A UNITED STATES SENATOR FROM MASSACHUSSETTS

Chairman KERRY. We will come to order, and I thank our colleague Senator Bond for being here promptly, and hopefully our colleagues will get here. We have a very small window to try to conduct business here today, which is not unusual for this Committee, and I guess not unusual in the Senate nowadays. But it is going to be particularly important that we try to get staff to get their Members here, if we could, on both sides of the aisle, because we really have about a half-hour window given the markup that is taking place in the Governmental Affairs Committee, which commands the attention of a number of Members on the committee.

I want to thank all of the staff who have worked diligently on doing this, and particularly Emilia DiSanto, Paul Cooksey and Cordell Smith of the Republican staff, and Kevin Wheeler, John DaSilva, Patty Forbes, and company for helping to work out and get some compromise on a lot of the issues that are in front of us today. I think it is a good statement about the good faith of the Committee in trying to do that.

We have seven pieces of legislation and a number of amendments before the Committee. I hope we can move through them, as I said, as rapidly as possible. I am not going to make a long opening. But given the fact that we don't have a sufficient number of Members here to even begin to talk about the amendments, maybe we should give long openings, Senator Bond.

[Laughter.]

Senator BOND. A long opening, OK.

Chairman KERRY. The seven bills before the Committee are S. 2335, the Native American Small Business Development Act, introduced by Senator Johnson and myself, as well as a number of other Senators, which will establish a statutory program for Native Americans at the SBA and create innovative grant programs to help them open and run small businesses. I think this is a very important effort, a step to try to alleviate what we all know have been just pervasive and persistent, tough economic conditions in many of the Native American communities where unemployment rates are over 40 percent, very common.

Second, S. 2734, the Small Business Drought Relief Act, introduced by myself, Senator Hollings, Senator Landrieu, and cosponsored by Senators Bond, Edwards, Carnahan, Enzi, Cleland, Lieberman, and Ensign, which will deal with the devastating impact of the drought conditions which a lot of people have not really noticed except those in the areas, but they have really had a terrible impact in certain parts of the country.

S. 2466, the Small Business Federal Contractor Safeguard Act, introduced by myself, Senator Bond, Senator Carnahan, and Senator Collins, which is designed to try to help ensure that unnecessary contract bundling doesn't deny a lot of small businesses procurement opportunities. We have talked about this a number of times in the Committee. We want to try to close the loopholes in the current definition of a bundled contract.

S. 1994, The Combined 8(a) and HUBZone Priority Preference Act, introduced by myself and Senator Bond, which is intended to re-establish the preference previously given to firms with an 8(a) and HUBZone certification under the original HUBZone rule, that was recently slated for elimination by the SBA, and we would like to keep that.

S. 2483, the National Small Business Regulatory Assistance Act of 2002, introduced by Senator Cleland, myself, and a number of other Senators, to allow Small Business Development Centers to provide small businesses with confidential, free-of-charge, regulatory compliance assistance.

H.R. 2666, the Vocational and Technical Entrepreneurship Development Act, introduced by Congressman Brady of Pennsylvania, which passed the House on October 2nd last year. This is legislation that would allow Small Business Development Centers to provide training to vocational educational students to acquire business skills in addition to their technical ones and open their own shops.

Finally, the Small and Disadvantaged Business Ombudsman Act, introduced by myself, Senators Bond, Cleland, Cantwell, Bingaman, and Carnahan, to protect the interests of small business in the Federal procurement marketplace.

Senator Bond, do you want to add anything to that?

Senator Cleland, welcome. Glad to have you here.

Senator CLELAND. Thank you very much.

OPENING STATEMENT OF THE HONORABLE CHRISTOPHER S. BOND, RANKING MEMBER, SENATE COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP, AND A UNITED STATES SENATOR FROM MISSOURI

Senator BOND. Thank you, Mr. Chairman. I appreciate the chance to share a few thoughts as the crowd is gathering.

As you noted, we do have a number of markups this morning. In addition to the Governmental Affairs Homeland Security, there is a HELP Committee markup, there is an Energy and Water Committee markup. Senator Mikulski and I are in the middle of the VA, HUD, and if you haven't gotten your list of strategic investments for Massachusetts—and I would say you are one of the few, but we always appreciate the attention of our colleagues when that important bill comes before us.

I have some concerns I want to share with you. The bills before us would create a new ombudsman office at SBA, would re-create a system of Technical Assistance Centers for entrepreneurs in Indian country. In fact, S. 2335 would create three programs to replace the old Tribal Business Information Centers the SBA defunded earlier this year. We would dramatically expand the scope and reach of the SBA disaster loan programs and impose new responsibilities on SBDCs.

Many of us might like the goals of some of these changes, but outside of this room, I think it is fair to note that a different budget reality prevails. The Commerce, State, Justice Appropriations Sub-Committee has come nowhere close to the funding levels we would like to see. The 7(a) loan program is being hacked in half, and funding is falling short of the needs for other core SBA programs.

While we disagree, I think, on a bipartisan basis in this Committee with what is happening in the CJS bill, we know one of the reasons it is happening: We are facing an unexpected war on terrorism at a high cost. We have to pay the bills for that. The American people expect no less.

This further squeezes other Government programs, and we have to be careful to avoid expanding existing programs to assure that we can make a compelling case for their funding.

For example, we cannot afford to replace the old Tribal Business Program with three new ones. I appreciate the Chairman's working with us to pare that back to two programs, which is more realistic. But I still think we are going to have to look at the budget realities.

Next, I don't think we ought to be creating new offices that duplicate existing staffs. We already have numerous small business advocates in procurement. Every agency has an Office of Small, Disadvantaged Business Utilization. We have procurement center representatives, PCRs, at contracting offices, but not enough of them. We have small business specialists within the agency procurement staffs as well. We have the regular SBA Office of Government Contracting and Business Development. I question whether we need to start a new office.

We have worked with the Chairman on streamlining the bill a bit and putting the procurement ombudsman in the existing Office of Advocacy. Some of the other functions would be reassigned in the regular SBA Contracting Program Office. For example, agen-

cies that fall short of their small business goals would have to negotiate goal attainment programs, not just keep falling short year in and year out. That is a good idea. This relates to program management, so we assign that role to the program managers at SBA. This is definitely an improvement over where we are.

Some bills could be improved if we had time to look at them. The Small Business Drought Relief bill, S. 2734, was introduced late in the day on July 16. It is a week old. We know that it isn't ready to report to the Senate. Certainly I share the Chairman's concern that small businesses have been unnecessarily restricted in drought relief. A similar problem arose in the SDB Ombudsman bill. Although we have been reviewing earlier drafts, we cosponsored the original bill. We didn't get the final until Thursday night, and we were working on a substitute, and we don't know what—we are still trying to figure out the final language.

Since this markup was announced, however, we have made some real progress on some of these areas, and it seems much of this has been worked out. We have reached a deal. It should not have been as painful, and I am hopeful in the future we could make sure that we have the hearings and the roundtables to prepare us for any problems that might arise, either in the Committee or, frankly, when we get to the floor and when we get to the appropriations process, which authorizing without being able to fund is a hollow step.

We do need to have a legislative history because with a blank slate we are not in as strong a position to go to the appropriators to make it a funding priority.

Finally, a point about the process. In the past we have often voted to report bills en bloc as soon as we get a quorum subject to further amendment. Given the lack of legislative record on several of these items, I question that approach today. I suggest that we deal with each bill separately and each amendment to each bill. Then we can vote to report the measures en bloc at that point.

Members of this Committee have offered some significant amendments, and I have myself. In some cases, we have been able to negotiate an agreement in advance, but I think these issues ought to be heard. I really think that trying to report them all at once is problematic given some of the problems I see in this bill. Frankly, just this morning, we received a letter from the SBA raising real questions about S. 2483 and H.R. 2666. These are measures which significantly expand and bring SBDCs into new areas, and I have some problems with that.

No. 1, the SBDCs provide a vital role in providing business assistance, and we haven't been able to get enough funding for those. I think as the SBA has pointed out, the functions that we seek to place on the SBDC in these bills are duplicated elsewhere. EPA has a strong program for regulatory assistance. SBDC, to my knowledge, doesn't have that expertise. Second, on vocational training and assistance, SBA has not been in that business, and the SBA suggests that this is more appropriately funded in the education area where they are equipped to do vocational training.

With that, I look forward to working with the Chairman and the Committee on these measures, and I appreciate the chance to work together.

Thank you, Mr. Chairman.

Chairman KERRY. Senator Bond, thank you. Those are legitimate concerns that you expressed, and I think that we have worked through a great many of the concerns. I know that there is an amendment that you and I are cosponsoring on a number of these efforts to address some of those concerns, and obviously I regret the compactness of the timing. It is just the way it is falling around here right now as we are all under pressure time-wise. These issues are important. They have been around for a while, so they are not really first blush in many respects.

What I would like to do, because we do have this very short window—Senator Lieberman is here. He has to go chair the markup of the Homeland Security, and several Members here need to be part of that. So I would like to first begin by asking consent to waive the Cordon rule and for staff to be able to make technical and conforming amendments to matters that are acted on at the markup. Without objection?

Senator BOND. Without objection.

Chairman KERRY. So ordered.

Now I would like to call up S. 2734, the Small Business Drought Relief bill and the Kerry-Bond substitute amendment, and then I want to call up—I would like to see if we could pass that amendment by voice vote. I think we have agreement on that, and then call up the Levin amendment and see if Senator Levin could address any concerns anyone has on that.

So is there any debate with respect to the Kerry-Bond substitute amendment? If not, all those in favor, say aye?

[A chorus of ayes.]

Chairman KERRY. Opposed, nay?

[No response.]

Chairman KERRY. The ayes have it. The amendment is adopted, and I now call up the Levin amendment.

Senator Levin.

Senator LEVIN. Mr. Chairman, let me thank you and Senator Bond. I understand that this will be an acceptable subject to some of the comments that have been made, some of the concerns which have been raised. We are adding the word "drought" to the term "disaster," and that means now that we will have as a definition of "disaster" explosions, fires, windstorms and so forth, and drought. What I want to add by my amendment is water levels in the Great Lakes, which are at a disastrously low point now. We have got the same kind of problem there as commercial fishery failures have had along our oceans.

At times we do include ocean conditions resulting in closure of customary fishing waters already in the term "disaster." We think this fits with the term "disaster" when you have these disastrously low water levels in the Great Lakes which have caused such damage to our marinas and to our commercial fishing. So that is the gist of our amendment, that in addition to adding the word "drought," which in there pursuant to this bill, that we add the word—that we add the disastrously low water levels in the Great Lakes.

Chairman KERRY. Is there any further debate?

Senator BOND. Mr. Chairman, I understand my colleague from Michigan has some serious problems with this, but this, frankly, is a major concern, not just for the Great Lakes and not just for the SBA.

No. 1, when we have low water on the Missouri River, all hell breaks loose, and we have got municipalities and problems. We have got small shipping operations that face problems. There was a tremendous problem in agriculture this spring at one point because of low water. Fertilizer wasn't coming up. The terminals have had real problems. Our friends and our colleagues in the West are continually talking about their problems with low water levels.

The second problem I would raise is what this does to the overall cost of disaster. I have the pleasure, at least until we reorganize the Government and move FEMA to somebody else's Appropriations SubCommittee, of funding disasters in the VA, HUD Appropriations bill. Really, I don't have a fix yet on how much this would cost, what the impact would be, and how it would affect other areas where low water levels are a serious problem.

I don't in the least disagree with the concern that our colleague from Michigan has, but I would propose to accept this amendment because this bill is very important and that we get it done. I assure the Chairman and the Senator from Michigan that we will work with him. We have got to find out what the impact is and how many others—if this puppy gets to the floor, I can see a lot of love coming for it from others suffering from low water levels.

So for the purpose of this markup, I would recommend we accept it and continue to work on it. You don't have low water problems in Louisiana, do you?

Senator LANDRIEU. We never have water problems in Louisiana.

Chairman KERRY. Senator Bond, thank you. I really appreciate that, and I particularly appreciate the cooperative spirit of trying to move this along, and we recognize the difficulties of the funding.

Is there any further debate on the Levin amendment? If there is not, we will proceed to a vote. All those in favor, say aye?

[A chorus of ayes.]

Chairman KERRY. Opposed, nay?

[No response.]

Chairman KERRY. The ayes have it and the amendment is adopted.

We have an amendment by Senator Edwards to the same bill.

Senator EDWARDS. A very simple amendment, Mr. Chairman. We have had serious problems, as many others have, with drought in North Carolina. Basically, all this amendment says is, if the Governor applies to the SBA for drought assistance and drought relief, that they will get an answer within 30 days, which I think makes sense. One of the problems has been getting a timely answer, and we just want to make sure that folks get an answer when they make a request.

Chairman KERRY. Is there any debate on the amendment?

Senator BOND. No objection.

Chairman KERRY. If not, all those in favor of the amendment, say aye?

[A chorus of ayes.]

Chairman KERRY. Opposed, nay?

[No response.]

Chairman KERRY. The ayes have it and the amendment is adopted.

Senator EDWARDS. Mr. Chairman, I also ask that Senator Stevens and Senator Allen be added as cosponsors to the amendments.

Chairman KERRY. Without objection, so ordered.

We now have 10 Members present, and I would like to move en bloc, if I may, to a Committee vote on five bills as follows, en bloc, and then we will return to the completion of the drought amendments if they are not—and then we have Senator Cleland's bill, and very quickly, the Vocational Tech bill. So I appreciate everybody's cooperation here.

The five bills we would vote on en bloc are: S. 2335, Native American Small Business Development Act, as amended; S. 2466, Small Business Federal Contractor Safeguard Act; S. 2734, the Small Business Drought Relief Act, with the substitute amendment and as amended by Senator Levin and Senator Edwards; S. 1994, the Combined 8(a) and HUBZone Priority Preference Act, with the Bond-Kerry amendment; and S. 2753, the Small and Disadvantaged Business Ombudsman Act, with the Committee substitute by Senator Bond and myself.

The clerk will call the roll.

The Clerk. Mr. Levin?

Senator LEVIN. Aye.

The Clerk. Mr. Levin, aye. Mr. Harkin?

Chairman KERRY. Aye, by proxy.

The Clerk. Mr. Harkin, aye, by proxy. Mr. Lieberman?

Senator LIEBERMAN. Aye.

The Clerk. Mr. Lieberman, aye. Mr. Wellstone?

Chairman KERRY. Aye, by proxy.

The Clerk. Mr. Wellstone, aye, by proxy. Mr. Cleland?

Senator CLELAND. Aye.

The Clerk. Mr. Cleland, aye. Ms. Landrieu?

Senator LANDRIEU. Aye.

The Clerk. Ms. Landrieu, aye. Mr. Edwards?

Senator EDWARDS. Aye.

The Clerk. Mr. Edwards, aye. Ms. Cantwell?

Chairman KERRY. Aye, by proxy.

The Clerk. Ms. Cantwell, aye, by proxy. Mrs. Carnahan?

Senator CARNAHAN. Aye.

The Clerk. Mrs. Carnahan, aye. Mr. Bond?

Senator BOND. Aye.

The Clerk. Mr. Bond, aye. Mr. Burns?

Senator BURNS. Aye.

The Clerk. Mr. Burns, aye. Mr. Bennett?

Senator BENNETT. Aye.

The Clerk. Mr. Bennett, aye. Ms. Snowe?

[No response.]

The Clerk. Mr. Enzi?

Senator ENZI. Aye.

The Clerk. Mr. Enzi, aye. Mr. Fitzgerald?

Senator BOND. Aye, by proxy.

The Clerk. Mr. Fitzgerald, aye, by proxy. Mr. Crapo?

Senator CRAPO. Aye.

The Clerk. Mr. Crapo, aye. Mr. Allen?

Senator BOND. Aye, by proxy.

The Clerk. Mr. Allen, aye, by proxy. Mr. Ensign?

Senator BOND. Aye, by proxy.

The Clerk. Mr. Ensign, aye, by proxy. Mr. Chairman?

Chairman KERRY. Aye.

The Clerk. Mr. Chairman, aye.

Chairman KERRY. Let me just see—I think we will be OK. Can other Members stay for about 5 minutes? I think we can really——

Senator LEVIN. Yes, 5 minutes.

Chairman KERRY. Thank you very, very much.

The vote is announced?

The Clerk. Eighteen ayes, zero nays.

Chairman KERRY. Thank you.

I now call up Senator Cleland's bill, S. 2483, National Small Business Regulatory Act.

Senator Cleland.

Senator CLELAND. Mr. Chairman, thank you and your staff for working with me and Congressman Sweeney and the Association of Small Business Development Centers to put together the Senate version of the National Small Business Regulatory Assistance Act. S. 2483 makes substantial improvements to the House-passed version of the legislation, including an improved funding formula to ensure all States participating in the pilot program receive resources to run the program effectively, a streamlined study on the types of regulatory assistance provided to small businesses under the pilot program, a revamped provision on privacy rights for SBDC clients derived from a memorandum of understanding between the SBDCs and the SBA, as well as technical changes such as updating the list of where SBDC services are provided.

I believe the support expressed for S. 2483 by a number of the Small Business Development Centers around the country, their association, National Small Businesses United, the National Association of Self-Employed, and the chair of the National Steering Committee of the Small Business Ombudsman Small Business Assistance Program, as well as the letter from the House sponsors of the bill, Congressman Sweeney, Republican of New York, requesting the Committee markup S. 2483 are overwhelming and indicative of the strong grass-roots support for my legislation.

It is no secret that small businesses want to comply with Federal regulations, but often lack the knowledge of how to do so. S. 2483 will allow these small businesses to work with their trusted SBDC counselor who can provide confidential, free-of-charge, regulatory compliance assistance.

I once again thank you for agreeing to my request to mark up this legislation. I believe the resources we provide under this pilot program will do a lot of good for our small businesses as they seek to comply with Federal regulations.

[The prepared comments of Senator Cleland follows:]

OPENING TALKING POINTS ON S. 2483, THE NATIONAL SMALL BUSINESS REGULATORY ASSISTANCE ACT

Mr. Chairman, my thanks to you and your staff for working with me, Congressman Sweeney and the Association of Small Business Development Centers to put

together the Senate version of the National Small Business Regulatory Assistance Act.

S. 2483 makes substantial improvements to the House passed version of this legislation, including an improved funding formula to ensure all states participating in the pilot program receive resources to run the program effectively; a streamlined study on the types of regulatory assistance provided to small businesses under the pilot program; a revamped provision on privacy rights for SBDC clients, derived from a Memorandum of Understanding between the SBDCs and the Small Business Administration; as well as technical changes, such as updating the list of where SBDC services are provided.

I believe the support expressed for S. 2483 by a number of the Small Business Development Centers around the country, their association, National Small Business United, the National Association of the Self Employed, and the chair of the National Steering Committee of the Small Business Ombudsman/Small Business Assistance Program, as well as the letter from the House sponsor of the bill, Congressman Sweeney, Republican of New York, requesting that the Committee mark-up S. 2483, are overwhelming and indicative of the strong grass-roots support for my legislation.

It is no secret that small businesses want to comply with Federal regulations, but often lack the knowledge of how to do so. S. 2483 will allow these small businesses to work with their trusted SBDC counselor who can provide confidential, free of charge, in-depth regulatory compliance assistance that is desperately needed.

I once again thank you for agreeing to my request to mark-up this legislation and I believe the resources we provide under this pilot program will do a lot of good for our small businesses as they seek to comply with Federal regulations.

Chairman KERRY. Thank you very much, Senator Cleland.

The bill is open to amendment, if there are any. There are no amendments filed. If there are no——

Senator BOND. Mr. Chairman, as I indicated, the Small Business Administration has raised questions about this bill. No. 1, I certainly agree with the need for regulatory assistance for small business, but—and this is a 4-year pilot program to provide regulatory compliance assistance. As we note, the Committee has held no hearings or roundtable discussion on the bill, and I am concerned, No. 1, that it would duplicate the ongoing programs at EPA, which already is providing the support to small business. EPA provides compliance assistance to the small business ombudsman. It is one-stop small business assistance between the small business and EPA. Section 507 of the Clean Air Act Amendments, Small Business Assistance Program, SBAP, provides technical assistance in all 50 States through State-operated programs.

The EPA Office of Compliance Assistance provides Virtual Compliance Assistance Centers, Web-delivered, in a variety of business sectors such as printing and local government.

Under the Red Tape Reduction Act, the EPA Office of the Administrator provides opportunities for small businesses to participate in the regulatory process. They have had 23 different rulemakings and 6 compliance guides. As the SBA points out, this would provide the SBDC Association, a non-governmental entity, with a role in promulgating and interpreting regulations and criteria mandated under the legislation.

I raise the question that I think before we take this bill to the floor, we ought to explore in a Committee hearing to find out, given the tremendous pressures on the SBDCs to provide business advice, whether we should give them a responsibility of duplicating already existing EPA and SBA assistance in regulatory compliance.

Again, we don't have enough dollars for the vital programs of the SBA, and before we move on giving a totally new responsibility of governmental regulation interpretation to a non-governmental

agency, I would hope that we could have a thorough discussion in the Committee about it. So I raise a question about this one, and I think—I don't know if we have already done it, but perhaps this would be an appropriate time to ask that the letter from Administrator Hector Barreto dated July 23, 2002, be submitted for the record here.

Senator CLELAND. Mr. Chairman.

Chairman KERRY. If Senator Cleland will hold just for a minute, without objection, that will be submitted for the record.

[The letter follows:]

U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, D.C. 20416

JUL 23 2002

OFFICE OF THE ADMINISTRATOR

The Honorable John F. Kerry
Chairman
Committee on Small Business and Entrepreneurship
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

The purpose of this letter is to express the U.S. Small Business Administration's (SBA) concerns with S. 2483, the National Small Business Regulatory Assistance Act and H.R. 2666, the Vocational and Technical Entrepreneurship Development Act. These bills mirror legislation acted on in the House on which we expressed our views in a letter to Chairman Manzullo on September 28, 2001. SBA has not had sufficient time to analyze the other bills that the Committee is considering but will provide comments at a later date.

S. 2483 would establish a pilot program under which Small Business Development Centers (SBDCs) would provide regulatory compliance assistance to small business concerns. SBA's concerns include expecting SBDCs to provide expert guidance on a broad range of Federal regulatory questions would be at best duplicative of assistance provided by the regulatory agencies throughout the executive branch and could result in the provision of contradictory or erroneous guidance that would harm small businesses and expose the SBDCs to liability. In addition, S. 2483 would provide the SBDC Association, a non-governmental entity, with a role in promulgation of regulations and criteria mandated under the legislation.

SBA recognizes the importance of providing assistance to small businesses to help them comply with regulatory issues and believes that SBDCs can continue to play an important role in bringing small businesses together with subject matter experts in the regulatory agencies who can assist them with their particular problems. The President has made regulatory compliance an important part of his small business agenda and if the Committee chooses to review the actions undertaken by agencies in response to the President's guidance we believe it would indicate no need for legislation.

H.R. 2666 would establish a vocational and technical entrepreneurship development program to provide grants to SBDCs to assist secondary schools or postsecondary vocational or technical schools in developing curricula to promote entrepreneurship. SBA's technical assistance programs are designed to assist small businesses and entrepreneurs, not schools. This is an educational development program more properly administered by the Department of Education. Section 18 of the Act

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prohibits SBA from duplicating activities of other agencies. The Department of Education already has programs headed by the Assistant Secretary for Vocational and Adult Education, which offer support in designing high quality vocational-technical programs.

Sincerely,

Hector V. Barreto
Administrator

Cc: The Honorable Christopher S. Bond

Chairman KERRY. Let me just say very quickly, I think there may be a way to work through this. We have worked closely—first of all, this bill was filed in the House, passed by the House, and there were hearings in the House. So there is a legislative record with respect to this that we deemed transferred with it and sufficient in our judgment to be able to lay down a sort of legislative capacity to make judgments about it.

Second, we have worked very closely, Senator Cleland and the Committee and our staff, with the House sponsor, with the SBDCs themselves, and it is supported by small business groups.

Now, I don't want to—you know, we have never tried to railroad things or ram things through here, and I don't want to do it that way. I don't like that. I think we want to try and do it intelligently and have support. Obviously, if we don't have broad-based support, there are all kinds of ways of slowing it down on the floor and so forth.

Maybe we could do this, and I would like to see if this would meet everybody's approval. There are a number of changes that have been made in this, fixing sort of a crucial funding program, which is why this has received strong support. Maybe we could pass this today, if the Committee were in accord with that, agree to have a roundtable in the very near term, which Senator Cleland could chair and Members who have concerns could come to, and I will work with the Committee in good faith before—if we need to, to create some kind of managers' amendment when it comes to the floor and resolve whatever significant differences exist then. I think that would really facilitate our capacity to move.

Senator BOND. Well, Mr. Chairman, certainly that is the way that we have worked in this Committee in the past. We know there is a concern here on the same basis as we agreed to the amendment from the Senator from Michigan. I understand the concern. I understand the objective. I would recommend to my colleagues that we support this bill subject to the roundtable and further discussion.

I want to hear from the SBDCs. I want to hear from SBA and EPA——

Chairman KERRY. Sure.

Senator BOND [continuing]. On this before we take it to the floor to make sure that we are, No. 1, not duplicating work that is already being done by the EPA and SBA; No. 2, that there is not a problem with the SBDCs providing interpretation of Government regulations in an area which, frankly, I don't know their expertise; and, No. 3, whether given the responsibilities that we impose on the SBDCs and, frankly, the inadequate funding we are providing to them, if they can fulfill their basic business. I would say that I would have the same views on the vocational assistance of SBDCs.

The SBDCs, in my view, are great organizations. They provide a valuable service. We haven't been able to fund them, and before we take a bill to the floor providing them responsibilities in regulatory interpretations or in vocational education, that we see that we are not getting into a problem in any of these three areas.

So I would be happy—I would recommend to colleagues on my side that we accept those subject to that condition.

Chairman KERRY. I appreciate the Senator's cooperation, and the Senator certainly has the right to have those questions answered, and I think any Member of the Committee does. So I think that is a good way to proceed, and I appreciate everybody's cooperation.

We will try to set that roundtable up just as fast as we can and see if we can't expedite the process.

Does that meet your needs, Senator Cleland?

Senator CLELAND. Yes, sir.

Chairman KERRY. Thank you.

Senator BOND. Are there any comments or questions, colleagues on this side?

Chairman KERRY. Senator Allen?

Senator ALLEN. Mr. Chairman, on H.R. 2666, what was the disposition of the proposed Edwards amendment?

Senator BOND. The Edwards amendment on the drought assistance was accepted. That is the one that requires the SBA to——

Chairman KERRY. No, this is on a separate bill. This is on 2666, which is the vo tech. He has withdrawn that. It is withdrawn.

Senator ALLEN. He has withdrawn that?

Chairman KERRY. Withdrawn that amendment.

Are there any further inquiries or questions? If not, I would like to proceed to a vote then. If we could proceed to a vote on both bills, I think that would expedite the procedure, and I will keep my commitment to everybody to move this hopefully within half an hour.

Senator WELLSTONE. Mr. Chairman, on the last vote, the Native American Small Business Development Act, I would ask unanimous consent that I cast my vote now present for that last vote.

Chairman KERRY. Without objection, so ordered.

Senator BOND. We would be happy to do that. Senator Wellstone is one of our most faithful attendees. The Chairman and Senator Wellstone and I have conducted a lot of business together.

[Laughter.]

Chairman KERRY. Without further ado, then, if we could vote en bloc, the clerk will call the roll.

The Clerk. Mr. Levin?

Senator LEVIN. Aye.

The Clerk. Mr. Levin, aye. Mr. Harkin?

Chairman KERRY. Mr. Harkin, aye, by proxy.

The Clerk. Mr. Harkin, aye, by proxy. Mr. Lieberman?

Chairman KERRY. Aye, by proxy.

The Clerk. Mr. Lieberman, aye, by proxy. Mr. Wellstone?

Senator WELLSTONE. Aye.

The Clerk. Mr. Wellstone, aye. Mr. Cleland?

Senator CLELAND. Aye.

The Clerk. Mr. Cleland, aye. Ms. Landrieu?

Senator LANDRIEU. Aye.

The Clerk. Ms. Landrieu, aye. Mr. Edwards?

Chairman KERRY. Aye, by proxy.

The Clerk. Mr. Edwards, aye, by proxy. Ms. Cantwell?

Chairman KERRY. Aye, by proxy.

The Clerk. Ms. Cantwell, aye, by proxy. Mrs. Carnahan?

Senator CARNAHAN. Aye.

The Clerk. Mrs. Carnahan, aye. Mr. Bond?

Senator BOND. Aye.
The Clerk. Mr. Bond, aye. Mr. Burns?
Senator BURNS. Aye.
The Clerk. Mr. Burns, aye. Mr. Bennett?
Senator BENNETT. Aye.
The Clerk. Mr. Bennett, aye. Ms. Snowe?
Senator SNOWE. Aye.
The Clerk. Ms. Snowe, aye. Mr. Enzi?
Senator ENZI. No.
The Clerk. Mr. Enzi, no. Mr. Fitzgerald?
Senator BOND. Aye, by proxy.
The Clerk. Mr. Fitzgerald, aye, by proxy. Mr. Crapo?
Senator CRAPO. Aye.
The Clerk. Mr. Crapo, aye. Mr. Allen?
Senator ALLEN. Aye.
The Clerk. Mr. Allen, aye. Mr. Ensign?
Senator ENSIGN. Aye.
The Clerk. Mr. Ensign, aye. Mr. Chairman?
Chairman KERRY. Aye.
The Clerk. Mr. Chairman, aye. Eighteen ayes, one nay.
Chairman KERRY. The bills are reported as approved.

I really want to thank my colleagues. It is never easy here to get a quorum. I will try to move as rapidly as possible, and I pledge to the Committee we will complete the task of getting the work done on those issues that still remain outstanding. But I thank everybody for their cooperation.

Is there any further—yes, Senator Snowe?
Senator SNOWE. May I be recorded aye on the previous vote?
Chairman KERRY. I beg your pardon?
Senator SNOWE. May I be recorded aye?

Chairman KERRY. Without objection, Senator Snowe will be recorded aye as present, and I submit a package of letters of support from various organizations for the legislation approved today into the record.*

Chairman KERRY. Senator Landrieu.

Senator LANDRIEU. Mr. Chairman, I just want to ask unanimous consent to be added as a cosponsor for S. 2753.

Chairman KERRY. Without objection, so ordered.

Is there any further business to come before the Committee?
Senator CANTWELL. Mr. Chairman.
Chairman KERRY. Senator Cantwell.
Senator CANTWELL. I would just ask that I be recorded in person as——

Chairman KERRY. Without objection, Senator Cantwell is recorded in person on all of the votes.

Senator CANTWELL. Thank you.

Chairman KERRY. Without further business, we stand adjourned. I thank everybody.

[Whereupon, at 9:38 a.m., the Committee was adjourned.]

[Appendix material submitted follows:]

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* These letters are located in the Appendix.

APPENDIX MATERIAL SUBMITTED

18

Excerpts

ENTREPRENEURSHIP EDUCATION

Current Developments, Future Directions

EDITED BY
Calvin A. Kent

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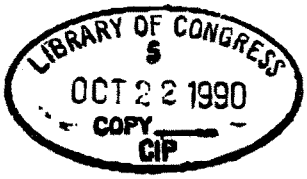

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14

Entrepreneurship in Vocational Education

M. Catherine Ashmore

> Entrepreneurs are not *born* . . . they *become* through the experiences of their lives.
>
> —Albert Shapero, 1982

Personal initiative and diverse special skills are the ingredients for an entrepreneurial economy. Vocational educators are recognizing that these same ingredients are the purpose of vocational programs in the high schools and two-year colleges. The missing link has been education for entrepreneurship as part of vocational program priorities.

Entrepreneurs come from every level of education, and many have emerged from poverty or lack of so-called educational success. Vocational educators have recognized that starting a business is a natural outcome of vocational skills training, and they are moving ahead to encourage the entrepreneurial spirit in all kinds of young people.

