

(D) employment provided by women-owned small businesses in the United States increased by 183 percent; and

(E) the rates of growth for women-owned small businesses in the United States for the fastest growing industries were—

(i) 171 percent in construction;  
(ii) 157 percent in wholesale trade;  
(iii) 140 percent in transportation and communications;

(iv) 130 percent in agriculture; and  
(v) 112 percent in manufacturing;

(3) approximately 8,000,000 women-owned small businesses in the United States provide jobs for 15,500,000 individuals and generate almost \$1,400,000,000,000 in sales each year;

(4) the participation of women-owned small businesses in the United States in the procurement market of the Federal Government is limited;

(5) the Federal Government is the largest purchaser of goods and services in the United States, spending more than \$200,000,000,000 each year;

(6) the majority of Federal Government purchases are for items that cost \$25,000 or less; and

(7) the rate of Federal procurement for women-owned small businesses is 2.2 percent.

(b) **SENSE OF THE SENATE.**—It is the sense of the Senate that, not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States should—

(1) conduct an audit of the Federal procurement system regarding Federal contracting involving women-owned small businesses for the 3 preceding fiscal years;

(2) solicit from Federal employees involved in the Federal procurement system any suggestions regarding how to increase the number of Federal contracts awarded to women-owned small businesses; and

(3) submit to Congress a report on the results of that audit, which report shall include—

(A) an analysis of any identified trends in Federal contracting with respect to women-owned small businesses;

(B) any recommended means to increase the number of Federal contracts awarded to women-owned small businesses that the Comptroller General considers to be appropriate, after taking into consideration any suggestions received pursuant to a solicitation described in paragraph (2), including any such means that incorporate the concepts of teaming or partnering; and

(C) a discussion of any barriers to the receipt of Federal contracts by women-owned small businesses and other small businesses that are created by legal or regulatory procurement requirements or practices.

#### **SEC. 6. EFFECTIVE DATE.**

This Act and the amendments made by this Act shall take effect on October 1, 1999.

### **INDEPENDENT OFFICE OF ADVOCACY ACT**

Mr. DOMENICI. Mr. President, I ask unanimous consent the Senate now proceed to consideration of Calendar No. 267, S. 1346.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1346) to ensure the independence and nonpartisan operation of the Office of Advocacy of the Small Business Administration.

There being no objection, the Senate proceeded to consider the bill, which

had been reported from the Committee on Small Business, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 1346

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

#### **SECTION 1. SHORT TITLE.**

This Act may be cited as the “Independent Office of Advocacy Act”.

#### **SEC. 2. FINDINGS.**

Congress finds that—

(1) excessive regulations continue to burden our Nation’s small businesses;

(2) Federal agencies are reluctant to comply with the requirements of chapter 6 of title 5, United States Code, and continue to propose regulations that impose disproportionate burdens on small businesses;

(3) the Office of Advocacy of the Small Business Administration (referred to in this Act as the “Office”) is an effective advocate for small businesses that can help ensure that agencies are responsive to small businesses and that agencies comply with their statutory obligations under chapter 6 of title 5, United States Code and under the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121; 106 Stat. 4249 et seq.);

(4) the independence of the Office is essential to ensure that it can serve as an effective advocate for small businesses without being restricted by the views or policies of the Small Business Administration or any other executive branch agency;

(5) the Office needs sufficient resources to conduct the research required to assess effectively the impact of regulations on small businesses; and

(6) the research, information, and expertise of the Office make it a valuable adviser to Congress as well as the executive branch agencies with which the Office works on behalf of small businesses.

#### **SEC. 3. PURPOSES.**

The purposes of this Act are—

(1) to ensure that the Office has the statutory independence and adequate financial resources to advocate for and on behalf of small business;

(2) to require that the Office report to the Chairmen and Ranking Members of the Committees on Small Business of the Senate and the House of Representatives and the Administrator of the Small Business Administration in order to keep them fully and currently informed about issues and regulations affecting small businesses and the necessity for corrective action by the regulatory agency or Congress;

(3) to provide a separate authorization for appropriations for the Office;

(4) to authorize the Office to report to the President and to Congress regarding agency compliance with chapter 6 of title 5, United States Code; and

(5) to enhance the role of the Office pursuant to chapter 6 of title 5, United States Code.

