

weather conditions, insufficient inventories, refinery capacity, transportation, and competitive structures in the markets, causes that are often unforeseeable to those who own and operate small businesses.

SEC. 3. SMALL BUSINESS ENERGY EMERGENCY DISASTER LOAN PROGRAM.

(a) IN GENERAL.—Section 7(b) of the Small Business Act (15 U.S.C. 636(b)) is amended by inserting after paragraph (3) the following:

“(4)(A) In this paragraph—

“(i) the term ‘heating fuel’ means heating oil, natural gas, propane, or kerosene; and

“(ii) the term ‘sharp and significant increase’ shall have the meaning given that term by the Administrator, in consultation with the Secretary of Energy.

“(B) The Administration may make such loans, either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis, to assist a small business concern that has suffered or that is likely to suffer substantial economic injury as the result of a sharp and significant increase in the price of heating fuel or electricity.

“(C) Any loan or guarantee extended pursuant to this paragraph shall be made at the same interest rate as economic injury loans under paragraph (2).

“(D) No loan may be made under this paragraph, either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis, if the total amount outstanding and committed to the borrower under this subsection would exceed \$1,500,000, unless such applicant constitutes a major source of employment in its surrounding area, as determined by the Administration, in which case the Administration, in its discretion, may waive the \$1,500,000 limitation.

“(E) For purposes of assistance under this paragraph—

“(i) a declaration of a disaster area based on conditions specified in this paragraph shall be required, and shall be made by the President or the Administrator; or

“(ii) if no declaration has been made pursuant to clause (i), the Governor of a State in which a sharp and significant increase in the price of heating fuel or electricity has occurred may certify to the Administration that small business concerns have suffered economic injury as a result of such increase and are in need of financial assistance which is not available on reasonable terms in that State, and upon receipt of such certification, the Administration may make such loans as would have been available under this paragraph if a disaster declaration had been issued.

“(F) Notwithstanding any other provision of law, loans made under this paragraph may be used by a small business concern described in subparagraph (B) to convert from the use of heating fuel or electricity to a renewable or alternative energy source, including agriculture and urban waste, geothermal energy, cogeneration, solar energy, wind energy, and fuel cells.”

(b) CONFORMING AMENDMENTS RELATING TO HEATING FUEL AND ELECTRICITY.—Section 3(k) of the Small Business Act (15 U.S.C. 632(k)) is amended—

(1) by inserting “, sharp and significant increases in the price of heating fuel or electricity” after “civil disorders”; and

(2) by inserting “other” before “economic”.

SEC. 4. AGRICULTURAL PRODUCER EMERGENCY LOANS.

(a) IN GENERAL.—Section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)) is amended—

(1) in the first sentence—

(A) by striking “operations have” and inserting “operations (i) have”; and

(B) by inserting before “: Provided,” the following: “, or (ii)(I) are owned or operated by such an applicant that is also a small business concern (as defined in section 3 of the Small Business Act (15 U.S.C. 632)), and (II) have suffered or are likely to suffer substantial economic injury on or after June 1, 2000, as the result of a sharp and significant increase in energy costs or input costs from energy sources occurring on or after June 1, 2000, in connection with an energy emergency declared by the President or the Secretary”;

(2) in the third sentence, by inserting before the period at the end the following: “or by an energy emergency declared by the President or the Secretary”; and

(3) in the fourth sentence—

(A) by inserting “or energy emergency” after “natural disaster” each place it appears; and

(B) by inserting “or declaration” after “emergency designation”.

(b) FUNDING.—Funds available on the date of enactment of this Act for emergency loans under subtitle C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961 et seq.) made to meet the needs resulting from natural disasters shall be available to carry out the amendments made by subsection (a).

SEC. 5. GUIDELINES.

Not later than 30 days after the date of enactment of this Act, the Administrator of the Small Business Administration and the Secretary of Agriculture shall each issue such guidelines as the Administrator and the Secretary, as applicable, determines to be necessary to carry out this Act and the amendments made by this Act.

SEC. 6. REPORTS.

