Eric Munson

Region VI Advocate

U.S. Small Business Administration

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Chairman Dickinson and members of the House Agriculture, Forestry and Economic Development Committee, my name is Eric Munson and I am the Regional Advocate for the U.S. Small Business Administration's Office of Advocacy in Region VI (which includes Arkansas, Louisiana, New Mexico, Oklahoma, and Texas). It is an honor for me to speak to you today and testify on Senate Bill (SB) 55.

As the Regional Advocate for Region VI, 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. This is why I am testifying in support of proposed legislation which will create a friendlier regulatory environment for small businesses in Arkansas.

The Office of Advocacy enforces the Regulatory Flexibility Act (RFA) on the federal level in order to reduce the regulatory burden on small business. There are over 25 million small businesses in the United States, and they create between 60 and 80 percent of the net new jobs in our economy. 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. That is a 45 percent greater burden than their larger counterparts. And that is just the cost of compliance with federal regulations. Small business owners also have to shoulder the cost of compliance with state and local regulations.

There is no question that small business is the backbone of the economy in Arkansas. Businesses employing less than 100 employees represent over 95 percent of firms in the state.

Under the federal RFA, Advocacy has observed time and again that the cost of regulations can be reduced without sacrificing important goals such as environmental quality, travel safety, and workplace safety. By working with federal agencies to implement the RFA, in FY 2005 the Office of Advocacy saved small businesses nationwide over $6 billion in foregone regulatory costs.

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 does not stop in the nation's capital. Regulatory flexibility is a practice that must be successful at both the state and federal level in order to keep America competitive.

In December of 2002, the Office of Advocacy drafted model legislation for the states patterned after the federal 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.

Since the model was introduced, 35 state legislatures have considered regulatory flexibility legislation, and 19 states have implemented regulatory flexibility via Executive Order (EO) or legislation. This year, 8 states have introduced regulatory flexibility legislation (*Arkansas, Hawaii, Illinois, Mississippi, Montana, New Jersey, Tennessee, and Washington*).

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 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 to give the law teeth, and (5) a requirement that agencies review existing regulations periodically.

Arkansas Executive Order (EO) 05-04 requires agencies to evaluate the economic impact of proposed regulations on small businesses and to consider less burdensome alternatives.[1] The EO also requires agencies to submit their analysis to the Arkansas Department of Economic Development (ADED) Small and Minority Business Unit, which is responsible for the oversight of the state's regulatory flexibility program.

Let me give you an example of how this EO has been successful in Arkansas. During the 2005 General Assembly, a law passed requiring the Arkansas Department of Labor (DOL) to license elevator contractors, elevator mechanics, and elevator inspectors. Additionally, the Elevator Safety Board within the DOL was in the process of updating its regulations for the first time in 10 years. As the Elevator Safety Board and the agency proceeded through the regulatory flexibility process, it was apparent that the proposed rules and amendments to existing rules would result in costly compliance issues for small businesses.

As a result of Arkansas's regulatory flexibility Executive Order, the Elevator Safety Board and DOL received comments and input from the Arkansas Department of Economic Development (ADED) Small and Minority Business Unit and a number of

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[1] Arkansas Executive Order 05-04 can be found at http://www.1800arkansas.com/small_business/files/State%20Proc%20EO%2005-04.pdf.

small businesses. Each party recognized the public safety issues involved and approached the process in a cooperative manner. The final regulations, effective September 1, 2006, reflected this collaborative process and flexible regulatory methods were utilized that lessened the burden on small business without sacrificing the agency goal of elevator safety.

This example demonstrates how a strong regulatory flexibility law facilitates a working relationship between small business stakeholders and regulating agencies. It also makes evident the importance of codifying the current Executive Order to ensure permanence in the process.

SB 55 requires agencies to determine whether a proposed rule will affect small businesses. Segmenting out the economic impact of proposed rules on small business is necessary because they bear a disproportionate share of regulatory costs and burdens. Also, by recognizing the cost of a regulation to small businesses and the differences in scale and resources of regulated entities, agencies are able to craft regulations that consider the uniqueness of small businesses at an early stage in the regulatory process. As a result, small businesses are better able to comply with agency rules and to survive in a competitive marketplace.

SB 55 also requires agencies to consider whether there are alternative regulatory solutions that do not unduly burden small business but still accomplish the agency's policy goal. Less burdensome regulations that do not reduce environmental quality, travel safety and workplace safety are simply smarter regulations.

During this time of tight state budgets, you may be wondering how much it costs a state to implement regulatory flexibility for small business. The answer is that implementing a regulatory flexibility system can be accomplished at minimal to no additional cost to the state. In many states, agencies have been able to absorb the duties into their existing rulemaking and review system.

The benefits of implementing a regulatory flexibility system truly outweigh the costs. The aggregate importance of small businesses to the economy is often overlooked, and it is easy to fail to notice the negative impact of regulatory activities on them. One of the many reasons, I believe, regulatory flexibility legislation has been so successful is because policy makers across the country are realizing that it is an important economic development tool. Many times there are alternative ways of implementing a regulation that may be less burdensome to small business without sacrificing important goals such as health, safety, and welfare issues of major importance to state governments.

The Office of Advocacy commends you for bringing SB 55 forward to enhance Arkansas's current administrative law and the regulatory environment for small business in your state.