#### **SEC. 4. OFFICE OF ADVOCACY.**

(a) **IN GENERAL.**—The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by redesignating section 32 as section 33; and

(2) by inserting after section 31 the following:

#### **“SEC. 32. OFFICE OF ADVOCACY.**

“(a) **DEFINITIONS.**—In this section—

“(1) the term ‘Chief Counsel’ means the Chief Counsel for Advocacy appointed under subsection (b); and

“(2) the term ‘Office’ means the Office of Advocacy established under subsection (b).

“(b) **ESTABLISHMENT.**—

“(1) **IN GENERAL.**—There is established in the Administration an Office of Advocacy (referred to in this section as the ‘Office’).

“(2) **CHIEF COUNSEL FOR ADVOCACY.**—

“(A) **IN GENERAL.**—The management of the Office shall be vested in a Chief Counsel for Advocacy who shall be appointed from civilian life by the President, by and with the advice and consent of the Senate, without regard to political affiliation and solely on the ground of fitness to perform the duties of the office.

“(B) **EMPLOYMENT RESTRICTION.**—The individual appointed to the office of Chief Counsel for Advocacy may not serve as an officer or employee of the Small Business Administration during the 5-year period preceding the appointment.

“(C) **REMOVAL.**—The Chief Counsel for Advocacy may be removed from office by the President and the President shall notify Congress of any such removal [within 30 days after] not later than 30 days before the removal.

“(3) **APPROPRIATION REQUEST.**—Each appropriation request prepared and submitted by the Administration under section 1108 of title 31, United States Code, shall include a separate request relating to the Office.

“(c) **PRIMARY FUNCTIONS.**—The Office shall—

“(1) examine the role of small businesses in the economy of the United States and the contribution that small businesses can make in improving competition, encouraging economic and social mobility for all citizens, restraining inflation, spurring production, expanding employment opportunities, increasing productivity, promoting exports, stimulating innovation and entrepreneurship, and providing the means by which new and untested products and services can be brought to the marketplace;

“(2) assess the effectiveness of Federal subsidy and assistance programs for small businesses and the desirability of reducing the emphasis on those programs and increasing the emphasis on general assistance programs designed to benefit all small businesses;

“(3) measure the direct costs and other effects of government regulation of small businesses, and make legislative, regulatory, and nonlegislative proposals for eliminating the excessive or unnecessary regulation of small businesses;

“(4) determine the impact of the tax structure on small businesses and make legislative, regulatory, and other proposals for altering the tax structure to enable all small businesses to realize their potential for contributing to the improvement of the Nation’s economic well-being;

“(5) study the ability of financial markets and institutions to meet small business credit needs and determine the impact of government demands on credit for small businesses;

“(6) determine financial resource availability and recommend methods for—

“(A) delivery of financial assistance to minority and women-owned enterprises, including methods for securing equity capital;

“(B) generating markets for goods and services;

“(C) providing effective business education, more effective management and technical assistance, and training; and

“(D) assistance in complying with Federal, State, and local laws;

“(7) evaluate the efforts of Federal agencies and the private sector to assist minority and women-owned enterprises;

“(8) make such recommendations as may be appropriate to assist the development and strengthening of minority, women-owned, and other small businesses;

"(9) recommend specific measures for creating an environment in which all businesses will have the opportunity to—

"(A) compete effectively and expand to their full potential; and

"(B) ascertain any common reasons for small business successes and failures;

"(10) determine the desirability of developing a set of rational, objective criteria to be used to define small business, and to develop such criteria, if appropriate; and

"(11) make recommendations and submit reports to the Chairmen and Ranking Members of the Committees on Small Business of the Senate and the House of Representatives and the Administrator with respect to issues and regulations affecting small businesses and the necessity for corrective action by the Administrator, any Federal department or agency, or Congress.

"(d) ADDITIONAL FUNCTIONS.—The Office shall, on a continuing basis—

"(1) serve as a focal point for the receipt of complaints, criticisms, and suggestions concerning the policies and activities of the Administration and any other department or agency of the Federal Government that affects small businesses;

"(2) counsel small businesses on the means by which to resolve questions and problems concerning the relationship between small businesses and the Federal Government;

"(3) develop proposals for changes in the policies and activities of any agency of the Federal Government that will better fulfill the purposes of this section and communicate such proposals to the appropriate Federal agencies;

"(4) represent the views and interests of small businesses before other Federal agencies whose policies and activities may affect small business;

"(5) enlist the cooperation and assistance of public and private agencies, businesses, and other organizations in disseminating information about the programs and services provided by the Federal Government that are of benefit to small businesses, and information on the means by which small businesses can participate in or make use of such programs and services; and

"(6) carry out the responsibilities of the Office under chapter 6 of title 5, United States Code.

