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APPENDIX 30

# Foundation for A REPORT TO THE PRESIDENT AND CONGRESS a New Century



The White House Conference  
on Small Business Commission

SEPTEMBER 1995

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BUILDING THE  
**Foundation for  
a New Century**

*Final Report  
on Implementation of the Recommendations of the  
1995 White House Conference on Small Business*

**SBA**

# The 60 Recommendations of the 1995 White House Conference on Small Business

Note. This document was prepared by the Office of Advocacy of the U.S. Small Business Administration, based upon information provided by the liaison Department of the White House Conference on Small Business. For further information or additional copies, contact the Office of Advocacy (MC 3110), U.S. Small Business Administration, Washington, DC 20416. Boldface numbers preceding the text of each recommendation are National Conference Recommendation Agenda reference numbers that were assigned to each proposed recommendation that was considered at the national conference.

## Capital Formation

**5.** In order to increase the availability of capital for small business, Congress shall:

- Authorize the SEC or an appropriate entity to create or streamline regulations and vehicles for public and small and large private company pensions, profit sharing, 401(k) plans, individual IRAs, Keogh, and SEP Plans to invest in small businesses by accessing the private capital markets and encouraging development of viable markets for small-business loans.
- Modify current legislation to facilitate the ability of an individual to invest up to 50 percent of his or her own self-directed and/or managed qualified plan including profit sharing, 401(k) plans, individual IRAs, Keogh, and SEP Plans in a specific small business(es) of his/her own choice. These funds could be used as a direct investment or as collateral to obtain debt financing. (votes received: 1279)

## Capital Formation

**9.** Banks are too highly regulated and restrictions on lending to small businesses are too severe. To increase the amount of small-business lending (and create thousands of jobs) we propose: (a) small-business loans should be reviewed collectively based on institutions' overall loan delinquency ratios, and (b) relaxing of collateral and income-to-debt ratio requirements allowing banks to make smaller loans based on character, personal background and creditworthiness, such as those loans permitted pursuant to the loan-banker guidelines under the capital availability program. Also, Congress should enact or amend legislation to direct the Comptroller of the Currency and other examining authorities to allow banks, especially community banks, to lend more readily in small business through no-cost, low-cost incentives, such as:

- Directing bank regulatory agencies to reduce paperwork commensurate with loan size;
- Reduce the number of federal agencies regulating banking through consolidation and coordination;
- Allow government deposits to be placed in a bank based on the percentage of that bank's portfolio that is placed in small-business loans. (votes received: 1275)

## Capital Formation

**14.** To increase the availability of growth capital to invest in small businesses, Congress should:

- Further privatize the Small Business Investment Company (SBIC) program, now administered by the SBA, by creating a new, government sponsored, but privately managed, corporation named Venture Capital Marketing Association or "Vickie Mac" which would function similar to the Federal National Mortgage Association (Fannie Mae);
- Extend the capital gains tax deferral currently afforded investments rolled into specialized Small Business Investment Companies (SBICs) to include investments in SBICs to encourage more investment in new SBICs;
- Remove barriers to pension funds' foundations and endowments wishing to invest in SBICs and SBICCs; eliminate the "unrelated business taxable income" (UBTI) tax on all such activities; and
- Reduce the minimum capital size requirements for establishing SBICs owned by regulated financial institutions, thereby encouraging them to provide equity to small businesses provided that no leverage is utilized by such SBICs until current minimum capitalization for leverage is achieved. (votes received: 1009)

## Capital Formation

**20.** Congress should support the investment in small businesses by:

- Establishing a tax-free rollover provision for the gains on sale of assets or ownership interests in a small business that are reinvested or rolled over into another small business within one year;
- Congress should amend Code Section 1202, which is legislation excluding 50 percent of all capital gains from income, to extend its benefits to S Corporations and Limited Liability Companies by defining a "qualified small business" to include C Corporations and the other two entities, and extend the definition of a "qualified trade or business" under Section 1202 to all businesses;
- Congress should enact tax legislation to allow a tax deduction against ordinary income for investments in small business. (votes received: 672)

## Capital Formation

**24.** The Small Corporate Offering Registration (S-COR) was

meant to be a means for self-reliant small business owners to raise equity capital with minimum of professional assistance (legal and accounting services) and the lowest origination costs. To facilitate the use of S-CORs, we propose that the SEC/Congress raise the \$1 million per year ceiling to \$5 million, remove limits on the number of investors, allow for "indirect advertising" of stock offerings and fund educational programs for investors and issuers to be administered at state and local levels. A greater degree of uniformity of state laws or reciprocity between states would be encouraged by the SEC through granting educational grants to states that accomplish this goal. (votes received: 1027)

## Capital Formation

**25.** Comprehensive Federally Guaranteed Financing Reform: Congress shall continue to appropriate funds for the Small Business Administration Leah Guarantee programs, while focusing on the following:

- Prohibit excessive abuses in the over-collateralization of all federally guaranteed loan programs;
- Establish criteria which would allow greater access to all federally guaranteed loan programs;
- Increase the SBA loan guarantee programs from its current level of \$250,000 to \$1,000,000;
- Only primary owners (not passive investors) should be required to make personal guarantees on federally guaranteed loans;
- Increase the number of non-bank lenders (SBLC) eligible to process SBA loans;
- Require all federally guaranteed loans be processed in a timely manner. (votes received: 784)

