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COMMITTEE PRINT

SMALL BUSINESS ISSUES AND PRIORITIES—1977

BY STAFF MEMBERS OF

SELECT COMMITTEE ON SMALL BUSINESS
UNITED STATES SENATE

WITH

REPRESENTATIVES

OF

SMALL BUSINESS ORGANIZATIONS

FEBRUARY 7, 1977

Printed for the use of the Select Committee on Small Business

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CONFERENCE DATE

February 7, 1977:
Morning session 1

SMALL BUSINESS ISSUES AND PRIORITIES—1977

MONDAY, FEBRUARY 7, 1977

U.S. SENATE,
SELECT COMMITTEE ON SMALL BUSINESS,
Washington, D.C.

The committee staff met with association members in room S–207, the Capitol, William B. Cherkasky, presiding.

Present: William B. Cherkasky, staff director; Raymond D. Watts, general counsel; Larry S. Greenberg, minority counsel; Benjamin Gordon, staff economist; Herbert L. Spira, chief counsel; Allen W. Neece, Jr., legislative counsel; John M. Cross, professional staff member; Kay Klatt, professional staff member; Larry M. Yuspeh, financial analyst; Trudy Taylor, chief clerk; Carole J. Dunn, assistant chief clerk; and Sharon Williams, staff assistant.

STATEMENT OF WILLIAM B. CHERKASKY, STAFF DIRECTOR, SMALL BUSINESS COMMITTEE

Mr. CHERKASKY. I want to welcome you all here and am gratified at such a fine turnout on such short notice. As you know you perform a very valuable function for us. You are our constituency, and without you, we have no reason for existing.

As a matter of fact, this last Friday, the Senate Select Committee on Reorganization of the Senate finally passed its bill, 89 to 1, which retains an independent Small Business Committee.

We are reduced in numbers from 17 to 9 Senators, but, most importantly, we are still an independent committee. This just demonstrates the clout the small business constituency does have when it gets together on that issue, or any other issue. I will not, at this time, take the time to talk about all of these other issues, but I think it is important to realize that this committee on which I work is your committee. We are here to represent your views to the Senate, to the Congress, and to the Nation.

I would like, if I may, to ask you to identify yourselves and your organizations for the reporter.

We will make a permanent record of this meeting and will keep it open for 2 weeks after today's meeting for those who want to submit statements. We will use it as a working document for the rest of this Congress.

[Those present introduced themselves as follows:]

Mr. LIEBENSON. Herbert Liebenson, National Small Business Association.

Mr. FEATHERMAN. Bernard Featherman, the Association of Steel Distributors.

Mr. BROWNSTEIN. Jerald Brownstein, national vice president, Eastern Region of the Association of Steel Distributors.

Mr. SELIGER. Louis Seliger, national vice president of the Southern Region, Association of Steel Distributors.

Dr. CARDON. Samuel Z. Cardon, president, American Association of Small Research Companies, General Technical Services, Inc.

Mr. BROOKS. William M. Brooks, president, National Association of Wholesaler-Distributors, Atlanta, Ga.

Mr. MCCAMANT. William C. McCamant, executive vice president, National Association of Wholesaler-Distributors.

Mr. BISON. Henry Bison, National Association of Retail Grocers of the United States, Inc.

Mr. WEATHERUP. David Weatherup, vice president, Small Business Council, Greater Syracuse Chamber of Commerce, Inc.

Mr. ANDERSON. William Anderson, the Small Business Council.

Mr. LEFFLER. Marvin Leffler, chairman of the board, National Council of Salesmen's Organizations, Inc.

Mr. KNIGHT. Joseph G. Knight, chairman, National Council of SCORE and ACE, Warwick, R.I.

Dr. JOHNSON. Dr. Ole S. Johnson, president, National Council for Small Business Management Development, Norfolk, Va.

Dr. FRANKLIN. Carl Franklin, Morgan State University, National Council for Small Business Management Development.

Mr. BASS. Sylvester Bass, National Business League.

Mr. LEWIS. Ron Lewis of the National Association of Black Manufacturers.

Mr. STULTS. Walter Stults, National Association of Small Business Investment Companies.

Mr. LEWIS. Stuart Lewis, the Association for Advanced Life Underwriters.

Mr. BUCKNER. My name is Seymour Buckner, and I am representing the National Retail Merchants Association.

Ms. SIMMONS. Lorri Simmons, National American Indian Women's Association.

Mr. MORGENTHALER. David T. Morgenthaler, National Venture Cap ital Association.

Mr. HONIG. Daniel A. Honig, Electronic Representatives Association.

Ms. O'BANNON. Dona O'Bannon, vice president, National Association of Women Business Owners.

Ms. MAY. Lynette May, second vice president, National Association of Women Business Owners.

Mr. SEIFERT. Randolph J. Seifert, National Home Improvement Council.

Mr. NASH. James W. Nash, executive director, American Society of Pension Actuaries.

Dr. FLEWELLEN. W. C. Flewellen, Jr., president, American Assembly of Collegiate Schools of Business.

Mr. KINDLING. Alexander T. Kindling, president, Smaller Manufacturers Council of Pittsburgh.

Mr. SHATTUCK. Lewis A. Shattuck, executive vice president, the Smaller Business Association of New England, Inc.

Mr. WHITE. Don White.

Mr. VOIGHT. David Voight, National Federation of Independent Business.

Mr. FITCH. John Fitch, the National Society of Public Accountants.

Mr. CHERKASKY. We will now have the Small Business Committee staff introduce themselves.

[The Staff introduced themselves as follows:]

Ms. DUNN. Carole Dunn, assistant chief clerk.

Mr. GORDON. Ben Gordon, staff economist.

Mr. GREENBERG. Larry Greenberg, minority counsel.

Mr. SPIRA. Herbert L. Spira, tax counsel.

Ms. TAYLOR. Trudy Taylor, chief clerk.

Mr. WATTS. Raymond Watts, general counsel.

Ms. WILLIAMS. Sharon Williams, staff assistant.

Mr. CROSS. John Cross, professional staff member.

Ms. KLATT. Kay Klatt, professional staff member.

Mr. NEECE. Allen Neece, legislative counsel.

Mr. YUSPEH. Larry Yuspeh, financial analyst.

Mr. CHERKASKY. Have we gotten everybody?

All right.

Again, we welcome all of you. Just a few gorundrules. I would hope that we can finish by 12 or 12:30. If we do not, we will try to extend the session to this afternoon, starting about 2 o'clock, so there will be time for lunch.

One problem right now is that we do not have a room to meet in this afternoon. We have to leave this room by 12:30. But we are trying to get our own committee room back by 2 o'clock. It is now being used by another committee.

There is a meeting scheduled for 1, but they may vacate by 2. We will try to use that room, or something else appropriate. But we will establish that fact before we break up this noon.

I just want to touch on one point. Last Friday, Senator Nelson sent a letter to each of the members of the Senate Committee on Small Business, telling them he will convene a meeting of the members of the committee by the end of this week. The purpose of that meeting will be to divide up responsibilities for the ensuing Congress.

He listed in his letter 19 subjects that he thinks ought to be covered during this next Congress, that he would like the Senators to conduct hearings on, and I say this for the benefit of the staff too, who are not yet a party to this letter, that while the committee held 107 days of oversight hearings in many different areas in the 94th Congress, it is highly probable that we will hold more than 140 hearings in the 95th Congress.

This responsibility will weigh heavily on us, because as you know, the Senate committee was reduced from 17 to 9 members. His letter said that:

> I hope you would give some time to thinking about the areas in which you would be willing to take the responsibility, as the purpose of the meeting will be to divide the subject areas among our members, and as you can see, with the committee membership reduced, that means we have to divide the responsibility among nine committee members.

That works out to 22 days of hearings per member. That is a lot for any Senator with today's workload, so he will not be taking his responsibilities lightly. The staff, of course, cannot, and I would hope you will help us to determine which subjects you think have the highest priority—in terms of hearings, legislation, and so forth. So your interest today will be most valuable to us. Judging by the tenor of

Senator Nelson's letter, we will be very very serious about our production in the next Congress.

We have received a number of letters and workingpapers from all of you, some are lengthy, some very brief.

I hope that since there are a large number of you here, that you will try to summarize your remarks in about 5 minutes so that everyone has a chance to say what he would like to say, and then we will come back to those comments, and discuss them in greater depth, especially in terms of priority, and further content and detail you think we ought to be aware of.

As I said, the record will remain open, so your statements will be printed in full, and if you want to send more material to us, that will be included also.

I do not have any other groundrules.

Does anybody have a question?

If not, I suppose the best system will be for each of you to take it upon yourselves to discuss now those subjects most important to you.

I have no notion who wants to talk first and who does not, so I think we will just go around the table.

Is that agreeable?

We will start here on my left with Mr. Liebenson.

STATEMENT OF HERBERT LIEBENSON, NATIONAL SMALL BUSINESS ASSOCIATION

Mr. LIEBENSON. Thank you very much. I will be very brief.

We are talking of broad general areas, those problems we see of immediate and of key importance. The first is the area of catch-up growth for small business.

We are attempting to work toward a two-tier regulatory system, sunset laws, a graduated business tax system, a job creation tax credit for small business, and changes in small business procurement policies.

A catch-up growth program for small business, as some of you recall, was a promise that President Carter made during the campaign at a meeting in Cleveland.

We seek a two-tier regulatory system in all legislation, so small firms are not necessarily treated in the same way as the bigger companies.

This follows through in a graduated business tax for all business, with the smallest having benefits that will achieve growth; a job creation tax credit for small business is especially important. Public hearings start tomorrow before the Committee on Ways and Means.

Among our priorities are a reasonable small business procurement policy, and continued independence of the Small Business Administration.

These priority positions are supported by the National Small Business Association and are also those of the Small Business Legislative Council which now represents over 30 national associations.

The other problem areas of course are rather obvious, we consider as most of you do that product liability is a most immediate problem, enforcement of the antitrust laws and, of course, revisions in OSHA—and we will just leave it at that.

I am sure others have recommendations.

Our position papers on these major issues are attached.

[The position papers follow:]

POSITION PAPERS

Subject	Pages
Catch-up Growth for Small Business	1-2
Two-Tier Regulatory System and Use of "Sunset" Laws	3-4
A Graduated Business Tax System	5
Job Creation and Small Business	6-7
Small Business Procurement Policy and Innovation	8-9
Continued Independence of the Small Business Administration	10

1

CATCH-UP GROWTH FOR SMALL BUSINESS

The Present Situation:

In numbers, small business may be holding its own. The more than 10 million small businesses in the U.S. account for 98% of all business units, employ nearly 65% of the non-government work force, and contribute at least 40% to the gross national product.

But in terms of market share, assets and profits, small business is falling behind disastrously. In 1960, the share of small and medium size companies was down to 50% of assets in manufacturing and 41% of the profits. By 1972, this had declined further to 30% of the assets and 28% of the profits. In 2/3 of the manufacturing industries for which figures were available, the 8 largest companies account for 40% or more of the value of industry shipments. 2/3 of all manufacturing assets in the country are controlled by 200 giant corporations.

Business failures are up. Those companies that survive their critical first five years are often driven into the arms of larger companies because of a desperate need for expansion and investment capital.

Employment concentration is up. Where in 1960, only one in four Americans worked for one of the 500 largest industrial companies or some level of government, that figure now stands at one in three.

Carter and Congress -- What Has Been Promised:

President-Elect Carter endorsed the NSB Catch-Up Growth proposal before the election, saying: "As President, I would introduce and support concrete programs which would have as high priority the expansion of the independent small business sector of the economy. To measure the success of these programs, my administration would develop specific statistical yardstick formulas to measure the relative growth of small business in relationship to other sectors of the economy ."

94% of Congressional candidates responding to a pre-election survey by NSB agreed.

CATCH-UP GROWTH FOR SMALL BUSINESS -- TOPIC FOR DISCUSSION:

Domination of our economy by Big Business, Big Labor and Big Government has not happened by accident. A combination of federal tax, spending, regulatory and other policies has joined with other factors to stagnate and, in fact, retard growth of small business.

Small business provides economic and social diversity that is essential to the survival of our uniquely democratic private enterprise system. Just as government policy can encourage economic concentration, as it has done over the past 20 years, government policy can encourage economic diversity and the growth of a large and healthy independent small business sector.

In order to reverse the present trend towards greater and greater domination of the economy by the Big Three -- Government, Business and Labor, small business needs must be recognized and given as high a priority as other economic goals.

SUCCESS OF A SMALL BUSINESS CATCH-UP PROGRAM MUST BE MEASURED BY THE ECONOMIC SHARE OF ASSETS, MARKET, PROFITS, EMPLOYMENT, ETC. REGAINED BY THE INDEPENDENT SECTOR. Input by the small business sector before government policy is made is essential.

Resolved: The small business community must push for specific programs to strengthen and expand the independent sector of the economy, and demand statistical measurement of the success of such programs instead of "hearts and flowers" rhetoric supporting small business.

3

TWO-TIER REGULATORY SYSTEM AND USE OF "SUNSET" LAWS

The Present Situation:

Government regulation (OSHA, EPA,ERISA, etc.) has been applied equally to all companies across the board, regardless of size or impact of the company's practices upon the country, economy, or the community.

While some regulation is admittedly necessary, the comparative burden on small business of compliance with complicated and conflicting regulations has been much greater.

In many cases, regulatory agencies have sought rulings against small companies without adequate resources to fight back in order to build precedents before going after larger enterprises. In addition the agencies build batting averages by going after small business to justify larger appropriations from Congress.

Paperwork involved with government regulations is a problem for all companies, but more oppressive a burden to bear for small companies without in-house expertise or personnel to devote full time to filling out government forms.

Once created, regulatory agencies tend to be self-perpetuating, whether or not the need for regulation continues to exist. Entrenched bureaucracies promulgate more and more regulations, often without adequate input from outside the government or a mandate from elected officials beyond a general authorization.

Carter and Congress -- What Has Been Promised:

In response to an NSB proposal for a two-tier regulatory system that would set different rules and standards for smaller companies, President-Elect Carter said: "Because of their lack of ability and resources to defend themselves, small businesses are the favorite targets for the 82 regulatory agencies in Washington which last year put out some 45,000 pages of regulations. This underscores the burden forced on small businesses by Washington, and makes it more difficult for the small businessman and woman to compete with big business who can afford the best in full-time CPAs, attorneys, and lobbyists...I pledge to allow the small business man and woman to get back to running their businesses by completely reforming our federal regulatory agencies, their reporting requirements, and tax laws, to get the government off his back."

Response of Congressional candidates surveyed before the election indicated that 82.7% of those answering the questionnaire agreed that the small business should have a lighter compliance burden than larger businesses.

TWO-TIER REGULATIONS AND SUNSET LAWS -- TOPIC FOR DISCUSSION:

When General Motors and Joe's Machine Shop are asked to meet the same government standards, the two companies are not being treated equally or fairly. With respect to both substance and procedure, small business should in every case bear a different compliance burden.

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Applying different standards to different size businesses can be justified on several grounds. First, the burden of paperwork on the small business is much greater if he must fill out the same number of forms that the largest corporation is asked to complete. In addition, the social impact of practices subject to regulation at smaller companies is obviously much less that the same activity carried on by a corporate giant. Many regulations come into being as part of an effort to control the largest companies and small business is caught up in the net without regard to the impact of regulation upon it.

In addition to establishing a regulation system which would treat each company according to its size and abilities, further use of "sunset laws" should be encouraged.

Instead of setting up machinery for regulation without regard to the length of time such regulation is necessary, or the efficiency of the regulator, "sunset laws" (setting a maximum life for an agency, with specific Congressional approval needed to continue its life past the expiration date) would prevent the growth of bureaucratic power in government. Many agencies develop their own momentum for self-preservation, regardless of whether they are necessary or are fulfilling the purpose for which they are created. Sunset laws would force periodic reassessment of the need for government programs, agencies, or other entities, and require concrete justification for their continuance beyond a certain date.

RESOLVED: A "two-tier" system of regulations should be established to equalize the compliance burden of all companies. Use of "sunset" provisions with respect to existing and future government agencies should be encouraged in all cases.

5

A GRADUATED BUSINESS TAX SYSTEM

The Present Situation:

As the federal tax laws are presently constituted, small business often pays an inordinate share of taxes to the federal government. Many tax provisions benefit only the largest corporations, because small business cannot take advantage of such provisions to lower its total tax bill. The result is that the smallest businesses pay a higher effective tax rate than the largest corporations. Eleven of the largest companies in the U. S. last year paid no Federal income tax at all.

Carter and Congress -- What Has Been Promised:

While the President-Elect did not comment directly on an NSB proposal for a graduated business tax system, his statement to NSB before the election included the following pledge:

"Our tax laws are a national disgrace. Carefully contrived loopholes place an unproportional share of tax burden on small business and the wage earner and shift it away from special interest groups...As President, I will endorse legislation which will simplify our tax structure to make it fair and will work to reduce the current burden placed on small business."

A survey of all candidates for Congressional seats indicated that 79% agreed with NSB that there is a need for a graduated business tax system.

GRADUATED BUSINESS TAXES -- TOPIC FOR DISCUSSION:

The economic justification for business size is often alleged to be economies of scale. The public is entitled to share in those benefits of scale and benefits of size by having large enterprises bear a larger share of the cost of government than small ones.

Given the difficulty smaller businesses face in raising capital for investment, as compared to the ready access to capital markets enjoyed by the largest companies, lower taxes for small business would allow small companies to invest more of their income in necessary expansion and improvements, and would foster more competition by providing investment opportunities for small business.

GRADUATED BUSINESS TAX RATES MAKE JUST AS MUCH TAX EQUITY SENSE AS GRADUATED PERSONAL TAX RATES. AMONG THE TAXES THAT SHOULD BE GRADUATED: CORPORATE INCOME TAX; THE INVESTMENT TAX CREDIT; THE CAPITAL GAINS TAX; ESTATE AND GIFT TAXES; AND DEPRECIATION ALLOWANCES.

Resolved: The small business community should work for approval of a simplified and graduated business tax system.

6

JOB CREATION AND SMALL BUSINESS

The Present Situation

Unemployment and job creation will be on the top of both the President's and the Congress' priority list for 1977. At present, most suggestions for job creation and reduction of unemployment have fallen into two general categories.

The large labor unions and the liberal coalitions have backed such remedies as the Humphrey-Hawkins Full Employment Act, which would mandate a maximum rate of unemployment, and commit the government to achievement of a specific goal through public jobs programs if other remedies did not lower the rate of unemployment. Many charge that this inflationary make-work program would not contribute to the long-term solution of the problem.

Many business groups representing primarily giant companies propose the stimulation of employment by the use of an investment tax credit. The investment tax credit would not necessarily be of immediate benefit to many smaller companies, and would not result in the immediate reduction of unemployment.

Carter and Congress -- What Has Been Promised

With a Democratic Congress and a Democratic President, there is a presumption that the job creation approach of the Democratic Party Platform (i.e., the Humphrey-Hawkins Bill) will be adopted by both the legislative and executive branches.

Jimmy Carter has not commented directly on the job creation approach endorsed by several small business groups, and embodied in the Small Business Growth and Job Creation bill. However, 89.5% of the Congressional candidates (NSB Voice of Small Business Oct. '76 issue) agreed with this sort of job creation program in a survey conducted by NSB.

ANOTHER APPROACH -- TOPIC FOR DISCUSSION

A small business approach to job creation was presented to the Congress last year by a coalition of small business groups. It provided a job creation tax credit which would allow a business to take a tax credit of 50% of the cost of up to two new employees with a maximum credit of $20,000. In addition, if an employer hired persons that are determined to be disadvantaged (those that have exhausted their unemployment compensation benefits, teenagers, minorities, the aged or the employable mentally and physically handicapped), the employer could add an additional 23 persons, or a total of 25, and receive a 50% tax credit. The maximum tax credit would be increased to $80,000.

If employees were hired and were not "disadvantaged", the employer would receive a tax credit that would be related to the percentage of unemployment in his area. A tax credit would range from 50% for areas with 15% or more unemployment to 30% for areas with less than 6% unemployment. The greater incentive to hire would be in the greatest areas of unemployment.

7

Reduction of the present 8.1 million unemployment rolls by 1,250,000 would mean an estimated allowance by the Government under the tax credit of $4.6 billion. In the first year the program would be in effect, the Government would receive almost $2 billion in income and other taxes prior to the utilization by business of the job creation credit. However, if the reduced cost to the Government for unemployment and welfare payments is figured into the equation with the increased taxes collected from newly employed workers, the job creation credit could result in a net gain to the federal Government of at least $17 billion. (According to figures from the Budget Committee of the House, there is a loss to the Government of $16 billion for every 1 million Americans out of work.)

Resolved: That in the elimination of current high unemployment the small business sector be the employer of first resort, with the incentive being provided by a job creation tax credit.

8

SMALL BUSINESS PROCUREMENT POLICY AND INNOVATION

The Present Situation:

For decades, Administrations of both parties have promised small business a "fair" or "adequate" share of federal procurement (currently running close to $50 billion a year). The share of contracts actually awarded to small business has ranged from 16% to 23%, and small business subcontracting requirements have not been applied to all large federal contract agreements.

Expenditures for federal research and development have been even more concentrated towards large business. Less than 5% of the federal R&D dollar now goes to small businesses, which have historically been the most fertile spawning ground for innovations in technology.

Carter and Congress -- What Has Been Promised:

President-elect Carter made the following statements to NSB:

"I will endorse a policy which assures that small business receives a fair share of the federal procurement dollar, and encourage state and local governments to adopt similar programs ... In the past America has been the technological innovator for the world ... Studies on innovation generally indicate that the 'father of technological innovation' is a small firm creating a new product, new method, or new technology ... Inasmuch as small business is a critical essential ingredient in the creation, development and implementation of new technology, as President, I will recognize this fact and will endorse the implementation of new programs which will encourage technological innovation and thus get the American economy rolling again. These programs are essential, especially in the areas of developing alternative sources of energy, reducing our consumption of energy, protecting our environment, and in the transportation, construction, and communications industries."

Of Congressional candidates responding to the NSB survey, 82.7% agreed that firm percentage shares of federal contracts and subcontracts be set aside for small business, and that small business share of federal R&D contracts be increased to 25% of total expenditures.

GOVERNMENT CONTRACTS AND SMALL BUSINESS -- TOPIC FOR DISCUSSION:

Awarding contracts to small business and requiring small business subcontracting on very large contracts is one way the government can directly encourage the growth and health of the small business sector.

A firm minimum of 50% of prime contracts and 75% of subcontracts should be set aside for qualified small businesses, and government procurement officers should be encouraged to make bidding on government contracts more accessible and easier for small businesses than it is currently.

Small firms have traditionally given society many new products and technologies, and this should be encouraged by the government by allotting more R&D money to inventive and innovative small companies. In many cases, the

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largest corporations have a vested interest in continued use of existing technologies and products, which creates a conflict of interest in their R&D work for the government.

Even in the face of growing economic concentration in other areas, studies by the Department of Commerce and the Massachusetts Institute of Technology indicated that in 1975, small firms and individual inventors continued to account for more than one-half of all inventions and innovations. Government policy should encourage this inventiveness by making funds for research and development, as well as production capital, more readily available to small businesses.

GOVERNMENT PROCUREMENT POLICY SHOULD WORK FOR SMALL BUSINESS, NOT AGAINST IT. NEW IDEAS AND THE ENTREPRENEURIAL INVENTIVE SPIRIT SHOULD BE REWARDED.

RESOLVED: The federal government should set firm goals of 50% of prime contracts and 75% of subcontracts for award to small businesses. In addition, it should implement policies that reward innovation and encourage the traditional small business willingness to launch out in new directions by increasing small business share of federal R & D expenditures five-fold to at least 25% of the total.

10

CONTINUED INDEPENDENCE OF THE SMALL BUSINESS ADMINISTRATION (SBA)

The Present Situation

The Small Business Administration's lack of cabinet status prevents it from effectively representing small business interests within the government.

As SBA's continuency, small businesses number over 10 million and involve more than 60 million more Americans that are employed by small businesses. SBA should be given the funds, powers, and independence commeasureate with its contituents' role in the economy.

Carter and Congress -- What Has Been Promised

It is not clear at this time how President-Elect Carter's plans to reorganize the government will affect the SBA, but in a statement made by Carter to NSB, he said:

"Currently there are at least nine agencies and departments charged with the direct responsibility of assisting small business. This authority is so diluted that no single agency or department is truly accountable for the health and wealth of small businesses...Because of this confusing bureaucratic maze, the small businessman is generally at a loss in seeking assistance from the federal government. Reorganization and consolidation of these functions involved with SBA programs will be given priority in my administration."

SMALL BUSINESS MUST HELP DECIDE FATE OF SBA -- TOPIC FOR DISCUSSION

While we are not currently aware of any plans by the Carter administration to do away with the SBA, President-Elect Carter should be reminded by the small business community of his promises to give us a government open to the people and responsive to their needs.

Any plan to change the SBA, to restructure the agencies involved with small business, or to realign responsibilities for small business programs should first be approved by the small businesses themselves, and the new administration should provide opportunity for small business input in the reorganization process. Before any reorganization takes place it is essential to know something of the dimensions of the problems involved in actions of the federal government on this segment of the economy.

Rather than having its independence taken away, SBA must remain independent and must be strengthened with more personnel and more money with which to operate. Personnel is needed to represent small business before the agencies and Congress, which in the past have not considered the impact of laws and regulations on small business. Examples of the need for small business advocacy within the government abound in the OSHA, EPA, ERISA, and FEA rules and regulations.

UNTIL THERE IS ASSURANCE THAT SMALL BUSINESS INTERESTS WILL BE EFFECTIVELY REPRESENTED WITHIN GOVERNMENT, SBA MUST REMAIN INDEPENDENT AND BE STRENGTHENED.

RESOLVED: The small business community should ask President-Elect Carter to actively seek small business input and opinion on any changes in the SBA functions or authorities. The head of the SBA or any successor agency should be given full cabinet status, continued independence, and increased support for aiding small businesses.

Mr. CHERKASKY. We will now hear from Mr. Bernard Featherman.

STATEMENT OF BERNARD FEATHERMAN, THE ASSOCIATION OF STEEL DISTRIBUTORS

Mr. FEATHERMAN. My name is Bernard Featherman. I represent the Association of Steel Distributors.

We are a group of wholesale distributors throughout the country. I will attempt my remarks to be very brief, and limit it to four subjects.

I would like the two people with me, one from the West, one from the East, to say a few brief remarks.

We are concerned about tax credits, where the economic stimulus can be applied to small business directly or not just a trickled down theory, but a trickle up.

We would like to see some sort of tax credits as an economic stimuli to be given to small companies perhaps in the view of a weighted average of employment over the past 3 years, where if small business would employ additional people, they could be given some past credits, whereas if moneys are given for tax credits for investments of major tax equipment going to the larger companies, it takes 1 year, perhaps 2 years for that to truly trickle down to get our economy going, so we are concerned about getting people back to work.

We are also concerned about the regulatory agency paperwork, where duplication, both on a Federal level and a State level takes place, and it has just gotten so much out of hand, that small businesses cannot work with this, and do it economically today.

We are also concerned about product liability. We feel there should be some sort of national insurance mechanism set up which can be pooled among participating insurers, perhaps equalize the risk, because without such a backup, small businesses, in most instances will be priced out on getting insurance protection, and perhaps no insurance whatsoever.

The other phase of which we feel a concern, and very deep concern, is the dual distribution problem for many small businesses.

Both suppliers, supply and compete, and we are talking not on the question of integrity, but simply raising a question of survival.

We feel that foreign and domestic steel mills can open their own warehouses, and compete with their own distributors, and such competition cannot by economic definition be fair, and we do have specific examples to bring this out with the small businessman who is slowly being squeezed out.

These companies are being squeezed out of the competitive marketplace, and we all know what will happen when such occurs.

I would like Jerald Brownstein to take over and make a few remarks.

[The prepared statement of Mr. Featherman follows:]

February 7, 1977
Capitol Building
Washington, D.C.

Honorable Chairman Nelson and members of the Senate Select Committee on Small Business.

I am Bernard Featherman, President of Western Steel Company of Philadelphia, Pennsylvania and immediate past president of the Association of Steel Distributors. I have been asked by the Association to speak here on behalf of our members.

The Association of Steel Distributors is a national association of privately owned steel warehouse distributor businesses. We represent 240 small businesses in this field throughout the country, with average annual sales in the 5 million to 25 million dollar range and a total gross sales in the range of 2-1/2 billion dollars. We employ in excess of 7000 people directly and indirectly we employ and create work for over 40,000 people in various categories of suppliers, sub-contractors, truckers, fabricators and other servicing organizations.

The Association of Steel Distributors has some concerns which we hope your committee will be able to address in the Congressional session. First and foremost is our concern about maintenance of an elected body bearing primary responsibility for the welfare of small business in this country. We are delighted that in the recent re-organization, this committee was successful in convincing the Senate of its importance. It is essential that this committee be retained, and that small businesses in this country have a group of senators sensitive to their problems.

Small businesses are besieged today. The number of operating small businesses of all types is decreasing absolutely each year, in spite of population growth. Business is becoming more and more concentrated with not only less individual firms, but less proportion of all business being done by small businesses.

Small business is the backbone of capitalism. The classic economic theory of Adam Smith requires for successful capitalism and true competition, a market place of small firms, similar to small farms, with none large enough to alone substantially affect the market for its goods. Clearly, this is not the case today. The big companies get bigger and the small companies get bought, merged or taxed away or become victims of unfair price competition or cut-offs of supply lines from suppliers looking to develop total vertical integration.

Small businesses must have this Senate Select Committee which is charged with a special concern for our problems, available to hear about and respond to small business concerns with sensitivity and awareness.

There are several issues which the Association of Steel Distributors would like to see this committee examine. First and foremost is the problem of economic recovery. Small businessmen, like all Americans, want to see the economy stimulated, but we hope that stimulus applied will benefit small businesses directly, not just depend on trickle-down. Some types of tax credits often used as economic stimuli can only be taken full advantage of by large companies and too long a time period elapses before large company

benefits get passed on to smaller companies with whom they deal. Economic stimulators should be aimed directly at consumers and small businesses, from when they will trickle up quickly enough to large companies.