"(e) STAFF AND POWERS.—

"(1) STAFF.—

"(A) IN GENERAL.—The Chief Counsel may, without regard to the civil service laws and regulations, appoint and terminate such additional personnel as may be necessary to enable the Office to perform its duties under this section.

"(B) COMPENSATION.—The Chief Counsel may fix the compensation of personnel appointed under this paragraph without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, but at rates not to exceed the minimum rate payable for a position at GS-15 of the General Schedule, except that not more than 14 employees of the Office at any one time may be compensated at a rate not to exceed the maximum rate payable for a position at GS-15 of the General Schedule.

"(2) POWERS.—In carrying out this section, the Chief Counsel may—

"(A) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code;

"(B) consult with—

"(i) experts and authorities in the fields of small business investment, venture capital, investment and commercial banking, and other comparable financial institutions involved in the financing of business; and

"(ii) individuals with regulatory, legal, economic, or financial expertise, including members of the academic community, and individuals who generally represent the public interest;

"(C) use the services of the National Advisory Council established under section 8(b) and, in accordance with that section, appoint such other advisory boards or committees as the Chief Counsel determines to be reasonably necessary and appropriate to carry out this section; and

"(D) hold hearings and sit and act at such times and places as the Chief Counsel determines to be appropriate.

"(f) OVERHEAD AND ADMINISTRATIVE SUPPORT.—The Administrator shall provide the Office with appropriate and adequate office space at central and field office locations of the Administration, together with such equipment, office supplies, and communications facilities and services as may be necessary for the operation of such offices, and shall provide necessary maintenance services for such offices and the equipment and facilities located therein.

"(g) INFORMATION FROM FEDERAL AGENCIES.—The Chief Counsel may secure directly from any Federal department or agency such information as the Chief Counsel considers to be necessary to carry out this section. Upon request of the Chief Counsel, the head of such department or agency shall furnish such information to the Office.

"(h) REPORTS.—

"(1) ANNUAL REPORTS.—Not less than annually, the Chief Counsel shall submit to the President and to the Committees on Small Business of the Senate and the House of Representatives a report on agency compliance with chapter 6 of title 5, United States Code.

"(2) ADDITIONAL REPORTS.—In addition to the reports required under paragraph (1) of this subsection and subsection (c)(12), the Chief Counsel may prepare and publish such reports as the Chief Counsel determines to be appropriate.

"(3) PROHIBITION.—No report under this section shall be submitted to the Office of Management and Budget or to any other department or agency of the Federal Government for any purpose before submission of the report to the President and to Congress.

"(i) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to the Office to carry out this section such sums as may be necessary for each fiscal year.

"(2) AVAILABILITY.—Any sums appropriated under paragraph (1) shall remain available, without fiscal year limitation, until expended."

(b) REPEAL.—Title II of Public Law 94-305 (15 U.S.C. 634a et seq.) is repealed.

(c) INCUMBENT CHIEF COUNSEL FOR ADVOCACY.—The individual serving as the Chief Counsel for Advocacy of the Small Business Administration on the date of enactment of this Act shall continue to serve in that position after such date in accordance with section 32 of the Small Business Act, as amended by this section.

Mr. BOND. Mr. President, I rise in support of the "Independent Office of Advocacy Act" (S. 1346). This bill is designed to build on the success achieved by the Office of Advocacy over the past 23 years. It is intended to strengthen that foundation to make the Office of Advocacy a stronger, more effective advocate for all small businesses throughout the United States. I introduced the "Independent Office of Advocacy Act" on July 1, 1999. Two weeks later, on July 15th, the Committee on Small Business voted unanimously, 17-

0, in favor of this important legislation.

The Office of Advocacy is a unique office within the Federal government. It is part of the Small Business Administration (SBA/Agency), and its director, the Chief Counsel for Advocacy, is nominated by the President and confirmed by the Senate. At the same time, the Office is also intended to be the independent voice for small business within the Federal government. It is supposed to develop proposals for changing government policies to help small businesses, and it is supposed to represent the views and interests of small businesses before other Federal agencies.

