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U.S. Senate

Tuesday, September 22, 1981

Committee on Small Business

Washington, D.C.

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1 MARKUP SESSION
2 S. 881 - THE SMALL BUSINESS INNOVATION RESEARCH ACT
3 S. 1620 - BILL TO EXTEND SBA'S 8(a) PILOT PROGRAM

4 TUESDAY, SEPTEMBER 22, 1981

5 U.S. Senate
6 Committee on Small Business
7 Washington, D.C.

8 The committee met, pursuant to notice, at 9:30 a.m.,
9 in room 424, Russell Senate Office Building, Senator
10 Lowell P. Weicker, Jr., [chairman of the committee]
11 presiding.

12 Present: Senators Weicker, Rudman, Hatch, Boschwitz,
13 Gorton, Nickles, Hayakawa, Nunn, Huddleston, and Dixon.

14 Staff present: Robert Dotchin, staff director; R.
15 Michael Haynes, chief counsel; John G. McLean,
16 professional staff member; Margaret M. Broadbin, hearing
17 clerk.

18 Senator Weicker. The hearing will come to order.

19 Today the committee will consider and hopefully
20 report out two bills, the first one being S. 881, the
21 Small Business Innovation Act of 1981, and the second one
22 being S. 1620, a bill to extend the 8(a) pilot procurement
23 authority until March 31, 1983.

24 When a quorum of nine Senators are present, I will
25 interrupt the proceedings to vote to report out these two

1 bills subject to amendments.

2 Senator Weicker. The first bill to be considered is
3 S. 881, introduced by Senator Rudman and myself on April
4 7, 1981. It is a tribute to the New Hampshire Senator's
5 hard work and perseverance that the bill now has the
6 support of 85 Senators and the President of the United
7 States.

8 A revised draft of S. 881 is before each Senator.
9 This carefully drafted statute is a product of extensive
10 negotiations with many interested parties. I believe the
11 bill in its current form will pass.

12 Again, I want to use this occasion to commend Senator
13 Rudman for his leadership on the issue. I will defer to
14 him in a few minutes to explain this legislation.

15 I would also like to consider S. 1620, a bill to
16 extend the 8(a) pilot program for 18 months until March
17 31, 1983. Unless extended, the program will expire at the
18 end of this month.

19 Although the track record of this program is somewhat
20 spotty, I believe that the Congress should not allow this
21 potentially valuable tool for minority business
22 development to expire.

23 Yesterday we had a full committee hearing on the
24 bill. It was clear from the testimony that the
25 administration fully supports an extension of this pilot

1 program and wants the opportunity to administer this
2 program in an effective and competent manner.

3 The GAO did an evaluation of the program, and
4 although recognizing the past problems in SBA's management
5 of the program, it strongly supported S. 1620 and an
6 extension of the program. It was recommended by both the
7 GAO and the administration.

8 I believe this pilot program to assist minority
9 enterprises should be given the opportunity to succeed. I
10 believe the program can and should have a new direction
11 and a new beginning.

12 With those opening comments out of the way, we will
13 now have before us first S. 881. I realize the time
14 constraints on everybody here. I want to get you out just
15 as fast as I can. As soon as we have a quorum, we will
16 get to the business at hand.

17 I defer to my good friend, the Senator from New
18 Hampshire, for his comments on S. 881.

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1 S. 881 - SMALL BUSINESS INNOVATION RESEARCH ACT

2 Senator Rudman. Thank you very much, Mr. Chairman.

3 I want to first thank you very much for all of your
4 help and for the help of the staff over the last seven
5 months in getting this piece of legislation to where we
6 are this morning. It is most appreciated by me and by my
7 staff.

8 The bill before us this morning is, I believe, a bill
9 we can be very proud of in its current form. It achieves
10 a dual purpose by making Government R&D money work
11 overtime. The agency R&D objectives are pursued by the
12 most efficient innovative sector of our economy, the small
13 technology based firm, and, secondly, private sector
14 commercialization is specifically encouraged in this
15 legislation.

16 We are initiating a new program in all major Federal
17 R&D agencies through this legislation. I am going to urge
18 that the committee recognize that the more reasonable a
19 bill that we report out of committee, which takes into
20 account the very special difficulties these large Federal
21 agencies may have in implementing this program, the
22 stronger the position we will have on the Senate floor and
23 in conference with the House.

24 The exclusion of intramural research from the bill's
25 R&D base, the three-year phase-in for the larger agencies,

1 and the lifting of the requirement to establish an SBIR
2 program for small agencies which would fund the program at
3 less than \$3 million are examples of how we have attempted
4 to make the bill more equitable, easier for agencies to
5 implement correctly, and, in the final analysis, stronger
6 and less susceptible, I believe, to attack.

7 Concerns have been raised about possible harmful
8 effects to our Nation's basic research effort. Extensive
9 testimony has shown us that the problem is clearly not a
10 lack of small firms qualified to do research in, for
11 instance, the biomedical area. The Federation of American
12 Scientists has testified that it is their estimation that
13 the Government will actually get much more research for
14 its money under this program.

15 However, there is a real fear that in the
16 reallocation of funds necessary within Federal agencies to
17 make room for this program a disproportionately cut will
18 be taken from the monies currently earmarked for basic
19 research.

20 There is, I believe, ample flexibility in agency
21 budgets to make room for a 1 percent SBIR program.
22 However, I feel it is important that the committee address
23 this issue directly, perhaps through report language. We
24 will distribute some of that this morning.