## Capital Formation

**26.** Congress should require that federal agencies evaluate the performance of financial institutions under the Community Reinvestment Act ("CRA") on the basis of such institutions' efforts to meet the credit and banking needs of small business in their communities. In making such evaluations, those financial institutions which extend credit to small businesses without the support of government loan guarantees should be rated higher than those institutions which simply participate in SBA, TIAA and other guarantee programs, and/or purchase government insured loans and loan pools. Further, Congress should direct such federal agencies to issue a separate rating of each financial institution's CRA performance relative to small business (as opposed to the current practice of issuing one rating for overall CRA performance with respect to the entire community). (votes received: 554)

## Community Development

**31.** Congress should enact legislation and the Administration should implement a process so that community and economic development programs could be maximized in distressed urban and rural areas by:

- Creating a "neutral favored" community status;
- Controlling and enhancing the SBA micro-loan program;
- Vigorously enforcing the Community Reinvestment Act with special efforts placed on elimination of redlining;
- Providing economically oriented incentives such as abatement of federal income taxes to encourage the service/retail industry and other small businesses to locate and expand in these areas;
- continuing to emphasize small, non-traditional financial institutions, women and minority-owned business participation. (votes received: 949)

## Community Development

**34.** Congress should further legitimize home-based business and realize the home office tax deduction by reversing the effect of the 1993 *Sabrina* decision which requires that:

- Client physically visit a home office; and,
- Business income be generated within the home office.

This would again allow external administrative, operational and/or management tasks to qualify a home office as the "principal place of business." (votes received: 1239)

## Community Development

**41.** The U.S. Department of Education in cooperation with the U.S. Small Business Administration should work constructively to encourage the future growth of small business enterprises by promoting entrepreneurship education across America's school system (K - adult education). It would be accomplished in the following manner:

- Develop and implement a comprehensive school-based youth entrepreneurship program that creates real world busi-

ness exposure and mentorships.

(b) The program should be under the auspices of the Department of Education and funded by grants through public/private partnerships.

(c) All funds would be matched one to one to the community served by the program.

(d) Businesses would receive tax incentives for financially supporting the entrepreneurship training programs in their area. (votes received: 1035)

## Community Development

**44.** Efforts of an individual state or municipality to benefit its local economy should not be made at the expense of other states or municipalities and at the peril of the strength of the entire economy. It should be the interest of the Congress to benefit the economic security of all the citizens of the United States by working to provide the resources to expand the economy nationwide. Therefore, Congress should ban the direct or indirect utilization of federal funds of any kind, including subsidies, grants/bonds or tax exempt financing that funds in whole or in part, any special tax, infrastructure improvement and/or financing incentive by any state or municipality to lure existing jobs and businesses from one location to another. (votes received: 598)

## Environmental Policy

**51.** Congress shall mandate a complete review of current laws and regulations relating to public health and safety, energy, and the environment, such as the Resource Conservation and Recovery Act, Clean Water Act, and Clean Air Act, Endangered Species Act, and National Environmental Policy Act. This mandatory review shall be completed within six months.

Before Congress passes laws to be regulated through the EPA and any other agency, which require specific technology and/or procedures for protecting the environment, the agency(ies) must conduct a cost-benefit analysis on a dynamic basis model and ensure that the particular regulation is based on sound science. For any proposed regulation, an agency shall have six months to complete the cost-benefit analysis prior to implementation. In addition, regulations shall include a funding mechanism which will facilitate compliance and be enforceable on a site specific basis. All costs shall be allowed to be expensed within the current year. The regulated community shall be included in any cost-benefit analysis.

Where natural conditions exist, compliance based on technical expertise should be accepted as conforming to the intent of the regulation. Regulations should take into consideration site-specific conditions or usage. Any disputes about implementation must be subject to a non-governmental peer group review board. Voluntary environmental and privilege and disclosure shall release the party(ies) from administrative, civil, and/or criminal penalties (so long as non-compliance is not caused by gross negligence or willful misconduct) when the disclosing entity initiates actions to comply within a reasonable time. No fines can be used to fund the funding agency. Congress shall mandate EPA and any other agencies to review existing and new regulations to ensure that they adhere to the same standards as outlined in this document. All existing and proposed regulations must not create duplication or enforcement. There shall be no retroactive liabilities. Additionally, the funding ability of the EPA shall be revoked.

Federal agencies regulating environmental matters must make sure that current science, realistic risk assessments, net health analysis, and cost/benefit analysis shall apply in order to reduce, condense and/or eliminate regulations, prohibit abuse, allow adequate time to correct, and hold government and its employees accountable. (votes received: 1342)

## Environmental Policy

**57.** Federal policy regarding use of private property within the context of environmental issues should be reviewed and substantially revised. EPA and state-related penalties should be reviewed to confirm that the real potential for environmental harm, risk assessment, and cost-benefit analysis are used in land use decisions. The issue of takings, wetlands, and brownfields should receive special attention, as articulated below.

### Takings

Any governmental action, law, or regulation that deprives a property owner of value or benefit of his or her private property shall constitute a "taking" for which said property owner shall be entitled to full "fair market value" compensation. Specifically, government should examine the economic impact before property is taken and prohibit the taking of property without just compensation.

### **Wetlands**

- Congress should direct the following changes in wetlands laws and regulations:
- If regulations affect a property use after it is acquired, the property owner should be compensated.
  - The Army Corps of Engineers should have exclusive jurisdiction over Section 404.
  - Use-based regulations should be encouraged based on relative importance of a wetland to the local environment.
  - A statutory definition of wetlands should be adopted using saturation at start of a growing season as a criterion.