A second concern is with bureaucratic demands on small businesses. When new legislation is passed, information reporting requirements are often staggering. Big businesses may be able to absorb such costs. Many small businesses cannot, they lack the sophistication, the personnel, expensive record-keeping systems and the money to be able to afford to meet the constant expansion of government-required paperwork thrust on them. Some of the members of this committee are highly sensitive to this problem, and hopefully will continue to deal with it. The most prevalent reporting duplications are between federal and state agencies. Why not make relevant federal data available to states, where deemed appropriate?

Third, product liability has become a great problem and threat to business. Torts cases has expanded heavily this year into the area of product liability. The problem for businessmen is not only the enormous increase in the cost of product liability insurance, but as well, the unavilability of such insurance in many fields and areas. A firm with a good record in a field where competitors had problems, might find themselves, through no fault of their own, unable to purchase insurance or at such high costs, they are unable to stay in business.

What is needed is a national insurance mechanism, where risk is pooled amongst participating insurers. Without such a backup, small business unable to get insurance protection may close their doors rather than continue operations and work in the face of possible business-wrecking lawsuits.

Fourth, dual distribution continues to be a serious problem for many small businessmen. For some of our members, it is critical. Suppliers both supply and compete. Some, upon deciding to compete, solicit customers they shipped to for us, at prices sometimes temporarily lower than they sell us. For distributors who complain, cutoffs can occur. Forgetting the issue of integrity, we may simply raise the question of survival. If foreign and domestic steel mills can open their own warehouses, and compete with their own distributors, such competition cannot, by economic definition, be fair. Such restraint of trade eventually costs all Americans, both in terms of dollars, and in terms of survival of a truly competitive marketplace. For we all know what happens to prices after the small businessman is pushed out of business.

STATEMENT OF JERALD BROWNSTEIN, NATIONAL VICE PRESIDENT, EASTERN REGION OF THE ASSOCIATION OF STEEL DISTRIBUTORS

Mr. BROWNSTEIN. With respect to the latter, many of our membership are running into the problem of not just imports, which has been a problem in steel for many years, and with wnich we more or less have learned to live with, but with the expansion of dual distribution into a foreign problem as well as a domestic one.

Foreign steel mills are investing heavily in the United States and purchasing steel mills here, but more importantly purchasing steel service centers; and they do not appear in all cases to be profit motivated.

Our members find it difficult to compete with distributors who are not profit motivated. That is a particular problem with many of our membership, and particularly in the gulf port areas, and the west coast.

The second area that we think is important for this committee to consider is to meet the problem of long-term debt financing.

Small business needs to wait for finance growth; 5 to 10 to 20 years of loan money is simply not available to small business. They cannot float bonds and debentures. We think this will be an area where legislation will be of some help.

Mr. CHERKASKY. For our record, could you please identify yourself.

Mr. BROWNSTEIN. I am Jerald Brownstein, national vice president of the Eastern Region of the Association of Steel Distributors.

Mr. CHERKASKY. Thank you.

[The prepared statement of Mr. Brownstein follows:]

REPORT TO U.S. SENATE SMALL BUSINESS COMMITTEE

FEBRUARY 7, 1977

LADIES AND GENTLEMEN:

I am Jerald Brownstein, Vice President of Delaware Steel Company, Bala Cynwyd, Pennsylvania.

I am here today representing the Association of Steel Distributors, Incorporated, of which I am Vice President of the Eastern Region. The Association of Steel Distributors is a National Trade Organization, representing over 200 small independent businessmen.

As you know, our group has supported the work of this committee in the past. We will continue to do so in the future. Further, we appreciate the staff's indulgence in allowing us to have three of our members, including myself, present here today.

Those matters to which Mr. Featherman and Mr. Seliger have addressed themselves are real problems to our members. Thus, we welcome the chance to come to Washington today to voice them to you.

Dual-distribution, (foreign and domestic), acceleration of depreciation rates, double taxation on dividends, mountainous paper work, Product Liability Insurance and OSHA enforcement are but a few of the matters of the battles which confront us every day.

You should know that we see them as a challenge which we can meet and, with your help, overcome. Dual-distribution is acceptable only if the distributor is profit motivated and not a predatory pricer or an instrument of another Government's social welfare policies.

More rapid depreciation rates will stimulate our members to purchase much needed capital equipment to enable them to be the most productive producers of profit in the world.

An orderly capital structure which will attract outside investment into small business and one which will not unduly burden our heirs is much needed.

Most small businessmen in steel cannot afford to have a full time safety engineer. Outside safety consultants are expensive. Why can't a small U.S. businessman call OSHA for their non-punitive inspection and recommendations?

We welcome the opportunity in the future, Mr. Chairman, to make known to the staff of this committee our views.

Jerald J. Brownstein
Vice President - Delaware Steel Company,Inc.,

And
National Vice President - Eastern Region
of
Association of Steel Distributors, Inc.

Mr. CHERKASKY. We will hear from Mr. Louis Seliger.

STATEMENT OF LOUIS SELIGER, NATIONAL VICE PRESIDENT OF THE SOUTHERN REGION, ASSOCIATION OF STEEL DISTRIBUTORS

Mr. SELIGER. I am Louis Seliger, Texas, national vice president, Southern Region, Association of Steel Distributors, and in polling a few members in Texas and in Oklahoma, there were three subjects that I wanted to add to those remarks that Bernie and Jerry had to say.

The subject, without going into elucidations, the double taxation of dividends, because in a small privately owned business, family owned business, the only area of financing, of growth, must come from their earnings.

They are without capability of floating bonds, selling more stock, they simply must generate their own capital for survival and growth.

One of our members in Oklahoma wanted me to bring to the attention of this group the depreciation rate. This company just replaced a diesel truck that cost him $23,000, 7 years ago, and he just replaced it with a $41,000 piece of equipment, a difference of $18,000 that he has had to invest, and he is back where he was 7 years ago.

We need a depreciation rate based upon replacement. We feel we should be able to call upon OSHA for a nonpunitive requested inspection.

Finally, philosophically the problems of small business past up to the present complexity of the business community, it must have the ability to pass on by inheritance, and a perpetuation of its business beyond one generation.

This is a threat to small business in this country, and the importance of small business we feel because it has been a part of America that people could go into their business, to be their own businessman, and to have the ability to do something on their own.

It is part of the fabric of the American dream. We feel it must be maintained.

Thank you.

Mr. CHERKASKY. Thank you.

We will now hear from Dr. Samuel Z. Cardon, president, American Association of Small Research Cos.

STATEMENT OF DR. SAMUEL Z. CARDON, PRESIDENT, AMERICAN ASSOCIATION OF SMALL RESEARCH COMPANIES, GENERAL TECHNICAL SERVICES, INC., UPPER DARBY, PA.

Dr. CARDON. Thank you.

My name is Sam Cardon, American Association of Small Research Companies.

Our association feels that the basic philosophy ought to be more business for small business.

We think many a time most subject survival problems of small business will disappear for small business, where they did enough business.

I, for one, would not mind paying the taxes, if I had the income to pay the taxes with.

Without income and profit, I have problems getting equipment, hearty and capable people, raising capital, and tax benefits do not help at all.

Therefore, I am for more business for small business, and I suggest the Senate Small Business Committee do something about this problem, that it is time for this session of Congress to take possible action, and these are mostly in the technically based fields, but I think they will carry over to a lot of the other fields, Government business particularly, as is done for universities, have the agency set aside a portion of their funds for grants and contracts to small business, and, of course, where appropriate and technically based small business, this should be especially true in agencies like ERDA, DOD, NASA, HEW, GSA, and so forth.

It may be necessary to specifically authorize the issuance of grants to small companies. Traditionally, this has worked out both legally and traditionally, where grants are reserved for nonprofits, and for universities, and for companies, especially small companies, are particularly kept out of very large areas of Government money.

I understand the bill is in preparation in the House of Representatives, one provision of which is to try to do this.

I would recommend that cooperation with the people in the House would be in order. Specifically, to help small R. & D. firms, and entrepreneurs, I would recommend an organization be considered similar to that identical to the National Research Development Corporation in England.

That support promising new ideas with money, if any inventor can evaluate his invention, and it gives him the profit potential to develop, and if deemed worthwhile, it helps him promote commercialization activities, even if this requires forming a new company.

ERDA almost has authority already for such all inclusive activities, but does not appear to be doing them at all levels.

If they do not have the authority, the Congress should give it to them; however, an authorization for all inventions in all fields would be desired.

A bill in production in the last Congress by Senator Javits proposed a reconstruction-type activity for promising new companies. It was a strong step in the right direction, and we are sorry it was not considered in that Congress.

We proposed a stronger total activity, in the hope this committee will spearhead its acceptance.

We understand the bill is in preparation in the House, that it does have features which will go toward this a long way as a concept.

A longstanding recommendation of our association, and incidentally, the Congressional Commission on Procurement Practices wants no barriers be put in the way of grants, contracts, and unsolicited proposals.

This happens to be I think a most important step for the small R. & D. people, and I still think you ought to consider it very seriously.

ERDA officially is moving in this direction, though I was told by a program manager in ERDA that this particular thing had not been responded to favorably—that is, to any unsolicited proposals—and that may be why we do not get the ideas out of ERDA.

If you want ideas, I suggest you force the submission of new ideas.

The Department of Defense and NASA have long seen the value of this procurement method and have fostered it.

We suggest a concept of cost savings be eliminated, especially for small businesses, who have trouble competing, without the additional cost-sharing burden.

I am a member of the ERDA Procurement Policy Advisory Board, and I have learned this, it is apparent to me that simplification of the procurement process, with small contracts, would help reduce paperwork, contracting, and so forth. Paperwork would be reduced, and more time could be devoted to useful productive output.

I would also recommend the committee and its staff study the proceedings of conferences and workshops run by our association in the last 5 years. These include recommendations for administrative actions for small based companies to help them prosper.

I would also recommend as part of this committee's responsibility on the part of the SBA, that you consider the potential value of the research and planning.

In the last few months, because of requirements in other parts of SBA, consider it more important, in support of the research and planning activities, they have been reduced to zero, causing practically a cessation in such activities.

We consider this to be very shortsighted on the part of the administration and the Congress, and we hope you will support the research activities and recognize that only such activities of the SBA provide for future planning and guidance for small business survival in this country.

Mr. CHERKASKY. Could you send us a working paper on this?

I do not think we have them on file.

Dr. CARDON. I hope, Mr. Black, you are taking copious notes.

Mr. BLACK. Very much so.

In fact, I am taking so many votes, that I can hardly keep up.

I would appreciate a copy of anything that Dr. Cardon has here, that it be directed to our office, because we can follow through from this.

Mr. CHERKASKY. You should hand it to the administrator, whoever he may be, past or present.

Thank you very much. That is very good.

Could we have a copy of that?

That is your only copy?

Dr. CARDON. I have another copy.

Mr. CHERKASKY. Thank you.

[The prepared statement of Dr. Cardon follows:]

STATEMENT OF DR. SAMUEL Z. CARDON, PRESIDENT, AMERICAN ASSOCIATION OF SMALL RESEARCH COMPANIES, GENERAL TECHNICAL SERVICES, INC., UPPER DARBY, PA.

The American Association of Small Research Companies has as its motto "More Business for Small Business". We think many, if not most, of the survival problems of small business would disappear if the small business, whether R. & D. or other types did enough business. I, for one, wouldn't mind paying income taxes if I had enough income. Without income and profits, I have problems getting equipment, hiring capable people, raising capital, etc., etc., and tax benefits don't help.

Therefore, toward a goal of "More Business for Small Business", and in particular, the technically based small company, I suggest the Senate Select Small Business Committee place high on its agenda for this Session of the Congress, the following possible actions:

1. As is done for Universities, have the agencies set aside a portion of their funds for grants and contracts to small business, and where appropriate, to technically based small business, i.e., in ERDA, DOD, NASA, NSF, HEW, GSA, etc.

It may be necessary to specifically authorize the issuance of grants to small companies.

I understand a bill is in preparation in the House of Representatives, one provision of which is to do this.

2. Specifically to help small R. & D. firms and inventor-entrepreneurs, I would recommend that an organization be considered similar though not identical to the National Research and Development Corporation in England. That quasi-government corporation supports promising new ideas with money, helps an inventor evaluate his invention, helps him reach proper potential developers of his invention, and if deemed worthwhile and helps in promotion and commercialization activities, even if this requires support in forming a new company. ERDA almost has authority already for such all inclusive activities but doesn't appear to be doing them at all levels. If they do not have the authority, the Congress should give it to them. However, an organization to cover all inventions would be preferable and desirable.

A bill introduced in the last Congress by Senator Javits proposed a "Reconstruction Finance Corporation" type activity to provide support for promising new companies. It was a strong step in the right direction and we were sorry that it was not considered in that Congress. We propose the stronger "total" activity and hope this committee will spearhead its acceptance by this Senate. We understand the bill in preparation in the House referred to above, does have features which go a long way toward this all encompassing innovations-aid concept.

3. A long standing recommendation of our Association, and incidentally the Congressional Commission on Procurement Practices, has been that no barriers be put in the way of granting sole source contracts in response to unsolicited proposals. ERDA officially is moving in this direction, though I was told by a program manager in ERDA that his particular group had not responded favorably yet to any unsolicited proposal. If you want new ideas, I suggest you foster the submission of new ideas through sole source awards in response to unsolicited proposals. The Department of Defense and NASA have long seen the value of this procurement method and have fostered it.

4. We suggest that the concept of "cost sharing" be eliminated, especially for small businesses who have trouble enough competing without the additional cost-sharing burden.

5. I am a member of the ERDA Procurement Policy Advisory Board and it is apparent to me that simplification of the Procurement Process, in small contracts, especially, would help greatly to reduce paperwork, delays in contracting, etc. Reporting requirements could be reduced without seriously affecting the quality or quantity of research output. Paperwork would be reduced and more time could be devoted to useful productive output.

I would also recommend that the Committee and its staff study the proceedings and reports of Conferences and Workshops run by our Association in the last five years. These include recommendations for legislative and administrative actions that the Community of Small Technically Based Companies has considered would help its companies survive and prosper.

I would also recommend that as part of this Committee's responsibilities on the Small Business Administration, you consider the potential value of its Research and Planning Division. In the last few months, because of requirements in other parts of SBA, considered more important, the support of the Research and Planning Activities has been reduced to near zero, causing practically a cessation in such activities. We consider this to have been very shortsighted on the part of the Administration and the Congress and hope you will take appropriate action to support these activities, recognizing that only through such activities can SBA provide for future planning and guidance valuable to small business survival in this country.

Mr. CHERKASKY. We will now hear from Mr. Brooks.

STATEMENT OF WILLIAM M. BROOKS, PRESIDENT, NATIONAL ASSOCIATION OF WHOLESALER-DISTRIBUTORS, ATLANTA, GA.

Mr. BROOKS. Thank you very much.

Mr. Chairman, in addition to speaking as president of the National Association of Wholesaler-Distributors, I also would like to say that I am a very small businessman.

There are several subjects here that I think would be of interest, certainly to us.

No. 1 is product liability. I was fortunate enough to be appointed to the Advisory Commission to the Interagency Task Force on Product Liability.

The report which was released has some good things to it, but we have a long, long way to go, and I would like to see the Small Business Committee consider some type of reinsurance program to allow insurance companies to continue their insurance programs to protect, not only small business, but all business in this product liability area which promises to make malpractice suits very inconsequential in comparison.

This of course could be a program, on a voluntary basis, and having a termination date of maybe 3 or 5 years, or whatever you feel is necessary to establish it.

No. 2, something we have been working at for the past couple of years is an increase in the exemption of corporate taxes, of $100,000 on a permanent basis.

As we all know, the $25,000 exemption was established many years ago. We know what inflation has done since then, and we feel the increase to $100,000 would help to restore badly needed purchasing power. The effect has been bad on business as a whole, but particularly bad on small business.

This exemption would also help to finance growth, which is desperately needed.

The other subject would be double taxation of dividends. We feel that to stimulate capital formation, there should be some plan for gradual, and perhaps eventual elimination entirely of double taxation of dividends.

Not only would this help business, but it certainly would help the individual taxpayer, and would be even a greater advantage to the small businessman in the lower income tax bracket than it would be to those in the higher income tax bracket.

Mr. Chairman, those are just three of the numerous things we are interested in, but we think they should be of very much interest to pursue.

Mr. CHERKASKY. Thank you.

We will now hear from Mr. McCamant. Mr. McCamant, would you like to state something?

STATEMENT OF WILLIAM C. McCAMANT, EXECUTIVE VICE PRESIDENT, NATIONAL ASSOCIATION OF WHOLESALER-DISTRIBUTORS

Mr. MCCAMANT. I would like to add, if we could get priority, it would be to convert OSHA from a punitive program into an enhancement program.

This is something of importance to small businesses who cannot afford professional engineers, and No. 2, to reduce the strenuous efforts required of small business in connection with paperwork. I realize that the Commission on Federal Paperwork is working on this, and I would like to say contrary to what you think, that in our hearts, this committee will always be the select committee.

Mr. CHERKASKY. OK. I will accept what your heart has to say.

Let me say for the benefit of this group that is assembled and the staff, after we have all gone through this drill, the staff will be asked to respond to many points we have been asked to cover.

At least, you might be surprised on some of these points, such as product liability, obviously, it is a problem that we are all concerned about, and we have been involved with, and that we will respond to.

[Mr. McCamant supplied the following information:]

SUGGESTED TOPICS FOR EXAMINATION
BY THE
SENATE SMALL BUSINESS COMMITTEE

I. Product Liability -- possibly a stop-gap program to provide reinsurance to casualty companies to expand their capabilities. Such a program is envisioned as being voluntary and would have a termination date of from 3 to 5 years.

II. Increase in the Corporate Surtax Exemption to $100,000 on a permanent basis -- this would restore the purchasing power of the exemption when it was first established at the $25,000 level in the 1930s. Because the exemption has not been increased to $100,000, the effective rate of corporate taxation on smaller businesses has actually increased at a greater rate than on larger businesses.

III. OSHA -- investigate how small business enterprises are affected by OSHA regulations which might lead to a simplification of the regulations and permit on-site consultative inspections. This would convert the OSHA program from a penalty program to a safety enhancement program.

IV. Paperwork -- continue the investigation of paperwork problems encountered by smaller business enterprises; cooperate as feasible with the Commission on Federal Paperwork.

V. Double taxation of dividends -- in order to further stimulate capital formation, we believe there should be planning for the gradual and eventual elimination of the double taxation of dividends, so that this dividend passed on to the shareholder would not be taxed at the corporate level, but would be taxed only as personal income. The benefits of elimination of the double taxation of dividends would accrue to a greater degree to those in lower income brackets than those in higher income brackets.

Mr. CHERKASKY. We will now hear from Mr. Bison.

STATEMENT OF HENRY BISON, NATIONAL ASSOCIATION OF RETAIL GROCERS OF THE UNITED STATES, INC.

Mr. BISON. First, we would like to see some effort made in pointing out the harm of indexing the minimum wage.

We need statistics, we need basic understanding of the issues.

Second, there ought to be some effort made toward a special simplified subminimum wage for youth.

I know that is a controversial issue, but I think the Small Business Committee can work on it.

Under OSHA, Bill McCamant just mentioned it, more emphasis should be placed on the education and less emphasis on punitive action.

Under ERISA, there is a need to simplify the recording requirements for small business companies. Administration of this program is a tremendous problem. Finally, under the new reform tax law, some effort should be made to look into the effect of holdover basis, and the fresh start provision on small business, especially those firms which are successful.

Mr. CHERKASKY. Do you have any figures on the number of members of your association who have canceled a pension plan because of the reporting requirements?

Mr. BROOKS. No, we do not. Mr. William McCamant of NAWD is going to furnish you with some documents pertaining to my remarks.

Mr. CHERKASKY. We would like to say that if any of your associations have any reports or surveys, we would like to have those to bolster the record on whatever point you are trying to make.

As you know, the Senators like testimony from individuals, but they also like to have what the experts say, so if you have those, let us have them, if you will.

We will now hear from Mr. David Weatherup, vice president of the Small Business Council of Greater Syracuse Chamber of Commerce, Inc.

STATEMENT OF DAVID WEATHERUP, VICE PRESIDENT, SMALL BUSINESS COUNCIL, GREATER SYRACUSE CHAMBER OF COMMERCE, INC.

Mr. WEATHERUP. I am David Weatherup from the Small Business Council of Syracuse, N.Y.

One point I would like to bring up, I am also a member of the International Industrial Association, of which I just returned from a meeting with them.

I am basically a subcontractor, and I would like to see the enforcement of the philosophy of the sunset laws, where agencies can be dismantled or restructured.

I feel that action needs to be taken to insure that legislation is enacted according to the desires of Congress, rather than in accordance to the wishes of the bureaucratic agencies.

Speaking from the heart, I think that the Equal Opportunity Employment Act was a great act, but when I get a contract, I have to make a weekly payroll report to some bureaucratic agency that loses them constantly, and I think that was not the intent of the law, and I will defer to Mr. Anderson.

[The prepared statement of Mr. Weatherup follows:]

SMALL BUSINESS COUNCIL
GREATER SYRACUSE CHAMBER OF COMMERCE
1700 1 MONY Plaza, 100 Madison Street, Syracuse, New York, 13202, (315) 422-1343

Recommendations Prepared For
Select Committee on Small Business
United States Senate
Relative to the Formulation of New Policies
Monday, February 7, 1977 - 9:30 A.M.

My name is David B. Weatherup, President of Central Fence of Central New York, Inc. and Vice President of the Greater Syracuse Chamber of Commerce's Small Business Council. Accompanying me is Mr. Philip D. Anderson, President of Anderson Metals Company and Chairman of our Small Business Council's Legislative Committee. Mr. Anderson and I are appearing on behalf of both ourselves and the eleven hundred (1100) member businesses of the Greater Syracuse Chamber of Commerce with between 0 - 50 employees in order to provide you with some of our concerns relative to operating a small business.

As background information, the Greater Syracuse Chamber of Commerce (representing the business community of Onondaga County, New York; population 475,000) formed its Small Business Council in June, 1976. The objective of our Small Business Council is to develop a program which provides smaller firms in the Syracuse community with the ability to formulate new business contacts and to join with one another to provide a collective voice which will express the desires of small businesses in a meaningful and effective manner. In this regard, our Small Business Council looks forward to joining forces with small businessmen at the local, state and national levels in order to make our wishes known. Both Mr. Anderson and I appreciate the opportunity to present our viewpoints and we wish to thank Senator Nelson and other distinguished members of the Select Committee on Small Business for inviting us to this meeting.

It is our understanding that the Select Committee on Small Business has the power to enact legislation pertaining to the Small Business Administration. Therefore, our Small Business Council would like to propose two (2) suggestions, which we believe will be beneficial to small business, for your consideration. They are as follows:

(1) Congress should allocate more funds for the Small Business Administration's direct money (502) programs. In this fashion, small business can take advantage of the lower interest rate on the SBA portion of the loan. This will help stimulate and facilitate expansion by small business in the community.

(2) Standardize the interpretation of what data is required in order to obtain an SBA loan. Although applications and regulations have been simplified, delays in processing the applications are encountered because of varying interpretations on what back-up material is required before making a loan. The process must be "streamlined" in order to prevent borrowers from being discouraged and to create additional interest on the part of the banks to participate in these loan programs.

Although the powers of the Select Committee on Small Business are limited in scope, the Greater Syracuse Chamber of Commerce's Small Business Council believes there are six (6) other areas of prime importance which should be considered by the Select Committee on Small Business which are as follows:

1.) Preserve the Select Committee on Small Business as a separate and distinct committee with the Senate and expand its power to enact legislation which effects the Small Business community.

2.) Develop tax benefits and/or rebates which are based on additional capital investment and/or job opportunities created by small business. We also support some of the Treasury Department's Small Business Advisory Committee on Economic Policy recommendations which are:

(a). Increasing the surtax exemption.

(b). Raise the ceiling on accumulated earnings.

(c). Allow income averaging by permitting Small Busines to carry over unused surtax exemptions.

(d). A working capital investment tax credit of 10% on the first $250,000 of earnings whether or not businesses use the investment credit provisions in the law.

3.) Coordinate with other committees and leaders of Congress to devise a national energy policy in order to preserve jobs and stabilize the economy. Congress must make a commitment of resources in terms of both time and money to develop alternatives to existing sources of energy (a commitment similar to the program to put a man on the moon developed in the 1960's) so that the entire United States will continue to derive the energy needed to provide goods and services.

4.) Initiate the necessary studies and systems which will result in a reduction of the required paperwork which must be completed for different agencies. This can be accomplished by analyzing different reports in order to develop a systematized and consolidated form for reports. Because of the short notice of this meeting, we are not prepared to recommend specific reports or forms which can be consolidated. However, we would like to refer you to some suggestions promoted by Price Waterhouse and Company in September 1974:

(a). Establish uniform reports to be used throughout the various jurisdictions, or use the federal forms for all jurisdictions.

(b). Eliminate the census and statistical data returns currently required; the evidence indicates that the statistical data generated is little used by members of the industry.

(c). To the extent such information is vital, collect all census data on the tax forms.

(d). Use the federal income tax base as the base for all income taxes, thereby eliminating different calculations for different jurisdictions.

(e). Make the period covered by each report the longest period practicable, thereby reducing the number of reports required during any given year.

5.) Enforce the philosophy of the "Sunset Law" so that antiquated agencies can be dismantled and acts such as the Occupational Safety & Health Act and the Employment Retirement Income Security Act (which are such an onus to the small businessman) can be restructured. Action needs to be taken to insure that legislation is enacted according to the desires and original intent of Congress rather than according to the wishes of bureaucratic agencies.

6.) We urge the Select Committee on Small Business to closely scrutinize special interest legislation and defeat any legislation which tends to be restrictive in nature. An example of this is the Common Situs Picketing bill.

We oppose negative legislation which includes Common Situs Picketing in the construction industry which would exempt construction trade unions from the ban on secondary boycotts, and give them the ability to completely close down a construction project in this country. Trade Unions already have adequate picketing rights, and their successes in resisting technological change and receiving high wages for their members prove their effectiveness.

Additional special interest powers such as legalizing boycotts against innocent businesses will cause a decrease in production, will increase costs and increase unemployment in the construction industry. In addition, it will affect every small business whose product or service can be curtailed for the benefit of the strikers.

It is this type of legislation which makes it so difficult for small business to compete and survive.

The Greater Syracuse Chamber of Commerce's Small Business Council thanks you for the opportunity to present our viewpoints, and we look forward to working with the Select Committee on Small Business in the future.

STATEMENT OF WILLIAM ANDERSON OF THE SMALL BUSINESS COUNCIL

Mr. ANDERSON. Thank you very much.

I am speaking on behalf of the Small Business Council, as well as myself, as a small businessman.

I am president of Anderson Metals Co., which are manufacturing agents, representing strictly steel mills.

I also have three sons and a daughter, and one asked why I spend so much time on the small business problems, and the answer is if I do not do it, or some other people do not do it, that the possibility for my children to get into business for themselves will not exist at the time of their age to do so.

The possibility of getting into small business is on the basis of our economy, and I believe some action has to be taken at this time.

We have submitted a position paper outlining a number of topics of which we are interested in.

I want to mention a couple of them very briefly.

We believe that an energy policy has to be formulated. As you know, in our neck of the woods, upstate New York has been hit quite extensively.

Speaking from a small businessman's standpoint, I am a supplier which is just starting back to work, after 10 days' shutdown because of lack of natural gas.

Last Monday they chartered a plane, and went out all over the Northeast United States, as well as into Canada, to locate outfits that could do some thermal treatment, and the reason they are starting back to work, is they located two outfits in Canada who had gas to spare, who do some thermal treatment for them, and another outfit in Pennsylvania, which has electrical power to do carburizing.

In touching on items that you said were other than what you are now concerned with, one that is of concern to this committee that has jurisdiction right now, and that can submit legislation on the Small Business Administration, I believe that it is a must that this committee get the power to submit legislation on anything affecting small businesses.

There are a great many things affecting small businesses, a number of which are negative, negative for us, which is of main concern to small business, the common situs picketing.

We believe that trade unions at the present time have adequate picketing rights, and common situs picketing puts an unfair bargaining power in their hands.

Small business comprises 90 percent of a construction job, or a main job, 90 percent of it is subcontracted, and most of this is to outfits that are considered small business.

The possibility of knocking down a job because of common situs, the possibility of happening is great, and the damage done to small business has a greater impact on small business than anything else.

Mr. CHERKASKY. I would like to get to that point about giving more jurisdiction.

We have passed a resolution which gives us more jurisdiction over the SBA.

We did not think that was enough jurisdiction, but we did have a suggestion which did not pass. It just did not work.

We will try to get it in next year.

We have some thoughts along that line too; however, I will tell you, it has always been the problem of trying to establish what are the problems of small business, because they cut across so many jurisdictions.

It goes into every bit of our society, and there is no way to determine what is not small business.

Mr. ANDERSON. A suggestion, to tell you what we have done in Syracuse on that particular problem, we formed a small business council out of the chamber of commerce, because a great number of people thought the chamber of commerce was being run by people as General Electric, the banks, or the Carrier Corp.

The first question comes up what is small business, and we are something like 1,300 members in the Syracuse Chamber; 1,130 of them employ under 50 people.

There are some firms employing under 50 people that will do in sales something like $15,000 worth of business.

We are not able to tack it down to a number of employees or sales.

What we have come up with is that you are what you think you are.

The Hotel Syracuse is a member of our council. A number of people who look at them think of them as big business.

In comparison to the Sheraton Hotel, they are not big business, so we have come up, if you think you are small business, then you are small business.

That is the way we have answered the problem.

Mr. BLACK. One of the problems, you are well aware, as a procurement, you will have a lot of controversy of who thinks they are small and who thinks they are not small, and this can run anywhere as far as SBA's standards from say $2 million retailing, at the retailing and service area, up to maybe 1,500 employees, or 15,000 barrels a day in the oil refining business, so you have got a very broad spectrum there to judge by, and I think you have to take a look at it from the manufacturing, wholesale, retailing, all of the other aspects of the economic structure before you can justify that they belong to small business.

Mr. CHERKASKY. One more quick comment.

Mr. HONIG. I just want to comment on the fact that we all recognize that SBA has size standards for bidding on Government contracts.