25 After much discussion and negotiation, the President

1 has now decided to support this bill we have this before
2 us and make it part of his overall program for economic
3 recovery. The bill aptly complements his program. I
4 believe it will give the economy the boost it needs to
5 surge up rather than to trickle down.

6 I would like to caution the committee to remember,
7 however, that although this bill in its present form has
8 the President's support, it still may not be a priority
9 for this administration. If we hand the President a bill
10 which goes too far or is unworkable or is distasteful in
11 some way to this administration, we will end up right
12 where we have been in past years, giving small business
13 lip service but with nothing on the books to open the door
14 agencywide to allow small firms to show that they can do
15 something in Federal R&D objectives.

16 Mr. Chairman, I understand that there are several
17 members who have some amendments they would like to
18 discuss. Perhaps we ought to move to that.

19 Senator Weicker. Fine. The bill is open for
20 amendment.

21 Senator Boschwitz. I want to discuss the bill
22 overall. I am not one of the 85 Members who has been a
23 cosponsor of it. That is certainly not from a desire not
24 to assist small business. I have been a member of that
25 community for some time.

1 I recall the White House conference on small
2 business. It pointed out that upwards of half of all the
3 innovations come from the small business sector, and we
4 are going to give them 1 percent and phase in that 1
5 percent to boot?

6 Furthermore, within the business community--reading
7 from the White House conference--"innovation by small
8 business is particularly efficient. The Small Business
9 Committee report"--it may be somewhat self-serving, I
10 suppose--"of December 1978 revealed that smaller firms
11 with less than 1,000 employees produce innovations at
12 one-fourth the cost of medium sized firms and
13 one-twenty-fourth the cost of large firms with over 10,000
14 employees."

15 Therefore, if small business can innovate at 24 times
16 the rate, or even 4 times the rate, or even twice the
17 rate, if that were the case, I have not gotten it through
18 my mind why we are giving 1 percent, particularly, Senator
19 Rudman, when it appears to me from the figures I have that
20 small business now gets about 3 percent of the total
21 expenditures of the Government on research.

22 I was flabbergasted to find out that the Government
23 spends about \$40 billion a year on research. It has spent
24 \$32 billion and expects to spend \$40 billion. I
25 understand that a large amount of this, about 25 percent

1 of it, is so-called inhouse reseach and that that is now
2 excluded from your bill, which would make the 1 percent of
3 75 percent or so.

4 Then, of course, it also excludes agencies which have
5 less than a \$100 million budget for research. That
6 excludes many agencies indeed.

7 I further must tell you that I have some problems
8 with this National Science Foundation approach of giving
9 small businesses \$30,000 the first year and a couple of
10 hundred thousand dollars the second year. I do not know
11 how we can mandate in legislation how much a research
12 program is going to cost. Thirty thousand dollars is a
13 pretty small research program, I must say, and when you
14 talk about \$300 million, which is about the amount that we
15 are talking about, you are talking about 10,000 projects.
16 In my judgment, it would be difficult to administer that
17 kind of thing.

18 I do not understand why small business gets so
19 little. I suppose it is because of the bureaucracy being
20 uncomfortable with giving monies to small firms that the
21 bureaucracy would feel would not succeed quite as
22 regularly. One cannot be faulted for giving research
23 dollars to a Honeywell in our State, or Control Data, or
24 Three M, but one could be faulted as a bureaucrat for
25 giving monies to a smaller firm with an untried record.

1 I must tell you that those are the things which
2 concern me about this bill. Those are the things which
3 despite my intense interest in small business have caused
4 me to remain off the bill and wonder whether or not the
5 bill would move us forward at all.

6 As I understand, small business now gets
7 approximately one billion, two hundred million dollars.
8 Is that correct?

9 Senator Rudman. There is a real confusion between
10 what is research and what is other procurement. I think
11 those figures tend to be quite fuzzy. This 1 percent that
12 we are talking about is actually mandated research money.
13 It has nothing to do with procurement.

14 I would like to respond to each of your points after
15 I have heard you on each of them.

16 Senator Boschwitz. That is essentially my point.
17 With idea that small business is so effective, 24 times as
18 effective, or 4 times as effective as larger firms, why
19 are we giving them 1 percent and phasing in the 1 percent
20 over three years?

21 Senator Rudman. I think it is important to take each
22 of these points, which all valid in the absence of other
23 evidence. I want to refer to the hearing record that we
24 have conducted over the last six months. We have had
25 testimony on this bill from a wide variety of sources

1 within the small business community.

2 I think it is very important to recognize that for a
3 program like this to be truly successful, if started at
4 too high a level, will probably qualify for its fair share
5 of the golden fleece awards at the end of the first year.
6 It is not easy for small business or for the agencies to
7 run a program at too high a level during the first year,
8 or the second year.

9 We have consulted with every sector of the private
10 business economy that we think is relevant to this
11 discussion from the American Academy of Scientists, who
12 fully support this program as it is drafted, to almost
13 every small business organization.

14 We have purposely modeled it after the National
15 Science Foundation program because I think this Government
16 can point to that program as one of the very few programs
17 that has been remarkable in its results in terms of
18 employment, in terms of patents, and in terms of products.

19 Senator Boschwitz. However, that is more directed at
20 individuals than small business.

21 Senator Rudman. That is really not accurate. Most
22 of the recipients of the grants from the National Science
23 Foundation--we have a whole list of them in the hearing
24 record--are very small innovative companies, or
25 individuals who wish to start companies.