### **Brownfields**

- Congress should enact legislation to encourage reuse of industrial land as follows:
- Direct EPA to specify the circumstances under which it would or would not sue a business that is involved with a state approved reclamation project.
  - For brownfield projects to which cleanup is commensurate with the intended use, EPA should be required to enter into binding agreements with the parties that in future federal action will be taken. (votes received: 1118)

## **Environmental Policy**

43. Congress should enact reformation of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), to apply prospectively as well as retroactively to clean up sites in progress:
- Eliminate retroactive and strict liability prior to January 1, 1987, to prohibit liability for conduct that was not negligent, illegal, or in violation of regulations or permits at the time.
  - Require sound science and realistic risk assessments and cost/benefit analysis in assessing health and environmental hazards at waste sites.
  - Require sound science and realistic risk assessments and cost/benefit analysis in establishing clean-up standards. This would include realistic consideration of future uses of the site and actual environmental and health risks associated with such use.
  - Eliminate "re-openers" — disallowing the reopening of the remediation process at a site or a company's contribution to the cleanup, after it has been closed.
  - Offer alternative funding strategies for cleanups.
  - Make greater use of *de minimis* and *de minimis* exemptions, requiring the EPA to identify all contributions to a site within a reasonable time period and making *de minimis* settlements available prior to litigation or enforcement actions.
  - Eliminate liability of fiduciaries and lending institutions who hold indicia of ownership primarily to protect security interest in property which is subject to the act.
  - Eliminate joint and several liability for contamination.
  - Require potentially responsible parties (PRPs) to inform non-PRPs (parties not named by the EPA) of contributing factors of availability of *de minimis* and/or *de minimis* settlements within a reasonable time period. (votes received: 1371)

## **Environmental Policy**

74. Congress should adopt changes in environmental statutes and regulations to assure that they are internally consistent for all requirements of the acts across all regions. Congress should require the EPA to demonstrate that enforcement of environmental laws and regulations is substantially equal in all areas of the country. The Clean Air Act, the Clean Water Act, the Endangered Species Act, and other such acts should be enforced equitably across all regions. (votes received: 911)

### **Human Capital**

76. Congress should enact a 100-percent deduction for health care premiums for all business entities so that there is equity in taxation for the self-employed, partnerships, S Corporations, limited liability corporations, and C Corporations. This benefit shall continue to be excluded for tax purposes from the income of employees of all small businesses regardless of form, including from the income of the self-employed. (votes received: 1359)
- Human Capital**
87. Congress should pass a health care package that:
- Creates tax deductible medical savings accounts.
  - Allows the formation of voluntary competitive health insurance purchasing cooperatives.
  - Eliminates discriminatory health insurance practices such as redlining or cancellation of coverage for reasons other than non-payment or fraud.
  - Allows for insurability once pre-existing conditions have been satisfied.
  - Provides for portability of health insurance.
  - Provides a full 100-percent deductibility of health care costs for all purchasers or limit the deduction to the same percentage for all purchasers.
  - Provides medical malpractice reform.
  - Prohibits any mandated coverage.
  - Permits choice of health care insurer. (votes received: 1371)

### **Human Capital**

91. Congress should repeal current disincentives and burdensome regulations on qualified retirement plans and IRAs, and encourage adequate retirement savings and capital accumulation, including:
- The adoption of a pension simplification bill, which contains the voluntary 401(k) safe harbors, such as H.R. 11 and H.R. 3419.
  - Raise compensation and benefit levels to 1992 limits and index for inflation.

(c) Provide an exclusion from estate tax for retirement plan and IRA assets to avoid double taxation (they are already subject to income tax).

(d) Eliminate the 15-percent excise tax of IRC section 4960A.

(e) Repeal the family aggregation rules of IRC Section 414(q)(6).

(f) Reinstate deductible IRAs and expand to include non-employed spouses in full.

(g) Expand SARSEPs to employers with up to 100 employees.

(h) Repeal the minimum participation rules of IRC Section 401(h)(2)(b) for defined contribution plans.

(i) Lower the Qualified Separate Line of Business exception to 15 employees.

(j) Increase the exceptions in the affiliated service group rules and include a minimum 20-percent ownership test for "A" organizations.

(k) Repeal all defined benefit plan rules enacted after 1985.

(l) Pension Plan Loans: Congress should amend section 72(p) of the IRC on plan loans to: (1) allow for plan loans by proprietorships and partnerships; (2) increase the plan loan balance to \$100,000; and (3) allow for balloon payments in lieu of quarterly payments if the loan is secured by the participant's account balance. (votes received: 1389)

### **Human Capital**

103. The President and Congress must support the principle of equal opportunity which is provided for in the U.S. Constitution. Small, women-owned, and minority-owned companies are entitled to equal consideration in banking, lending, bonding, contracting, and hiring. Laws designed to address these disparities cannot be abolished or restricted.

Congress and the President should adopt the following principles under the recommendations of the White House Conference on Small Business:

(a) Government policy should be oriented toward diversity and fair economic opportunity that stimulates competition, increases productivity, creates jobs, and saves taxpayer dollars, thereby benefiting all Americans.

(b) There should be rigorous enforcement of this policy, including sanctions against fraud and abuse.

(c) There should be periodic review to ensure compliance with this policy. (votes received: 949)

### **Human Capital**

105. Congress should pass legislation assuring that no business or worker would be discriminated against on any contract based solely on their choice not to be affiliated with a labor union or organization, and ensure the competition of trained qualified labor pool without undue union pressures and privileges by passing and enacting on:

(a) The Open Contracting Act.

(b) National Right to Work Legislation.