That certainly has no relevance whatever as to why we are here and what we consider small business. I think that a great danger that constantly occurs at these meetings is the Small Business Administration standards for small business gets mixed up with the definition of what a small business is.

Mr. CHERKASKY. We are concerned about it.

Mr. HONIG. Along that line, it may well be that your committee should establish some standard for small business.

Mr. CHERKASKY. OK. Thank you.

We will now hear from Mr. Marvin Leffler, chairman of the board of the National Council of Salesmen's Organizations, Inc.

STATEMENT OF MARVIN LEFFLER, CHAIRMAN OF THE BOARD, NATIONAL COUNCIL OF SALESMEN'S ORGANIZATIONS, INC.

Mr. LEFFLER. I do not have a formal paper. I would like to submit one for the record, but I would like to make an observation.

The National Council of Salesmen's Organizations has really a double interest in the small business community.

First, we salesmen are a small business of our own as an independent sales representative, and, secondly, about 97 percent of the companies we represent are small business people, and we have noticed over the years that every time the Congress takes aim at a problem affecting big business, it is the small businessman who seems to wind up with a punch in the nose. I wonder if perhaps it could not be a function of the Senate Small Business Committee, at least on the Senate side to take action similar to the inflationary impact statement that has been required a couple years ago on some new legislation by reviewing legislation intended to regulate business in any form, and make an evaluation as to the impact of the proposed legislation on the small business community.

Many of the problems we have today are not because someone intended to hurt us, they intended to solve a problem existing, and they did not realize that the small businessman was going to be affected by the overflow of this legislation, so that if we did nothing else but review proposed legislation, and say to the small business community, this would have a certain result, I think we would stop a lot of problems before we start.

Now, since this is a priority meeting, I would just tick off our own priorities.

We think No. 1, the product liability insurance situation is the foremost problem for the people we are in touch with.

No. 2, we think the problems of financing and taxation which have been referred to here should be studied.

No. 3, the question of energy impact on the small business community, and No. 4, the utilization of the Small Business Administration to do things other than merely provide financial assistance, but to help us in the areas of consultation, advise, guidance, and so forth.

Thank you very much.

Mr. CHERKASKY. Thank you.

We will now hear from Mr. Joseph G. Knight, chairman, National Council of SCORE and ACE, Warwick, R.I.

STATEMENT OF JOSEPH G. KNIGHT, CHAIRMAN, NATIONAL COUNCIL OF SCORE AND ACE, WARWICK, R.I.

Mr. KNIGHT. My name is Joseph Knight, chairman of the National SCORE Council, and we are engaged as a volunteer organization in assisting small businesses either before they get into business or after they are in business with their various management problems. Our members serve without compensation. We are supposedly reimbursed for out-of-pocket expenses.

We see the need for a number of changes in the Small Business Act as it applies to the Small Business Administration, because a number of changes have come about which have not been recognized by law, and therefore are required.

For example, right now we are operating under a Presidential order transferring us from dual control of SBA and ACTION to SBA alone. We need legislation to make this a permanent status.

We need legislation in some form or another to enable us to do the job we set out to do, which is currently, this year, we will probably talk to 100,000 people in workshops, trying to teach them the fundamentals of good business management, hoping that by our counsel they will do one of two things, either go into business and be successful, or not go into business and therefore avoid the obvious failure.

We will talk to another 100,000 people on a person-to-person counseling basis, where they can sit down with a volunteer, discuss their problems, and if necessary, we can bring in a team of necessary experts to help them with their particular problems.

None of these things can be done unless various changes are made which will help us in many ways.

For example, our members need malpractice protection, and we think that this is a fair request if we are going to give this kind of service.

We need some kind of support for advertising. I am sure that nobody here knows of any way of selling his servicce to the general public of this country without advertising, yet there is no provision for it within the act.

What little we have had has been by wheedling, persuasion, in some cases by begging or borrowing, and this is not a good way to carry out an advertising program.

Some years ago the Readers Digest came out with a two and one half page story about SCORE. Within less than a week, our requests for assistance went up by almost 50,000, and there has never been anything to duplicate it, which more or less proves the point.

We must be advertised if we are to do the job of helping small business. For our many budgetary needs, we will not go into that now, and we will submit a paper later, Mr. Chairman for your consideration.

One thing is for sure, you cannot run a program nationwide with almost 10,000 members without having space.

We have volunteers working in hallways, cellars, in their own homes, trying to help the small businessman, which is not a very professional approach. Unfortunately the Small Business Administration is not permitted to hire by law any space for us, unless they have an office there, and I am quite sure that they have no interest in expanding to all the localities where we are needed.

Basically, we are asking for help from the Congress and the people of the country in order to be able to help the people of the country, and I do not know of any way to make it more simple, more direct.

We want to do the job, given the necessary support, we can do it. Without it, we cannot do it.

Mr. CHERKASKY. Thank you.

We will now hear from Dr. Ole S. Johnson, president, National Council for Small Business Management Development, Norfolk, Va.

STATEMENT OF DR. OLE S. JOHNSON, PRESIDENT, NATIONAL COUNCIL FOR SMALL BUSINESS MANAGEMENT DEVELOPMENT, NORFOLK, VA.

Dr. JOHNSON. Thank you.

Mr. Chairman, my name is Ole S. Johnson, president of the National Council for Small Business Management Development, Norfolk, Va.

Our organization is a rather unique one, and it was formed as a re-

sult of a 1956 seminar sponsored by the Ford Foundation; it officially became a council in 1957, so we are now in our 20th year.

The purpose of this council has remained the same throughout those 20 years: To stimulate its members to assist, through managerial development, small business to operate more effectively and profitably. The basic objective is to continue educating small business, to do research, and to have a free exchange of ideas.

The council's goal is to provide and promote this knowledge through universities, colleges, distributive education, professional consultants, and business firms and organizations.

There have been several people along the line here today who have already mentioned the need for research in certain areas of small business.

I would simply say that there is a good proportion of our membership that is made up of well qualified research-oriented people in universities all over the country, and we have a research committee, one of a total of about 20 committees; we would be happy to discuss with you any specific research problems that we could perhaps help you with.

More specifically, in terms of some of the areas of concern that we have—one general one which keeps coming up every year at our annual conference, is complaints from our members that there is a tremendous deluge of paperwork required by Government agencies.

We have already been touching on this, and then we have the problem of the requirements of such agencies created by OSHA, the EEOC, and many others; we have the Energy Act, and then we have the problems in the product liability area.

The small businessman is confronted with so much paperwork that he cannot get his main business done, which is to do business. He spends too much of his time filling out papers, and if the committee could do anything about simplifying some of the forms of reporting, this would be a big help.

Another problem which many of our members face is the problem of access to the Small Business Administration. I am sure he can write to them, or call them, but to be able to have actual physical access within reasonable distance of where a small businessman is located, means a lot to that individual small businessman.

In an area such as southeastern Virginia, which is known as Tidewater, Va., for example, we have seven interconnected cities forming a metropolitan area of some 1,250,000 people, and we do not have a Small Business Administration office.

There is no one that the people in our area can call, except to go to the district office in Richmond, and if we call Washington, they say to contact our regional office in Bala Cynwyd, Pa., in the Philadelphia area. The small businessman does not have time to go up there to talk to them, so access to the SBA is certainly needed.

There have been a couple of references to the labor problem; the common situs law, if such a Federal labor law were to be passed, would kill off many small businessmen, particularly those in the contracting business.

A Federal law which would eliminate several existing State "right-to-work" laws, would likewise cause a demise of a good number of small business people.

Just one example I would like to give you. I personally know of a small businessman who is in the mechanical contracting business, primarily providing heating and air-conditioning equipment for buildings, and he was asked to bid on a Government contract.

I assume it was a Navy contract, since he is located in Norfolk, and he was told that for purposes of making his bid, he had to use the $9-plus existing union sanctioned wage rates, $9 in cash, plus the fringe benefits, and he had to specify these in his bid. His particular company is nonunion; his total wage cost was slightly over $7 per hour, including fringe benefits, and this was a rather complicated thing for him to try to bid.

Another item, OSHA, has been mentioned before. I do not recall that anybody so far has mentioned the 1976 so-called Federal Tax Reform Act, and some of its implications for these small businessmen, particularly the inheritance and estate tax portion of the 1976 Tax Reform Act. This has some very, very serious implications, in its actual implementation.

It sounded good in the way the press reported it but when the tax lawyers looked at it, and they saw how it would actually be implemented, it is referred to as a continuous tax after death, rather than a real benefit to the small businessman.

Mr. CHERKASKY. Have you analyzed that?

Dr. JOHNSON. I personally, no, but I have heard a very competent tax lawyer discussing it, and it is pretty disturbing in terms of what the Tax Reform Act really does, or does not do for small business. Yet the press, in releases made last summer, sounded as though the small businessman and the farmers who are also small business people, would enjoy real benefits which are not really there.

Mr. CHERKASKY. We will have to take that up with the competent tax member of our committee who helped write that bill, if he is still here.

Dr. JOHNSON. I have Dr. Carl M. Franklin, general vice president of our council, here with me. He will make some supplemental remarks from his point of view.

[Dr. Johnson supplied the following information:]

THE NATIONAL COUNCIL FOR SMALL BUSINESS MANAGEMENT DEVELOPMENT

WHAT IS THE NCSBMD?

The National Council is a non-profit organization devoted to continuing management education for small business owners and managers.

The Council was founded on the belief that enlightened small business management is necessary for successful, profitable small businesses; that successful small businesses are essential to our national economy. They provide broad-based competitive products and services. They have the inherent potential for growth into bigger business, which growth is imperative to the continuation of our free enterprise system.

WHO CAN BELONG TO NCSBMD?

Membership in the National Council for Small Business Management Development is open to all persons interested in improving administration and operating management knowledge and skills. Council membership is represented by:

- BUSINESSMEN—Independent entrepreneurs and their employees
- ECONOMIC DEVELOPMENT CENTERS—Minority, community and other concerned officers and employees
- EDUCATORS—In secondary, college, graduate, distributive and adult education
- PROFESSIONALS—Management consultants, accountants, lawyers
- TRADE ASSOCIATIONS—Directors, membership
- GOVERNMENT—Officials in federal, state, local or special agencies that are concerned with small business

MEMBERSHIP BROCHURE
OF

THE NATIONAL COUNCIL FOR SMALL BUSINESS MANAGEMENT DEVELOPMENT

PRESENTED TO

U. S. Senate Small Business Committee

NATIONAL COUNCIL FOR
SMALL BUSINESS MANAGEMENT DEVELOPMENT
UNIVERSITY OF WISCONSIN—EXTENSION
929 NORTH SIXTH STREET
MILWAUKEE, WISCONSIN 53203

NCSBMD

"The Challenge of Lifelong Learning"
— NCSBMD —

HISTORY OF THE COUNCIL

The idea for a national council concerned exclusively with the management problems of small business began to unfold in 1956. In June of that year, the Ford Foundation sponsored an exploratory conference at the University of Colorado to determine the need of such an organization.

During the next year, a group of dedicated professionals from government, education and industry hammered out the framework of a prospective national small business management organization.

At a second meeting in June, 1957, the Council was formally organized. Officers and an advisory board were elected, a program of activities was developed and by-laws begun which were ratified at the third conference in Pittsburgh in 1958.

PURPOSE AND OBJECTIVES

The purpose of the Council has remained the same through the years: to stimulate its members to assist, through managerial development, small businesses to operate more effectively and profitably. The basic objective shall be continuous progress in all phases of management development for small businesses through education, research and a free exchange of ideas. The Council's goal is to provide and promote this knowledge through universities, colleges, distributive education, professional and business firms and organizations.

PROGRAMS

The NCSMBD year-round program is designed to keep members in touch with the latest developments in small business management education.

LOCAL PARTICIPATION

Members regularly conduct, sponsor or attend classes, programs or seminars that deal with the aspects of management specifically related to the owner-managed enterprise.

Management techniques for the small business are similar, although not identical with the skills required by bigger businesses. Courses are directed to these specific problem areas:

PLANNING—Production, Money, Market
ORGANIZING—Operations, Procedure, Delegation
STAFFING—Personnel Recruitment and Training
DIRECTING—Motivation, Human Relations
CONTROLLING—Budgeting, Forecasting, Records

NATIONAL ANNUAL CONFERENCE

Each June, the Annual Conference is held under the sponsorship of a member chapter and/or a member College or University. Members are given an opportunity to hear a wide range of topic presentations and to participate in round table discussions as well as learn about new and innovative happenings in the management field.

A highlight of the Annual Conference is presentation of the "Outstanding Small Businessperson of the Year" awards.

NCSBMD

"The Challenge of Lifelong Learning"
— NCSBMD —

ENCLOSURES

Included in this folder are:

- Current officers and Advisory Board
- Current Committees and Chairpersons
- Past Presidents and conference sites
- Summary of publication activities
- Past National award winners
- Membership application

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PAST PRESIDENTS AND ANNUAL CONFERENCE SITE

1956	**First Meeting**	University of Colorado
1956-1957	**Year of founding**	University of Colorado
1957-1958	**A. M. Woodruff**	University of Pittsburgh
1958-1959	**Joseph C. Schabacker**	University of Illinois
1959-1960	**Martin F. Schotzberger**	University of Wisconsin
1960-1961	**R. Ralph Bedwell**	University of Delaware
1961-1962	**Willis J. Wheat**	Kalamazoo College
1962-1963	**Ralph C. Hook, Jr.**	Arizona State University
1963-1964	**Roy T. Shaw, Jr.**	Oklahoma State University
1964-1965	**Eugene L. Swearingen**	Cornell University
1965-1966	**Ray M. Ayres**	Southern Illinois University
1966-1967	**William A. Toomey, Jr.**	University of Colorado
1967-1968	**William D. Boub**	Roosevelt University
1968-1969	**Sheldon R. Wagner**	University of Hartford
1969-1970	**Wilford L. White**	University of Kentucky
1970-1971	**Harold K. Charlesworth**	Asilomar, California
1971-1972	**Harold K. Charlesworth**	University of Wisconsin
1972-1973	**Robert O. Bauer**	West Virginia University
1973-1974	**Robert O. Bauer**	University of Alabama
1974-1975	**Wendell O. Metcalf**	Trinity University
1975-1976	**Wendell O. Metcalf**	Arizona State University
1976-1977		Wichita State University
1977-1978		Western Carolina University

SPECIAL AWARDS PRESENTED BY THE NATIONAL COUNCIL

1971

Joint Venturer of the Year
Brady Keys, All-Pro Enterprises, Inc
Pittsburgh, Pennsylvania

Distinguished Service Award
Wendell O. Metcalf
Washington, D.C.

1972

Outstanding Minority Small Businessman
William B. Fitzgerald, Independence Federal Savings and Loan,
Washington, D.C.

Outstanding Small Businesswoman
Katherine Peden, Unex Building Systems,
Louisville, Kentucky

1973

Outstanding Minority Small Businessman
Maynard Whitebird, Whitebird, Inc.,
Ashland, Wisconsin

Outstanding Small Businesswoman
Virginia Dale, Dale's Academy,
Kansas City, Missouri

Distinguished Service Award
Joseph C. Schabacker,
Arizona State University
Tempe, Arizona

Founder's Award
Delbert J. Duncan
Monterey, California

1974

Distinguished Service Award
Lillian B. Dreyer
Calvin and Company, Inc.
San Francisco, California

Outstanding Member Award
Wilford L. White
Washington, D.C.

1975

Distinguished Service Award
James H. Thompson
Stanley Kloc, Jr.
West Virginia University
Morgantown, West Virginia

1976

Outstanding Small Businesswoman
Pansy Ellen Essman
Pansy Ellen Products,
Santa Clara, California

Outstanding Minority Small Businessman
Burnell Robinson
Robinson Electrical Co., Inc.
New Orleans, Louisiana

Distinguished Service Award
Robert O. Bauer
University of Wisconsin Extension
Milwaukee, Wisconsin

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OUTSTANDING SMALL BUSINESSPERSON OF THE YEAR AWARD PRESENTED EACH YEAR BY THE NATIONAL COUNCIL

1962 **Rufus W. Gosnell, Gosnell Distributing Co.,** Aiken, North Carolina

1963 **Ken Anderson, Art Textile Co.,** Highland, Illinois

1964 **Y. C. William Lee, Ronwell Wholesale Dist.,** Honolulu, Hawaii

1965 **Dominic Donatello,** Anchorage, Alaska

1966 **Don Greve, Sequoyah Carpet Mills,** Anadarko, Oklahoma

1967 **H. A. True, Jr., True Enterprises,** Casper, Wyoming

1968 **R. J. Lewis, Anna Baking Company,** Anna, Illinois

1969 **David F. PonTell, Presentation Industries,** San Gabriel, California

1970 **Sheldon A. Kort, Shelly's Tall Girl Shops,** Los Angeles, California

1971 **R. Bruce Jahnke, USEC,** Menlo Park, California and **Thomas A. Clemente, Clarity Publishing Co.,** Loudonville, New York

1972 **William M. Eames, Bill's Stores, Inc.,** Lafayette, California

1973 **J. C. George, Blount and George, Inc.,** Little Rock, Arkansas

1974 **George Taylor Fowler, Emperor Clock Co.,** Fairhope, Alabama

1975 **Dorothy O. Rivers, Rainbow Fasteners, Inc.** Sacramento, California

1976 **E. F. Blackwelder, Blackwelder Mfg. Co.** San Rafael, California

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Tonawanda, New York

Wilford L. White
Washington, D.C.

Delbert J. Duncan
Monterey, California

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Mr. CHERKÁSKY. We are glad to hear from you, Dr. Franklin.

STATEMENT OF DR. CARL FRANKLIN, MORGAN STATE UNIVERSITY, THE NATIONAL COUNCIL FOR SMALL BUSINESS MANAGEMENT DEVELOPMENT

Dr. FRANKLIN. Thank you, Mr. Chairman.

I am Carl Franklin, Morgan State University and the National Council for Small Business Management Development.

When I talk about the small business community, I think especially about minorities and women. I am glad we do not put women in with minorities. They are a numerical majority. However, in terms of the little power they have to control their destinies, I presume sociologically they would have to be declared minorities. No one has mentioned minorities and women before. I would hope that this committee will try to strengthen activities in their behalf which are occurring in Commerce, the Small Business Administration, and throughout the Federal Establishment.

The second point I think we need to concern ourselves with is education for and about small business. When we say this, most times we think only of educating small businessmen themselves. However, it is my view that the total American public needs education on small business. The public simply does not understand the complexity of small business. Additionally, psychological favoritism for bigness in this particular society, which maybe suggests the need now to try to deemphasize this penchant for bigness, especially since we seem to be growing toward what I would prefer to call an overdeveloped economy.

We see this in Japan, for example, which is so overdeveloped, and they are now discovering that they will need small business to keep a sharp growing edge. Soon, this may be another problem we will have to work with. The National Council and I would be happy to work closely with the committee in whatever connection it might deem important.

Another consideration is energy and small business. About 3 or 4 years ago, as I remember, Congressman Mitchell, together with the Unified Industries, Inc., and Morgan State and Georgetown Universities held a Conference on Energy and Minority Enterprise in Baltimore.

I presented a paper at that particular time. Interest soon passed because people thought of the energy situation as being a gas pump problem. Now, I think through the forces of nature, we have again come to realize that energy is a major problem for small business. They do not have alternative sources. I will not cite the whole list of problems, but we certainly need to do this, and I would conclude this by saying I hope the committee finds some way to influence not only Commerce, and the SBA, but perhaps HEW also to do something to give some greater support for instruction in the small business area, in the universities, in the colleges, and in the high schools. This, of course, ties into my suggestion that there is a need for America to be reeducated as to the nature and importance of small business. In summarizing, I would list education regarding the importance of small business as the No. 1 priority.

For reasons which you must obviously understand, the matter of minorities is quite important. I hope you understand that. I would think that is important, not necessarily because of the economic impact, but because of the great social value of every American citizen knowing that he has at least the right to participate. I think that this is going to be especially important as we assume our new image throughout the body politic of the world.

Thank you.

Mr. CHERKASKY. Doctor, do you have that paper you delivered in Baltimore?

Dr. FRANKLIN. Yes; I do not have it with me, but I will see that you get it.

[Dr. Franklin submitted the following information:]

STATEMENT BY Carl M. Franklin, Before the Maryland House of Delegates Committee on Environmental Matters, March 13, 1975.

House Joint Resolution No. 59 - Minority Energy Task Force

About Energy

The demand for energy is increasing at a faster rate than the supply. Satisfaction of this rapidly expanding demand has led to calls for conservation on the one hand, and increased efficiency in use on the other. Achievement of the needed balance between demand and supply as well as the goals called for will require serious readjustments in life styles and painful reallignment, if not restructuring of the total eco-social system. Because energy is pervasive and institutions and processes are sensitive to changes in its abundance and price, dealing with the energy dilemma will be extremely difficult. Even the most carefully planned and skillfully executed programs and initiatives taken to achieve energy efficiency will have disruptive if not destructive effects on many of the institutions and organizations, and groups which operate in and under this American system. The weaker groups and organizations are particularly vulnerable.

About Minorities

Included among the weaker ones are those officially designated minorities because of their race, national origin, as well as the economic and social disadvantages resulting from racism, discrimination, prejudice, and other forces which deprive them of equal opportunity to fulfill the proverbial American Dream. A mass of data reflect concentration of minority employment in the lower paying occupations; possession of extremely limited amounts of disposable and discretionary income—victimization by higher rates of unemployment which extends over longer periods, and relegation to seriously impoverished ghettos. The data also confirms the dominant presence of poverty, occupation

of the poorest and least energy efficient housing, ownership and use of more of the energy inefficient appliances and transportation vehicles, and dominant membership in markets which are characterized by reduced economic viability. The point is that the already extant economic inefficiencies of minority groups make them especially vulnerable to dislocations and other dysfunctional occurrences in the economic system. Of equal, if not greater, importance is the fact that minority groups along with others who populate the so-called lower economic and social strata are likely to be more severely injured and remain disabled longer by many of the initiatives taken to attain energy efficiency—especially when and if the initiatives finally implemented do not contain adequate and workable safeguards against regressive social costs built in during their conception and formulation at highest policy levels. Thus, marginal as they are, even in times of genuine prosperity and widespread affluence, minority groups and the resulting markets which they comprise could be rendered nearly sterile by policies and strategies which take little or at least inadequate account of the high negative social costs attendant to actions born out of expediency and based on misguided notions and perceptions of the common good.

About Minority Entrepreneurs, Enterprises and Markets

It is from such environments that most minority entrepreneurs come, and concomitantly, the markets their businesses serve. It is therefore of maximum importance to minority entrepreneurs that meaningful consideration of social costs be included in policies and processes operational in matters so vital to human existence as energy. Past experiences and records indicate that where meaningful minority input is made and incorporated in policies and programs when first conceived and formulated, a more equitable sharing in the economic and other social processes and institutions results.

STATEMENT BY Carl M. Franklin, Before the Maryland House of Delegates Committee on Environmental Matters, March 13, 1975, Page 3.

A large number of minority owned enterprises are less than five years old. Because of heavy concentration in retail trade, personal service fields, limited financial strength, and high dependence on markets characterized by marginal economic stability, minority enterprises are especially vulnerable to economic adversities. With few exceptions, most minority owned firms are small and serve local markets which are centered close to the firm's principal location. Companies serving national and international markets are the exception rather than the rule. These are usually in the publishing, insurance, manufacturing, food processing, importing and leasing lines.

Of particular concern in this context is the extent to which minority businesses are energy reliant. Those involved in the distribution of petroleum are particularly vulnerable to conservation policies which set across-the-board arbitrarily determined allocation quotas which fall below their break-even points. Others who would be most immediately affected are in the transportation field, such as charter bus services, taxicab services, and trucking of various types. Conservation measures which curtail the use of private cars and other private vehicles will benefit this group only if the changes in revenue are sufficient to offset increases in fuel costs. The personal service areas and entertainment groups are likely to experience lower revenues because increased fuel costs will force their assignment to a lower priority. Again, what is critical here is the fact that many minority firms are for the most part not economically strong and therefore more easily hurt by cost increases which neither they nor their customers can absorb.

As for the minority consumers, higher energy costs are likely to increase transportation costs and rents, and in a more indirect way costs generally. This will mean a rearrangement of priorities and generally lower levels of spending

in the independently owned small stores where prices are usually higher. The new and growing group of minority owned manufacturing firms, although labor intensive, nevertheless rely heavily on transportation for raw materials and for serving their markets. This group may find higher tariffs and rules regarding lot sizes and minimum shippable weights resulting from conservation measures operating to their disadvantage. Situations regarding minimum shippable weights, product priority assignments and required advanced leasing of space may also work against them. In addition to disrupting delivery schedules required by customers, these conditions may also require tying up already limited amounts of working capital.

Minority construction and mechanical service firms may derive some positive benefits from the increases in building upgrading work which some conservation proposals might effect. They may also share in the increases in home remodeling expected to be generated by the "flight from suburbia" and other activities associated with reduced use of the private automobile. However, unless some protective ways to help overcome the weaknesses which stem from limited financial resources, the disadvantages inherent in small size, and the "out-group" social status of their owners, these enterprises will not realize their fair share of the market.

Recommendations

To be sure, the preceding references to minority owned firms and the minority situation in general hardly scratched the surfact of the complex relationship between current and imprending energy problems and all other social and economic forces which shape the environment in which minority owned business now operates. They were intended only to intensify consciousness of what is in the offing and

to underscore the necessity for having meaningful minority input at the point and time that policy is conceived and formulated. Hopefully, they have inspired you to favorably consider the establishment of the Task Force on Energy and Minority Enterprise as one of the instruments of meaningful minority input into energy policies and programs. Hopefully, it has been sufficiently convincing to cause you to forcefully recommend formation of the Minority Business Energy Task Force to the Maryland State Energy Policy Office.

SOME PROBABLE EFFECTS OF PROPOSED ENERGY POLICIES ON MINORITY BUSINESS ENTERPRISE

CARL M. FRANKLIN
MORGAN STATE UNIVERSITY

The current concerns regarding the supply and demand for energy are supported by plausible arguments, thoughtful analysis and convincing data. It is clearly evident, even in casual reflection, that the American economic and social systems are increasingly reliant on capital-intensive production designs which veraciously consume energy. Reliance on machines extends from basic production to intimate personal care. Electric tooth brushes, electric shavers, power hair brushes and a long list of other personal care power tools underscore how capital intensive even personal living has become. In other words, the nation and the culture have become increasingly reliant on the use of energy consuming devices in every aspect and phase of life.

The long enduring trend towards capital intensive systems of production perpetuates the increase in the demand for energy. The evidence suggests that the demand for energy is increasing at a faster rate than its supply. Satisfaction of this expanding demand has led to calls for quick discovery and exploitation of new sources, expedited research and development of new technology, return to use of sources currently deemed obsolete and of course, new political alignments. Conservation and/or reduced use, on the one hand, and increased efficiency in the use of the available supply, on the other have been posited as answers to the question "What do we do in the meantime." Balancing the energy demand and supply, in this complex society, will require serious readjustments in life styles and painful realignment, if not restructuring, of the socio-economic system. Actions which consequently restructure personal and group value systems as well as the processes of institutions are always disruptive and sometimes destructive--

especially of the weaker social entities, even when most carefully planned and skillfully executed. The pervasiveness of energy and the sensitivity of many organizations and processes to changes in its abundance and price emphasize the critical need to exercise great care in dealing with the energy dilemma.

Who are Minorities and Where are They?

America's minorities, the Black, the Spanish surname, the native American Indians and Aleuts, the Asian-American and several other groups not specifically identified are most vulnerable. These groups constitute 17 percent of the U.S. population. Their geographic dispersion and cultural heterogeneity render tham even less powerful than their numbers would suggest. The 1970 U. S. Census reports that the minority population is distributed between 11.1 percent Black (22,581,000), 4.5 percent Spanish (9,073,000), .39 percent American Indian (793,000), .29 percent Japanese (591,000), .21 percent Chinese (435,000), .17 percent Filipino (343,000) and .35 percent others, including Hawaiians and Aleuts. To this group must be added the recently invited Vietnamese. Blacks are concentrated in the South, with substantial and about equal representation in the Northeast and North Central regions. The Spanish minority is concentrated most heavily in the West and South; the American Indians are concentrated in the West and Mid-West. Japanese, however, are concentrated in the Northwest, while the Chinese are most heavily located in the West and Northeast. Filippios and all others are concentrated in the West and South.

What is the Economic Potential of Minorities:

Census

According to the 1970/ the median income of minority groups was was below the base 100 median income for whites, ranging from a low of 58 per cent for American Indians to a high of 93 percent for Fillipinos. The Spanish speaking group median of 74 percent includes a high of 85 percent.

for Cubans and a low of 62 percent for Puerto Ricans. A notable exception is the Japanese at 126 and the Chinese at 107. Some researchers believe this exception to be a distortion resulting from a defect in reporting systems. Later figures reflect no significant change in this distribution.

These data reflect the concentration of minority employment in the lower paying, service industry occupations and in lower paying jobs in the more prosperous industries. The data also tend to support the conclusion that minorities have smaller amounts of disposable and discretionary income. Additionally, unemployment runs higher and for longer terms in minority communities than in majority communities. It does, however, emphasize the more dominant presence of poverty and its effects in reducing the economic viability of most minority group markets. As a consequence, minority groups are forced to occupy more of the energy inefficient, sub-standard housing and make greater use of older and less efficient appliances, including transportation vehicles.

The point is that the already extant economic inefficiencies of minority markets make them especially vulnerable to dislocations and other dysfunctional occurrences in the economic system. Of equal, if not greater importance, is the fact that minority groups along with others at the lower end of the economic and social scales are likely to be more severely injured by and remain disabled longer from many of the initiatives taken to bring the consumption and production of energy into balance. This is especially likely when the initiatives finally implemented did not have adequate and workable safeguards against regressive social costs built in during their conception at the highest policy levels. Thus, economically marginal as most are, even in times of genuine prosperity and widespread affluence, minority groups and the resulting markets which they comprise

are likely to be rendered sterile by policies and strategies which take no account of the social costs attendant to short-run, profit-boosting actions born out of political expediency.