(a) SMALL BUSINESS.—Not later than 18 months after the date of final publication by the Administrator of the Small Business Administration of the guidelines issued under section 5, the Administrator shall submit to the Committee on Small Business of the Senate and the Committee on Small Business of the House of Representatives, a report on the effectiveness of the program established under section 7(b)(4) of the Small Business Act, as added by this Act, including—

(1) the number of small businesses that applied to participate in the program and the number of those that received loans under the program;

(2) the dollar value of those loans;

(3) the States in which the small business concerns that participated in the program are located;

(4) the type of heating fuel or energy that caused the sharp and significant increase in the cost for the participating small business concerns; and

(5) recommendations for improvements to the program, if any.

(b) AGRICULTURE.—Not later than 18 months after the date of final publication by the Secretary of Agriculture of the guidelines issued under section 5, the Secretary shall submit to the Committees on Small Business and Agriculture, Nutrition, and Forestry of the Senate and the Committees on Small Business and Agriculture of the House of Representatives, a report on the effectiveness of loans made available as a result of the amendments made by section 4, together with recommendations for improvements to the loans, if any.

SEC. 7. EFFECTIVE DATE.

(a) SMALL BUSINESS.—The amendments made by this Act shall apply during the 2-year period beginning on the date of final publication of guidelines under section 5 by the Administrator, with respect to assistance under section 7(b)(4) of the Small Business Act (15 U.S.C. 636(b)), as added by this Act, to economic injury suffered or likely to be suffered as the result of—

(1) sharp and significant increases in the price of heating fuel occurring on or after November 1, 2000; or

(2) sharp and significant increases in the price of electricity occurring on or after June 1, 2000.

(b) AGRICULTURE.—The amendments made by section 4 shall apply during the 2-year period beginning on the date of final publication of guidelines under section 5 by the Secretary of Agriculture.

**INDEPENDENT OFFICE OF
ADVOCACY ACT OF 2001**

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 22, S. 395.

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

The assistant legislative clerk read as follows:

A bill (S. 395) to ensure the independence and nonpartisan operation of the Office of Advocacy of the Small Business Administration.

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 italics.)

S. 395

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 of 2001”.

SEC. 2. FINDINGS.

The Congress finds that—

(1) excessive regulations continue to burden United States small business[es] concerns;

(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 business[es] concerns;

(3) the Office of Advocacy of the Small Business Administration (referred to in this Act as the “Office”) is an effective advocate for small business[es] concerns that can help to ensure that agencies are responsive to small business[es] concerns 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 business[es] concerns 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 business[es] concerns; 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 business[es] concerns.

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 concerns;

(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 business[es] concerns and the necessity for corrective action by the regulatory agency or the Congress;

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

(4) to authorize the Office to report to the President and to the 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.—Title II of Public Law 94-305 (15 U.S.C. 634a et seq.) is amended by striking sections 201 through 203 and inserting the following:

“SEC. 201. SHORT TITLE.

“This title may be cited as the ‘Office of Advocacy Act’.

“SEC. 202. DEFINITIONS.

“In this title—

“(1) the term ‘Administration’ means the Small Business Administration;

“(2) the term ‘Administrator’ means the Administrator of the Small Business Administration;

“(3) the term ‘Chief Counsel’ means the Chief Counsel for Advocacy appointed under section 203; [and]

“(4) the term ‘Office’ means the Office of Advocacy established under section 203[.]; and

“(5) the term ‘small business concern’ has the same meaning as in section 3 of the Small Business Act.

“SEC. 203. ESTABLISHMENT OF OFFICE OF ADVOCACY.

“(a) ESTABLISHMENT.—

“(1) IN GENERAL.—There is established in the Administration an Office of Advocacy.

“(2) APPROPRIATION REQUESTS.—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.

“(b) CHIEF COUNSEL FOR ADVOCACY.—

“(1) 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.

