

come out of the committee because, frankly, committee work ensures there is full consideration of all the measures that come to the floor. We have seen leadership rewriting bills—the farm bill, the energy bill, the stimulus bill—and the products are not good.

What my colleague from New Hampshire has described seems to me not only a very expensive, very bad policy direction that has been taken on this trade adjustment assistance, it is beginning to smell to me like an effort to love it to death. I have been around legislative bodies long enough to know if one does not want to stand up and kill something, such as trade promotion, they do not want to come out and say, no, I am not for free trade, the best way to kill it is to put so much stuff on it that it sinks.

This was not done in committee. This was not done in the light of day, as the Senator from New Hampshire said. This was done behind the scenes. This was an effort to sabotage trade promotion. I hope this body will say no. Frankly, if it were to go to the President with all of this junk on it, I hope he would veto it and send it back.

We need trade promotion authority. We do not need a huge new socialistic program to have the Federal Government paying people's salaries when they are working. Trade adjustment assistance traditionally as we have had it, yes, it makes a lot of sense, but to have a whole new health care program, not going through the committee structure, a whole new income supplement program not fully considered, not aired out, put on this bill, I think is an outrage. I hope it does not take a supermajority to get this—or 41 votes to get it off.

I hope we have an up-or-down vote and the people who are really for trade promotion authority, the people who want to give our farmers the opportunity to produce and sell in the world market will stand up and say no, we need trade promotion authority clean, not with all of these love handles on it.

THE STATE OF SMALL BUSINESS

Mr. BOND. Madam President, I rise to report on the state of small business and share with my colleagues, staff, and our constituents some of the concerns in the small business communities. The President declared this week Small Business Week and we have had small business activities all week talking about wonderful entrepreneurs who are making the economy grow and providing jobs as well as strengthening their communities.

I don't think there is any question that small businesses are the foundation of our economy. They employ over half the private sector workforce. Two-thirds of all new jobs are created by small businesses. They constantly lead the way in innovative and creative solutions to the challenges that face us.

Some very large businesses, obviously, started as small businesses. Oth-

ers have chosen to remain small. This country's future will be determined by today's small businesses.

With so much at stake, we have adopted the policy in the Committee on Small Business of doing something that was not traditional prior to 1995 when we started going out and listening to the broad range of concerns of small business. I am proud to say on a bipartisan basis the Committee on Small Business over the last 7 years has not only listened to the needs of small business but done a very good job in responding to those needs. As the ranking member of the committee, I can say I have always learned when I have listened to the small businesses in my State and around the country.

There is something now they are discussing that has moved to the top of their concerns, moved to the top of the ladder. Small business concerns used to be regulatory issues, tax issues, bundling issues, availability of the SBA credit assistance. The issue driving small business owners and their employees nuts is the issue of the cost of health care. Small businesses are saying they cannot get the kind of health care for themselves and their employees and families that a large business or a union or a government can provide.

There are about 40 million people in this country without health insurance. We talk about that a lot. This is a serious concern. Madam President, 60 percent of those—24 million—are in the small business family. Of the 40 million without health insurance, 24 million are from small business. They are either workers in small business or members of the family of small business employees. Why? To a large extent in the past we have not given tax deductions for entrepreneurs, small business proprietors who buy health insurance for themselves.

I started that battle in 1995 and by 2003 we finally get 100-percent deductibility. Now the problem is the cost of health insurance. Many individuals who are among the employed but uninsured work for small businesses that would like to provide health insurance but can't because in some instances it is too expensive; in other instances they cannot bargain with and get the kind of benefits they need. They are not talking about lavish benefits.

We are trying to get basic health care for employees, their families, their children, mothers who need prenatal and postnatal care, children getting vaccinations. It does not matter how many mandates are passed regarding what States say to businesses, what they ought to do, health plans saying what they ought to do, or even a Patients' Bill of Rights. One basic right the small businesses don't have is the right to be able to purchase affordable health care.