A perfect example of this kind of action is 1974's winter gasoline crisis. Advertised as a "conservation measure," this program was equally successful in driving up prices, increasing the profits of the oil companies, and finally, forcing many small operators out of business because of a system of allocation which provided them with inventories that were below their break-even points. A fairly large number of those who were forced out were the small and otherwise marginal outlets serving central and inner city markets. Many of the group were owned and operated by minority entrepreneurs. The credibility of the whole episode is rather dramatically reduced by the present reports that major oil companies are pressuring dealers to remain open for extended hours and to sell more gasoline than was sold during the same period last year. A social cost attendant to the episode was the stimulation of hysteria and panic which made the entire population vulnerable to exploitive practices of those who sought to maximize their profits. This combined "buyers' panic" and "sellers' market condition" probably contributed to the general increase in the price level. As is always the case, those with limited resources--mostly minority groups and the poor were hardest hit.

Another example is the recently rumored decision of the Small Business Administration to "graduate" minority firms from the Section 8-A, Set Aside protections. Collectively they have been able to obtain only slightly more than one percent of government contracts, and a even smaller share from the private sector. Policies such as these exact high social costs

from the nation in general and the affected groups in particular.

The marginality of minority groups extends to other areas such as education, employment and participation in the political process--recent changes, sometimes generously referred to as gains, notwithstanding. It is important and must be made patently clear, however, that the marginal social, economic and political status of minority groups is by no means due to any inherent inability on their parts. Indeed, their continuing survival of institutional racism, segregation, discrimination and other forms of destructive competition stands as irrefutable evidence that minority groups are uniquely creative and productive.

It is from such environments and socializing experiences that today's minority entrepreneurs come. Concomitantly most of their businesses will serve markets drawn almost exclusively from these same environments and groups. It is, therefore, of maximum importance to minority entrepreneurs that meaningful consideration of social costs be included in policies and processes operational in matters so vital to human existence as energy. Past experiences and records indicate that where meaningful minority group representation and input is made and incorporated in policies and programs when first conceived and formulated. A more equitable sharing in economics and other social processes and institutions results. Indeed, quality participation is indispensable to achievement of full participation in the American way of life.

Some Comments on Selected Characteristics of Minority Enterprise

Although minority groups constitute 17.1 percent of the U.S. population, they control less than one percent of total business assets. With few exceptions, most minority owned businesses are small and serve local markets which are centered close to the firm's principal location. Companies serving national and international markets are the exception rather than the rule. These are usually in the publishing, insurance, manufacturing.

food processing, importing and leasing lines. Most firms, however, are in lines which normally have limited trading areas, and are located in areas populated by the minority group of the owners. Chinese restaurants are a notable exception. In recent years, there is a growing tendency to locate in shopping centers and strips and to serve general markets.

A large number of minority owned businesses are less than five years old. Most of these young businesses are owned by Blacks, Indians and persons of Spanish origin. However, most of the insurance companies, savings and loan associations, newspaper publishing houses and several banks owned by Blacks are quite old and financially sound. Chinese and Japanese owned companies tend to be older and better established than those owned by other minorities. The reasons for these differences are too numerous and involved for discussion here. Because of heavy concentration in retail trade, personal service fields, limited financial strength and high dependence on markets characterized by marginal economic stability, minority enterprises are especially vulnerable to economic adversities.

Of particular concern in this context is the extent to which minority companies are energy reliant. As cited above, those involved in the distribution of petroleum are particularly vulnerable to conservation policies that set across-the-board arbitrarily determined allocation quotas which fall below their break-even points. Inasmuch as the large coal users, e.g., steel companies and public utilities, are extending their ownership of mining and delivery systems, minority operators are not likely to benefit from the anticipated "return to coal." Additionally, modern coal mining is highly automated, and is profitable only at very large economies of scale. The capital investment requirements are beyond the limited resources of minority groups.

In the transportation field, charter and other bus service operators will benefit from conservation initiatives only if they are able to obtain, at favorable rates, the funds required to upgrade and expand rolling stock and maintenance facilities. Regulations restricting the use of private cars might likewise improve the outlook for taxicab and limousine services. Their survival requirements are similar to those for bus and charter services. Unfortunately, many will be thwarted by the difficulties attendant to obtaining franchises, interstate rights and other such clearances required of public carriers.

The new and growing group of minority owned manufacturing companies utilize labor intensive processes and are therefore not especially energy reliant in a direct sense. However, they are indirectly energy reliant because of heavy dependence on transportation in serving their markets and obtaining raw materials. This group may find higher rates, rules regarding lot sizes and packaging specifications resulting from conservation regulations operating to their disadvantage. Stipulations covering minimum shippable weight, product priority assignments and required advanced leasing of space may also work against them. In addition to disrupting delivery schedules required by customers, these conditions may also require tying up already limited amounts of working capital. Energy efficiency inspections of equipment and facilities in compliance with conservation regulations may also facilitate discovery of Occupational Health and Safety Act (OSHA) violations. A likely result may be increased intensity of short-term and long-term financing problems associated with capital improvements and investments in plant and equipment required to remove violations. These conditions suggest the need for liberalizing government programs and procedures which provide financial

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assistance to small businesses in general and minority enterprises in particular.

Publishing and entertainment companies are likely to be faced with rising transportation costs and declining sales revenue derived from live shows. Revenues from mass media sales, both printed and electronic, are likely to rise as the use of private cars is further restricted by tighter regulation and enforcement. On the production side, supply and material costs are likely to rise ostensibly because of higher direct as well as energy related increased costs to suppliers which are passed on. Those companies which are unable to pass costs along, absorb them, or do some part of both are going to face extreme financial difficulty. The point here is that protection of minority companies, indeed all small and marginal businesses, against this external uncontrollable force dictates revision and improvement of government programs which provide financial assistance.

The insurance companies are among the oldest and strongest enterprises owned and operated by Blacks. The impact of economic and social dislocations occasioned by the energy problem is likely to be reflected in rising operating costs and slowing rates of growth. As a group, these companies probably have the most experienced managements. Their financial strength derives from conservative but effective financial management during most of the years of their existence. However, the strongest threat to their existence lies in the successful invasion of minority markets by majority companies. Unfortunately, Black owned companies have not been able to offset this competition with either significantly increased shares of the majority markets, or more intensive penetration of their traditional markets.

In reference to the energy situation, companies in this category

may experience some adversity because of their involvement in real estate financing, development and management. Increased costs and property abandonment stemming from mandatory improvements in the energy efficiency of existing buildings may likely be the source of the difficulty on the one hand, while presenting some opportunities on the other. Once again, it appears that the quality of financial assistance proffered by all levels of government will determine in great measure whether it will be problems or opportunities.

The energy situation will impact minority owned banks and savings and loan associations in much the same way as insurance companies are affected. Their problems and opportunities will be similar. As massive unemployment ensues, deposits will fall and foreclosures will rise. The extent to which these banks will be able to serve minority businesses will depend on the availability of protection against overexposure in this particular risk category. Perhaps easy to administer loan guarantee and more liberal interest subsidy programs would offer the required protections and enhance the feasibility of their participation. As small institutions themselves they must exercise caution in building their loan portfolios. As minority enterprises, they need as much protection as do the business concerns they are expected to serve.

Minority construction and mechanical service and repair firms may derive some positive benefits from the increases in building upgrading work which the conservation proposals are expected to cause. They may also share in the increases in home remodeling expected to flow from the "return from suburbia" and other activities associated with reduced use of the private automobile. However, unless some help in overcoming the weaknesses which stem from limited financial resources and the disadvantages

inherent in their smallness are forthcoming, these enterprises will not realize their fair share of the market.

The above mentioned references to minority owned firms in the several lines of business hardly scratched the surface of the complex relationship between current and impending energy problems and the other social and economic forces which shape the environment in which minority owned businesses now operate. They were intended only to intensify consciousness of what is in the offing and to underscore the necessity for including safeguards against injury to firms of this character in policies or strategies devised to meet the energy dilemma.

Some Federal Proposals for Energy Conservation

The process of policy formulation has already begun. A list of energy conservation options has already been considered for federal action. Some of the proposed options are:

Transportation

1. Increase new car efficiency with an accelerated excise tax on low efficiency cars and/or mandatory fuel efficiency standards.

2. Reduce vehicle miles traveled with 30¢ per gallon conservation fee.

3. Additional capital and operating subsidies for public transit linked to auto disincentives.

Household and Commercial

4. 25% tax credit expiring in 1980 for installation of insulation, etc., in existing homes.

5. Minimum efficiency standards for all new home construction.

6. 15% investment credit expiring in 1980 for energy reduction investments in existing commercial buildings.

7. Minimum standards on new commercial buildings.

8. Minimum energy efficiency standards on new appliances.

9. Mandatory lighting standards for commercial buildings.

10. 50% tax credit on solar appliances.

Industrial

11. Accelerated depreciation on energy investments.

12. Interest subsidy on solid waste systems.

13. Require cash deposit on all containers by 1960.

Electric Utilities

14. Reduce usage through marketing of energy substitutes (e.g., insulation).

15. Reduce peak demand

- Rate demonstrations
- Interconnects
- Thermal storage

16. Increase generation and transmission efficiency.

Even a most casual review will alert one to several of the problems and opportunities inherent in several of the proposals included in the above listing. Some of the possible effects of these actions on minority owned business have already been presented above. What stands out most is the absence of indications of how the government, or even if the government will protect the interests of minority owned and other enterprises which have the same basic economic problems. It is also interesting to note that except for a bill designed to protect petroleum product retailers from unfair practices, none of the energy related bills and/or legislation offered at this writing contain provisions designed specifically to protect small businesses in general and minority enterprises in particular. Perhaps many legislators feel that adequate protections are contained in legislation already on the books. The need for meaningful minority and other small business representation and input in legislative, policymaking,

administrative and enforcement operations at all levels of the federal government is both indispensable and imperative. It is especially critical that such arrangements be made immediately in the recently established Energy Research and Development Administration, the Small Business Administration, the General Services Administration, the U.S. Department of the Interior and the U.S. Department of Commerce. These agencies are identified here because of their joint and direct involvement with the minority business community, the general business community and the national implementing of energy problems. It must be remembered that fostering, protecting and accelerating the participation of minority owned enterprise as well as the small businesses in the American economic process is a primary social goal, the achievement of which is indispensable to the perpetuation of the free enterprise and democratic systems in this nation.

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Mr. CHERKASKY. We will now hear from Mr. Bass of the National Business League.

STATEMENT OF SYLVESTER BASS, NATIONAL BUSINESS LEAGUE

Mr. BASS. Just a very brief comment. We submitted a more detailed paper on Friday. I think it probably will reach you today.

A couple of things that come to mind immediately are in the area of tax reform, particularly as it relates to incentives for job creation, and small minority enterprises.

On the issue of minority business, we are mostly concerned with increasing the amount of capital available through agencies such as the Small Business Administration, but not exclusively SBA.

Also, we are interested in the area of bonding, how we can change perhaps some of the regulations currently in effect to increase the prospects of bonding capability for minorities.

Those are two quick issues, but we have a more detailed paper ready for you.

[The prepared statement of the National Business League follows:]

"MINORITY ENTERPRISE - PLACING THE PROBLEM IN PERSPECTIVE"

It has long been recognized that the Federal government plays an important role in stimulating economic activity, both on a national basis -- through measures which increase employment and aggregate demand and finance large-scale capital improvement projects -- and on a sectional basis through the regulation of markets in certain industries, such as broadcasting.

It is also clear, however, that Federal spending and regulatory programs do not, by themselves, assure that the economic benefits and opportunities stemming from whatever growth and development that may occur will flow evenly or equitably. Therefore, special programs are needed to: (1) finance, encourage and promote certain types of economic activity which will primarily benefit minorities and other disadvantaged people, and (2) increase the extent to which these groups benefit from the spending and regulatory programs which have as their purpose or effect increased growth or activity in certain industrial or geographic sectors.

Accordingly, in the past few years, several small-scale minority enterprise and community economic development programs have been created to provide assistance to ventures and projects designed to: (1) create housing, employment and business ownership opportunities for minority and other low-income groups and (2) provide these groups increased access to markets and business opportunities created by Federal spending and regulation.

Examples of the former include community economic development programs run by the Community Services Administration, the MESBIC program of the SBA, certain technical assistance projects sponsored by the Office of Minority Enterprise (OMBE) and employee stock ownership plan (ESOP) financing activities now being carried on by EDA. Examples of the latter include the SBA's 8(a) and surety bond guarantee programs, efforts by the FCC to use its powers and influence to facilitate an increase in the number of broadcast licenses issued or transferred to minority groups, and the recent creation of a special office within the Department of Transportation to facilitate minority group access to business opportunities created by the huge Federal investment in the revitalization of America's railroads.

However, these efforts have been of small scale and in general have been prosecuted in an uncoordinated fashion by agencies and offices with limited resources and clout.

In reviewing the recent history of Federal efforts to support and accelerate minority economic development, two flaws are apparent. First, Federal programs specifically aimed at minority employment and business problems approach minority economic needs and aspirations from a "fragmented" rather that a "comprehensive" stance. For example, the Labor Department focuses on jobs and training with no awareness of the job creation potential of an expanded minority business sector; the Commerce Department (OMBE) focuses on minority business expansion with no awareness of the potential contribution that skilled minority technicians trained via CETA can make to the growth and expansion

of business opportunities, and capabilities; and the Health Resources Planning Act (1974) gives the Secretary of HEW direct loan and loan guaranty authority in the expenditure of Fedearl funds for the development of health care facilities, but contains no provision which requires the use of minority firms or workers.

Second, there is no coherent policy stating that is is the goal of the government to ensure that the economic benefits and opportunities created by Federal spending and regulatory activities not specifically related to minority economic development flow in greater measure to America's black, brown and Native Americans citizens. Quite the contrary, certain policies and requirements assure that the opposite will be the case. For example, tests of financial strength for government contractors, while arguably necessary to guarantee performance, serve to discriminate against small and therefore minority business.

Likewise, as has already been demonstrated by experience with the HUD 235 and 236 programs, subsidies and tax incentives to encourage low and moderate-income housing construction have served primarily (though not always) to produce profits for substantial investors and only incidentally, affordable housing to say nothing of income opportunities for moderate-income families.

And finally, Federal policies which have for years encouraged highway construction and thus increased investment in suburban communities have contributed in substantial measure to a decline in the amount of capital and credit flowing into the urban areas into which so many minorities find themselves locked.

The net results of this flaw in the design of Federal programs to promote minority economic advancement are:

1. the creation of an excessive number of programs that are overlapping, duplicative and uncoordinated

2. the increased fragmentation rather than consolidation of resources in the minority community

3. stimulation of destructive competition among minorities for access to and receipt of Federal resources

4. the creation of pre-emptive and domineering bureaucracy that manipulates minorities as a result of the fragmentation and competition induced by the Federal sector.

5. the waste of public resources

6. deterioration in the economic status of minority Americans

7. disillusionment in their government on the part of minority citizens

8. and finally, a misguided belief that the problems and concerns of minority business development are confined to OMBE and SBA.

To correct these fundamental problems, the Federal Government, and particularly the new Administration, must make clear its commitment to minority business and economic development, and redesign present Federal programs to supplant the current piecemeal approach and provide a comprehensive policy on minority enterprise. Such a policy must be developed in concert with the minority business and economic communities. This organization, through its National Council for Policy Review, is committed to a complete restructure of Federal initiatives in this area. Already, we have proposed an interim design for a Federal minority enterprise program while a comprehensive policy is formulated.

That proposal, intended only as a starting point, acknowledges the following:

* The lack of SBA loan monies tends to foster minority business failures by undercapitalizing start-ups.

* The SBA 8(a) set-asides program has not effectively worked as a tool to serve minority business.

* The funding levels of government minority economic development programs have not been adequate enough to genuinely reflect a policy that fosters minority ownership of productive resources.

* Loan and financing programs have burdened minority small ventures with heavy repayment schedules immediately, rather than providing the minimum 2-year cushion normally accompanying equity investment funds.

* Equity funding has not been made available to small minority business in the regular money markets nor through MESBIC's.

* Legislation and programs continue to be designed to solve minority economic problems without the direction, guidance, or input of the minorities who have had the experience.

* There is a lack of significant minority business development efforts at the State government levels where large funded programs are now being administered.

The weight of the evidence has persuaded us that the Federal approach to minority enterprise development must be rethought. To promote that end, the National Busienss League, on behalf of its National Council for Policy Review, advances the following proposal:

FUTURE OF MINORITY ENTERPRISE PROGRAM

SHORT TERM AND INTERIM PROPOSAL

I. Issue an executive order creating a Minority Economic Development Administration (MEDA) within the Department of Commerce to assume the current responsibilities of the OMBE program. MEDA would be headed by an Administrator with the rank and authority of an Assistant Secretary. MEDA would perform the following interim program activities:

   A. Prepare an annual "Federal Plan" for minority economic development identifying specific programs and activities, setting national program goals and presenting strategies for the implementation of these programs and the achievement of program goals.

   B. Coordinate the policy formulation activities of all the Federal Departments which administer spending or regulatory programs which create or shape naitonal minority economic activity.

   C. Monitor and coordinate all Executive Branch Department and agency policy and planning, including interdepartmental goals and objectives, to increase the extent to which Federal spending and regulatory programs contribute to the creation of job and other economic opportunities for residents of urban and rural low-income communities, generally, and for minority groups, specifically.

   D. Monitor all authorization and appropriation bills prepared by the Executive Branch for presentation to the Congress for the inclusion of language setting forth as a specific goal the creation of business, investment and employment opportunities for minority and low-income citizens.

II. Issue a Presidential Executive Order to all Cabinet Officers instructing them to identify within 30 days programs within their Departments which contribute to the implementation of the Executive Order creating MEDA and to establish an office within each Department at the Secretarial level to develop Department-wide minority economic programs and policies and to serve as the Department liaison to MEDA. The directive should require that each Department and agency establish specific targets in terms of business, employment and investment opportunities for minority and low-income citizens.

LONG TERM PROPOSAL

I. Develop plans and dates to present a legislative proposal to the Congress to provide a statutory base for comprehensive program.

Additional Recommendations:

* A significant increase in the amount of funds available for SBA direct loans. Increases in direct SBA loans could help sustain small firms currently in existence and improve their employment potential, and thus provide some relief from the burgeoning unemployment rolls.

* An increase in the ceiling for maximum SBA loans to $750,000. This would help protect new business firms from the traditional problems of under-capitalization.

* Expansion of SBA regulations allowing non-regulated lending institutions to be organized and authorized to operate, utilizing SBA guarantees for term loans in the same manner as banks. Expanding these regulations, and appropriate statutes, could help stimulate new sources of capital other than banks and the government that can be channeled into the small business community.

* Revisions in the tax code to raise the surtax exemption to $100,000 to compensate for the ravages of inflation.

* A $25,000 exemption of net income for a three year period for small businesses whose taxable liability does not exceed $25,000. Further, an option to defer tax on the next $75,000 of net income for 10 years, providing earnings are reinvested in the business and subject to recapture in the ensuing ten year period. We also recommend that this provision apply to businesses for the tax year 1976, and that eligibility requirements include those firms receiving loans from SBA.

* Enactment of appropriate measures to allow IRS to accept installments payments over a two-year period from all small businesses whose tax liability does not exceed $100,000. This provision would be effective for the tax year 1976, and would apply only to those small businesses that could demonstrate that immediate payment of full liability would result in the ceasation of operations.

* Consideration of the Small Business Growth and Jobs Creation Act.

* Revisions in the tax code to allow for job-creating tax incentives.

Mr. CHERKASKY. We will now hear from Mr. Ron Lewis of the National Association of Black Manufacturers.

STATEMENT OF RON LEWIS, VICE PRESIDENT, NATIONAL ASSOCIATION OF BLACK MANUFACTURERS

Mr. LEWIS. My name is Ron Lewis, vice president of the Association of Black Manufacturers.

It is very important that we acknowledge the fundamental quality and position of the small business person within our free enterprise system.

We must be mindful of the opportunity and rewards of individual incentives and this opportunity must be extended to all. We, from the Black Manufacturers Association, realize the importance and the position that small business plays in our economic system, and as more and more people are involved in the system, the overwhelming effect from this participation, it has a much greater effect than many of the programs often extended to minorities.

That has been our position, and we urge that this committee support any legislation and oversight which will encourage minorities to participate and encourage the opportunities and strengthen the viability of minorities within our economic system.

Mr. CHERKASKY. Thank you.

We will now hear from Walter Stults, National Association of Small Business Investment Companies.

STATEMENT OF WALTER STULTS, NATIONAL ASSOCIATION OF SMALL BUSINESS INVESTMENT COMPANIES

Mr. STULTS. I wrote you a couple of weeks ago, and my suggestions are being reproduced, so let me slip into my accustomed role of being the skunk at the family picnic.

I have two hints on how the staff and the members of the committee can cut down the burden placed upon them by the crowd of us who are urging projects upon you here today.

I have not yet heard anyone talk about the problems of eyeglasses. Food additives seem to be pretty low on our priority lists. The pill is nonexistent, so far as I have seen in any of these presentations, so perhaps this would be a good time for the gathered small business associations to put in a pitch to the Senate Small Business Committee to confine its activities to those areas that are probably more crucial to the role of the independent businessman.

Thank you.

Mr. CHERKASKY. I will keep those thoughts in mind. I will figure out a way to present them to Senator Nelson.

[Mr. Stults supplied the following information:]

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MINNEAPOLIS

* EXECUTIVE COMMITTEE

February 1, 1977

Mr. William B. Cherkasky
Staff Director
Senate Select Committee
on Small Business
Washington, D.C. 20510

Dear Bill:

In response to the January 25 letter from Senator Nelson, I want you to know that I shall attend the agenda meeting on February 7.

I have several thoughts about topics which the Committee should consider:

A. Capital Needs of Small Business. I'm sure my thinking about this subject surprises you. The Senate Committee has not dealt with the SBIC program in any detail in over ten years. Reports from the Casey Task Force and the Treasury Department Advisory Committee represent good take-off points for such a study.

B. Taxes. I'd like to see your Committee hold hearings on the COSIBA tax bill to gather the sort of backing and data we have not been able to collect on our own. Parts of the study (job creation, for example) could be taken up immediately so small business positions could be fed into the Finance Committee when it considers the Carter tax package.

C. The Advocacy Role of SBA. Public Law 94-305 expanded that role -- or, at least, gave Congressional priority to it -- and your Committee should indoctrinate the new Administrator on the subject.

That's enough from me.

Best wishes

Sincerely,

Walter B. Stults
Executive Vice President

Mr. CHERKASKY. Let's see. Anybody else in the back row from associations I have missed?

Mr. Lewis, are you back there?

All right.

We will now hear from Mr. Stuart Lewis, of the Association for Advanced Life Underwriting.

STATEMENT OF STUART M. LEWIS, ASSOCIATE COUNSEL, ASSOCIATION FOR ADVANCED LIFE UNDERWRITING

Mr. LEWIS. I am Stuart Lewis, associate counsel of the Association for Advanced Life Underwriting, which is primarily an association of select life insurance agents and brokers.

Our principal parts were submitted in our written statement, which is now reproduced with the present materials, as it was sent in too late for reproduction. Those points have already been made by previous speakers. The first relates to ERISA, the 1974 pension law, which we feel was unnecessarily complex for small businesses. The law, when it was passed, appeared to be focusing primarily on large corporations and large businesses, and we feel that there was not sufficient attention addressed in the statutory provisions to small business and the special exceptions needed for small business. Consequently, the administering agencies are hamstrung in their ability to relieve some of the burdens and problems that have been statutorily imposed.

Some progress toward reducing the burden has been made by the administering agencies in the area of reporting and disclosure requirements, but we feel there is a need to go back and reassess the statutory provisions, particularly in light of the problems of small businesses and the burdens and complexities that ERISA is imposing on us.

The second point also relates to tax legislation, the Tax Reform Act of 1976.

I agree with the gentleman who previously spoke, that the estate tax provisions, primarily through the carryover basis rules, impose a long-term burden that will be particularly onerous for small businesses. I do not believe this problem has been adequately appreciated yet but that it will eventually become a major problem.

We can submit some additional material on this issue, if it would be helpful.

Mr. CHERKASKY. I would like to have that.

[The prepared statement of the Association for Advanced Life Underwriting follows:]

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February 4, 1977

The Honorable Gaylord A. Nelson
221 Russell Senate Office Building
Washington, D. C. 20510

Dear Senator Nelson:

This is in response to your January 25 letter to Donald Mehlig, President of AALU, who has been away from his office for the past week. Your letter was received during Mr. Mehlig's absence and was forwarded to me for reply pending his return.

We much appreciate the opportunity to present our views to the Committee with regard to its agenda for the 95th Congress. AALU Associate Counsel, Stuart Lewis, will be attending the meeting with your Committee staff on Monday, February 7.

We would propose for inclusion on the Committee's agenda the following topics:

1. The effect on small business and its employee pension plans of enactment of The Employees Retirement Income Security Act of 1974. ERISA has imposed on small businesses a cost and paperwork burden that far outweighs any social benefit which may have been developed through enactment of ERISA.

2. The effect on small businesses and small businessmen of the enactment of the Tax Reform Act of 1976. Although TRA was hailed in many quarters as a major alleviation of the tax burden on small business (as a result of the implementation of certain estate tax credits, the expansion of

estate tax payment deferrals and the liberalization of farm and other real estate tax valuation techniques), the ultimate effect of that enactment is to add appreciably to the tax burden on small businesses (primarily through the enactment of basis carryover provisions). These basis carryover provisions, although they may not necessarily result in an increase of the tax burden at the time of death, impose added long-term tax burdens on the inheritors of small businesses. In addition, the carryover basis rules almost nullify the operation of section 303 and increase substantially the difficulty in generating cash (for estate taxes and expenses) through sales and redemptions of the stock of the decedent-small businessman.

We look forward to working with your Committee throughout the coming Congress.

Sincerely,

Gerald H. Sherman

cc: Mr. William B. Cherkasky
Herbert L. Spira, Esq.

GHS/ekr

Mr. CHERKASKY. We will hear from Mr. Buckner.

STATEMENT OF SEYMOUR BUCKNER, CHAIRMAN, SMALL BUSINESS COMMITTEE, NATIONAL RETAIL MERCHANTS ASSOCIATION

Mr. BUCKNER. Not only am I here representing the National Retail Merchants Association, but I am also a small retailer. If we retailers are to make any money—and as you know retailing is a pretty low-profit industry—we think that something could be accomplished in the development of capital resources, and that this can be done through tax reform.

First of all, we are in favor of at least holding on to the $50,000 surtax exemption, and hopefully, as was mentioned before, raising it to at least $100,000.

We favor also an accelerated schedule for first-year depreciation of capital investment, an investment credit set at 15 percent for the first $50,000 of qualifying investment, and 10 percent above $50,000, and also we would like to extend the investment credit to cover real estate, because right now most of our capital investment pays for building and owning our own stores, and present law does not give us an opportunity to.

As 60 percent of our costs in retailing are in labor, we would favor some sort of related tax credit such as the President proposed—4 percent based on social security payments. However, we do not feel that this should be conditioned on any incentives for new hiring. In retailing, which is seasonal, we hire, and have to lay off the same people during the course of a year, and this could present all kinds of problems. We think this should be looked into very carefully, before any incentives to new hiring are established.

Paperwork, and that was mentioned before, naturally increases our costs, and we have to pass this on to the consumer.

Frequently payroll taxes necessitate a small business calling in an accountant as often as several times a month. This adds to our costs as well.

We feel the SBA could be more helpful to us. We would like to cut back on the redtape involved; we would like to see a reduction in the interest rates for our SBA guaranteed loans, for reasonable collateral standards, and we feel that the SBA could really help us a lot better in management techniques. Furthermore, we believe that more small businesses should be made aware of what the SBA can provide.

Crime and security is a major problem for the retailer. We find that the downtown retailer is unable to get insurance, and we would like to have some form of Federal guaranteed insurance.

We also feel there is a need for a Federal program to aid the cities to deter crime. This would help prevent the rapid deterioration of the downtown areas.

As far as energy is concerned, we feel that peakload pricing does not help us, because we are unable to take advantage of it. Consequently we would like to see some equal treatment in that regard.

Regarding OSHA, we feel that retailing should have different standards applied to it than those applied to manufacturing.

Regarding pension reform, we are in the same boat as many other small businesses—we would like to offer our people pensions. Instead,

many firms have been forced to give up their present pension plans, as a result of the complex ERISA law. Many small businesses are not able to communicate what the pension plan is all about to our own people, so we see the need for some sort of assistance for small business to understand pension reform.

Mr. CHERKASKY. Thank you very much.

Anybody object to about a 9-minute break?

We will reconvene at 11 o'clock.

[Whereupon, the conference was in short recess.]

AFTER RECESS

Mr. CHERKASKY. I think we will call on Lorri Simons, member of the North American Indian Women's Association.

STATEMENT OF LORRI SIMONS, NORTH AMERICAN INDIAN WOMEN'S ASSOCIATION

Mrs. SIMONS. Because I am short, I guess I should come forward.

I would like to tell you that I am also representing today the Ethnic Women in the National Women's Political Caucus—and I am a member of the Maryland American Women's Political Caucus, the Asian Oriental, Latin Women, and of course you have heard of the North American Women Indian Association, and that I am also a member of the National Association of Women Business Owners, which is represented here also today.

In the past year, I have done a considerable amount of work with the various ethnic women, and we have come to a very common understanding, and found that we share a very joint bond, which is that on the matter of economic growth, our women are not proceeding as quickly as the minority businesswomen.

We have identical problems, but our problems stem from the fact that there is not enough affirmative action-planning within the different structures and the departments of the Government.

When we speak about affirmative action, we speak about affirmative action in terms of equal opportunity.

We are not looking for equal opportunity because we are ethnic people. We are looking for equal opportunity based on our qualifications and credentials.

Many of us are experts in our areas.

As for myself, I have an interior design—space planning firm, and within the last 3 years, I have come up with nothing, other than approximately $3,500.

What I have gotten has been bread and butter—you know, such as of giving someone draperies and that consultant type of service—that is not true professional service.

At the moment we are negotiating something with the Army, and that has taken place because of my husband, who is my partner, who happens to be caucasian, and it has taken us about a year, and I would give that credit to my husband, because he handled it, and I think that tells you something.