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

“(3) REMOVAL.—The Chief Counsel may be removed from office by the President, and the President shall notify the Congress of any such removal not later than 30 days before the date of the removal, except that 30-day prior notice shall not be required in the case of misconduct, neglect of duty, malfeasance, or if there is reasonable cause to believe that the Chief Counsel has committed a crime for which a sentence of imprisonment can be imposed.

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

“(1) examine the role of small business concerns in the economy of the United States and the contribution that small busi-

ness concerns 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 business concerns and the desirability of reducing the emphasis on those programs and increasing the emphasis on general assistance programs designed to benefit all small business concerns;

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

“(4) determine the impact of the tax structure on small business concerns and make legislative, regulatory, and other proposals for altering the tax structure to enable all small business concerns 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 the [small business] credit needs of small business concerns, and determine the impact of government demands on credit for small business concerns;

“(6) determine financial resource availability and recommend, with respect to small business concerns, 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 small business concerns;

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

“(9) recommend specific measures for creating an environment in which all [businesses] small business concerns will have the opportunity—

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

“(B) to ascertain any common reasons for [small business] the successes and failures of small business concerns;

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

“(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 business concerns and the necessity for corrective action by the Administrator, any Federal department or agency, or the Congress; and

“(12) evaluate the efforts of each department and agency of the United States, and of private industry, to assist small business concerns owned and controlled by veterans, as defined in section 3(q) of the Small Business Act (15 U.S.C. 632(q)), and small business concerns owned and controlled by serviced-disabled veterans, as defined in such section 3(q), and to provide statistical information on the utilization of such programs by such

small business concerns, and to make appropriate recommendations to the Administrator and to the Congress in order to promote the establishment and growth of those small business concerns.

“(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 business concerns;

“(2) counsel small business concerns on the means by which to resolve questions and problems concerning the relationship between small business 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 title and communicate such proposals to the appropriate Federal agencies;

“(4) represent the views and interests of small business concerns 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 business concerns, and information on the means by which small business concerns 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) 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.”

(b) REPORTS TO CONGRESS.—Title II of Public Law 94-305 (15 U.S.C. 634a et seq.) is amended by striking section 206 and inserting the following:

“SEC. 206. REPORTS TO CONGRESS.

“(a) 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.

“(b) ADDITIONAL REPORTS.—In addition to the reports required under subsection (a) of this section and section 203(c)(11), the Chief Counsel may prepare and publish such reports as the Chief Counsel determines to be appropriate.

“(c) PROHIBITION.—No report under this title 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 the Congress.”

(c) AUTHORIZATION OF APPROPRIATIONS.—Title II of Public Law 94-305 (15 U.S.C. 634a et seq.) is amended by striking section 207 and inserting the following:

“SEC. 207. AUTHORIZATION OF APPROPRIATIONS.

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

“(b) AVAILABILITY.—Any amount appropriated under subsection (a) shall remain available, without fiscal year limitation, until expended.”.

(d) 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 203 of the Office of Advocacy Act, as amended by this section.

Mr. DODD. Mr. President, I rise in support of the Independent Office of Advocacy Act of 2001, S. 395. This bill is designed to build on the success achieved by the Office of Advocacy over the past 24 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. This bill was approved unanimously by the Senate during the 106th Congress; however, it was not taken up in the House of Representatives prior to the adjournment last month. On February 28, 2001, the Committee on Small Business voted 18-0 to approve and report this important legislation. It is my understanding the House Committee on Small Business under its new Chairman, DON MANZULLO, is likely to act on similar legislation this year.

The Office of Advocacy is a unique office within the Federal Government. It is part of the Small Business Administration, 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 of 2001 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 Presidents and his Administration.

The Independent Office of Advocacy Act of 2001 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-regula-

tion of small businesses. When the Senate first approved this bill in the 106th Congress, I offered an amendment at the request of Senator FRED THOMPSON, Chairman of the Government Affairs Committee, 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 also required that copies of the report be sent to the House Committee on Government Reform and the House and Senate Committees on the Judiciary. I believe these changes make good sense for each of the committees to receive this report on Reg Flex compliance, and I have included them in the version of the bill being introduced and debated today.