It is significant that the Congressional Commission on Jobs and Small Business identified vocational education as an important opportunity for mobilizing our people to create a needed ten million new jobs for the next decade.

Those who dream of creating a business need the skills to run one. Every state should review the educational offerings of its schools—in particular, its vocational

programs in secondary schools and community colleges—to make available training in business creation including business and financial planning, cash flow management, employee development, and managing and consolidating growth. Efforts should be made to involve small business owners in developing these curricula as well as in teaching. (National Commission on Jobs and Small Business, 1987), p. 29.

Vocational education offers an educational opportunity for young people who need a choice of routes to success and personal self-esteem. A student may have had problems with Latin or chemistry but may handle a computer like a whiz, and can make a business of it. Students may be better at creating marketing strategies and advertising slogans than understanding Shakespeare or advanced algebra. They may be highly skilled at working with their hands to create electronic systems, but unable to write a term paper about the history of electronics. Fortunately, it takes a great variety of skills to meet the needs of one economy. Fortunately as well, vocational education offers students a way to find their own specialties and make the most of them. Finally, and equally fortunate, vocational educators are recognizing economic development opportunities by adding entrepreneurship education to the skills taught in many programs.

Today's business owners also recognize that education is an important partner in the success of America's entrepreneurs—both current and future. It is significant that eighteen hundred business owners, delegates to the 1986 White House Conference on Small Business, voted for entrepreneurship education as their sixth priority. This is particularly important when you consider all the government tax and regulation issues that might have taken precedence. The delegates asked the nation to move forward in this way:

The federal government should encourage the advancement of entrepreneurial education and the study of the free enterprise system by promoting an early awareness of the free enterprise system, beginning with primary education and continuing through all levels of education. This would include the teaching of foreign language and intercultural practices, thereby increasing our national awareness of global economies and their interaction, and encouraging a greater competitiveness by small business in international markets. This training should be taught by small business people or teachers with hands-on entrepreneurial experience and must include curriculum input from small business people. (U.S. Small Business Administration, 1987, p. 6)

Business owners are already closely connected to vocational education programs. They serve on advisory boards, curriculum committees, as classroom speakers and co-op employers. Many vocational teachers are also part-time business owners. This existing partnership makes vocational education unusually qualified to continue to nurture the business creation

concepts that have made this nation grow and recover quickly in times of recession.

WHAT IS ENTREPRENEURSHIP EDUCATION?

Vocational education leaders recognize that all young people should be exposed to entrepreneurship education, and that they, the leaders, are not the only actors in the game. It is important for educators to recognize the opportunities for entrepreneurship and include concepts about small business creation in all levels of education. Lest educators accept this idea and get into turf battles over entrepreneurship education, we suggest that it is a lifelong learning process where everyone can have a role.

The National Center for Research in Vocational Education developed the Lifelong Entrepreneurship Education Model (Figure 14.1) to explain what entrepreneurship education means to different audiences at different stages of educational development. It assumes that everyone in our educational system should have opportunities to learn at the beginning stages, but the later stages are targeted specifically to those who really wish to start a business. Further, it is appropriate to address different facets of entrepreneurship education as they relate to the particular purpose of each educational area.

BASICS (STAGE ONE)

In primary grades, junior high school, and high school we hope that young people have learning experiences that allow them to see business ownership as real opportunity for everyone. We call this stage the Basics. In addition, they need to learn about our economy and the benefits of the free enterprise system. Small business is an essential ingredient because it represents over 90 percent of all businesses, creates most of the new jobs, and is credited with most of the inventions in this country. Knowledge of our economy enables young people to make career decisions and be capable voters in their future.

Most important, the first, or Basics, level can provide all young people with the vision that anyone can be a business owner in America. However, without achieving the basic education and learning all they can, they will find it much tougher to succeed.

Motivation to learn and a sense of individual opportunity are the special outcomes at this level. Entrepreneurs come from all kinds of backgrounds and educational levels. To learn that anyone can succeed if he or she has the skills and the courage is an important way to help all young people understand the American economy.

plenty of time to develop a real business plan or even to run a real business. In a number of states a rural development activity is being tested. Using the school as an incubator, teachers are assisting students in starting real businesses. If successful, these businesses might be bought out by the student at graduation and provide ongoing self-employment opportunities for such rural area graduates.

At the secondary level, entrepreneurship education's major focus is to open this career option to all young people and to let them know what is needed to make a successful business. It does not matter how much skill students develop in business management as long as they have experiences that encourage the idea and learn where they can go to learn more when they are really ready.

POSTSECONDARY TECHNICAL SCHOOLS AND COMMUNITY COLLEGES

Once students decide to go further with technical skill preparation they may also decide to pursue further entrepreneurship education. Programs to teach entrepreneurship are quite new to most postsecondary occupational training areas. Even when available, entrepreneurship education has rarely been offered to all occupational programs. Instead, it generally takes the form of a course or a degree program for business majors. We still have a long way to go with instructors in programs such as food service, computer technology, or fashion merchandising to see these students as business owners rather than only as employees.

However, the postsecondary schools have been particularly responsive to the needs of adults in their communities who wish to start a business. Creative approaches to helping adults start all kinds of businesses are available through the continuing education programs. Many of these programs have targeted the needs of specific populations such as displaced workers, minorities, or women in business.

Special projects have been funded by state education agencies, the Job Training Partnership Act (JTPA), or the Small Business Administration (SBA) to encourage the proliferation of these adult training programs in all sizes of communities throughout the states. Materials have been developed to assist educators and business owners to teach these classes in a practical and realistic way. Unfortunately, many of these programs have been used for trying to prepare adults who wish to start a business when they have absolutely no business education background. It is a real challenge to prepare business owners with such limited experience, but it is certainly far better that they seek such help than trying to learn it all on their own.

The Small Business Administration, through its Small Business Development Center (SBDC) network has linked up with these postsecondary programs in many states. The established adult training programs throughout

many communities in each state are a natural delivery system for the SBA's small business development program. In addition to business start-up programs, they also offer training for existing small business owners who recognize a need for improving their business competencies and getting help with newly emerging problems.

The Small Business Management (SBM) program exists through vocational schools and community colleges in many states. Its mission is to help existing businesses solve their problems, and thus encourage growth and success in the community. Occasionally these programs are connected to the SBDCs, but more often they operate separately with more emphasis on training than in the traditional SBDC. The SBM program establishes a long-term relationship with business owners. It follows an established program that provides continuity with special emphasis on understanding financial issues.

Further details on the many types of entrepreneurship education being sponsored by vocational education can be obtained from state consortium representatives or the consortium management at the Ohio State University. A database of both state and local programs is being developed as a major project of the National Entrepreneurship Education Consortium. Contacts are available for each level of the lifelong learning model, and new programs are constantly being sought for the database.

BENEFITS TO VOCATIONAL STUDENTS

Developing human capital potential through entrepreneurship education has far more outcomes than merely preparing some students for eventual self-employment. In addition, we believe that there is an equity option in this program that can empower groups of Americans who have until now been excluded from commercial ventures. By learning about the process of business formation, the necessary linkages, and the leveraging of resources, it seems possible that more people can move into creative business ownership than ever before. Even for those who choose not to start a business, the mysteries of the job market can be significantly reduced.

Entrepreneurship education can provide many different types of benefits to different students as they move through the educational process. They include the following:

Career planning: Students should understand the unlimited options of starting a business or some day becoming self-employed. Generally, most of them are not ready for this at graduation; however, they should know about such options.

Basic economic awareness: A view of the free enterprise system as it exists today is the most critical economic knowledge for American youth. The global competition of tomorrow requires a broad understanding of the opportunities and responsibilities of our economy.

Business understanding: Whether a person owns a business or is an employee, it is helpful to the operation of this business for the person to understand all business functions. Entrepreneurship education in the public schools will give all students a stronger business base.

Application of skills: Entrepreneurship education may serve as a vehicle for students to see ways to become employed with the skills they are acquiring in a vocational program. It provides a method to explore all the ways these job skills may be applied to community business needs.

Community understanding: Students may use the entrepreneurship education program to study entrepreneurs in the community, to discover opportunities for new businesses in the area, to gain an understanding of the suppliers available, and to analyze the demographics that will affect the success of selected small business ventures.

Self-understanding: Experience with the life story of successful entrepreneurs can help students think about their personal attributes and life-style choices. It is important to look at both the positive and negative factors in one's own make-up before choosing entrepreneurship as a career.

Orientation to change: Students will learn to look for changes that may lead to business opportunities of the future. Entrepreneurs seem to have a single-minded drive to try the new and stay ahead of the competition.

Creativity: Entrepreneurship education encourages all kinds of innovative thinking related to new products, new services, changes in demographics, new technology, societal change, and community needs. Creating a business on paper that might be started in your community is an excellent exercise in business creativity.

Business decision making: Successful business owners and their employees need a strong business management background if they are to know how to successfully make everyday business decisions.

YOUNG ENTREPRENEURS

The proof of the claims for entrepreneurship education can be found in the stories of vocational graduates who have started their own businesses. Generally, they choose to develop businesses that are logical outcomes of their vocational training. Sixty young entrepreneurs are described in the case studies in a new curriculum product designed for high school vocational students. Entitled *Risks and Rewards of Entrepreneurship*, this product was developed by the National Center for Research in Vocational Education as a result of an Ohio project sponsored by the Ohio Department of Education, Division of Vocational and Career Education. These case studies will be used to provide role models for other vocational students.

More should be known about vocational graduates as we move to improve education. The success stories of a great variety of vocationally trained entrepreneurs paint an exciting picture:

1. *Michael Calderone* of Calcom, Inc. says, "I pride myself with designing unique, one-of-a-kind systems (i.e., intercoms, fire alarms) that fulfill special needs. We create cost effective solutions to our customers' requirements." In high school Calderone studied electronics because he did not expect to have the money to go to college. Since then he has earned about half his college engineering degree.
2. *Pamela Sue Myers* of CurlyCue Beauty Salon says that her business is "highly competitive so it is essential to stay in tune with current fashion trends and adapt them to clients' needs." A high school cosmetology course got her started in the field.
3. *Lane Craig* says his affinity for selling and his love of animals naturally made him interested in starting his pet shop in Kansas City, Missouri.
4. *John Smith* took a variety of vocational classes, all of which combined to give him the skills to start his Appalachian Chair Company in Talbott, Tennessee.
5. *Julie Bourdo* started Toledo River Cruise Lines in Ohio when she was 21 years old and today grosses $2.5 million annually. She values her high school training in sales and marketing, and being "out in the field to learn."
6. *Andrew De-Vito's* training as a jeweler started with his sales training in marketing education in high school in Rockaway, New Jersey. He gives his marketing education teachers much of the credit for his business success today. He says the training he received in DECA was more beneficial than the college degree he got later.
7. *Brett Gibson* of Terra Haute, Indiana, is the youngest role model of the lot. Although still a marketing education high school senior, he has been in his own successful business since age ten.

This group of young entrepreneurs are contributing to the beginning of a national study to determine what makes these young vocational graduates choose entrepreneurship as a career. This may be one of the most exciting new messages to emerge about the outcomes of our public education system and the impact of vocational education on this nation's human resource development.

ATTITUDES ARE EVERYTHING

If vocational education is to make a significant impact on the entrepreneurial attitudes of millions of high school and two-year college students each year, it will depend on the attitudes of our teachers. Vocational teachers often have been business owners, or may even run a business and teach at the same time. This real experience makes them particularly competent to teach about entrepreneurship. It also provides them with many connections in the community who can help their students.

America's most valuable economic resource lies in the knowledge, skills, and attitudes of our work force—present and future. Entrepreneurship ed-

ucation is a vehicle for vocational education that brings new prospects and challenges as we compete for our global economic position in the twenty-first century. Whether vocational graduates become entrepreneurs or merely more knowledgeable employees does not matter; both outcomes are important to the future economic success of this nation.

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LETTERS REGARDING S. 2335

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July 1, 2002

The Honorable John Kerry
Chairman
Committee on Small Business
and Entrepreneurship
United States Senate
Washington, DC 20510

Dear Chairman Kerry:

I am writing to request that the Committee on Small Business and Entrepreneurship schedule a mark-up of S. 2335, the Native American Small Business Development Act.

The Native American Small Business Development Act is crucial to ensure that American Indians, Native Hawaiians, and Alaska Natives have access to essential services to promote successful entrepreneurship. The decision by SBA to discontinue funding to Tribal Business Information Centers is extremely disappointing and may unfortunately stifle businesses opportunities in economically distresses regions. Native American communities face significant barriers to economic growth and job creation. It is essential that Native American entrepreneurs have access to culturally sensitive technical assistance and business services.

Thank you for your leadership and dedication to promote successful, sustainable entrepreneurship in disadvantage communities. John DaSilva and Patty Forbes on your staff have been particularly helpful in working to address these important issues and I am grateful to you and your staff for all of your assistance.

Thank you for your consideration of this request. Should you have any questions or if I may be of any assistance to you, please do not hesitate to contact me, or have your staff contact Dean Meinen in my Washington DC office at (202) 224-5842.

Sincerely,

Tim Johnson
United State Senate

TPJ/dm

SOUTHERN UTE INDIAN TRIBE

May 15, 2002

The Honorable Ben Nighthorse Campbell
Vice Chairman of the Indian Affairs Committee
Senate Russell Office Building 380
1st and C Streets, N.E.
Washington, D.C. 20510

Dear Senator Campbell,

The Southern Ute Indian Tribe supports the authorization of the Small Business Administration Office of Native American Affairs to provide financial assistance to Tribal government, Tribal colleges, Native Hawaiian organizations, and Alaskan Native Corporations in the creation of Native American Business Centers.

We also agree with the authorization of the pilot program to fund grants to provide culturally tailored business development training and related services to Native Americans and Native American Small Business concerns.

We join with other Tribes and the National Indian Business Association in support of the passage of this important legislation for Indian Country.

We greatly appreciate your assistance and your support of the Native American Small Business Development Act.

Sincerely,

Leonard C. Burch, Chairman
Southern Ute Indian Tribe

P.O. Box 737 • Ignacio, CO 81137 • Phone: 970-563-0100

National Indian Business Association

725 Second Street, N.E., Washington, D.C. 20002

April 16, 2002

Mr. John DaSilva
Legislative Assistant
Committee on Small Business and Entrepreneurship
428A Russell Senate Office Building
Washington, DC 20510

Dear Mr. DaSilva:

As the United States Senate Committee on Small Business and Entrepreneurship moves forward to establish the Office of Native American Affairs within the Small Business Administration, and works to create the Native American Small Business Development Program I want to offer the support of the National Indian Business Association.

NIBA supports the authorization of the SBA Office of Native American Affairs to provide financial assistance to Tribal governments, Tribal colleges, Native Hawaiian organizations, and Alaskan Native Corporations in the creation of Native American Business Centers.

We also agree with the authorization of the pilot program to fund grants to provide culturally tailored business development training and related services to Native Americans and Native American Small Business concerns.

Thank you for the opportunity to express NIBA's support to this important piece of legislation. If you need additional information, please feel free to contact me at (202) 547-0580.

Sincerely,

Pete Homer
President/CEO

Tel. (202) 547-0580 Fax (202) 547-0589 Email: niba1@msn.com

NATIONAL CONGRESS OF AMERICAN INDIANS

May 17, 2002

The Honorable Tim Johnson
United States Senator
324 Hart Senate Office Building
Washington, DC 20510

Dear Senator Johnson:

The National Congress of American Indians is seeking your assistance in urging the Senate Committee on Small Business & Entrepreneurship to see that the Senate version of the "Native American Small Business Development Act" (HR 2538) contains language ensuring that the efforts to increase Native American participation in SBA programs will succeed. We believe that the House bill, which was referred to the Senate on December 6, 2001, contains a number of flaws that will undermine what might otherwise be an extremely important tool to increase business ownership among Native Americans. Although we are pleased that the bill provides funding for outreach, training, and technical assistance to increase Native American participation in SBA programs, it directs these funds to State Small Business Development Centers rather than to the Tribal Business Information Centers. This tried and failed approach will do little to advance Indian business ownership or increase participation in SBA programs.

SBA has not provided the sufficient support or resources in either its Office of Native American Affairs Programs or the TBICs. American Indian, Alaska Native and Native Hawaiian communities have been historically under-served by the SBA, a fact recognized by the SBA itself. Criticized for its failure to get services to Native American communities, SBA established the Office of Native American Affairs in 1992 to provide outreach and, ultimately, to administer all Native American Programs. In 1996 SBA, with funding from the Bureau of Indian Affairs (BIA), established eighteen Tribal Business Information Center (TBIC) Programs in seven western states. The Office of Native American Affairs coordinated and administered the programs. These were key steps toward truly extending SBA business services. For the first time, SBA was reaching Native communities through community service providers, such as tribal community colleges or other tribal community agencies, rather than in obscure offices in distant cities. We were optimistic that things were finally beginning to improve.

Our optimism was short-lived, however. The first sign that SBA's commitment was wavering came shortly after passage of the HUB Zones (Historically Underutilized Business Zones) Act of 1997. This Act contained a number of provisions specifically intended to ensure Native American participation. In drafting its implementing regulations, however, SBA interpreted the legislation to exclude all Native American participation except for Alaska Native Corporations. After much protest, the agency relented insofar as reservations were concerned, but still rejected participation by tribally owned businesses. The matter was not resolved until Congress passed an amendment clarifying its intention to include Tribal participation. However, that clarification has not yet spurred SBA action.

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Unfortunately, the SBA appears to be trying to undermine its own efforts. On the one hand, SBA is finally seeking funding for Native programs, but, on the other, it neglects its Office of Native American Affairs Program by allowing it to languish without a director or staff for over a year. It seeks money and then asks Congress to direct those funds to the Small Business Development Center Office, not the Office of Native American Affairs. It urges greater training and technical assistance for American Indians, but wants State Centers—those located far from tribal communities—to provide the services instead of reservation-based TBICs.

To seek increased funding for assistance to Native Americans while abandoning the Office of Native American Affairs, its programs, and the TBICs is hypocrisy. The services will never reach the intended beneficiaries and Native Americans will once again constitute SBA's neediest but most under-served constituency.

On behalf of our members, the National Congress of American Indians requests your help to rectify this situation. NCAI has supported the National Indian Business Association as they ask the Senate Committee on Small Business & Entrepreneurship to put language in the Senate version of HR 2538 clarifying that the SBA Office of Native American Affairs will administer the funds authorized to provide business services through the Tribal Business Information Centers. We hope that you will support this goal and urge your colleagues on the Small Business Committees in both Chambers to agree on provisions in the final bill that will ensure that the programs serve the intended purpose.

If you need additional information or have any questions, please do not hesitate to contact me or my staff at 202.466.7767. Thank you for your support.

Sincerely,

Tex G. Hall
President

Tom Dorr
Director
Western Washington University
Small Business Development Center
119 N. Commercial St. Suite 195
Bellingham, WA 98225
360-733-4014
tom.dorr@wwu.edu

April 24, 2002

Honorable Chairman Kerry, Honorable Chairman Inouye and Honored Committee members,

Thank you for the opportunity to provide testimony on small business development in Native American communities. I am the Director of a unique Small Business Development Center in the corner of Washington State on the Canadian border serving a geographic area of that includes 8 tribes. Our SBDC is unique in that we have been serving small businesses for over 20 years; we have 10 employees and in the last 6 years have supported over 2000 small businesses creating over 728 jobs, saving over 615 jobs and creating over $33,000,000 in new investments. We have been recognized as one of the top ten SBDCs in the country for our innovative programs, partnerships and outreach efforts.

One of those outreach programs has been to the local Indian tribes. Previous to late 2001, we attempted to market our services to the Lummi and Nooksack tribes, targeting existing business owners with counseling services. Few tangible results can be identified from these years of outreach efforts. However, in September of 2001, we were awarded a SBA BusinessLINC grant to hire a Tribal Program Manager to provide linkages between mentors and native protégés. Our BusinessLINC Program has been focused on developing monthly Roundtable meetings of 10-12 native business owners (both start-ups and existing businesses) and one-on-one protégé / mentor linkages. Our Program Manager is a Native American who has good contacts in Indian Country. I would like to share some of our results and observations regarding serving our local Native Americans:

Barriers to individual entrepreneurs:

Many Native Americans lack the basic business skills to start or manage a small business.

The absence of these basic business skills contributes to the low level of confidence that many Native Americans face when trying to enter into non-tribal related businesses. Self-confidence is a necessity in order to succeed in operating a small business. Counseling, training and mentorship are needed.

For many Native Americans there is a resistance to trust programs that are implemented by the government entities. There is a distrust that exists that has been present for many generations. This is due to promises that have been made and broken by the federal government. Hiring the right person is critical to success.

Specifically, for the Lummi and Nooksack Tribes of Whatcom County, the transition from the fishing industry to more conventional forms of entrepreneurship has been difficult. It has been estimated that 50 to 75 % of tribal members relied on the fishing industry to provide for their yearly income. A full range of business development services is needed.

Because of the unique relationship inherent with tribal fishing treaties, tribal members are not required to pay taxes on their catch. This contributes to the lack of accurate record keeping and the motivation for accurate record keeping for most tribal members. Basic business and life skills training, counseling and mentorship is needed.

The lack of collateral is one of the major barriers preventing tribal members from obtaining necessary funds in order to start or expand businesses. Due to the trust status of land owned by individual tribal members, banks are unwilling to loan money to tribal members. Banks cannot go after trust lands if there is a default on payments. Alternative sources of funding are needed (i.e.: revolving loan funds).

Many tribal members lack a positive credit rating in order to obtain financing. Many tribal members lack motivation because they know they cannot get over the hurdle of bad credit. Many of these individuals have made mistakes in the past that continue to haunt them when trying to obtain financing. Many have changed their habits that contributed to the poor credit rating, but have yet to clean up their credit report.

Most tribal economic development activities are focused on infrastructure and tribal owned businesses, like casinos, that will create jobs for tribal members. Self-employment and entrepreneurship aren't part of their development activities; therefore Native Americans wanting to start their own businesses have few resources or mentors in Indian Country.

Traditional technical assistance programs like the counseling and training programs of the SBDC aren't meeting the needs as they aren't able to focus on this "harder to serve population", lack skills or training, and lack the resources to target Native Americans.

SBA's new BusinessLINC Program is helping to overcome many of these obstacles, however, there is a shortage of Native American mentors and non-native mentors are hard pressed to understand Indian Country issues and haven't been accepted to date by the participants.

Training, counseling, access to capital and targeted mentorship resources are sorely needed to overcome these issues. I believe we can do better at meeting the economic development and entrepreneurship needs of Native Americans. I feel the Native American Small Business Development Act will overcome most of these barriers to entrepreneurship and self-employment. I do not believe that streamlining these clients into existing programs will be effective. Targeted resources implemented by experienced people and organizations will be able to create long-term relationships with key influencers in each tribe, develop market driven program specific to the needs of each tribe, and treat self-employment as a integral part of business development in Indian Country.

Thank you for the opportunity to share my thoughts and our experiences with Native American business development. I support your efforts to better serve Native Americans and develop new programs better focused on overcoming the barriers to supporting their pursuit of self-sufficiency

"Shaping the economic future of our region ....one business at a time"

Respectfully submitted,

Tom Dorr
Director
Western Washington University
Small Business Development Center

by Kenneth E. Robbins, President
National Center for American Indian Enterprise Development

TESTIMONY FOR THE JOINT HEARING OF THE SENATE COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP AND THE SENATE COMMITTEE ON INDIAN AFFAIRS

Chairmen and Committee Members, thank you for this opportunity to present testimony for your hearing aptly titled "Small Business Development in Native American Communities: Is the Federal Government Meeting its Obligations?" On behalf of the National Center for American Indian Enterprise Development, I am happy to respond to this question and offer support for the very important new legislation developed through collaborative efforts of the Senate Committee on Small Business and Entrepreneurship and the Senate Committee on Indian Affairs, and your very able staff.

In 1969, the National Center for American Indian Enterprise Development was established as the first national organization dedicated solely to developing American Indian economic self-sufficiency through business ownership. One of the National Center's major tasks was, and still is, to provide the kind of hands-on economic and business development assistance that the Small Business Administration and other Federal departments and agencies purport, but often fail, to provide to our Native communities.

Since 1969, the National Center has helped form or expand more than 25,000 Indian owned businesses, and has trained over 9,000 members. The staff has negotiated over $1 billion in sales contracts and financing to build these businesses. We currently generate over $90 million per year in contract and financial awards for Indian businesses.

Through regional offices in Mesa, Arizona; El Monte, California; Seattle, Washington and now via a subsidiary (UIDA CG) in Marietta, Georgia, the National Center has worked with various Indian communities in all phases of business planning and development. As we do every year, we are hosting this week the 2002 Reservation Economic Summit and American Indian Business Trade Fair in New Orleans, Louisiana, this year titled: "Economic Success in Indian Country: Making it a Reality."

To begin, I will respond to the question posed for this hearing. I have a prime example of how the Federal Government has failed in past efforts to provide effective business development assistance to Indian Country.

In the early 1970's, the Minority Business Development Agency of the Department of Commerce tried to serve American Indians by assigning the task to its Minority Business Development Centers (MBDCs). What MBDA discovered was that:

- American Indians did not go to the MBDCs;
- MBDC personnel did not understand the unique cultural and economic problems and opportunities that face American Indian communities; and
- Well-intended MBDC money was not utilized to help most American Indian businesses.

To remedy these failings, the Commerce Department created Native American Business Development Centers (NABDCs) to provide better tailored, targeted assistance and enhanced opportunities than were available through MBDCs and SBDCs serving multiple populations. The National Center for American Indian Enterprise Development, (the "National Center"), established in 1969 to serve Native American businesses, became the first NABDC in 1972. Now NABDCs provide business development

services, tailored specifically to Indian businesses, taking into account the unique attributes (and barriers) within Indian Country. The National Center itself operates three of these centers, in Arizona, California and Washington. Five other NABDCs operate in New Mexico, Oklahoma, North Dakota, North Carolina, and Minnesota. NABDCs are the only federally funded centers that meet the unique economic development needs of Indian Country, including specialization in:

- Reservation trust land status and collateral financing issues associated with it;
- Tribal court systems and laws pertaining to economic development; the government to government relationship between the Federal Government and Tribal governments and special programs that develop from this relationship (Bureau of Indian Affairs-Indian Financing Act, Indian Health Service-Indian community infrastructure development, Housing and Urban Development-Indian Community Development Block Grants for tribal economic development); and,
- unique resources available to Indian Country, such as tribal loan programs.

If the NABCD program were to cease, there would be no other existing federal program with the reach and competency to fill the need in Indian Country. We strongly believe, and have the successful track record to prove, that any new approaches to business development assistance to our Native communities must involve NABDCs, whether in new grants or pilot projects. Any new legislation in this area should combine the talents, experience and authorities of NABDCs with those of other small business assistance providers – to prevent "reinventing the wheel" syndrome.

On January 30, 2002, members of the Board of Directors of the National Center for American Indian Enterprise Development shared these views with the key staff of the

Senate Committee on Small Business and Entrepreneurship and Senate Committee on Indian Affairs. We discussed various approaches to economic and business development assistance delivery in Indian Country, including the approach taken in the House-passed bill, H.R. 2538, sponsored by Congressman Tom Udall of New Mexico. As we previously had advised Congressman Udall, the laudable intent of H.R. 2538 might actually be fulfilled if the bill were to allow NABDCs to apply for the new grant program offered, or allowed to team with Small Business Development Centers (SBDCs) to create new Native-focused SBDCs. Such an approach would utilize existing expertise and avoid any wasteful trial and error learning curve (especially important in launching demonstration projects).

The Senate Committees deserve congratulations for their broader and more comprehensive proposal which is better tailored to serve our Native American communities as they are constituted today. The National Center is very pleased that the Senate legislation builds on concepts in H.R. 2538 by adding some critically important elements. It is gratifying to see reflected the Committees' recognition and inclusion of NABDCs, Tribal Community Colleges and Tribal Business Information Centers (TBICs) in the delivery of needed economic and business development assistance.

The first important improvement is the Senate bill's provisions that would fortify the SBA's efforts to assist our Native communities by creating the Office of Native American Affairs, headed by an Assistant Administrator. Such institutional presence within SBA, with increased resources and authority, is long overdue.

Second, the Senate proposal properly acknowledges the work of the TBICs and solidifies their existence as Native American Business Centers. The fact that these tribal-based projects lost SBA funding last year strongly suggests that the Federal trust responsibility needs to be spelled out more clearly to Federal departments and agencies beyond the Bureau of Indian Affairs and Department of the Interior.

The TBIC program grew out of the Indian community. TBICs grew up within community colleges and we see no need to re-create TBICs in SBDCs, as is the direction in H.R. 2538. Tribal colleges and universities (TCUs) are truly unique in promoting community economic development. TCU programs meet the needs of the tribal community and, at the same time, meet stringent accreditation (state and national) standards so that the transition from TCUs to baccalaureate and graduate degree granting higher education institutions is easier. Tribal colleges and universities are viewed as catalysts for infusing new ideas into the community in terms of what people can do to make a living. Tribal colleges also offer culturally specific curricula that can be blended with the strategies of the Tribes and the community at large.

A third improvement offered by the Senate Committees is its teaming approach. The proposal contains two important pilot programs for business development in Native communities. While we were disappointed to learn of opposition to naming NABDCs as potential participants in the first pilot program, we are glad that NABDCs are explicitly included in the second (joint) pilot project.

The most fundamental distinction that sets Indians apart from other U.S. minority groups is our historic existence as self-governing peoples, whose nationhood preceded

that of the United States. The U.S. has long acknowledged a special "government-to-government" relationship with recognized Indian tribes and bands and with Alaskan Native Villages. Generally known as the federal trust relationship, this means that the United States, in return for vast tracts of Indian lands, assumed contractual and statutory responsibilities to protect remaining Indian lands and to promote the health, welfare and education of the tribal occupants. In practice, the Federal government, as trustee, has subjected the tribes to bewildering policy switches, often without their consent. We are happy to realize, in the clear purpose and important provisions in the Senate proposal, that another attempt has not been made to ignore this important trust responsibility.

Written Testimony
of
Matthew Nicolai,
President/CEO,
Calista Corporation

Concerning small business development in American communities and S. 2335

May 9, 2002

To the Senate Committee on Small Business and Entrepreneurship and the Senate Committee on Indian Affairs:

Calista Corporation is an Alaska Native Claims Settlement Act regional business corporation formed under state and federal laws. Under the Indian Self-Determination Act of 1974, P.L. 93.638, Calista is also designated as a minority owned enterprise and is an eligible entity to apply for a variety of federal assistance.

Since its inception, Calista Corporation has had to try to overcome many obstacles that inhibited business development and job creation. Throughout much of its history Calista Corporation suffered from lack of capable management and expertise in investing and developing business opportunities. Our board and management in those years simply did not have the understanding and experience for supporting economic and community development.

In recent years however we have turned the tide in our favor and improved our position and standing in the business community. We are now on the way to a profitable and successful future. Our revenues in the last year for instance has increased substantially including growth in real estate sales, increased drilling contracts, the gradual growth in printing contracts, increased sand and gravel sales, and SBA 8(a) set-asides contracts.

We are experiencing excellent growth and positive growth in our SBA 8(a) licensed companies including significant set-asides from the U.S. Navy, U.S. State Department, U.S. Army, U.S. Air Force, and the U.S. Army Corps of Engineers.

We also have a huge potential in the Donlin Creek Gold Exploration project currently with a major and junior mining company. This exploration site is located in our properties and is one of the largest undeveloped gold resources in the world. The Donlin Creek Gold Exploration project also has the potential of helping us address the dire energy needs of the Calista region. As the energy needs of the mine is developed so too will the energy needs of our region be met. Our SBA 8(a) work and the development of the mine on our properties would not be possible without the support and assistance of the federal government. The federal government has a unique and special role in assisting Native American businesses.