I have no biased feelings for the people I have dealt with. I feel that their problems are that they are ignorant, ignorant and insensi-

tive of the business people that they are dealing with, ignorance to the fact that women are very well qualified, and that I think we can do without the sexism issue. We can go forward, and that women can produce alongside the men, and so what I am asking you today is that you definitely look at structure of small business. Consider the factor that the true small business is not in the $1 million category; or as was stated in the Star, currently Government measurement is the $9.5 million category, but for the small business person it is under $1 million. You will find it runs anywhere from $15 to under $100,000 for women, and most women are staffed with less than 5 people.

The ethnic people you can judge by these standards and facts will tell you it is pretty much a one-to-one basis as far as growth.

They tend to think in terms of consultancy, and such it is a gamble for them to think in terms of real big business, which would be manufacturing and so on.

My firm could easily do $1 million without going into staffing. We have done jobs in categories of $200,000. One job that I can tell you about is the new Chancery of the Embassy of Korea, as well as the new Brewood Building, which we spent like 2½ years on each project and we were in from the ground up; what I mean is the consulting of utilizing the old facility as opposed to building a new structure which is the new Brewood, and the new Chancery was an old building which we restored and refurbished, these I am citing to you so that you can see that women can get things done.

Thank you very much for your time.

Mr. CHERKASKY. Thank you. I agree with you that we must get things done.

[Mrs. Simons supplied the following information:]

[From the Washington Star, Dec. 27, 1976]

SMALL BUSINESS TRIES TO SAVE SENATE PANEL

Small business groups are rallying top managements of small companies for a letter-writing and talking campaign to convince the Senate to keep alive the Select Committee on Small Business.

Just last spring the Senate approved a plan to formalize the group, effective this January, giving it full committee status. But the planners reckoned without Sen. Adlai E. Stevenson 3d, D-Ill., who heads a reform group called the Senate Temporary Select Committee to study the Senate Committee System. The Stevenson group recommended that the Senate abolish a large number of committees to save money and promote efficiency among the small business committee.

To add to the perceived insult, affairs of the small business committee would be relegated to the Senate Agriculture Committee, which would assign five members to cover small-business affairs. Small business does include a large number of farmers. However, small business groups point out that small companies constitute 97 percent by number of the businesses in the country.

The current government measurement of a small business is a company with $9 million or less in assets, a net worth of under $4.5 million and earnings in the last two years of not more than $450,000.

The National Small Business Association is taking an active role to preserve the committee, and so are regional groups like the Connecticut Small Business Federation, which is sending out letters to its 1,400 members urging them to protest. David Engelson, former president of the National Association of Small Business Investment Companies and head of the First Connecticut Small Business Investment Co., says, "We would lose the experience of the senators who have been on the committee and the expertise of the staff." The staff now has about a dozen members.

Philip Kaplan, chairman of Reed Roberts Associates, a small business specializing in advising management on unemployment compensation problems, com-

mented, "My feeling is that the small business does not have enough representation in Congress. Unless he has a committee there is no one to turn to. We're better off with a committee."

But the views of some small business executives are mixed. In Norfolk, Va., Nicholas G. Wilson 3d, president of the Door Engineering Corp. said, "I'm between a rock and a hard place. The small businessman definitely needs representation at the legislative level, but the multiplicity of committees has contributed tremendously to the cost of government."

Mr. CHERKASKY. Mr. Morgenthaler of the National Venture Capital Association.

STATEMENT OF DAVID T. MORGENTHALER OF THE NATIONAL VENTURE CAPITAL ASSOCIATION

Mr. MORGENTHALER. I am David Morgenthaler, speaking on behalf of the National Venture Capital Association.

I am also a working venture capitalist.

The National Venture Capital Association represents about 70 of the venture capital firms in the country, private as well as public, which include some of the SBIC's, including most of the organized venture capital funds in the country.

We are not usually SBIC's, but a number of our members have SBIC subsidiaries.

We are interested in the formation of new businesses, and in the growth of smaller businesses in general, and I would like to give you a little more detail in a statement that we have circulated, about the importance of small businesses in our economy.

In general, we are all aware that the bulk of the assets in the United States are in a relatively limited number of companies.

Also, that about one-half the gross national product is turned out by a comparatively limited number of companies. However, there is a very strong case to be made for smaller businesses, and particularly the successful small businesses of today, which become what we would like to call the emerging innovative company of a few years from now.

Many of the products which stimulated our economy most, and have been of most impact in changing our lives, have come from these new small innovative businesses.

Such products include semiconductors, large-scale integrated electronic circuits, minicomputers, automatic typewriters which in fact have been predominantly developed by the newer emerging companies.

These challenge the older and more established companies, keep them competitive, and keep America at the cutting age technologically, and very much help our foreign trade balance.

Now, some of these successful smaller companies grow into these innovative companies that we talked about.

A recent study of the MIT Development Foundation brought out a very startling fact. If we list five mature companies, such as DuPont, Bethlehem Steel, General Electric, General Foods, International Paper, and Proctor & Gamble, we discover that from 1969 to 1974, the sales of these organizations grew from $21 billion to around $36 billion; however, their employment grew only about 25,000 jobs total for the entire group.

The mature companies simply were not creating the new jobs that our economy badly needs.

In comparison, five young technology companies which started in 1969, with only about $145 million in sales, less perhaps than any of these companies, grew to $857 million in sales, and in fact created around 34,000 new jobs.

In other words, five new young technology companies created more jobs than six of America's giants over that period of time.

Not only the employment increase, the sales growth rate was faster, the taxes paid increased much more rapidly, and so on.

I will not bore you with more statistics, but if we note this kind of company grows into the innovative category, such as Polaroid, 3–M, Xerox, IBM, and Texas Instruments—all large companies now, the innovative companies of the 1940's and 1950's—we discovered that those innovative companies created 106,000 new jobs over that period of time, more than four times the new jobs created by the mature giants of American industries.

The point is that these new companies make vast contributions in employment, true new ideas, and also in terms of jobs actually created.

As someone said earlier today, the technologies of today do tend to drive us into larger government, larger unions, larger cities, larger companies, and so forth.

The regulatory agencies apparently do aim themselves at larger businesses, but they in fact often strike smaller businesses harder.

This is certainly not intentional, but it is a direct effect of a number of pressures in the economy.

Our group is concerned at the decrease in the rate new companies have been formed, and the limited number of public offerings resulting from such companies, and would like to suggest a few things to this committee. We hope these might promote the formation of more of these new businesses, which hopefully will grow into the innovative businesses of the future. Briefly, we think there are incentives needed to assist the smaller growing businesses.

These relate both to reform of the corporate income tax structure, and, second, toward some sort of concept of providing incentive to increase employment in these smaller companies.

In the corporate income tax structure, we do note that the principle of graduated income taxes has long been recognized as equitable; however, in the corporate tax structure, there is clearly the single break at $50,000, which has been alluded to.

We think that smaller businesses should have some recognition of their problems and their opportunities, and be provided with graduated taxation.

We feel with the shortage of capital, and the difficulties which smaller businesses have in raising capital, further incentives are needed for investors to provide capital to smaller businesses.

First, the Tax Reform Act of 1976 has resulted in increasing the minimum tax on capital gains.

It has also impacted the maximum 50 percent tax rate on personal service income by offsetting personal service income eligible for the 50 percent rate with all tax preference income which includes one-half of capital gains.

Again, this makes investment in the higher risk, smaller businesses, relatively less and less attractive, and it is driving more people away from putting money into such businesses.

We believe that consideration should be given to establishing lower rates for capital gains taxes, not higher rates, and we believe that capital gains should be removed entirely from inclusion as a tax preference item.

Further needs of many of these smaller businesses, particularly the rapidly growing ones, are management incentives to attract the experienced managers from the larger companies to those smaller companies who need experienced people, to lead their growing departments.

The 94th Congress recently abolished qualified stock options, which we believed was aimed at the larger companies, but in fact most of the larger companies have not been interested in the use of the qualified stock option for many years.

It, in fact, resulted in considerable difficulty to the smaller companies who are unable to pay the larger salaries typical of larger organizations, and are unable to provide the security and the other fringe benefits, but were able to offer opportunities, and a chance to build an estate with a smaller company.

We believe that a management incentive, an incentive stock option of the type that this committee supported in the 94th Congress should be reintroduced in the 95th Congress, and should hopefully be enacted.

Finally, we believe that there should be incentives to encouragement of investment in successful innovative companies which are already publicly owned.

The ERISA reform put considerable pressure on banks, insurance companies, and other institutional investors to place their funds in the 50 to 100 largest corporations in the United States, and to discourage investment in the smaller corporations.

Clarification of this is needed, and incentives need to be given to those people to invest in our smaller businesses.

There are other problems, as you are aware, with liquidity of the stock market, with difficulty in creating a market for smaller companies, both to enable them to raise additional funds for themselves, and to enable their early stage investors to achieve some liquidity, to go back and reinvest in new companies.

We believe that both work with the SEC and possibly with Congress is necessary to improve this liquidity, offering more opportunity for small businesses to attract capital, and for owners of small businesses to achieve liquidity, where they choose to do so.

We think that most of all, the importance of these innovative companies to our economy should be stressed, and it should be recognized that they make a disproportionately large contribution in terms of jobs created, in terms of innovative new products brought forth and in terms of their impact on our country.

Thank you.

Mr. CHERKASKY. Thank you for your paper. I appreciate that.

Mr. GORDON. I would like to ask Mr. Morgenthaler a question. It is my understanding that the larger companies, when they grow, become larger through acquisitions, or through merger with other firms. You compared the increase in employment of five or six large companies, with a group of smaller companies.

Now, it is my impression that the larger companies that you mentioned—at least several of them—grew not so much out of themselves,

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but just by acquiring other companies, so there naturally would not be any increase of employment.

Did you take that into consideration in your comparison?

Mr. MORGENTHALER. The MIT study, as we understand it, lists total employment at yearend of each of the years over the period of time. Most of these larger companies in fact I think are so large and mature today, that they are doing relatively few acquisitions of additional companies.

Mr. GORDON. My point is that they grew larger through acquisition, rather than through increasing their capital equipment, and increasing employment, at least that is my impression. It really is not a very good comparison.

Mr. MORGENTHALER. I disagree.

With the smaller companies, there was little or no growth by acquisition by those people.

Mr. GORDON. That is right. It is the other ones, the large ones, that grew through acquisition.

Mr. MORGENTHALER. You mean they grew years ago through acquisition?

Mr. GORDON. Yes.

Mr. MORGENTHALER. But over this period of time, they increased their sales by 50 percent.

Mr. GORDON. Yes; they grew through a large extent also through acquisition.

Mr. CHERKASKY. Excuse me. We will get back to that point later on.

Mr. MORGENTHALER. That completes my statement.

[Mr. Morgenthaler supplied the following information:]

EMERGING INNOVATIVE COMPANIES –
AN ENDANGERED SPECIES

November 29, 1976

NATIONAL VENTURE CAPITAL ASSOCIATION

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November 29, 1976

EMERGING INNOVATIVE COMPANIES–
AN ENDANGERED SPECIES

Unless some solution to the present shortage of capital for large and small companies alike can be found, America's productive resources will grow old and the productivity of its workers will decline. Should this happen, our standard of living will decline.

This paper has been prepared by the National Venture Capital Association. NVCA represents professional venture capital investors as well as the companies they back, and the Association is particularly concerned by the significant drop in new companies being started and financed in this country.

The following analysis and recommendations were developed in order to emphasize the importance of the emerging innovative company and how to encourage more such firms to get started and financed.

IMPORTANCE OF EMERGING INNOVATIVE COMPANIES TO THE ECONOMY

Emerging innovative companies play a far more important role in our economy than is generally understood. Through their innovations these companies offer new products and services which improve the quality of life in this country and keep our system competitive. Moreover, these companies provide disproportionately more new jobs per dollar of capital employed than do mature companies, thereby facilitating the reduction of unemployment. Finally, they provide a substantial amount of revenue to the U.S. Government through corporate income taxes, and their rate of increase in income tax provision is growing far faster than that of mature companies.

In order to flourish, innovative companies require:

- The availability of capital to fund the formation of new small companies (arising from the implementation of new technology, new ideas, or from the spin-offs of products or services from larger corporations unwilling to devote resources to the ongoing development of such products or services). *It is the successful new small company of today which becomes the important innovative company of tomorrow.*

- The availability of capital to finance the growth of successful innovative companies, themselves. These companies provide substantial new jobs, grow at a rate far faster than can be financed by internally generated cash flow, and, therefore, depend upon external capital.

- A favorable market climate to encourage the investment of capital in higher risk small new and innovative companies vs. in lower risk equities of mature companies or in bonds.

- Appropriate incentives to attract capable management away from the high salaries and long term security provided by mature companies and into the emerging innovative companies which cannot afford competitive salaries, lack security, and can only offer the opportunity of substantial rewards if successful.

The Case for Emerging Innovative Companies

Many products and services, unheard of a few years ago, which now benefit our daily lives, were developed, not by mature companies, but by small innovative businesses. Semiconductors, and more recently large scale integrated electronic circuitry, minicomputers, microprocessors, computer peripherals and the expanding services they perform, hand-held calculators, automatic editing typewriters, new lifesaving medical equipment, high fidelity recording equipment and many other products are but a few examples. Companies producing these products and services keep our system efficient by challenging older, established mature companies who do not innovate and improve. They keep America at the cutting edge technologically and help our foreign trade balance.

Successful small companies become the substantial innovative companies which have a major impact on new job creation and pay increasing revenues to the Federal Government in the form of income taxes. Recently the M.I.T. Development Foundation completed a study on

sales and employment trends among selected young high technology companies, innovative companies and mature companies. The companies encompassed in the study were as follows:

Young Technology Companies
Data General, National Semiconductor, Compugraphic, Digital Equipment, Marion Labs

Innovative Companies
Polaroid, 3M, IBM, Xerox, Texas Instruments

Mature Companies
Bethlehem Steel, du Pont, General Electric, General Foods, International Paper, Proctor & Gamble

The study reflected the following salient facts:

($ in Millions, Employment in Numbers of Employees)

	Young Technology Companies	innovative Companies	Mature Companies
1974 Sales	$857.3	$21,517	$36,795
1969 Sales	145.7	11,647	21,410
5-Year Sales Growth	$711.6	$ 9,870	$15,385
Compound annual rate of increase	42.5%	13.2%	11.4%
1974 Employment	41,966	555,882	812,351
1969 Employment	7,597	449,284	786,793
5-Year Employment Increase	34,369	→ 106,598	25,558
Compound annual rate of increase	40.7%	4.3%	.6%
1974 Income Tax Provision	$ 57.4	→ $ 2,296	→ $ 1,506
1969 Income Tax	13.2	→ 1,528	→ 1,034
5-Year Increase	$ 44.2	$ 768	$ 472
Compound annual rate of increase	34.1%	8.5%	7.8%

The following conclusions can be drawn from this study:

- The Young Technology companies, with ending sales only 2% as much as those of the mature companies, nevertheless hired 34,369 people or 34% more than the 25,558 hired by the mature companies over the 5-year period.

- The Innovative companies, with ending sales only 58% as much as those of the mature companies, nevertheless hired 106,598 people, or *over 4 times* more than the number hired by the mature companies during the 5-year per .

- While the mature companies increased sales and net income over the period at close to the same rate as the innovative companies, the mature companies accomplished this largely through utilizing available capital to automate production rather than through expanding their labor forces. Employment in the mature companies increased by only 3.2% over the five years compared with ***23.7% for the innovative companies.***

- Finally, the innovative companies, with ending sales only 58% those of the mature companies, and with ending employment only 68% of that of the mature companies, not only hired over 4 times as many new employees as the mature companies over the 5 years studied but throughout the whole 5-year period provided substantially more revenue dollars to the federal government in income taxes. In the final year alone the innovative companies provided ***nearly $2.3 billion or over 52% more in tax revenues than the $1.5 billion provided by the mature companies.***

Emerging innovative companies create products, services, jobs and revenue for the Federal Government faster than do our large mature companies. Such companies should and must be helped to flourish.

CAPITAL AVAILABILITY – AND THE LACK THEREOF

Mature large companies are the most capable of providing for their capital requirements out of internally generated funds. In addition, because of their size and maturity they have the easiest access to external capital. Investors perceive investment in such companies to be of low risk. In addition, the new Pension Reform Act, ERISA, has tended to make pension fund managers more cautious in their interpretation of the Prudent Man Rule. This has resulted in making the resources of pension funds, the largest available source of capital in the country, largely available only to the mature companies, thereby severely reducing the growth capabilities of most smaller companies.

Unfortunately, innovative companies, which have a far greater need for external financing, are perceived to have a higher risk, and large segments of capital sources are not willing to fund these companies. The highest risk segment, the younger emerging companies, are having the greatest difficulty of all in raising capital. Without such companies there will not be any innovative companies in the future.

For the most part, innovative companies do not arise from rejuvenated mature firms. Once a company reaches a certain size, it often approaches its future with caution and reduced risk taking. While the policy is designed to protect the stability of the business, the result is a decrease in its ability to grow. There is a direct relationship between risk taking and growth in our economy.

The smaller, higher risk companies provide a good measure of the corporate growth in the country. Yet it is these companies that have the greatest difficulty in raising capital and in their early stage, attracting good management.

The following data on the venture capital industry show how little venture capital is presently being invested.

The National Venture Capital Association, which includes the major venture capital groups in the country, has commissioned a two-year study by Professor A. Ofer, Northwestern

University, on the flow of venture capital. The most recent study showed the following for the Venture Capital industry (143 Venture Capital Firms):

	millions	
	1975	1974
Investments in new projects not previously in the portfolio	$ 52.4	$ 80.6
Investments in companies already in the portfolio	58.9	101.3
	$111.3	$181.9

Professor Ofer's studies indicate that the flow of venture capital investment is slowing materially. His data also show how little money is now being directed by the venture industry into start-up or barely emerging companies:

	millions	
	1975	1974
Amount invested in start-ups	$ 15.6	$ 12.9
Amount invested in "first round" financings	8.1	37.5
Amount invested in somewhat more seasoned "second round" financings	17.7	23.6
	$ 41.4	$ 74.0

Prior to 1973, the public markets were a significant source of financing for the successful emerging innovative companies. Firm public underwritings for companies with a net worth (prior to the public offering) of less than $5 million reflect the following pattern:

Year	No. of Offerings*	Total Dollar Amount (millions)*
1969	548	$1,457.7
1970	209	383.7
1971	224	551.5
1972	418	918.2
1973	69	137.5
1974	8	13.1
1975	4	16.2

*Excludes Regulation A, best efforts, government securities and foreign issues.

Source: *VENTURE CAPITAL MAGAZINE.*

As shown above, public offerings declined from 548 companies (and $1.5 billion) in 1969 to 418 companies (and $918 million) in 1972 to an abysmal average of 6 companies (and $15 million) in each of 1974 and 1975.

Effective public markets for the successful emerging innovative companies serve a twofold purpose. First, they provide desperately needed external capital to companies at a time of significant growth in sales and employment. This follows their successful emergence from the very high risk start-up and early development stages funded privately by founders, friends of founders and, in many cases, venture capitalists. Second, they permit the early investors and venture capitalists, with locked-in private investments, to sell a portion of their holdings and thereby "recycle" some funds from their more successful early stage investments into new private emerging companies requiring venture capital.

Certainly there is no way to develop emerging innovative companies unless capital is willing to be risked to get them started and growing. Studies by Professor Ofer indicate that the amount required to start a company has been increasing each year since 1970. It now takes at least $2 to $3 million to launch an emerging innovative type company and many times this amount in equity capital to finance its growth.

This is a wealthy country and there is no shortage of capital that COULD be invested in emerging innovative companies. However, there is a distinct shortage of capital that IS WILLING to be invested in such companies.

There are a number of reasons for this great change from the environment in which this country has grown and flourished:

- Capital gains rates have continuously been increased over the years and the new tax law has increased the tax on significant capital gains to levels that are commensurate with taxes on ordinary earned income. In addition, many states also tax capital gains.

  As a result the investor is receiving back less and less after taxes in return for taking the high risk of starting and backing new and growing enterprises. Nothing has been done to mitigate the high risk of such investing.

- It has become more difficult to sell successful venture capital investments. New SEC rules inhibit the sale of such investments, and side effects of these rules have generally reduced the price at which such investments can be sold.

  The stock market itself has reflected these changes. Stock prices of emerging growth companies are low . . . so low that venture capitalists cannot make sufficient profits on their winners to justify the high risks they must take or even to offset the losses on their losers.

  About the only way a venture capitalist can make a reasonable profit is through the merger of the emerging companies with a large corporation . . . which only goes to consolidate the power of the larger corporations in the country.

Basically, the question regarding capital formation is — will the system self-correct to encourage once again the creation of new companies and the flow of more capital into developing companies, or have basic changes occurred in the system to prevent this from occurring?

While the answer is unclear, fortunately an increasing number of responsible people give evidence of being vitally concerned.

A survey by the highly regarded "Cambridge Report" (1st Quarter 1976) reflected a substantial 64% majority who thought that a "very serious" (25%) or "somewhat serious" (39%) problem existed with respect to "raising the dollars needed for business investment" in the years ahead. Even more encouraging, 72% favor private investment over government investment.

In another 1976 survey by the polling firm of Opinion Research Corporation of "thought leaders in Washington" the results are encouraging. "Thought leaders" were divided into three groupings: Legislators; Executive Branch and Regulatory Agency leaders; and leaders of unions, public interest organizations and the media. The question asked was, "How serious do you think the shortage of investment capital facing U.S. industry will be over the next 10 years?" The answers follow:

	Legislators	Executive Branch and Regulatory Agencies	Unions, etc.
Very Serious	57%	57%	20%
Somewhat Serious	21	33	45
Subtotal	78%	90%	65%
Slightly Serious	17	5	10
No shortage/or no answer	5	5	25
	100%	100%	100%

Again, it is encouraging that 78% of the Legislators surveyed and 90% of the Executive Branch and Regulatory Agency personnel surveyed see "very serious" or "somewhat serious" problems in the area of capital formation.

Our new President is, himself, a small businessman who has expressed an interest both in expanding business and in expanding job opportunities, particularly in those areas which require minimum federal spending. New approaches to these problems are being sought by the new administration.

Hopefully, this awareness by the new administration and Congress will encourage action to be taken to improve the flow of capital to smaller and innovative companies.

FEWER ENTREPRENEURS AND MANAGERS ARE INTERESTED IN NEW AND EMERGING COMPANIES

There seem to be fewer entrepreneurs in the country interested and willing to start their own companies. In addition, fewer people are willing to leave the large corporation to participate in the risks of an existing younger company. Once a company has been started, it can only continue to grow if it is able to attract additional, highly trained and dedicated executives in such areas as marketing, production, finance and research. Since the best such men will be earning high salaries in large companies, the small firm must find some way to entice them to leave their high salaried, secure positions and risk their future with the emerging innovative company.

What can entice a man to make such a move? Surely the smaller company can't cor te with high salaries. It simply doesn't have the capital or budget, and it can't offer job secu ty either. But it can offer excitement, challenge and the possibility of making a lot more money (if he can keep enough of it after tax payments) if the venture proves to be successful.

Founder's stock rules have been made much more restrictive in recent years and qualified stock options were eliminated in the Tax Reform Act of 1976. Only the non-qualified stock option is available as an incentive to induce skilled managers to associate with growing companies. With such options the recipient must pay taxes in the year the option is exercised (when cash is not readily available) rather than in the year of sale (when cash is available). Since the receipient normally has few other liquid resources, he is usually forced to sell a substantial portion of his stock just as it is received in order to fund the taxes he must pay. Such essentially forced premature sales of stock in the very company in which the entrepreneur/manager is working to build a growing successful business severely erodes his ongoing stake and hence motivation to continue building the business.

The key building blocks for the emerging innovative company are capital and management. Without adequate incentives for both, the ongoing formation of these vitally important businesses will simply not happen.

SOLVING THE CAPITAL AND MANAGEMENT PROBLEMS

Broad Initial Recommendations

Given the evidence that, in comparison with large mature corporations, the emerging innovative companies each year employ disproportionately more people and provide disproportionately more revenues through federal income taxes (to say nothing of the increased payroll and ancillary taxes available from the increased employment base), we recommend the following:

- The Carter Administration, in its plan for reorganizing the Government, should give adequate authority to some entity within the Executive Branch which would focus full time on the needs of smaller emerging and innovative companies. This entity should focus on necessary incentives to promote adequate capital formation and on necessary incentives to attract qualified management from the relative security of large corporations to the far higher risks of small growing businesses.

- The new administration should work closely with the House Ways and Means Committee, the Senate Finance Committee, and any other committees dealing with the problems of capital and management incentives for emerging innovative companies. The objectives should be to develop legislative tax and regulatory changes designed to expand the formation of these businesses and to attract capital and qualified management to them.

  Until recent years, the private sector was effective in supporting new and smaller businesses. The Federal Government need not invest or spend valuable public funds to develop these businesses. With proper incentives, the private sector will again fund such businesses; qualified management will be attracted, as in the past; and the Federal Government will become more than a 50-50 partner through income tax receipts and payroll deductions from the successful growth of such businesses.

Longer Range Specific Recommendations

The National Venture Capital Association, on behalf of its members and the emerging innovative businesses in which its members have invested, has a continuing program of reviewing the impact, both beneficial and adverse, of legislative and regulatory changes.

The NVCA is in contact with the Treasury Department, the Securities and Exchange Commission, the various staff and members of the House Ways and Means Committee and Senate Finance Committee and others. The principal areas of concern to NVCA are:

- *Management Incentives* – Specific proposals to retain certain key benefits of incentive qualified stock options for managements of small emerging innovative companies were unsuccessfully presented to the 94th Congress. Incentive programs for managements of these types of businesses must be reestablished following the adverse impact of the 1976 Tax Reform Act if qualified managements are to be successfully attracted in the future. We stand ready to introduce specific proposals to the proper authorities.

- *Incentives to Assist Smaller Growing Businesses* – Graduated income taxes have long been recognized as equitable in the taxation of individuals. The corporate tax structure has differentiated only between those businesses either earning *less* than $50,000 annually or *more* than $50,000. This penalizes the smaller growing company much as the same policy would unduly penalize individuals. We stand ready to espouse specific proposals in this area to the proper authorities. We also stand ready to discuss the concept of providing specific deductions to smaller growing operating companies arising from net increased employment they may provide each year. Other proposals for the assistance of smaller growing businesses are under study.

- *Incentives to Investors* – The Tax Reform Act of 1976 has resulted in increasing the minimum tax on capital gains. It has also adversely impacted the maximum 50% tax rate on personal service income by offsetting personal service income eligible for the 50% rate with all tax preference income, including one-half of realized capital gains. The impact of these changes further reduces the amount of capital gains which effectively can be retained after federal taxes to as little as 47.5% of the gains in certain instances (less any further reductions from state taxes on capital gains) whereas the risks of capital investment continue unabated. Consideration should be given to establishing lower rates for capital gains taxes and, simultaneously, removing capital gains entirely from inclusion as a tax preference item. The effect of this proposal would be to clarify and simplify capital gains tax calculations and to eliminate the double taxation effects of the present system.

- *Incentives to Encourage Investment in Already Publicly Owned Successful Emerging Innovative Companies by Pension Funds and Other Institutions* – The great institutionalization of the stock market and the increasing percentage of the nation's capital in the hands of pension funds is creating a shortage of investment interest in smaller sound growing publicly held companies with annual sales of less than $100 million or so.

In Peter Drucker's new book, "The Unseen Revolution," he estimates that 50% of the equity capital in the country will be under control of the corporate pension fund managers by 1985. These men, in his opinion, are temperamentally unsuited and unqualified professionally to invest in the smaller type of publicly owned company. Yet, unless a way is found to tap some of this capital for emerging growth companies who deserve and need capital in order to keep growing, they will continue, as now, to be choked.

Some means must be found to strongly encourage pension funds and perhaps insurance companies and banks to invest in the smaller publicly owned companies. Perhaps this might entail the creation of special funds with capable professional management to make such investments. The pension funds, banks and insurance companies should be encouraged to invest a small percentage of their capital in such special funds and pay the somewhat higher management fees required to support such endeavors.

Clarification of the Prudent Man Rule under the new pension fund law, ERISA, must be issued by the Department of Labor in order to accomplish this.

Pension fund managers must also receive clearance to invest in another fund for the purposes indicated above. The present rules on fiduciary responsibilities often create problems and should be altered appropriately.

- *Increased Liquidity and Marketability for Securities to Enable Investors to Turn Over and Recycle Investments in Maturing Business* — NVCA is having ongoing discussions with the Securities and Exchange Commission and has proposals currently before it to accomplish these objectives in limited fashion. We stand ready to discuss these and other proposals with the proper authorities.

  In a related area, funds devoted to investment should be given higher priority for the benefit of the country, its economic growth and fuller employment than funds devoted to consumption. We recommend consideration of a program similar to that available to homeowners, for the deferral of capital gains taxes from profitable investments in smaller emerging growth companies, as appropriately defined, so long as proceeds from the sales of any such investments are "recycled" into similarly defined companies within an appropriate period of time.

Finally, we would urge a study of public trading in options of the large corporations. Such a study may well demonstrate that capital utilized for these purposes is unproductive for the economy and is, in fact, draining away capital from other more productive although equally high risk uses, such as investment in the smaller emerging innovative companies. In this connection we would urge a study of the feasibility of a lower capital gains tax rate for any profits arising from funds invested directly into a company who qualified, by appropriate definition, as a smaller emerging innovative company. Funds so invested help to build businesses and increase employment. This type of tax incentive might assist in luring funds away from alternative, less productive, investments, such as publicly traded options.

Above all, whatever specific remedies are employed, we repeat that emerging innovative companies create products, services, jobs and substantial revenues for the Federal Government faster than do our large mature companies. Such companies are presently "an endangered species." They must be helped to flourish.

Mr. CHERKASKY. We will now hear from Mr. Honig.

STATEMENT OF DANIEL A. HONIG, ELECTRONIC REPRESENTATIVES ASSOCIATION

Mr. HONIG. I am Dan Honig. I am an attorney here in Washington.

I am here representing the Electronic Representatives Association and the Manufacturer's Agents National Association.

This is an association of sales representatives that market many of the innovative products that were just discussed.