The Office of Advocacy as envisioned by the Independent Office of Advocacy Act 2001 would be unique within 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 its consideration of the bill in 1999, the Committee on Small Business 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 has not been 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 longstanding hiring freeze at the SBA. 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 undertook a report for me on personnel practices at the SBA, GAO/

GGD-99-68. I was alarmed by the GAO's finding that during the past 8 years, the Assistant Advocates and Regional Advocates hired by the Office of Advocacy shared 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. The report raised 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 since receipt of the GAO report, 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 businesses. 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 situation, and the sooner we do it, the better it will be for the small business community. As our Government is changing over to President Bush's administration, this would be a opportune time to establish, once and for all, the actual independence of the Office of Advocacy.

The Independent Office of Advocacy Act of 2001 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 leave unchanged current law which allows 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.

In addition, S. 395 makes no change in the current law which authorizes and directs each Federal Government

agency to furnish the Chief Counsel with such reports and other information necessary in order to carry out the functions of the Officer of Advocacy. This provision is very important for the Office to conduct its responsibilities on behalf of small businesses.

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. Since that time, the Committee on Small Business approved this bill twice by unanimous votes, and it was approved unanimously by the Senate in 1999. Therefore, I strongly urge my colleagues in the Senate to vote in favor of the Independent Office of Advocacy Act of 2001.

Mr. KERRY. Mr. President, I speak today in strong support of S. 395, the Independent Office of Advocacy Act. Chairman of the Senate Committee on Small Business, KIT BOND, and I introduced this legislation to help ensure the Small Business Administration's Office of Advocacy has the necessary autonomy to remain an independent voice for America's small businesses. I would like to thank the Chairman and his staff for working with me and my staff to make the necessary changes to this legislation to garner bipartisan support in Committee, where it passed 18-0.

This legislation is similar to a bill introduced by Chairman BOND, which I supported, during the 106th Congress. While this legislation received strong support in the Senate Committee on Small Business and on the floor of the Senate, the House did not take any action. I am hopeful that this legislation will be enacted during the 107th Congress.

Mr. President, the Independent Office of Advocacy Act rewrites the law that created the Small Business Administration's Office of Advocacy to allow for increased autonomy. It reaffirms the Office's statutory and financial independence by preventing the President from firing the advocate without 30 days prior notice to Congress and by creating a separate authorization for the office from that of SBAs. It also states that the Chief Counsel shall be appointed without regard to political affiliation, and shall not have served in the Administration for a period of 5 years prior to the date of appointment.

The legislation also makes women-owned businesses an equal priority of the Office of Advocacy by adding women-owned business to the primary functions of the Office of Advocacy, wherever minority owned business appears. It also adds new reporting requirements and additional functions to the Office of Advocacy with regard to

enforcement of the Small Business Regulatory Enforcement Fairness Act SBREFA. The provisions regarding SBREFA are already a part of existing law in Chapter 6 Title 5 of United States Code, and will now, rightly, be added to the statute establishing the Office of Advocacy.

But at its heart, this legislation will allow the Office of Advocacy to better represent small business interests before Congress, Federal agencies, and the Federal Government without fear of reprisal for disagreeing with the position of the current administration.

For those of my colleagues without an intimate knowledge of the important role the Office of Advocacy and its Chief Counsel play in protecting and promoting America's small businesses, I will briefly elaborate its important functions and achievements. From studying the role of small business in the U.S. economy, to promoting small business exports, to lightening the regulatory burden of small businesses through the Regulatory Flexibility Act, RFA, and the Small Business Regulatory Enforcement Fairness Act, the Office of Advocacy has a wide scope of authority and responsibility.

The U.S. Congress created the Office of Advocacy, headed by a Chief Counsel to be appointed by the President from the private sector and confirmed by the Senate, in June of 1976. The rationale was to give small businesses a louder voice in the councils of government.

Each year, the Office of Advocacy works to facilitate meetings for small business people with congressional staff and executive branch officials, and convenes ad hoc issue-specific meetings to discuss small business concerns. It has published numerous reports, compiled vast amounts of data and successfully lightened the regulatory burden on America's small businesses. In the area of contracting, the Office of Advocacy developed PRO-Net, a database of small businesses used by contracting officers to find small businesses interested in selling to the Federal Government.