Small business is the backbone of the U.S. Economy, and is also the backbone of local Native American economies as well. You need only to look to other parts of the world where governments have failed to support their small businesses. The economies in those countries are on a downward escalating spiral. When the federal government provides support and assistance to the Native American business community, it is providing a stable foundation for sustainable development to build up Americas business thus offering many jobs to many Americans. According to U.S. Commerce, Native Americans business total income is over $34 billion dollars offering over 300,000 jobs nationally. That's a far difference from even a decade ago. Sustainable development is key to long-term economic wellbeing in Native American communities. The federal government is critical in providing for that sustainability.

Within the SBA we do not have an Office of Native American Affairs. Such an office will provide an impetus for sustainable development practices that are culturally relevant and specific. We also do not have a Native American Development Program within SBA that would provide small Native American businesses with the assistance and support they need to develop sustainable approaches that support their local economies. Such efforts will go a long way towards providing Native Americans with unique approaches that complement their needs and improves the overall quality of business and services. In order for many small Native American business guidance in today's fast paced economy, these businesses need to develop the necessary skills to be able to compete and provide viable and sustainable businesses. Basic business planning and technical assistance in many instances can mean the difference in failure or success.

In addition, many of these small businesses need a good start in accessing investment capital to support economic and community development. Investment capital combined with the technical know-how is essential in promoting the development of business in Native American communities. Many seek to identify opportunities and techniques on how they can access capital markets. Providing a good start with such support will enable Native American businesses to grow and integrate into new and emerging markets and opportunities.

We would like to encourage the U.S. Congress to adopt S.2335 into law. Such a law will promote proper business development for the existing and upcoming generation of Native Americans who are forging their way into the future. With such a law they can have a good chance to forge a prosperous future.

Sincerely,
CALISTA CORPORATION

Matthew Nicolai
President/CEO

H.K. BRUSS KEPPELER
ATTORNEY AT LAW

POST OFFICE BOX 1319 ▪ HONOLULU, HAWAI'I 96807-1319
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Testimony before the Joint Hearing of the U.S. Senate Committee on Small Business and Entrepreneurship and the U.S. Senate Committee on Indian Affairs on S. 2335 and small business development in Native American Communities submitted by H.K. Bruss Keppeler, Attorney at Law.

Aloha;

I have had an opportunity to review S. 2335 and strongly **support** passage of this bill.

As I understand it, among other things S. 2335 would extend the benefits of the Native American Small Business Development Act to Native Hawaiians and Native Hawaiian Organizations.

In my practice as an attorney, I have spent the last over twenty-five years advising Native Hawaiian business people, many of them forming start-ups.

One of the major problems facing Native Hawaiians is the inability to achieve economic self-sufficiency and parity. It has been often said of the economy of the State of Hawai'i that it driven by small businesses. Native Hawaiians are grossly under-represented in the ranks of small business owners here.

The business planning services and technical assistance provided by Native American Business Development offices to other Native Americans on the continent and in Alaska have proven invaluable to the native peoples of the regions already served. Native Americans residing in Hawai'i and Native Hawaiians who desire to better themselves by establishing small businesses should be similarly served here.

If offered, culturally sensitive and effective entrepreneurial training and assistance could make <u>all</u> the difference to those beginning businesses. The establishment and early growth of a business can be daunting to even a highly talented and industrious Native Hawaiian. Statistics show that business failures occur most often shortly after start-up, especially if certain basic methods in accounting and other technical matters are not utilized by the new business owner.

I earnestly urge favorable consideration of this legislation. Mahalo (thank you) for this opportunity to testify on S. 2335.

Testimony of

Darryl Mleynek

State Director of the Hawai`i Small Business Development Center Network

Regarding S. 2335 for the April 30, 2002 Joint Hearing of the

U.S. Senate Committee on Small Business and Entrepreneurship and

U.S. Senate Committee on Indian Affairs

Chairman Kerry, Ranking Member Bond, members of the Senate Small Business and Entrepreneurship Committee and Chairman Inouye, Vice Chair Campbell, members of the Senate Indian Affairs Committee, I am Darryl Mleynek, State Director of the Hawai`i Small Business Development Center Network (SBDC). The Hawai`i SBDC Network is one of 58 state and territorial programs with almost 1,000 service centers in all 50 states, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, and America Samoa. On behalf of the Hawai`i SBDC Network and the dedicated staff of its seven service centers distributed over the four major islands of Hawai`i, let me thank you for inviting this testimony as part of your joint hearing entitled "Small Business Development in Native American Communities: Is the Federal Government Meeting its Obligations?" In light of the nation's current economic conditions, it is vitally important that Congress focus on what federal resources will be directed to assist and support the economic development needs of Native American, Native Alaskan, and Native Hawaiian communities by fostering the growth and creation of their small businesses.

The need for assistance among small business owners and those who wish to start small businesses in the Native Hawaiian community is high. While the Hawai`i SBDC Network already delivers assistance to Native Hawaiians—27.8% of its clients in 2001 self-identified as Native Hawaiians, the need for assistance to this community is far greater than these 364 cases indicate. This is even more true following September 11th: 28.4% of small businesses in Hawai`i indicated in a statistically valid survey (conducted on behalf of the Hawai`i SBDC Network in January) that their small businesses were significantly or disastrously impacted by the aftermath of those events. As with so many matters, what negatively impacts the general community impacts the Native Hawaiian community to a far greater extent.

In the experience of the Hawai`i SBDC Network over its 12 years of consulting with over 12,000 small businesses in Hawai`i, it is apparent that Native Hawaiians do not have a strong tradition of creating and managing small businesses. Some factors of business, such as the roles of competition and risk, are unknown or misunderstood. Businesses cannot be successfully started without knowledge of these factors. Fortunately, these factors can be taught through consulting and training in centers created to focus upon Native Hawaiians.

Concepts necessary to the sustainability of small businesses, such as entrepreneurship and continuous quality improvement, are largely unknown among Native Hawaiians. Small businesses today tend to fail over time without some awareness of these concepts, for all businesses are now subjected to global competition—even the very newest and smallest of them.

Again, these concepts can be taught through consulting and training in centers created to focus upon Native Hawaiians.

In the Native Hawaiian community, among the least privileged of all communities in Hawai`i, lack of good access to services further complicates this problem. Good access requires that services be located in close proximity to Native Hawaiians where possible, be focused clearly upon their needs, and be delivered in a culturally aware and sensitive manner.

The Small Business Development Center program is an excellent model from which to build a program that focuses on Native Americans, Native Alaskans, and Native Hawaiians. The national program in its 20 year history already has long and successful experience in helping individuals develop new businesses and in assisting them to grow profitable, sustainable businesses. The program has also worked successfully throughout this time with minorities. It is a model that works. This proven model appears to have been incorporated into the language of S. 2335.

The need for small business assistance directed specifically to Native Hawaiians is apparent given the complexity of starting and operating small businesses today, the lack of good access to existing services, and the need for services to be delivered in a culturally aware and sensitive manner. The federal government will meet an important obligation to the Native Hawaiian community by passing S. 2335, the Native American Small Business Development Act. This act will effectively promote economic development within the Hawaiian community by increasing its self-sufficiency and wealth through new businesses and new jobs.

Using the Hawai`i SBDC Network's experience as a guide, the Hawaiian community could receive benefits from a program as outlined in S. 2335 similar to the following (according to an annual economic impact study of the Hawai`i SBDC Network[1]):

- One job created for every $6,235 invested in the program.
- $1.38 in incremental tax revenues in one year for every dollar expended on long-term consulting (five hours or more) in the program.
- $18.38 in new financing capital obtained by clients for every dollar invested in the program.
- $5.12 in client-perceived benefit for every dollar invested in the program.

Thank you for the opportunity to provide testimony.

[1] Chrisman, James J., Ph.D. *Economic Impact of Small Business Development Center Counseling Activities in Hawaii: 1999-2000.* Faculty of Management, University of Calgary: 2001.

LETTERS REGARDING S. 1994

NATIONAL ASSOCIATION OF SMALL DISADVANTAGED BUSINESSES

July 11, 2002

The Honorable John F. Kerry, Chairman
Committee on Small Business and Entrepreneurship
SR- 428a
U.S. Senate
Washington, D.C. 20510

Re: S. 1994, the "Combined 8(a) and HUBZone Priority Preference Act"

Dear Mr. Chairman,

It is our distinct pleasure to endorse this Bill intended to enhance the desired parity between the HUBZone and 8(a) Programs. We believe as you do that firms, who hold both designations, should be afforded a relative "super status." Otherwise, there would not be the parity desired.

We particularly endorse the intent to raise the threshold levels for sole-sourcing. We think they should be higher, even than what you propose. However, under the circumstances, we will accept your suggestion.

Finally, as time is of the essence, we respectfully request that the legislation be marked up as soon as practicable.

Respectfully submitted,

Henry T. Wilfong Jr., MBA, CPA
President, NASDB

P.O. Box 13603, Silver Spring, MD 20911 - Tel. # 301-588-9312 - Email: hwilfongjr@aol.com

July 12, 2002

Senator John Kerry, Chairman
Senate Small Business Committee
304 Russell Senate Bldg.
Washington, DC 20510

Dear Chairman Kerry:

This letter is to indicate LAMA's strong support of S-1994, the "Combined 8(a) and HUB Zone Priority Preference Act." Initially, this Bill will assuage some of the fears in the minority business community that the 8a program will be overwhelmed by the HUB Zone program. We appreciate your sensitivity in that regard.

We are particularly pleased with the proposed increases in the sole source thresholds for 8(a) Business Development firms for both service and manufacturing contracts. Such increases are long overdue and are necessary to counter the effects of inflation.

We hear many complaints about too few 8a firms receiving 8a contracts. We feel that, if intelligently used, the greater flexibility available to the SBA officials and to federal contracting officers in targeting 8a awards to specific 8a firms, via the larger sole-source thresholds, is an effective way to counteract the referenced complaint.

One of the primary reasons for the referenced disparity is that all large-dollar 8a awards are made through the competitive process. This leaves new and inexperienced 8a firms competing against larger, mature and seasoned 8a firms.

Acts of the Congress that emphasize the development of the ability of 8a firms to compete in the marketplace have created an uneven playing field within the 8a program, favoring more experienced 8a companies over less experienced 8a firms. It would be helpful if the Congressional record relating to your Bill could cite the need for SBA officials and federal contracting officers to use the increased thresholds as a means of utilizing newer 8a firms that have had less success in securing federal contracts. We appreciate your leadership on these matters and the great work of your staff.

Yours truly,

Stephen Denlinger
CEO

419 New Jersey Avenue, S.E. • Capitol Hill • Washington, D.C. 20003
Phone 202.546.3803 • Fax 202.546.3807 • LAMAUSA@BellAtlantic.net
LAMA is the oldest national Hispanic business organization in the United States

LETTERS REGARDING S. 2483

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COMMITTEES:
ARMED SERVICES
COMMERCE
GOVERNMENTAL AFFAIRS
SMALL BUSINESS

United States Senate

WASHINGTON, DC 20510-1005

June 28, 2002

The Honorable John Kerry
Chairman
Senate Committee on Small Business and Entrepreneurship
428A Russell Senate Office Building
Washington, DC 20510

Dear John:

Considering the ever-shrinking legislation session that we face in the Senate, I respectfully request that S. 2483, the *National Small Business Regulatory Assistance Act*, receive action by the Senate Committee on Small Business and Entrepreneurship at the earliest opportunity. As you are aware, one of the greatest obstacles blocking the path to prosperity for America's small businesses is regulatory compliance. S. 2483, which you have co-sponsored, would help to provide necessary regulatory compliance assistance to small businesses.

A similar measure, H.R. 203, passed the House last year by voice vote. Thus, if the Committee could act in a timely manner, a final version could reach the President's desk before the end of the 107th Congress. Thank you for consideration of my request.

Most respectfully,

Max Cleland

Max Cleland
United States Senator

MC:mra

SUITE 1700
75 SPRING STREET, S.W.
ATLANTA, GA 30303-3309
(404) 331-4811

SUITE 101
235 ROOSEVELT AVENUE
ALBANY, GA 31701-2372
(229) 430-7786

611 TELFAIR STREET
AUGUSTA, GA 30901-2324
(706) 722-4040

SUITE 101
120 12TH STREET
COLUMBUS, GA 31902-2461
(706) 649-7705

203 MARTIN LUTHER KING JR. BLVD.
DALTON, GA 30721-3004
(706) 275-8905

SUITE 203
401 CHERRY STREET
MACON, GA 31201-3384
(478) 755-1779

SUITE A
440 MALL BOULEVARD
SAVANNAH, GA 31406-4823
(912) 352-8283

JOHN E. SWEENEY
22D DISTRICT, NEW YORK

COMMITTEE ON APPROPRIATIONS

RURAL HEALTH CARE COALITION
OLDER AMERICANS CAUCUS
NORTHEAST AGRICULTURE CAUCUS
CONGRESSIONAL SPONSORSHIP CAUCUS

Congress of the United States
House of Representatives
Washington, DC 20515–3222

July 15, 2002

The Honorable John F. Kerry
Chairman
U.S. Senate Committee on Small Business
and Entrepreneurship
428a Russell SOB
Washington, DC 20510

Dear Senator Kerry:

I am writing to urge you to mark-up S. 2483, the National Small Business Regulatory Assistance Act of 2002. This legislation is similar H.R. 203, which I introduced in the House in the beginning of the 107th Congress and passed the House on October 2, 2001.

As you know, these pieces of legislation would assist small businesses in successfully finding their way through the maze of regulations that have proliferated in recent decades. After a great deal of effort and energy during the 106th Congress, we breathed new life into what began as an outstanding initiative but, unfortunately, had little prospects for implementation. This new and improved legislation, H.R. 203, has a proven record of support in the House. On September 26, 2000, the House passed the previous version of the National Small Business Regulatory Assistance Act by voice vote. The differences between H.R. 203 and the bill that passed in the previous Congress are minor and I believe constitute necessary improvements, such as making an authorization of funds to ensure that the pilot project does not detract from the important role played by SBDC. You will be pleased to know that H.R. 203 received bipartisan support and also passed the House by voice vote. Finally, I have been working closely with the Association of Small Business Development Centers through the evolution of this legislation and support the changes included in the Senate version.

Again, I urge to act quickly and mark-up S. 2483 in your Committee so that we may move the process forward. Thank you for your attention and consideration of this request. Do not hesitate to contact me directly or Natalie Barusic, of my staff, at x55614 with any questions.

Sincerely,

JOHN E. SWEENEY
Member of Congress

CC: The Honorable Christopher Bond

416 CANNON BUILDING
WASHINGTON, DC 20515
202-225-5614

285 BROADWAY
SARATOGA SPRINGS, NY 12866
518-587-0900

560 WARREN STREET
HUDSON, NY 12534
518-828-0181

21 BAY STREET
GLENS FALLS, NY 12801
518-792-3031

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8990 Burke Lake Road, 2nd Floor Burke, VA 22015 Tel: 703/764-9850 Fax: 703/764-1234 E-Mail: info@asbdc-us.org

July 16, 2002

The Honorable John F. Kerry
Chairman, Committee on Small Business and Entrepreneurship
United States Senate
VIA FACSIMILE: 202-224-5619

Dear Mr. Chairman:

I am writing in strong support of the National Small Business Regulatory Assistance Act, S. 2483. As you know, this legislation establishes a pilot program to award competitive grants to 20 selected Small Business Development Centers (SBDCs) to provide regulatory compliance assistance to small businesses. With these grants, the SBDCs would form partnerships with Federal compliance programs, provide education and training, and offer free compliance counseling to small businesses. The legislation also provides privacy protections to small business owners who seek assistance under the pilot program, and also extends privacy guarantees to all small businesses that seek assistance from their local SBDCs.

SBDCs are in a unique position to provide regulatory assistance to small businesses. With more than 1,000 centers across the nation, the SBDC network assists about 600,000 small business owners each year in face-to-face counseling and training, in addition to hundreds of thousands more small businesses that SBDCs assist through the mail, telephone, fax-on-demand and e-mail.

Small business owners try to comply with government regulations. Many small businesses are family-owned and operated. Small business employees are frequently family or friends of the employer. Small business owners do not want their employees working in unsafe workplaces, and they want their children to grow up in a clean and healthy environment. However, small business owners may not know what is expected of them and how they can comply with regulations in a cost-effective manner.

Legislation similar to S. 2483 was passed by the House of Representatives by voice vote on October 2 of last year, with strong, bi-partisan support from the House Committee on Small Business. S. 2483, which you are cosponsoring, includes changes to the House-passed bill that are supported by the ASBDC. These changes include technical corrections, an improved funding formula to distribute grants more evenly among grant recipients, improved study provisions, and clarification of privacy protections. I sincerely appreciate your openness in working with the ASBDC on these changes, and I want to commend John DaSilva of your staff for his work on this bill.

S. 2483 recognizes the very real need of small and medium-size employers for regulatory compliance assistance. Thank you for your leadership on this important small business development legislation.

Sincerely,

Don Wilson
President

May 15, 2002

Senator Max Cleland
461 Senate Dirksen Office Building
Washington, DC 20510

Dear Senator Cleland:

On behalf of the 65,000 members of National Small Business United, we thank you for your leadership in introducing S. 2483, the National Small Business Regulatory Assistance Act of 2002.

We at NSBU believe that this piece of legislation will help small business navigate the increasingly complex web of regulatory requirements they face every day. By allowing the ASBDCs to provide access to regulatory resources, technical assistance and information about Federal compliance programs, small firms can get a head start on dealing with Federal rules.

Many times, small business have problems keeping up with all of the rules "on the books," and in some cases, do not even know some rules exist. This legislation, if enacted, goes a long way in keeping small firms better informed about staying in compliance.

Regulatory reform efforts are of critical importance to NSBU; in fact, our members voted it one of our top legislative priorities for the 107th Congress. We believe this bill is a good start in helping small businesses navigate through our nation's regulatory regime, and we look forward to working with you closely to ensure that this bill ultimately becomes law.

If you have any questions, please feel free to contact Damon Dozier, NSBU Director of Government and Public Affairs at (202) 293-8830 or ddozier@nsbu.org.

Sincerely,

Todd McCracken
President

ALABAMA
SMALL
BUSINESS
DEVELOPMENT
CONSORTIUM

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University of Alabama at Birmingham
2800 Milan Court, Suite 124
Birmingham, AL 35211-6908
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MEMBERS

Alabama A & M University

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Alabama State University

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University of West Alabama

Troy State University

University of Alabama

University of Alabama at Birmingham

University of Alabama in Huntsville

University of North Alabama

University of South Alabama

The ASBDC is a partner of the U.S. Small Business Administration

April 29, 2002

The Honorable Richard Shelby
110 Hart Building
Washington, DC 20510-0103

Dear Senator Shelby:

When I ask our small business clients what the most important issues are that they wish to see addressed by our political leadership, more often than not their answer touches on government regulation. Most small business owners are eager to meet all the standards that are set for them, but chafe under the complexity of complying with a dizzying array of federal, state and local regulations.

As an example, to operate a simple retail store in Pelham, my wife and I hold six different licenses and permits. We must meet monthly, quarterly and yearly tax deadlines. The paperwork burden for having our two employees is as burdensome as if we had ten times as many. Fortunately, we do not have to deal with significant environmental regulations or my part-time job as accountant and chief compliance officer would be much more difficult. Business owners make no profit and generate no wealth spending time on dealing with regulations.

The Cleland/Kerry bill, like the Sweeney bill which passed the House last fall, authorizes $5 million annually for four years for SBDCs in 20 states to undertake small business regulatory compliance assistance. The focus of the program is *educating*, rather than *regulating* small businesses into compliance with existing regulations. Every state SBDC program would be eligible to apply for these grants. Grants under the program will range from $150,000 to $300,000 per year, and two SBDCs in every SBA region will be awarded grants. Equally important, if not more so, the Cleland /Kerry bill will create statutory protection of SBDC client confidentiality.

This clause would protect SBDC clients from having their names and personal information that is shared with their SBDC counselor from being placed on government lists or made public in any way. I've shared the government's plans to secure our client lists with my own clients and they have recoiled with shock at the thought that their banker, their competitors or a regulatory agency might gain access to their personal information or become aware that they had sought our assistance under anything other than a confidential relationship.

I am attaching a summary of the Cleland/Kerry bill for your review and ask that you co-sponsor this important legislation. Thank you for your continued support of our program and your commitment to the small businesses of Alabama.

Sincerely,

John Sandefur
State Director, ASBDC

April 17, 2002

Help Small Businesses Comply with Federal Regulations:
Cosponsor the "National Small Business Regulatory Assistance Act"

Dear Colleague:

In order to provide regulatory compliance assistance to small businesses, we are introducing a Senate companion bill to H.R. 203, the "National Small Business Regulatory Assistance Act," which passed the House last year by unanimous consent. We are writing to request your co-sponsorship of this important legislation.

In today's business environment, one of the greatest obstacles blocking the path to prosperity for America's small businesses is regulatory compliance. Small businesses regularly find themselves lost in a maze of Federal regulations that are designed to create safer and healthier workplaces. We want all of our businesses to comply with the regulations that preserve the health, environment, and well-being of our workers and our communities. But, too often, small businesses do not have access to the information they need in order to comply with regulations in good faith.

The National Small Business Regulatory Assistance Act calls for the establishment of a pilot project, in which 20 selected Small Business Development Centers (SBDCs) would provide regulatory compliance assistance to small businesses. This pilot project would be administered by the Small Business Administration (SBA), which would be authorized to award grants between $150,000 and $300,000 to selected SBDCs. The bill also requires that the Congress receive a progress report annually on the pilot program's accomplishments at each SBDC.

Under our legislation, SBDCs would need to form partnerships with Federal compliance programs, conduct educational and training activities and offer free-of-charge compliance counseling to small business owners. Further, the measure would guarantee privacy to those who receive compliance assistance. This privacy provision has also been extended to all small businesses that seek any assistance from their local SBDC.

The adoption of the National Small Business Regulatory Assistance Act will provide small businesses with the support they need to navigate the often complicated world of Federal regulations. If you have any questions, or would like to cosponsor this legislation, please feel free to contact us or have your staff contact Michael Andel in Senator Cleland's office (4-3526) or John DaSilva on Senator Kerry's Small Business and Entrepreneurship Committee staff (4-5715).

Sincerely,

Max Cleland
United States Senator

--and--

John F. Kerry
United States Senator

LETTERS REGARDING S. 2753

ADDITIONAL WRITTEN COMMENTS BY WOMEN IMPACTING PUBLIC POLICY FOR THE COMMITTEE ROUNDTABLE ON JUNE 19, 2002 TITLED "ARE GOVERNMENT PURCHASING POLICIES FAILING SMALL BUSINESS?"

Mr. Chairman:

On behalf of Women Impacting Public Policy, (WIPP), we are responding to questions raised at the June 19 Roundtable Discussion, "Are Government Purchasing Policies Failing Small Business?" Specifically, Women Impacting Public Policy (WIPP) wants to go on record as supporting the draft language submitted by Chairman Kerry at the hearing regarding the creation of a Small and Disadvantaged Business Ombudsman for Procurement in the Small Business Administration (SBA).

Women own more than 9 million businesses in this country, employ more than 27.5 million and contribute more than $3.6 trillion to the nation's economy. Yet, since the Federal Acquisition Streamlining Act, enacted seven years ago, women-owned firms have received, at most, 2.2 percent of all contracting dollars.

Given those statistics, our support for the creation of an Ombudsman for procurement at the SBA should come as no surprise. There is no question in our members' minds that the SDB Ombudsman should serve as a facilitator between federal agency procurement officers, small businesses (especially women-owned firms) and prime contractors.

The interagency coordination required through each federal agency's Office of Small and Disadvantaged Business Utilization (OSDBUs) in the proposed language, should go a long way toward ensuring procurement goals for women-owned and minority-owned businesses are met. Toward that end, the confidentiality provision of the proposed legislation is absolutely essential to making that happen.

WIPP understands that Committee members may differ on where to place the Ombudsman within the SBA. We believe the Committee must make a judgment as to where the Ombudsman can

be the most effective independent voice for small and disadvantaged business. Certainly, no Ombudsman can be effective unless he/she is perceived to have enough authority and access to compel compliance among federal agencies and prime contractors. We feel certain the Ombudsman cannot be an effective voice for our members if he/she is hampered by the perception of being subject to political pressures rather than being a true advocate for small and disadvantaged businesses.

Finally, we support increasing the government-wide small business goal from 23 percent to 30 percent. As Senator Bond indicated in his opening remarks at the Roundtable, the government is not currently meeting the 23 percent goal. WIPP believes, however, raising the goal to 30 percent provides leadership from the Congress that federal agencies must continue to strive to work with small businesses. At the same time, setting higher goals must be accompanied with a strong goal attainment plan. The proposed legislation requires a plan from each agency on how to meet the targets if they fail to do so. WIPP believes that consequences for failing to meet the goals should be stronger than requiring a plan. Our small business owners face much greater consequences when they fail to meet their business targets. Failure to meet business goals results in lost revenue for small businesses. In the private sector, failure of employees to meet company goals and objects results in lost jobs. We suggest that Congress consider a similar model for the agencies. Those agencies failing to meet their goals, should face a decrease in their budget by a corresponding amount. We urge the Committee to explore stronger enforcement measures for agencies failing to meet their small business goals.

LAMA

LATIN AMERICAN MANAGEMENT ASSOCIATION

July 2, 2002

Senator John Kerry, Chairman
Senate Small Business Committee
304 Russell Senate Bldg.
Washington, DC 20510

Dear Senator Kerry:

Thank you for your leadership in hosting the recent Minority Business Round Table. The Round Table is an excellent forum, and those of us in leadership positions really appreciate it. I would also like to mention that Patty Forbes and John DaSilva are just excellent people. They are great on the issues, and very supportive of our constituency. They are a credit to you!

LAMA strongly supports your Ombudsman bill and the 30% goal for small business. The Ombudsman bill is simply a terrific idea. If an ombudsman had already been in place at the SBA, the virtually unreported steep drop in 8a contracting in the years 1999 and 2000 would have been highly visible and something could have been done about it a lot sooner. In addition, we hear many, many complaints from our members about various federal contracting agencies and nothing gets done about it. If these types of complaints get rolled up in a highly publicized annual report, these bad behaviors will gradually change.

The increase in the small business goal to 30% is very timely. The notion that 77% of the federal procurement budget should be the special preserve of large business is objectionable. The current goal of 23% cannot accommodate all of the socio/economic programs and still leave anything for the small business community. I'm surprised that we have not heard more complaints from the mainline small business organizations on this matter.

The argument that, since we haven't achieved 23%, why increase the goal to 30%, is nonsense. With that kind of thinking, there would never have been a goal at all. As you know, a number of agencies (Interior - Agriculture – Transportation) are already achieving on the order of 50% small business contracting.

We appreciate your leadership on these matters and the great work of your staff.

Yours truly,

Stephen Denlinger
CEO

419 New Jersey Avenue, S.E. • Capitol Hill • Washington, D.C. 20003
Phone 202.546.3803 • Fax 202.546.3807 • LAMAUSA@BellAtlantic.net
LAMA is the oldest national Hispanic business organization in the United States

Hyatt, Jaime (Small-Business)

From: HWilfong
Sent: Wednesday, July 03, 2002 11:45 AM
To: HWilfong Hyatt, Jaime (Small-Business); DaSilva, John (Small-Business); Cooksey, Paul (Small-Business);
Subject: Re: FOR THE RECORD...../..AMENDMENT....

SUBMITTED BY:

HENRY T. WILFONG, JR., MBA, CPA
PRESIDENT, NATIONAL ASSOCIATION OF SMALL DISADVANTAGED BUSINESSES

TO THE COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP-UNITED STATES SENATE

Roundtable:
"Are Government Purchasing Policies Hurting Small Business?"

Wednesday, June 19, 2002
9:00 a.m. - 11:00 p.m.
428A Russell Senate Office Building

MONITORING, ENFORCEMENT OF COMPLIANCE:

While the Laws Congress passes are important, their importance pales and is of little or no value, if they are not implemented by the Administrating Government and complied with by the Agencies and the private sector which serves the government.

The unfortunate reality is that laws regarding contracting with small and firms owned by socially and economically disadvantaged individuals, are poorly monitored and woefully ill-enforced. They are, in short, not paid much attention to.

There needs to be an attitudinal adjustment. We do not believe that laws which relate to making the playing field level for small and disadvantaged businesses are taken as seriously as others. The why, we know not. However, of the is, there is little doubt.

It is not our intent to criticize any particular individuals or group of individuals, for their past errors in judgment. We'll accept that they made honest mistakes about how to clear up an abundance of past discriminatory practices. How long, however, are we to allow folk to scratch their heads, and wonder why "those folks" can't make it, now that those discriminatory practices have been removed? Why can't they be truly competitive, now that the shackles have been taken off?

It's really very simple to some of us. While the overt shackles have been pretty much removed from minorities and women, in most instances the shackles have not been removed from the minds of those who make value decisions about the capability of competing firms, and individuals. The "process", used so long to exclude minorities and women, has been changed little, if at all.

A greater and more stringent Congressional Oversight, would make significant difference, in how laws are implemented, and compliance is enforced. In line with that thinking, you ought strengthen the OSDBU offices' role throughout the federal government.

FEDERAL PRIME AND SUBCONTRACTING GOALS/WHY THEY'RE SO IMPORTANT/WHY THE GOVERNMENT IS FAILING TO MEET THEM:

Much of the failure of the Government to meet the goals are illustrated by what happened with the SDB Setasides letter written by the Chair and Ranking Member of this Committee to the SBA Administrator, a few months ago.

We sincerely thank the Chairman and Ranking Member for their recommending to SBA Administrator Hector Barreto that the SDB Moratorium, set by the prior Administration, be revisited. We agree with the Senators' assessment that a two-year term, which was set seven years ago, ought be lifted, without further ado. We don't know quite how to explain it, but we feel something is wrong when the Government can set up a 2-year term, and have that term go on infinitum. The Moratorium has, in effect, become a prohibition. Something ain't right with that.

We are pleased that you asked, but we regret that you found it necessary to do so. It is our opinion that SBA should have reported to you, their intention to revisit what the prior Administration did, and to determine whether the 7 year-old Moratorium is still legally binding. It is perhaps inevitable that this question will have to be decided by the Courts. We wish that willing minds could agree to do what is right and equitable. This is particularly so, if they, like the SBA, are supposed to be our "Advocates".

Goals are important in that they are measuring tools in determining whether the intent of Congress is being met. 8(a) goals, SDB goals, HUBZone goals, and no other kinds of goals, actually are intended to measure "maximum practicable utilization", as desired by Public Law 95-507. We accept the goals, not as an end unto themselves. Rather they are merely the "measurements towards achievement". But, accepting them as the end defeats the whole purpose.

Never forget. The purpose is not to make goals. The purpose of minority business development programs is, to make the playing field level, by promoting the competitive viability of firms owned by socially and economically disadvantaged individuals.

So, rather than concentrating so much on the "statistical figure", we ought concentrate more on the "capability development" achieved by firms. We need to determine if there are firms that were NOT afforded maximum practicable opportunities. HEY, don't tell us that can't be measured. Of course it can. If you don't know how, we know several good CPA firms that are excellent at doing that kind of thing.

In any event, we think that the Administrator was guilty of blindly accepting the "Statistics Achieved", rather than seeking "Maximum Practicable Utilization". What further exacerbates the problem is the possible lack of accuracy of the statistics presented. If things are so good, why does our SDB Community feel so bad?

We think the Administrator erred seriously, in concentrating on the amount reached in determining that SDB set-asides are unnecessary." It is our humble opinion, based upon years of experience in this arena, that the $9.4 billion purportedly achieved in FY2001 for SDB Federal procurement, should have been more like $15 billion, in order to claim achievement of the maximum practicable utilization goal.

We are of the opinion that what the SBA Administrator did is typical of what all too many Government officials, and even Congress Members, do. They accept the "minimum" goal as the ceiling. Thus, they end up establishing quotas. Goals are not meant to be quotas, and we must not allow them to be perceived as such, by practice.

IMPROVING THE SBA'S SMALL BUSINESS CONTRACTING PROGRAMS:

One of the major problems in maximizing the participation of small and disadvantaged businesses in the program are based upon the perception, due to experiences, that the SBA is not a "user friendly" Agency. Over and over, our members and others we know, treat going to SBA for help, like going into the lion's den. Perhaps they overreact, and that would be their failing. However, perhaps their trepidations are well-founded.