Our people market all of the products in the electronics industry, ranging from consumer electronics to sophisticated microcircuitry and many other products.

I am also a part owner in a small business, so I understand many of the problems that small business have.

Several of the areas that our organization is particularly interested in are areas that have been discussed before, but I want to put them in the proper perspective, so far as the Manufacturer's Agents National Association and Electronic Representatives Association is concerned.

We are concerned very much with the *paperwork problem*. The avalanche of paperwork required by a small organization.

Our member corporations average about 4.3 employees.

The amount of paperwork required for a small sized corporation, all of you know, is horrendous.

The forms do not even match. Someone called me the other day and suggested that someone in the Government review tax forms just to make them match, so that when you go from a form 940 to a 941, the social security numbers and the names and the periods of employment line up from one form to the next.

OSHA is another problem that has been discussed, and it is a problem that involves our members as well.

OSHA is a punitive program, and it should help rather than punish. Our members live in fear of a OSHA representative coming into their small office, finding a violation and imposing a penalty.

Our third priority it with the Renegotiation Act.

The Government has a Renegotiation Act for Government procurement, which significantly discriminates against the sales representatives. The reporting requirements for our members under the Renegotiation Act are so difficult as they exist right now that many of our members do not file as required by law.

The Renegotiation Act will probably be reintroduced again this year, and we would appreciate the support of the Small Business Committee in helping to change that bill.

Fuel allocation is our next concern. Our people are sales representatives. They must be able to travel in order to earn their livelihood. In the event of any special legislation affecting the use of gasoline, we would appreciate this committee to be on notice that we need your help. Your input to any such legislation to exempt gasoline for salesmen is extremely important. We do not see this as happening tomorrow, or the next day, but if everything I read is right, it is just a matter of time before such legislation will be proposed.

There has been comment on the increase of the *surtax exemption.* We concur with the idea of the increase in the surtax exemption, and we would like to see legislation supporting a "surtax exemption carryover," the right for a small business to carryover into the next year unused surtax exemptions.

Small businesses, unlike the large businesses, have peaks and valleys in their capability to earn money.

They will make a lot of money one year, and the next year, due to one problem or another, they may suffer a loss.

Why should they not be able to use the surtax exemption that has been created for small business the next year, when things do improve.

Finally, the question of the impact study of legislation that affects business in general, and how it may affect small business is extremely important.

The new administration is talking about impact statements on legislation, as to how it affects employment, how it affects welfare, how it affects minorities, how it affects the ecology. One of the most valuable natural resources of our country is the small businessman, and the opportunity to go into business, the freedom to enter into an enterprise, the freedom to take one's savings and to start a business. Yet this natural resource is often not considered in new legislation. I would encourage the staff of this committee to look into and perhaps even hold hearings on any bill that may affect small business, and present to the proponents of that bill, no matter what committee is involved, as to how the bill might affect small business in general.

Thank you.

Mr. CHERKASKY. We will try. We will try to do some of those things.

We will now hear from Dona O'Bannon, vice president, National Association of Women Business Owners.

STATEMENT OF DONA O'BANNON, VICE PRESIDENT, NATIONAL ASSOCIATION OF WOMEN BUSINESS OWNERS

Ms. O'BANNON. I am Dona O'Bannon, our first vice president of the National Association of Women Business Owners.

Please remember they do exist.

First of all, the association is a trade association of women business owners.

Our goal is to heighten visibility of women business owners, and increase contract opportunities, and hopefully to raise them out of the sphere of the small and into the sphere of the large.

As opposed to what Dr. Franklin said, we do not constitute 51 or 52 percent of the population.

Women business owners according to a 1972 study which is now outdated comprised less than 3 percent of the total number of businesses, and less than 1 percent of the total gross assets.

Most of our members, and the others we have found, are women business owners who own 50 percent or more of their businesses, most are service related rather than manufacturing ventures. Most are corporations rather than partnerships, or sole proprietorships.

The average gross receipt of a woman business owner may range anywhere from $25,000 to $100,000 a year.

The association is interested in increasing procurement, we are interested in OMB increasing set aside, increasing the contracts.

We are interested in women business owners having more of the pie.

We want to be in the mainstream. We do not want to be a part of the agenda for the Small Business Committee.

We would like to be part of the small business sector generally, and that is our aim.

First of all, the association is very strongly in support of this committee's request for a White House conference on small business.

The President during the campaign was very interested in small business, he was very much interested in the women business owners, as expressed in his speech in Washington.

Should such a conference be convened, the National Association of Women Business Owners would ask to participate fully in the design, to formulate, to make an evaluation and design of such a conference.

We want to be more of a part of the matters involving the SBA, since that is where many of the problems of women business owners rest, and that is where our interests are, and that is where the oversight of this committe lies at the present time.

First of all, the association would like to request declassification of the SBA structure and function.

That is, it does not particularly relate to women owners in general.

What we are looking for is mainly reclassification of definition of small business, small service-type business, small manufacturing, and perhaps these services should be expressed in the number of employees, of gross receipts, and so forth.

This can apply to men as well as women in the small business sector in general.

This can be done either through regulation of the SBA, or more than likely through statute, generated hopefully by this committee.

Also, we would like to comment on the SBA's program.

Women business owners do not want to be considered minorities.

We have found the 8(a) program to be such liability, so much so that we do not want to be included in the program at this time.

Most of our minority members, if not all of our minority members are in accord with us on this position; however, with substantial modification, we might be interested in participating in 8(a) contracts, if modifications are made.

The major concern of members who are 8(a) contractors at the present time, and who do have the qualifications, is that there is really no objective or criteria for the determination of 8(a) status, for a company that has a Hispanic person at the head, that might be making $25,000 or fi40,000 a year, very easily could become an 8(a) contractor.

We are also concerned that SBA needs to upgrade small businesses so that they are no longer small, but perhaps go into the large category, and this to be the aim of the SBA, as well as its counseling and other activities.

One of the main concerns we have found with this committee, is spearheading of efforts for women's conferences, and our association did testify on two occasions in 1975 and 1976 before two SBA advisory boards.

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We feel we need a change in composition and in the responsibilities of the SBA advisory board.

The advisory boards and the committees, and all of the groups provide a very important function, and yet their input is negligible, we have found in the SBA.

Their recommendations are totally ignored, and the participants on the committees, several of which are women—one of them on the National Advisory Committee is our former president—feel there is no actual input made into the recommendations, therefore our mechanism for positive input from the Board into the SBA should be designed and implemented.

The association believes that the publications disseminated by the SBA are excellent, but the delivery of services as explained in the brochures is absolutely poor, and we also believe that the SBA in its continuing recognition of women business owners, should update its brochures to reflect the existence of women entrepreneurs in the small business sector.

This could be very easily accomplished through a change of language reflecting the reality of women business owners in the free enterprise system, and lastly, the association believes that sensitizing the SBA officials and other Federal procurement officials is necessary, regarding women entrepreneurs.

Not too many people believe they exist other than the few exceptions, but they do exist, they are growing substantially, women who are successful in their field as at the present time, those in the professional fields are finding it very interesting to go into business, and while perhaps lacking some of the administrative and financial functions which the association bolsters in its seminar program, they are indeed achieving and achieving well.

The desensitizing, we believe, should be not only for administrative and staff, but for all volunteer advisory groups serving the SBA.

Again we thank the committee for having us, and we look forward to working with you in the future.

Mr. CHERKASKY. Thank you.

We are also concerned about the Small Business Advisory Councils. I have been to several, and I wonder what happens.

Ms. O'BANNON. Nothing.

[The attachments to Ms. O'Bannon's prepared statement follow:]



National Association of Women Business Owners
2920 M St., N.W.
Washington, D.C.
20007
202 338-8966

February 7, 1977

Honorable Gaylord Nelson
Chairman
Select Committee on Small Business
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

The National Association of Women Business Owners thanks you for giving us the opportunity of appearing before the staff of your Committee today. We appreciate having this chance to outline the Association's objectives so that they can be included in the Committee's agenda for the 95th Congress.

The Association wants to go on record in strong support of the Committee's efforts to convene a White House Conference on Small Business.

Enclosed is a brief outline of the goals the Association would hope to see achieved either by the SBA itself or through statute and proper oversight by your Committee.

Sincerely,

Dona O'Bannon

Dona O'Bannon
First Vice President

Enclosure

National Association of Women Business Owners
2920 M St., N.W.
Washington, D.C. 20007
202 338-8966

LEGISLATIVE OBJECTIVES OF NATIONAL ASSOCIATION
OF WOMEN BUSINESS OWNERS

1. Association supports the Committee's request for a White House Conference on Small Business. Association would ask to participate fully in design, formulation of agenda, conduct and evaluation of such Conference.

2. Association would request reclassification and/or decentralization of SBA structure and functions.

(Association concerned primarily with reclassification of definition of small business; e.g., "small" manufacturing vs. "small" service with emphasis on number of employees, annual gross receipts, etc.)

3. The SBA's 8A program has become a liability so much so that women business owners do not want to be included in this category at this time. Our minority members support us in this position. However, with substantial modification, we would be interested in participating in 8A contracts in the future if satisfactory modifications are made in the program. Major concern of Association members is that there is no objective criteria for determination of 8A status.

4. Association would support some type of "point" system being assigned to prime contractors for the Federal Government in which additional points are given to the primes for inclusion of women entrepreneurs and minorities in their presentation to Federal departments and agencies.

5. As Federal Government has addressed sexism by having Federal women's program coordinators; therefore, we recommend that every department, agency and regional and district offic therein establish a coordinator for business/contracting opportunities for women.

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6. In an effort to strengthen contracting opportunities for women business owners and to insure fairness in consideration, women entrepreneurs feel we should sit on decision-making boards that review applications for 8A status as well as SBA loans in general. Any review boards should also include women business owners.

7. Regarding the SBA Advisory Boards, the Association feels that there should be a change in composition, duties, and responsibilities of Advisory Boards. Furthermore, a mechanism for positive input from these Boards into the SBA should be designed and implemented.

8. The Association believes that the publications disseminated by the SBA are excellent, but delivery of services explained in brochures is poor.

9. The Association believes that the SBA, in its continuing recognition of women business owners, should update its brochures to reflect the existence of women entrepreneurs in the small business sector. Language reflecting this reality should be expressed in all SBA publications.

10. The Association believes that further "sensitizing" of SBA officials (at all levels -- staff and volunteer) should take place. While the presence of the woman entrepreneur in the marketplace is not new, the quantity of those seeking assistance from the Small Business Administration has increased substantially in recent years. SBA administrative and support staff as well as any volunteers should be sensitized to women entrepreneurs and their specific problems and needs.

Mr. CHERKASKY. We will now hear from Lynette May, second vice president, National Association of Women Business Owners.

STATEMENT OF LYNETTE MAY, SECOND VICE PRESIDENT, NATIONAL ASSOCIATION OF WOMEN BUSINESS OWNERS

Ms. MAY. I am Lynette May, representing the National Association of Women Business Owners.

As the Federal Government has addressed sexism by having Federal women program coordinators, the association will support and recommend that every department agency at the regional and district office level within the Federal Government establish a coordinating position for business contracting opportunities for women.

The association would further support some type of system for the Federal Government.

Mr. Chairman, I have a statement here which I will submit to you.

One other issue, we would like to address is that over 85 percent of our association members are in service oriented fields.

We would like to give you as an example the Arthur D. Little Co., which is one of the largest research firms in this country and does quite a bit of contracting with the Federal Government.

Many members of our association are involved also with research and development, consulting services, and so forth.

We feel with the proper support, within the next 5 to 10 years, that many of our association members should be aspiring to such an entity as Arthur D. Little, Inc.

Thank you.

Mr. CHERKASKY. We will hear from the National Home Improvement Council.

STATEMENT OF RANDOLPH J. SEIFERT, NATIONAL HOME IMPROVEMENT COUNCIL

Mr. SEIFERT. I am employed by the National Home Improvement Council, and this morning I appear on behalf of our contractors council.

First, we are very concerned with the Federal regulatory process. Within the last 60 days, the Federal Trade Commission rendered an opinion that where there is a conflict between an FTC trade regulation rule and a prior act of Congress, the Federal Trade Commission rule prevails under the circumstances of that instance. This raises grave questions of Federal agency jurisdiction vis-a-vis the rule of Congress.

We worry that the citizen's right of petition to Congress be preserved. If the regulatory agency power is beyond the reach of Congress, we are concerned.

Moreover, in an instance with which we are concerned, the FTC door-to-door sales rule, it has been suggested to us that since most of the States—more than 40—have followed the FTC lead and adopted an almost identical rule, that this is a further reason why the Federal rule will most likely not be changed, and realistically is beyond amendment. So you have in a sense a rulemaking authority, without effective supervision by Congress, and with a built-in mechanism against change.

Second, the Small Business Administration has a loan guarantee program, and a recent policy which affords an opportunity for federally guaranteed loans to small home improvement contracts. As a matter of fact, it provides a mechanism to cut through agency redtape, as it is essentially a private sector financing of loans. As it applies to home improvement remodeling, it affords a very viable mechanism for financing change in the inner cities. It makes available to the small contractor a source of funds of those people who know renovation and rehabilitation best.

This loan guarantee program for home improvement contractors was just adopted last August, but every indication is that it can be a very effective tool. We hope that the monetary authority of the Small Business Administration, to grant these guarantees will be substantially enlarged.

Third, there are a number of industry studies financed by and for the Federal Government, which by their nature tend to perpetuate the big business segments of an industry.

Several studies have been made of our industry, for instance, but the small business segment has not been represented, or heard. We would respectfully suggest some mechanism whereby the small business community be consulted, in advance of funding for a federally funded study. At the least the affected small business community ought to be advised that such studies are in the works, so that we can contribute to those studies.

Fourth, apparently Congress and the Internal Revenue Service have under consideration a change in the definition of the word "employee," as it applies to Federal and State taxes.

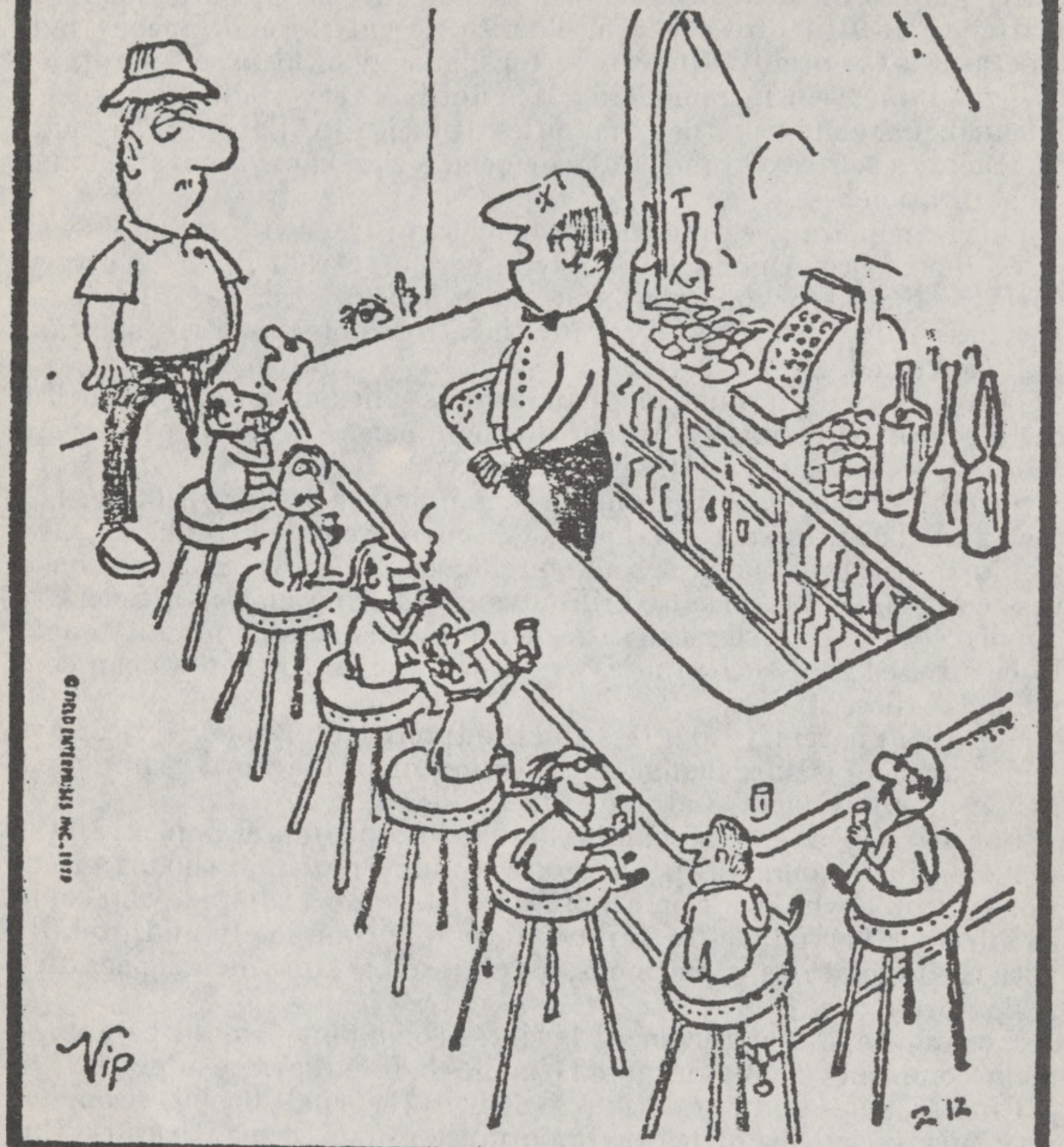
For many of us such a change could have a profound impact. In the small business community, there are a number of unorthodox situations: People who work on a part-time basis, for example, who could be affected. The impact or failure to comply completely and literally with the regulations is enormous, in terms of back payments, penalties, and interest.

I would hope that the small business community would be able to make comments on any proposed changes before they are adopted.

Finally, rules and regulations that help the small business community survive will be of major importance to our society, because this community offers initiatives to the total society, opportunity for enterprise, opportunity for upward mobility. I agree with what Dr. Franklin said, with respect to the small business community, as to what it offers in terms of the possibilities of upward mobility to all of our people, and in terms of the opportunity to all of our people under our free enterprise system. I do hope we would give some concern to those opportunities before it is too late. Thank you, Mr. Chairman, for this opportunity to be heard.

Mr. CHERKASKY. Thank you very much.

[Mr. Seifert supplied the following information:]



"It's the small Businessman's Convention."

Mr. CHERKASKY. I think that we will probably have the transcript mailed out to the various participants so they can work on their own comments, and we will probably try to make a committee print of these proceedings, so the record will be voluminous. But we probably will try to make a permanent record of this.

I would like to skip along.

Mr. Nash of the American Society of Pension Actuaries.

STATEMENT OF JAMES W. NASH, EXECUTIVE DIRECTOR, AMERICAN SOCIETY OF PENSION ACTUARIES

Mr. NASH. I am James W. Nash, executive director of the American Society of Pension Actuaries.

Statistics demonstrate that most pension and profit-sharing plans in the United States are operated by small businesses. Our members provide actuarial and administrative services to hundreds of thousands of these plans and are well aware of the problems which beset them. They are especially aware of the fact that certain aspects of the Employee Retirement Income Security Act of 1974—ERISA—have had the unfortunate and unintended effect of discouraging the initiation and retention of smaller plans.

Accordingly, we wish to recommend specifically to the committee that it hold oversight hearings dealing with the effect of ERISA on small businesses.

We know that ERISA has had unfortunate effects on smaller plans by looking not only at current high termination rates, but also at statistics which demonstrate low new plan initiation rates. We know as a result of looking at these statistics that ERISA has frightened the small businessman and has distorted his ability to make a rational decision about whether to retain or initiate a plan.

Such a reaction is easily understandable when one considers the fact that the law seems to be designed only for large plans. And not only is the law designed for large plans, it seems that the Internal Revenue Service is determined to apply stricter standards to smaller plans than it does to large ones. A case in point is the strict vesting rules of revenue procedure 75–49, which, in operation, applies almost exclusively to small businesses.

We feel that Congress must amend ERISA in several respects in order to prevent such injustices. We agree that a two-tier regulatory system might make it possible for a small business to maintain a retirement plan. We also feel that Congress should recognize the fact that a small business firm is conceptually different since it is constituted of essentially different organizational and financial configuration. This distinction should be recognized especially in the pension plan area, but also across the whole spectrum of Federal regulations.

Mr. CHERKASKY. Thank you.

Dr. Flewellen?

STATEMENT OF DR. WILLIAM C. FLEWELLEN, JR., PRESIDENT, AMERICAN ASSEMBLY OF COLLEGIATE SCHOOLS OF BUSINESS

Dr. FLEWELLEN. Thank you.

I represent some 500 schools of business across the country.

In the last few years, we have become seriously involved and given special attention to working with small businesses throughout the country.

The success of that venture has led to the joint development of a concept by the SBA and representatives of the academic community for Government-business-university relationships for addressing the problems of small business. This concept is based on the Government-agriculture-university model.

This concept harnesses the entire resources of universities for assistance to business, and you probably have more of your tax dollars invested in colleges and universities of this country than in any other single institution. It would harness these resources through the schools

of business to work at solving problems you have been discussing here today.

Essentially it would gear up in each State a university system to address managerial assistance, basic and applied research, consulting seminars, conferences, testing of aptitudes, and the like for the small business community.

We believe that this Government-business-university relationship holds more promise than any other solution for maintaining the viability of the small business community, and would address the many problems along with the other Government agencies that you have suggested as critical today.

Mr. CHERKASKY. Thank you.

[The prepared statement of Dr. Flewellen follows:]

Testimony Before the

Senate Select Committee
on
Small Business

W. C. Flewellen, Jr.

President, American Assembly of Collegiate Schools of Business
Member, National Advisory Council to the Small Business Administration
Member, Small Business Advisory Council of the Treasury Department
Dean, College of Business Administration, University of Georgia

There is no need to spend time here establishing the immense importance to the Nation of the small business segment of our society.

> "Nearly 10 million small businesses constitute 97% of U.S. businesses and provide a livelihood for over 100 million people by providing 58% of the Nation's business jobs and producing 48% of the Nation's gross business product."

Furthermore, you are familiar with the poor survival rate for small businesses, and you know that the Dun and Bradstreet failure record shows

> "For every 100 small business firms which start each year only 10 will be in operation five years later."

consistently more than 93% of all business failures are due to managerial weakness and deficiencies.

Today I speak for a government-business-university partnership that can have significant positive impact upon the small business community. It can do for the small business segment what the government-agriculture-university partnership has done for the agricultural segment of our society. The small businessman today appears to be in much the same circumstance as was the small farmer in the first half of the century. The lack of financial resources, the lack of formal training, the lack of management and technical "know how," and the lack of access to expertise in management, technical matters and applied research beset the small businessman as they beset the small farmer years ago.

The university proved a unique and effective resource for the small farmer and it has served him and the people of the world well. These same unique features can be turned to the assistance of small business. The Small Business Institute over its 5 year life, has proved two things, one, that the

students in schools of business are an effective source of managerial consulting expertise and two, that the experience of working with a small business on its problems is one of the most effective learning experiences that educators have yet devised. The faculty of the schools of business, 15,000 of them, not only are available for managerial consulting, training programs and basic and applied research (the unique services of universities) but also provide access to the entire spectrum of expertise found only in our great universities. Furthermore, universities have for decades been dedicated to service for the people who funded their operations, the people of their several states.

The AACSB proposes that the Agricultural model provides a proven conceptual framework upon which the government-business-university partnership is best based. The model stipulates joint federal and state financing. It finds essential a focus upon state level programs as is the focus in agriculture. Thus as in agriculture each state should develop its own state plan which would address the problems that are unique to that state. Optimally the plan should include enough educational institutions of all types and at all levels to cover the state and provide the services in the most effective manner. Services provided could have a similarity in programmatic guidelines but would allow for uniqueness in application. It is proposed that the federal, state and university committments be long term to permit career commitment of faculty and staff - to date the funding of projects has been short term and project based.

It is proposed that each state would establish in one of its major institutions a unit that we have come to call a University Business Development Center. This state level center would develop the state wide program in cooperation with other educational institutions in the state.

The UBDC would serve both the small business community and the students and faculty of the institutions involved. As indicated earlier, the Small Business Institute has proved that students are effective in assisting small business and find it one of our best learning devices. Furthermore, it appears to develop entrepreneurship and should lead to the involvement of more college graduates in small businesses. The program would develop faculties with more practical experience and orientation and thus the degree granting educational programs would be improved. But these benefits are largely by-products as they are in agriculture.

The primary objective of the UBDC is the improvement of the success rate for small businesses. The improvement will be effectuated through management assistance and basic and applied research. A full service UBDC would provide management screening, management information and training, counseling, applied research and economic information. It would provide psychological analyses of business skills and entrepreneural aptitudes, minority and female entrepreneural development, innovation and product development, technology utilization and assistance, a business law clinic, an international trade development center, a capital formation information center, an economic and environmental center and a marketing services center.

The university involvement in agriculture is one of our greatest successes and may be the most successful government-university venture. The AACSB proposes that university involvement in small business using the model proposed can provide us with a second successful partnership of great significance and with far-reaching long term results.

Mr. CHERKASKY. Mr. Kindling?

STATEMENT OF ALEXANDER T. KINDLING, PRESIDENT, SMALLER MANUFACTURERS COUNCIL OF PITTSBURGH

Mr. KINDLING. Thank you.

I am president of the Smaller Manufacturers Council of Pittsburgh, as well as the president of a small machine shop.

We at Pittsburgh agree with the many recommendations given the committee today, the few that I mention would certainly not limit our interest in any of the others, but we feel that the economic stimulus, short- and long-range, finance long-term debt, capital formation and retention, and tax relief for small business, certainly are among the most important.

We recognize that reducing Government paperwork would be very, very important for us, improve the tentativeness of SBA, and the small business set-aside, is all very important.

Product liability, again, the same, but the immediate problem in Pittsburgh is energy.

We are currently doing a survey of our over 700 member companies, and the first day we ran into 73 answers showing that we have 36 firms shut down, 37 firms partially out of business.

Some have been told they will be shut down until March 1.

One company is the sole supplier to a larger company employing 400 people. This is only one of five companies to whom he is the sole supplier, and they will be out of his products by the 15th, so you can see the ripple effect is tremendous.

There is a bill going to be introduced on February 9.

We welcome your help in supporting this bill, because it would give quick relief to companies like those that I mentioned in Pittsburgh.

Thank you.

Mr. CHERKASKY. Thank you.

[The prepared statement of Mr. Kindling follows:]

STATEMENT OF ALEXANDER T. KINDLING, PRESIDENT, SMALLER MANUFACTURERS COUNCIL OF PITTSBURGH

ENERGY

The Energy Crisis has been with us for the past several years, in varying degrees of severity, depending on the winter weather. Before the current crisis, our members have had extreme difficulty, because of the natural gas situation, in expanding their present plants, in building new plants or just continuing current operations. A few years ago, one of our members drilled two or three gas wells on property it owned some miles from its plant but was unable, because of Pennsylvania law and other factors, to do such a logical thing as sell the gas to a pipeline to deliver it to its plant and then purchase such gas. The gas, it turned out, could be used by others but not by this particular company. Last year, the winter of 1975–1976, one of our members was told its plant would be cut to 40% of its usual gas allowance. It was feared, at the time, that if such a cutback went through, the plant—the only producer of a certain item—would have to close, meaning that only imports of that particular product could be available in America. These are extreme cases from "non-bad" years. This winter season is another story—all to the bad. Most of our companies are one-plant operaions—cut off its gas and the plant and the company closes down, putting whatever work force it has out of work.

While the unemployment figures may not compare to those of some subsidiary or division of a larger company facing the same curtailment, the fact is that our member company faces 100% unemployment and, possibly, extinction while a plant of a larger company does not, in the true sense, mean 100% unemployment and going out of business. Our area has had schools closed, plants closed, commercial businesses curtailed in their hours and even some residences shut off, all at the direction of a gas company. Its word, apparently, is all that is needed: "We have no gas for you—period." We are loathe to recommend any further regulation by the Federal Government—everyone agrees there is already far too much and someone was quoted in recent years as saying, "Thank God we don't get all the Government we pay for." What is needed, is more natural gas. What the Government needs to do is allow that gas to be found, shipped and sold. Argument about "old gas" and "new gas" or interstate gas versus intrastate gas fail to impress anyone who is shutting down his plant and putting his friends, neighbors and associates out of work. The solution is more gas. How we get that, we don't know; what price we'll have to pay, we don't know. We hope, sincerely, that gas does not follow gasoline which was dreadfully short at 30 cents a gallon but extremely plentiful at 60 cents a gallon.

ECONOMIC STIMULUS—SHORT RUN AND LONG RUN

Federal taxation has the greatest adverse impact on capital formation for the bulk of independent businesses. We strongly reiterate our support for the COSIBA (Council of Small and Independent Business Associations) Tax Bill in which provisions dealing with business growth and continuation were carefully designed to permit well-managed small businesses to grow through the retention of earnings. We also strongly support the increase in the corporate surtax exemption to $100,000 permanently, as this is the quickest and surest immediate relief for small business. The present investment credit is biased in favor of those firms which utilize capital equipment, so we would support a 10% tax credit on the first $250,000 of earnings for all businesses, whether or not they can use the investment credit provisions of the present Tax Code. We suggest a 20% tax credit for those who make SBA-guaranteed loans (as recommended by the Treasury Department in 1970 and 1971). This would give a great incentive for banks to generate SBA-guaranteed loans and for institutional investors to purchase the guaranteed portion of such loans. We also recommend that SBA regulations permit banks to roll over their lines of credit or shorten loans into term loans, perhaps with a minimum term of seven years.

EQUITY SOURCES FOR SMALL BUSINESS

Small business, by government estimates, faces an annual shortfall of equity capital for the next ten years of some $7 or $8 billion, a tremendous sum for the part of our economy which has practically no access to public securities markets or to institutional funds. Under ERISA, the fiduciaries responsible for investing the $210 billion of pension funds should be told that small business investments are as permissible and acceptable as any others within the "prudent man rule." Under securities laws and regulations, there must be an increase in the present limitation on Regulation A offerings up to at least $2 million; Rule 144 should be amended to allow those who invest in new and small businesses to recycle their funds more promptly, enabling them to invest in more new and small firms; and, the private offering exemption under Rule 146 should be studied to see if it can be made more useful to small businesses.