(c) Never prohibit the firing of permanent replacement workers during or following an economic strike. This includes taking whatever steps are necessary to override President Clinton's executive order which prohibits government contracting with firms who have replaced striking workers; and

(d) Revise the Hobbs Act and the Federal Criminal Code along with other applicable legislation which would:

(1) Reverse the *Emerson* ruling and eliminate other special privileges such as union exemption from prohibitions against libelous and violent speech; union officials' legally-sanctioned power to force workers to pay union dues to an unwanted union;

(2) Require union officials and unions to bear full responsibility for their violence and extortion and criminal acts just like everyone else;

(3) Make union pensions and benefit trusts applicable to the same regulations as another commercial or employer provider plan;

(4) Make unions subject to all discriminatory and civil rights provisions the same as all businesses; and (5) bar the black-balling of members who exercise their first amendment rights in opposition to the union leadership;

(6) Use the RICO Act against Union Organizations involved in extortion and the commission of criminal acts; and

(7) Strictly prohibit compulsory union membership. (votes received: 859)

## **International Trade**

115. The President shall direct the U.S. Trade Representative to lead an international effort to protect the ownership of intellectual property and to ensure adoption of reciprocal uniform standards, centralized filing and an efficient international dispute resolution procedure for registration and enforcement of trademarks and trade names, working with NAFTA, GATT and other treaty partners. We further recommend that Congress protect international patent rights in a way that takes into account the needs of small business, including retaining the patent term to run for twenty years from date of application or seventeen years from date of issue, whichever is longer, that patent application remain unpublished until the patent is granted, and that the patent remains with the first to invent rather than first to file. (votes received: 1069)

### **International Trade**

121. Small business owners are calling for the implementation of global "One-Stop Shopping" one-entity access to all government information and resources. Congress and the administration should create a pilot program that leverages private-sector resources to assist associations (private and public, particularly existing public/private partnership) in helping their small business members trade internationally. Examples which would require no new funding include: model training programs, on-line database services, elec-

tronic learning networks, trade incubators — including those in U.S. and Foreign Commercial Service locations around the world, international trading cooperatives, trade missions, second- and third-tier exporting programs, niche market development programs, and marketing-development cooperative programs.

The Administration should appoint small business representatives to all advisory or dispute settlement bodies as part of the private sector representation (example: the World Trade Organization dispute settlement panels).

Congress and the Administration should maintain effective programs (eliminating ineffective programs) of the U.S. Department of Commerce International Trade Association that assist all American small business in entering and expanding export sales emphasizing emerging markets as a part of public/private partnership efforts to increase U.S. exports, U.S. jobs, and U.S. economic vitality.

Note: No part of this issue shall be interpreted to be in conflict with GATT and/or other existing international trade agreements. (votes received: 1329)

## **International Trade**

129. Congress and the President shall authorize and encourage the Exim Bank and the SBA to sponsor revitalized fund programs designed to foster the financing of international trade (goods and services) including the new Export Working Capital Program:

(a) Provide pre-export financing, unsecured working capital loans, transaction-based loans and pooled loans, rather than balance sheet and asset-based loans;

(b) provide educational programs for regional and local banking and financial institutions on the methods to finance exports of small businesses;

(c) Educate and inform the small business community on available programs to finance exports;

(d) Coordinate the efforts of various federal agencies that attempt to provide financing for exports; and

(e) Provide credits and other incentives for small business to develop and expand into foreign markets. (votes received: 1181)

## **Main Street**

130. Congress must remove the barriers that prevent franchisees, dealers, and product distributors from exercising their basic legal and constitutional rights by enacting H.R. 1217, now before the 104th Congress. (votes received: 997)

## **Main Street**

134. Congress must remove the barriers imposed on small business people in their relationship with large national and multi-national corporations, which prevent these small business people from mediating, arbitrating, or litigating in their own home state. (votes received: 930)

## **Main Street**

138. Congress should legislate the creation of a Small Business Relief Fund to economically assist small businesses that are displaced by the establishment of a big business in their localities where the big business will contribute an annual fee for the fund. (votes received: 590)

## **Main Street**

140. Congress should introduce and pass the National Disaster Protection Act which would include a Private Sector "All Risk" Property Insurance Program offered through a newly created private non-profit organization to reduce catastrophic losses. (Referenced in Report of Bipartisan Task Force on Disasters Recommendation #1 and #3; U.S. House of Representatives, December 14, 1994.) (votes received: 811)

## **Main Street**

141. Small business cannot compete with large businesses who use their economic power to extract unfair competitive pricing from manufacturers and service providers. Antitrust laws should be strengthened and enforced to prohibit abuses including unfair vertical integration, tying of pricing and product purchases, and predatory pricing tactics. The President should appoint a presidential commission on competition to study the enforcement and impact of the federal antitrust laws on ensuring the survival and diversity of small businesses. (votes received: 829)

## **Procurement**

144. Support fair competition: Congress should enact legislation that would prohibit government agencies, tax- and anti-trust-exempt organizations from engaging in commercial activities in direct competition with small businesses. (votes received: 1285)

## **Procurement**

150. Congress should enact legislation to designate a national certification organization. This organization will be initially funded by Congress to establish a database of certified small business, small disadvantaged business, and small business owned by women. It will serve as a one-stop clearinghouse that will assist all federal agencies by disseminating information in conjunction with their outreach efforts. To ensure the credibility of federal procurement procedures:

(a) Congress will endorse one set of criteria for all local, city, state, and national agencies, adopted by a task force utilizing purchasing agents and small business owners for uniform certification of small business, small disadvantaged business, and small business owned by women where contracts involve federal funds;

(b) All federal agencies must establish standardized monitoring and compliance procedures;

- (c) Independent, decentralized advisory boards should be established.
- (d) States and local communities should be encouraged to recognize this certification on a reciprocal basis.
- (e) All federal agencies should sponsor training to increase contracting/procurement officer awareness and use of reciprocal certification and database. (votes received: 968)