For now, one of the perceptions prevalent in the SDB Community is, there is

no place to turn to for help when problems arise. It is our hope that The Ombudsman at SBA will go a long way in solving that problem. It is our firm belief that one of the major failings of SBA in recent years has been its failure to adequately "advocate" the interests of small and disadvantaged businesses in other Government agencies.

The legislation requirement that each Federal agency's OSDBU shall cooperate with the SDB Ombudsman, will go a long way in motivating the OSDBU to carry out his or her responsibilities. In addition, it will provide the OSDBU, with some "CYA" resources that have been absent in recent years. At the same time, nothing in the Act is intended to replace or diminish the role of the OSDBUs at each Federal agency.

The SDB Ombudsman will help in making the playing field level in both the Federal sector, and in that large private sector which serves the federal government. Part of the Ombudsman's duties will be to "track and report on complaints received from small business firms regarding their treatment by Federal procuring agencies and non-small business prime contractors". This has been greatly needed for a long time.

Finally, the SBA has ill-used, or failed to use valuable tools, that it already has, for making the playing field level. For example, SBA has the 8(a) Mentor-Program, but who's to know. It is a virtual secret, to the outside world. Furthermore , many inside SBA are not aware of its existence, much less its value.

The Mentor-Protege Program, in conjunction with better use of 8(d), could greatly enhance the participation and future not only of 8(a) firms, but also Women-Owned-Businesses, Veteran- Owned-Businesses, HUBZone businesses, and almost anyone else in the portfolio.

Much of it has to do with an attitudinal adjustment.....

SBA did not include, in its HUBZone Regulations, the priority- preference for those firms which are both 8(a) and HUBZone. And they issued guidance that states that the priority-preference has no statutory provision to support its creation.

We support Chairman Kerry's previously stated intention to introduce legislation which will rectify the situation by creating a statutory priority-preference for firms that have both an 8(a)BD and a HUBZone certification. We agree with the Chairman that this provision as a win-win for the 8(a)BD and HUBZone contracting communities.

AMENDMENT: Ombudsman Comments

There has developed, lately, comments as to the "reporting level" of the Ombudsman. With us there is no doubt. We'd like to have the SDB Ombudsman report to the President of the United States. However, we will accept the position reporting to the SBA Administrator.

We've been through this before, with the OSDBU position. We find the need to help SDBs cut through the maze at SBA, that oft times includes the Associate Administrator position (s). It is our feeling that this area of operations should be looked at, along with those of the Agencies.

Over the years, we have historically had trouble "getting the attention" of that office. "New Blood", would serve to re-energize the "movement", and keep folk on their toes. It'll bring "hope" to some folk who have have problems getting through the maze that is SBA.

We don't need another body reporting to the Associate Administrator. We need someone who will "help cause" them, too, to do his job better.
The point has been made that the Administrator "seems to focus on disaster relief to small businesses and loan programs". That's absolutely right.

Historically, that's where the position has focused. The cause of SDBs would

be better served by an Independent "power" that can focus on OUR area of concern. The title in itself is significant-"SDB Ombudsman". It includes ALL the "interests". And, it will not be shackled with the mundane functions that tends to burden down the other offices.

Respectfully submitted
Henry T. Wilfong Jr., MBA, CPA

President, NASDB
Current or Former Positions:
Pasadena, CA City Councilman
California Council on Criminal Justice
Associate Administrator MSB/COD, SBA
Member, National Council on Policy Review
Member, NASA Advisory Council
Chair, NASA Minority Business Resource Advisory Committee
Member, Presidential Task Force on International Private Enterprise
Member, Bush-Cheney Transition Team-SBA Advisory Group

July 1, 2002

Committee on Small Business and Entrepreneurship
United States Senate
428 A Russell Senate Office Building
Washington, DC 20510

Dear Senator Kerry and members of the Committee:

On behalf of the American Subcontractors Association, the only construction association which concentrates exclusively on the business issues affecting all subcontractors and specialty trade contractors, we commend you for the principles contained in the "Small and Disadvantaged Business Ombudsman Act."

We are especially pleased that oversight of subcontracts is included in the powers of the new office. This is recognition of the important role played by subcontractors in the Federal procurement system. For too long, attention has only been focused on the issues surrounding prime contractors. We believe the inclusion of subcontractors and their issues in an important step forward.

Our commitment, like the Committee's, is to a procurement process that is both open and fair to all levels of business. The goals set forth in the legislation will mean progress toward that overall goal.

As always, we appreciate the role played by the Committee as the advocate for small business interests. We look forward to working with you toward the passage of this legislation as well as a number of other proposals designed to improve the current procurement system.

Sincerely,
James S. Turpin, CAE
Director, Government Relations

AMERICAN SUBCONTRACTORS ASSOCIATION, INC.
1004 Duke Street, Alexandria, VA 22314-3588
Phone: (703) 684-3450 Fax: (703) 836-3482
e-mail: jturpin@asa-hq.com

July 18, 2002

The Honorable John Kerry
Chairman
Senate Committee on Small Business and Entrepreneurship
248A Russell Building
Washington, DC 20510

Dear Chairman Kerry:

National Small Business United would like to thank you for your leadership in trying to ensure that small businesses that sell goods and services to the Federal government get their fair share of Federal procurement dollars. It seems that every year the Federal government fails to reach its Congressionally mandated 23 percent procurement goal for small firms. As an organization with over 65,000 members who are concerned about the Federal government contracting with capable small firms, we appreciate all you have done to support this cause.

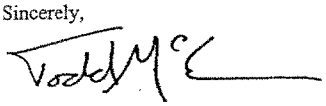
Therefore, we are proud to support legislation you have introduced today, the Small and Disadvantaged Business Ombudsman Act." We understand that this legislation would strengthen the existing Offices of Small and Disadvantaged Business Utilization in every Federal agency, establish a Small and Disadvantaged Business Ombudsman for Procurement in the Small Business Administration and raise the Federal government procurement goal for small business prime contracting to 30 percent.

Many NSBU members are involved in Federal government contracting, and have shared with us their frustration in trying to compete with larger firms. These are small business that are capable of fulfilling contracts, but are thwarted by contract bundling, government wide acquisition schedules and a agency culture that teaches procurement officers that "bigger is better." It is our hope that this legislation, if enacted, will go a long way to helping the average small businessman compete for contract dollars on an even playing field.

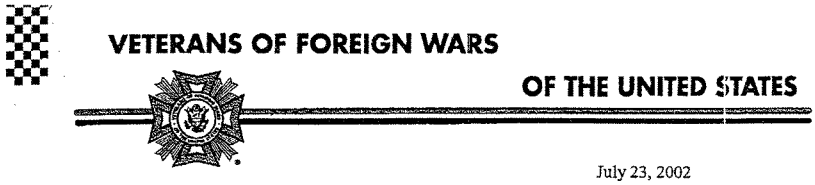
We are also pleased that you have introduced S. 2734, the Small Business Drought Relief Act, and we look forward to working with you to ensure that small businessmen adversely affected by drought conditions all over the nation, gain access to the assistance they so desperately need.

We are proud to support both pieces of legislation, and I look forward to discussing these matters with you in further detail. If you have any questions or concerns, please do not hesitate to contact Damon Dozier, NSBU Director of Government and Public Affairs at (202) 293-8830 or ddozier@nsbu.org.

Sincerely,



Todd McCracken
President



July 23, 2002

Honorable John F. Kerry
Chairman
Committee on Small Business & Entrepreneurship
United States Senate
Washington, DC 20510

Dear Chairman Kerry,

On behalf of the 2.7 million members of the Veterans of Foreign Wars of the United States and our Ladies Auxiliary, I would like to take this opportunity to express our support for the Small and Disadvantaged Business Ombudsman Act. Small business development, particularly veteran and service-disabled veteran owned small businesses, are a vital component towards sustaining the American economy. While we support the intent and recognize the need of the Act, we strongly urge the Committee to amend the legislation so as to specifically identify veteran and service disabled veteran owned businesses.

The VFW sees the importance in ensuring proper accountability within the Small Business Administration for monitoring and tracking procurement goal attainment. The role of the SDB Ombudsman would meet this need. Therefore, we view this legislation as strengthening the Office for Small and Disadvantaged Business Utilization (OSDBU). This is not only a logical step, but a practical one as well.

We applaud your efforts to ensure support for small business owners and, in particular, our Nation's veterans.

Sincerely,

ROBERT W. WALLACE
Executive Director

VFW MEMORIAL BUILDING ● 200 MARYLAND AVENUE, N.E. ● WASHINGTON, D.C. 20002-5799
AREA CODE 202-543-2239 ● FAX 202-543-6719

LETTERS REGARDING S. 2466

July 2, 2002

Senator John F. Kerry
Chairman
Senate Committee on Small Business
428A Russell Senate Office Building
Washington, DC 20510

Dear Senator Kerry:

I am writing to express the Computer & Communications Industry Association's (CCIA) support for S. 2466, the "Small Business Federal Contractor Safeguard Act."

CCIA was founded on the belief that competition and vibrant markets are critical factors in the success of our economy and in our ability to lead the world in innovation and technology. We are the leading industry advocate in promoting open, barrier-free competition in the offering of computer and communications products and services worldwide, and our motto is "open markets, open systems, open networks, and full, fair and open competition."

CCIA is an association of computer, communications, Internet and technology companies that range from small entrepreneurial firms to some of the largest members of the industry. CCIA's members include equipment manufacturers, software developers, providers of electronic commerce, networking, telecommunications and online services, resellers, systems integrators, and third-party vendors. Our member companies employ nearly one million people and generate annual revenues exceeding $300 billion.

We have found that, in general, contract bundling can harm many small businesses by locking them out of "mega contracts;" can harm taxpayers by promoting procurement of goods and services that may not be cost-efficient; and can hurt vendors of all sizes who do not have the resources to fulfill bundled contracts. We believe that the requirements of S. 2466 in regards to bundled contracts of over $2 million and $5 million will go far in ensuring that bundling is used only in the rare case, and as the norm.

We appreciate your efforts to promote effective and fair procurement policies, and congratulate you on this excellent proposal. Please let me know if there is anything I can do to assist in passage of S. 2466. You can contact me at (202)783-0070 x 110, or Gabe Rubin of my staff at (202)783-0070 x 107.

Sincerely,

Ed Black
President & CEO

cc: Members of the Senate Committee on Small Business

TERRY NEESE
PRESIDENT

BARBARA KASOFF
VICE PRESIDENT

COALITION PARTNERS
Black Women Enterprises
Business Women's Network, Inc.
Euro-American Women's Business Council
National Association of Women Business Owners
National Business Association
National Indian Business Association
Native American Women's Business Council
Small Business Survival Committee

INTERNATIONAL FOUNDING PARTNER
Louie Loi Alafogiannis
Greece

FOUNDING PARTNERS
Arkansas
Martha McCaskill
California
Patty DeDominic
Patricia Seidane
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Erica Taylor
Cheryl Womack
Kentucky
Dorothy Ellis
Florida
Kay Cowley
Illinois
Carol Kurz
Massachusetts
Lois Meister
Michigan
Sandra Pott
Nancy Quarles
Missouri
Nancy Zurbuchen
New Jersey
Leanna Fournier
Joan Major
Donna Myers
New Mexico
Joan Schlueter
New York
Phyllis Hill Slater
Cherie Plebes
Oklahoma
Sherry Dale
South Carolina
Elizabeth Taylor
Virginia
Catherine Giordano
Ann Maust Vaz D.
Patricia Parker
Rosemarie Pellotier
Dorothy Wood
Washington, D.C.
Kathleen Diamond
Karen Kerrigan

July 23, 2002

The Honorable John Kerry
Chairman
Committee on Small Business and Entrepreneurship
United States Senate
Washington, D.C. 20510

Dear Chairman Kerry:

We are writing on behalf of Women Impacting Public Policy (WIPP) a national bipartisan organization representing 300,000 women in business in support of S. 2466, the Small Business Federal Contractor Safeguard Act.

WIPP supports the goals of S.2466, which seeks to once and for all create a uniform government policy that eliminates the harmful practice of contract bundling. Two recent research studies, the "Impact of Contract Bundling on Small Business: FY1992-FY1999" and "Bundled Contract Study FY91-95,"conducted by the U.S. Small Business Administration on the issue of contract bundling and its impact upon small businesses found that:

(1) For all federal contracts, contract consolidation is increasing. From FY1991 to FY1995, overall government contract spending dropped 8.7 percent ($196.6 billion to $179.4 billion). The number of business units receiving contracts dropped 6.5 percent (78,800 to 74,400) and the number of contracts dropped 11 percent (193,000 to 171,000). In FY1995 there was less money going to fewer contractors via fewer contract vehicles. Also, average contract value increased. This suggests a gradual consolidation among federal contracts.
(2) The FY 1999 total of bundled prime contracts over $25,000 was the highest in the past eight years.
(3) A bundled contract can last many years. The value of the average bundled contract was $8 million in FY 1999. This represented an increase of 21 percent in the average contract size over the past eight years.
(4) In FY 1999, large businesses received 67 percent of all prime contract dollars and 74 percent of all bundled dollars. Small firms received 18.7 percent of all contract dollars—up 2 percent since FY1995 but more than 4 percent short of the 23 percent procurement goal required by law.
(5) Analysis showed that for every increase of 100 bundled contracts, there was a decrease of more than 106 individual contracts awarded to small firms; for every additional $100 awarded on bundled contract, there was a decrease of $33 to small business.

WIPP believes these findings clearly indicate the direct and harmful impact that contract bundling and the subsequent subcontracting to small businesses has and will continue to have on the small business sector doing business with the federal government.

In summary, it is abundantly clear that contract bundling must be eliminated and changes must be made to the current way federal agencies treat multiple award contracts. WIPP urges the Committee to expeditiously consider S. 2466 so that women- and minority-owned businesses can fully participate in the federal procurement arena.

Sincerely,

Terry Neese
President

Barbara Kasoff
Vice President

2709 W. I-44 SERVICE ROAD, OKLAHOMA CITY, OK 73112 / 405-943-4474 / FAX: 405-942-2840
WWW.WIPP.ORG / TNEESE@WIPP.ORG / BKASOFF@WIPP.ORG

LETTERS REGARDING S. 2734

Jul-18-02 11:20 From- T-549 P.02 F-952

STATE OF NORTH CAROLINA
OFFICE OF THE GOVERNOR
20301 MAIL SERVICE CENTER • RALEIGH, NC 27699-0301

MICHAEL F. EASLEY
GOVERNOR

July 18, 2002

The Honorable Jesse Helms
United States Senate
403 Dirksen Senate Office Building
Washington, DC 20510

Dear Senator Helms:

I am writing to urge your support for legislation recently introduced in the Senate to add drought as a condition for which small businesses may apply for Small Business Administration Economic Injury Disaster Loans.

The Small Business Drought Relief Act (S.2734) will correct the current situation facing our small businesses in North Carolina. SBA disaster assistance is not available despite a historic drought that is impacting not just our agriculture sector, but causing real business and revenue losses, which threaten some firms with job layoffs or even bankruptcy.

These businesses need help, and access to low-interest SBA loans can offer a lifeline to allow paying bills and making payrolls until business returns to normal.

I urge you to push for rapid action on this important enhancement to SBA's ability to help our people through this time of trouble.

With kindest regards, I remain

Very truly yours,

Mike Easley

Michael F. Easley

MFE/jm

LOCATION: 116 WEST JONES STREET • RALEIGH, NC • TELEPHONE: (919) 733-5811

STATE OF NORTH CAROLINA
OFFICE OF THE GOVERNOR
20301 MAIL SERVICE CENTER • RALEIGH, NC 27699-0301

MICHAEL F. EASLEY
GOVERNOR

July 18, 2002

The Honorable John Edwards
United States Senate
225 Dirksen Senate Office Building
Washington, DC 20510

Dear Senator Edwards:

I am writing to thank you for your support for legislation introduced in the Senate to add drought as a condition for which small businesses may apply for Small Business Administration Economic Injury Disaster Loans.

The Small Business Drought Relief Act (S.2734) will correct the current situation facing our small businesses in North Carolina. SBA disaster assistance is not available despite a historic drought that is impacting not just our agriculture sector, but causing real business and revenue losses, which threaten some firms with job layoffs or even bankruptcy.

These businesses need help, and access to low-interest SBA loans can offer a lifeline to allow paying bills and making payrolls until business returns to normal.

I urge you to push for rapid action on this important enhancement to SBA's ability to help our people through this time of trouble.

With kindest regards, I remain

Very truly yours,

Mike Easley

Michael F. Easley

MFE/jm

LOCATION: 116 WEST JONES STREET • RALEIGH, NC • TELEPHONE: (919) 733-5811

KENNY C. GUINN
Governor

OFFICE OF THE GOVERNOR

July 23, 2002

The Honorable John F. Kerry
Chairman
Committee on Small Business
428-A Russell Building
Washington, DC 20510

The Honorable Christopher Bond
Ranking Member
Committee on Small Business
428-A Russell Building
Washington, DC 20510

Dear Senators Kerry and Bond:

Much of Nevada and the Nation have been experiencing extreme drought over the past several years. In Nevada we have seen the effects of this situation through catastrophic range and forest fires, insect infestations and loss of crops and livestock.

Prolonged drought causes a drastic reduction in stream and river flow levels. This can cause the level of lakes to drop so significantly that existing docks and boat ramps cannot provide access to boats. In the case of range and forest fires we have seen small innkeepers and hunting and fishing related businesses that have their entire season wiped out in a matter of a few hours.

Unfortunately for some small businesses, drought assistance is available only for agriculture related small businesses, such as feed and seed stores. For businesses that are based on tourism around lakes and rivers, there is currently no drought assistance available.

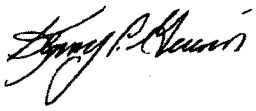
The Small Business Administration (SBA) is not currently authorized to help these businesses because a drought is not a sudden occurrence. Nonetheless, a drought is an ongoing natural disaster that causes great damage to these small businesses.

I would like to lend my support to S. 2734, The Small Business Drought Relief Act. This bill would amend the guidelines and authorize the SBA to offer assistance to small businesses affected by prolonged drought. With passage of this bill, Governors would be allowed to ask SBA for an administrative declarations of economic injury because of drought. The low interest loans SBA can offer these businesses would allow many of them to weather the drought and remain economically viable for future operation.

101 N. CARSON STREET • CARSON CITY, NEVADA 89701 • TELEPHONE: (775) 684-5670 • FAX: (775) 684-5683
555 E. WASHINGTON AVENUE, SUITE 5100 • LAS VEGAS, NEVADA 89101 • TELEPHONE: (702) 486-2500 • FAX: (702) 486-2505

(O) 2009

Sincerely,



Kenny C. Guinn
Governor

cc: Senator Harry Reid
Senator John Ensign

COMMONWEALTH OF KENTUCKY
OFFICE OF THE GOVERNOR

PAUL E. PATTON
GOVERNOR

700 CAPITOL AVENUE
SUITE 100
FRANKFORT, KY 40601
(502) 564-2611
FAX: (502) 564-2517

July 23, 2002

The Honorable John F. Kerry
Chairman
Committee on Small Business
& Entrepreneurship
United States Senate
428A Russell Senate Office Building
Washington, D.C. 20510

The Honorable Christopher S. "Kit" Bond
Ranking Member
Committee on Small Business
& Entrepreneurship
United States Senate
428A Russell Senate Office Building
Washington, D.C. 20510

Dear Chairman Kerry and Senator Bond:

As you know, much of our nation is struggling to overcome "moderate" to "extreme" drought conditions. Droughts, especially prolonged droughts, have extensive, devastating effects that damage crops and livestock, deteriorate soil, and fuel raging wildfires. These are only some of the irreparable effects that droughts can have on small businesses, communities, and state and local economies.

In general, federal disaster assistance is available for agriculture and agriculture-related small businesses that are impacted by drought. However, droughts hurt more than agricultural, forestry, and livestock businesses.

Prolonged drought also causes a drastic reduction in stream and river flow levels. This can trigger such a significant drop in the level of lakes that existing docks and boat ramps cannot provide access to boats, which impacts many additional small businesses.

As a result, many non-farm small businesses that are water-reliant also suffer staggering revenue losses in the wake of a drought disaster, yet they do not currently receive disaster relief. Unlike other natural disasters such as hurricanes or floods, the effects of drought build up over time, last for several years, and are jeopardizing the future of these small business owners. The lack of federal disaster assistance available to these non-farm small businesses only forces undue job layoffs and bankruptcies and further disrupts drought-impacted communities.

I thank you for recognizing that many fish and tackle shops, rafting businesses, restaurants, motels, camp grounds, marinas, gas stations, and other small businesses in Kentucky and other states are severely impacted by drought but are unable to receive federal disaster assistance. I strongly support your resulting efforts, the *Small Business Drought Relief Act* (S. 2734), which would allow the Small Business Administration to offer low-interest disaster loans to these businesses and afford them the same opportunity as agriculture-related businesses to recover and survive.

I appreciate your assistance and support and look forward to working with you and your colleagues on this very important matter.

Sincerely,

Paul E. Patton

Paul E. Patton

cc: The Honorable Mitch McConnell, United States Senate
The Honorable Jim Bunning, United States Senate
The Honorable Harold Rogers, U. S. House of Representatives
The Honorable Ernie Fletcher, U. S. House of Representatives
The Honorable Ron Lewis, U. S. House of Representatives
The Honorable Ken Lucas, U. S. House of Representatives
The Honorable Anne Northup, U. S. House of Representatives
The Honorable Ed Whitfield, U. S. House of Representatives

University of
Nebraska
Lincoln
Institute of Agriculture and Natural Resources
School of Natural Resource Sciences

National Drought Mitigation Center
International Drought Information Center
L.W. Chase Hall
P.O. Box 830749
Lincoln, NE 68583-0749
(402) 472-6707
FAX: (402) 472-6614
E-Mail: ndmc@enso.unl.edu
Web Site: http://enso.unl.edu/ndmc

IANR

July 23, 2002

Honorable John F. Kerry, Chairman
Small Business and Entrepreneurship Committee
U.S. Senate
Washington, DC 20510

Honorable Christopher S. Bond, Ranking Member
Small Business and Entrepreneurship Committee
U.S. Senate
Washington, DC 20510

Post-it® Fax Note 7671	Date 7-23	# of pages ▶ 2
To ~~Hon.~~ John F. Kerry	From Don Wilhite	
Co./Dept. U.S. Senate	Co. Natl Drought Mitigation Ctr	
Phone #	Phone #	
Fax #		

Dear Senators Kerry and Bond:

At present, nearly 50% of the nation is experiencing drought conditions that are resulting in serious economic, social, and environmental consequences. Over the past few years, many portions of this country have experienced drought conditions and, for many states, these conditions have continued over a period of several consecutive years. The National Drought Mitigation Center at the University of Nebraska-Lincoln works closely with many states and communities to develop longer-term strategies and plans to improve their capacity to cope with severe drought situations.

The impacts of recent drought years have been severe and they have affected many persons and businesses, both farm and non-farm related. Extended droughts also have a significant impact on surface and subsurface water supplies and, consequently, result in losses across many sectors because competition (and conflicts) for limited water increases during periods of shortage. Some of the sectors affected other than agriculture include energy production, transportation, forestry, recreation, tourism, urban water supply, industry, and fish and wildlife.

In situations where agricultural producers are affected, many programs are available from the USDA. For small businesses, assistance is available only for agriculturally related small businesses such as feed and seed stores. For businesses that are based on recreation and tourism associated with rivers, lakes, and reservoirs, for example, there is currently no assistance.

SBA is not currently authorized to help these businesses because a drought is not a sudden, quick onset occurrence. Nonetheless, drought is a serious natural disaster that results in large economic, social, and environmental costs to this country each year. It also causes significant damage to small businesses.

I support the efforts of the Small Business and Entrepreneurship Committee to amend the guidelines of the SBA and to authorize them to offer assistance to small businesses affected by prolonged drought. Senate bill 2734 would allow Governors to ask SBA for an administrative declaration of economic injury because of drought. The low interest loans that SBA can offer these businesses would allow many of them to survive the drought and remain in business.

Sincerely,

Don A. Wilhite

Donald A. Wilhite, Director

State of South Carolina

Office of the Governor

JIM HODGES
GOVERNOR

POST OFFICE BOX 11829
COLUMBIA 29211

July 9, 2002

The Honorable John Kerry
United States Senate
304 Russell Building, Third Floor
Washington, DC 20510

Dear Senator Kerry:

The State of South Carolina is in its fifth year of drought status, the worst in over fifty years. Some parts of the state are in extreme drought status and the rest is in severe drought status.

99% of our streams are flowing at less than 10% of their average flow for this time of year. 60% of those same streams are running at lowest flow on record for this date. The levels of South Carolina's lakes have dropped anywhere from five feet to twenty feet. Some lakes have experienced a drop in water level so significant that tourist and recreational use has diminished.

State and national climatologists are not hopeful that we will receive any significant rainfall in the near future. To end our current drought, we would need an extended period of average to above average rainfall.

Droughts, particularly prolonged ones such as we are experiencing now, have extensive economic effects. For farmers who experience the economic effects of such a drought, assistance is available through the USDA. For small businesses, assistance is available only for agriculture related small businesses, i.e. feed and seed stores. For businesses that are based on tourism around Lakes and Rivers, there is currently no assistance available.

We have reports of lake and river tourism dependent businesses experiencing 17% to 80% declines in revenue. The average decline in revenue is probably near 50% across the board.

My staff has contacted Small Business Administration and they are not authorized to offer assistance to these businesses because a drought is not defined as a sudden occurrence. Nonetheless, a drought is an ongoing natural disaster that is causing great economic damage to these small business owners.

The Honorable John Kerry
Page 2

I am requesting that you assist us in this situation by proposing that the Small Business and Entrepreneurship Committee take action to at least temporarily amend the SBA authorizing language and allow them to offer assistance to small businesses affected by prolonged drought. This would allow Governors to ask SBA for an administrative declaration of economic injury because of drought. The low interest loans SBA can offer these businesses would allow many of them to weather the drought and remain in business for the long run.

My staff has also been in contact with Senator Hollings' legislative staff. I hope together, we can find an expedient solution to the plight of these small business owners. Short of finding a way to control the weather, this may be our only option to help their dire situation.

Sincerely,

Jim Hodges

Jim Hodges

State of South Carolina
Office of the Governor

Lane Hudson
Policy Analyst
P.O. Box 11829
Columbia, SC 29211

Fax Transmittal Sheet

To:	Kevin Wheeler	**From:**	Lane Hudson
Phone:		**Phone:**	
Fax:		**Fax:**	803.734.6453
Number of pages: (Including cover)	8	**e-mail:**	

Comments:
Kevin –

Here are some of the Economic Impact Surveys compiled by our State Drought Response Coordinator. Also is a letter from the former Chairman of the Board of Santee Cooper, which is a state owned electric cooperative that owns two of the largest lakes in SC that are affected by this drought.

I went through USDA Emergency Declarations from Aug '01-July '02. 24 States had portions of them declared elgible for disaster assistance due to drought and dry weather conditions. Another 3 states (UT, SC, and MT) were declared disasters in their entirety.

Also included is a summary of drought conditions throughout the US prepared by the SC State Climatologist according to info from the Nat'l. Drought Monitor.

Economic Impact Survey

Business Name: See Note

Address: , Santee SC 29142

County: Orangeburg Telephone:

Please check Business Affected	% Loss due to Drought compared to last 2 years	Comment
Grocery Store		
✓ Accommodations	45 %	
Campgrounds		
✓ Restaurants	45 %	
✓ Marinas	45 %	
✓ Bait & Tackle	45 %	
✓ Other	45 %	
Boat Ramp	If you have a ramp is it usable for all boats	

Has the drought cause reduction in employees hours or layoffs? yes

If drought continues through spring will you have capital to re-open? NO

Other comments I have laid off employees. My business affects all of the above. Without help I will have no alternative but to close. Approx. 750,000. a year will be lost to the local economy IF I do.

NOTE: Because the website and telephone of this company has been disconnected we were unable to contact them for permission to print their name/address information.

Drought Economic Impact Survey

Business Name: Billups Landing + Campground

Address: RS 3 Box 450 Summerton S.C. 29148

County: Clarendon Telephone: 803-478-2800

Please check Business Affected	% Loss due to Drought compared to last 2 years	Comment
✓ Grocery Store	off 32%	
✓ Accommodations	off 10%	
✓ Campgrounds	off 23%	
✗ Restaurant		
✓ Guides	Down but can't calculate. They book themselves	
✓ Bait & Tackle	Bait down 40% Tackle 25%	
___ Other	License off 31% from 1998	
✓ Boat Ramp	If you have a ramp is it usable for all boats: No - only small boats	

Has the drought cause reduction in employees hours or layoffs? No but I couldn't replace one that quit.

If drought continues through spring will you have capital to re-open? May be

Other comments: Thru Aug 2000, 1568 boats didn't put in here compared to Aug 1998

Drought Economic Impact Survey

Water Holidays Owners Association, Inc.

Business Name dba: Lake Marion Resort & Marina

Address 510 Ragtime Trail, Santee, SC 29142

County Orangeburg Telephone 803-854-2136

Please check Business Affected	% Loss due to Drought compared to last 2 years	Comment
X Grocery Store	Closed all year due to no business - 100%	
X Accommodations	Houseboats 70% - Campground - 50% - Log Cabins - 10%	
___ Campgrounds	Down 50%	
___ Restaurant	See Grocery Store above	
___ Guides	N/A	
___ Bait & Tackle	See Grocery Store above	
___ Other	Gas & Diesel Sales - off - 68% Orientation/Isurance - off	
___ Boat Ramp	If you have a ramp is it usable for all boats Off 90%	

Has the drought cause reduction in employees hours or layoffs? Yes

If drought continues through spring will you have capital to re-open? Yes

Other comments Due to low lake levels, we unable to dry dock vessels for repairs such as out drives, bell housing, lower gear units and all repairs requiring the vessel be brought out of the lake. These are 38 foot - 18,000 pound houseboats restricted to dockside - we have lost unknown rentals and other income such as gas/diesel sales, Orientation Fees, Insurance Fees. Our houseboats are virtually shut down until we can get them on the dry dock rail for repairs. If this extends into next spring, we are in seriouse trouble and will not be able to maintain cash low without hardship.

Sonny Briggman
General Manager - Agent
Water Holidays Owners Assn.,Inc.
September 12, 2000

omic Impact Survey

Business Name L&S Marine Inc.

Address PO Box 742 - Hwy 521 Manning SC 29102

County Clarendon Telephone 803-505-8727

Please check Business Affected	% Loss due to Drought compared to last 2 years	Comment
___Grocery Store		
___Accommodations		
___Campgrounds		
___Restaurant		
___Guides		
___Bait & Tackle		
X Other	Marine Dealership Service & Sales	
__Boat Ramp	If you have a ramp is it usable for all boats	

Has the drought cause reduction in employees hours or layoffs? No - To keep people for spring

If drought continues through spring will you have capital to re-open? ? we have to keep

Other comments Due to low water levels we have not been able to pick up boat for Repairs & our Sales have stopped for the customers living on the lake due to no water they want purchase until they have water. So we are seeing a keyless in sales from the customer that live on the water as well as customers who live around this area that use this lake for fishing & family fun.

Service is off 30 to 40%

Sales to Lake people old & new coming in is off 40% to 50%

Paul Lane

From: "Milt Brown" <brown@dnr.state.sc.us>
To: <tlhudso@gov.state.sc.us>
Date: 7/16/02 1:04PM
Subject: Highest Level of Drought Found in the States Below

Lane, there are actually some phase of drought found in some part of 42 states according to the National Drought Monitor issued last week. I doubt there has been any major differences this week, but we will not have this information until tomorrow.