TAX RELIEF FOR SMALL BUSINESS

In the few situations in which our tax laws encourage capital formation, the laws favor the larger capital-intensive corporations and encourage merger as opposed to continued operations of independent enterprises. (See the 1976 Small Business Washington Presentation.) In terms of capital investment, small businesses generally create much greater employment per dollar than do larger corporations but our tax laws fall oppressively on the small enterprises. Under business taxes, we urge a graduated corporate income tax as detailed on page 4 of the 1976 Small Business Washington Presentation. A change in the investment tax credit to a graduated scale with higher credits for the first $10,000 would make additional capital recovery available to businesses which are unable, because of

size, to utilize the present investment tax credit as effectively as large corporations do. We also propose a simplification of depreciation schedules with accelerated depreciation limited to $100,000 per year, as detailed on page 7 of the 1976 Washington Presentation. Under estate taxes, the 1976 Tax Reform Act provided considerable relief for estates up to $500,000 as well as for estates in which the small business interest is in excess of 65%. However, the application of the new unified gift and estate taxes and the imposition of capital gains taxes on estates puts many small businesses in situations in which a sell-out to a larger corporation is practically inevitable. To provide for the continuation of independent enterprises, the following revisions in estate taxes are essential:

Redemption of Business Interest to Pay Death Taxes requirement should be reduced to 25% of gross estate (instead of present 50% of gross estate) or 50% of taxable estate; Transfers of Stock in Closely-Held Corporations at present require that if a major shareholder sells his interest in a company, the sale is considered a taxable transaction. We propose that it be non-taxable if the shareholder reinvestments his assets within two years, bringing cash transactions into line with stock transactions which are already non-taxable; Transfers of Business Interests at Death—We propose the executors of estates involving closely-held businesses have the option of designating, as part of the estate, only the decedent's original investment, with the balance treated as capital gains when the beneficiaries actually dispose of the stock. Thus, the beneficiaries would pay tax on the inherited assets when they actually are able to do so, rather than at the time of inheritance when the only way to pay the tax often is to sell the company.

A PROGRAM FOR CATCHUP GROWTH FOR SMALL BUSINESS

Since small business employs over 50% of the work force and is labor intensive, if small business grows, it could be the greatest single source of reducing unemployment. This growth can be encouraged by the Federal government through a more realistic tax structure and through more realistic enforcement of regulations, such as OSHA and EPA. An attempt to truly reduce government paperwork would benefit small business greatly. Various departments of government should allow, as this committee does, direct impact from small business. Treasury and, to some extent, Commerce have done this in recent years.

EXPANSION OF THE SMALL BUSINESS AND (8a) PROCUREMENT SETASIDES

Bids should be limited because estimating is most costly to small businessmen who find themselves bidding against 30 to 130 other companies. Contract officers should review bids with lowest bidder to be certain he hasn't bid himself out of business. As of now, contract officers are required to place contracts with the lowest bidder with no recourse to the low bidder if he errs. There should be teeth in SBA setasides—now there is no penalty if the prime contractor does not live up to the setasides—he is only required to try—and, as a result, he doesn't make as strong an attempt as he could to insure a fair share of the business to small business.

EVALUATION OF SBA EFFECTIVENESS

The SBA should have the manpower, funds and independence to do what the law creating it mandated. The Administration should be of full cabinet standing and a person who has worked in small business. The Administrator should be permitted to make independent decisions and to name a strong Chief Counsel for Advocacy, able to speak for 11 Million small businesses. The SBA's work in disaster relief should be confined to small business with the responsibility for home loans, etc., the duty of Housing and Urban Development. Loan decisions should be made by banks who are in a better position to make them, rather than the SBA. Advisory Committee should be made up of 75% from small business, 15% from banks and 10% from small business associations, accountants and other professionals who deal with small busines. Regional SBA office should be eliminated, giving the district offices better contact with Washington.

Mr. CHERKASKY. Mr. Lewis A. Shattuck, executive vice president, the Smaller Business Association of New England, Inc.

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STATEMENT OF LEWIS A. SHATTUCK, EXECUTIVE VICE PRESIDENT, SMALLER BUSINESS ASSOCIATION OF NEW ENGLAND, INC.

Mr. SHATTUCK. I am Lewis A. Shattuck, executive vice president, the Smaller Business Association of New England, Inc.

I would think that one of the first priorities of the committee would be to establish a subcommittee structure under the new permanency of the committee. I do not want to get into the various subcommittees you will be proposing, but I would like to have an opportunity, and I think others here would, too, to provide input to your ideas in terms of where the subcommittees will be directing their efforts under the new committee setup.

I think that obviously the SBA should be a top priority of the committee, particularly, in oversight to beef up the Agency. In the advocacy area, where you have new legislation coming in with regard to toxic substances, medical devices, and so forth, and I would hope the administration of these laws would avoid the nightmares that have occurred in the past.

In terms of OSHA and ERISA that have evolved, I would hope to see something done in that area.

In the financial assistance area, there was a program that was doing quite well at the SBA, called Innovative Loan Program, which addressed itself to the type of companies that were talked about by Mr. Morgenthaler, the R. & D. high technologies. The Innovative Loan Program was, in 1970—for some mysterious reason it was dropped by the SBA.

There is a report out now prepared for the SBA which recommends that the innovative programs be reinstituted, and I would hope the committee would look into this area.

I think also we are concerned about what the fate of the SBA will be in terms of the present Carter reorganization, everybody has heard rumors flying that the SBA will become part of the Department of Commerce, and that it is almost accomplished.

In the Government procurement area there has not been, in my opinion, an in-depth comprehensive hearing involving the major procuring agencies and the major prime contractors since 1968, when it was handled by the House committee, so I think time is overdue for very in-depth hearings in the procurement area, and particularly as was mentioned by Dan Honig, the fact that the Renegotiation Act will be reinstituted, and certainly small business will want to have an input there, and that the committee will want to look into that area also.

I would like to commend the chairman for the idea last year of holding joint hearings with Senate Finance Committee.

I thought they were extremely productive, and I would hope that this would be carried on this year, not only for the short-term tax proposals, but the long-term tax proposals as well, which it is rumored will be much more beneficial in terms of stimulating small business. You have the immediate problem of the surtax exemption at $50,000 expiring at the end of this year, and certainly we would like to see it increased, but more importantly, is seeing the $50,000 going on, and as I said, it expires in 1977.

I think the joint hearing area could be utilized again in terms of paperwork, where the Paperwork Commission will be coming out with their report in April, and much of the Federal Paperwork Commission's emphasis has been in the small business area, and that report will go to the Senate Government Operation's Committee. I would hope the Senate Small Business Committee will get into the act and hold hearings on the recommendations.

I would hope the committee would do a great deal in the area of pension legislation and its impact on small business, and as I pointed out earlier, we look forward to working with the committee in all of these areas.

That is the substance of our recommendations.

Mr. CHERKASKY. Thank you.

Don White?

STATEMENT OF DON WHITE, AMERICAN RETAIL FEDERATION, WASHINGTON, D.C.

Mr. WHITE. I will be brief. I guess I am last.

I would like to first thank the committee for inviting me.

I could recite a long list of problems that small retailers have, one of which is becoming large. We want to become larger and to remain independent, and the legislation we have been talking about cuts across many grounds.

We could run down the list of problems, such as foreign trade, product liability, minimum wage; I am at the very least fascinated with the proposal that the committee serve a function similar to that of the Budget Committee, whereby the sponsors of a piece of legislation will have to receive Small Business Committee clearance.

As we have discussed OSHA, tax legislation, transportation, and so forth, what we are saying is there are pieces of legislation whose impact upon small business is real, and drastic in some respects, and the committee should continue also its oversight function thereon. It is nice to be able to get into the act before we find ourselves with enacted legislation sitting in our hands.

I think that the committee has done an outstanding job in representing the views of us on the outside.

Again, I will avoid the taking of the time in running through the laundry list, and I join in the comments of the others here.

Thank you.

Mr. CHERKASKY. Thank you.

We will now hear from the National Federation of Independent Business.

STATEMENT OF DAVID VOIGHT, NATIONAL FEDERATION OF INDEPENDENT BUSINESS

Mr. VOIGHT. I am Dave Voight. I did bring a document up this morning suggesting a number of topics on which we would like to see something done, and that we think ought to be of interest to small business. I would like to save time and ask that this be incorporated into the record you do put together, and just rather hurriedly, I will go through them in order of priority.

What we perceive to be the topics of concern are these, and we do propose as follows:

First and foremost is the tax reform. I would hope, however, as you get into the tax reform, you will particularly look to tax matters as they affect unincorporated small businessmen, as well as the corporate sphere.

Second, unemployment compensation insurance, and again, I feel this might be interesting, the whole question of payroll taxes. These generally are affecting more and more businesses, and getting more and more difficult.

Paperwork, OSHA, are again rather obvious. As previously mentioned, antitrust enforcement, product liability insurance, minimum wage as it affects the small retailer, ERISA, which was mentioned just a few minutes ago, and revitalization of the SBA. I am listing these in the order of priority.

This, revitalization of the SBA, is the ninth on the list. And, finally, national health insurance, and here I think the committee might well have a very important preventive role to play, maybe avoiding future OSHA's and future ERISA-type problems.

It does appear we are moving toward some sort of national health insurance program, and I would hope the impact on small business would be considered.

To return very quickly to revitalization of the SBA, we have gone into greater detail, such as lending programs and advocacy, I suggest the small businessman needs a role in having a friend at the SBA, and I hope you will proceed in that role before the Senate and argue our case and look for areas beyond your immediate legislative mandate.

Mr. CHERKASKY. Thank you.

[The prepared statement of the National Federation of Independent Business follows:]

NFIB National Federation of Independent Business

SUGGESTED HEARING TOPICS

The following is an annotated list of suggested hearing topics for use by the House and Senate Small Business Committees. They represent the most pressing problems and needs of the nation's small business community as seen by NFIB and its 485,000 member firms. The first ten topics are listed roughly by priority, but the remainder are in no particular order.

1. Tax Reform - Equitable tax treatment remains the number one problem for small, independent business. With many large corporations paying less than thirty percent of their taxable income in taxes and some small firms paying over fifty percent, the U.S. Tax Code has become a competitive advantage for big business. On Mandate 398 NFIB's member firms voted the tax system as the federal government activity most in need of reform. There are also strong indications that the tax code has become an incentive to merger and industrial concentration and a threat to competition in the marketplace and the future of independent business. Lastly, there is a need to treat unincorporated businesses more fairly. Corporations make up only fourteen percent of the American business community and most of these are our largest firms. Yet, when the government considers "business tax reform" it generally confines its actions to the corporate sphere. This could be counter-productive because most unincorporated businesses are labor intensive and have the ability to use tax incentives to create jobs quickly.

2. Unemployment Compensation Insurance - Small businessmen and women feel that they are being ripped off by this program. They work hard to keep their employees during down trends in the economy and they end up paying the heavy unemployment taxes, while large corporations that frequently lay off large numbers of employees and seasonal businesses don't pay their fair share. They also believe that unemployment benefits are too high and that the program's rules are poorly enforced making it too easy for recipients to refuse meaningful employment. Most small firms by their nature are low wage employers and the present unemployment compensation system competes with them for labor and they can't understand why the government allows this to continue.

3. Paperwork - Federally generated paperwork costs the American small business community at least $18 billion a year - and it costs the government at least another $18 billion to process and store this avalanche of paper. In many cases it has become necessary for small firms to hire one employee full time or to retain outside professional help just to handle government questionnaires and forms. Many of these requests are duplicative or unnecessary and as such require nonproductive work. The Commission on Federal Paperwork has been looking into small

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business paperwork problems as part of its mandate from Congress, but its ultimate success in reducing this burden is very questionable. The Commission goes out of existence in October, 1977, and the Committee should be ready to pick up the ball and run with this problem.

4. OSHA - The Occupational Safety and Health Act has been a sore point with small businessmen and women since it was first enacted in 1970. Complex regulations, discourteous and arbitrary inspectors and an unbending attitude by the Department of Labor brought many tempers to the boiling point. The House Small Business Committee was the first to recognize and focus the light of Congressional scrutiny upon this problem. DOL and OSHA have taken some steps to ease the burden they have imposed on small business since then, but, unfortunately, many of the problems remain untouched and the small business community is still embittered and distrustful. There is an urgent need for the Committee to reopen its inquiry into OSHA. Many questions need to be answered. What has DOL done to ease the plight of small firms? Are its efforts succeeding or failing? And, what can be done to give the small business community some confidence in OSHA so we can end the adversary relationship that presently exists and begin the necessary task of making all work places in America as safe as possible?

5. Antitrust Enforcement - Our antitrust laws are not working. Why? Over the past two or three decades business sectors and lines that have been traditionally dominated by small firms, retail druggists, grocers and hardware dealers, breweries and bakeries, have been taken over by giant chains like A & P and Safeway or by huge corporations like ITT (Wonder Bread) and Hublein (Miller High Life). Economic and industrial concentration grows yearly in the U.S. and many of our major industries, such as automobiles, cereals, steel and petroleum, are dominated by just a few huge firms. This process is a threat to the future of a free, competitive marketplace, because successful independent firms are eventually bought or driven out eliminating potential competitors for industry giants.

6. Liability Insurance - The last year has witnessed a growing crisis in the area of product liability insurance. Small firms across the country are finding it more and more difficult to either obtain product liability insurance or to pay rate increases ranging from 500 percent to 1,000 percent and even higher. Small manufacturers have been forced to raise prices, eliminate new products or lay-off workers to cope with this serious problem and some may even have to go out of business because none of these solutions are available to them. While the product liability crisis remains a growing problem for small firms, there are indications that the crisis is beginning to spread to other types of liability insurance as well and this poses a threat that must be

dealt with quickly before it has serious repercussions for both the small business community and the consumer.

* A fuller discussion of small business and the product liability insurance crisis is presented in NFIB's recently published (January, 1977) Survey Report on Product Liability.

7. Minimum Wage and the Small Retailer - Recent, rapid increases in the Federal minimum wage, from $1.60 in 1968, to a proposed $3.00 an hour in 1978, has many small retail and service firms with their backs to the wall. Most small firms are labor intensive and rely upon marginal or unskilled employees for their help. Independent, locally owned firms have traditionally been the employers of teenagers and students, but increases in the minimum wage over the past decade have dried up this needed source of employment. Small, suburban and rural firms operating on narrow margins simply cannot afford to pay a minimum wage designed to provide earnings adequate enough to maintain a family of four living in a major metropolitan area. Minimum wage has become a small business problem -- a problem that needs to be addressed before it is too late for many small retailers.

8. ERISA (Employee Retirement Income Security Act) - The complexity and added costs connected with compliance with ERISA have forced thousands of small firms to drop their pension plans since this law was enacted in 1975. Approximately 98 percent of all retirement plans have fewer than 100 participants and 93 percent have less than 25 participants, but ERISA was drafted with Studebaker and W.T. Grant in mind and places a severe burden on small firms. Confused administration, unrealistic rules and oppressive paperwork have priced retirement plans regulated by ERISA beyond the pocketbook of most small businesses. This puts them at a distinct disadvantage in competing for good employees, but more importantly, it denies a large segment of the work force the opportunity to participate in a retirement plan. Something should be done to make ERISA more equitable for the small employer and their employees.

9. Revitalization of SBA - Most small businessmen view SBA as a bank and because of this its image has suffered. Over the past 24 years of its existence SBA's lending programs have reached only 1.2 percent of the nation's small business community. Its procurement programs have done better, but small firms still do not receive their fair share of federal expenditures, and its management and technical assistance programs fall far short of what is needed. While this record is less than bright, the Agency has fallen flat on its face in the area of advocacy. During the last two decades small business has had to suffer through OSHA, ERISA, and host of other federal nightmares and the Small Business Administration either didn't comprehend or didn't care about their impact. The small business community believes that SBA should be effective in what it does and that is should assume the role of advocate within

the federal establishment. If it fails, it could end up losing the support of its own constituency.

Areas that need the Committee's attention are:

Lending Programs - SBA's lending programs are simply not doing the job. They don't meet the needs of the small business community for either equity or debt financing. They are underfunded and overburdened with red tape and delay. State of California officials conservatively estimate that SBA could triple its current level of lending and not begin to satisfy demand. SBA loan programs could be excellent job creation tools ($800 net cost per job), but they have been under-utilized or ignored in the past.

Advocacy - Small business needs an aggressive friend to argue its case within the federal establishment. Historically, the bureaucracy has promulgated rules and regulations and Congress has passed laws without any idea of their impact on the national small business community. OSHA regulations, ERISA paperwork and EPA rules are just a few of the examples of the uneducated and insensitive interference by the federal government into the daily operation of small firms. In the past SBA has done little to prevent this type of job destructive activity, but small businessmen and women across the country are fed up with Washington and they are demanding that someone speak up for them. When Labor, Treasury or the FTC is considering a rule or regulation or when the Administration is developing major legislation, they need someone to stand up and tell it like it is -- and that someone should be SBA.

Research - An effective advocacy program must be based on accurate information about the status of small business in the economy. It will be impossible for SBA to comment on proposed economic legislation or on specific regulations unless it knows how the small business community will react in a given situation and it does not now have this capability. Good, reliable data onsmall business is also important for such internal functions as determining credit availability and developing sound management advice. In brief, a sound research and analysis program is vital to SBA's ability to effectively serve its constituency.

Outreach - SBA is an urban-orientated Agency. Most of its offices are located in metropolitan centers, while small businesses tend to be located in rural and suburban areas. This forces small businessmen and women to travel long distances for help when a crisis arises. In addition, the Agency does little to publicize the wide range of programs it can offer a small firm, thus perpetuating its image as a bank. In essence, the Agency is passive instead of active. The off the record reason given for assuming this posture is lack of staff and funding. In other words, SBA does not believe it could meet the demand for assistance a good public information program would generate. If

this is the case, the Committee should take steps to correct the problem.

Disaster Assistance - One of SBA's missions is to offer long term, low interest loans to disaster victims. SBA has done an excellent job in this area, but, unfortunately, its involvement in disaster relief has detracted from its ability to help its own constituency -- the small business community. When a disaster strikes, SBA lending personnel are assigned to relief activities sometimes stripping district and regional offices of loan officers. When this happens, loan applications from small firms just sit until the situation returns to normal, which in some cases can be as long as six months. Since 90 percent of the disaster loans made by the Agency go to homeowners, this program belongs in HUD.

Size Standards - SBA determines what size firms are eligible to participate in its programs. This is a complex and continuous activity and it is at the heart of the Agency's operation. Present procedure is to set maximum size limits for SBA eligibility, but this has placed sole proprietors in competition with sophisticated corporations for the Agency's assistance. Realistically, there is no way the very small firm whose records are in disarray can compete with the lawyers and accountants who present the case of the larger, more sophisticated business.

Non-Bank Lending Companies - SBA's guarantee and other 7(a) loan programs have not been able to meet the credit needs of the small business community. The Agency believes that the priority the banking community places on its non-small business activity is one of the reasons for this lack of success. Therefore, it wants to create and license a new class of lenders, non-bank lending companies, that would utilize the secondary market and lend only to small firms. While there is an unmet need and the bank guarantee approach just isn't working, non-bank lending would cost small business borrowers more than SBA's present program. In brief, the proposal does seem to have some merit, but the potential for abuse is great and it needs a long, hard look before it is approved.

10. National Health Insurance - If Congress enacts a mandatory National Health Insurance program sometime over the next few years, it will create a very serious problem for nearly half of the nation's small business community. NFIB data shows that approximately 50 percent of all small firms do not provide health care coverage for their employees. Most of these are the smallest, most marginal employers and they simply cannot afford to pay the costs of health insurance. If Congress mandates a National Health Insurance program, it will be forcing these firms to provide a fringe benefit that many of them believe they cannot afford. And, if they are correct, Congress would, in effect, be driving some of of them out of business. While Congress and the Administration are concerned about providing adequate health care for all Americans, the price paid should not be jobs in the small business sector of the economy. The Small Business Committee should investigate this problem and take steps to head off any potentially negative impact it might have.

Mr. CHERKASKY. The National Society of Public Accountants.

STATEMENT OF JOHN FITCH, NATIONAL SOCIETY OF PUBLIC ACCOUNTANTS

Mr. FITCH. I am John Fitch director of government affairs, National Society of Public Accounts.

We have a couple of items that pertain not only to accountants, but also to our clients, so we are here in a dual capacity.

As for our clients, we support what has been previously discussed regarding paperwork, tax reform for small business, small business rentention of capital for growth, the need for small business investment capital, which requires the confidence of the community and society in small business, and Federal regulatory reform.

We also support on a State level sunset laws and zero-based budgeting which we feel brings the regulatory boards and agencies to task before the legislature to justify what they are doing, how they are spending their moneys, and what effect they are having on the business community and the professional or occupational community they are regulating.

Along with that, the accounting profession or at least the public accounting profession has their own problem, mainly with the 1976 Tax Reform Act, as it affects tax preparers.

Many of our members are tax preparers, in addition to being accountants.

We feel the burden of proof in section 1203 is misplaced in that the negligence and willfulness burden is on the preparer, rather than on the IRS. We also feel there is at best a very nebulous definition of negligence, which in fact is no definition at all.

We are working with IRS to try to get some of these problems rectified. Another item that touches on Federal procurement, is that the various regulatory agencies and departments of the Federal Government which administer grant and loan programs allow the use of independent public accountants to audit their programs if no in-house personnel are available to do it.

The problem is that GAO has set up a definition of independent public accountant, which is limited to either a CPA or a licensed public accountant who become licensed after December 31, 1970.

We feel this is grossly inequitable, and works a hardship on the public accountant who was licensed after December 31, 1970. A lot of our members would like to get involved in auditing Federal programs but are arbitrarily precluded from doing that.

That is our own ax to grind, and is basically all I have to say.

Thank you.

Mr. CHERKASKY. Thank you.

Have I missed anybody?

The staff has not yet responded to your remarks, and I would like to have that done.

Let us take a short recess now.

[Whereupon, the conference was in short recess.]

AFTER RECESS

Mr. CHERKASKY. Since most of you are concerned about paperwork and Government regulation, I think we will start off with a short discussion by John Cross. John, will you respond for us?

STATEMENT OF JOHN M. CROSS, PROFESSIONAL STAFF MEMBER, SMALL BUSINESS COMMITTEE

Mr. CROSS. Thank you.

The issue of paperwork is one that this committee started working on way back in 1968, certainly long before I started working here.

I am John Cross, a professional staff member of the committee, and I have been working here for 3 years.

We started way back in 1968, with a report on Government paperwork which showed it was a burden, that it was increasing, and that the Office of Management and Budget was not working properly to stop it, through the form clearance process under the 1942 Federal Reports Act, a predecessor to this committee had seen past in the early 1940's. So we started to look at a number of specific concerns on small business paperwork, and these led to a Senate resolution, and then the passage of legislation set up the Commission on Paperwork.

The Commission got going in October 1975, and it finishes this work in October 1977.

It has published a number of reports so far, one on occupation and health, one on ERISA, making several recommendations for changing paperwork.

With ERISA, I am told the IRS and the Department of Labor are already working on joint forms to remove the problems you have if you have a pension plan filed with both agencies. On OSHA it made several recommendations. OSHA has not completely accepted those recommendations, and they probably will be subject to legislation later this year.

I will come back to the Commission in a couple of minutes.

One of the things that was mentioned, I think Dan Honig mentioned it, and probably a number of others, was the need for paperwork impact statements associated with bills.

There was a bill that was introduced back in the 93d Congress which required impact statements associated with all bills reported out of the Senate and House committees.

This was subject to hearings in 1976, through the Senate Government Operations Subcommittee, chaired by Senator Nunn.

However, last week, since there was no action taken on this, an amendment was put into the Senate rules which required that any Senate committee voting on a bill, include in the report of the bill an assessment, a reasonable assessment of the paperwork that will be associated with this bill.

There is an out in this, which says that if it is impossible to do it, the Senate committee should report as to why it was impossible to do it.

The feeling is that this kind of change in the Senate will at least give the Government in one particular place a chance to assess the paperwork burden of a new piece of legislation before that legislation becomes law.

The House does not have this in its rules. And though President Carter has said when a new piece of paperwork comes out, the Secretary of the Department has to look over it, we are not sure that they will be able to assess the impact completely.

We have been making sure those impact statements do include what the paperwork is likely to be before it gets to the Senate floor.

A couple of Senators have already said they will question the impact of the paperwork, so that is a start.

We have to push hard on that and to make sure the paperwork impact statements are already included in the report, and that they are meaningful impact statements.

A lot of this will require information from the small businessman, who will be affected by the legislation.

A Senate committee, which has a staff which is as small as ours, which is 21, 22, cannot look at every piece of legislation coming along.

Other committees have staffs somewhat bigger, but they are not in a position to be able to know exactly what the impact will be, so there has to be some input from the Small Business Committee.

This amendment to the Senate rules, also included a requirement that there be a regulatory impact statement included in the report.

This also would have to be a reasonable estimate of the effects of various pieces of legislation.

There will be some pieces of legislation coming out that will have no regulatory effect at all, and probably will have no paperwork impact.

We have a bill coming on the floor later, S. 243, an authorization bill, and it will probably not require any more paperwork, probably not require any more regulations, so a statement will say that. But another piece of paperwork, another amendment to OSHA, might have a huge paperwork impact, and that is the kind we want to look at: A major piece of legislation and what paperwork effect it will have on small business.

Now, to get back to the Paperwork Commission. As I said, this committee looked at a number of specific concerns of paperwork.

We intend to continue that. We have on the agenda proposals for hearings on imprest funds, which is sort of a kind of petty cash payment to small businesses for small amounts of goods that will take a long time to get paid for if you do not use imprest funds.

I remember reading one horror story, somebody took 9 months to get paid for a 50-cent part.

That is the kind of thing we are trying to get away from, lessening the paperwork, using more of the petty cash.

In some ways the regulatory agencies, or the procurement agencies, where we can see the money change hands very quickly, quite legally, should not burden the small businessman with paperwork and regulations that would actually take them months and months to comply with.

We also have proposals to look at the interstate tax codes, and tax paperwork.

There was a gentleman here who mentioned that there are 50 State income tax forms—50 forms used for income tax forms—as well as the Federal Government forms. We need to find some way to codify them so they all look pretty much the same. You should be able to take a figure from one column of a State form, and put it on a Federal form.

This kind of duplication of effort to fill out forms, for a State, for a municipality, or for the Federal Government, can be cut.

These are small things, but they save a lot of time and a lot of irritation.

They may not save you much money, but they will save you a lot of what the impact, a lot of the emotional impact, as well as a lot of the paperwork you have to go through.

We also have a proposal before us from the Commission on Paperwork.

They are expected to produce a series of reports between now and the wind-down date in October.

Some of them will have major effect on small business paperwork.

When those come up, we will take a look at them, legislative recommendations will be introduced, and I suspect members of the committee will be pushing this.

The chairman is interested in paperwork, the chairman on the Government Regulation Subcommittee is interested in paperwork, and Senator Nunn.

Senator Nunn serves on the Government Operations Subcommittee, and he has the subcommittee that will look into it.

Now, let us look at Government regulations.

We have been working to change some existing regulations. We held some hearings last year on the issue of overregulation of small business, which is kind of a philosophical look at the way that Federal Government regulates.

One of those that had been floating around the committee for further action is the issue of how you look at Government regulation.

Should it be regulation, like OSHA, which said you have to prove every step of the way that you are in compliance all the time with Federal regulations, or should the burden of proof be put on the Federal Government, which would come in and say: You sign a certificate, that you are in compliance with OSHA, or some other regulations, until the Government can prove you are not, rather than the other way around, which means you have to prove that you are. Another thing, we have been looking at regulations: The issue of developing reports on pending regulations.

Now, last year at the request of Senator Packwood, we looked at the issue of illegal aliens being employed by small business.

The studies are not all complete, because we have not got all of the final results. But we did hold the hearings on the issue.

What we tried to do was check all of the pieces of legislation then pending in the Senate and in the House, and look at what effect these pieces of legislation will have on small business by going out and field testing the legislation.

As far as I know, this is the first time it has been done by a Senate committee, and we hope to be able to continue this type of thing.

The problem is, it takes a great deal of time and a great deal of effort.

The question of the illegal alien legislation was that it would affect every employer in the United States, and he would have to be in compliance with every State regulation that would require that he prove that every single employee was not an illegal alien.

Well, if you have 2,000 employees, the chances are you may have an illegal alien there.

You are not disobeying the law right now, but you would be in this legislation if it were passed, and you would have to go through every single employee, and ask for proof that he or she were not an illegal alien.

Clearly, that is something that would produce a very massive compliance burden that you would have to go through, so we worked on this to find out an easier way on how this legislation could be passed to prove if somebody was not an illegal alien.

The problem is, if the Congress decides to go into this, the EEOC regulation says that what you do for one employee has to be done for every single employee, so it has to be done in a very easy way.

A suggestion is, you look at the social security card, then you are in compliance, and another piece of identification, until the Social Security Administration can come up with a relatively forgeproof social security number.

The third point that has come up, is the question of energy shortages in small business.

Now, the committee held a series of hearings on energy research and development on small business in 1975.

We published a report making recommendations that ERDA beef up its small business research and development programs.

There has been some progress in that area. It is probably not as great progress as others, or I would like to see, but we seem to be more receptive to small business companies coming in with research and development projects, but we have other problems dealing with small businesses in the energy area—what are the shortages, the people from Pittsburgh mentioned them.

How do you go about keeping the business in business when he has not got any energy to operate? One of the proposals that has been mentioned in the staff is an idea of low-interest loans that would be funded through the SBA to tide somebody over on energy shortage periods.

Another thing that is being considered, and probably will be introduced, is a whole series of energy conservation measures for small businesses, to enable you to cut down your use of energy, and make it so that you can take tax credit for this kind of activity, and take an investment credit for this kind of activity.

Those are areas that will be subject to hearings later during the year, and subject to legislation by various members of the committee.

Mr. CHERKASKY. Thank you, John.

I would like to let each staff member speak, and then go back to questions because I realize some of you will have to leave, and I want to be sure you get as much as you can from the staff.