## Procurement

- 161. The President and Congress should continue to support the Minority Small Business Capital Ownership and Development Program (SBA 8(a)), and should enact legislation to make improvements with particular emphasis on:
  - (1) Increase length of time.
  - (b) All federal minority procurement policies and procedures must be incorporated and applied to any recipient of federal funds and become mandatory.
  - (c) Increase utilization of 8(a) contractors by enforcing accountability of federal agencies in achieving their 8(a) goals.
  - (d) The establishment of procedures for immediate relief in the event of catastrophic circumstances including but not limited to:
    - (1) Total dissolving of government agencies.
    - (2) Natural disasters.
    - (3) Base closures.
    - (e) Relief to be in the form of extended participation in the 8(a) program for a reasonable time to recover from the catastrophic circumstance.
- All of the above will follow the intent of the SBA 8(a) program to raise 8(a) businesses to a threshold allowing them to graduate to the open competitive market. (votes received: 806)

## Procurement

- 162. The Davis-Bacon Act of 1931 and the Service Contract Act of 1965 should be completely repealed. (votes received: 1048)

## Procurement

- 167. Prompt Payment Act: The Office of Management and Budget must penalize federal agencies and/or their grantees for incurring interest debt generated through delayed bill payment. Congress should modify this Act to include subcontractors. In cases of dispute between the government and a prime contractor, the subcontractor's payment must be promptly released as long as the subcontractor is not part of the dispute. (votes received: 846)

## Regulation and Paperwork

- 183. Congress should amend the Regulatory Flexibility Act, making it applicable to all federal agencies, including the Internal Revenue Service and the Department of Defense, to include all of the following:
  - (a) Require cost/benefit analysis, scientific benefit analysis, and risk assessment on all new regulations and Internal Revenue Service interpretations.
  - (b) Grant judicial review of regulations, providing courts the ability to stay harmful and costly regulations and to require agencies to rewrite them.
  - (c) Require small business representation on policy making commissions, federal advisory and other federal commissions or boards, whose recommendations impact small businesses. Input from small business representatives should be required in any future legislation, policy development, and regulation making and affecting small business.
  - (d) With respect to all regulations involving small business, require negotiated rule making proceeding for adoption of all rules with small business representing 50 percent of the negotiating panel. (votes received: 1398)

## Regulation and Paperwork

- 196. Congress shall enact legislation and appropriate enforcement provisions to include all of the following:
  - (a) Require all agencies to simplify language and forms required for use by small business and that only the English language be required.
  - (b) Require all agencies to review and reevaluate all regulations every five years, using the same standards required for new regulations, with the goal of reducing total paperwork burden by at least 5 percent each year for the next five years.
  - (c) Require agencies to assemble information through a single source on all small business related government programs, regulations, reporting requirements, and key federal contacts' names and phone numbers, with as much as is feasibly available by on-line computer access.
  - (d) Eliminate duplicate regulations from multiple government agencies. (votes received: 1046)

## Regulation and Paperwork

- 194. Congress shall enact legislation and appropriate enforcement to include all of the following:
  - (a) Require that all agencies provide an operative/consulting regulatory enforcement that follows due process procedures and that they be less punitive and more solution oriented in dealing with unintentional regulatory violations.
  - (b) Require that fines take into account severity of infraction, size and type of company, past safety record and the frequency and severity of the violations.
  - (c) Allow proposed fines to be used toward correcting violations.
  - (d) Prohibit fines either for violations identified during a consulting visit requested by the company, or by an agency investigator and brought to the attention of the employer for the first time specific violation or if the company is found to be in substantial compliance; the employer and inspector should negotiate a reasonable time table for compliance and

fines should be levied only for failure to comply within that time table.

- (e) Allow small business the option of binding arbitration to resolve any dispute with any federal agency.
- (f) Require that regulatory agencies put the fines that they impose and collect into the general treasury fund toward retiring the national debt; said agencies should be prohibited from receiving credit or usage of such monies.
- (g) Require that the liability of the employer and the employee be relative to their respective culpability.
- (h) Require enforcement actions to comply with American due process concepts: notice and opportunity to be heard, innocent until proven guilty, and an impartial judge. (votes received: 1326)

## Regulation and Paperwork

- 200. Congress and the President should propose and enact legislation that reforms civil justice and product liability legislation to accomplish the following:
  - (a) Return to a fault-based standard of liability.
  - (b) Eliminate joint-and-several liability in cases where the defendants have not acted in concert.
  - (c) Limit non-economic damages (such as pain and suffering, and mental anguish) to three times the economic damages or \$250,000, whichever is greater.
  - (d) Restrict punitive damages to cases of willful and malicious conduct. The amount awarded should be split between the plaintiff and a judicial system trust.
  - (e) Reduce awards in cases where a plaintiff can be compensated by collateral sources, to prevent windfall double recovery.
  - (f) Impose a uniform reasonable statute of limitations and capise in all civil actions, and hold defendants to a state-of-the-art in existence at the time the product was manufactured or a service performed, unless wilful abuse is proven. There is no defense in drug or alcohol abuse.
  - (g) Provide for periodic, instead of lump sum, payments for future medical or lost income, administered by a court-appointed trustee.
  - (h) The prevailing party in a legal action should have a statutory right to recover costs and attorney fees from the non-prevailing party (British Code). (votes received: 1332)

## Human Capital

- 203. Congress should amend the National Labor Relations Act to:

- (a) Protect small businesses from abuses and intimidation practices by organized labor.
- (b) Allow small businesses and their employees to discontinue relationships with labor organizations by simply writing a termination letter.
- (c) Set a fair and equitable resolution between labor and management.
- (d) Encourage cross-training of craftsmen for greater productivity and efficiency.
- (e) Prevent the use of taxpayer funds to sue on behalf of multimillion dollar unions.
- (f) Encourage labor organizations to permit compensation based on productivity and quality of work.
- (g) Restore employers' ability to establish and use employee involvement committees by repealing the impact of the *Ford*-*Montgomery* case (309 NLRB No. 161) and the *DuPont* case (311 NLRB No. 88). (votes received: 591)