1 You have to get down to the concept of the bill.

2 From there, I would like to go to the numbers.

3 Senator Weicker. Let me interrupt.

4 We now have nine Senators in the room. What I would
5 like to do is go ahead and report out the two bills
6 subject to amendments if somebody would so move now that
7 we have a quorum.

8 Senator Hatch. I so move.

9 Senator Rudman. I second it.

10 Senator Boschwitz. Mr. Chairman, I think we ought to
11 talk about them first.

12 Senator Weicker. All I am trying to do is to set the
13 quorum here so that we do not have to hold everybody up.
14 I will be glad to listen to your talk. I will be glad to
15 amend, take votes, and anything like that. I am just
16 trying to establish the quorum so that if there are
17 Senators who have other commitments, they can go ahead and
18 leave.

19 Senator Weicker. It has been moved and seconded to
20 report out these bills. S. 881 and S. 1620 are reported
21 out subject to amendment and subject to vote.

22 Please continue, Senator Rudman.

23 Senator Rudman. Let us examine the National Science
24 Foundation and the genesis of that entire program which
25 gave rise to this legislation.

1 The single most difficult thing for small innovative
2 companies and individuals to achieve in this country is
3 seed money, particularly in the area of applied research.
4 In the area of energy, for instance, there have been a
5 number of ideas and programs which people wanted to bring
6 forth which took very little money because the small
7 individual, the small business leverages this money at a
8 ratio of 12 times to what large business does.

9 The SBIR program is modeled after this program
10 because it is something that has worked. We have watched
11 it work. We have a hearing record replete with success
12 stories and very little failure.

13 The question then becomes how can Government be so
14 wise in choosing those innovative projects which have the
15 greatest opportunity of success. I think a great deal of
16 that has to do with the peer group selection process that
17 is established within this bill which is modeled after the
18 National Science Foundation.

19 For instance, in a research application to the
20 National Science Foundation two years ago in the area of
21 data storage using laser and film technology, a peer group
22 of engineers and scientists from companies like IBM, Data
23 Resources, and Control Data was established at the
24 National Science Foundation. They screened a whole group
25 of applications. From those applications, they selected

1 only two, and those two have been enormously successful.

2 We are using the private sector to judge that.

3 Senator Boschwitz. How many applications were there?

4 Senator Rudman. I do not know how many in that area,
5 but they have had literally hundreds of applications under
6 their program and have funded only a small percentage of
7 them because they of course have had a very limited amount
8 of money.

9 This program at the National Science Foundation has
10 been working with a very few million dollars. I do not
11 know the precise figure for last year.

12 I want to get to your next point. I would be
13 delighted to see this funded at a higher level if I
14 thought there were not some enormously big risks
15 involved. I want to point out to you what I think the
16 tremendous risks are.

17 Under your amendment--

18 Senator Boschwitz. I have no amendment.

19 Senator Rudman. I have a proposed amendment here
20 that more or less mirrors the general language you have
21 been discussing with us. I have discussed this with a
22 number of people because I would like to fund it at a
23 higher level.

24 You have a chart which we furnished you. All members
25 of the committee have that chart. Our program at present

1 level will go from what the National Science Foundation
2 has done throughout the Government at a rate of, I
3 believe, no more than \$10 or \$12 million to \$400 million.

4 If we adopt the rationale that you suggest, and I
5 wish I could support that because I really would like to
6 ~~see--~~

7 Senator Boschwitz. Senator, I have not suggested any
8 rationale. I have not introduced any amendment. Please
9 do not refer to a rationale I have suggested. I have
10 raised some questions about the bill.

11 Senator Rudman. I apologize, Senator Boschwitz.
12 Someone handed me a memo: "Proposed language for Senator
13 Boschwitz' amendment." Maybe that was someone within the
14 staff, and I apologize. I thought that was something you
15 had circulated for us to look at.

16 Under what we are discussing here, if we changed that
17 to 1 percent of the total or 3 percent of the R&D
18 contracted to business--the Defense Department, for
19 instance, would have to establish this program at a \$430
20 million level. NASA would have to establish this program
21 at a \$120 million level. We believe the program beyond
22 that would accrue to about another \$270 million for a
23 program level of roughly \$800 million for this year.

24 Quite frankly, if I felt that that could be
25 implemented safely, I would agree with that, but I really

1 think we ought to give serious consideration to whether or
2 not we ought to put that kind of money into an SBIR
3 program and whether we might not be doing small business
4 more harm than good.

5 We certainly have every right to come back and change
6 this program next year, but I believe the program would
7 stand a great chance for repeal if after the first year
8 the opponents--there are many with the bureaucracy--could
9 point to waste, mismanagement, and a whole lot of programs
10 that were absurd. That is why I am a little concerned
11 about doing it at a greater level.

12 As far as the phase-in is concerned, your third
13 point, we have put that phase-in only on those agencies
14 which are shaded at the top part of that chart that will
15 have an enormous amount of money to put into the program
16 during the first year. We have not used the phase-in for
17 the smaller agencies.

18 The reason for the phase-in is precisely the same
19 reason why we might like to keep this at a lower level;
20 namely, that we would really like to start this program
21 with \$400 million rather than a larger amount.

22 That is the best response I can give. I would like
23 to start this program at \$1 billion, Senator Boschwitz,
24 but I surely do not want to kill the goose that lays the
25 golden egg.

1 Senator Boschwitz. Mr. Chairman, if I may continue,
2 as I understand it, we are now spending a billion, two
3 hundred million dollars of the \$30 or \$40 billion that is
4 being spent on research with small business. Your intent
5 of course is to increase that amount. The 1 percent could
6 be in addition to that figure.