The U.S. Congress, the administration and, of course, small businesses, have all benefitted from the work of the Office of Advocacy. For example, between 1998 and 2000, regulatory changes supported by the Office of Advocacy saved small businesses around \$20 billion in annual and one-time compliance costs.

Small businesses remain the backbone of the U.S. economy, accounting for 99 percent of all employees, providing 75 percent of all net new jobs, and accounting for 51 percent of private-sector output. In fact, and this may surprise some of my colleagues, small businesses employ 38 percent of high-tech workers, an increasingly important sector in our economy.

Small businesses have also taken the lead in moving people from welfare to work and an increasing number of women and minorities are turning to small business ownership as a means to

gain economic self-sufficiency. Put simply, small businesses represent what is best in the United States economy, providing innovation, competition and entrepreneurship.

Their interests are vast, their activities divergent, and the difficulties they face to stay in business are numerous. To provide the necessary support to help them, SBA's Office of Advocacy needs our support.

The responsibility and authority given the Office of Advocacy and the Chief Counsel are crucial to their ability to be an effective independent voice in the Federal Government for small businesses. When the Senate Committee on Small Business held a Roundtable meeting about the Office of Advocacy with small business concerns on April 21, 1999, every person in the room was concerned about the present and future state of affairs for the Office of Advocacy. These small businesses asked us to do everything we could to protect and strengthen this important office. I believe this legislation accomplishes this important goal.

I have always been a strong supporter of the Office of Advocacy and I urge my colleagues to support this important legislation.

Mr. McCONNELL. I ask unanimous consent the committee amendments be agreed to, the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

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

The committee amendments were agreed to.

The bill (S. 395), as amended, was read the third time and passed, as follows:

S. 395

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 of 2001".

SEC. 2. FINDINGS.

The Congress finds that—

- (1) excessive regulations continue to burden United States small business concerns;
- (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 business concerns;
- (3) the Office of Advocacy of the Small Business Administration (referred to in this Act as the "Office") is an effective advocate for small business concerns that can help to ensure that agencies are responsive to small business concerns 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 business concerns 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 business concerns; 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 business concerns.

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 concerns;

(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 business concerns and the necessity for corrective action by the regulatory agency or the Congress;

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

(4) to authorize the Office to report to the President and to the 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.—Title II of Public Law 94-305 (15 U.S.C. 634a et seq.) is amended by striking sections 201 through 203 and inserting the following:

“SEC. 201. SHORT TITLE.

“This title may be cited as the ‘Office of Advocacy Act’.

“SEC. 202. DEFINITIONS.

“In this title—

“(1) the term ‘Administration’ means the Small Business Administration;

“(2) the term ‘Administrator’ means the Administrator of the Small Business Administration;

“(3) the term ‘Chief Counsel’ means the Chief Counsel for Advocacy appointed under section 203;

“(4) the term ‘Office’ means the Office of Advocacy established under section 203; and

“(5) the term ‘small business concern’ has the same meaning as in section 3 of the Small Business Act.

“SEC. 203. ESTABLISHMENT OF OFFICE OF ADVOCACY.

“(a) ESTABLISHMENT.—

“(1) IN GENERAL.—There is established in the Administration an Office of Advocacy.

“(2) APPROPRIATION REQUESTS.—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.

“(b) CHIEF COUNSEL FOR ADVOCACY.—

“(1) 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.

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

“(3) REMOVAL.—The Chief Counsel may be removed from office by the President, and the President shall notify the Congress of any such removal not later than 30 days before the date of the removal, except that 30-day prior notice shall not be required in the case of misconduct, neglect of duty, malfeasance, or if there is reasonable cause to believe that the Chief Counsel has committed a crime for which a sentence of imprisonment can be imposed.