## Taxation

- 214. Small businesses typically rely on close personal relationship and customer service to compete for sales rather than expensive advertising campaigns. Expenditures for meals and entertainment are often an important part of this effort. The recent changes in the tax laws to allow 50 percent of these expenditures for tax purposes has disproportionately increased the selling costs for many small businesses. Accordingly, Congress and the President shall enact legislation which will allow a deduction for 100 percent of the expenditures for meals and entertainment. (votes received: 1444)

## Taxation

- 228. Congress should repeal the Federal Estate, Gift and Generation-Skipping tax laws. There is currently legislation before the 104th Congress known as the Family Heritage Preservation Act (H.R.3425, S.28) that would accomplish this. The negative effect on small business, and others, far exceeds the net income to government when all administrative costs to individuals, businesses, and government are considered. (votes received: 1385)

## Taxation

- 224. The definition of an independent contractor must be clarified. Congress should recognize the legitimacy of an independent contractor.
  - (a) The 20 factor test is too subjective. The number of relevant factors should be narrowed with more definitive guidelines for implementation. Realistic and consistent guidelines which require one of four criteria plus a written agreement. The criteria are (1) realization of profit or loss; (2) separate place of business; (3) making services available to the general public; or (4) paid on a commission basis.
  - (b) Safe harbor provisions should be established which would protect the hiring business from the burdensome penalties currently being assessed by the IRS. *De minimis* rules based on dollars paid, hours worked, years in business, and/or specified closed-end projects should be established.
  - (c) The IRS should eliminate back taxes for misclassification when Form 1099s are filed and there is no evidence of fraud.
  - (d) Congress should specifically allow employers and independent contractors to provide joint technical training and to

jointly utilize major specialized tools without jeopardy of reclassification of the independent contractor to employee status.

- (e) Changes and implementation processes should be formulated by a joint committee of legislature and small business people. (votes received: 1471)

## Taxation

- 229. To promote a fair and equitable system of taxation, to encourage greater citizen participation and understanding, and to totally abolish the complicated present system, Congress should enact legislation that replaces the present system with a simple tax for individuals and businesses. (votes received: 1001)

## Taxation

- 233. Congress should permit deductions of expenses up to \$250,000 annually for the purchase of new or used equipment for use in a small business and should remove the cap in \$200,000 and have no upper qualifying limit on the Section 179 deduction. (votes received: 940)

## Taxation

- 242. Congress should modify and expand the 50 percent capital gains exclusion for small business stock passed in the 1993 Revenue Reconciliation Act so that it provides a broadened, as well as a back-end incentive for investment in small businesses. Specific recommendations:

- (a) Allow investors to sell funds in any investment and sell the investment into a small company, as defined by the current law, within two years. Capital gains tax on assets sold would be deferred (using the same methods as like-kind exchanges). Taxes would be payable at the favorable small business rate if held for the specified period.
- (b) Phase in the preferential tax treatment over a five-year holding period. For example, an investor with a three-year holding period would pay: 28 percent + 16 percent + 50 percent x 10 percent = 34.6 percent.
- (c) Amend Code Section 1202 to extend its benefits to S corporations, partnerships, and sole proprietorships by defining a "qualified small business" to include all such business entities and extend the definition of a qualified trade or business under Section 1202 to all types of businesses. (votes received: 1054)

## Taxation

- 250. Congress should enact legislation that would prevent it from raising taxes retroactively. (votes received: 974)

## Taxation

- 252. Congress should enact legislation that requires a two-thirds supermajority vote be required in both houses of Congress to enact legislation resulting in a tax increase. (votes received: 1481)

## Taxation

- 253. Payroll Tax Relief: A cap must be placed on the employer's portion of payroll taxes. Congress should reject all proposals to raise payroll taxes in its effort to repair the Medicare program. Payroll taxes are regressive and discriminate against small businesses. (votes received: 571)

## Technology and the Information Revolution

- 265. Congress and the executive branch should promote the rapid private-sector development of the National/Global Information Infrastructure (NII/GII) and protect all intellectual property transmitted over it. Congress and the U.S. Patent Office should also implement an enforceable and universal intellectual property (patent, trademark, and copyright) application with all members of World Trade Organization, while maintaining "first to invent." This must also include the ability to police existing laws and treaties more judiciously, and to update definitions of intellectual property on a continuing basis.

Both branches of government should enact the following:

- (a) Ensure that the protection of intellectual property rights, as well as fair access, is fully accredited with respect to products over the National Information Infrastructure (NII) and the Global Information Infrastructure (GII).
- (b) Incorporate the responsibility for trademark and copyright appeals litigation with the federal Circuit Court of Appeals, as was done in the mid-1980s with patents.
- (c) Prevent premature disclosure through Freedom of Information Act (FOIA) access to proprietary Small Business Innovation Research (SBIR) technologies.
- (d) Expediitiously and simultaneously open all telecommunications markets to full and fair competition.
- (e) Make it possible for all providers to equally compete in offering one-stop shopping for telecommunications products and services; legislation should provide universal access.
- (f) Ensure privacy to all users from all parties, including the government (for example, the Clipper Chip or its successor), and security of the infrastructure.
- (g) Promote open and affordable access to all small business, including underserved communities, rural communities, and minority and women-owned businesses.
- (h) Provide technology education and training by redirecting existing federal programs through private sector small businesses.
- (i) Include small business representation on all NII/GII-related federal commissions and committees.
- (j) Require government agencies utilizing PC/EDP technology to use a standard technology accessible and affordable to small businesses.
- (k) Create an on-line one-stop electronic clearinghouse serv-

vice coordinated by SBA/SBIC to provide access via the information superhighway (for example the World Wide Web, etc.) to technical, legal, patent, regulatory, environmental, commerce, and government procurement/bidding opportunity information.