7 Senator Rudman. That is correct. It is an
8 additional percent.

9 Senator Boschwitz. However, as I understand it, the
10 language of the bill does not demand that. It cannot
11 compel that to be. Therefore, it could well be that there
12 would be some shifting of those monies already spent into
13 compliance with this 1 percent that we are now requiring.
14 Is that correct?

15 Senator Rudman. I think that is possible, but I
16 think this is new money under the language of the bill.
17 If I could just refer to that section for you, I will.

18 Senator Boschwitz. Mind you, I do not mean to argue
19 with the purpose of your legislation, but the idea of
20 phasing in 1 percent and then saying that that is
21 difficult to do makes me wonder what kind of structure
22 there is to spend this \$40 billion in research money if
23 phasing in a 1 percent program is going to be so difficult
24 to do.

25 I have met people in the various agencies,

1 particularly the National Health Agency, who are in the
2 business of giving these kinds of awards. They seem to
3 have a pretty substantial structure for reviewing and
4 considering various types of research award.

5 In the first year, what percentage of the 1 percent
6 goes in? Is it two-tenths or three-tenths of 1 percent?

7 Senator Rudman. I believe it is 40 percent, then 60
8 percent, and then 100 percent of the 1 percent.

9 To come back to your question, I think if you will
10 look at on page 8 of the print here, the bottom of page 8,
11 line 30, you will find in reading that paragraph that:
12 "unilaterally establish goals specifically for funding
13 agreements in excess of \$10,000 for research or research
14 and development with small business concerns for the next
15 fiscal year. The goals established for each fiscal year
16 shall not be less than the percentage of the agency's
17 research or research and development budget expended under
18 funding agreements with small business concerns in the
19 immediately preceding fiscal year. Obligations incurred
20 pursuant to an SBIR program as provided for in
21 subparagraph (b) shall not be counted as meeting any
22 portion of the goals established pursuant to this
23 subparagraph."

24 Therefore, I think we do have a 1 percent here that
25 cannot in good faith be tinkered with by these agencies.

1 To come back to NIH and one of the real problems we
2 had during our hearings with NIH, NIH came in here and
3 testified that they did not think there were sufficient
4 small businesses to meet the targets. The next witness
5 from the private sector produced a list of 2,200 small
6 business firms which were capable of meeting those kinds
7 of requirements.

8 This has been a mindset in much of the Government
9 against small business. We have been very mindful of
10 NIH's concerns, which is one of the reasons for the
11 phase-in. By the way, the Defense Department does have a
12 voluntary SBIR program presently. It is the only one in
13 the Government. However, they, too, believe that if we
14 phase it in too rapidly, this would give them problems in
15 administration. That is the reason for the very low
16 amount.

17 I might say to you, Senator Boschwitz, that in
18 talking to the business community all over this country
19 and in hearings that Senator Hayakawa had out in
20 California, the attitude of small business, particularly
21 the highly innovation and highly technological small
22 businesses, is that this bill would be the greatest thing
23 that they could have expected. They feel that this is
24 just enormously helpful. They would be very satisfied
25 with this bill at the current \$400 million level.

1 I would like to raise it, but I am concerned that we
2 would jeopardize how the program eventually works out. I
3 agree with your objectives. I just think maybe we ought
4 to postpone them for a year or so.

5 Senator Boschwitz. How is the \$40 billion now
6 spent? It must be spent in huge chunks. I confess a lack
7 of familiarity with how the research dollars of the
8 Government are now spent, but that needs quite a bit of
9 administration to spend that kind of money.

10 Senator Rudman. The agencies that spend it are
11 outlined here.

12 Senator Boschwitz. Yes.

13 Senator Rudman. I think it is easy to determine how
14 they spend it. Let me just get my own copy of that
15 chart. I would like to point out that the Defense
16 Department, NASA, DOE, and NIH are roughly 90-plus
17 percent. For years, these agencies have been giving major
18 research grants. Certainly the Defense Department has.
19 We all understand how those R&D grants are contracted.

20 One of the problems that we and small business
21 anticipate with this program is for small business to
22 learn how to apply for these and how to deal with these
23 agencies. If you look at the print of the bill that deals
24 with administration, that is one of the reasons that the
25 application process for these seed money grants is very

1 simple. It has worked at the National Science
2 Foundation. We expect it will work here.

3 Let me simply say that I believe that at this funding
4 level this Government can handle the \$400 or \$500 million
5 of small business grants because we will be very quickly
6 getting into the second phase, which will then be
7 substantially larger grants.

8 Senator Boschwitz. I do not want to preclude the
9 opportunity of other Senators from speaking, but let me
10 repeat my question. I do not understand why NIH is a
11 deficit number here on the chart.

12 Senator Rudman. That is the change in the Reagan
13 budget, I believe. Part of that is.

14 Senator Boschwitz. It just comes out of HHS?

15 Senator Rudman. Yes.

16 Senator Boschwitz. But \$40 billion, \$30 billion, and
17 \$1 billion is an enormous amount of money to spend. Let
18 me ask you again, Senator: What kind of structure exists
19 to spend this kind of money, and how are these grants now
20 given? They must be given in huge lumps in order to come
21 up with those kinds of figures.

22 Senator Rudman. Many of them are, but let me point
23 out the Defense Department's voluntary SBIR program. That
24 is administered by a small office in DOD which receives
25 applications from small businesses in the area of applied

1 research. It gives out very modest grants to these small
2 businesses to develop particular items of technology that
3 they set forth in proposals and that the peer group
4 believes is technologically attainable within the budget
5 that they set forth.