Milt Brown
Acting SC State Climatologist

Highest Level of Drought Found in the States Listed Below*

D0-Abnormally Dry (12)
MS
MA
NH
RI
VT
ME
WV
KY
TN
AR
MN
MO

D4-Exceptional (8)
NC
VA
NM
AZ
NV
WY
CO
UT

D1-Moderate (6)
MD
DE
PA
NJ
NY
CT
IA
OR

D2- Severe (6)
LA
AL
FL
ND
SD
ID

D3-Extreme (8)
GA
SC
NE
KS
OK

TX
CA
MT

* Source - National Drought Monitor 7/9/02

Prepared by the South Carolina State Climate Office
South Carolina Department of Natural Resources

Santee Cooper

Alec B. McLeod, Jr.
Chairman
Board of Directors

21 Waterway Island Drive
Isle of Palms, SC 29451
(843) 886-5964
Fax: (843) 886-3107

September 5, 2000

The Honorable James H. Hodges
Governor
State of South Carolina
Post Office Box 11829
Columbia, South Carolina 29211-1829

Dear Governor Hodges:

As I am sure you are aware, South Carolina is in the midst of a prolonged shortage of rain. This continued lack of rain has placed many of the small business owners around the Santee Cooper Lakes in a financial crisis. The boaters, fishermen, and outdoor enthusiasts who normally visit the lakes and support the surrounding businesses are staying away due to extraordinarily low lake levels.

This is a problem that can only be corrected by extended periods of rain. Until then, I am requesting your assistance in identifying any types of financial assistance that may be available for these small business owners. Assistance from either the state or federal level is critical to the survival of many of these businesses.

Any assistance that you can provide will be greatly appreciated by the approximately 140 businesses that are part of the Committee for the Preservation of Lake Moultrie and Lake Marion.

Thank you in advance for any assistance you can provide.

With regards, I am

Alec B. McLeod, Jr.

Alec B. McLeod, Jr.

/sb

cc: Hall Jones
Angels Landing
1556 Viper Road
Pineville, SC 29468

WILDLIFE ACTION,INC

139 Canal Landing Rd • Moncks Corner, SC 29461 •
Phone 843-753-7271 • Fax 843-753-2867 • Email [illegible]
COMMITTEE FOR THE PREESERVATION OF LAKE MOULTRIE AND LAKE MARION

Dear Senator Kerry,

We the Committee for the Preservation of Lake Moultrie and Lake Marion want to thank you for introducing bill # S 2734 / Small Business Drought Relief Act
Our small group has worked hard at the local level to get this great drought that has gripped our nation for the last four years to be recognized as a disaster. The agriculture community has always had a program to help them in times of disasters like this drought. Now with your help anyone impacted to such a degree as to threaten their business will have a financial resource available to them that did not exist before now.

I want you to know that we support your efforts in bill # S 2734 and if you need our groups help please feel free to call us.

Sincerely,

Name Cathy Anderson, Asst. Gen. Mgr.
Business Name Lake Marion Resort & Marina
Address 510 Lazytime Trail
City Santee State SC Zip 29142
Phone 803-854-2136
Fax 803-854-4336
Email sbriggman@spmresorts.com

WILDLIFE ACTION,INC

159 Canal Landing Rd. • Cross, SC 29436 •
Phone 843-753-2271 • Fax 843-753-2987 • Email nagana@infoave.net
COMMITTEE FOR THE PRESERVATION OF LAKE MOULTRIE AND LAKE MARION

Dear Senator Kerry,

We the Committee for the Preservation of Lake Moultrie and Lake Marion want to thank you for introducing bill # S. 2734 / Small Business Drought Relief Act.
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I want you to know that we support your efforts in bill # S. 2734 and if you need our groups help please feel free to call us.

Sincerely,

Name. THOMAS B WADE

Business Name. OMNI MARINE ELECTRONICS

Address. 7138A Cross County RD

City. N. Charleston State. SC Zip. 29418

Phone. 843-767-4237

Fax. 843-767-4239

Email. OMNIMARINE@Knology.net

WILDLIFE ACTION,INC

138 Canal Landing Rd. • Cross, SC 29436 •
Phone 843-753-2271 • Fax 843-753-2687 • Email rispera@infosave.net
COMMITTEE FOR THE PRESERVATION OF LAKE MOULTRIE AND LAKE MARION

Dear Senator Kerry,

We the Committee for the Preservation of Lake Moultrie and Lake Marion want to thank you for introducing bill # S. 2734 / Small Business Drought Relief Act.
Our small group has worked hard at the local level to get this great drought that has gripped our nation for the last four years to be recognized as a disaster. The agriculture community has always had a program to help them in times of disasters like this drought. Now with your help anyone impacted to such a degree as to threaten their business will have a financial resource available to them that did not exist before now.

I want you to know that we support your efforts in bill # S. 2734 and if you need our groups help please feel free to call us.

Sincerely,

Name. Butch Atkins

Business Name. Atkins Boat Landing

Address. 904 Atkins Landing Ln. Lot 67

City. Moncks Corner State SC Zip. 29461

Phone. 843-761-8428

Fax. 843-761-0462

Email.

WILDLIFE ACTION,INC

139 Canal Landing Rd. ♦ Cross, SC 29436 ♦
Phone 843-753-2271 ♦ Fax 843-753-2987 ♦ Email [illegible]
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I want you to know that we support your efforts in bill # S. 2734 and if you need our groups help please feel free to call us.

Sincerely,

Name: Norman Allan Weiss

Business Name: Black's Landing L.L.C.

Address: 1370 Blacks Camp Rd

City: Cross State: SC Zip: 29436

Phone: 843 753-2231

Fax: 843-753-2346

Email: _____

WILDLIFE ACTION,INC

139 Canal Landing Rd. • Cross, SC 29436 •
Phone 843-753-2271 • Fax 843-753-2687 • Email [illegible]@wlcave.net
COMMITTEE FOR THE PRESERVATION OF LAKE MOULTRIE AND LAKE MARION

Dear Senator Kerry,

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I want you to know that we support your efforts in bill # S. 2734 and if you need our groups help please feel free to call us.

Sincerely,

Name. [illegible]

Business Name. Berkeley Chamber

Address. P.O. Box 968

City. Moncks Corner State. SC Zip. 29461

Phone. 843-761-8234

Fax. 843-899-6491

Email

WILDLIFE ACTION, INC

139 Canal Landing Rd. • Cross, SC 29436 •
Phone 843-753-2271 • Fax 843-753-2887 • Email rlspears@infoave.net

COMMITTEE FOR THE PRESERVATION OF LAKE MOULTRIE AND LAKE MARION

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I want you to know that we support your efforts in bill # S. 2734 and if you need our groups help please feel free to call us.

Sincerely,

Name DENNIS R KROPF

Business Name LANES Shopping Ctr

Address 9708 Hwy 260

City MANNING State S.C Zip 29102

Phone 803-478-2648

Fax 803-478-2660

Email

JOHN F. KERRY, MASSACHUSETTS, CHAIRMAN
CHRISTOPHER S. BOND, MISSOURI, RANKING MEMBER

CARL LEVIN, MICHIGAN
TOM HARKIN, IOWA
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CONRAD BURNS, MONTANA
ROBERT F. BENNETT, UTAH
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GEORGE ALLEN, VIRGINIA
JOHN ENSIGN, NEVADA

PATRICIA R. FORBES, MAJORITY STAFF DIRECTOR AND CHIEF COUNSEL
EMILIA DISANTO, REPUBLICAN STAFF DIRECTOR

United States Senate
COMMITTEE ON SMALL BUSINESS & ENTREPRENEURSHIP
WASHINGTON, DC 20510–6350

July 17, 2002

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

As Chairman of the Senate Committee on Small Business and Entrepreneurship and an advocate for the small businesses which remain the backbone of our economy, I am deeply concerned that small businesses in as many as 36 states, including Massachusetts, South Carolina, Montana, Virginia, and Georgia, are being devastated economically by the effects of severe drought conditions that are expected to continue throughout this difficult summer.

Much like the effects of floods, tornadoes and other natural disasters, the adverse effects of drought conditions on local economies cannot be understated. Farmers and farm-related businesses crippled by drought, thankfully, can find a lifeline through the USDA. Unfortunately, similar assistance for non-farm small business drought victims is not available. Despite the hardship that small businesses are facing due to prolonged drought, they are not eligible for Small Business Administration disaster loans because the program has been interpreted not to apply to drought victims.

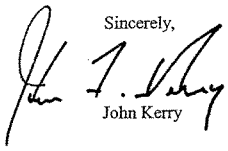
I'm not particularly interested in a bureaucratic interpretation of disaster loans -- and neither are hardworking small businesses suffering the economic consequences of a drought far beyond their control. I simply want us to give these small businesses some way to help themselves. That is why yesterday, together with Senators Hollings, Landrieu, Baucus, Bingaman, Daschle and Johnson, I introduced the Small Business Drought Relief Act which will make SBA disaster loans available to small business drought victims throughout the country. I ask you to support my efforts to promptly pass this legislation so that small businesses in tourism and other water-related or water-reliant industries can receive the disaster relief they deserve. This assistance is critical for the survival of many of these small businesses, particularly in today's difficult economic times.

As you know, politics in Washington can wreak havoc on even the most common sense solutions to real life problems. We can not afford to allow delay or partisan obstruction to deny passage of this legislation as it, regrettably, did our emergency relief efforts to help small businesses suffering the economic fall-out of September 11th. I hope you will agree with me on the merits of assisting

The President
July 17, 2002
Page Two

small businesses throughout the United States suffering from drought. If the Administration will work with me and my Committee, together we can achieve the swift enactment of the Small Business Drought Relief Act and provide immediate help for small business drought victims.

Sincerely,



John Kerry

cc The Honorable Hector V. Barreto

July 18, 2002

The Honorable John Kerry
Chairman
Senate Committee on Small Business and Entrepreneurship
248A Russell Building
Washington, DC 20510

Dear Chairman Kerry:

National Small Business United would like to thank you for your leadership in trying to ensure that small businesses that sell goods and services to the Federal government get their fair share of Federal procurement dollars. It seems that every year the Federal government fails to reach its Congressionally mandated 23 percent procurement goal for small firms. As an organization with over 65,000 members who are concerned about the Federal government contracting with capable small firms, we appreciate all you have done to support this cause.

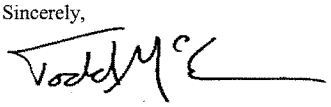
Therefore, we are proud to support legislation you have introduced today, the Small and Disadvantaged Business Ombudsman Act." We understand that this legislation would strengthen the existing Offices of Small and Disadvantaged Business Utilization in every Federal agency, establish a Small and Disadvantaged Business Ombudsman for Procurement in the Small Business Administration and raise the Federal government procurement goal for small business prime contracting to 30 percent.

Many NSBU members are involved in Federal government contracting, and have shared with us their frustration in trying to compete with larger firms. These are small business that are capable of fulfilling contracts, but are thwarted by contract bundling, government wide acquisition schedules and a agency culture that teaches procurement officers that "bigger is better." It is our hope that this legislation, if enacted, will go a long way to helping the average small businessman compete for contract dollars on an even playing field.

We are also pleased that you have introduced S. 2734, the Small Business Drought Relief Act, and we look forward to working with you to ensure that small businessmen adversely affected by drought conditions all over the nation, gain access to the assistance they so desperately need.

We are proud to support both pieces of legislation, and I look forward to discussing these matters with you in further detail. If you have any questions or concerns, please do not hesitate to contact Damon Dozier, NSBU Director of Government and Public Affairs at (202) 293-8830 or ddozier@nsbu.org.

Sincerely,



Todd McCracken
President

LEGISLATION

Analysis of S. 2466, the "Small Business Federal Contractor Safeguard Act"

Introduced on May 7, 2002
by Senators Kerry, Bond, Carnahan and Collins. Additional cosponsor: Senator Cleland

Purpose
The purpose of S. 2466 is to strengthen the definition of a bundled contract, to close the loopholes in the existing definition, and to prevent Federal agencies from circumventing statutory safeguards intended to ensure that separate contracts are consolidated for economic reasons, not expediency.

New Definition of a Bundled/Consolidated Contract
Under the Small Business Federal Contractor Safeguard Act, the term bundled contract and its definition would be eliminated, and a new term, consolidated contract, and accompanying definition would take its place.

The term "consolidated contract" means a multiple award contract or a contract for goods or services with a Federal agency that:
(A) combines discrete procurement requirements from not less than 2 existing contracts;
(B) adds new, discrete procurement requirements to an existing contract; or
(C) includes 2 or more discrete procurement requirements.

This definition eliminates the issue with the previous definition leaving room for interpretation by the Federal agencies and closes the loopholes in the current definition pertaining to new contract requirements and multiple award contracts.

Procurement Strategies
The procurement strategies section of the Small Business Act would now require a statement of benefits and a justification for any consolidated contract over $2 million and a more extensive analysis, corresponding to current requirements for any consolidated contract, for consolidations over $5 million.

Consolidated Contracts over $2 million
In order to move forward with a consolidated contract over $2 million, the agency must put forth the benefits anticipated from the consolidated contract, identify alternatives that would involve a lesser degree of consolidation and include a specific determination that the consolidation is necessary and justified. The determination that a consolidation is necessary and justified may be determined through administrative and personnel savings alone.

Consolidated Contracts over $5 million
In order to move forward with a consolidated contract over $5 million, an agency must, in addition to the above; conduct current market research to demonstrate that the consolidation will result in costs savings, quality improvements, reduction in acquisition times or better terms and conditions; include an assessment to the specific impediments to small business participation resulting from the consolidation; and specify actions designed to maximize small business participation as subcontractors and suppliers for the consolidated contract.

The determination that a consolidation is necessary and justified may not be determined through administrative and personnel savings alone, unless those savings will be substantial.

Conforming Amendments
The legislation also makes the necessary conforming amendments to the Small Business Reauthorization Act of 1997 and the Small Business Act, striking bundled contract and inserting consolidated contract where necessary.

II

107TH CONGRESS
2D SESSION

S. 2466

To modify the contract consolidation requirements in the Small Business Act, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 7, 2002

Mr. KERRY (for himself, Mr. BOND, Mrs. CARNAHAN, and Ms. COLLINS) introduced the following bill; which was read twice and referred to the Committee on Small Business and Entrepreneurship

---

A BILL

To modify the contract consolidation requirements in the Small Business Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Small Business Federal Contractor Safeguard Act".

SEC. 2. CONTRACT CONSOLIDATION.

(a) DEFINITIONS.—Section 3(o) of the Small Business Act (15 U.S.C. 632(o)) is amended to read as follows:

"(o) DEFINITIONS.—In this Act the following definitions shall apply:

1 "(1) CONSOLIDATED CONTRACT; CONSOLIDA-
2 TION.—The term 'consolidated contract' or 'consoli-
3 dation' means a multiple award contract or a con-
4 tract for goods or services with a Federal agency
5 that—
6 "(A) combines discrete procurement re-
7 quirements from not less than 2 existing con-
8 tracts;
9 "(B) adds new, discrete procurement re-
10 quirements to an existing contract; or
11 "(C) includes 2 or more discrete procure-
12 ment requirements.
13 "(2) MULTIPLE AWARD CONTRACT.—The term
14 'multiple award contract' means—
15 "(A) a contract that is entered into by the
16 Administrator of General Services under the
17 multiple award schedule program referred to in
18 section 2302(2)(C) of title 10, United States
19 Code;
20 "(B) a multiple award task order contract
21 or delivery order contract that is entered into
22 under the authority of sections 2304a through
23 2304d of title 10, United States Code, or sec-
24 tions 303H through 303K of the Federal Prop-

erty and Administrative Services Act of 1949 (41 U.S.C. 253h through 253k); and

"(C) any other indefinite delivery or indefinite quantity contract that is entered into by the head of a Federal agency with 2 or more sources pursuant to the same solicitation.".

(b) PROCUREMENT STRATEGIES.—Section 15(e) of the Small Business Act (15 U.S.C. 644(e)) is amended to read as follows:

"(e) PROCUREMENT STRATEGIES; CONTRACT CONSOLIDATION.—

"(1) IN GENERAL.—To the maximum extent practicable, procurement strategies used by the various agencies having contracting authority shall facilitate the maximum participation of small business concerns as—

"(A) prime contractors;

"(B) subcontractors; and

"(C) suppliers.

"(2) PROCUREMENT STRATEGY REQUIREMENTS WHEN THE VALUE OF A CONSOLIDATED CONTRACT IS GREATER THAN $2,000,000.—

"(A) IN GENERAL.—An agency official may not execute a procurement strategy that includes a consolidated contract valued at more

1 than $2,000,000 unless the proposed procure-
2 ment strategy—
3 "(i) specifically identifies the benefits
4 anticipated from consolidation;
5 "(ii) identifies any alternative con-
6 tracting approaches that would involve a
7 lesser degree of contract consolidation; and
8 "(iii) includes a specific determination
9 that the proposed consolidation is nec-
10 essary and the anticipated benefits of such
11 consolidation justify its use.
12 "(B) NECESSARY AND JUSTIFIED.—The
13 head of an agency may determine that a pro-
14 curement strategy under subparagraph (A)(iii)
15 is necessary and justified if the monetary bene-
16 fits of the procurement strategy, including ad-
17 ministrative and personnel costs, substantially
18 exceed the monetary benefits of each of the pos-
19 sible alternative contracting approaches identi-
20 fied under subparagraph (A)(ii).
21 "(C) ADDITIONAL REQUIREMENTS WHEN
22 THE VALUE OF A CONSOLIDATED CONTRACT IS
23 GREATER THAN $5,000,000.—In addition to
24 meeting the requirements under paragraph (A),
25 a procurement strategy that includes a consoli-

1 dated contract valued at more than
2 $5,000,000—
3 "(i) shall be supported by current
4 market research that demonstrates that
5 the consolidated contract will result in—
6 "(I) cost savings;
7 "(II) quality improvements;
8 "(III) reduction in acquisition
9 cycle times; or
10 "(IV) better terms and condi-
11 tions;
12 "(ii) shall include an assessment of
13 the specific impediments to participation
14 by small business concerns as prime con-
15 tractors that result from contract consoli-
16 dation;
17 "(iii) shall specify actions designed to
18 maximize small business participation as
19 subcontractors, including suppliers, at var-
20 ious tiers under the consolidated contract;
21 and
22 "(iv) shall not be justified under para-
23 graph (A)(iii) by savings in administrative
24 or personnel costs, unless the total amount
25 of the cost savings is expected to be sub-

1 stantial in relation to the total cost of the
2 procurement.
3 "(3) CONTRACT TEAMING.—
4 "(A) IN GENERAL.—If the head of an
5 agency solicits offers for a consolidated con-
6 tract, a small business concern may submit an
7 offer that provides for the use of a particular
8 team of subcontractors for the performance of
9 the contract (referred to in this paragraph as
10 'teaming').
11 "(B) EVALUATION OF OFFER.—The head
12 of the agency shall evaluate an offer submitted
13 by a small business concern under subpara-
14 graph (A) in the same manner as other offers,
15 with due consideration to the capabilities of all
16 of the proposed subcontractors.
17 "(C) NO EFFECT ON STATUS AS A SMALL
18 BUSINESS CONCERN.—If a small business con-
19 cern engages in teaming under subparagraph
20 (A), its status as a small business concern shall
21 not be affected for any other purpose.".
22 (c) CONFORMING AMENDMENTS.—
23 (1) CONFORMING AMENDMENT TO THE SMALL
24 BUSINESS REAUTHORIZATION ACT OF 1997.—Section

1 414 of the Small Business Reauthorization Act of
2 1997 (41 U.S.C. 405 note) is repealed.
3 (2) CONFORMING AMENDMENTS TO THE SMALL
4 BUSINESS ACT.—The Small Business Act (15 U.S.C.
5 631 et seq.) is amended—
6 (A) in section 2(j)—
7 (i) by striking the subsection heading
8 and inserting the following:
9 "(j) CONTRACT CONSOLIDATION.—"; and
10 (ii) in paragraph (3), by striking
11 "bundling of contract requirements" and
12 inserting "contract consolidation";
13 (B) in section 8(d)(4)(G), by striking "a
14 bundled contract" and inserting "a consolidated
15 contract";
16 (C) in section 15(a)—
17 (i) by striking "bundling of contract
18 requirements" and inserting "contract con-
19 solidation"; and
20 (ii) by striking "the bundled contract"
21 and inserting "the consolidated contract";
22 and
23 (D) in section 15(k)(5)—
24 (i) by striking "significant bundling of
25 contract requirements" and inserting "con-

1 solidated contracts valued at more than
2 $2,000,000"; and
3 (ii) by striking "bundled contract"
4 and inserting "consolidated contract".

○

Analysis of S. 1994, the "Combined 8(a) and HUBZone Priority Preference Act"

Introduced on March 6, 2002
by Senators Kerry and Bond

Purpose

The "Combined 8(a) and HUBZone Priority Preference Act," will establish a preference for the purposes of bidding on certain Federal procurement contracts for small business firms that have received both 8(a) Business Development (BD) and Historically Underutilized Business Zone (HUBZone) certification. The legislation will also establish a price-evaluation preference of up to 20 percent for firms with both 8(a)BD and HUBZone certification. Finally, the legislation raises the sole-source threshold for good and services contracts, as well as manufacturing contracts by $1 million.

Establishment of Priority Preference

The legislation establishes a priority preference for firms with both 8(a)BD and HUBZone certifications when bidding on certain Federal procurement contracts. The preference established by this legislation applies only to contracts awarded through the 8(a)BD and HUBZone programs under restricted competition. When a contract is to be awarded under restricted competition under either the 8(a)BD or HUBZone program, a firm with a certification for both programs will be awarded a contract over a firm that is only 8(a)BD certified or HUBZone certified if the bids are comparable. For example, if a contracting officer were to set aside a contract for restricted competition amongst HUBZone firms, and a HUBZone-certified firm bid $100 while a dual- certified HUBZone-8(a)BD firm bid $100, the firm with the dual certification would be awarded the contract.

Price Evaluation Preference

Under the legislation, a firm that is dual-certified as an 8(a)BD and a HUBZone firm will receive both of the price-evaluation preferences available to them under each program in full and open competition. The effect of combining the price-evaluation preferences of these two programs results in a price-evaluation preference of up to 20 percent, when competing against large businesses, and a 10 percent price-evaluation preference when competing against a small business. For example, if a large business bids $100 on a contract and would be the winning bidder, a firm that is both 8(a)BD and HUBZone certified would win the contract award with any bid up to $120. If a small business bid $110 on a contract, a firm that is both 8(a)BD certified and HUBZone certified would win the contract award with any bid up to $110.

Sole-Source Threshold Increase

The cap on the value of a contract that may be awarded to an 8(a)BD or a HUBZone firm under sole-source authority (without competition) is raised by $1 million under the legislation, for both goods and services contracts and manufacturing contracts. The sole-source thresholds for each program would be $4 million for goods and services contracts and $6 million for manufacturing contracts.

II

107TH CONGRESS
2D SESSION

S. 1994

To establish a priority preference among certain small business concerns for purposes of Federal contracts, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 6, 2002

Mr. KERRY (for himself and Mr. BOND) introduced the following bill; which was read twice and referred to the Committee on Small Business and Entrepreneurship

---

A BILL

To establish a priority preference among certain small business concerns for purposes of Federal contracts, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Combined 8(a) and HUBZone Priority Preference Act".

SEC. 2. DEFINITIONS.

In this Act the following definitions shall apply:

(1) CONTRACTING OFFICER.—The term "contracting officer" has the same meaning as in section

1 27(f)(5) of the Office of Federal Procurement Policy
2 Act (41 U.S.C. 423(f)(5)).
3 (2) 8(a) HUBZONE SMALL BUSINESS CON-
4 CERN.—The term "8(a) HUBZone small business
5 concern" means a qualified HUBZone small busi-
6 ness concern that is also a section 8(a) small busi-
7 ness concern.
8 (3) QUALIFIED HUBZONE SMALL BUSINESS
9 CONCERN.—The term "qualified HUBZone small
10 business concern" has the same meaning as in sec-
11 tion 3(p)(5) of the Small Business Act (15 U.S.C.
12 632(p)(5)).
13 (4) SECTION 8(a) SMALL BUSINESS CON-
14 CERN.—The term "section 8(a) small business con-
15 cern" means a small business concern that is cer-
16 tified by the Small Business Administration as eligi-
17 ble to receive benefits under section 8(a) of the
18 Small Business Act (15 U.S.C. 637(a)).
19 (5) SMALL BUSINESS CONCERN.—The term
20 "small business concern" has the same meaning as
21 in section 3(a) of the Small Business Act (15 U.S.C.
22 632(a)).
23 (6) SMALL BUSINESS CONCERN OWNED AND
24 CONTROLLED BY SOCIALLY AND ECONOMICALLY DIS-
25 ADVANTAGED INDIVIDUALS.—The term "small busi-

1 ness concern owned and controlled by socially and
2 economically disadvantaged individuals" has the
3 same meaning as in section 8(a)(4)(A) of the Small
4 Business Act (15 U.S.C. 637(a)(4)(A)).

5 **SEC. 3. ESTABLISHMENT OF PRIORITY PREFERENCE.**

6 (a) EFFECT OF PRIORITY PREFERENCE ON RE-
7 STRICTED COMPETITION CONTRACTS.—

8 (1) SECTION 8(a) CONTRACTS.—In determining
9 the successful offeror for a restricted competition
10 contract under section 8(a)(1)(D) of the Small Busi-
11 ness Act (15 U.S.C. 637(a)(1)(D)), the contracting
12 officer shall select an offer from an 8(a) HUBZone
13 small business concern over a comparable offer from
14 a section 8(a) small business concern that is not a
15 qualified HUBZone small business concern.

16 (2) HUBZONE CONTRACTS.—In determining
17 the successful offeror for a restricted competition
18 contract under section 31(b)(2)(B) of the Small
19 Business Act (15 U.S.C. 657a(b)(2)(B)), the con-
20 tracting officer shall select an offer from an 8(a)
21 HUBZone small business concern over a comparable
22 offer from a qualified HUBZone small business con-
23 cern that is not a section 8(a) small business con-
24 cern.

1 (b) EFFECT OF PRIORITY PREFERENCE ON PRICE
2 EVALUATION PREFERENCE.—
3 (1) IN GENERAL.—Subject to paragraphs (2)
4 and (3), in any case in which a Federal procurement
5 contract is to be awarded on the basis of full and
6 open competition in accordance with section 303 of
7 the Federal Property and Administrative Services
8 Act of 1949 (41 U.S.C. 253), the price offered by
9 an 8(a) HUBZone small business concern shall be
10 deemed as being lower than the price offered by an-
11 other offeror, if the price offered by the 8(a)
12 HUBZone small business concern is not more than
13 20 percent higher than the price offered by the oth-
14 erwise lowest and responsive offeror.
15 (2) OTHER SMALL BUSINESS CONCERN.—If the
16 competing offeror under paragraph (1) is a small
17 business concern, the price evaluation preference
18 given to the 8(a) HUBZone small business concern
19 shall be 10 percent.
20 (3) RESPONSIVE OFFER.—An 8(a) HUBZone
21 small business concern shall not receive a price eval-
22 uation preference under this section if it does not
23 make a responsive offer.
24 (c) EXCLUSION.—This section does not provide any
25 priority preference to a small business concern owned and

1 controlled by socially and economically disadvantaged indi-
2 viduals that is also a qualified HUBZone small business
3 concern, unless such business has been certified by the
4 Small Business Administration as eligible to receive bene-
5 fits under section 8(a) of the Small Business Act (15
6 U.S.C. 637(a)).

7 **SEC. 4. MODIFICATION OF SOLE SOURCE THRESHOLDS.**

8 (a) SECTION 8(a) SMALL BUSINESS CONCERN.—Sec-
9 tion 8(a)(1)(D)(i)(II) of the Small Business Act (15
10 U.S.C. 637(a)(1)(D)(i)(II)) is amended—

11 (1) by striking "$5,000,000" and inserting
12 "$6,000,000"; and

13 (2) by striking "$3,000,000" and inserting
14 "$4,000,000".

15 (b) QUALIFIED HUBZONE SMALL BUSINESS CON-
16 CERN.—Section 31(b)(2)(A)(ii) of the Small Business Act
17 (15 U.S.C. 657a(b)(2)(A)(ii)) is amended—

18 (1) in subclause (I), by striking "$5,000,000"
19 and inserting "$6,000,000"; and

20 (2) in subclause (II), by striking "$3,000,000"
21 and inserting "$4,000,000".

○

Bond/Kerry Amendment to the Combined 8(a)-HUBZone Priority Preference Bill:

This amendment will make changes to the types of benefits available to firms with both 8(a) and HUBZone certification under restricted competition, as well as clarify the benefits to these firms for contracts under full and open competition. The amendment also includes Senator Bond's previously filed amendment to clarify when a publicly held small business concern may participate in the HUBZone program.

AMENDMENT NO. ____ Calendar No. ____

Purpose: To make various amendments.

IN THE SENATE OF THE UNITED STATES—107th Cong., 2d Sess.

S. 1994

To establish a priority preference among certain small business concerns for purposes of Federal contracts, and for other purposes.

Referred to the Committee on _____
and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENTS intended to be proposed by Mr. BOND (for himself and Mr. KERRY)

Viz:

1 On page 1, beginning on line 7, strike all that follows
2 through page 3, line 4 and insert the following:

1 (a) DEFINITIONS IN THE SMALL BUSINESS ACT.—
2 Section 3(p) of the Small Business Act (15 U.S.C. 632(p))
3 is amended by adding at the end the following:
4 "(8) BEST VALUE CONTRACT.—The term 'best
5 value contract' means a contract that includes fac-
6 tors or subfactors unrelated to cost or price under
7 section 2305(a)(2)(A) of title 10, United States
8 Code, or section 303A(b)(1) of the Federal Property
9 and Administrative Services Act of 1949 (41 U.S.C.
10 253a(b)(1)).
11 "(9) BEST VALUE FACTOR RELATIVE IMPOR-
12 TANCE.—The term 'best value factor relative impor-
13 tance' means the relative importance assigned to the
14 factors or subfactors in a best value contract.
15 "(10) CONTRACTING OFFICER.—The term 'con-
16 tracting officer' has the same meaning as in section
17 27(f)(5) of the Office of Federal Procurement Policy
18 Act (41 U.S.C. 423(f)(5)).
19 "(11) 8(a) HUBZONE SMALL BUSINESS CON-
20 CERN.—The term '8(a) HUBZone small business
21 concern' means a qualified HUBZone small business
22 concern that is also a section 8(a) small business
23 concern.
24 "(12) SECTION 8(a) SMALL BUSINESS CON-
25 CERN.—The term 'section 8(a) small business con-

1 cern' means a small business concern that is cer-
2 tified by the Small Business Administration as eligi-
3 ble to receive benefits under section 8(a).".

4 [redacted]
5 [redacted]

6 On page 3, beginning on line 6, strike all that follows
7 through line 24 and insert the following:
8 (a) SECTION 8(a) CONTRACTS.—Section 8(a)(1)(D)
9 of the Small Business Act (15 U.S.C. 637(a)(1)(D)) is
10 amended by adding at the end the following:
11 "(iii) If a contract to be awarded by competi-
12 tion restricted to eligible Program Participants will
13 be awarded as a best value contract, the contract
14 shall include an evaluation factor for a bidding Pro-
15 gram Participant that is also a qualified HUBZone
16 small business concern. Such factor shall not be as-
17 signed a best value factor relative importance that
18 exceeds 10 percent of the best value factor relative
19 importance assigned to price as an evaluation fac-
20 tor.".
21 (b) QUALIFIED HUBZONE SMALL BUSINESS CON-
22 CERN.—Section 31(b)(2)(B) of the Small Business Act
23 (15 U.S.C. 657a(b)(2)(B)) is amended to read as follows:

"(B) a contract opportunity shall not be awarded under this section on the basis of competition restricted to qualified HUBZone small business concerns, unless—

"(i) the contracting officer has a reasonable expectation that not less than 2 qualified HUBZone small business concerns will submit offers;

"(ii) the award can be made at a fair market price;

"(iii) if the contract will be awarded as a best value contract, the contract includes an evaluation factor for a bidding qualified HUBZone small business concern that is also eligible to receive benefits under section 8(a); and

"(iv) the evaluation factor included under clause (iii) is not assigned a best value factor relative importance that exceeds 10 percent of the best value factor relative importance assigned to price as an evaluation factor.".

