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Chairman Clark, Chairman Jenkins, and members of the Business and Labor Interim Committee, my name is Jim Henderson, and I am the Regional Advocate for the U.S. Small Business Administration's Office of Advocacy in Region VIII (which includes Colorado, Montana, North Dakota, South Dakota, Utah and Wyoming). It is an honor for me to speak before you today about an important economic development tool for small businesses in the state of Utah.

As the Regional Advocate for Region VIII, 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. Excessive regulatory burden is a very real problem for small business, and it has a negative impact on economic development. Firms in Utah employing less than 100 employees represent over 94 percent of the business community, and they not only face federal regulations, but also have to shoulder the cost of compliance with state and local rules.

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. 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.

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.

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 enhanced existing regulatory flexibility laws (*Colorado, South Dakota*), and 2 states implemented regulatory flexibility legislation via EO (*Georgia, Tennessee*).

Utah's Administrative Rulemaking Act does not require agencies to consider the economic impact of proposed rules on small businesses before they regulate. Segmenting out the impact on small business is a necessary step because small businesses bear a disproportionate share of regulatory costs and burdens. 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.¹ That is a 45 percent greater burden faced by small businesses than their larger counterparts. And, that is just the cost of compliance with federal regulations.

Utah's administrative rulemaking procedures also do not require agencies to consider whether there are less burdensome regulatory solutions for small business that still accomplish the agency goal. Tailoring regulatory proposals to the unique needs of small business saves small employers money that is better used to hire additional employees, provide health care, train existing staff, and upgrade their facilities and equipment. This can be done without sacrificing health, safety, and welfare issues of major importance to state governments.

There is no question that small business is the backbone of the economy in Utah, just as it is throughout the country. Amending Utah's administrative rulemaking procedures to include the five key elements in Advocacy's model legislation will help to create a friendlier regulatory environment for small businesses in the state. Utah

¹ W. Mark Crane, *The Impact of Regulatory Costs on Small Firms 5* (2005), *available at* <http://www.sba.gov/advo/research/rs264tot.pdf>.

legislators have previously recognized the need to strengthen the law to include considerations for small business by introducing legislation in the 2005 and 2006 regular sessions.²

Many states have recognized that giving small businesses a voice early in the rulemaking process is key to reducing the negative impact of regulations on small business, increasing the level of regulatory compliance, and helping state economies grow. Ensuring that the regulatory burden is not excessive and that regulations are straight forward and easy to understand helps entrepreneurs create businesses, increases competition, and promotes job creation.

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 Utah.

² HB 209 was introduced in the 2005 regular session and sponsored by Representative Gregory Hughes and Senator Howard Stephenson. SB 147 was introduced in the 2006 regular session by the same sponsors.