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

“(1) examine the role of small business concerns in the economy of the United States and the contribution that small business concerns 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 business concerns and the desirability of reducing the emphasis on those programs and increasing the emphasis on general assistance programs designed to benefit all small business concerns;

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

“(4) determine the impact of the tax structure on small business concerns and make legislative, regulatory, and other proposals for altering the tax structure to enable all small business concerns 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 the credit needs of small business concerns, and determine the impact of government demands on credit for small business concerns;

“(6) determine financial resource availability and recommend, with respect to small business concerns, 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 small business concerns;

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

“(9) recommend specific measures for creating an environment in which all small business concerns will have the opportunity—

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

“(B) to ascertain any common reasons for the successes and failures of small business concerns;

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

“(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 business concerns and the necessity for corrective action by the Administrator, any Federal department or agency, or the Congress; and

“(12) evaluate the efforts of each department and agency of the United States, and of private industry, to assist small business concerns owned and controlled by veterans, as defined in section 3(q) of the Small Business Act (15 U.S.C. 632(q)), and small business concerns owned and controlled by serviced-disabled veterans, as defined in such section 3(q), and to provide statistical information on the utilization of such programs by such small business concerns, and to make appropriate recommendations to the Administrator and to the Congress in order to promote the establishment and growth of those small business concerns.

“(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 business concerns;

“(2) counsel small business concerns on the means by which to resolve questions and problems concerning the relationship between small business 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 title and communicate such proposals to the appropriate Federal agencies;

“(4) represent the views and interests of small business concerns 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 business concerns, and information on the means by which small business concerns 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) 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.”

(b) REPORTS TO CONGRESS.—Title II of Public Law 94-305 (15 U.S.C. 634a et seq.) is amended by striking section 206 and inserting the following:

“SEC. 206. REPORTS TO CONGRESS.

“(a) 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.

“(b) ADDITIONAL REPORTS.—In addition to the reports required under subsection (a) of this section and section 203(c)(11), the Chief Counsel may prepare and publish such reports as the Chief Counsel determines to be appropriate.

“(c) PROHIBITION.—No report under this title 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 the Congress.”

(c) AUTHORIZATION OF APPROPRIATIONS.—Title II of Public Law 94-305 (15 U.S.C. 634a et seq.) is amended by striking section 207 and inserting the following:

SEC. 207. AUTHORIZATION OF APPROPRIATIONS.

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

“(b) AVAILABILITY.—Any amount appropriated under subsection (a) shall remain available, without fiscal year limitation, until expended.”.

(d) 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 203 of the Office of Advocacy Act, as amended by this section.

ORDERS FOR TUESDAY, MARCH 27, 2001

Mr. McCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until the hour of 9:15 a.m. on Tuesday, March 27. I further ask unanimous consent that on Tuesday, immediately following the prayer, the Journal of proceedings be approved to date, the morning hour be deemed expired, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of the Hagel amendment to S. 27, the campaign finance reform bill.

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

Mr. McCONNELL. Mr. President, further, I ask unanimous consent the Senate stand in recess from the hour of 12:30 p.m. until 2:15 p.m. for the weekly policy conferences to meet.

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

PROGRAM

Mr. McCONNELL. Mr. President, for the information of all Senators, the Senate will resume consideration of the Hagel amendment tomorrow morning. A vote may be expected on that amendment prior to the recess for the weekly party conferences. Further amendments will be offered, and therefore votes will occur throughout the day.

ORDER FOR ADJOURNMENT

Mr. McCONNELL. Mr. President, if there is no further business to come before the Senate, I now ask the Senate stand in adjournment under the previous order, following the remarks of Senator GRAHAM of Florida and the remarks of the Senator from Connecticut.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Connecticut.

HAGEL AMENDMENT NO. 146

Mr. DODD. My colleague from Wisconsin is here, and my good friend from Nebraska is in the room. I oppose the Hagel amendment. I guess people always concern themselves. CHUCK

HAGEL happens to be a good friend of mine, someone I admire immensely as a Member of this body. We have worked together on issues on numerous occasions. So my opposition, while it will come as no great surprise, is not rooted in anything personal at all; it is a substantive disagreement, and my admiration for him is in no way diminished, even though we disagree.