First, is our chief counsel and tax expert. I think ERISA was one point raised quite often.

STATEMENT OF HERBERT L. SPIRA, CHIEF COUNSEL, SMALL BUSINESS COMMITTEE

Mr. SPIRA. I would like to thank you all for the tremendous education which you are giving the staff.

One of our occupational hazards is that we spend too much of our time in our offices fighting legislative deadlines. We get absorbed trying to complete work to go to the committees, and the Senate floor; and we do not have the opportunities we should to get out to see what your problems are "out there" on the firing line. This session was designed as an experiment, and it seems to us on the staff to be very beneficial.

One of the striking things is the diversity among the small business community, which everybody knows. This meeting is a classic illustration of that, with people organizing in different ways, different segments of industry, sections of the country, the academic community, the small businesses that render services to other small businesses—such as the insurance people, the pension consultants—and small businesses themselves—their general business organizations, the National Small Business Association, the National Federation, the regional organizations, the trade associations, the organizations of women owners, the minority organizations, and others.

These are underused natural resources for our economy and society, which the country really should make better use of.

And that leads me to state the major point that I want to make. That is, for all our aspirations in the tax area, we are facing a situation where the gains of 1975 and 1976 are liable to be swept away. For example, those small business tax rate reductions expire during 1977. The committee is now gearing up to see whether hearings can be held—as in 1975—on the shape and stimulation package: What is in it for small business, what is not in it for small business, what should be in it, and why it is there, and what form it should be in.

It is a situation where you have to change some people's minds, educate them, and let them go out to the Finance Committee, where a number of our members sit and have them make the case for small business that you have been making this morning. This job was done by our chairman and members in 1975, and it changed the course of the emergency tax stimulus package of that year. But, even though it seems like you may be making some progress in the Senate, I think we have to cast an eye on the executive branch, where the majority of the Federal Government's policy initiatives come from. There they have the staff, and tremendous resources, the computers, and the legions of experts—the Treasury Department, IRS, and the Council of Economic Advisers, where they can concentrate on drawing up proposals which then come up to Capitol Hill with tremendous momentum, and such wide media exposure. So, I think that is going to be an area where we will let you know what the legislative realities are, and you will let us know what your business realities are, and hopefully we will get these hearings on, so we will get small business proposals into the congressional stream.

Another related issue in the executive branch is that small business should get input into regulations before they are written down and

published in the Federal Register. After that, they go out to the country, again with all of that authority behind them.

There has been some progress made in getting small business advisory committees in IRS, at the Treasury Department policy level, in the ERISA area, and for a while, there was even a small business adviser at the SEC, but that was cut off in mid-Autumn of last year. But within the past 2 years has been the first time that here has been even that much of a small business input mechanism at the time when it counts. And, I do not want to minimize the possibility of the SBA advocacy in these situations, but there is nothing like a small businessman sitting there and saying, you know, that form is just going to tie me up for a whole day, or for a whole week, or why can't it be a little different. The small businessman can bring the experience in there, and their spokesmen, the people in this room are able to do this. However, if you will go back to the fireside chat, you will remember that President Carter talked about reviewing the advisory committees, to see which ones could be eliminated.

Well, I think there is a great deal of interest here that should be focused from the small business point of view, upon preserving the gains, and extending those gains, so that you do not have to fight the policy proposals and regulations after they are already out, with the imprint of the Federal Government already on them.

In the ERISA area, Senator Nelson, as you know, held hearings last February, and before that the Small Business and Finance Committee members were active on the administrative level to help to reduce the EBS–1 and form 5500, and others. The figures which the committee gathered, and which Senator Nelson released at the end of the last session—showing the higher levels of pension terminations, the lower levels of creations—have had an impact all around the Senate.

Senator Nelson has asked that there be consultation among the several committees which are still interested in this area. There is an overlapping jurisdiction yet between the Labor Committee and also the Finance Committee, because these plans are tax exempt. Senator Nelson is asking that the committees get together and discuss what course of action is sensible for the coming year, and for the coming Congress.

As those discussions progress, you will hear about them.

That is maybe not a very definitive statement about a very wicked problem. But, it is the chairman's position by getting this kind of coordinated approach, we can get a sense of common direction, rather than rivalry between committees and a combination of our efforts in that area.

Probably a paramount issue is what the organization of the small business function shall be in the new administration. There again, we have got to keep an eye on it, month by month, day by day, and even hour by hour, so that we could try to bring the final result out to where it serves the interests of the small business community.

Mr. CHERKASKY. Thank you.

Kay Klatt has a number of things uppermost in her mind, one of which is products liability insurance, and also the Renegotiation Act, and procurement, and to some extent, women minority.

Will you respond to that?

STATEMENT OF KAY KLATT, PROFESSIONAL STAFF MEMBER, SMALL BUSINESS COMMITTEE

Ms. KLATT. I am sure that many of you are aware there are thousands of small business people in this country that are having very serious difficulties in obtaining product liability insurance.

Their rates are going up hundreds of thousands of percent, insurance companies are raising the deductibles on the contracts, and some of them cannot get insurance at all. What this means for a lot of these small businessmen is a tremendous exposure. Everytime an uninsured manufacturer ships a product out of his plant, he is exposed, he can go bankrupt if there is a lawsuit associated with that product.

The Small Business Administration has estimated some 700,000 small firms fall into the categories where they manufacture higher risk products, and that is a lot of small business firms to consider.

Now, we got into this area last spring, and have held 4 days of hearings on product liability.

We will be holding more days of hearings.

Senators Nelson and Culver introduced a bill last Monday which provides for a Federal reinsurance program.

Now, what that bill attempts to do is to provide reinsurance to primary insurors of small businessmen, thereby spreading the risk of the insurance a little more and helping solve the problems of the insurance availability.

I would like to send all of you a copy of that bill and copies of Senator Nelson's and Senator Culver's remarks.

I would like to have input from you on how you think this particular measure would help.

No. 2, please let us know the effect this problem has on your membership.

We do have surveys of some organizations. If you do not have a survey, let us know of the number of cases, send us copies of letters that you received from your membership. We need that kind of information.

Another area I have had my ears open to this morning is Government procurement, and I agree with Lou, we should be doing some fairly comprehensive hearings on Government procurement.

Some 80 percent of the billion-dollar Federal expenditures go to large business. We want to find better ways to increase the share for small business, minorities, for women, and we also want to find better ways to increase the share going to small businesses at the subcontractor level.

There is a tremendous market there that needs to be expanded.

There are a lot of technical details involved in Government procurement, some of which work against small businesses, paperwork requirements, just one of them, and you mentioned the Renegotiation Act.

We need very much to have some kind of handle on the cost that small business is facing in complying with various social and economic programs that use procurement processes, and these are several of the things we do need to be getting into.

Mr. CHERKASKY. Thank you, Kay.

Ray Watts handles matters of antitrust, and so forth, franchising.

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STATEMENT OF RAYMOND D. WATTS, GENERAL COUNSEL, SMALL BUSINESS COMMITTEE

Mr. WATTS. I am interested that only one of you mentioned dual distribution this morning, and that no one this morning mentioned predatory pricing.

I think this may be the first meeting of small business associations of this size, in my several years on the committee, that the problem of deliberate predatory pricing on the part of powerful competitors has not come up for a single mention.

May I ask by a show of hands if anyone thinks that is a problem?

UNIDENTIFIED SPEAKER. The gentleman on my left, I think he said something even more pertinent and perhaps more dangerous, than usually predatory pricing.

I think the phrase he used was businesses that were not pocket motivated, which is a very different aspect, and more dangerous one of the same thing.

Mr. WATTS. We have for many years been kicking around a number of legislative proposals which would at least bring out into the open the extent to which particular products, or particular levels of distribution in vertically integrated companies, are being operated, not for profit, but at a break-even or low-profit level, or loss, over a period of years. It will not surprise anyone here to be reminded that that legislation has never gone anywhere, and shows no signs of going anywhere.

The opposition to it has always been strong, and I think may very well continue to be stronger than any support for it.

There were three specific legislative proposals by Senator Long, to deal with dual distribution, which were considered rather carefully by the Antitrust Subcommittee several years back.

I would not myself give any of those proposals a good enough chance for serious consideration now to recommend to any Senator that he reintroduce it this year.

A new approach to dual distribution, in one particular aspect, has been suggested by another basic metal industry. That is, at a minimum, a dual distributor should not enjoy tariff protection on the basic product.

I have on my desk now a rough draft of a bill which would eliminate the duty on magnesium ingot, if the importer of magnesium ingot could show that his only domestic sources are also his competitors.

This might be a worthwhile avenue to pursue, because it is a new approach to solving the old problem.

Incidentally, since the show of hands is silent, I would like the reporter's record to note that I think about a dozen or maybe 15 hands were raised in response to my question on predatory pricing.

Mrs. SIMONS. You said predatory pricing of a product.

I am a little bit of a layman on this. I buy products directly from manufacturers in my designing field, from General Electric, down to small people, and I also buy imported, from abroad.

Are you talking about that?

Mr. WATTS. The term predatory pricing comes from birds of prey, and it refers to pricing which has as its purpose the elimination of a

competitor, by being below cost, or excessively low, subsidized by other operations.

Mrs. SIMONS. I understand.

Mr. WATTS. Perhaps we should have a show of hands again.

Those who feel that competition from competitors operate not for profit, or predatory pricing, is a problem, could you show your hands again?

Fifteen I counted.

Perhaps rather than try to take time at this meeting, those of you who are concerned that the record be accurate on this, might indicate the number of members in your association and the number of percentage of those members who have had a predatory pricing problem, and supply that to staff or for this transcript later.

A suggestion has been made on impact statements as a means of attacking the paperwork problem.

What would happen if agencies were required to reimburse those whom they ask to fill out forms, any kind, including the income tax return form?

If information must be gathered by the Government for some specific reason, why should not the Government pay the cost of collecting it, instead of saddling that cost on the citizen who happens to possess the information the Government needs to collect? The agency collecting the information should print right on the form a maximum amount it will reimburse of the costs incurred in filling it out, and that should be charged to the agency budget.

I do not know whether that is realistic or not.

Mr. HONIG. It seems that the paperwork to administer that sort of thing would be overwhelming.

Mr. WATTS. We may send out a questionnaire on that.

Mr. ANDERSON. Mr. Chairman, just to make an observation, the gentleman mentioned that no one brought up an item, predatory pricing, with the exception of one, or something like that.

I have nothing against predatory pricing.

Excuse me. I do have something against predatory pricing; however, it was not brought up as a problem, unless the issue was—well, I think perhaps we are playing a numbers game here, I just want to make that observation.

Mr. CHERKASKY. The record will speak for itself.

UNIDENTIFIED SPEAKER. The State of Maryland has taken a look at predatory pricing, as it relates to independent service station owners, and they actually were trying to pass a bill to limit the number of stations that the petroleum companies, Exxon, Gulf, and so forth, would operate in competition with these independents to whom they sold, so it is an issue, a very critical issue in certain kinds of industrial lines.

When we talk about predatory pricing, we might also look at something I would call predatory practices, and this is occurring now.

As an example, a retail food line, the supermarkets are being opened 24 hours a day, and obviously at a loss.

You have got men operating from 10 o'clock til 6 or 8 o'clock in the morning, with all those lights on, that sort of thing, so it is obviously at a loss, but this takes away from the distinction that the small independent guy had, so I would in talking about predatory prices, we would also bear in mind predatory practices.

Mr. CHERKASKY. Excuse me.

We can only have this room until 1:30, when somebody else has to have it.

Mr. WATTS. I am ready to yield the floor unless there is a question.

Mr. CHERKASKY. Thank you.

Mr. Greenberg. Larry Greenberg is the chief minority counsel.

STATEMENT OF LARRY S. GREENBERG, MINORITY COUNSEL, SMALL BUSINESS COMMITTEE

Mr. GREENBERG. Thank you.

I have been with the committee a short time, and it is very possible I will remain only a short term.

As you know, the Senate has gone into a reorganization. The committee has not, but the Senate has. It looks as though there will be a significant change on the Republican side. Senator Javits very likely will leave the Small Business Committee, and go to the Joint Economic Committee where he is ranking member. Some of the other Republican Members were defeated for reelection, and it really remains to be seen, what the Republican Senators will be doing this coming session.

I would like to mention that Senator Javits has been taking an interest in the role of minorities in small business and the role of women in small business, and also in their interaction with the Small Business Administration.

I think you know an area that will be of concern in the coming year—the role of the Small Business Administration and its relationship to the Office of Minority Business Enterprise, of the Commerce Department. Whether those two agencies will remain independent, whether they will be merged, and under which umbrella they will be merged? I think that is something we will continue to look at.

Product liability, as you all mentioned, is a subject that I think more will be done, as it is certainly a problem area that cries for some solution. I would just like to suggest perhaps the obvious, that some of the concerns which you all had mentioned—OSHA, ERISA, minimum wage, wage differential for youth employment, and job creation—are topics which we in this committee can deal only peripherally. I would hope that all of your interests, and all of your input should be and is directed to the committees that have primary jurisdiction in those areas. You may not only hear or get friendly responses, but certainly that is where I would hope that your voice is heard.

Mr. CHERKASKY. Thank you, Larry.

On my right, Allen Neece, of our committee, who handles matters of venture capital and business financing and Larry Yuspeh, who handles disaster relief, minority business enterprise, and procurement.

STATEMENT OF ALLEN W. NEECE, JR., LEGISLATIVE COUNSEL, SMALL BUSINESS COMMITTEE

Mr. NEECE. Larry will speak first about the areas of the SBA for which he is primarily responsible. I will follow with a discussion of the other areas.

STATEMENT OF LARRY M. YUSPEH, FINANCIAL ANALYST, SMALL BUSINESS COMMITTEE

Mr. YUSPEH. When asked at a hearing last week, if the SBA were given a budget to actively promote all of its lending programs, as well as its other programs, would the Agency have sufficient funding to finance the likely increased demand from the advertising, SBA Administrator Kobelinski answered with a resounding "no." You see, for one wonders how the SBA allocates its limited resources, it is sort of a survival of the fittest. If the Agency advertised its programs, one would need a good deal more money.

In another area, minority enterprise, the committee has designed a broad and detailed investigation of all minority programs that will be underway over the next 2 years.

At the end of this Congress, and hopefully, at the end of this first session, we will have legislation to redesign programs as we feel necessary.

Our main concern is that vast amounts of money have been invested already, in the EOL program and in the 501 and 502 development programs, but we do not see enough for that money.

Our feeling is that there does not seem to be an unwillingness on the part of the Federal Government to invest in this area. Since there is money there, we feel it should be invested wisely. We feel it is time to figure out how to redesign the programs.

The other area that I wanted to deal with is procurement. There, also, is a need for broad investigation, and we have planned that.

The problem there I believe is a problem of attitude among the small business community.

I am sure that small business can compete. The problem is that they are not given the opportunity to compete. Sole source is the rule for most contract dollars in the Federal Government. I know I will probably get a lot of argument, but I believe that setasides work against small business in the long run.

It may be OK in the short run, but the system has developed that small business will be given a little bit and the rest of the businesses will take a lot. I believe that unless we get at the really central problem of procurement, and the way business is done in the Federal Government, small business will always be on the out and will always be requesting maybe $100 million more this year, and maybe $200 million more after that. So the investigation on that will be asking some difficult questions. I am not sure what the results will be, but meanwhile it is always easy to put more money on the line, to get more setaside. One suggestion that was made by the outgoing or Associate Administrator at the Denver hearing last week, was that the SBA be given the same powers to set aside subcontracts that it now has to deal with prime contracts. Legislation will be needed to do it, and it will be an area that we will be looking at during the next few months.

Mr. NEECE. I think one thing we all have to look at more carefully is how can the Agency be made to be more responsive. All of us on the committee staff share your concern in that regard.

SBA only services about 2 percent of the Nation's small business community. We think a lot more can be done in helping that community, if the Agency is redesigned. We plan two major thrusts in

that connection. One is that the committee plans to report out this year, a specific dollar authorization bill for the Agency.

We now have the authority to do that, but it has not been exercised in the past. The appropriation committees have made all of the budget determinations on behalf of the Agency.

You have outlined concerns in the area of procurement and management assistance, which cover very wide areas. These subjects include SCORE, R. & D. and technology transfer and assessment. You have shared some concerns in the education area, in the area of lending, and the SBA equity capital programs.

All of these concerns can be addressed when the committee signs off on SBA's authorization on a fiscal year basis.

This will give this committee an opportunity to reassess the Agency's priorities. Personnel assignments can be shifted by assigning some of the existing slots to such area as the advocacy program and the procurement activities. Research and development is being given token assistance at this stage of the game, which Sam Carter mentioned earlier.

Seventy-five percent of all SBA's personnel are now tied up directly or indirectly with the various SBA lending programs. We think that level needs to be substantially reduced and the way to go about that is to shift a good portion of the lending activities into the private sector, utilizing either the guarantee, or as the outgoing Administrator has suggested, use some sort of an insurance program.

The point is to free up personnel in the Agency to do other functions and those functions relate to the concerns you have shown this morning.

Within 3 or 4 years we hope to have an entirely different Agency downtown which is very aggressive in many of the areas we have discussed this morning.

Bill just reminded me that the top of the batting order in the next 6 weeks is something that Dr. Flewellen talked about earlier. I'm referring to the university business development center program.

As Dr. Flewellen mentioned, we hope that a bill will be introduced very shortly that will create a program for the small business community which is similar to that which the Department of Agriculture has been doing for the agriculture community through its Rural Extension Service.

The bill will be introduced shortly which will create a Small Business Committee service. It is based on the experience of eight pilot UBDC's now in place. We hope that within the next 5 years there will be UBDC's in every State with satellites within those States. It has the potential of being a very significant program.

Mr. CHERKASKY. Thank you. One comment before we go on.

The chairman, Senator Nelson, has proposed to then Candidate Carter that there needs to be a White House Conference on small business sometime during this year.

He has again contacted now President Carter asking that this be convened. He sees it as a chance to raise the visibility of small business above the most invisible status it now has.

Do not get me wrong. I think the issue is getting more visible all the time, but there are too few people in the Government and country

who realize the importance of small business in the economy and society.

You have already demonstrated your ability to tell the Senate what it ought to do with its committee reorganization plan. You may now want to contact the President of the United States and tell him what you think about a White House Conference on Small Business.

Now, we have taken up all the time talking to you. If you care to raise any questions. we shall trv to answer them. You have been here a long time and I will agree you have to leave.

We will open the floor to anyone who wants to raise a question.

Mr. TRAVIS. Are there any hearings planned on the retention of DISC—the Domestic International Sales Corporation—for small business or how to aid small business generally in increasing exports?

Mr. SPIRA. The DISC question might get into tax or export hearings, if we have any export hearings in our committee. But if you are interested in it I think that your statement is enough to raise the visibility of that issue, and we should keep in touch on it.

Mr. CHERKASKY. I forgot Ben Gordon.

STATEMENT OF BENJAMIN GORDON, STAFF ECONOMIST, SMALL BUSINESS COMMITTEE

Mr. GORDON. I would just like to supplement what Ray Watts said concerning the antitrust problems. I think the important and probably the most important problem for small business today is not so much the financing or the paperwork. Paperwork is annoying, but it does not bar you from certain economic activities. Nor does it cause people to go out of business.

I think the problem today is that of concentration, and the inability of small businesses to enter some of the most lucrative areas of our economy.

I can be very specific with you. For example, take consumer goods, in particular, over-the-counter drugs which require very little capital equipment to produce. It is an industry which is eminently suitable for small business and yet, very few small businesses are in it.

Very few small businesses can advertise. TV is one of the most powerful, probably the most powerful advertising medium and yet, small business is unable to take advantage of this great technology for its own benefit.

One of the things I would like to do is to go into industry by industry and see what the concentration is and see what the bars are to entrance.

Another problem is "refusal to sell" about which we have had some complaints from small business.

A particular small business in the cosmetic industry was unable to get raw materials. Then when it did manage to get the raw materials it wanted to advertise its products. It found, however, that it could not advertise its products because national magazines refused to take its advertising.

We wrote four letters to four prominent national magazines asking them why they refused to take the advertising of the small business. The answer we got is that this is free enterprise and they can turn down anybody they wished without giving any reason at all.

Then the small business I am referring to wanted to sell its products through retailers. Well, the retailers were afraid to take his products because they feared that they would not be able to get the products of the highly advertised manufacturers. So, he went out of business.

Some one of these days I would like to get him back to explain why he had to go out of business. I think the proper title for such hearings is the Life and Death of a Small Business—a Case Study.

This is happening all the time, ladies and gentlemen. These problems probably do not impinge on most of the small business firms represented here today, but in total have a devastating effect on the structure of our economy.

Another problem is that of pension funds. Now, pension funds have accumulated hundreds of billions of dollars, perhaps as much as $300 billion. These funds are controlled by a few banks. Where is this money going to? Is this money—some of it at least—available to small business? I do not know. I think this is another problem we ought to go into.

The money in these pension funds dwarfs all the money in SBA and the money that we are talking about today.

Another problem is Government research and development, the distribution of Government R. & D. and the disposition of rights resulting from these developments. Doctor Franklin this morning spoke about the energy shortage and its effect on small business. He just mentioned it. This shortage I am afraid is not a temporary shortage, but, I think, it is going to be a permanent shortage. I think it is going to have a very important impact on small business.

One is that it may make us move into more labor intensive production which I think will be very helpful to small business. Perhaps during the succeeding period, Dr. Franklin could expand on his thesis.

Dr. FRANKLIN. Just to respond to that. There is some criticism of the Carter package to buy more capital equipment and what it does. It encourages people to buy more capital equipment and hardens up the unemployed corps, if you will.

If we look across the sea, we would see that in Japan which was once labor intensive and has begun to move to the capital intensive now finds itself required to be able to back up into labor intensive in order to cope with the unemployment problems.

To this extent I am inclined to believe that we may have to take an approach to small business which is not strictly a dollar and cents economics kind of value that we would ordinarily get.

What is the economic value of saluting the flag? Nobody can come up with that, but we do know that respecting the flag is essential to the existence of the American Nation.

I am inclined to think maybe we need to look at the social impact of small business—how this thing gets through with unemployment; how we get through with one spell of work, one spell of participation and the general solidarity in the Nation.

I hope we could do this. Another comment. When I mentioned the predatory practices, I was thinking about some business combination mergers and acquisitions. I can go back to Baltimore. Since I.T. & T. took over Continental Baking we lost bakers like flies, you see and I.T. & T. owns Continental Baking. That is a big outfit, whatever you

might think of Continental Baking but it has killed the little people because they cannot operate at those levels of economy. They have to go outside and borrow money, while money is transferred from the corporate treasury to the weak elements in the system at low interest rates.

We have to look at this thing to see what impact it will have on the revitalization of the American system. I think if we approach it that way, certainly the White House Conference may be helpful in giving credibility.

We have to seriously consider what we are going to do with these young people who are coming out, whose unemployment rates are very, very high. What are we going to do with them? If we don't act quickly, we may eventually have nothing but junk from junkies who are running around because there is nothing else for them to do, you see.

The role of small business really has to be built up and we have to consider it as one of the major opportunities to shift back to a labor intensive economy, if you will, and to utilize more of our people.

Now, if you take this in terms of hard data, sure, it will lower productivity while everybody is for increasing productivity. But while it may lower productivity in one sense, it may even it up in another sense when we think about the counter balancing social effects of it.

Mr. CHERKASKY. Thank you, Doctor.

Any further comments? Anybody at all?

Mr. FEATHERMAN. I am Bernard Featherman from Western Steel Co. in Philadelphia.

Mention was made about the critical energy shortage and we in Philadelphia and along the entire East are going through very traumatic times. In our city alone over several thousand industrial and commercial establishments are being closed because of a lack of gas.

I would like to put it to the committee. if there is any emergency type of bill that can be put forth on behalf of small business where a tax incentive or tax increasement credit given for alternative energy sources could be put into place, in our present energy crunch with impossible energy shortages in the future if something could be done for small business to put that money in now so we would not have the tremendous unemployment that we are going through at this time, nor the drop in businesses because some businesses will be forced out of business as a result of this energy crunch.

I feel it imperative that the Small Business Committee take a stand on behalf of small businesses throughout the country.

Mrs. SIMONS. You mentioned some of the things you were looking at and I would like for you to look at the mandatory schedules.

The reason I cite you this is in the instance of the drapery schedule area, which I applied for. I have been waiting, I think, about 1 year and 2 months, period. I have yet to have an acknowledgment. Further, as you go on to look at that schedule you will see a time frame of 2 years for approval. Also, I cannot see why once we have filed forms 129 and 151, why you have to go through the same process in each department. which I have been doing along with the form 254.

I think that could become a centralized item and it could be put on a register so that private and/or service professionals do not have to do it over and over.

A third thing, when you look at the mandatory schedules you will find that the small business people such as myself are competing with some of the bigger people which are in manufacturing of office equipment and so on, as well as the service area that we can fight against that and still get a piece of the action legitimately.

On setasides, an example I can cite you at Commerce, I looked at the list and in about 15 minutes I developed 15 other areas they could project small business and at the same time make it 8(a). So it does not take a lot of brainwork and a lot of sweat. Just an idea of being objective and it will come out 1, 2, 3.

Mr. ANDERSON. In answer to Mr. Featherman's question the city of Syracuse because of the gas crisis and the gas curtailment have right now 14,000 unemployed because of the gas curtailment and in upstate New York, the total is due, not to the weather but strictly to the gas crisis, 450,000 unemployed.

This energy situation is immediate and it is just terrible.

Mr. YUSPEH. This afternoon we are having a meeting in that Senator Haskell will almost certainly be introducing an amendment to the Small Business Act to reduce the interest rate on energy loans and what are called the 702's which are the physical and nonphysical disaster loans to 3 percent and that will go to this committee and we will hold hearings.

Another issue was raised about energy conversion as a long range type thing and I have noted that down and I think that might be an important area for a loan program at the SBA with sufficient money to do something in it, set up in a way it can meet the needs since it appears you may have the same problem every time winter comes along.

Presumably, they are all due to the natural gas shortage.

Mr. CHERKASKY. Further comment?

Well, thank you very much. I think we have profited a great deal.

You have to remember that we are a staff of only 22 people, a single committee in the Senate out of 25 committees.

We can make our impact felt. You people represent millions upon millions of business people, 13 million business concerns to be exact, and when things need to be done, you can help press the alert button. It has been demonstrated that it can be done. We can help point the way and provide some expertise and research capability. But we always need the constituency out there to make people aware that in fact, any particular issue is a very important matter to the country.

I have a paper here from Dr. Samuel Z. Cardon, President, American Association of Small Research Companies that he wishes to submit for the record.

If there is no further comment, again, I want to thank you for coming. We will be sending you more material. Please be sure to write or to call us and tell us your concerns at any juncture.

Thank you.

[Whereupon, at 1:30 p.m. the conference was adjourned.]

APPENDIX

independent businessman's association

February 4, 1977

Mr. William B. Cherkasky
Staff Director
Senate Select Committee on Small Business
Washington, DC 20510

Dear Mr. Cherkasky:

Richard B. Sanford, President of the Independent Businessman's Association, has asked that I respond to your letter of January 25, 1977.

Your invitation to participate in an agenda forming session of the Senate Select Committee on Small Business was most appreciated. We are very interested in the Committee's work and feel it essential that a concerned effort be made to reflect the small business point of view on Capitol Hill.

Unfortunately, the date of the meeting catches us at an inopportune time. We received your letter on Monday morning of this week, Mr. Sanford left on a business trip for two weeks on Tuesday morning, and I had the misfortune to arrange an automobile accident for myself on Tuesday morning putting me out of circulation for a couple of weeks.

I do hope you will accept this letter as an indication of our sincere interest in your Committee's work and allow us the opportunity for further input in the future.

One suggestion that I do have which I feel is essential to the quality of your Committee's work is this. As you work with Congress and among yourselves on the Committee's agenda, please consider it important to ask for, or perhaps appoint, an advisory committee of small business men and women to assist you in your work.

Please do not assume that you know what small business feels and what its needs are if you are not actively engaged in the day to day battle itself.

And finally, it would be most beneficial to your work and to the future of small business in America to encourage the appointment as the new Administrator of the United States Small Business Administration, Mr. Edward Richard of Cleveland, Ohio. He is truly an enlightened small businessman and knows what the problems and opportunities are and how to approach them.

Our best wishes to you. We will be observing your work with much interest.

Sincerely,

Thomas E. Garnett (jp)

Thomas E. Garnett
Executive Director

TEG/se
cc: Richard B. Sanford

center for small business

February 2, 1977

Honorable Gaylord Nelson
Chairman
Select Committee on Small Business
U. S. Senate
Russell Senate Office Building
Room 221
Washington, D. C. 20510

Dear Mr. Chairman:

It will be my pleasure to join your staff next Monday to give views of The Council of Small Business as to what your committee agenda might include for the 95th Congress.

As an advance outline of our views I will summarize the topics selected by The Council for priority study and discussion. This is the best reflection available of what The Council might suggest to you and the committee for your own agenda.

Topics were grouped by The Council under three headings of equal importance: SBA-related issues, tax-related issues and other issues. They are as follows:

SBA-Related Issues for Discussion

1. Secondary loan market for SBA paper
2. Oversight of SBA agency functions
3. Improved set-aside laws for federal procurement
4. Development and use of small business impact statements within the federal establishment
5. Limitation of SBA disaster relief responsibility to small business, instead of the total public
6. Substitution of private financing assistance for SBA direct loan program
7. Retaining SBA as a separate entity with Cabinet level administrator
8. Improvements in SBIC laws and regulations

Tax-Related Issues for Discussion

1. Perpetuation and succession for small business
2. Growth of social security and other payroll tax levels and payouts
3. Accelerated depreciation allowances
4. Double taxation of corporate profits
5. Capital gains tax treatment
6. Graduated corporate income tax
7. Simplifying individual income tax

Other Issues for Discussion

1. Product liability
2. Unemployment compensation/Workers' compensation
3. Commission on Regulatory Reform
4. Labor issues: Minimum wage, 14 B, Common situs picketing
5. Franchising relationships

On behalf of The Council of Small Business I look forward to the discussion on February 7.

Cordially,

Ivan C. Elmer
Director

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