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INTRODUCTION

Over the past year, the nation's economy has taken a number of upward and downward turns. For every positive indicator that seems to suggest it is beginning to rebound, there is economic news suggesting caution.

While job creation in 2005 has started to pick up following three years of weak growth, it remains markedly lower than previous periods of rapid economic expansion and below the expectations of the President's Council of Economic Advisors. The reality is that a decade ago the U.S. economy routinely created 300,000 new jobs a month – a much greater amount than the 215,000 payroll jobs that were produced this past November.

One of the strongest sectors of the U.S. economy – and the most likely to lead the way in a full economic recovery – is this nation's 23 million small businesses. Small firms are credited with generating 60 to 80 percent of all new jobs over the past decade; they represent 99 percent of employers and create over 50 percent of the nation's Gross Domestic Product (GDP).

The growth of small businesses is critical in spurring economic growth, creating higher paying jobs and lowering the unemployment rate. The United States has been in the midst of a weak economic recovery for the past four years – one that has continued into late 2005 – due to the failure to address some underlying problems facing small businesses.

Today's economy is in stark contrast when compared to that of the 1990s, which was booming with jobs and confidence. Tremendous trade and budget deficits are also contributing factors when it comes to the health and vitality of the U.S. economy. In fact, record deficits of \$3.5 trillion are expected over the next 10 years. These deficits severely impact the overall vitality of the country's economy.

Concerns have recently been raised by Federal Reserve Chairman Alan Greenspan and economists that the budget and trade deficit will only drive interest rates higher, and ultimately hinder economic growth even further. It is inevitable that all of these negative effects have trickled down to every day business owners, companies and residents.

These issues that are affected by both market forces as well as public policies have continued to be a problem and until they are addressed, will create a more hostile business environment. This has had the effect of dampening business confidence, as seen in the 8 year low of the Small Business Index released by the Democratic staff in the third quarter of 2005.

Time and time again, small businesses are credited as the “drivers of the economy” and the economic engines. Yet, they continue to face a myriad of challenges – and rely heavily on Congress to pass legislation that will meet their needs.

The current situation in the Gulf Coast region reminds us of the important role small businesses play in an economic recovery. In order for their local communities to fully rebuild and recover, area businesses must receive the assistance they need to lead the charge. However, many Gulf Coast businesses have been left waiting for disaster assistance, and have been excluded from working on the rebuilding contracts taking place right in their community. What we are seeing at a local level in the Gulf Coast region is mirrored nationwide as small businesses continue to face challenges in accessing capital and the federal marketplace – and rely on Congress to pass initiatives that will help them overcome these obstacles.

Small businesses across the country need policy changes that will allow them to flourish and lead the way in job creation. With the first half of the 109th Congress coming to a close, it has become clear that the needs of this nation’s small firms have not been a top priority for the administration, or for the Republican leadership.

While Members of Congress have made several attempts at assisting small businesses, a number of these initiatives either never moved forward, or failed to provide help to entrepreneurs. In an effort to track the accomplishments of Congress for this nation’s 23 million small businesses, this report provides a broad overview of the issues most important to small firms, a compilation of legislation introduced to aid entrepreneurs and the status of where these initiatives are today.

A number of the most pressing topics for entrepreneurs – access to capital, health care, energy, tax, budget, regulations, contracting, technology and immigration – are all included in the report, along with proposed solutions as to what needs to be done in order for small firms to overcome the existing obstacles in these areas. The report also outlines several pieces of legislation that were branded as achievements for small businesses; yet in reality provided little benefit or created barriers for entrepreneurs.

This analysis serves as a progress report on the initiatives and issues that most dramatically impact this nation’s small businesses – and it should serve as a tool to aid policymakers in proposing legislation that will benefit this nation’s entrepreneurs.