6 They are administering that very well. The record
7 does contain examples of DOD's SBIR program, the only
8 voluntary program within the Government. I believe it
9 proves that if DOD can do it with the size of their
10 programs, the other agencies will be able to accomplish it.

11 As you probably know, after some discussion, we have
12 taken the administrative cognizance, if you will, away
13 from SBA and placed it under the office of the
14 Presidential science advisor, in one of his subdepartments
15 which is competent to coordinate the executive branch in
16 this particular area.

17 Senator Boschwitz. DOD spends \$20 billion in
18 research, or that is projected in fiscal year 1982, and is
19 spending \$17 billion during the course of this year. What
20 percentage through this voluntary program is presently
21 directed at small business?

22 Senator Rudman. Let me see if I have that. We do
23 have it in the record. It is a small percentage. It is
24 less than 1 percent, I believe.

25 Senator Boschwitz. Once again, Senator Rudman, I

1 have no argument with the intent of your program. I must
2 tell you that I have received some mail that would
3 underscore your point that small business feels that this
4 is a good bill.

5 I go back to what I know about small business and
6 about small business innovation. Small business has
7 consistently accounted for half of all American
8 innovation, and innovation accounts for between 40 and 50
9 percent of all economic growth in the country.

10 Then the White House conference on small business
11 goes on to say that small businesses perform this
12 innovation at one-twenty-fourth the cost of large firms or
13 one-fourth the cost of medium size firms.

14 If we can get the Department of Defense to spend half
15 of its funds, half of the research funds in Government, to
16 do so voluntarily, it seems to me that we could spur them
17 on a little bit. I am always concerned that when you
18 establish a figure--say, that a tax can only be so high,
19 or you should give this much to small business--you set
20 not only probably a minimum but you set a maximum.

21 Again, presently 3 percent of the research dollars
22 spent in Government are spent with small businesses. I am
23 concerned that we say 1 percent, although I appreciate
24 your directing my attention to this language, and that 1
25 percent is going to be mandated for small business and

1 phased in at that.

2 If the Department of Defense can set up a separate
3 little office in order to direct its own intention,
4 recognizing that small business is very innovative and
5 that they will go more of a bang for the buck, why cannot
6 others? Why can we not expand on this? Why do we have to
7 mandate a 1 percent, phased in, and run the risk of
8 perhaps having them fudge a little bit on the 3 percent
9 they are already spending and so forth?

10 Senator Rudman. My only response to that is that
11 long before I got here, this subcommittee held a hearing
12 about a year and a half ago and received every assurance
13 from the Department of Energy that they would do precisely
14 what you have just suggested, which certainly makes sense
15 and you would think the Government would want to do that.

16 On a bill of this type, very similar to the bill that
17 I proposed with Senator Weicker, we saw at our hearing
18 that they gave it nothing but lip service for the exact
19 reasons that you described a few moments ago about the
20 fear within the bureaucracy of taking risks. The fact of
21 the matter is that governmentwide there was precious
22 little devotion to small business in what could truly be
23 called seed money for applied research.

24 As to the 3 percent that you refer to, I challenge
25 that that is applied research. Much of that follows on to

1 technology that these companies have. We believe the way
2 the bill is drafted and with the report language and with
3 the discussions we have now had with the administration
4 that we can in fact get this \$400-million out working
5 during this fiscal year in the small business sector.

6 I might add on to your statistics, which are very
7 accurate, that the other statistic which is most
8 interesting in terms of this bill is that 80 percent of
9 the new jobs created in America since 1972 have been
10 created by small high technology based firms, many of
11 which have great difficulty in moving their technology
12 forward because of the high cost of interest and the
13 inability to raise venture capital.

14 Senator Boschwitz. I have been at some of those
15 hearings and have some personal experience with companies
16 that have a hard time raising a few dollars to do their
17 innovative work. I feel that particularly with regard to
18 the Department of Energy that I, like every other Senator,
19 probably have had dozens and dozens of people coming to me
20 with various ideas. I know I have gone with them and
21 applied to the Department of Energy. I quite agree that
22 they were not very satisfactory for the reasons that we
23 both agree on.

24 Again, I state that I do not have an objection to the
25 purpose of the bill. I am concerned that we are going to

1 set maximums. I am impressed with the ability of small
2 business to innovate. Everybody always thinks of Thomas
3 Edison sitting in his kitchen or basement or where ever.
4 The individual is, indeed, the innovative tool of our
5 society. I am concerned about such a small program and
6 that we may be counterproductive.

7 Perhaps some of the other Senators have something.

8 Senator Huddleston. Mr. Chairman?

9 Senator Weicker. Senator Huddleston?

10 Senator Huddleston. Mr. Chairman, I have a
11 suggestion for some report language. This deals with the
12 Department of Energy and just simply calls attention to
13 the fact that the Department of Energy has a very poor
14 record in attempting to help small businesses and in
15 devising a system for doing that.

16 It probably needs some refinement in order to fit
17 within the report language of the bill. Some of the
18 Senators on our side, particularly from the Northeast and
19 particularly Senator Tsongas of Massachusetts, are very
20 interested in this.

21 Without reading the entire statement, I think I can
22 give you the gist of it here. It says that many other
23 studies question DOE's intentions to fund small business.
24 For example, in November 1979, a GAO report found that the
25 DOE's contracting practices avoid and often limit

1 competition.

