Office of Advocacy

Testimony of

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Before the

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Committee on Small Business

for

"Removing the Roadblocks to Success: How Can the Federal Government Help Small Businesses Revitalize the Economy?"

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Chairman Toomey, Congressman Beauprez, and members of the Subcommittee, thank you for the opportunity to testify today. My name is Jim Henderson and I am the Regional Advocate for Region VIII in the Office of Advocacy (Advocacy) at the U.S. Small Business Administration (SBA). In 1976, the U.S. Congress established the Office of Advocacy within the SBA to protect, strengthen and effectively represent the nation's small businesses within the Federal government's legislative and rulemaking processes. The office is directed by the Chief Counsel for Advocacy, Thomas M. Sullivan, who is a Senate confirmed appointee. The Office of Advocacy is an independent office within the SBA so the views expressed in this statement do not necessarily represent the views of the Administration or of the SBA.

As the Regional Advocate for Region VIII, I am charged with being the eyes and ears for the Chief Counsel for Advocacy by listening and responding to concerns of small businesses in Colorado, Montana, North Dakota, South Dakota, Utah and Wyoming. I also work with state officials on small business friendly initiatives. For example, Governor Bill Owens of Colorado recently signed state regulatory flexibility legislation (S.B. 03-121) into law that will make the rulemaking process in Colorado more transparent and allow small businesses to have their voices heard.

The Office of Advocacy was established because Congress recognized that small businesses were being crushed by the cost of regulation and government agencies were not considering the economic impact of regulations on small businesses before they implemented new regulations. Since small businesses do not have the time or resources to insert themselves into the rulemaking process, Advocacy was created to directly advanced the view, concerns and interests of small business before Congress, the White House, federal regulatory agencies and state policy makers. The mission of Advocacy is to listen to small businesses, learn what they really need and carry that message to those involved in the Federal rulemaking and regulatory process.

This effort was greatly strengthened with the passage of the Regulatory Flexibility Act (RFA) which mandated that agencies are to analyze the impact of proposed regulations and consider less burdensome alternatives to achieving their public policy goals. The RFA was further strengthened by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 which gave the Office of Advocacy the ability to file friend of the court briefs on behalf of small businesses. In FY 2002, the Office of Advocacy saved small businesses over $21 billion in foregone regulatory costs that small businesses can now use to hire another employee, purchase new equipment, or provide healthcare for their employees. Even with this savings for small business, more work remains to be done to level the playing field for small businesses so they can do what they do best: create jobs.

The hearing today is titled “Removing the Roadblocks to Success: How Can the Federal Government Help Small Business Revitalize the Economy?” I would like to address two issues that remain at the top of small business’ list of impediments to their growth and success: tax reform, and paperwork and regulatory relief.

This Administration and this Congress have already done a great deal with the passage of the Jobs and Growth Tax Relief Reconciliation Act of 2003. Advocacy promoted a number of the provisions in the President’s Jobs and Growth package and we were pleased with the bill’s emphasis on small business. Many of the provisions in the law received widespread support from small business during Congressional consideration. These provisions will have a significant positive impact on small business.

First and foremost, the Jobs and Growth Act provided useful changes in section 179 expensing that had long been sought by Advocacy and the small business community. The new law increased the amount of equipment purchase a small business can expense directly, rather than depreciate over time, from $25,000 to $100,000. In addition, the threshold for phasing out expensing was doubled to $400,000. Each of these numbers will be indexed to inflation beginning in 2004.

The Treasury Department has estimated that at least half a million businesses would directly benefit from expensing provision changes that were similar, but not as generous, to those enacted.

Additionally, first year "bonus" depreciation was increased from 30 to 50 percent for investments acquired and placed in service through 2004 and in some cases through 2005. When combined with section 179, this creates a substantial addition incentive for small businesses to make their capital equipment purchase quickly. Likewise, equipment dealers and manufacturers benefit from the sale of new, more productive equipment to these businesses. Further, it is highly probable that the environment will benefit from use of newer and cleaner equipment that replaces older and more outdated items.