On page 4, beginning on line 1, strike all that follows through page 5, line 6, and insert the following:

(c) EFFECT ON PRICE EVALUATION PREFERENCE.--Section 31(b)(3) of the Small Business Act (15 U.S.C. 657a(b)(3)) is amended by adding at the end the following:

"(D) (i) COMBINED PREFERENCE WITH 8(a) FIRMS.-- Subject to clauses (ii) and (iii), in any case in which a Federal contract is to be awarded on the basis of full and open competition in accordance with section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253), the price offered by an 8(a) HUBZone small business concern shall be deemed as lower than the price offered by another offeror, if the price offered by the 8(a) HUBZone small business concern is not more than 12 percent higher than the price offered by the otherwise lowest and responsive offeror.

"(ii) OTHER SMALL BUSINESS CONCERN.--If the competing offeror under clause (i) is a small business concern, the price evaluation preference given to the 8(a) HUBZone small business concern shall be 10 percent.

"(iii) RESPONSIVE OFFER.--An 8(a) HUBZone small business concern shall not receive a price evaluation preference under this subparagraph if it does not make a responsive offer.

"(iv) EXCLUSION.--This subparagraph does not provide any additional price evaluation preference to a small business concern owned and controlled by socially and economically disadvantaged individuals that is also a qualified HUBZone small business concern, unless such business has been certified by the Small Business Administration as eligible to receive benefits under section 8(a) of the Small Business Act (15 U.S.C. 637(a)).".

16

1 [redacted]

2 Redesignate section 4 as section 5.

3 On page 5, between lines 6 and 7, insert the fol-
4 lowing:

5 **SEC. 4. HUBZONE SMALL BUSINESS CONCERNS.**

6 Section 3(p) of the Small Business Act (15 U.S.C.
7 632(p)) is amended—

8 (1) by redesignating paragraphs (4) through
9 (7) as paragraphs (5) through (8), respectively; and

10 (2) by inserting after paragraph (3) the fol-
11 lowing:

12 "(4) RULE OF CONSTRUCTION RELATING TO
13 CITIZENSHIP.—

14 "(A) IN GENERAL.—A small business con-
15 cern described in subparagraph (B) meets the
16 United States citizenship requirement of para-
17 graph (3)(A) if, at the time of application by
18 the concern to become a qualified HUBZone
19 small business concern for purposes of any con-
20 tract and at such times as the Administrator
21 shall require, non-citizens do not constitute
22 more than 15 percent of the beneficial owner-
23 ship of the outstanding shares of that small

1 business concern, as measured by disclosures
2 filed under section 13(d)(1) of the Securities
3 Exchange Act of 1934 (15 U.S.C. 78m(d)(1)).
4 "(B) CONCERNS DESCRIBED.—A small
5 business concern is described in this subpara-
6 graph if the small business concern—
7 "(i) has a class of securities registered
8 under section 12 of the Securities Ex-
9 change Act of 1934 (15 U.S.C. 78*l*); and
10 "(ii) files reports with the Securities
11 and Exchange Commission as a small busi-
12 ness issuer.
13 "(C) NON-CITIZENS.—In this paragraph,
14 the term 'non-citizen' means
15 "(i) an individual that is not a United
16 States citizen; and
17 "(ii) any other person that is not or-
18 ganized under the laws of any State or the
19 United States.".

Summary of S. 2753
the "Small and Disadvantaged Business Ombudsman Act"

Introduced on July 18, 2002
by Senators Kerry, Bond, Cleland, Cantwell, Bingaman and Carnahan

Purpose
The "Small and Disadvantaged Business Ombudsman Act," will establish a Small and Disadvantaged Business Ombudsman for Procurement (SDB Ombudsman) at the U.S. Small Business Administration (SBA) and strengthen the Office of Small and Disadvantaged Business Utilization (OSDBU) at each Federal agency. The legislation will also raise the Federal governmentwide procurement goal for small business prime contracting by 7 percentage points, setting the governmentwide goal at 30 percent. By raising this goal, the Federal government will increase opportunities for all small businesses and enhance the diversified network of small business suppliers to meet the Federal government's needs.

Appointment of the SDB Ombudsman
The SBA Administrator would appoint the SDB Ombudsman, looking to existing Federal employees to the extent practicable. The SDB Ombudsman is required to be highly qualified, with experience assisting small business concerns with Federal procurement and would receive compensation based on the Senior Executive Service.

Role of the SDB Ombudsman
The SDB Ombudsman will be responsible for ensuring small businesses are treated fairly in the procurement process. The SDB Ombudsman will serve as a focal point within the Federal government to track and rectify complaints received from small business firms regarding their treatment by Federal procuring agencies and non-small business prime contractors.

Responsibilities of the SDB Ombudsman
The SDB Ombudsman shall annually report to Congress on: each Federal agency's success or failure in meeting its small business goals and, if a major Federal agency fails to meet a small business goal, on the Federal agency's explanation of why it failed to achieve its goal and its action plan to meet future goals; the treatment of small businesses by all Federal agencies; the training of contracting personnel at major Federal agencies to ensure knowledge of small business procurement programs and their importance to the Federal government and the economy; each major Federal agency's outreach activities to small business contractors; each Federal agency's compliance with the Small Business Act's provision establishing an Office of Small and Disadvantaged Business Utilization (OSDBU) at each agency; and any discrimination faced by small businesses based on their status as a small business, or the gender or social or economic status of their owner(s).

Confidentiality Clause
The SDB Ombudsman must hold all information that could potentially expose a small business to retaliation from the Federal government or a non-small business prime contractor as confidential, unless a written waiver is obtained. The confidentiality clause extends to information received by any OSDBU employee that could expose the employee to retaliation from a Federal agency.

Agency Coordination with the SDB Ombudsman:
The legislation requires each Federal agency's OSDBU to cooperate with the SDB Ombudsman so that he or she may carry out his or her official responsibilities. Nothing in the Act is intended to replace or diminish the role of the OSDBU at each Federal agency.

Goal Attainment Plan
The legislation requires each major Federal agency that fails to meet a small business goal to submit a report to the SDB Ombudsman as to why the agency failed to achieve a goal and a plan for attaining future goals.

OSDBU Improvements
The role of the Director of each OSDBU is strengthened, the legislation: requires OSDBU Directors to be career personnel, up to a GS-15 (major Federal agencies set at GS-15); requires OSDBU Directors to be well qualified at assisting small businesses with procurement matters; bars procurement chiefs from serving as OSDBU directors; requires OSDBU Directors at major Federal agencies to attend OSDBU Council meetings; clarifies the underlying legislation by stating that the OSDBU Director is responsible to the head or deputy head of an agency for all matters; and, requires OSDBU Directors at major Federal agencies to have no other job duties beyond those stated in the Small Business Act.

OSDBU Council
The current OSDBU Council is given statutory authority. The Council must meet at least once every two months. Each OSDBU Director will have voting membership on the Council. The Council will elect a Chairman for a one-year renewable term, and other officers as necessary. The Council shall discuss all issues relevant to their job functions and assisting small businesses with procurement matters. The SDB Ombudsman will serve as an ex officio member of the Council.

Increase in the Governmentwide Goal
The legislation increases the Federal government's statutory governmentwide procurement goal for small business prime contracting by 7 percentage points. The new governmentwide goal would be 30 percent. The goal increase would be phased in over three years, reaching 30 percent in FY 2006: 26 percent in FY 2004, 28 percent in FY 2005 and 30 percent in FY 2006 and thereafter.

Major Federal Agencies
A major Federal agency for purposes of the additional reporting requirements means an agency that has procured over $200 million in goods and services in the previous fiscal year.

107TH CONGRESS
2D SESSION

S. 2753

IN THE SENATE OF THE UNITED STATES

Mr. KERRY introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To provide for a Small and Disadvantaged Business Ombudsman for Procurement in the Small Business Administration, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Small and Disadvantaged Business Ombudsman Act".

SEC. 2. SBA SMALL AND DISADVANTAGED BUSINESS OMBUDSMAN FOR PROCUREMENT.

Section 30 of the Small Business Act (15 U.S.C. 657) is amended—

(1) in subsection (a)—

1 (A) in paragraph (1), by striking "and";
2 (B) in paragraph (2), by striking the pe-
3 riod and adding a semicolon; and
4 (C) by adding at the end the following:
5 "(3) 'SDB Ombudsman' means the Small and
6 Disadvantaged Business Ombudsman for Procure-
7 ment, designated under subsection (e); and
8 "(4) 'Major Federal agency' means an agency
9 of the United States Government that, in the pre-
10 vious fiscal year, entered into contracts with non-
11 Federal entities to provide the agency with a total
12 of not less than $200,000,000 in goods or services.";
13 and
14 (2) by adding at the end the following:
15 "(e) SBA SMALL AND DISADVANTAGED BUSINESS
16 OMBUDSMAN FOR PROCUREMENT.—
17 "(1) APPOINTMENT.—
18 "(A) IN GENERAL.—Not later than 180
19 days after the date of enactment of the Small
20 and Disadvantaged Business Ombudsman Act,
21 the Administrator shall designate a Small and
22 Disadvantaged Business Ombudsman for Pro-
23 curement (referred to in this section as the
24 'SDB Ombudsman').

1 "(B) QUALIFICATIONS.—The SDB Om-
2 budsman shall be—
3 "(i) highly qualified, with experience
4 assisting small business concerns with Fed-
5 eral procurement; and
6 "(ii) designated from among employ-
7 ees of the Federal Government, to the ex-
8 tent practicable.
9 "(C) LINE OF AUTHORITY.—The SDB
10 Ombudsman shall report directly to the Admin-
11 istrator.
12 "(D) SENIOR EXECUTIVE SERVICE.—The
13 SDB Ombudsman shall be paid at an annual
14 rate not less than the minimum rate, nor more
15 than the maximum rate, for the Senior Execu-
16 tive Service under chapter 53 of title 5, United
17 States Code.
18 "(2) DUTIES.—The SDB Ombudsman shall—
19 "(A) work with each Federal agency with
20 procurement authority to ensure that small
21 business concerns are treated fairly in the pro-
22 curement process;
23 "(B) establish a procedure for receiving
24 comments from small business concerns and
25 personnel of the Office of Small and Disadvan-

1 taged Business Utilization of each Federal
2 agency regarding the activities of agencies and
3 prime contractors that are not small business
4 concerns on Federal procurement contracts; and
5 "(C) establish a procedure for addressing
6 the concerns received under subparagraph (B).
7 "(3) ANNUAL REPORT.—
8 "(A) IN GENERAL.—No later than 1 year
9 after the date of enactment of this subsection,
10 and annually thereafter, the SDB Ombudsman
11 shall provide a report to the Committee on
12 Small Business of the House of Representatives
13 and the Committee on Small Business and En-
14 trepreneurship of the Senate.
15 "(B) CONTENTS.—The report required
16 under subparagraph (A) shall contain—
17 "(i) information from the Federal
18 Procurement Data System pertaining to
19 contracting and subcontracting goals of the
20 Federal Government and each Federal
21 agency with procurement authority;
22 "(ii) a copy of the report submitted to
23 the SDB Ombudsman by each major Fed-
24 eral agency and an evaluation of the goal

1 attainment plans submitted to the SDB
2 Ombudsman pursuant to paragraph (5);
3 "(iii) an evaluation of the success or
4 failure of each major Federal agency in at-
5 taining its small business procurement
6 goals, including a ranking by agency on
7 the attainment of such goals;
8 "(iv) a summary of the efforts of each
9 major Federal agency to promote con-
10 tracting opportunities for small business
11 concerns by—
12 "(I) educating and training pro-
13 curement officers on the importance
14 of small business concerns to the
15 economy and to Federal contracting;
16 and
17 "(II) conducting outreach initia-
18 tives to promote prime and subcon-
19 tracting opportunities for small busi-
20 ness concerns;
21 "(v) an assessment of the knowledge
22 of the procurement staff of each major
23 Federal agency concerning programs that
24 promote small business contracting;

1 "(vi) substantiated comments received
2 from small business concerns and per-
3 sonnel of the Office of Small and Dis-
4 advantaged Business Utilization of each
5 Federal agency regarding the treatment of
6 small business concerns by Federal agen-
7 cies on Federal procurement contracts;
8 "(vii) an analysis of the responsive-
9 ness of each Federal agency to small busi-
10 ness concerns with respect to Federal con-
11 tracting and subcontracting;
12 "(viii) an assessment of the compli-
13 ance of each Federal agency with section
14 15(k) of the Small Business Act (15
15 U.S.C. 644(k); and
16 "(ix) a description of any discrimina-
17 tion faced by small business concerns
18 based on their status as small business
19 concerns or the gender or the social or eco-
20 nomic status of their owners.
21 "(C) NOTICE AND COMMENT.—
22 "(i) IN GENERAL.—The SDB Om-
23 budsman shall provide notice to each Fed-
24 eral agency identified in the report pre-
25 pared under subparagraph (A) that such

1 agency has 60 days to submit comments
2 on the draft report to the SDB Ombuds-
3 man before the final report is submitted to
4 Congress under subparagraph (A).
5 "(ii) INCLUSION OF OUTSIDE COM-
6 MENTS.—
7 "(I) IN GENERAL.—The final re-
8 port prepared under this paragraph
9 shall contain a section in which Fed-
10 eral agencies are given an opportunity
11 to respond to the report contents with
12 which they disagree.
13 "(II) NO RESPONSE.—If no re-
14 sponse is received during the 60-day
15 comment period from a particular
16 agency identified in the report, the
17 final report under this paragraph
18 shall indicate that the agency was af-
19 forded an opportunity to comment.
20 "(D) CONFIDENTIALITY.—In preparing
21 the report under this paragraph, the SDB Om-
22 budsman shall keep confidential all information
23 that may expose a small business concern or an
24 employee of an Office of Small and Disadvan-
25 taged Business Utilization to possible retalia-

1 tion from the agency or prime contractor identi-
2 fied by the small business concern, unless the
3 small business concern or employee of the Of-
4 fice of Small and Disadvantaged Business Utili-
5 zation consents in writing to the release of such
6 information.
7 "(4) INTERAGENCY COORDINATION.—Each
8 Federal agency, through its Office of Small and Dis-
9 advantaged Business Utilization, shall assist the
10 SDB Ombudsman to ensure compliance with—
11 "(A) the Federal procurement goals estab-
12 lished pursuant to section 15(g);
13 "(B) the procurement policy outlined in
14 section 8(d), which states that small business
15 concerns should be given the maximum prac-
16 ticable opportunity to participate in Federal
17 contracts;
18 "(C) Federal prime contractors small busi-
19 ness subcontracting plans negotiated under sec-
20 tion 8(d)(4)(B);
21 "(D) the responsibilities outlined under
22 section 15(k); and
23 "(E) any other provision of this Act.
24 "(5) GOAL ATTAINMENT PLAN.—If a major
25 Federal agency fails to meet any small business pro-

1 curement goal under this Act in any fiscal year, such
2 agency shall submit a goal attainment plan to the
3 SDB Ombudsman not later than 90 days after the
4 end of the fiscal year in which the goal was not met,
5 containing—
6 "(A) a description of the circumstances
7 that contributed to the failure of the agency to
8 reach its small business procurement goals; and
9 "(B) a detailed plan for meeting the small
10 business procurement goals in the fiscal year
11 immediately following the fiscal year in which
12 the goal was not met.
13 "(6) EFFECT ON OTHER OFFICES.—Nothing in
14 this section is intended to replace or diminish the ac-
15 tivities of the Office of Small and Disadvantaged
16 Business Utilization or any similar office in any
17 Federal agency.
18 "(7) ADMINISTRATIVE RESOURCES.—To enable
19 the SDB Ombudsman to carry out the duties re-
20 quired by this subsection, the Administrator shall
21 provide the SDB Ombudsman with sufficient—
22 "(A) personnel;
23 "(B) office space; and

1 "(C) dedicated financial resources, which
2 are specifically identified in the annual budget
3 request of the Administration.".

4 **SEC. 3. OFFICE OF SMALL AND DISADVANTAGED BUSINESS**
5 **UTILIZATION.**

6 (a) DIRECTOR.—Section 15(k) of the Small Business
7 Act (15 U.S.C. 644(k)) is amended—

8 (1) in the first sentence, by inserting "(except
9 for the Administration)" after "Federal agency";

10 (2) by striking paragraph (2), and inserting the
11 following:

12 "(2) be well qualified, with experience assisting
13 small business concerns with Federal procurement,
14 and receive basic pay at a rate not to exceed the rate
15 of pay for grade 15 of the General Schedule, under
16 section 5332 of title 5, United States Code;";

17 (3) by striking paragraph (3) and inserting the
18 following:

19 "(3) be appointed by the head of such agency,
20 be responsible to, and report only to, the head or
21 deputy head of such agency for policy matters, per-
22 sonnel matters, budgetary matters, and all other
23 matters;";

24 (4) in paragraph (9), by striking ", and" and
25 inserting a semicolon;

1 (5) in paragraph (10)—

2 (A) by striking "or section 8(a) of this Act
3 or section 2323 of title 10, United States Code.
4 Such recommendations" and inserting "section
5 8(a), or section 2323 of title 10, United States
6 Code, which recommendations"; and

7 (B) by striking the period at the end and
8 inserting a semicolon; and

9 (6) by striking the undesignated matter after
10 paragraph (10) and inserting the following:

11 "(11) not concurrently serve as the chief pro-
12 curement officer for such agency; and

13 "(12) if the officer is employed by a major Fed-
14 eral agency (as defined in section 30)—

15 "(A) have no other job duties beyond those
16 described under this subsection;

17 "(B) receive basic pay at a rate equal to
18 the rate of pay for grade 15 of the General
19 Schedule, under section 5332 of title 5, United
20 States Code; and

21 "(C) attend the meetings of the Office of
22 Small and Disadvantaged Business Utilization
23 Council.".

24 (b) OFFICE OF SMALL AND DISADVANTAGED BUSI-
25 NESS UTILIZATION COUNCIL.—

1 (1) ESTABLISHMENT.—There is established an
2 interagency council to be known as the "Office of
3 Small and Disadvantaged Business Utilization Coun-
4 cil" (in this subsection referred to as the "Council").
5 (2) MEMBERSHIP.—The Council shall be com-
6 posed of—
7 (A) the Director of Small and Disadvan-
8 taged Business Utilization from each Federal
9 agency;
10 (B) the Small and Disadvantaged Business
11 Ombudsman for Procurement, as an ex officio
12 member; and
13 (C) other individuals, as ex officio mem-
14 bers, as the Council considers necessary.
15 (3) LEADERSHIP.—
16 (A) CHAIRPERSON.—The members of the
17 Council shall elect a chairperson, who shall
18 serve for a 1-year, renewable term.
19 (B) OTHER POSITIONS.—The members of
20 the Council may elect other leadership posi-
21 tions, as necessary, from among its members.
22 (C) VOTING.—Each member of the Coun-
23 cil, except for ex officio members, shall have
24 voting rights on the Council.
25 (4) MEETINGS.—

1 (A) FREQUENCY.—The Council shall meet
2 not less frequently than once every 2 months.
3 (B) ISSUES.—At the meetings under sub-
4 paragraph (A), the Council shall discuss issues
5 faced by each Office of Small and Disadvan-
6 taged Business Utilization, including—
7 (i) personnel matters;
8 (ii) barriers to small business partici-
9 pation in Federal procurement;
10 (iii) agency compliance with section
11 15(k) of the Small Business Act (15
12 U.S.C. 644(k)), as amended by this Act;
13 and
14 (iv) any other matter that the Council
15 considers necessary to further the mission
16 of each Office of Small and Disadvantaged
17 Business Utilization.
18 (5) FUNDING LIMITATION.—The Small Busi-
19 ness Administration shall not provide the Council
20 with financial assistance to carry out the provisions
21 of this section.
22 **SEC. 4. GOVERNMENTWIDE SMALL BUSINESS GOAL.**
23 Section 15(g)(1) of the Small Business Act (15
24 U.S.C. 644(g)(1)) is amended in the second sentence, by
25 striking "23 percent of the total value of all prime con-

1 tract awards for each fiscal year." and inserting "26 per-
2 cent of the total value of all prime contract awards for
3 fiscal year 2004, not less than 28 percent of the total value
4 of all prime contract awards for fiscal year 2005, and not
5 less than 30 percent of the total value of all prime contract
6 awards for fiscal year 2006 and each fiscal year there-
7 after.".

Kerry/Bond Committee Substitute to S. 2753, the Small and Disadvantaged Business Ombudsman Act

This substitute amendment will create a Small Business Procurement Ombudsman at the Office of Advocacy instead of the SBA, which will retain all of its original authority, except for the power to negotiate goal attainment plans. The goal attainment plans called for under the legislation will fall under the SBA Administrator. However, the Procurement Ombudsman will still be responsible for evaluating and reporting on these goal attainment plans. The governmentwide small business prime contracting goal increase from 23 percent to 30 percent is retained, as well as the bills improvements to (and Senator Kerry's previously filed amendment to) further improve the Office of Small and Disadvantaged Business Utilization at each Federal agency.

AMENDMENT NO. ____ Calendar No. ____

Purpose: To provide for a complete substitute.

IN THE SENATE OF THE UNITED STATES—107th Cong., 2d Sess.

S. 2753

To provide for a Small and Disadvantaged Business Ombudsman for Procurement in the Small Business Administration, and for other purposes.

Referred to the Committee on _____
and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended to be proposed by Mr. KERRY (for himself and Mr. BOND)

Viz:

1 Strike all after the enacting clause and insert the fol-
2 lowing:

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Small Business Pro-
5 curement Ombudsman Act of 2002".

6 **SEC. 2. SMALL BUSINESS PROCUREMENT OMBUDSMAN.**

7 Section 15 of the Small Business Act (15 U.S.C. 644)
8 is amended by adding at the end the following:

1 "(q) SMALL BUSINESS PROCUREMENT OMBUDS-
2 MAN.—
3 "(1) DEFINITIONS.—As used in this section,
4 the following definitions shall apply:
5 "(A) CHIEF COUNSEL FOR ADVOCACY.—
6 The term 'Chief Counsel for Advocacy' means
7 the chief counsel in the Office of Advocacy of
8 the Administration.
9 "(B) MAJOR FEDERAL AGENCY.—The
10 term 'major Federal agency' means an agency
11 of the United States Government that, in the
12 previous fiscal year, entered into contracts with
13 non-Federal entities to provide the agency with
14 a total of not less than $200,000,000 in goods
15 or services.
16 "(C) PROCUREMENT OMBUDSMAN.—The
17 term 'Procurement Ombudsman' means the
18 Small Business Procurement Ombudsman, des-
19 ignated under paragraph (2).
20 "(2) APPOINTMENT.—
21 "(A) IN GENERAL.—Not later than 180
22 days after the date of enactment of the Small
23 Business Procurement Ombudsman Act of
24 2002, the Chief Counsel for Advocacy shall des-
25 ignate a Small Business Procurement Ombuds-

1 man (referred to in this subsection as the 'Pro-
2 curement Ombudsman').
3 "(B) QUALIFICATIONS.—The Procurement
4 Ombudsman shall be—
5 "(i) highly qualified, with experience
6 assisting small business concerns with Fed-
7 eral procurement; and
8 "(ii) designated from among employ-
9 ees of the Federal Government, to the ex-
10 tent practicable.
11 "(C) LINE OF AUTHORITY.—The Procure-
12 ment Ombudsman shall report directly to the
13 Chief Counsel for Advocacy.
14 "(D) SENIOR EXECUTIVE SERVICE.—The
15 Procurement Ombudsman shall be paid at an
16 annual rate not less than the minimum rate,
17 nor more than the maximum rate, for the Sen-
18 ior Executive Service under chapter 53 of title
19 5, United States Code.
20 "(3) DUTIES.—The Procurement Ombudsman
21 shall—
22 "(A) work with each Federal agency with
23 procurement authority to ensure that small
24 business concerns are treated fairly in the pro-
25 curement process by establishing a procedure

1 for receiving, and keeping confidential, com-
2 ments from small business concerns and per-
3 sonnel of the Office of Small and Disadvan-
4 taged Business Utilization of each Federal
5 agency regarding the activities of agencies and
6 prime contractors that are not small business
7 concerns on Federal procurement; ~~contracts; and~~
8 "(B) establish a procedure for addressing
9 the concerns received under subparagraph (A);
10 "(4) ANNUAL REPORT.—
11 "(A) IN GENERAL.—Not later than 1 year
12 after the date of enactment of this subsection,
13 and not later than the last day of the first full
14 week of March in subsequent years, the Pro-
15 curement Ombudsman shall provide a report to
16 the Committee on Small Business of the House
17 of Representatives and the Committee on Small
18 Business and Entrepreneurship of the Senate.
19 "(B) CONTENTS.—The report required
20 under subparagraph (A) shall contain—
21 "(i) information from the Federal
22 Procurement Data System pertaining to
23 contracting and subcontracting goals of the
24 Federal Government and each Federal
25 agency with procurement authority;

Insert A

Insert A:

To the Kerry/Bond Substitute to S. 2753, the Small and Disadvantaged Business Ombudsman Act.

On page 4, between lines 9 and 10, add the following new subparagraphs (C) and (D);

"(C) complete and submit the annual report required under paragraph (4) of this subsection; and

"(D) have no other significant job duties beyond those described under this subsection.

"(ii) the goal attainment plan required under section 4(a) of the Small Business Procurement Ombudsman Act of 2002 and an evaluation of that plan;

"(iii) an evaluation of the success or failure of each major Federal agency in attaining its small business procurement goals, including ~~a total~~ an overall score for each agency on the attainment of such goals;

"(iv) a summary of the efforts of each major Federal agency to promote contracting opportunities for small business concerns by—

"(I) educating and training ~~pro-curement~~ contracting officers on the importance of small business concerns to the economy and to Federal contracting; and

"(II) conducting outreach initiatives to promote prime and subcontracting opportunities for small business concerns;

"(v) an assessment of the knowledge of the procurement staff of each major Federal agency concerning programs that

1 promote small business contracting and the
2 efficacy of acquisition training programs
3 (whether conducted electronically or in per-
4 son) in enhancing that knowledge;
5 "(vi) conclusions and recommenda-
6 tions based upon substantiated comments
7 received from small business concerns and
8 personnel of the Office of Small and Dis-
9 advantaged Business Utilization of each
10 Federal agency regarding the treatment of
11 small business concerns by Federal agen-
12 cies on Federal contracts;
13 "(vii) an analysis of the responsive-
14 ness of each Federal agency to small busi-
15 ness concerns with respect to Federal con-
16 tracting and subcontracting;
17 "(viii) an assessment of the compli-
18 ance of each Federal agency with sub-
19 section (k); and
20 "(ix) a description of any discrimina-
21 tion faced by small business concerns
22 based on their status as small business
23 concerns, qualified HUBZone small business con-
24 cerns, small business concerns owned and
25 controlled by disabled veterans, or the gen-

1 der or the social or economic status of
2 their owners.
3 "(C) NOTICE AND COMMENT.—
4 "(i) IN GENERAL.—The Procurement
5 Ombudsman shall provide notice to each
6 Federal agency identified in the report pre-
7 pared under subparagraph (A) that such
8 agency has 60 days to submit comments
9 on the draft report to the Procurement
10 Ombudsman before the final report is sub-
11 mitted to Congress under subparagraph
12 (A).
13 "(ii) INCLUSION OF OUTSIDE COM-
14 MENTS.—
15 "(I) IN GENERAL.—The final re-
16 port prepared under this paragraph
17 shall contain a section in which Fed-
18 eral agencies are given an opportunity
19 to respond to the report contents with
20 which they disagree.
21 "(II) NO RESPONSE.—If no re-
22 sponse is received during the 60-day
23 comment period from a particular
24 agency identified in the report, the
25 final report under this paragraph

1 shall indicate that the agency was af-
2 forded an opportunity to comment.
3 "(D) CONFIDENTIALITY.—In preparing
4 the report under this paragraph and carrying
5 out the duties under paragraph (3), the Pro-
6 curement Ombudsman shall keep confidential
7 all information that may expose a small busi-
8 ness concern or an employee of an Office of
9 Small and Disadvantaged Business Utilization
10 to possible retaliation from the agency or prime
11 contractor identified by the small business con-
12 cern, unless the small business concern or em-
13 ployee of the Office of Small and Disadvan-
14 taged Business Utilization consents in writing
15 to the release of such information.
16 "(5) EFFECT ON OTHER OFFICES.—Nothing in
17 this subsection is intended to replace or diminish the
18 activities of the Office of Small and Disadvantaged
19 Business Utilization or any similar office in any
20 Federal agency.
21 "(6) ADMINISTRATIVE RESOURCES.—To enable
22 the Procurement Ombudsman to carry out the du-
23 ties required under this subsection, the Adminis-
24 trator shall provide the Procurement Ombudsman
25 with sufficient—

1 "(A) personnel;

2 "(B) office space; and

3 "(C) dedicated financial resources, which

4 shall be specifically identified in the annual

5 budget request of the Administration.".

6 **SEC. 3. OFFICE OF SMALL AND DISADVANTAGED BUSINESS**

7 **UTILIZATION.**

8 Section 15(k) of the Small Business Act (15 U.S.C.

9 644(k)) is amended to read as follows:

10 "(k) OFFICE OF SMALL AND DISADVANTAGED BUSI-

11 NESS UTILIZATION.—

12 "(1) ESTABLISHMENT.—There is hereby estab-

13 lished in each Federal agency (except for the Admin-

14 istration) having procurement powers an office to be

15 known as the 'Office of Small and Disadvantaged

16 Business Utilization'. The management of each such

17 office shall be vested in an officer or employee of

18 such agency who shall—

19 "(A) be known as the 'Director of Small

20 and Disadvantaged Business Utilization' for

21 such agency;

22 "(B) be well qualified, with experience as-

23 sisting small business concerns with Federal

24 procurement, and receive basic pay at a rate

25 not to exceed the rate of pay for grade 15 of

1 the General Schedule, under section 5332 of
2 title 5, United States Code;
3 "(C) be appointed by the head of such
4 agency, be responsible to, and report only to,
5 the head or deputy head of such agency for pol-
6 icy matters, personnel matters, budgetary mat-
7 ters, and all other matters;
8 "(D) be responsible for the implementation
9 and execution of the functions and duties under
10 sections 8 and 15 and all small business pro-
11 curement programs under this Act, which relate
12 to such agency
13 "(E) identify proposed solicitations that in-
14 volve significant bundling of contract require-
15 ments, and work with the agency acquisition of-
16 ficials and the Administration to revise the pro-
17 curement strategies for such proposed solicita-
18 tions where appropriate to increase the prob-
19 ability of participation by small businesses as
20 prime contractors, or to facilitate small business
21 participation as subcontractors and suppliers, if
22 a solicitation for a bundled contract is to be
23 issued;
24 "(F) assist small business concerns to ob-
25 tain payments, required late payment interest

Insert B

Insert B:

To the Kerry/Bond Substitute to S. 2753, the Small and Disadvantaged Business Ombudsman Act.