2 Another GAO report on DOE's solar energy program
3 stated: "The Department of Energy needs to take
4 additional steps to encourage small business participation
5 in its solar energy programs."

6 The House Small Business Committee report identified
7 several areas for future improvements in DOE procurement
8 practices including DOE's complicated and lengthy requests
9 for procurement, the difficulties small businesses with
10 limited resources have in preparing contract
11 solicitations, the delays in awarding contracts, and the
12 bias of contracting officers toward large business.

13 We had DOE before the committee. They indicated to
14 us that they were sympathetic to this approach and would
15 implement a program. As I understand it, at this point
16 nothing substantial has been done. This just calls
17 attention to that fact and indicates that we will be
18 watching to see when and whether they are going to start
19 paying attention to these particular needs.

20 Senator Weicker. Is there any objection to this
21 report language?

22 Senator Rudman. I have no objection, but I just want
23 to say to Senator Huddleston that the record is very
24 interesting in that when they came before us, we took
25 testimony from last year and read their words back to them

1 as to what they promised this committee that they would
2 do. They essentially said they had done nothing. We
3 certainly concur with that.

4 Senator Huddleston. I would suggest that staff be
5 permitted to rework the language to comply with the needs
6 of the bill.

7 [Material to be supplied follows:]

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1 Senator Weicker. Are there further amendments?

2 Senator Nunn. Mr. Chairman, I do not have an
3 amendment. I just want to congratulate Senator Rudman on
4 taking on this very important piece of legislation. I
5 think he has done an excellent job. None of us know
6 exactly now it is going to work.

7 I agree with your general sentiments to try to expand
8 it. I know Senator Boschwitz feels that way, but I do
9 think you are right in that if you start off with too much
10 of an ambitious program the first year, you can end up in
11 all sorts of difficulty, which we have had in other small
12 business programs. I would endorse your approach of going
13 slow, getting it off the ground, and then building on it
14 later.

15 I would be voting for it. I have three proxies here
16 from Senators Dixon, Sasser, and Baucus in favor of the
17 bill.

18 Senator Weicker. Senator Hayakawa?

19 Senator Hayakawa. Mr. Chairman, as you know, I
20 chaired a meeting on behalf of S. 881 in San Francisco on—
21 July 24 of this year. I wish to take this opportunity to
22 express my gratitude to the chairman of the committee and
23 the ranking minority member, Senator Nunn, for granting me
24 the opportunity to do so.

25 You and Senator Rudman are to be congratulated on the

1 excellent work you did to bring this bill before the Small
2 Business Committee. I support this legislation so
3 strongly that I wanted to provide an opportunity to members
4 of the California scientific and high-technology community
5 to present their views, which they did. I wish to thank
6 the witnesses at that hearing again, and also to
7 compliment them for their contribution to the final
8 hearing record.

9 Mr. Chairman, in another context, in connection with
10 legislation I have introduced to encourage the Federal
11 Government to rely on the private sector for goods and
12 services when feasible, I plan to request additional
13 detailed information about the declared necessity of the
14 Department of Defense to carry out a major portion of its
15 acquisition of goods and services in-house so that we will
16 have before us a current declaration of reasons for it.

17 Meanwhile, however, for the purpose of passage of S.
18 881, I give total support.

19 Thank you, Mr. Chairman.

20 Senator Weicker. Thank you very much.

21 Are there any amendments?

22 Senator Boschwitz?

23 Senator Boschwitz. I would like to offer an
24 amendment that would state that the minimum that would be
25 spent on the small business portion would be at least 3

1 percent of what was contracted out with business during
2 the preceding year.

3 Your bill has been changed, I believe, Senator
4 Rudman, since it was originally proposed so that it
5 excludes the portion of the so-called inhouse research.

6 Senator Rudman. That is correct.

7 Senator Boschwitz. That is \$10 or \$12 billion as I
8 recall the figure. This amendment would not set aside 1
9 percent but 3 percent of what was done with industry.
10 This particular example would not have figures that bear
11 in reality to the exact circumstances that exist, but
12 rather it was just drawn for the purpose of example.

13 My amendment would state that 3 percent of the
14 present research given to industry would be given to those
15 businesses that are defined as small business, so that
16 there would be at least that 3 percent minimum and it
17 would apply to the research that the Government is
18 presently doing with industry.

19 Would you comment on that, Senator Rudman?

20 Senator Rudman. I have a problem with it in that we
21 did some calculations last evening when we understood from
22 your staff that this was something in which you were
23 interested. We believe this will bring this program in at
24 a level of approximately \$700 to \$800 million. We believe
25 that as laudible as that is, that could endanger the

1 success of the program for two reasons.

2 First, we think it will give the Government agencies
3 some problem in making the kinds of decisions they have to
4 make within this first year to make these grants
5 worthwhile. Secondly, the small businesses out there are
6 going to take a bit longer than that to apply for the
7 applied research grants that we are interested in.

8 We just think it is too high a level for the first
9 year of the program. No one could want more money for
10 small business more than I do, but I am very concerned
11 that if we overfund this the first year, we could end up
12 with egg on our face.

13 Senator Weicker. Might I ask a question? As I
14 understand it, up until a week ago, this was opposed by
15 the administration.

16 Senator Rudman. Yes, it was.

17 Senator Weicker. In consultations you had with
18 members of the administration, you managed to get them
19 aboard. If we went to this figure, would that jeopardize
20 administration support?