ACCESS TO CAPITAL

The challenges that entrepreneurs face in securing financing are due largely to the very nature of small business. Small firms lack substantial financial resources, are more sensitive to local economic conditions, and often operate on very thin margins. As a result, smaller firms must overcome significant barriers to obtain the business financing they need. Given the nature of entrepreneurship, loans are required to be fully collateralized. If business assets are unavailable or nonexistent, lenders will often turn to personal assets – such as a home or automobile. Due to these constraints, business owners are often deterred from seeking secured financing, which is among the most affordable and manageable forms of capital.

Implementing policies that mitigate these difficulties and enable small businesses to have greater access to the financial markets should be a main priority for policymakers. Unfortunately, during the first session of the 109th Congress, no substantial action was taken to enhance entrepreneurs' access to affordable capital; in fact, several steps were taken that will only make it more challenging for business owners to secure the financing they need.

The Cost of Capital Continues to Increase for Entrepreneurs

Many small businesses are unable to access affordable capital, often turning to credit cards that charge high interest rates. To avoid these high interest rates, entrepreneurs look to the federal government's primary commercial lending program, the Small Business Administration's (SBA) 7(a) loan program, which is responsible for 30 percent of all long-term business financing. However, this important program has recently become more expensive as the Bush administration has completely shifted the cost of operating the 7(a) program to small businesses and lenders. As a result, small businesses are experiencing substantial upfront costs to secure capital. The House voted twice in favor of reducing these higher costs, but the administration and Republican leadership ignored these bipartisan calls for action, and instead chose to increase the amount of fees that small businesses pay to use the 7(a) program. Adding to these costs are sharply higher interest rates, as the Federal Reserve has raised the target federal funds from 1 percent to 4 percent since June 2004, sending the prime rate to 7 percent. Rising interest rates have further exacerbated the effect that higher 7(a) fees are having on business owners.

By transferring the cost of the 7(a) program to business owners and eliminating the federal government's financial contribution to the program, the cost that entrepreneurs must pay to secure a loan through the SBA has risen dramatically. For smaller loans less than \$150,000, fees have doubled, which translates into nearly \$1,500 more in upfront closing costs for entrepreneurs. For a loan of \$700,000, this raised the fees by approximately \$3,000. As a result of these fee increases, and the rising interest rate environment, many small businesses are unable to access the capital they need to hire new employees or expand their operations. For the largest loans, SBA fees now exceed \$50,000 – a considerable amount for any entrepreneur.

By shifting the program's full cost to businesses and their lenders, the reach of the 7(a) program has been scaled back. One such initiative that was discontinued on October 1, 2005 was the LowDoc program, which enabled smaller banks to make loans in rural communities. In addition, the SBA is scaling back the Community Express program, a key means in providing financing opportunities to minority communities. Without adequate funding for the 7(a) program, the LowDoc and Community Express initiatives are unable to operate. Their elimination hurts not only the small businesses they serve, but also the rural and minority communities that these small businesses are located in.

Concerns have also been raised – but have fallen on deaf ears – about the effect that the Gulf Coast hurricanes will have on the 7(a) portfolio and ultimately on the cost of the program. The SBA's 7(a) loan portfolio contains more than \$1.5 billion in 7(a) loans that were made to businesses in hurricane-affected areas. Due to the economic challenges created by the 2005 hurricanes, it is likely that a considerable amount of these loans will default. Such a high level of unforeseen defaults will cause the 7(a) program's overall cost to rise significantly. Without adequate federal funding to serve as a backstop, it is probable that the program's fees will be further increased, that a cap will be imposed on loan size, or, in the worst case, that the program will be shutdown all together.

In addition, no action was taken on *H.R. 1868, the Access to Capital Act of 2005*, which would have lowered the fees charged to businesses and lenders using the 7(a) loan program. The legislation reduces the fees that small firms and their lenders pay to use the 7(a) program and ensures that small businesses can take advantage of flexible financing packages.

By shifting the 7(a) program's full cost to the business community and failing to pass H.R. 1868, entrepreneurs are now paying higher fees to secure capital. Combined with recent increases in interest rates, the higher costs that businesses are now paying to access capital will constrain economic growth in local communities, particularly those that already face challenges rebuilding from recent hurricanes.