On page 10, line 12, insert the following after "agency";

", and cooperate and consult on a regular basis with the Administration with respect to carrying out these functions and duties;"

1 penalties, or information regarding payments
2 due to such concerns from an executive agency
3 or a contractor, in conformity with chapter 39
4 of title 31, United States Code, or any other
5 protection for contractors or subcontractors (in-
6 cluding suppliers) that is included in the Fed-
7 eral Acquisition Regulation or any individual
8 agency supplement to such Government-wide
9 regulation;
10 "(G) have supervisory authority over per-
11 sonnel of such agency to the extent that the
12 functions and duties of such personnel relate to
13 functions and duties under sections 8 and 15
14 and all small business procurement programs
15 under this Act;
16 "(H) assign a small business technical ad-
17 viser to each office to which the Administration
18 has assigned a procurement center
19 representative—
20 "(i) who shall be a full-time employee
21 of the procuring activity and shall be well
22 qualified, technically trained and familiar
23 with the supplies or services purchased at
24 the activity; and

1 "(ii) whose principal duty shall be to
2 assist the Administration procurement cen-
3 ter representative in his duties and func-
4 tions relating to sections 8 and 15 and all
5 small business procurement programs
6 under this Act;
7 "(I) assist the Procurement Ombudsman
8 with the duties assigned to the Procurement
9 Ombudsman under subsection (q)(3);
10 "(J) make recommendations to contracting
11 officers as to whether a particular contract re-
12 quirement should be awarded pursuant to sub-
13 section (a), section 8(a), or section 2323 of title
14 10, United States Code, which recommenda-
15 tions shall be made with due regard to the re-
16 quirements of subsection (m), and the failure of
17 the contracting officer to accept any such rec-
18 ommendations shall be documented and in-
19 cluded within the appropriate contract file;
20 "(K) not concurrently serve as the senior
21 procurement executive for such agency; and
22 "(L) if the officer is employed by a major
23 Federal agency (as defined in ~~section 30)~~ Subsection (g)

1 "(i) have no other significant job du-
2 ties beyond those described under this sub-
3 section;
4 "(ii) receive basic pay at a rate not
5 less than the rate of pay for grade 15 of
6 the General Schedule, under section 5332
7 of title 5, United States Code; and
8 "(iii) attend, to the maximum prac-
9 tical extent, the meetings of the Office of
10 Small and Disadvantaged Business Utiliza-
11 tion Council.
12 "(2) OFFICE OF SMALL AND DISADVANTAGED
13 BUSINESS UTILIZATION COUNCIL.—
14 "(A) ESTABLISHMENT.—There is estab-
15 lished an interagency council to be known as
16 the 'Office of Small and Disadvantaged Busi-
17 ness Utilization Council' (in this subsection re-
18 ferred to as the 'Council').
19 "(B) MEMBERSHIP.—The Council shall be
20 composed of—
21 "(i) the Director of Small and Dis-
22 advantaged Business Utilization from each
23 Federal agency;
24 "(ii) the Small Business Procurement
25 Ombudsman, as an ex officio member;

"(iii) the Associate Deputy Administrator for Government Contracting and Business Development of the Administration, as an ex officio member; and

"(iv) other individuals, as ex officio members, as the Council considers necessary.

"(C) LEADERSHIP.—

"(i) CHAIRPERSON.—The members of the Council shall elect a chairperson, who shall serve for a 1-year, renewable term.

"(ii) OTHER POSITIONS.—The members of the Council may elect other leadership positions, as necessary, from among its members.

"(D) VOTING.—Each member of the Council, except for ex officio members, shall have voting rights on the Council.

"(E) MEETINGS.—

"(i) FREQUENCY.—The Council shall meet not less frequently than once every 2 months.

"(ii) ISSUES.—At the meetings under clause (i), the Council shall discuss issues faced by each Office of Small and Dis-

1 advantaged Business Utilization,
2 including—
3 "(I) personnel matters;
4 "(II) barriers to small business
5 participation in Federal procurement;
6 "(III) agency compliance with
7 this subsection; and
8 "(IV) any other matter that the
9 Council considers necessary to further
10 the mission of each Office of Small
11 and Disadvantaged Business Utiliza-
12 tion.
13 "(E) FUNDING LIMITATION.—The Small
14 Business Administration shall not provide the
15 Council with financial assistance to carry out
16 the provisions of this subsection.".
17 **SEC. 4. SMALL BUSINESS PROCUREMENT GOALS.**
18 (a) GOAL ATTAINMENT PLAN.—Section 15(g) of the
19 Small Business Act (15 U.S.C. 644(g)) is amended by
20 adding at the end the following:
21 "(3) If a major Federal agency fails to meet
22 any small business procurement goal under this sub-
23 section in any fiscal year, such agency shall submit
24 a goal attainment plan to the ~~Associate Deputy Ad-~~
25 ~~ministrator for Government Contracting and Busi-~~

1 ~~ness Development of the~~ Administration not later
2 than 90 days after the end of the fiscal year in
3 which the goal was not met, containing—
4 "(A) a description of the circumstances
5 that contributed to the failure of the agency to
6 reach its small business procurement goals; and
7 "(B) a detailed plan for meeting the small
8 business procurement goals in the fiscal year
9 immediately following the fiscal year in which
10 the goal was not met.".
11 (b) GOVERNMENTWIDE SMALL BUSINESS GOAL.—
12 Section 15(g)(1) of the Small Business Act (15 U.S.C.
13 644(g)(1)) is amended, in the second sentence, by striking
14 "23 percent of the total value of all prime contract awards
15 for each fiscal year." and inserting "26 percent of the
16 total value of all prime contract awards for fiscal year
17 2004, not less than 28 percent of the total value of all
18 prime contract awards for fiscal year 2005, and not less
19 than 30 percent of the total value of all prime contract
20 awards for fiscal year 2006 and each fiscal year there-
21 after.".

22 Amend the title so as to read: "A bill to provide for
23 a Small Business Procurement Ombudsman in the Office
24 of Advocacy of the Small Business Administration, to

1 strengthen the Office of Small and Disadvantaged Busi-
2 ness Utilization at each Federal agency, and for other pur-
3 poses.".

Summary of S. 2734
"The Small Business Drought Relief Act"
Introduced on July 16, 2002

Purpose: To provide emergency assistance to non farm-related small businesses that have suffered economic harm caused by the devastating effects of drought but are falling through the cracks of Federal assistance programs. For drought disasters, currently only agriculture and agriculture-related businesses are eligible for Federal disaster assistance. However, droughts hurt more than agricultural, forestry and livestock businesses. In order to help non farm-related small businesses hurt by droughts and make them eligible for relief through Small Business Administration Disaster Loans, it is necessary to amend the Small Business Act. Small businesses in as many as 36 states, many of which are represented on this Committee, have a stake in this legislation. **Those on this Committee include: Massachusetts, Michigan, Iowa, Connecticut, Georgia, North Carolina, Washington, Washington, Montana, Utah, Maine, Wyoming, Idaho, Virginia and Nevada.**

Examples of small businesses that are reliant upon water sources, such as streams and rivers and lakes, but are non farm-related: fish and tackle shops, rafting businesses, restaurants, motels, camp grounds, marinas and gas stations.

Description of Kerry-Bond Substitute Amendment
1. Adds the term "drought" to the definition of disaster
2. Clarifies that only small businesses affected by drought are eligible for SBA disaster loans, eliminating the concern that it could apply to home owners
3. Preserves the governor's role in initiating a drought declaration rather than limiting it to action by the Secretary of Agriculture
4. Requires that non farm-related drought victims meet the requirements of all other disaster victims with regard to proving they have suffered substantial economic injury

Description of Levin amendment:
Senator Levin's amendment would add the term, "below average water levels in the Great Lakes" to the definition of a disaster. This would make small businesses hurt by low water levels on the Great Lakes be eligible for SBA disaster loans.

Description of Edwards amendment:
Senator Edwards' amendment would require the SBA Administrator to act on a disaster request from a governor within 30 days. While the SBA has a good response record, the amendment is aimed at preventing SBA from slipping into USDA's record of 7- and 8-month delays.

II

107TH CONGRESS
2D SESSION

S. 2734

To provide emergency assistance to non-farm small business concerns that have suffered substantial economic harm from the devastating effects of drought.

IN THE SENATE OF THE UNITED STATES

JULY 16, 2002

Mr. KERRY (for himself, Mr. HOLLINGS, Ms. LANDRIEU, Mr. BAUCUS, Mr. BINGAMAN, Mr. DASCHLE, and Mr. JOHNSON) introduced the following bill; which was read twice and referred to the Committee on Small Business and Entrepreneurship

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A BILL

To provide emergency assistance to non-farm small business concerns that have suffered substantial economic harm from the devastating effects of drought.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LOANS TO SMALL BUSINESS CONCERNS DAMAGED BY DROUGHT.

(a) SHORT TITLE.—This Act may be cited as the "Small Business Drought Relief Act".

(b) FINDINGS.—Congress finds that—

(1) as of July 2002, more than 36 States (including Massachusetts, South Carolina, and Louisiana) have suffered from continuing drought conditions;

(2) droughts have a negative effect on State and regional economies;

(3) many small businesses in the United States sell, distribute, market, or otherwise engage in commerce related to water and water sources, such as lakes and streams;

(4) many small businesses in the United States suffer economic injury from drought conditions, leading to revenue losses, job layoffs, and bankruptcies;

(5) these small businesses need access to low-interest loans for business-related purposes, including paying their bills and making payroll until business returns to normal;

(6) absent a legislative change, only agriculture-related businesses are eligible for Federal disaster loan assistance as a result of drought conditions; and

(7) it is necessary to amend the Small Business Act to allow non-farm small businesses that have suffered economic injury from drought to receive fi-

1 nancial assistance through Small Business Adminis-
2 tration Economic Injury Disaster Loans.
3 (c) EXPANSION OF DISASTER DEFINITION.—Section
4 3(k) of the Small Business Act (15 U.S.C. 632(k)) is
5 amended by inserting "drought," after "windstorms,".

○

AMENDMENT NO. ____ Calendar No. ____

Purpose: To require the Small Business Administration, in administering the disaster loan program under section 7(b) of the Small Business Act, to respond within 30 days after the receipt of a disaster certification from a Governor of a State.

IN THE SENATE OF THE UNITED STATES—107th Cong., 2d Sess.

S. 2734

To provide emergency assistance to non-farm small business concerns that have suffered economic harm from the devastating effects of drought.

Referred to the Committee on _____
and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. EDWARDS

Viz:

1 On page 3, after line 3, add the following:

2 (d) PROMPT RESPONSE TO DISASTER REQUESTS.—

3 Section 7(b)(2)(D) of the Small Business Act (15 U.S.C.

4 636(b)(2)(D)) is amended by striking "Upon receipt of

5 such certification, the Administration may" and inserting

6 "Not later than 30 days after the date of receipt of such

7 certification by a Governor of a State, the Administration

1 shall respond in writing to that Governor on its determina-
2 tion, and may then".

O:\MDM\MDM02.466 S.L.C.

AMENDMENT NO. ____ Calendar No. ____

Purpose: To provide emergency assistance to small business concerns that have suffered economic harm due to below average water levels in the Great Lakes.

IN THE SENATE OF THE UNITED STATES—107th Cong., 2d Sess.

S. 2734

To provide emergency assistance to non-farm small business concerns that have suffered economic harm from the devastating effects of drought.

Referred to the Committee on _____
and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENTS intended to be proposed by Mr. LEVIN

Viz:

1 On page 2, strike line 20 and insert the following:
2 (7) over the past several years small businesses
3 that rely on the Great Lakes have suffered economic
4 injury as a result of lower than average water levels,
5 resulting from low precipitation and increased evapo-
6 ration; and

7 On page 2, line 21, strike "(7)" and insert "(8)".

1 On page 3, line 3, insert "below average water levels
2 in the Great Lakes," after "drought,".

AMENDMENT NO. ____ Calendar No. ____

Purpose: To require the Small Business Administration, in administering the disaster loan program under section 7(b) of the Small Business Act, to respond within 30 days after the receipt of a disaster certification from a Governor of a State.

IN THE SENATE OF THE UNITED STATES—107th Cong., 2d Sess.

S. 2734

To provide emergency assistance to non-farm small business concerns that have suffered economic harm from the devastating effects of drought.

Referred to the Committee on _____
and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. EDWARDS

Viz:

1 On page 3, after line 3, add the following:

2 (d) PROMPT RESPONSE TO DISASTER REQUESTS.—

3 Section 7(b)(2)(D) of the Small Business Act (15 U.S.C.

4 636(b)(2)(D)) is amended by striking "Upon receipt of

5 such certification, the Administration may" and inserting

6 "Not later than 30 days after the date of receipt of such

7 certification by a Governor of a State, the Administration

1 shall respond in writing to that Governor on its determina-
2 tion, and may then".

Summary of S. 2483, the "National Small Business Regulatory Assistance Act of 2002"

Introduced on May 8, 2002
by Senators Cleland, Kerry, Landrieu, Jeffords, Harkin, Bingaman, Carnahan, Leahy, Lieberman and Johnson. Additional cosponsors: Miller, Stabenow and Cantwell.

Purpose
To establish a four-year pilot program, the purpose of which is to provide resources to Small Business Development Centers (SBDC) so they may provide free-of-charge, non-punitive regulatory compliance assistance to small business owners. The legislation also establishes statutory privacy protections for small businesses that use SBDC counseling services.

Pilot Program
The legislation requires the Small Business Administration (SBA) to provide grants to the SBDC programs of two states in each of the SBA's 10 regions. The grants shall be more than $150,000, but less than $300,000 and shall be made without a matching requirement.

Grant Purpose
SBDCs are required to use the grants to provide: access to information and resources, including current Federal and State non-punitive compliance and technical assistance programs; conduct training and educational activities; and, offer confidential, free-of-charge, one-on-one, in-depth counseling to the owners and operators of small business concerns regarding compliance with Federal and State regulations derived from Federal law.

SBDC Reporting Requirement
SBDCs participating in the pilot program would be required to submit a quarterly report that includes: a summary of the regulatory compliance assistance provided by the center under the pilot program; the number of small business concerns assisted under the pilot program; and for every fourth report, any regulatory compliance information based on Federal law that a Federal or State agency has provided to the center during the preceding year and requested that it be disseminated to small business concerns.

SBA Requirements
The SBA would have responsibility for evaluating the pilot program and making recommendations on the extension of the program to other SBDCs. The SBA must also promulgate final regulations to carry out the pilot program within 180 days of passage.

Privacy Provisions
The legislation contains a provision that prohibits SBDCs from disclosing the name, street address or phone number of a client. Exemptions are made for court orders and audits. SBDC program activity data would still be available to the SBA under this provision for evaluation purposes.

II

107TH CONGRESS
2D SESSION

S. 2483

To amend the Small Business Act to direct the Administrator of the Small Business Administration to establish a pilot program to provide regulatory compliance assistance to small business concerns, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 8, 2002

Mr. CLELAND (for himself, Mr. KERRY, Ms. LANDRIEU, Mr. JEFFORDS, Mr. HARKIN, Mr. BINGAMAN, Mrs. CARNAHAN, Mr. LEAHY, Mr. LIEBERMAN, and Mr. JOHNSON) introduced the following bill; which was read twice and referred to the Committee on Small Business and Entrepreneurship

---

A BILL

To amend the Small Business Act to direct the Administrator of the Small Business Administration to establish a pilot program to provide regulatory compliance assistance to small business concerns, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Small Business Regulatory Assistance Act of 2002".

SEC. 2. PURPOSE.

The purpose of this Act is to establish a 4-year pilot program to—

(1) provide confidential assistance to small business concerns;

(2) provide small business concerns with the information necessary to improve their rate of compliance with Federal and State regulations derived from Federal law;

(3) create a partnership among Federal agencies to increase outreach efforts to small business concerns with respect to regulatory compliance;

(4) provide a mechanism for unbiased feedback to Federal agencies on the regulatory environment for small business concerns; and

(5) utilize the service delivery network of Small Business Development Centers to improve access of small business concerns to programs to assist them with regulatory compliance.

SEC. 3. SMALL BUSINESS REGULATORY ASSISTANCE PILOT PROGRAM.

(a) DEFINITIONS.—In this section, the following definitions apply:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Small Business Administration, acting through the Associate

1 Administrator for Small Business Development Cen-
2 ters.
3 (2) ASSOCIATION.—The term "Association"
4 means the association, established pursuant to sec-
5 tion 21(a)(3)(A) of the Small Business Act (15
6 U.S.C. 648(a)(3)(A)), representing a majority of
7 Small Business Development Centers.
8 (3) PARTICIPATING SMALL BUSINESS DEVELOP-
9 MENT CENTER.—The term "participating Small
10 Business Development Center" means a Small Busi-
11 ness Development Center participating in the pilot
12 program established under this Act.
13 (4) REGULATORY COMPLIANCE ASSISTANCE.—
14 The term "regulatory compliance assistance" means
15 assistance provided by a Small Business Develop-
16 ment Center to a small business concern to facilitate
17 the concern in complying with Federal and State
18 regulatory requirements derived from Federal law.
19 (5) SMALL BUSINESS DEVELOPMENT CEN-
20 TER.—The term "Small Business Development Cen-
21 ter" means a Small Business Development Center
22 described in section 21 of the Small Business Act
23 (15 U.S.C. 648).
24 (6) STATE.—The term "State" means each of
25 the several States, the District of Columbia, the

1 Commonwealth of Puerto Rico, the Virgin Islands,
2 American Samoa, and Guam.
3 (b) AUTHORITY.—In accordance with this section,
4 the Administrator shall establish a pilot program to pro-
5 vide regulatory compliance assistance to small business
6 concerns through participating Small Business Develop-
7 ment Centers.
8 (c) SMALL BUSINESS DEVELOPMENT CENTERS.—
9 (1) IN GENERAL.—In carrying out the pilot
10 program established under this section, the Adminis-
11 trator shall enter into arrangements with partici-
12 pating Small Business Development Centers under
13 which such centers will—
14 (A) provide access to information and re-
15 sources, including current Federal and State
16 nonpunitive compliance and technical assistance
17 programs similar to those established under
18 section 507 of the Clean Air Act Amendments
19 of 1990 (42 U.S.C. 7661f);
20 (B) conduct training and educational ac-
21 tivities;
22 (C) offer confidential, free-of-charge, one-
23 on-one, in-depth counseling to the owners and
24 operators of small business concerns regarding
25 compliance with Federal and State regulations

1 derived from Federal law, provided that such
2 counseling is not considered to be the practice
3 of law in a State in which a Small Business
4 Development Center is located or in which such
5 counseling is conducted;
6 (D) provide technical assistance;
7 (E) give referrals to experts and other pro-
8 viders of compliance assistance who meet such
9 standards for educational, technical, and profes-
10 sional competency as are established by the Ad-
11 ministrator; and
12 (F) form partnerships with Federal compli-
13 ance programs.
14 (2) REPORTS.—Each participating Small Busi-
15 ness Development Center shall transmit to the Ad-
16 ministrator and the Chief Counsel for Advocacy of
17 the Small Business Administration, as the Adminis-
18 trator may direct, a quarterly report that includes—
19 (A) a summary of the regulatory compli-
20 ance assistance provided by the center under
21 the pilot program;
22 (B) the number of small business concerns
23 assisted under the pilot program; and
24 (C) for every fourth report, any regulatory
25 compliance information based on Federal law

that a Federal or State agency has provided to the center during the preceding year and requested that it be disseminated to small business concerns.

(d) ELIGIBILITY.—A Small Business Development Center shall be eligible to receive assistance under the pilot program established under this section only if such center is certified under section 21(k)(2) of the Small Business Act (15 U.S.C. 648(k)(2)).

(e) SELECTION OF PARTICIPATING STATE PROGRAMS.—

(1) IN GENERAL.—In consultation with the Association and giving substantial weight to the recommendations of the Association, the Administrator shall select the Small Business Development Center programs of 2 States from each of the following groups of States to participate in the pilot program established under this section:

(A) Group 1: Maine, Massachusetts, New Hampshire, Connecticut, Vermont, and Rhode Island.

(B) Group 2: New York, New Jersey, Puerto Rico, and the Virgin Islands.

1 (C) Group 3: Pennsylvania, Maryland,
2 West Virginia, Virginia, the District of Colum-
3 bia, and Delaware.
4 (D) Group 4: Georgia, Alabama, North
5 Carolina, South Carolina, Mississippi, Florida,
6 Kentucky, and Tennessee.
7 (E) Group 5: Illinois, Ohio, Michigan, Indi-
8 ana, Wisconsin, and Minnesota.
9 (F) Group 6: Texas, New Mexico, Arkan-
10 sas, Oklahoma, and Louisiana.
11 (G) Group 7: Missouri, Iowa, Nebraska,
12 and Kansas.
13 (H) Group 8: Colorado, Wyoming, North
14 Dakota, South Dakota, Montana, and Utah.
15 (I) Group 9: California, Guam, American
16 Samoa, Hawaii, Nevada, and Arizona.
17 (J) Group 10: Washington, Alaska, Idaho,
18 and Oregon.
19 (2) DEADLINE FOR SELECTION.—The Adminis-
20 trator shall make selections under this subsection
21 not later than 60 days after publication of final reg-
22 ulations under section 4 of this Act.
23 (f) MATCHING NOT REQUIRED.—Subparagraphs (A)
24 and (B) of section 21(a)(4) of the Small Business Act (15
25 U.S.C. 648(a)(4)) shall not apply to assistance made

1 available under the pilot program established under this
2 section.
3 (g) GRANT AMOUNTS.—Each State program selected
4 to receive a grant under subsection (e) shall be eligible
5 to receive a grant in an amount—
6 (1) not less than $150,000 per fiscal year; and
7 (2) not to exceed $300,000 per fiscal year.
8 (h) EVALUATION AND REPORT.—Not later than 30
9 months after the disbursement of the first grant under
10 the pilot program, the General Accounting Office shall—
11 (1) initiate an evaluation of the pilot program;
12 and
13 (2) within 6 months of the initiation of the
14 evaluation under paragraph (1), transmit, to the Ad-
15 ministrator, the Committee on Small Business and
16 Entrepreneurship of the Senate, and the Committee
17 on Small Business of the House of Representatives,
18 a report containing—
19 (A) the results of the evaluation under
20 paragraph (1); and
21 (B) any recommendations as to whether
22 the pilot program, with or without modification,
23 should be extended to include the participation
24 of all Small Business Development Centers.
25 (i) AUTHORIZATION OF APPROPRIATIONS.—

1 (1) IN GENERAL.—There are authorized to be
2 appropriated to carry out this section—
3 (A) $5,000,000 for the fiscal year begin-
4 ning after the enactment of this Act; and
5 (B) $5,000,000 for each of the 3 fiscal
6 years following the enactment of this Act.
7 (2) LIMITATION ON USE OF OTHER FUNDS.—
8 The Administrator may carry out the pilot program
9 only with amounts appropriated in advance specifi-
10 cally to carry out this section.
11 (j) TERMINATION.—The authorization to carry out
12 the Small Business Regulatory Assistance Pilot Program
13 established under this section shall terminate 4 years after
14 the disbursement of the first grant.
15 **SEC. 4. PROMULGATION OF REGULATIONS.**
16 After providing notice and an opportunity for com-
17 ment, and after consulting with the Association (but not
18 later than 180 days after the date of enactment of this
19 Act), the Administrator shall promulgate final regulations
20 to carry out this Act, including regulations that
21 establish—
22 (1) priorities for the types of assistance to be
23 provided under the pilot program;

1 (2) standards relating to educational, technical,
2 and support services to be provided by participating
3 Small Business Development Centers;
4 (3) standards relating to any national service
5 delivery and support function to be provided by the
6 Association under the pilot program;
7 (4) standards relating to any work plan that
8 the Administrator may require a participating Small
9 Business Development Center to develop; and
10 (5) standards relating to the educational, tech-
11 nical, and professional competency of any expert or
12 other assistance provider to whom a small business
13 concern may be referred for compliance assistance
14 under the pilot program.

15 **SEC. 5. PRIVACY REQUIREMENTS APPLICABLE TO SMALL**
16 **BUSINESS DEVELOPMENT CENTERS.**

17 (a) Section 21(c) of the Small Business Act (15
18 U.S.C. 648(c)) is amended by adding at the end the fol-
19 lowing:
20 "(9) PRIVACY REQUIREMENTS.—
21 "(A) IN GENERAL.—No Small Business
22 Development Center, consortium of Small Busi-
23 ness Development Centers, or contractor or
24 agent of a Small Business Development Center
25 shall disclose the name, street, address, or tele-

1 phone number of any individual or small busi-
2 ness concern receiving assistance under this
3 section without the consent of such individual
4 or small business concern, except that—
5 "(i) the Administrator shall require
6 such disclosure if ordered to do so by a
7 court in any civil or criminal enforcement
8 action commenced by a Federal or State
9 agency; and
10 "(ii) if the Administrator considers it
11 necessary while undertaking a financial
12 audit of a Small Business Development
13 Center, the Administrator shall require
14 such disclosure for the sole purpose of un-
15 dertaking such audit.
16 "(B) REGULATIONS.—The Administrator
17 shall issue regulations to establish standards for
18 requiring disclosures during a financial audit
19 under subparagraph (A)(ii).
20 "(C) ADMINISTRATION USE OF INFORMA-
21 TION.—This section shall not be interpreted
22 to—
23 "(i) restrict Administration access to
24 program activity data; or

1 "(ii) prevent the Administration from
2 using client information (other than the in-
3 formation listed in subparagraph (A)) to
4 conduct client surveys.".
5 (b) EFFECTIVE DATE.—This section shall take effect
6 30 days after the date of enactment of this Act.

○

Summary of S. 2335
the "Native American Small Business Development Act"

Introduced on April 25, 2002
by Senators Johnson, Kerry, Cantwell, Wellstone, Daschle, Baucus, Inouye, Bingaman, Stabenow and Clinton. Additional cosponsors: Senators Smith (Gordon) and Akaka

The Native American Small Business Development Act

Purpose
The purpose of the Native American Small Business Development Act is to create a statutory office housed in the U.S. Small Business Administration (SBA) called the Office of Native American Affairs (ONAA), to be headed by an Assistant Administrator. The legislation also establishes three assistance programs to provide aid to Native Americans, two of which are pilot programs. The pilot programs are designed to explore competing assistance programs to assist Native American communities.

Role of the Office of Native American Affairs
The ONAA, to be headed by an Assistant Administrator, will be responsible for assisting Native Americans and Native American communities to: start, operate, and grow small business concerns; develop management and technical skills; seek Federal procurement opportunities; increase employment opportunities through the start and expansion of small business concerns; and increase their access to capital markets.

Responsibilities of the Assistant Administrator
The Assistant Administrator for the ONAA shall be responsible for administering the Native American Development Program; recommending budget levels; establishing funding levels; and maintaining lines of communication between Native American business centers. The Assistant Administrator would also be responsible for the pilot programs.

Native American Small Business Development Program
The Native American Small Business Development program is designed to be the SBA's primary program for providing business development assistance to Native American communities. The program would offer financial grants and resource assistance to Tribal Governments and Tribal Colleges to operate Native American Business Centers (NABC). ANCs and NHOs would be eligible for financial grants as well.

Authorization
The Native American Business Development Program is authorized at $5 million per year.

Native American Development Grant Pilot Program
This pilot program establishes a Native American development grant, which is designed to provide culturally tailored business development training and other services to Native Americans and small businesses owned by Native Americans. The program shall sunset in four years. Grants awarded under this program are for a period of two to four years.

Eligible Participants
The Native American development grant is open to 1) any small business development center, and 2) any private nonprofit organization that: has a board of directors with a majority consisting of Tribal Government members or their designees, is a Native Hawaiian Organization or is an Alaska Native Corporation.

Grant Level and Authorization
The grants are capped at $100,000 per year for each class. The pilot program is authorized at $1 million per year.

American Indian Tribal Assistance Center Grant Program
This pilot program establishes an American Indian Tribal Assistance Center grant, which is designed to establish joint projects to provide culturally tailored business development assistance to prospective and current owners of small business concerns located on or near Tribal Lands. The program shall sunset in four years and shall provide a minimum of three grants (one Class I grant and two Class II grants). Grants awarded under this program are for a period of three years.

Eligible Participants
American Indian Tribal Assistance Center grants are broken down into two classes, Class I and Class II.

The Class I grant shall be awarded to a joint project performed by an NABC, a Native American business development center, and a small business development center.

The Class II grants shall be awarded to joint projects performed by an NABC and a Native American business development center.

Grant Level and Authorization
The grants are capped at $200,000 per year. The pilot program is authorized at $1 million per year.

II

107TH CONGRESS
2D SESSION

S. 2335

To establish the Office of Native American Affairs within the Small Business Administration, to create the Native American Small Business Development Program, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 25, 2002

Mr. JOHNSON (for himself, Mr. KERRY, Ms. CANTWELL, Mr. WELLSTONE, Mr. DASCHLE, Mr. BAUCUS, Mr. INOUYE, Mr. BINGAMAN, Ms. STABENOW, and Mrs. CLINTON) introduced the following bill; which was read twice and referred to the Committee on Small Business and Entrepreneurship

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A BILL

To establish the Office of Native American Affairs within the Small Business Administration, to create the Native American Small Business Development Program, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Native American Small Business Development Act".

1 **SEC. 2. NATIVE AMERICAN SMALL BUSINESS DEVELOP-**
2 **MENT PROGRAM.**

3 The Small Business Act (15 U.S.C. 631 et seq.) is
4 amended—

5 (1) by redesignating section 36 as section 37;
6 and

7 (2) by inserting after section 35 the following:

8 **"SEC. 36. NATIVE AMERICAN SMALL BUSINESS DEVELOP-**
9 **MENT PROGRAM.**

10 "(a) DEFINITIONS.—In this section—

11 "(1) the term 'Alaska Native' has the same
12 meaning as the term 'Native' in section 3(b) of the
13 Alaska Native Claims Settlement Act (43 U.S.C.
14 1602(b));

15 "(2) the term 'Alaska Native corporation' has
16 the same meaning as the term 'Native Corporation'
17 in section 3(m) of the Alaska Native Claims Settle-
18 ment Act (43 U.S.C. 1602(m));

19 "(3) the term 'Assistant Administrator' means
20 the Assistant Administrator of the Office of Native
21 American Affairs established under subsection (b);

22 "(4) the terms 'center' and 'Native American
23 business center' mean a center established under
24 subsection (c);

25 "(5) the term 'Native American business devel-
26 opment center' means an entity providing business

1 development assistance to federally recognized tribes
2 and Native Americans under a grant from the Mi-
3 nority Business Development Agency of the Depart-
4 ment of Commerce;
5 "(6) the term 'Native American small business
6 concern' means a small business concern that is
7 owned and controlled by—
8 "(A) a member of an Indian tribe or tribal
9 government;
10 "(B) an Alaska Native or Alaska Native
11 corporation; or
12 "(C) a Native Hawaiian or Native Hawai-
13 ian organization;
14 "(7) the term 'Native Hawaiian' has the same
15 meaning as in section 625 of the Older Americans
16 Act of 1965 (42 U.S.C. 3057k);
17 "(8) the term 'Native Hawaiian organization'
18 has the same meaning as in section 8(a)(15) of this
19 Act;
20 "(9) the term 'tribal college' has the same
21 meaning as the term 'tribally controlled college or
22 university' has in section 2(a)(4) of the Tribally
23 Controlled Community College Assistance Act of
24 1978 (25 U.S.C. 1801(a)(4));

1 "(10) the term 'tribal government' has the
2 same meaning as the term 'Indian tribe' has in sec-
3 tion 7501(a)(9) of title 31, United States Code; and
4 "(11) the term 'tribal lands' means—
5 "(A) all lands within the exterior bound-
6 aries of any Indian reservation; and
7 "(B) all dependent Indian communities.
8 "(b) OFFICE OF NATIVE AMERICAN AFFAIRS.—
9 "(1) ESTABLISHMENT.—There is established
10 within the Administration the Office of Native
11 American Affairs, which, under the direction of the
12 Assistant Administrator, shall implement the Admin-
13 istration's programs for the development of business
14 enterprises by Native Americans.
15 "(2) PURPOSE.—The purpose of the Office of
16 Native American Affairs is to assist Native Amer-
17 ican entrepreneurs to—
18 "(A) start, operate, and grow small busi-
19 ness concerns;
20 "(B) develop management and technical
21 skills;
22 "(C) seek Federal procurement opportuni-
23 ties;

"(D) increase employment opportunities for Native Americans through the start and expansion of small business concerns; and

"(E) increase the access of Native Americans to capital markets.

"(3) ASSISTANT ADMINISTRATOR.—

"(A) APPOINTMENT.—The Administrator shall appoint a qualified individual to serve as Assistant Administrator of the Office of Native American Affairs in accordance with this paragraph.

"(B) QUALIFICATIONS.—The Assistant Administrator appointed under subparagraph (A) shall have—

"(i) knowledge of the Native American culture; and

"(ii) experience providing culturally tailored small business development assistance to Native Americans.