(3) The Economic Classification Policy Committee should review and revise all G codes every three to five years to reflect economic advancements of American society, for example the definition of "manufacturer" to include "knowledge-based manufacturing" and "technology consulting." (votes received: 1358)

## Unclassified

280. Deficit spending continuing year after year poses a grave threat to our freedom as the world's leading economic power and to our free enterprise system. The President and Congress must take immediate steps to bring the Federal budget into balance by eliminating or reducing appropriate programs, commissions, agencies and departments and by instituting all other measures available to them. (votes received: 912)

## Unclassified

281. The U.S. Small Business Administration is vital to the growth of small business in America. Efforts to make the SBA's programs more cost effective and efficient should be continued and encouraged. The SBA's "independent" agency role as the primary supporter of small business within the federal government should be enhanced by:

- (a) Elevation of the U.S. Small Business Administration to a congressionally approved cabinet level position.
- (b) Budget allocations to maintain, increase, and enhance the 7(a) Loan Guarantee Program.
- (c) Budget allocations to maintain, increase, and enhance the 504 Loan Program.
- (d) Budget allocations to make permanent the Small Business Development Center Program which provides business assistance to small businesses nationwide.
- (e) Permanent maintenance of the "Independent role" of the U.S. Small Business Office of Advocacy.
- (f) All other SBA programs should be reviewed with substantial input from the private sector. Any programs deemed to be ineffective should be eliminated. (votes received: 1249)

## Unclassified

282. Congress should authorize and the President convene a White House Conference on Small Business every four (4) years to provide a continuing forum for owners and entrepreneurs to promote and work for the betterment of small business and ensure that they remain a vital part of the American economy. (votes received: 730)

## Unclassified

283. Congress should develop a tangible process for monitoring the implementation progress of the recommendations that emerge from the WHCSB National Conference in June 1993. This monitoring process should be developed to make Congress and the President accountable to the WHCSB participants, and should be achieved specifically by doing the following:

- (a) Periodic update to WHCSB participants by SBA's Office of Advocacy on the progress of implementation; and
- (b) Annual summit of state WHCSB chairs or their representatives, to discuss and evaluate the progress of implementation. (votes received: 916)

## Human Capital

324. Social Security Privatization. Congress should privatize Social Security by adopting a graduated phase-out and giving full disclosure to the American people on the source of the fund and the amount of money they, as individuals, have paid into the fund. Adopting a minimum 15-year graduated phase-out schedule for government funding of Social Security for all new retirees (continue funding existing and "phase-out" retirees from the employee's at 2 percent (allow up to 15 percent) FICA portion; and allowing for the employee's 6.2 percent FICA portion to be paid into their personal Compulsory-IRAs (401(k)) (CRA) style account. Require all "CRAs" to buy disability and survivor's insurance benefits equal to that of Social Security. (votes received: 816)

## Human Capital

336. The President and Congress to enact legislation that consolidates the current federal workforce programs into state block grants that:

- (a) Provides local control of specific skills training based on local needs;
- (b) Requires states to allow participation by small businesses with fewer than 500 employees for on-the-job training of new and existing workers;
- (c) Provides tax incentives to small businesses that fund their own workforce training programs;
- (d) Encourages public-private partnerships of job training. (votes received: 974)

## Procurement

360. Increase Procurement Opportunities. Increase the opportunities for all small businesses to equitably participate in federal procurement. Require that:

- (a) Not less than 35 percent of all government procurement monies (35 percent of prime and 35 percent of subcontract) be awarded to small firms, such that at least:
- (1) 10 percent of prime and 10 percent of subcontract monies be awarded to minority businesses;
- (2) 5 percent of prime and 5 percent of subcontract monies be awarded to women-owned businesses; and
- (3) 10 percent of the government's total R&D budget be

awarded to small businesses;

- (b) Small businesses be provided free and easy access to the government's electronic commerce system, easier, which profiles federal procurement opportunities;
- (c) Competition not be stifled by permitting federal agencies to "bundle" contract requirements beyond the reach and capability of many small firms; and,
- (d) Government agencies and tax-exempt entities not allowed to unfairly compete with private firms by strengthening and expanding FAR circular A-76 to apply to all federal monies used directly or indirectly in the provision of goods and services and by increasing the scope and improving the enforcement of the unrelated business income tax (UBIT);
- (e) On-line source purchases above \$100,000, a query of PASS must be made by federal agencies and prime contractors;
- (f) Require strict enforcement of the "Rule of Two," which requires federal agencies to restrict competition when two or more small businesses are capable and available to compete in price, quality and product/service for contracts of \$100,000 or more;
- (g) Require the Department of Defense and the Small Business Administration to sponsor EDA training through the already established network of small business procurement assistance centers located nationwide;
- (h) Require the SBA to review and revise the size criteria downward to reflect the "true" small business. (votes received: 934)

## Regulation and Paperwork

349. Small business and OSHA must work together in a non-adversarial, supportive relationship to attain public safety goals. To accomplish this, Congress must pass legislation as follows:

- (a) Require that voluntary compliance audits be performed within 60 days of a request by a small business. Such audits must be educational and non-threatening with written results and no fines issued;
- (b) Businesses which have completed a voluntary inspection and have corrected any deficiencies within the time allotted, will not be fined at a subsequent inspection for deficiencies which were missed or interpreted differently by the first inspection;
- (c) Require that all enforcement inspections, no matter how limited the scope of the inspection, will result in an overall inspection score or grade to be issued in writing by the inspector. On the basis of that grade, no fines or penalties may be issued for deficiencies found if the facility (or that portion of the facility inspected) has been found to be in substantial compliance. In addition, in those cases where at least 90 percent of the entire facility has been inspected and the overall grade indicated that the company is in substantial compliance, OSHA will issue a letter of commendation recognizing the company for its efforts. If needed, a definition of substantial compliance would include:

- (1) limited number of violations/deficiencies found vs. number of items inspected;
- (2) company has an active safety committee or program and demonstrates commitment to safety by management;
- (3) major programs (i.e., right-to-know, confined space, lock out/tag out, training, etc.) in place;

- (d) Amend regulations to assign responsibility for regulatory compliance to the employee as well as the employer;
- (e) Amend OSHA regulations to require that when an employer and/or employee notify OSHA officially that compliance has been achieved, OSHA must confirm that compliance has occurred within 72 hours of notification;
- (f) Amend regulations to require OSHA not to make any inspections (unless voluntary) on any small business workplace and/or worksite unless an accident has been recorded and reported;

- (g) Amend OSHA regulations to require a review and the development of construction standards that reflect the needs of industry-use groups. (votes received: 1930)

## Taxation

365. Tax Equity Now! Congress and the President shall enact legislation which shall place large and small businesses on a level playing field for tax purposes . . . that is, provide tax equity . . . in situations where small businesses are currently at a disadvantage. This should be done by uniformly applying the tax law to all forms of business (e.g., proprietorships, partnerships, C Corporations, S Corporations, limited liability companies) with regard to tax rates, deductions, and exemptions as follows:

- (a) All forms of business entities to take deductions for 100 percent of the medical insurance premiums, dependent care, and other fringe benefits (not currently deductible by self-employed individuals, partnerships, S Corporations, and limited liability companies) on behalf of all of their employees who are owners, partners/shareholders, and/or members. As long as fringe benefits continue to be excluded from the income of employees of large C Corporations, then such benefits should be excluded from the income of employees of all small businesses, regardless of form, as well as from the income of self-employed individuals;
- (b) Pension plan benefits currently available to employees of large businesses to be made available to self-employed and employees of small businesses as provided in Recommendation no. 91;
- (c) All C Corporations to be taxed using the same graduated tax rate schedule. Section 11(b)(2) of the Internal Revenue Code, taxing the income of qualified personal service corporations at a flat 35-percent tax rate, should be repealed. The privilege of deducting legitimate business expenses should no longer be based upon the entity chosen to operate such business. The choice of an entity within which one will operate a business should be a legal issue, not a tax issue. (votes received: 1238)

## Taxation

366. Congress should enact a comprehensive policy on capital gains that encourages the long-term investment in productive assets. This policy should include the following provisions:

- (a) Indexing of the cost basis of assets held more than one year;
- (b) A targeted capital gains exclusion of 50 percent of the indexed gain for an investment in a qualified small business held more than three years. A qualified small business should include all forms of business entities including pass-throughs;
- (c) A maximum tax of 10 percent on the sale of a majority interest in a qualified small business held for more than 15 years;
- (d) A deferral of the gain on the sale of an interest in a qualified small business if the gain is reinvested in another qualified small business within two years;
- (e) The non-taxable portions of gains should be exempt from the alternative minimum tax calculations;
- (f) The capital loss reduction limitation of \$3,000 should be eliminated;
- (g) Reinstate the "General Utilities Doctrine" to eliminate the double taxation of proceeds from the sale of a business. (votes received: 914)

## Technology

367. Congress should enact legislative programs that expand the availability of financing commercialization funding and investment capital for small, rapidly growing innovative companies including, as a minimum:

- (a) Expand, improve, and make permanent the SBIR/STTR programs by:
- (1) Excluding cost-sharing in proposal evaluation and scoring for either Phase I or Phase II and prohibit agencies from imposing artificial ceilings on indirect and R&D expenses;
- (2) SBA directives to agencies to budget an appropriate portion of administrative overhead and committing adequate personnel to managing the SBIR program;
- (b) Encourage investment in small companies by:
- (1) Retaining and expanding targeted capital gains, including mutual fund and institutional investments in small business;
- (2) Allowing tax-free rollovers for direct investments by all investors in small business;
- (3) Providing additional incentives and reducing inhibiting regulations for investments in small companies by pension funds, institutional and/or corporate investors;
- (4) Amending tax loss rules for SCL carry forward;
- (5) Expanding and making permanent the R&D tax credit;
- (6) Developing new public markets and instruments for small firm securities;

- (7) The Congress should support flexible manufacturing through the promotion of partnerships between small business and existing resources to create more efficient and flexible manufacturing processes, and nurture the growth of U.S. manufacturing industries;

- (8) Direct the establishment of a temporary multi-agency task force to quickly address and solve the impediments to the above. (votes received: 1292)

## Procurement

427. In rendering a decision on *Ashland v. Penn*, the U.S. Supreme Court has potentially left the minority and women business community a severe and in some cases potentially fatal blow. While we recognize the separation of functions between the three branches of government, we are compelled out of an immediate and overwhelming sense of concern to recommend the following:

The President and Congress should proactively and aggressively respond to support the minority and women business community, and not use this decision in any way to influence any legislative action that would reduce support for our country's long-standing commitment to promote fair and equitable opportunity for all of its citizens regardless of race, color, or gender. (votes received: 751)