21 Senator Rudman. My opinion is that with the amount
22 of flak we have taken on this from OMB and the agencies,
23 and knowing these negotiations, I would be very nervous
24 about this level. I think the administration might well
25 withdraw its support. What that would mean in terms of

1 passage, I do not know. We have a lot of support for this
2 bill in the Senate, and I expect there is a lot in the
3 House, but I do not think that the administration would be
4 very enthusiastic with this level for the reasons I have
5 stated.

6 Senator Nunn. Let me ask you one question. Your 1
7 percent applies to the total volume of R&D.

8 Senator Rudman. Minus in-house.

9 Senator Nunn. That 1 percent does not take into
10 account though that a lot of the R&D are ongoing projects,
11 does it? You do not exclude ongoing projects from it.
12 Therefore, it is 1 percent of the total.

13 Senator Rudman. It is \$400 million the first year.

14 Senator Nunn. I would imagine that many agencies--

15 Senator Boschwitz. Pardon me, Senator Rudman. It is
16 \$300 million. It is not that much the first year because
17 you are phasing it in.

18 Senator Rudman. With phase-in on the three or four
19 largest agencies, you are correct. It would be closer to
20 \$300 million and then \$400 million thereafter.

21 Senator Boschwitz. Pardon me for interrupting you,
22 Senator Nunn, but there is about \$40 billion in research
23 projected to be done in 1982, and \$10 or \$12 billion is
24 inhouse. There is \$10 billion inhouse, leaving \$30
25 billion.

1 Senator Nunn. The question I was going to ask was:
2 Of the \$30 billion, how much of that would be projects
3 that the Government is already contractually bound on? In
4 other words, what percent are really new contracts?

5 That seems to me to be a key question because it is
6 not like they can start with the \$30 billion and that they
7 are going to have a new contract on each one. Many of
8 those are ongoing projects that are committed. I know
9 they are in the Defense Department. Therefore, you are
10 working with a much smaller figure, I would imagine, on
11 new contracts.

12 Does anyone have any ballpark estimate on what the
13 new contracts are?

14 Senator Rudman. I do not.

15 Senator Boschwitz. If I may continue with my
16 comment, it is 1 percent of \$30 billion, or \$300 million.
17 Then the \$300 million is going to be phased in.
18 Therefore, for the first year it would be \$120 million in
19 total spread out through all the agencies. Recognizing
20 the fact that these agencies giving these research grants
21 are already doing 10 times that amount, about a billion,
22 two hundred million dollars with small business, I have a
23 hard time comprehending why we cannot give it a little bit
24 more of a boost than that.

25 Senator Weicker. I would only say this. Senator, I

1 respect your comments and I do not disagree with what you
2 are saying. What you are saying is right on the mark.

3 The fact is that we start from ground zero and not
4 under optimum conditions to get anything that is new
5 passed in this session of Congress. I think that Senator
6 Rudman is the one who has the feel for the situation both
7 among his colleagues and in coordinating with the
8 administration.

9 Without in any way contradicting you or the validity
10 of what you state here, I think this is a judgment call.
11 On that basis, I am going to vote against your amendment
12 in favor of the judgment of the man who gave birth to this
13 thing.

14 Senator Rudman. Mr. Chairman, I wonder if Senator
15 Boschwitz at this juncture would like to put that entire
16 thought of his in talking about minimums and the amounts
17 into strong report language rather than move to a vote on
18 this amendment. Then we can discuss it between here and
19 the time it goes to the floor.

20 Senator Boschwitz. I must tell you I have no really
21 strong vested interest in that amendment. I do not think
22 the amendment is worth jeopardizing the support of the
23 administration.

24 I admire what you have done. I also compliment you
25 for all the work you have done in getting to it, but it

1 provokes me that you have to tell a bunch of bureaucrats
2 that they have to spend more money with somebody who is so
3 many times more efficient and so many times more
4 innovative. I know we have resistance to that. I guess
5 those are broader questions that deal with the psychology
6 of human beings that we cannot address at the moment.

7 In any case, I would like to get involved in the
8 report language. I would be very happy to do it with you,
9 Senator Rudman. I clearly admit to having not been active
10 in the proceedings of this bill prior to this time, but
11 let us get some of these people in here from the various
12 departments, hold some hearings as we proceed along, put
13 them on the griddle, and ask them why they are not doing
14 this and what their justification for it is. I would like
15 to be part of that because I have a sense of what small
16 business can do.

17 Senator Rudman. I would welcome that.

18 Senator Weicker. Am I correct that what you would
19 like to do is work with Senator Rudman on some report
20 language?

21 Senator Boschwitz. Yes.

22 Senator Weicker. I see no problems with that.
23 Do you want to pursue this amendment?

24 Senator Boschwitz. No. We can withdraw the
25 amendment.

1 Senator Weicker. I do not think anybody disagrees
2 with what you are saying. There is no point in getting
3 into something we all agree on.

4 Senator Boschwitz. I would like to hold some
5 hearings with Senator Rudman and others as we see how they
6 progress, compare agency to agency, and really put them on
7 the griddle, as I suggested.

8 Thank you, Mr. Chairman, for allowing me the courtesy
9 of making all those remarks.

10 Senator Weicker. The vote then occurs on S. 881, the
11 Small Business Innovation Research Act of 1981. The clerk
12 will poll.