"(C) EMPLOYMENT STATUS.—The Assistant Administrator shall be a Senior Executive Service position under section 3132(a)(2) of title 5, United States Code, and shall serve as a noncareer appointee, as defined in section 3132(a)(7) of title 5, United States Code.

"(D) RESPONSIBILITIES AND DUTIES.—The Assistant Administrator shall—

"(i) administer and manage the Native American Small Business Development program established under this section;

"(ii) recommend the annual administrative and program budgets for the Office of Native American Affairs;

"(iii) establish appropriate funding levels;

"(iv) review the annual budgets submitted by each applicant for the Native American Small Business Development program;

"(v) select applicants to participate in the program under this section;

"(vi) implement this section; and

"(vii) maintain a clearinghouse to provide for the dissemination and exchange of information between Native American business centers.

"(E) CONSULTATION REQUIREMENTS.—In carrying out the responsibilities and duties described in this paragraph, the Assistant Admin-

1 istrator shall confer with and seek the advice
2 of—
3 "(i) Administration officials working
4 in areas served by Native American busi-
5 ness centers and Native American business
6 development centers;
7 "(ii) the Bureau of Indian Affairs of
8 the Department of the Interior;
9 "(iii) tribal governments;
10 "(iv) tribal colleges;
11 "(v) Alaska Native corporations; and
12 "(vi) Native Hawaiian organizations.
13 "(c) NATIVE AMERICAN SMALL BUSINESS DEVELOP-
14 MENT PROGRAM.—
15 "(1) AUTHORIZATION.—
16 "(A) IN GENERAL.—The Administration,
17 through the Office of Native American Affairs,
18 shall provide financial assistance to tribal gov-
19 ernments, tribal colleges, Native Hawaiian or-
20 ganizations, and Alaska Native corporations to
21 create Native American business centers in ac-
22 cordance with this section.
23 "(B) RESOURCE ASSISTANCE.—The Ad-
24 ministration may also provide in-kind resource
25 assistance to Native American business centers

1 located on tribal lands. Such assistance may
2 include—
3 "(i) personal computers;
4 "(ii) graphic workstations;
5 "(iii) CD–ROM technology and inter-
6 active videos;
7 "(iv) distance learning business-re-
8 lated training courses;
9 "(v) computer software; and
10 "(vi) reference materials.
11 "(C) USE OF FUNDS.—The financial and
12 resource assistance provided under this sub-
13 section shall be used to overcome obstacles im-
14 peding the creation, development, and expan-
15 sion of small business concerns, in accordance
16 with this section, by—
17 "(i) reservation-based American Indi-
18 ans;
19 "(ii) Alaska Natives; and
20 "(iii) Native Hawaiians.
21 "(2) 5-YEAR PROJECTS.—
22 "(A) IN GENERAL.—Each Native Amer-
23 ican business center that receives assistance
24 under paragraph (1)(A) shall conduct 5-year

1 projects that offer culturally tailored business
2 development assistance in the form of—
3 "(i) financial education, including
4 training and counseling in—
5 "(I) applying for and securing
6 business credit and investment cap-
7 ital;
8 "(II) preparing and presenting fi-
9 nancial statements; and
10 "(III) managing cash flow and
11 other financial operations of a busi-
12 ness concern;
13 "(ii) management education, including
14 training and counseling in planning, orga-
15 nizing, staffing, directing, and controlling
16 each major activity and function of a small
17 business concern; and
18 "(iii) marketing education, including
19 training and counseling in—
20 "(I) identifying and segmenting
21 domestic and international market op-
22 portunities;
23 "(II) preparing and executing
24 marketing plans;

1 "(III) developing pricing strate-
2 gies;
3 "(IV) locating contract opportu-
4 nities;
5 "(V) negotiating contracts; and
6 "(VI) utilizing varying public re-
7 lations and advertising techniques.
8 "(B) BUSINESS DEVELOPMENT ASSIST-
9 ANCE RECIPIENTS.—The business development
10 assistance under subparagraph (A) shall be of-
11 fered to prospective and current owners of small
12 business concerns that are owned by—
13 "(i) American Indians or tribal gov-
14 ernments, and located on or near tribal
15 lands;
16 "(ii) Alaska Natives or Alaska Native
17 corporations; or
18 "(iii) Native Hawaiians or Native Ha-
19 waiian organizations.
20 "(3) FORM OF FEDERAL FINANCIAL ASSIST-
21 ANCE.—
22 "(A) DOCUMENTATION.—
23 "(i) IN GENERAL.—The financial as-
24 sistance to Native American business cen-
25 ters authorized under this subsection may

1 be made by grant, contract, or cooperative
2 agreement.
3 "(ii) EXCEPTION.—Financial assist-
4 ance under this subsection to Alaska Na-
5 tive corporations or Native Hawaiian orga-
6 nizations may only be made by grant.
7 "(B) PAYMENTS.—
8 "(i) TIMING.—Payments made under
9 this subsection may be disbursed—
10 "(I) in a single lump sum or in
11 periodic installments; and
12 "(II) in advance or after costs
13 are incurred.
14 "(ii) ADVANCE.—The Administration
15 may disburse not more than 25 percent of
16 the annual amount of Federal financial as-
17 sistance awarded to a Native American
18 small business center after notice of the
19 award has been issued.
20 "(iii) NO MATCHING REQUIREMENT.—
21 The Administration shall not require a
22 grant recipient to match grant funding re-
23 ceived under this subsection with non-Fed-
24 eral resources as a condition of receiving
25 the grant.

"(4) CONTRACT AND COOPERATIVE AGREEMENT AUTHORITY.—A Native American business center may enter into a contract or cooperative agreement with a Federal department or agency to provide specific assistance to Native American and other under-served small business concerns located on or near tribal lands, to the extent that such contract or cooperative agreement is consistent with the terms of any assistance received by the Native American business center from the Administration.

"(5) APPLICATION PROCESS.—

"(A) SUBMISSION OF A 5-YEAR PLAN.—Each applicant for assistance under paragraph (1) shall submit a 5-year plan to the Administration on proposed assistance and training activities.

"(B) CRITERIA.—

"(i) IN GENERAL.—The Administration shall evaluate and rank applicants in accordance with predetermined selection criteria that shall be stated in terms of relative importance.

"(ii) PUBLIC NOTICE.—The criteria required by this paragraph and their relative importance shall be made publicly

1 available, within a reasonable time, and
2 stated in each solicitation for applications
3 made by the Administration.
4 "(iii) CONSIDERATIONS.—The criteria
5 required by this paragraph shall include—
6 "(I) the experience of the appli-
7 cant in conducting programs or ongo-
8 ing efforts designed to impart or up-
9 grade the business skills of current or
10 potential owners of Native American
11 small business concerns;
12 "(II) the ability of the applicant
13 to commence a project within a min-
14 imum amount of time;
15 "(III) the ability of the applicant
16 to provide training and services to a
17 representative number of Native
18 Americans;
19 "(IV) previous assistance from
20 the Small Business Administration to
21 provide services in Native American
22 communities; and
23 "(V) the proposed location for
24 the Native American business center
25 site, with priority given based on the

1 proximity of the center to the popu-
2 lation being served and to achieve a
3 broad geographic dispersion of the
4 centers.
5 "(6) PROGRAM EXAMINATION.—
6 "(A) IN GENERAL.—Each Native Amer-
7 ican business center established pursuant to
8 this subsection shall annually provide the Ad-
9 ministration with an itemized cost breakdown of
10 actual expenditures incurred during the pre-
11 ceding year.
12 "(B) ADMINISTRATION ACTION.—Based on
13 information received under subparagraph (A),
14 the Administration shall—
15 "(i) develop and implement an annual
16 programmatic and financial examination of
17 each Native American business center as-
18 sisted pursuant to this subsection; and
19 "(ii) analyze the results of each exam-
20 ination conducted under clause (i) to deter-
21 mine the programmatic and financial via-
22 bility of each Native American business
23 center.
24 "(C) CONDITIONS FOR CONTINUED FUND-
25 ING.—In determining whether to renew a grant,

1 contract, or cooperative agreement with a Na-
2 tive American business center, the
3 Administration—
4 "(i) shall consider the results of the
5 most recent examination of the center
6 under subparagraph (B), and, to a lesser
7 extent, previous examinations; and
8 "(ii) may withhold such renewal, if
9 the Administration determines that—
10 "(I) the center has failed to pro-
11 vide any information required to be
12 provided under subparagraph (A), or
13 the information provided by the center
14 is inadequate;
15 "(II) the center has failed to pro-
16 vide any information required to be
17 provided by the center for purposes of
18 the report of the Administration
19 under subparagraph (E); or
20 "(III) the information required to
21 be provided by the center is incom-
22 plete.
23 "(D) CONTINUING CONTRACT AND COOP-
24 ERATIVE AGREEMENT AUTHORITY.—

1 "(i) IN GENERAL.—The authority of
2 the Administrator to enter into contracts
3 or cooperative agreements in accordance
4 with this subsection shall be in effect for
5 each fiscal year only to the extent and in
6 the amounts as are provided in advance in
7 appropriations Acts.
8 "(ii) RENEWAL.—After the Adminis-
9 trator has entered into a contract or coop-
10 erative agreement with any Native Amer-
11 ican business center under this subsection,
12 it shall not suspend, terminate, or fail to
13 renew or extend any such contract or coop-
14 erative agreement unless the Administrator
15 provides the center with written notifica-
16 tion setting forth the reasons therefore and
17 affords the center an opportunity for a
18 hearing, appeal, or other administrative
19 proceeding under chapter 5 of title 5,
20 United States Code.
21 "(E) MANAGEMENT REPORT.—
22 "(i) IN GENERAL.—The Administra-
23 tion shall prepare and submit to the Com-
24 mittee on Small Business of the House of
25 Representatives and the Committee on

1 Small Business and Entrepreneurship of
2 the Senate an annual report on the effec-
3 tiveness of all projects conducted by Native
4 American business centers under this sub-
5 section and any pilot programs adminis-
6 tered by the Office of Native American Af-
7 fairs.
8 "(ii) CONTENTS.—Each report sub-
9 mitted under clause (i) shall include, with
10 respect to each Native American business
11 center receiving financial assistance under
12 this subsection—
13 "(I) the number of individuals re-
14 ceiving assistance from the Native
15 American business center;
16 "(II) the number of startup busi-
17 ness concerns formed;
18 "(III) the gross receipts of as-
19 sisted concerns;
20 "(IV) the employment increases
21 or decreases of Native American small
22 business concerns assisted by the cen-
23 ter since receiving funding under this
24 Act;

1 "(V) to the maximum extent
2 practicable, increases or decreases in
3 profits of Native American small busi-
4 ness concerns assisted by the center
5 since receiving funding under this Act;
6 and
7 "(VI) the most recent examina-
8 tion, as required under subparagraph
9 (B), and the subsequent determina-
10 tion made by the Administration
11 under that subparagraph.
12 "(7) ANNUAL REPORT.—Each entity receiving
13 financial assistance under this subsection shall annu-
14 ally report to the Administration on the services pro-
15 vided with such financial assistance, including—
16 "(A) the number of individuals assisted,
17 categorized by ethnicity;
18 "(B) the number of hours spent providing
19 counseling and training for those individuals;
20 "(C) the number of startup small business
21 concerns formed, maintained, and lost;
22 "(D) the gross receipts of assisted small
23 business concerns;

"(E) the number of jobs created, maintained, or lost at assisted small business concerns; and

"(F) the number of Native American jobs created, maintained, or lost at assisted small business concerns.

"(8) RECORD RETENTION.—

"(A) APPLICATIONS.—The Administration shall maintain a copy of each application submitted under this subsection for not less than 10 years.

"(B) ANNUAL REPORTS.—The Administration shall maintain copies of the information collected under paragraph (6)(A) indefinitely.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for each of the fiscal years 2003 through 2007, to carry out the Native American Small Business Development Program, authorized under subsection (c).".

SEC. 3. PILOT PROGRAMS.

(a) DEFINITIONS.—In this section:

(1) INCORPORATION BY REFERENCE.—The terms defined in section 36(a) of the Small Business Act (as added by this Act) have the same meanings as in that section 36(a) when used in this section.

1 (2) ADMINISTRATOR.—The term "Adminis-
2 trator" means the Administrator of the Small Busi-
3 ness Administration.
4 (3) JOINT PROJECT.—The term "joint project"
5 means the combined resources and expertise of 2 or
6 more distinct entities at a physical location dedi-
7 cated to assisting the Native American community;
8 (b) NATIVE AMERICAN DEVELOPMENT GRANT PILOT
9 PROGRAM.—
10 (1) AUTHORIZATION.—
11 (A) IN GENERAL.—There is established a
12 4-year pilot program under which the Adminis-
13 tration is authorized to award Native American
14 development grants to provide culturally-tai-
15 lored business development training and related
16 services to Native Americans and Native Amer-
17 ican small business concerns.
18 (B) ELIGIBLE ORGANIZATIONS.—The
19 grants authorized under subparagraph (A) may
20 be awarded to—
21 (i) any small business development
22 center; or
23 (ii) any private, nonprofit organization
24 that—

1 (I) has tribal government mem-
2 bers, or their designees, comprising a
3 majority of its board of directors;
4 (II) is a Native Hawaiian organi-
5 zation; or
6 (III) is an Alaska Native cor-
7 poration.
8 (C) AMOUNTS.—The Administration shall
9 not award a grant under this subsection in an
10 amount which exceeds $100,000 for each year
11 of the project.
12 (D) GRANT DURATION.—Each grant under
13 this subsection shall be awarded for not less
14 than a 2-year period and not more than a 4-
15 year period.
16 (2) CONDITIONS FOR PARTICIPATION.—Each
17 entity desiring a grant under this subsection shall
18 submit an application to the Administration that
19 contains—
20 (A) a certification that the applicant—
21 (i) is a small business development
22 center or a private, nonprofit organization
23 under paragraph (1)(B)(i);

1 (ii) employs a full-time executive di-
2 rector or program manager to manage the
3 facility; and
4 (iii) agrees—
5 (I) to a site visit as part of the
6 final selection process;
7 (II) to an annual programmatic
8 and financial examination; and
9 (III) to the maximum extent
10 practicable, to remedy any problems
11 identified pursuant to that site visit or
12 examination;
13 (B) information demonstrating that the
14 applicant has the ability and resources to meet
15 the needs, including cultural needs, of the Na-
16 tive Americans to be served by the grant;
17 (C) information relating to proposed assist-
18 ance that the grant will provide, including—
19 (i) the number of individuals to be as-
20 sisted; and
21 (ii) the number of hours of counseling,
22 training, and workshops to be provided;
23 (D) information demonstrating the effec-
24 tive experience of the applicant in—

1 (i) conducting financial, management,
2 and marketing assistance programs de-
3 signed to impart or upgrade the business
4 skills of current or prospective Native
5 American business owners;
6 (ii) providing training and services to
7 a representative number of Native Ameri-
8 cans;
9 (iii) using resource partners of the
10 Administration and other entities, includ-
11 ing universities, tribal governments, or
12 tribal colleges; and
13 (iv) the prudent management of fi-
14 nances and staffing;
15 (E) the location where the applicant will
16 provide training and services to Native Ameri-
17 cans; and
18 (F) a multiyear plan, corresponding to the
19 length of the grant, that describes—
20 (i) the number of Native Americans
21 and Native American small business con-
22 cerns to be served by the grant;
23 (ii) in the continental United States,
24 the number of Native Americans to be
25 served by the grant; and

1 (iii) the training and services to be
2 provided to a representative number of Na-
3 tive Americans.
4 (3) REVIEW OF APPLICATIONS.—The Adminis-
5 tration shall—
6 (A) evaluate and rank applicants under
7 paragraph (2) in accordance with predeter-
8 mined selection criteria that is stated in terms
9 of relative importance;
10 (B) include such criteria in each solicita-
11 tion under this subsection and make such infor-
12 mation available to the public; and
13 (C) approve or disapprove each completed
14 application submitted under this subsection not
15 more than 60 days after submission.
16 (4) ANNUAL REPORT.—Each recipient of a Na-
17 tive American development grant under this sub-
18 section shall annually report to the Administration
19 on the impact of the grant funding, including—
20 (A) the number of individuals assisted, cat-
21 egorized by ethnicity;
22 (B) the number of hours spent providing
23 counseling and training for those individuals;
24 (C) the number of startup small business
25 concerns formed, maintained, and lost;

1 (D) the gross receipts of assisted small
2 business concerns;
3 (E) the number of jobs created, main-
4 tained, or lost at assisted small business con-
5 cerns; and
6 (F) the number of Native American jobs
7 created, maintained, or lost at assisted small
8 business concerns.
9 (5) RECORD RETENTION.—
10 (A) APPLICATIONS.—The Administration
11 shall maintain a copy of each application sub-
12 mitted under this subsection for not less than
13 10 years.
14 (B) ANNUAL REPORTS.—The Administra-
15 tion shall maintain copies of the information
16 collected under paragraph (4) indefinitely.
17 (c) AMERICAN INDIAN TRIBAL ASSISTANCE CENTER
18 GRANT PILOT PROGRAM.—
19 (1) AUTHORIZATION.—
20 (A) IN GENERAL.—There is established a
21 4-year pilot program, under which the Adminis-
22 tration shall award not less than 3 American
23 Indian Tribal Assistance Center grants to es-
24 tablish joint projects to provide culturally tai-
25 lored business development assistance to pro-

1 spective and current owners of small business
2 concerns located on or near tribal lands.
3 (B) ELIGIBLE ORGANIZATIONS.—
4 (i) CLASS 1.—Not fewer than 1 grant
5 shall be awarded to a joint project per-
6 formed by a Native American business cen-
7 ter, a Native American business develop-
8 ment center, and a small business develop-
9 ment center.
10 (ii) CLASS 2.—Not fewer than 2
11 grants shall be awarded to joint projects
12 performed by a Native American business
13 center and a Native American business de-
14 velopment center.
15 (C) AMOUNTS.—The Administration shall
16 not award a grant under this subsection in an
17 amount which exceeds $200,000 for each year
18 of the project.
19 (D) GRANT DURATION.—Each grant under
20 this subsection shall be awarded for a 3-year
21 period.
22 (2) CONDITIONS FOR PARTICIPATION.—Each
23 entity desiring a grant under this subsection shall
24 submit to the Administration a joint application that
25 contains—

1 (A) a certification that each participant of
2 the joint application—
3 (i) is either a Native American Busi-
4 ness Center, a Native American Business
5 Development Center, or a Small Business
6 Development Center;
7 (ii) employs a full-time executive di-
8 rector or program manager to manage the
9 center; and
10 (iii) as a condition of receiving the
11 American Indian Tribal Assistance Center
12 grant, agrees—
13 (I) to an annual programmatic
14 and financial examination; and
15 (II) to the maximum extent prac-
16 ticable, to remedy any problems iden-
17 tified pursuant to that examination;
18 (B) information demonstrating a historic
19 commitment to providing assistance to Native
20 Americans—
21 (i) residing on or near tribal lands; or
22 (ii) operating a small business concern
23 on or near tribal lands;
24 (C) information demonstrating that each
25 participant of the joint application has the abil-

1 ity and resources to meet the needs, including
2 the cultural needs of the Native Americans to
3 be served by the grant;
4 (D) information relating to proposed as-
5 sistance that the grant will provide, including—
6 (i) the number of individuals to be as-
7 sisted; and
8 (ii) the number of hours of counseling,
9 training, and workshops to be provided;
10 (E) information demonstrating the effec-
11 tive experience of each participant of the joint
12 application in—
13 (i) conducting financial, management,
14 and marketing assistance programs, as de-
15 scribed above, designed to impart or up-
16 grade the business skills of current or pro-
17 spective Native American business owners;
18 and
19 (ii) the prudent management of fi-
20 nances and staffing; and
21 (F) a plan for the length of the grant, that
22 describes—
23 (i) the number of Native Americans
24 and Native American small business con-
25 cerns to be served by the grant; and

1 (ii) the training and services to be
2 provided.
3 (3) REVIEW OF APPLICATIONS.—The Adminis-
4 tration shall—
5 (A) evaluate and rank applicants under
6 paragraph (2) in accordance with predeter-
7 mined selection criteria that is stated in terms
8 of relative importance;
9 (B) include such criteria in each solicita-
10 tion under this subsection and make such infor-
11 mation available to the public; and
12 (C) approve or disapprove each application
13 submitted under this subsection not more than
14 60 days after submission.
15 (4) ANNUAL REPORT.—Each recipient of an
16 American Indian tribal assistance center grant
17 under this subsection shall annually report to the
18 Administration on the impact of the grant funding
19 received during the reporting year, and the cumu-
20 lative impact of the grant funding received since the
21 initiation of the grant, including—
22 (A) the number of individuals assisted, cat-
23 egorized by ethnicity;
24 (B) the number of hours of counseling and
25 training provided and workshops conducted;

1 (C) the number of startup business con-
2 cerns formed, maintained, and lost;
3 (D) the gross receipts of assisted small
4 business concerns;
5 (E) the number of jobs created, main-
6 tained, or lost at assisted small business con-
7 cerns; and
8 (F) the number of Native American jobs
9 created, maintained, or lost at assisted small
10 business concerns.
11 (5) RECORD RETENTION.—
12 (A) APPLICATIONS.—The Administration
13 shall maintain a copy of each application sub-
14 mitted under this subsection for not less than
15 10 years.
16 (B) ANNUAL REPORTS.—The Administra-
17 tion shall maintain copies of the information
18 collected under paragraph (4) indefinitely.
19 (d) AUTHORIZATION OF APPROPRIATIONS.—There
20 are authorized to be appropriated—
21 (1) $1,000,000 for each of the fiscal years 2003
22 through 2006, to carry out the Native American De-
23 velopment Grant Pilot Program, authorized under
24 subsection (b); and

1 (2) $1,000,000 for each of the fiscal years 2003
2 through 2006, to carry out the American Indian
3 Tribal Assistance Center Grant Pilot Program, au-
4 thorized under subsection (c).

Kerry/Bond Amendment to S. 2335, Native American Small Business Development Act:

This compromise amendment will eliminate the American Indian Tribal Assistance Center Grant pilot program, incorporate the Kerry amendment to improve the Native American Development Grant Pilot Program and transfer $1 million from the Native American Small Business Development Program to the Native American Development Grant Pilot Program. It also makes technical corrections.

O:\MDM\MDM02.508 S.L.C.

AMENDMENT NO. ____ Calendar No. ____

Purpose: To require that grants awarded under the Native American Development Grant Pilot Program be divided equally between small business development centers and Native American organizations.

IN THE SENATE OF THE UNITED STATES—107th Cong., 2d Sess.

S. 2335

To establish the Office of Native American Affairs within the Small Business Administration, to create the Native American Small Business Development Program, and for other purposes.

Referred to the Committee on _____
and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENTS intended to be proposed by Mr. KERRY (for himself and Mr. BOND)

Viz:

1 On page 2, beginning on line 25, strike all that fol-
2 lows through page 3, line 4 and redesignate paragraphs
3 (6) through (11) as paragraphs (5) through (10), respec-
4 tively.

On page 7, between lines 8 and 9, insert "(iii) Native American business centers;" and redesignate clauses (iii) through (vi) as clauses (iv) through (vii), respectively.

On page 19, line 16, strike "$5,000,000" and insert "$4,000,000".

On page 19, line 20, strike "**PILOT PROGRAMS.**" and insert "**PILOT PROGRAM.**".

On page 20, strike lines 1 through 7 and insert the following:

(2) ADMINISTRATION.—The term "Administration" means the Small Business Administration.

On page ~~20,~~ 23 line ~~IX~~ 25, strike the ~~period~~ semicolon and insert "on or near tribal lands~~;~~ ; and".

On page 21, strike lines 1 through 3 and insert the following:

(I) is permitted by the tribal government to provide technical assistance to small business concerns within the jurisdiction of the tribe;

1 On page 21, between lines 15 and 16, insert the fol-
2 lowing:
3 (E) PAIRED DISBURSEMENT.—
4 (i) IN GENERAL.—The Administration
5 shall award the same number of Native
6 American development grants under this
7 subsection to eligible organizations under
8 subparagraph (B)(i) as those awarded to
9 eligible organizations under subparagraph
10 (B)(ii).
11 (ii) DISBURSEMENT.—The initial dis-
12 bursement of financial assistance under
13 this subsection to each eligible organization
14 under clause (i) or (ii) of subparagraph
15 (B) shall coincide with a similar disburse-
16 ment to an eligible organization rep-
17 resenting the other classification under
18 subparagraph (B).
19 (iii) PROVISIONAL APPROVAL.—Not-
20 withstanding clauses (i) and (ii) of this
21 subparagraph, the Administration may
22 provisionally approve an application from
23 an eligible organization under clause (i) or
24 (ii) of subparagraph (B), with final ap-
25 proval pending until the receipt and ap-

1 proval of an application from an eligible
2 organization from the other classification
3 of eligible organization under subpara-
4 graph (B).

5 On page 24, line 13, insert "(at least on a provisional
6 basis under paragraph (1)(E)(iii))" after "(C) approve".

7 On page 25, beginning on line 17, strike all that fol-
8 lows through page 30, line 18.

9 On page 30, beginning on line 19, strike all that fol-
10 lows through page 31, line 4, and insert the following:
11 (c) AUTHORIZATION OF APPROPRIATIONS.—There
12 are authorized to be appropriated to carry out the Native
13 American Development Grant Pilot Program, authorized
14 under subsection (b)—
15 (1) $1,000,000 for each of the fiscal years 2003
16 through 2006, for grants to eligible organizations
17 under subsection (b)(1)(B)(i); and
18 (2) $1,000,000 for each of the fiscal years 2003
19 through 2006, for grants to eligible organizations
20 under subsection (b)(1)(B)(ii).

Legislative Overview of
HR 2666, the
"Vocational and Technical Entrepreneurship Development Act"
Introduced by Congressman Brady (D-PA)

From House Report 107-212

The Act establishes a three-year pilot project providing Small Business Administration ('SBA') grants to SBDCs for technical assistance to secondary schools and post-secondary vocational and technical schools, to develop and implement curricula to promote vocational and technical entrepreneurship.

The purpose of the Act is to assist the development and implementation of curricula that will encourage skilled persons to start their own businesses and to provide needed entrepreneurial training to support the success of such businesses. The Act provides the necessary entrepreneurial support to expand the career opportunities for persons receiving vocational training and, thus use their newly gained skills to become the owners of their own business.

In the grant application, an applicant must outline its goals and objectives for the assistance to be provided and the educational curricula to be implemented with grant funds. Grants are to be awarded to State small business development centers to carry out the pilot program on a statewide basis. It is the desire of the Committee that State small business development centers pay particular focus to helping underserved subcenters in the area of vocational and technical entrepreneurship training. Those SBDCs receiving grants under the pilot program must report to SBA within 18 months from receiving the grant monies, detailing how all the grant funds were used. In addition, not later than March 31, 2004, SBA must conduct an evaluation of the program and report to Congress the results of each such evaluation.

The Act designates the Association of Small Business Development Centers as a clearinghouse for the collection of information and expertise regarding vocational and technical entrepreneurship programs. The minimum amount of a grant under the pilot program is $200,000 and the annual authorization for the 3-year pilot program is $7 million.

This legislation passed the House on 10/21/01.

Section by Section

Section 1. Short title

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

Section 2. Vocational and Technical Entrepreneurship Development Program

This section amends the Small Business Act by adding a new section at the end entitled:

`Vocational and Technical Entrepreneurship Development Program.'

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

Subsection (b) requires the Administrator to establish a program by which the Administrator makes grants to SBDCs to enable such centers to provide technical assistance to secondary schools, or to postsecondary vocational or technical schools, for the development and implementation of curricula designed to promote vocational and technical entrepreneurship. The Committee expects that SBDCs will work in cooperation with secondary schools and post secondary vocational and technical schools to develop and implement curricula designed to promote entrepreneurial skills.

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

Subsection (d) requires the Administrator to design a grant application that must be completed by any SBDC seeking a grant. The application shall include information regarding the applicant's goals and objectives for the educational programs to be funded. The Committee expects that the Administrator will consider the quality of the proposed programs in determining which centers are selected to participate in the pilot program in order to provide a baseline by which the Administrator and the Committee can evaluate the success of the program.

Subsection (e) requires the Administrator, as a condition of each grant under the program, that the grantee shall transmit to the Administrator, within 18 months after receipt of grant funds, a report describing how the grant funds were used. The Committee encourages these reports to include whether each center met its goals and how the center met its objectives.

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

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

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

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

IIB

107TH CONGRESS
1ST SESSION

H. R. 2666

IN THE SENATE OF THE UNITED STATES

OCTOBER 3, 2001

Received; read twice and referred to the Committee on Small Business and Entrepreneurship

AN ACT

To amend the Small Business Act to direct the Administrator of the Small Business Administration to establish a vocational and technical entrepreneurship development program.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the "Vocational and Technical Entrepreneurship Development Act of 2001".

SEC. 2. VOCATIONAL AND TECHNICAL ENTREPRENEURSHIP DEVELOPMENT PROGRAM.

(a) IN GENERAL.—The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by redesignating section 36 as section 37; and

(2) by inserting after section 35 the following new section:

"SEC. 36. VOCATIONAL AND TECHNICAL ENTREPRENEURSHIP DEVELOPMENT PROGRAM.

"(a) DEFINITIONS.—In this section, the following definitions apply:

"(1) ADMINISTRATOR.—The term 'Administrator' means the Administrator of the Small Business Administration.

"(2) ASSOCIATION.—The term 'Association' means the association of small business development centers recognized under section 21(a)(3)(A).

"(3) PROGRAM.—The term 'program' means the program established under subsection (b).

"(4) SMALL BUSINESS DEVELOPMENT CENTER.—The term 'small business development center'

means a small business development center described in section 21.

"(5) STATE SMALL BUSINESS DEVELOPMENT CENTER.—The term 'State small business development center' means a small business development center from each State selected by the Administrator, in consultation with the Association and giving substantial weight to the Association's recommendations, to carry out the program on a statewide basis in such State.

"(b) ESTABLISHMENT.—In accordance with this section, the Administrator shall establish a program under which the Administrator shall make grants to State small business development centers to enable such centers to provide, on a statewide basis, technical assistance to secondary schools, or to postsecondary vocational or technical schools, for the development and implementation of curricula designed to promote vocational and technical entrepreneurship.

"(c) MINIMUM GRANT.—The Administrator may make no grant under the program for an amount less than $200,000.

"(d) APPLICATION.—Each State small business development center seeking a grant under the program shall submit to the Administrator an application in such form

1 as the Administrator may require. The application shall
2 include information regarding the applicant's goals and
3 objectives for the educational programs to be assisted.

4 "(e) REPORT TO ADMINISTRATOR.—The Adminis-
5 trator shall make a condition of each grant under the pro-
6 gram that not later than 18 months after the receipt of
7 the grant the recipient shall transmit to the Administrator
8 a report describing how the grant funds were used.

9 "(f) COOPERATIVE AGREEMENTS AND CON-
10 TRACTS.—The Administrator may enter into a cooperative
11 agreement or contract with any State small business devel-
12 opment center receiving a grant under this section to pro-
13 vide additional assistance that furthers the purposes of
14 this section.

15 "(g) EVALUATION OF PROGRAM.—Not later than
16 March 31, 2004, the Administrator shall transmit to Con-
17 gress a report containing an evaluation of the program.

18 "(h) CLEARINGHOUSE.—The Association shall act as
19 a clearinghouse of information and expertise regarding vo-
20 cational and technical entrepreneurship education pro-
21 grams. In each fiscal year in which grants are made under
22 the program, the Administrator shall provide additional
23 assistance to the Association to carry out the functions
24 described in this subsection.

1 "(i) AUTHORIZATION OF APPROPRIATIONS.—There is
2 authorized to be appropriated to carry out this section
3 $7,000,000 for each of fiscal years 2002, 2003, and 2004.
4 Such sums shall remain available until expended.".

Passed the House of Representatives October 2, 2001.

Attest: JEFF TRANDAHL,
Clerk.

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