As the director of the Office of Advocacy, the Chief Counsel for Advocacy has a dual responsibility. On the one hand, he is the independent watchdog for small business. On the other hand, he is also a part of the President's Administration. As you can imagine, those are sometimes difficult roles to play simultaneously.

The "Independent Office of Advocacy Act" would make the Office of Advocacy and the Chief Counsel for Advocacy a fully independent advocate within the Executive Branch acting on behalf of the small business community. The bill would establish a clear mandate that the Office of Advocacy will fight on behalf of small businesses regardless of the position taken on critical issues by the President and his Administration.

S. 1346 would direct the Chief Counsel to submit an annual report on Federal agency compliance with the Regulatory Flexibility Act to the President and the Senate and House Committees on Small Business. The "Reg Flex Act" is a very important weapon in the war against the over-regulation of small businesses. At the request of Senator FRED THOMPSON, Chairman of the Government Affairs Committee, I am offering a noncontroversial amendment to S. 1346 that would direct the Chief Counsel for Advocacy to send a copy of the report to the Senate Government Affairs Committee. In addition, my amendment would also require that copies of the report be sent to the House Committee on Government Reform and the House and Senate Committees on the Judiciary. It makes good sense for each of the committees to receive this report on Reg Flex compliance, and I urge my colleagues to support the amendment.

The Office of Advocacy as envisioned by the "Independent Office of Advocacy Act" would be unique with the Executive Branch. The Chief Counsel for Advocacy would be a wide-ranging advocate, who would be free to take positions contrary to the Administration's policies and to advocate change in government programs and attitudes as they impact small businesses. During consideration of the bill, the Committee adopted unanimously an amendment I offered, which was cosponsored by Senator JOHN KERRY, the Committee's Ranking Democrat, to require the

Chief Counsel to be appointed "from civilian life." This qualification is intended to emphasize that the person nominated to serve in this important role should have a strong small business background.

In 1976, Congress established the Office of Advocacy in the SBA to be the eyes, ears and voice for small business within the Federal government. Over time, it has been assumed that the Office of Advocacy is the "independent" voice for small business. While I strongly believe that the Office of Advocacy and the Chief Counsel should be independent and free to advocate or support positions that might be contrary to the Administration's policies, I have come to find that the Office is not as independent as necessary to do the job for small business.

For example, funding for the Office of Advocacy comes from the Salaries and Expense Account of the SBA's budget. Staffing is allocated by the SBA Administrator to the Office of Advocacy from the overall staff allocation for the Agency. In 1990, there were 70 full-time employees working on behalf of small businesses in the Office of Advocacy. Today's allocation of staff is 49, and fewer are actually on-board as the result of the hiring freeze imposed by the SBA Administrator. The independence of the Office is diminished when the Office of Advocacy staff is reduced to allow for increased staffing for new programs and additional initiatives in other areas of SBA, at the discretion of the Administrator.

In addition, the General Accounting Office (GAO) recently completed a report for me on personnel practices at the SBA (GAO/GGD-99-68). I was alarmed by the GAO's finding that Assistant and Regional Advocates hired by the Office of Advocacy share many of the attributes of Schedule C political appointees. In fact, Regional Advocates are frequently cleared by the White House personnel office—the same procedure followed for approving Schedule C political appointees.

The facts discussed in the GAO Report cast the Office of Advocacy in a whole new light—one that had not been apparent until earlier this year. The report raises the questions, concerns and suspicions regarding the independence of the Office of Advocacy. Has there been a time when the Office did not pursue a matter as vigorously as it might have were it not for direct or indirect political influence? Prior to receipt of the GAO Report, my response was a resounding "No." But now, a question mark arises.

Let me take a moment and note that I will be unrelenting in my efforts to insure the complete independence of the Office of Advocacy in all matters, at all times, for the continued benefit of all small business. However, so long as the Administration controls the budget allocated to the Office of Advocacy and controls who is hired, the independence of the Office may be in jeopardy. We must correct this situa-

tion, and the sooner we do it, the better it will be for the small business community.

The "Independent Office of Advocacy Act" builds a firewall to prevent the political intrusion into the management of day-to-day operations of the Office of Advocacy. The bill would require that the SBA's budget include a separate account for the Office of Advocacy. No longer would its funds come from the general operating account of the Agency. The separate account would also provide for the number of full-time employees who would work within the Office of Advocacy. No longer would the Chief Counsel for Advocacy have to seek approval from the SBA Administrator to hire staff for the Office of Advocacy.