Also, the Jobs and Growth Act accelerated most of the tax cuts enacted in 2001 to take effect this year. The top tax rate for individuals, for example, was reduced from 38.6 percent to 35 percent. The impact of individual income tax rate cuts is widely felt in the small business community since over 90 percent of all businesses are taxed at the individual, not corporate level.

More can be done. Two things stand out in particular: simplicity and permanence.

First, the tax system must be made less complex. Tax compliance is a serious and costly problem for small business. Over 90 percent of all businesses have fewer than five employees. The majority have no employees; they are simply run by the family. One study by the Tax Foundation found that it costs small businesses more to collect and keep tax records than they pay in taxes (*The Cost of Complying with the U.S. Federal Income Tax.* Tax Foundation, November 2000). A huge chunk of that cost is the time and effort required for the owner to wade through and decipher volumes of new tax laws and regulations. Many businesses find it necessary to hire a tax expert to guide them through the tax maze, dig out the required information and make the correct computations and judgment calls.

Second, the tax system must be made more stable and predictable. Dr. Radwan Saade of the Office of Advocacy's economic team recently presented a working paper that demonstrated that constantly changing tax laws can create problems for small business. He said, in part:

> Small business associations identify taxes as the single most important issue facing small businesses. Unexpected shifts in the tax rate and structure only exacerbate the already difficult circumstances involved in running a small business. Now in addition to the uncertainties inherent in operating a small business, business owners must make allowances for unknown changes in the tax code while making plans that extend beyond the next presidential election cycle.

Providing certainty in the Tax Code gives small businesses the confidence to make decisions for their long term viability and growth. Giving small business the ability to invest with confidence in their future is good for the businesses and good for our economy.

But taxes, while universal and inevitable, are not the sole problem area for small business. Based on frequent comments from small businesses, the Office of Advocacy is concerned about the large—and growing—Federal paperwork and regulatory burden. Despite the passage of laws designed to relieve the paperwork burdens on small businesses—such as the Paperwork Reduction Act, and more recently, the Small Business Paperwork Relief Act of 2002—the Federal paperwork burden continues to be cited by small businesses as one of their most significant problems.

In addition to paperwork, small businesses tell us that they often encounter regulations written with no apparent awareness of the costs that must be borne by the affected businesses. This happens despite laws requiring agencies to account for the costs and benefits of new rules.

While Advocacy works to improve agency rulemakings, small businesses are obliged to comply with rules that may have significant costs and negligible societal benefits. As well-documented by Advocacy's Crain-Hopkins report, small businesses continue to pay a disproportionately large share of the total Federal regulatory burden, which was estimated to total $843 billion in 2000. For firms employing fewer that 20 employees, the annual regulatory burden in 2000 was estimated to $6,975 per employee—nearly 60 percent higher than the $4,463 estimated for firms with more than 500 employees.

As a local example, we are grappling with the U.S. Fish and Wildlife Service's designation in June 2003 of 31,000 acres from southeastern Wyoming to Colorado Springs as critical habitat for the threatened Preble's meadow jumping mouse. It is becoming known as “the mouse that roars” as the habitat designation significantly boosts business operating costs.

Just three weeks ago, a Colorado Springs road construction firm was compelled to spend an additional $200,000 to lease a specialized crane to ensure that the company’s work did not disturb the habitat of the Preble meadow jumping mouse while building a boulevard extension. What makes this story more vexing is that the mouse has never actually been found at the site. In another part of Colorado Springs a major housing development project has been on hold for two years.

This endangered species act habitat designation has affected entire communities. In northern Colorado mouse protections threatened to halt the planned expansion of a water reservoir for the city of Greeley. The result is uncertainty, imposing conditions that slow development and kill job creation. Such regulatory actions are particularly wasteful when there is still question whether granting critical habitat designation actually protects endangered species.

Mr. Chairman, this concludes my prepared remarks. Let me state again what pleasure it is to have this discussion here in Colorado on these important small business issues. I would be very happy to try to answer any questions you might have.