It seems to me the only solution to help the employed but uninsured is to allow small businesses across the country to pool together and access health

insurance through their membership in a bona fide trade or professional organization. This should provide small businesses the same opportunities as other large insurance purchasers. The association health plans, or AHPs, would reduce cost, to spread the costs and risk, increase group bargaining power with large insurance companies, and generate more insurance options for small business.

The principle underpinning AHPs is simple, the same principle that makes it cheaper to buy a soda by the case than in individual cans. Bulk purchasing is why large companies and unions get better rates for employees and small business. It is time we bring the same kind of Fortune 500-style employee health care benefits to the Nation's Main Street small businesses and their employees.

AHPs are not a new idea. They have been talked about, argued about, compromised for almost a decade. During that period, what once was thought to be a manageable problem has become the crisis we have today. A bill has been introduced by my neighbor, my friend from Arkansas, Senator HUTCHINSON, that creates these AHPs. It is the Small Business Health Fairness Act of 2001. I cannot overstate the urgency of moving this legislation. The House has passed a similar bill. The President has strongly come out in support of AHPs. The President does not want small businesses to be health insurance islands under themselves. I agree. We must do this for small businesses, their employees, and their employees' families.

Also, it is important we go ahead and make permanent the tax cuts we provided last year. More than 21 million businesses filed tax returns as individuals. These are nonfarm, sole proprietorships, partnerships and S Corporations. They had receipts of less than \$1 million. And 92 percent of all small businesses under \$1 million are pass-through entities. The tax rate relief we gave last year means there will be more money to invest in the business, to invest in equipment, and to put more people to work. We need to make it permanent.

We are not talking about rich "fat cats" here. According to 1999 Census data, of the nearly 15 million full-time, self-employed people in 1999, median business earnings were \$30,000 and 38 percent of them earned between \$30,000 and \$75,000.

In addition, the former chief economist for the SBA's Office of Advocacy, testified last March before the Senate Finance Committee that "[e]very dollar of profit or tax relief tends to be reinvested in the [owner's] firm." With more of their tax dollars in hand, these small business owners will be able to reinvest in their businesses—purchase new and more efficient equipment. They will be able to expand their product lines and the services they render. And—most importantly—they will be able to continue creating more jobs in our home towns.

But the tax bill did not stop at just cutting tax rates. It also dramatically changed the death tax, putting it on the road to extinction by 2010. Too often we have heard about the family-owned company that has had to be sold just to pay the death taxes. According to the SBA, more than 70 percent of all family businesses do not survive through the second generation and fully 87 percent do not make it to a third generation. That's an absurd result of the tax code.

But we are forgetting an even greater problem caused by the estate tax. Thousands of small businesses in this country waste millions of dollars each year on estate planning and insurance costs just to keep the doors open if the owner should die.

To put this into perspective, a survey of family owned businesses in Upstate New York revealed that average spending for tax planning, attorney and consultant fees, life insurance premiums, internal labor costs, etc., was nearly \$125,000 per company over a 5 year period. That's even before any Federal estate taxes are counted.

Just think what could be done with that kind of money in a small business if it didn't have to be paid to accountants, lawyers, and insurance companies. It could be used to create more jobs in our communities. In short, the estate tax can spell the end of a small business, but it is also a jobs killer in this country.

With all of its strengths, however, the tax bill has one major flaw—procedural rules in the Senate forced it to be limited to a ten-year life. So, while America's entrepreneurs can enjoy the benefits of the tax bill today and over the next several years, our work is not finished. We must make the tax cuts, and in particular the repeal of the estate tax, permanent. Otherwise, our success in reducing the tax burden will turn into the largest tax increase in American history come 2011. That's a result I will strongly oppose and hope never to see.

Of course, another of the primary issues that come to me is how to create more small businesses. Money and good management skills are keys to starting and running a successful small business. The federal government has demonstrated that it is capable of delivering help in both areas to small businesses through the Small Business Administration. Each year, over one million small business people and entrepreneurs receive help from the SBA's core management assistance programs: the Small Business Development Centers, SCORE, and the Women Business Centers.

