

**Testimony of
The Honorable Thomas M. Sullivan
Chief Counsel for Advocacy
U.S. Small Business Administration
before the
Missouri House of Representatives
Small Business Committee
on
HB 322 “Creates the Small Business Regulatory Fairness Board to serve as liaison between
the agencies and small business”
February 10, 2003**

My name is Thomas M. Sullivan and I am the Chief Counsel for Advocacy, a Presidential appointment with Senate confirmation at the U.S. Small Business Administration. It is an honor for me to be here before you today to testify on House Bill 322. Many times I learn more from leaving the Beltway and meeting actual small business owners – like many of you --- than I do from weeks of Washington meetings. I am especially pleased to be testifying before the newly created Small Business Committee of the Missouri House of Representatives, so thank you for the honor of testifying before you, and of having the chance to learn from you today.

My job is to be the independent voice for small business within the federal government, both inside and outside of Washington. My only interest is that of small business owners and their employees. Frequently that means helping them deal with the enormous amount of regulations that affect them. That is why I am pleased to be here today before the Committee to support proposed legislation to strengthen the regulatory flexibility concept here in Missouri. It is legislation that will lighten the regulatory load on Missouri small business while still ensuring that important public policy goals are met.

The Office of Advocacy was established by federal statute in 1976 (15 USCS 634).

While much of the focal point of that legislation relates to the authority of the Office of Advocacy to assist small businesses by improving Federal regulatory practices, the legislated primary functions of the Office are broad.

The Office of Advocacy focuses directly on the rules and regulations that hinder small business. We are the part of federal government that stands between unreasonable tax policy or unfair regulation, and the small business owners on Main Street.

It is our job to make sure that their opinions are heard. We pursue a small business agenda in two ways. First, we work directly with federal agencies to help them find less burdensome alternatives to their proposed regulations and we fight to implement those alternatives.

Second, we produce research that shows the value of small business. We know that sound public policy rests on sound research. So we make sure that policy makers clearly understand the value of small business to the economy and to your communities.

In 1978, barely after the Office of Advocacy was up and running, it sponsored the first of many national conferences bringing together state small business leaders and state policy makers to share successful examples of good policy for small business that already existed within the states. From its very beginning Advocacy recognized that to carry out its role of assisting small

businesses throughout the U.S., some examination of state policies that could help or harm small businesses had to be done.

Missouri is lucky to be one of the states that has had, and continues to have, elected officials and public policy makers who understand the importance of small business. More importantly, they have acted on that understanding, by helping to tear down barriers to entrepreneurial success and job creation.

I especially want to single out both United States Senators Kit Bond and Jim Talent for their dedication to, and support of, small business at the federal level. As Chairmen of the Small Business Committees in the Senate and House (when Senator Talent was a Representative) they were -- and still are -- tireless advocates for the interests of small business owners and their employees. Senator Bond was instrumental in the passage of the "Red Tape Reduction Act", an Act which increased the ability of my office to fight for a better regulatory environment for small businesses

The central mission of the Office of Advocacy remains reducing the excessive regulatory burden that falls on small business. An Advocacy research study, *The Impact of Regulatory Costs on Small Business*, established that small businesses with less than 20 employees spend nearly \$7,000 each year, per employee just to comply with federal regulations and mandates. That's 60 percent more than large firms. State and local regulatory burdens simply add to that cost.

The key to Advocacy's effectiveness in fighting federal regulations has been the Regulatory Flexibility Act (RFA) passed by Congress in 1980 and strengthened in 1996 with the addition of the Red Tape Reduction Act. The premise behind RFA is not that there should be no regulations at all but rather that regulatory agencies should be acutely aware that their mandates hurt small entities. Under this law federal agencies are required to consider the impact of proposed regulations on small entities and to discuss alternative ways to achieve their regulatory objective without imposing undue burdens.

Under RFA, Advocacy has shown time and again that regulations can be reduced and the economy improved without sacrificing such important goals as environmental quality, travel safety, workplace safety, and family financial security. By working with federal agencies to implement the RFA, the Office of Advocacy in 2002 saved small businesses over \$21 billion in foregone regulatory costs that can now be used to create jobs, buy equipment and expand access to health care for millions of Americans.

Let me detail those savings a little:

- FY 2003 revisions to physician fee schedules resulted in a \$1.37 million one time savings to portable x-ray providers.
- Concentrated Animal Feeding Operations (CAFO) effluent guidelines and permit revisions achieved \$330 million in annual savings.
- Cross Media Electronic Reporting and Record-Keeping Rule (CROMERRR) changes saved small businesses a whopping \$18 billion one time savings and

\$7.65 billion in annual savings by changing the EPA proposals that would have impacted any facility using a computer.

- EPA Construction and Development Effluent Guideline changes achieved \$1.5 billion in annual savings.
- Procurement interventions achieved \$300,000 in one time savings.

The elements that make up these savings are broad ranging because the issues that impact on small business run across the board. Every decision of every Federal agency has a potential cost to small business—and it is only through those laws that help us help small business that agencies have started to become aware of that fact and have started to be more conscious of small business concerns as the agencies engage in rulemaking.

Advocacy has always recognized that states can and do impose significant regulatory burdens for small business as well. To help address this, Advocacy has drafted model legislation for consideration by states. The model bill mirrors the RFA. 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 is not a new idea. Many states already have similar legislation and it has been one of the topics discussed at many of the Advocacy state and local government conferences over the years. We applaud Missouri's effort to offer this important new tool to help small businesses deal with the problems of burdensome state regulation.

We believe that there are five critical elements that are contained in the model bill. Successful state-level regulatory flexibility laws should address: (1) a small business definition that includes most small businesses, (2) a requirement that state agencies perform an economic impact analysis before they regulate, (3) a requirement that state agencies consider less burdensome alternatives that still meet regulatory goals, (4) judicial review so that the law has teeth, and (5) a provision that forces state government to periodically review all its regulations. Likewise, there should be few, if any exemptions from the law. Even the best regulatory flexibility initiative has little value if the majority of state agencies are exempted from it.

We are pleased that many states around the country are recognizing the need for state regulatory flexibility laws if they do not have them, or are strengthening them if they do. Oklahoma and Hawaii have just recently enacted this kind of legislation and the Commonwealth of Puerto Rico has had remarkable success with a small business ombudsman office that has regulatory flexibility authority. The House of Representatives in the State of North Dakota has just passed legislation based on our model by a vote of 88-1, and similar legislation is moving through the Rhode Island General Assembly. These examples show that successful legislation is the important first step in bringing needed regulatory relief to small entities.

The process doesn't end there, however. There remains a need for committed executive leadership, for trained and educated state agencies so that they will know what their responsibilities are and how to accomplish them, and for continued involvement of the small business community to provide feedback on what still needs to be done.

There is no question that small business is the backbone of the economy here in Missouri just as it is throughout the country. Sometimes, because small businesses are small, it is easy to overlook their aggregate importance to the economy—and it is very easy to overlook the negative impact of regulatory activities on them. The intent of this legislation is to compel regulatory agencies to consider small businesses in the process by which regulations are developed and particularly consider the disproportionate impact that those regulations might have.

This legislation is needed. The Office of Advocacy commends you for bringing this forward and we urge its support.

Thank you for this opportunity to appear and I would be happy to answer any questions that you might have.