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**before the**  
**Senate Economic Growth Committee**  
**New Jersey State Legislature**  
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Chairman Lesniak, Vice Chairman Doria, and members of the Economic Growth Committee, my name is Christine Serrano Glassner, and I am the Regional Advocate for the U.S. Small Business Administration's Office of Advocacy in Region II (which includes New Jersey, New York, Puerto Rico and Virgin Islands). It is an honor for me to speak before you today on Assembly Bill 2327 (identical bill number S1335).

As the Regional Advocate for Region II, my job is to be the direct link between state and local governments, small business groups, small business owners and employees, and the Office of Advocacy, based in Washington, DC. My chief focus is to help identify the regulatory concerns of small business by monitoring the impact of federal and state policies at the local level. It is my goal to see that programs and policies that encourage fair regulatory treatment of small business are developed and implemented to ensure future growth and prosperity.

The Office of Advocacy monitors federal agency compliance with the Regulatory Flexibility Act (RFA) in order to reduce the regulatory burden on small business. As Advocacy's research demonstrates, small businesses with less than 20 employees spend \$7,647 each year per employee to comply with federal regulations compared with the \$5,282 spent by firms with 500 or more employees.<sup>1</sup> That is a 45 percent greater burden faced by small businesses than their larger counterparts. By working with federal agencies to implement the RFA, the Office of Advocacy saved small businesses nationwide over \$6 billion in foregone regulatory costs in FY 2005.

Excessive regulatory burden is a very real problem for small business, and it has a negative impact on economic development. Under the federal RFA, Advocacy has shown time and again that regulations can be reduced and the economy improved without sacrificing important goals such as environmental quality, travel safety, and workplace safety.

Any small business owner on Main Street will explain that the regulatory burden does not just come from Washington. The regulatory burden also comes from state capitals where state agencies are located. Sensitizing government regulators to how their mandates affect the employer community should not stop at the federal level. Regulatory flexibility is a practice that must also be successful at the state level in order to keep America competitive.

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<sup>1</sup> W. Mark Crane, "The Impact of Regulatory Costs on Small Firms" (2005), available at <http://www.sba.gov/advo/research/rs264tot.pdf>.

The Office of Advocacy has drafted model legislation for consideration by states that mirrors the federal Regulatory Flexibility Act. Its intent is to foster a climate for entrepreneurial success in the states so that small businesses will continue to create jobs, produce innovative new products and services, bring more Americans into the economic mainstream, and broaden the tax base. This can be done without sacrificing agency regulatory goals.

Successful state-level regulatory flexibility laws, as in the model legislation, address the following areas: 1) A small business definition that is consistent with state practices and permitting authorities; 2) A requirement that state agencies prepare a small business economic impact analysis before they regulate; 3) A requirement that state agencies consider less burdensome alternatives for small business that still meet the agency objective; 4) Judicial review of agency compliance with the rulemaking procedures; and 5) A provision that forces state governments to review existing regulations periodically.

Since Advocacy's model legislation was presented in December 2002, 34 state legislatures have considered regulatory flexibility legislation, and 19 states have implemented regulatory flexibility via Executive Order (EO) or legislation. In 2005, 18 states considered regulatory flexibility legislation, and 7 states enacted regulatory flexibility via legislation or EO (*Alaska, Arkansas (EO), Indiana, Missouri, New Mexico, Oregon, and Virginia*). In 2006, 11 states have introduced regulatory flexibility, 2 states passed legislation that enhanced existing regulatory flexibility laws (*Colorado, South*

*Dakota*), and 2 states implemented regulatory flexibility legislation via EO (*Georgia, Tennessee*).

In New Jersey, firms employing less than 100 employees represent over 96 percent of the business community. New Jersey's current Regulatory Flexibility Act does (RFA) require agencies to analyze the economic impact of proposed rules on small businesses before they regulate and to consider less burdensome alternatives. However, the law is missing two key elements that give regulatory flexibility its effectiveness: a requirement that agencies review existing regulations periodically to ensure they do not unduly burden small business and judicial review of agency compliance with the RFA. A2327 enhances the New Jersey RFA to include these key provisions.

The review of existing regulations periodically is important because the rule may no longer serve its purpose, may be duplicated by newer federal or state legislation, or it may have been promulgated without consideration of the effects on small business. Also, given the length of time that may have passed since the rule was promulgated, technology, economic conditions, or other relevant factors may have significantly changed in the area affected by the rule. Therefore, it is critical that agencies review rules periodically to determine whether they should be continued without change, amended, or rescinded to minimize the economic impact of the rule on small businesses.

Judicial review is important because it gives the RFA "teeth" and focuses heightened attention of regulatory officials on small business issues. The federal

regulatory flexibility law had limited success in curbing excess regulatory burdens for sixteen years until judicial review was enacted in 1996. Allowing small businesses to challenge state agencies for failure to adequately consider their impact on small business during the regulatory process is critical, as it provides an incentive for agencies to conduct a thorough and well-reasoned economic and regulatory flexibility analysis.

There is no question that small business is the backbone of the economy in New Jersey, just as it is throughout the country. Creating a friendlier regulatory environment in New Jersey helps entrepreneurs create businesses, increases competition, and promotes job creation. Amending New Jersey's RFA to include periodic and judicial review will enhance the regulatory climate in New Jersey and help to ensure the success of small businesses in the state.

Thank you for this opportunity to speak before you today. The Office of Advocacy stands ready to help level the playing field for small businesses in New Jersey.