At the same time, SBA has demonstrated an ability to make loans and venture capital available to 40,000–50,000 small businesses annually. While the number of small businesses has exploded over the past decade, the SBA credit programs have not been able to keep pace with the demand. As many of my colleagues in the Senate know,

SBA's credit programs are not designed to compete with the private sector; rather, they are supposed to meet the demand from small businesses that cannot otherwise obtain a regular commercial loan or investment capital.

This demand is great; unfortunately, these programs are not meeting the growing small business demand, particularly from women-owned small businesses, which is the fastest growing small business segment. Much of the blame can be placed on career bureaucrats in the Office of Management and Budget who use unrealistically high default estimates to drive up the cost of the SBA's flagship 7(a) guaranteed business loan program. Just for next year, OMB's estimates are adding an unnecessary \$100 million in appropriations to the cost to run the program. Since 1992, OMB's estimates have caused the borrowers and lender to pay about \$1.4 billion in excess fees. The excess fees and the pressure for higher appropriations have placed unnecessary and counterproductive limits on the growth of the 7(a) loan program.

The other SBA credit programs have also experienced similar problems. The 504 Development Company Loan Program has paid excessive fees totaling over \$400 million, and the Small Business Investment Company Program has paid in \$500 million over the amount needed to run that program.

To begin to correct this problem, last December Congress enacted S. 1196, which included key provisions lowering the fees from the 7(a) and 504 loan programs. These changes will go into effect on October 1, 2002.

Last fall, I introduced the Small Business Leads to Economic Recovery Act of 2001, S. 1493, which is designed to provide effective economic stimulus to small businesses in three distinct but complementary ways: increasing access to capital for the Nation's small enterprises; providing tax relief and investment incentives for our small firms and the self-employed; and directing one of the Nation's largest consumers—the Federal government—to shop with small business in America.

Subsequently, Senator KERRY and I introduced S. 1499, which adopts the access to capital provisions from S. 1493. This bill is a bipartisan collaboration to devise one-time modifications to the 7(a) and 504 Loan Programs because the traditional approach to disaster relief will not address the critical needs of thousands of small businesses located at or around the World Trade Center, the Pentagon and in strategic locations throughout the United States. S. 1499 has passed the Senate and is waiting for action in the House of Representatives. In the near future, I am hopeful we can add this important bill to another must-pass bill so that it can be on the President's desk for his approval.

The SBA has undertaken the first creative steps to reach more small business borrowers. I applaud their efforts and encourage the SBA manage-

ment team led by Administrator Hector Barreto to do more. It is estimated there are as many as 25 million small businesses in the United States. Our Federal credit programs need to be able to reach many more small commercial borrowers. When I hear from women's business owners that they cannot obtain loans or investment capital, I want to know why the SBA programs are not serving this fast-growing segment of our Nation's business community. When minority entrepreneurs cannot obtain credit, I want to know what SBA is doing to correct this problem.

As the ranking member of the Committee on Small Business and Entrepreneurship, I am in a position to take the battle to the OMB. But it is up to the SBA to work with our Nation's lenders and venture capitalists to find ways to expand existing programs and to create new ways to deliver credit assistance to help fuel the engine that drives the economy of the United States—the small business community.

One thing that can sap the strength of that engine is the burden imposed on small businesses by regulations. The SBA Office of Advocacy has estimated that regulations cost businesses with less than 20 employees almost \$7000 per employee per year. This is nearly 60 percent higher than businesses with over 500 employees.

Six years ago, Congress, without dissent in the Senate, took an historic step towards reigning in the federal government's regulatory machine and protecting the interests of small businesses. My Red Tape Reduction Act, what others call the Small Business Regulatory Enforcement Fairness Act, ensured that small businesses would be given a voice in the regulatory process at the time when it could make the most difference: before the regulation is published as a proposal.

Without question, the Red Tape Reduction Act has yielded some remarkable results and provided small businesses with a greater voice and opportunity to have an impact in the rulemakings which threaten to do them the most harm. Perhaps the best known provision is the requirement that OSHA and EPA convene panels to receive comments from small businesses before their regulations are proposed. This gives these agencies the unique opportunity to learn up front what the problems with their regulation may be, and to correct these problems when it will cause the least difficulty. This has resulted in significant changes being made, and in one case, EPA abandoning a regulation because they recognized that the industry could deal with the issue more effectively on their own.