I wish to focus on one aspect. Senator FEINGOLD talked about the soft money aspects. My concern is that and also the raising of the hard money limitation. I know this gets lost on some people. There are distinctions between soft and hard money. To the average citizen, money is money, and they get confused between what is hard and what is soft money. But the hard money increases are troubling to me in that we raise it from \$1,000 to \$3,000 an individual.

Let me translate that. That is really raising it from \$2,000 to \$6,000 because you contribute both to the primary and the general election.

Let me get even more realistic. As a practical matter, when we call for contributions and there is a married couple, we usually get double that amount. So instead of \$2,000 or \$4,000, we are now talking about \$12,000 for that couple.

Those are the practicalities, and everybody who has ever raised money knows exactly what I am talking about. All of a sudden, we have gone from \$4,000 to \$12,000, plus we raise the individual total amount for a calendar year to \$75,000, and then double that, really, because it is \$150,000.

Now we are getting into the bizarre world where there are individuals—and of course not many in the country can do it; we are told it is really not enough because we ought to index it according to the consumer price index or some other parameter, much as we do with Social Security recipients or people on food stamps who are having a hard time feeding their families. We are going to index how much you can give, how much more access you can have to the process for the less than a fraction of the top 1 percent of the American public who could even begin to think about writing a check for \$150,000 per calendar year to support the candidates of their choice.

As we look at this, just to put it in perspective, we had .08 percent of the population who actually gave \$1,000 or more during the same period in 1999–2000. There were 1,128 individuals who gave \$25,000 annual aggregate maximums to candidates. So, unbelievable as it is, here we are debating the need to raise contribution levels to benefit somewhere in the neighborhood of 1,200 to maybe 2,000 people in the country.

How many Americans can write a check for \$150,000 in hard money? Obviously, very few. The idea somehow we are impoverished as candidates and we therefore need to raise the limits so people who fall into that category can write checks for us—only in this bi-

zarre world could we even be talking about these numbers in this context.

My hope is Members will not be tempted to go this route. We ought to be looking for ways to reduce the amount of money in politics. There are those who disagree with me on this, but I think we are awash in it. It is running the risk of moving our very system of democracy into deep trouble. There is no issue more important than this one.

The other issues we will have come before us are significant, but this goes right to the heart of who we are as a people, who can run for public office, who can get elected to public office. Our failure to do something about it places, as I said the other day, our democracy, in my view, in peril.

So, reluctantly, because he is a good friend of mine, I will oppose the amendment of Senator HAGEL. I think we can do better. There will be alternatives offered this week that I think will be more attractive, and therefore I urge the rejection of this amendment.

The PRESIDING OFFICER. The Senator from Florida is recognized for 10 minutes.

TAX CUT

Mr. GRAHAM. Mr. President, I am going to use this time at this late hour, not to talk about the subject that has been before the Senate most of the day but, rather, to an issue that I think is dominating the attention of the American people even more than the question of campaign finance reform, and that is what is happening in their wallets, what is happening to their economic well-being.

We went through a long Presidential campaign in the year 2000. During that campaign there was considerable discussion about tax policy, fiscal policy, the direction of the economy. Each of the candidates tended to mark out their own position.

Then Governor Bush basically said, beginning before the Iowa caucuses in January of 2000, that taxes were too high; that the surplus was generating more money than the Federal Government could intelligently utilize, and therefore a significant amount of that surplus should be returned to the taxpayers. He laid out a specific plan to return \$1.6 trillion of an estimated \$5.6 trillion surplus; about a \$2.6 trillion surplus minus the Social Security and Medicare trust fund.

The Democratic candidate, Vice President Gore, said we should have a tax policy targeted to achieve a set of specific economic and social purposes. They ranged from education to encourage more people to send their children to college, to continue their own personal education in a changing economy, to energy conservation: How could we use the Tax Code to encourage a set of incentives for conservation?

I suggest that just as the long campaign of 2000 finally ground itself to an