The bill would also continue the practice of allowing the Chief Counsel to hire individuals critical to the mission of the Office of Advocacy without going through the normal competitive procedures directed by federal law and the Office of Personnel Management (OPM). I believe this special hiring authority, which is limited only to employees within the Office of Advocacy, is beneficial because it allows the Chief Counsel to hire quickly those persons who can best assist the Office in responding to changing issues and problems confronting small businesses.

Mr. President, the "Independent Office of Advocacy Act" is a sound bill. It is the product of a great deal of thoughtful, objective review and consideration by me, the staff of the Committee on Small Business, representatives of the small business community, former Chief Counsels for Advocacy and others. These individuals have also devoted much time and effort in actively participating in a Committee Roundtable discussion on the Office of Advocacy, which my Committee held on April 21, 1999. And I stated earlier, the Committee on Small Business approved this bill by a unanimous 17-0 vote. Therefore, I strongly urge my colleagues in the Senate to vote in favor of the "Independent Office of Advocacy Act."

Mr. DOMENICI. I ask unanimous consent the committee amendment be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment was agreed to.

#### AMENDMENT NO. 2544

(Purpose: To make an amendment with respect to the submission of annual reports)

Mr. DOMENICI. Mr. President, Senator BOND has an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for Mr. BOND, proposes an amendment numbered 2544.

The amendment is as follows:

On page 12, line 12, insert after "Representatives" the following: "the Committee on

Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, and the Committees on the Judiciary of the Senate and the House of Representatives".

Mr. DOMENICI. I ask consent the amendment be agreed to, the bill be read a third time and passed, the motion to reconsider be laid on the table, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2544) was agreed to.

The bill (S. 1346), as amended, was read the third time and passed, as follows:

#### S. 1346

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

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Independent Office of Advocacy Act".

#### SEC. 2. FINDINGS.

Congress finds that—

(1) excessive regulations continue to burden our Nation's small businesses;

(2) Federal agencies are reluctant to comply with the requirements of chapter 6 of title 5, United States Code, and continue to propose regulations that impose disproportionate burdens on small businesses;

(3) the Office of Advocacy of the Small Business Administration (referred to in this Act as the "Office") is an effective advocate for small businesses that can help ensure that agencies are responsive to small businesses and that agencies comply with their statutory obligations under chapter 6 of title 5, United States Code and under the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121; 106 Stat. 4249 et seq.);

(4) the independence of the Office is essential to ensure that it can serve as an effective advocate for small businesses without being restricted by the views or policies of the Small Business Administration or any other executive branch agency;

(5) the Office needs sufficient resources to conduct the research required to assess effectively the impact of regulations on small businesses; and

(6) the research, information, and expertise of the Office make it a valuable adviser to Congress as well as the executive branch agencies with which the Office works on behalf of small businesses.

#### SEC. 3. PURPOSES.

The purposes of this Act are—

(1) to ensure that the Office has the statutory independence and adequate financial resources to advocate for and on behalf of small business;

(2) to require that the Office report to the Chairmen and Ranking Members of the Committees on Small Business of the Senate and the House of Representatives and the Administrator of the Small Business Administration in order to keep them fully and currently informed about issues and regulations affecting small businesses and the necessity for corrective action by the regulatory agency or Congress;

(3) to provide a separate authorization for appropriations for the Office;

(4) to authorize the Office to report to the President and to Congress regarding agency compliance with chapter 6 of title 5, United States Code; and

(5) to enhance the role of the Office pursuant to chapter 6 of title 5, United States Code.

**SEC. 4. OFFICE OF ADVOCACY.**

(a) IN GENERAL.—The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by redesignating section 32 as section 33; and

(2) by inserting after section 31 the following:

**“SEC. 32. OFFICE OF ADVOCACY.**

“(a) DEFINITIONS.—In this section—

“(1) the term ‘Chief Counsel’ means the Chief Counsel for Advocacy appointed under subsection (b); and

“(2) the term ‘Office’ means the Office of Advocacy established under subsection (b).

“(b) ESTABLISHMENT.—

“(1) IN GENERAL.—There is established in the Administration an Office of Advocacy (referred to in this section as the ‘Office’).

“(2) CHIEF COUNSEL FOR ADVOCACY.—

“(A) IN GENERAL.—The management of the Office shall be vested in a Chief Counsel for Advocacy who shall be appointed from civilian life by the President, by and with the advice and consent of the Senate, without regard to political affiliation and solely on the ground of fitness to perform the duties of the office.