Experience with this panel process has proven to be an unequivocal success. The former Chief Counsel for Advocacy of the Small Business Administration Jere Glover has stated that, "Unquestionably, the SBREFA panel process has had a very salutary impact

on the regulatory deliberations of OSHA and EPA, resulting in major changes to draft regulations. What is important to note is that these changes were accomplished without sacrificing the agencies public policy objectives."

Unfortunately, however, there are still examples where agencies have not provided small businesses with the appropriate opportunity to participate, and have flouted the requirements of SBREFA through abusing the flexibility Congress provided to the agencies to determine how and when they would comply. It has become clear that these are more than mere isolated incidents and that the Red Tape Reduction Act itself needs to be amended to achieve the goal Congress had in mind when passing the original Regulatory Flexibility Act, and the subsequent Red Tape Reduction Act.

This is why I introduced The Agency Accountability Act, S. 849 during last year's Small Business Week. This bill would further amend the Regulatory Flexibility Act and close some of the loopholes that agencies have exploited in their desire to pursue their regulatory agendas on the backs of small businesses by doing the following:

It requires the agency to publish a summary of their economic analysis supporting the decision not to certify a regulation as not having "a significant economic impact on a substantial number of small entities," and to make the full economic analysis available to the public so that interested parties will be able to evaluate whether the agency has met their burden to do adequate outreach and analysis in determining the impact of the regulation.

It allows small entities to seek judicial review of this certification decision if they believe that the agency has not supported it with adequate data and analysis.

It directs the Chief Counsel for Advocacy of the Small Business Administration to promulgate a regulation to define further the terms of "significant economic impact" and "substantial number of small entities" so that agencies can no longer define these terms themselves and claim that they were within the bounds of the law when their definitions allow them to avoid the requirements of SBREFA and the Regulatory Flexibility Act.

Finally, it adds the Internal Revenue Service, the U.S. Forest Service, the National Marine Fisheries Service, and the Fish and Wildlife Service to the list of agencies that must conduct small business review panels before they can issue proposed regulations.

Another area the agencies have failed at miserably is to supply the compliance assistance that is required by the Red Tape Reduction Act. GAO has issued a report that clearly indicates how agencies have ignored this requirement or made a complete botch of it when they have attempted to meet it. I will be introducing legislation to address this problem soon.

My views are simple. I want an agency that intends to regulate how a business must conduct its affairs to do so carefully and only after it has taken every step to insure that it will impose on that small business the least amount of burden to achieve its stated objective. Once they do issue a regulation, they have an obligation to be able to explain what small businesses must do to comply with it. This is not about blocking agencies from promulgating regulations, it is about making sure they produce the best regulations possible with the least unnecessary burden on small businesses.

Six years ago, the Senate said in a unanimous voice that it wanted agencies to treat small businesses fairly. That commitment to protecting this most vulnerable segment of our economy, at a time when the Federal government can literally determine if a business will survive as a result of the regulatory burden imposed on it, is still alive. It is time that we ensured agencies are accountable for their actions by enacting the Agency Accountability Act.

On the positive side, the Federal Government can be and should be a reliable and committed purchaser of goods and services from small businesses. The Small Business Act says that small firms shall have the maximum practicable opportunity to compete for Federal contracts. This is good for small business, good for the purchasing agencies, and good for the taxpayer who pays the bills because when small business competes for contracts this lowers the prices and raises the quality.

Small business benefits from having access to a stable revenue stream while they get up-and-running. The Small Business Act recognizes how government contracting can contribute to business development and economic renewal. For example, my HUBZone program provides contracting incentives for small firms to locate in blighted neighborhoods, helping them win Federal contracts and stabilize their revenues while they develop a nongovernmental customer base.