13 The Clerk. Mr. Packwood?

14 Senator Weicker. Aye, by proxy.

15 The Clerk. Mr. Hatch?

16 Senator Hatch. Aye.

17 The Clerk. Mr. Hayakawa?

18 Senator Hayakawa. Aye.

19 The Clerk. Mr. Boschwitz?

20 Senator Boschwitz. Aye.

21 The Clerk. Mr. Gorton?

22 Senator Gorton. Aye.

23 The Clerk. Mr. Nickles?

24 Senator Weicker. Aye, by proxy.

25 The Clerk. Mr. Rudman?

1 Senator Rudman. Aye.

2 The Clerk. Mr. D'Amato?

3 Senator Weicker. Aye, by proxy.

4 The Clerk. Mr. Nunn?

5 Senator Nunn. Aye.

6 The Clerk. Mr. Huddleston?

7 Senator Nunn. Aye, by proxy.

8 The Clerk. Mr. Bumpers?

9 [No response.]

10 The Clerk. Mr. Sasser?

11 Senator Nunn. Aye, by proxy.

12 The Clerk. Mr. Baucus?

13 Senator Nunn. Aye, by proxy.

14 The Clerk. Mr. Levin?

15 Senator Nunn. Aye, by proxy.

16 The Clerk. Mr. Tsongas?

17 [No response.]

18 The Clerk. Mr. Dixon?

19 Senator Nunn. Aye, by proxy.

20 The Clerk. Mr. Chairman?

21 Senator Weicker. Aye.

22 The Clerk. The ayes have it.

23 Senator Weicker. I assumed that.

24 What we will do is have committee staff work with

25 Senator Huddleston's report language and Senator

1 Boschwitz' report language.

2 Senator Boschwitz. Just send the report language
3 over. I will not write my own.
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S. 1620 - BILL TO EXTEND THE SBA'S 8(a)
PILOT PROCUREMENT PROGRAM

Senator Weicker. Lastly, we have before us S. 1620, a bill to extend the Small Business Administration's pilot procurement program until March 31, 1983.

In essence, after consultation with the administration and the Small Business Administrator, what this does under administration guidelines and under the suggestions provided by GAO is allow the 8(a) pilot program to continue with several of the changes advised by the administration, GAO, and by my own staff.

In summation, I would say that testimony would indicate that like the disaster loan program and like many other programs, the mismanagement was as much on SBA's part as it was on the recipients of the program.

At a time when minorities have been decimated insofar as the various programs that at least ostensibly would work to their advantage, I think it is important that we take this very small program and continue it to see whether it works and as to whether or not it can have any benefit.

This is the strong recommendation of the administration, of the Small Business Administrator, of GAO, and I hope we can report out 1620.

Senator Boschwitz. Mr. Chairman, last year I believe

1 Senator Nunn and others had the idea that after a certain
2 period of time, an 8(a) contractor should be phased out of
3 the program.

4 Senator Weicker. No, that is the 8(a) program. I am
5 talking about the 8(a) pilot program.

6 Senator Boschwitz. I am sorry. I do not know the
7 difference.

8 Senator Weicker. Basically what we have done with
9 8(a) almost comes hard on the heels of what Senator Rudman
10 is trying to accomplish, to try to guarantee that in the
11 pilot program the technology oriented projects will go
12 toward the minority community whereas so much of 8(a) went
13 to construction, to janitorial services, food services,
14 and this type of situation.

15 Senator Boschwitz. The pilot program is now going to
16 be--

17 Senator Weicker. The pilot program was meant to try
18 to swing this over to the technology area. There were
19 some big gaps in it that did not work. We have changed it
20 so hopefully we have corrected that. We are saying let us
21 try it with the corrections, with this administration, and
22 with management by this SBA administration before we say
23 it does not work.

24 Senator Boschwitz. Good. Thank you.

25 Senator Weicker. We are prepared to vote. The clerk

1 will call the roll on S. 1620.
2 The Clerk. Mr. Packwood?
3 Senator Weicker. Aye, by proxy.
4 The Clerk. Mr. Hatch?
5 Senator Weicker. Aye, by proxy.
6 The Clerk. Mr. Hayakawa?
7 Senator Weicker. Aye, by proxy.
8 The Clerk. Mr. Boschwitz?
9 Senator Boschwitz. Aye.
10 The Clerk. Mr. Gorton?
11 Senator Gorton. Aye.
12 The Clerk. Mr. Nickles?
13 Senator Weicker. Aye, by proxy.
14 The Clerk. Mr. Rudman?
15 Senator Rudman. Aye.
16 The Clerk. Mr. D'Amato?
17 Senator Weicker. Aye, by proxy.
18 The Clerk. Mr. Nunn?
19 Senator Nunn. Aye.
20 The Clerk. Mr. Huddleston?
21 Senator Nunn. Aye, by proxy.
22 The Clerk. Mr. Bumpers?
23 [No response.]
24 The Clerk. Mr. Sasser?
25 Senator Nunn. Aye, by proxy.

1 The Clerk. Mr. Baucus?

2 Senator Nunn. Aye, by proxy.

3 The Clerk. Mr. Levin?

4 Senator Nunn. Aye, by proxy.

5 The Clerk. Mr. Tsongas?

6 [No response.]

7 The Clerk. Mr. Dixon?

8 Senator Nunn. Aye, by proxy.

9 The Clerk. Mr. Chairman?

10 Senator Weicker. Aye.

11 The Clerk. Sixteen ayes.

12 Senator Weicker. Very good. The bill is so
13 reported, passed, and staff is authorized to make whatever
14 changes.

15 Thank you very much.

16 [Whereupon, at 10:30 a.m., the committee recessed, to
17 reconvene at the call of the Chair.]

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