“(B) EMPLOYMENT RESTRICTION.—The individual appointed to the office of Chief Counsel for Advocacy may not serve as an officer or employee of the Small Business Administration during the 5-year period preceding the appointment.

“(C) REMOVAL.—The Chief Counsel for Advocacy may be removed from office by the President and the President shall notify Congress of any such removal not later than 30 days before the removal.

“(3) APPROPRIATION REQUEST.—Each appropriation request prepared and submitted by the Administration under section 1108 of title 31, United States Code, shall include a separate request relating to the Office.

“(c) PRIMARY FUNCTIONS.—The Office shall—

“(1) examine the role of small businesses in the economy of the United States and the contribution that small businesses can make in improving competition, encouraging economic and social mobility for all citizens, restraining inflation, spurring production, expanding employment opportunities, increasing productivity, promoting exports, stimulating innovation and entrepreneurship, and providing the means by which new and untested products and services can be brought to the marketplace;

“(2) assess the effectiveness of Federal subsidy and assistance programs for small businesses and the desirability of reducing the emphasis on those programs and increasing the emphasis on general assistance programs designed to benefit all small businesses;

“(3) measure the direct costs and other effects of government regulation of small businesses, and make legislative, regulatory, and nonlegislative proposals for eliminating the excessive or unnecessary regulation of small businesses;

“(4) determine the impact of the tax structure on small businesses and make legislative, regulatory, and other proposals for altering the tax structure to enable all small businesses to realize their potential for contributing to the improvement of the Nation's economic well-being;

“(5) study the ability of financial markets and institutions to meet small business credit needs and determine the impact of government demands on credit for small businesses;

“(6) determine financial resource availability and recommend methods for—

“(A) delivery of financial assistance to minority and women-owned enterprises, including methods for securing equity capital;

“(B) generating markets for goods and services;

“(C) providing effective business education, more effective management and technical assistance, and training; and

“(D) assistance in complying with Federal, State, and local laws;

“(7) evaluate the efforts of Federal agencies and the private sector to assist minority and women-owned enterprises;

“(8) make such recommendations as may be appropriate to assist the development and strengthening of minority, women-owned, and other small businesses;

“(9) recommend specific measures for creating an environment in which all businesses will have the opportunity to—

“(A) compete effectively and expand to their full potential; and

“(B) ascertain any common reasons for small business successes and failures;

“(10) determine the desirability of developing a set of rational, objective criteria to be used to define small business, and to develop such criteria, if appropriate; and

“(11) make recommendations and submit reports to the Chairmen and Ranking Members of the Committees on Small Business of the Senate and the House of Representatives and the Administrator with respect to issues and regulations affecting small businesses and the necessity for corrective action by the Administrator, any Federal department or agency, or Congress.

“(d) ADDITIONAL FUNCTIONS.—The Office shall, on a continuing basis—

“(1) serve as a focal point for the receipt of complaints, criticisms, and suggestions concerning the policies and activities of the Administration and any other department or agency of the Federal Government that affects small businesses;

“(2) counsel small businesses on the means by which to resolve questions and problems concerning the relationship between small businesses and the Federal Government;

“(3) develop proposals for changes in the policies and activities of any agency of the Federal Government that will better fulfill the purposes of this section and communicate such proposals to the appropriate Federal agencies;

“(4) represent the views and interests of small businesses before other Federal agencies whose policies and activities may affect small business;

“(5) enlist the cooperation and assistance of public and private agencies, businesses, and other organizations in disseminating information about the programs and services provided by the Federal Government that are of benefit to small businesses, and information on the means by which small businesses can participate in or make use of such programs and services; and

“(6) carry out the responsibilities of the Office under chapter 6 of title 5, United States Code.

“(e) STAFF AND POWERS.—

“(1) STAFF.—

“(A) IN GENERAL.—The Chief Counsel may, without regard to the civil service laws and regulations, appoint and terminate such additional personnel as may be necessary to enable the Office to perform its duties under this section.

“(B) COMPENSATION.—The Chief Counsel may fix the compensation of personnel appointed under this paragraph without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, but at rates not to exceed the minimum rate payable for a position at GS-15 of the General Schedule, except that not more than 14 employees of the Office at any one time may be compensated at a rate not to exceed the maximum rate payable for a position at GS-15 of the General Schedule.