The State of Small Business, on this front, is mixed. We finally succeeded in restoring funding for the HUBZone program, as SBA finally sent up a reprogramming request that the Appropriations Committee found acceptable. The mishap that occurred last year, of defunding the HUBZone program, has now been corrected.

Moreover, SBA is on the verge of removing the biggest of the roadblocks currently holding the HUBZone program back. Contrary to express Congressional direction, the previous Administration had put the HUBZone and 8(a) contracting programs in competition with each other, by trying to give an automatic preference to 8(a) in all cases. We at the Small Business Committee had sought to avoid pitting these programs against each other, by mandating parity between the pro-

grams. Contracting officers would be equally obligated to carry out both programs.

SBA disregarded the congressional will on this point, and contracting officers found the regulations confusing. SBA's noncompliance hurt both programs, because contracting officers did not know what to do.

In January, SBA published proposed rules to correct this situation and to establish the parity that Congress intended. I am confident we are about to enter a new era in which the HUBZone program will finally live up to its potential.

And not a moment too soon, either. This program will direct contracting dollars into the most chronically distressed areas of the nation. People who live in these areas, without jobs and often without hope, need the opportunities that the HUBZone program will provide. Finally, we are going to get serious about getting help to these folks who need it so desperately.

Unfortunately, Federal government's performance in contracting with women-owned small businesses is less encouraging. Since 1994, when Congress enacted a goal of 5 percent of contract dollars for women-owned firms, the Government has consistently fallen short. We have never met that goal. We have never come close.

Last year, I received a report from the General Accounting Office on contracting participation by women-owned firms. The clear message was this: if the Government is to meet the 5 percent goal, the Department of Defense must meet its own 5 percent goal. DOD is the 800-pound gorilla in Federal procurement. Sixty-four percent of Federal contracting dollars come from the Pentagon. Without a full DOD commitment to the women-owned business goal, the rest of the Government does not handle enough contracting dollars to make up the shortfall.

Similarly, DOD frequently uses the practice of bundling small contracts together so that small businesses are unable to bid on the work. In the words of President Bush "Bundling effectively excludes small businesses." He understands this hurts small business and has asked OMB to look for ways to avoid this approach and for opportunities to break up bundled contracts to permit more participation by small business. I welcome the President's support in this cause.

This week Senator KERRY and I offered a bill that would close loopholes in the definition. I appreciated working with him to develop this important measure. Increasingly, it looks like we are getting close to a meeting of the minds on this issue, and I am hopeful we can at long last do something serious to control contract bundling and ensure that the Federal government's contracting practices allow for the maximum possible participation by small business.

Never has our country needed or relied upon small businesses as much as

now in the wake of the devastating attacks of September 11. Yesterday, my colleague Senator KERRY and I introduced a resolution, S. Res. 264, expressing the sense of the Senate that small business participation is vital to the defense and security of our Nation. On September 11, 2001, the people of the United States were subject to the worst terrorist attack in American history. Our nation's response has been truly astounding. And it should come as no surprise that small businesses are playing a vital role in that response.

Small businesses have the unique ability to respond quickly and precisely, to emerging needs and conditions. Many of the most innovative solutions to our problems such as new technologies for defense readiness come from small firms. In fact, in October 2001, the Pentagon's technical support working group sent out an urgent plea, seeking ideas and technology to assist the military fight terrorism. In just two months, legions of small businesses responded to the Pentagon's call. Over 12,500 ideas poured into the Pentagon, most of them from small businesses. This remarkable response once again shows that small business remain the most innovative sector of the United States economy, accounting for the vast majority of new product ideas and technological innovations.

Just last week I had the opportunity to acknowledge the volunteer efforts of three Missouri companies that are helping re-build over an acre-long section of the Pentagon's roof, which was damaged badly in the September 11 terrorist attacks.

Frederic Roofing and Sheet Metal Company of St. Louis, Performance Roof Systems of Kansas City, and Watkins Roofing of Columbia, are participating in a massive effort to help repair part of the damage sustained by the Pentagon. These Missouri companies are independent, small businesses, modern-day Davids ready and willing to take on part of a Goliath-sized project. They have joined with roofing contractors from across country and the National Roofing Contractors Association to raise in excess of \$500,000 worth of cash, materials, and labor toward this project. Their work reflects the enterprising spirit that makes small businesses such a potent force in our economy. They deserve our admiration for rolling up their sleeves and pitching in to help restore the Pentagon.