“(2) POWERS.—In carrying out this section, the Chief Counsel may—

“(A) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code;

“(B) consult with—

“(i) experts and authorities in the fields of small business investment, venture capital, investment and commercial banking, and other comparable financial institutions involved in the financing of business; and

“(ii) individuals with regulatory, legal, economic, or financial expertise, including members of the academic community, and individuals who generally represent the public interest;

“(C) use the services of the National Advisory Council established under section 8(b) and, in accordance with that section, appoint such other advisory boards or committees as the Chief Counsel determines to be reasonably necessary and appropriate to carry out this section; and

“(D) hold hearings and sit and act at such times and places as the Chief Counsel determines to be appropriate.

“(f) OVERHEAD AND ADMINISTRATIVE SUPPORT.—The Administrator shall provide the Office with appropriate and adequate office space at central and field office locations of the Administration, together with such equipment, office supplies, and communications facilities and services as may be necessary for the operation of such offices, and shall provide necessary maintenance services for such offices and the equipment and facilities located therein.

“(g) INFORMATION FROM FEDERAL AGENCIES.—The Chief Counsel may secure directly from any Federal department or agency such information as the Chief Counsel considers to be necessary to carry out this section. Upon request of the Chief Counsel, the head of such department or agency shall furnish such information to the Office.

“(h) REPORTS.—

“(1) ANNUAL REPORTS.—Not less than annually, the Chief Counsel shall submit to the President and to the Committees on Small Business of the Senate and the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, and the Committees on the Judiciary of the Senate and the House of Representatives a report on agency compliance with chapter 6 of title 5, United States Code.

“(2) ADDITIONAL REPORTS.—In addition to the reports required under paragraph (1) of this subsection and subsection (c)(12), the Chief Counsel may prepare and publish such reports as the Chief Counsel determines to be appropriate.

“(3) PROHIBITION.—No report under this section shall be submitted to the Office of Management and Budget or to any other department or agency of the Federal Government for any purpose before submission of the report to the President and to Congress.

“(i) AUTHORIZATION OF APPROPRIATIONS.—

“(1) IN GENERAL.—There are authorized to be appropriated to the Office to carry out this section such sums as may be necessary for each fiscal year.

“(2) AVAILABILITY.—Any sums appropriated under paragraph (1) shall remain available, without fiscal year limitation, until expended.”

(b) REPEAL.—Title II of Public Law 94-305 (15 U.S.C. 634a et seq.) is repealed.

(c) INCUMBENT CHIEF COUNSEL FOR ADVOCACY.—The individual serving as the Chief Counsel for Advocacy of the Small Business Administration on the date of enactment of this Act shall continue to serve in that position after such date in accordance with section 32 of the Small Business Act, as amended by this section.

TO PROVIDE FOR THE HOLDING OF COURT IN NATCHEZ, MISSISSIPPI IN THE SAME MANNER AS COURT IS HELD IN VICKSBURG, MISSISSIPPI

Mr. DOMENICI. Mr. President, I ask unanimous consent the Senate now proceed to the immediate consideration of Calendar No. 386, S. 1418.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1418) to provide for the holding of court in Natchez, Mississippi, in the same manner as court is held in Vicksburg, Mississippi, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. DOMENICI. I ask consent the bill be read a third time and passed, the motion to reconsider be laid on the table, and any statement relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1418) was read the third time and passed, as follows:

S. 1418

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

#### SECTION 1. HOLDING OF COURT AT NATCHEZ, MISSISSIPPI.

Section 104(b)(3) of title 28, United States Code, is amended in the second sentence by striking all beginning with the colon through "United States".

#### MISSOURI-NEBRASKA BOUNDARY COMPACT

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 389, H.J. Res. 54.

The PRESIDING OFFICER. The clerk will report the joint resolution by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 54) granting the consent of Congress to the Missouri-Nebraska Boundary Compact.

There being no objection, the Senate proceeded to consider the joint resolution.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the joint resolution be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution (H.J. Res. 54) was read the third time and passed.

#### CONTINUED REPORTING OF INTERCEPTED WIRE, ORAL, AND ELECTRONIC COMMUNICATIONS ACT

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 355, S. 1769.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1769) to continue the reporting requirements of section 2519 of title 18, United States Code, beyond December 21, 1999, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 1769

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

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Continued Reporting of Intercepted Wire, Oral, and Electronic Communications Act".

#### SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Section 2519(3) of title 18, United States Code, requires the Director of the Administrative Office of the United States Courts to transmit to Congress a full and complete annual report concerning the number of applications for orders authorizing or approving the interception of wire, oral, or electronic communications. This report is required to include information specified in section 2519(3).

(2) The Federal Reports Elimination and Sunset Act of 1995 provides for the termination of certain laws requiring submittal to Congress of annual, semiannual, and regular periodic reports as of December 21, 1999, 4 years from the effective date of that Act.

(3) Due to the Federal Reports Elimination Act and Sunset Act of 1995, the Administrative Office of United States Courts is not required to submit the annual report described in section 2519(3) of title 18, United States Code, as of December 21, 1999.

#### SEC. 3. CONTINUED REPORTING REQUIREMENTS.

(a) CONTINUED REPORTING REQUIREMENTS.—Section 2519 of title 18, United States Code, is amended by adding at the end the following:

"(4) The reports required to be filed by subsection (3) are exempted from the termination provisions of section 3003(a) of the Federal Reports Elimination and Sunset Act of 1995 (Public Law 104-66)."

(b) EXEMPTION.—Section 3003(d) of the Federal Reports Elimination and Sunset Act of 1995 (Public Law 104-66) is amended—

(1) in paragraph (31), by striking "or" at the end;

(2) in paragraph (32), by striking the period and inserting "; or"; and

(3) by adding at the end the following:

"(33) section 2519(3) of title 18, United States Code."

#### SEC. 4. ENCRYPTION REPORTING REQUIREMENTS.

[Section 2519(1)(b)] (a) Section 2519(2)(b) of title 18, United States Code, is amended by striking "and (iv)" and inserting "(iv) the number of orders in which encryption was encountered and whether such encryption prevented law enforcement from obtaining the plain text of communications intercepted pursuant to such order, and (v)".

(b) The encryption reporting requirement in subsection (a) shall be effective for the report transmitted by the Director of the Administrative Office of the Courts for calendar year 2000 and in subsequent reports.

#### SEC. 5. REPORTS CONCERNING PEN REGISTERS AND TRAP AND TRACE DEVICES.

Section 3126 of title 18, United States Code, is amended by striking the period and insert-

ing ", which report shall include information concerning—

"(1) the period of interceptions authorized by the order, and the number and duration of any extensions of the order;

"(2) the offense specified in the order or application, or extension of an order;

"(3) the number of investigations involved;

"(4) the number and nature of the facilities affected; and

"(5) the identity, including district, of the applying investigative or law enforcement agency making the application and the person authorizing the order."

Mr. LEAHY. Mr. President, I am pleased that the Senate is today considering S. 1769, which I introduced with Chairman HATCH on October 22, 1999. This bill will continue and enhance the current reporting requirements for the Administrative Office of the Courts and the Attorney General on the eavesdropping and surveillance activities of our federal and state law enforcement agencies.

For many years, the Administrative Office (AO) of the Courts has complied with the statutory requirement, in 18 U.S.C. § 2519(3), to report to Congress annually the number and nature of federal and state applications for orders authorizing or approving the interception of wire, oral or electronic communications. By letter dated September 3, 1999, the AO advised that it would no longer submit this report because "as of December 21, 1999, the report will no longer be required pursuant to the Federal Reports Elimination and Sunset Act of 1995." I commend the AO for alerting Congress that their responsibility for the wiretap reports would lapse at the end of this year, and for doing so in time for Congress to take action.

The AO has done an excellent job of preparing the wiretap reports. We need to continue the AO's objective work in a consistent manner. If another agency took over this important task at this juncture and the numbers came out in a different format, it would immediately generate questions and concerns over the legitimacy and accuracy of the contents of that report.

In addition, it would create difficulties in comparing statistics from prior years going back to 1969 and complicate the job of congressional oversight. Furthermore, transferring this reporting duty to another agency might create delays in issuance of the report since no other agency has the methodology in place. Finally, federal, state and local agencies are well accustomed to the reporting methodology developed by the AO. Notifying all these agencies that the reporting standards and agency have changed would inevitably create more confusion and more expense as law enforcement agencies across the country are forced to learn a new system and develop a liaison with a new agency.

The system in place now has worked well and should be continued. We know how quickly law enforcement may be subjected to criticism over their use of these surreptitious surveillance tools