To help raise awareness of small business innovation in the homeland defense area, on July 10, 2002, Senator KERRY and I will co-host an expo on Capitol Hill to showcase small businesses and their homeland security products. The Small Business Homeland Security Expo will provide an opportunity for small business owners to educate us here in Washington about their latest innovative products, technology, and research. I am excited to bring these hardworking entrepreneurs here to show us just how valuable their

contributions are to our Nation's security and defense. These small businesses are a cross-section of America—they are women-owned, minority-owned, and often represent economically disadvantaged areas.

Numerous small businesses have lined up to showcase their exciting products and services for homeland defense and the fight against terrorism. We intend to highlight these businesses at the Expo and in the accompanying book being prepared for the event. The work of small businesses toward this goal is a product of the same volunteer spirit that helped save lives, combat unthinkable disaster, and restore the nation's hope after the darkest hours of September 11.

Madam President, I am happy to report to the Senate that the small business sector of our economy is thriving even though the challenges they face are stiff and numerous. The determination to be successful is a hallmark of small businesses as it has been the foundation of our nation throughout the years. Small businesses are at the forefront of new advances in technology, health care, environmental management, and virtually every industry possible. I have no doubt that small businesses will continue to lead the way.

The big question I have is whether we will be able to help them. Small business wants the Federal government to be a friend, not an adversary. They want us to be their customer and advisor, not a competitor or intruder. In every action we take, we must always ask what the impact on small businesses will be, and make every effort to refrain from that action if we do not believe it will have a beneficial impact. The future of our country is tied to the future of small business and by enhancing the conditions that support small business, we will ensure a more prosperous future for all.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CARPER). Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

ANDEAN TRADE PREFERENCE EXPANSION ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 3009, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3009) to extend the Andean Trade Preference Act, to grant additional

trade benefits under that Act, and for other purposes.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I am very proud to be able to stand in this Chamber today and say that we have reached a compromise on fast track, trade adjustment assistance, Andean trade, and the Generalized System of Preferences, or GSP.

Last night, my good friend and colleague, Senator GRASSLEY and I—along with the administration—were able to reach an agreement that I believe will gain very broad bipartisan support.

As I have said before, this bill, if passed, will be the first major rewrite of international trade legislation in 14 years. It is an historic opportunity for all of us.

Last week, I outlined the need for fast track and for renewing and expanding the Andean Trade Preference Act. Those bills are identical to the bills offered last week.

Let me outline today the compromise that was reached on trade adjustment assistance.

I believe that the TAA legislation will be one of the most important bills to be adopted by the Senate this year. Importantly, this bill makes several changes to the TAAA program to make it more effective.

First, it extends the period for which TAA pays out income support from 52 to 78 weeks. This allows TAA recipients to stay in the program long enough to complete training for new jobs.

Second, we expand eligibility for TAA benefits to secondary workers. For example, if an automobile producer is affected by imports, displaced workers in supplier companies—tire and windshield manufacturers, for example—will also be covered. We expect that approximately 65,000 additional workers will be eligible for TAA because of this provision.

Third, we agreed to extend TAA benefits when a U.S. manufacturing plant moves offshore to any country. In addition, we have codified the provisions covering downstream workers who are currently covered by the NAFTA transitional program.

Fourth, we expand TAA benefits. This legislation authorizes \$300 million for training—nearly tripling the program.

The legislation also helps TAA recipients obtain healthcare insurance. Displaced workers will be eligible for an advanceable, refundable tax credit of 70 percent.

That money can be used for COBRA or for the purchase of certain State-based group coverage options. We also provide interim assistance through the National Emergency Grant program.

In my opinion, this is most significant bipartisan agreement on health care in many, many years.

Fifth, this legislation provides a special TAA program for family farmers, ranchers, and fishermen.