Regulatory Barriers Prevent Small Firms from Accessing the Capital Markets

Recently, several outmoded regulations have impaired entrepreneurs' ability to secure capital. These regulations – which relate to venture capital, business development companies, access to financial services, and public company compliance costs – have all created barriers that prevent small businesses' from readily and equitably accessing the capital markets and basic financial services.

Venture Capital

While many small businesses have new and innovative ideas, they often lack the resources to take them from the drawing board to the factory floor. The Small Business Innovation Research (SBIR) program fills this gap by providing seed funding to help small firms research and develop cutting-edge products and technologies. The SBIR funding provides much needed investment in these firms, permitting them to further their work with the goal of bringing these new innovations to the marketplace. Given the capital-intensive nature of applied research and development, SBIR companies often must look to external, non-governmental sources of financing as well. Biotechnology – and in particular drug design – often require significant financial resources for product development, testing, and production.

Venture capital companies help fill this void in the capital markets and provide SBIR companies with the necessary investment to enable these firms to fully carry out their research and bring their products to market. However, a recent regulatory decision by SBA has prevented many venture-backed small firms from accessing the SBIR program. This has created capital shortfalls for many companies that require substantial capital resources and can benefit from both federal and non-federal funding. As a result, the ability of small firms to pursue and develop cutting-edge, next generation research has been limited.

H.R. 2943/S. 1263, the “Save Biotechnology Innovative Research Act of 2005” was introduced to solve this problem and to permit venture-backed small companies to carry out their innovative research and development under the SBIR program. However, this effort has stalled – even though hearings have been held in the House of Representatives that support such action. Until policymakers take action on this issue, small firms will be less able to carry out critical research and development.

Business Development Companies

Small businesses are also prevented from accessing capital due to the SEC's outmoded business development company (BDC) regulations. Created in 1980, the BDC framework was created to channel investment to small companies in addition to making capital available for the revival of larger private companies. However, BDCs are facing regulatory barriers that are preventing them from carrying out their mission.

To alleviate this regulatory burden, ***H.R. 436, the Increased Capital Access for Growing Businesses Act*** was introduced. This legislation expands access to capital for growing small firms by permitting BDCs to invest in a broad range of companies. Doing so will permit BDCs to contribute to the economic development of communities, enabling these small firms to bring their products to market, expand their operations, and hire new employees. While this legislation has passed the House, this important initiative has not passed the Senate – forcing many promising small companies to draw on more expensive sources of capital.

Basic Financial Services

A regulation barrier that small businesses face in accessing the capital they need is an antiquated law that prevents business owners from receiving interest on deposits held in their checking accounts. The law, enacted as part of the Banking Act of 1933, was meant to keep banks solvent during the Great Depression. Almost 70 years later, the law is still in effect, despite evidence that it is no longer valid – or necessary. In fact, a 1996 joint report issued by the Federal Reserve Board, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision stated that the law barring payment on business checking accounts “no longer serves a public purpose.”

H.R. 1224, The Business Checking Freedom Act of 2005, which has already passed the House, addresses this problem by repealing this outdated law. But the legislation has stalled as Senate Republican leadership and the White House have refused to advance the proposal. H.R. 1224 contains some long overdue changes. The legislation would permit small businesses to earn interest on their checking account balances. Individuals have been able to receive interest on checking accounts for some time, and small businesses, many of which are individually owned and operated, should have the same ability to receive an equitable return on their checking deposits. In addition, small businesses are more likely to use basic checking account services than larger companies, which can often leverage their broader business relationship for more preferential deposit services. Until this issue is rectified, small firms will continue to face barriers to key financial services products.

Small Public Company Compliance Costs

As a result of corporate governance failures at a handful of the nation's largest companies, the Sarbanes-Oxley Act was created to strengthen corporate financial management by making executives and boards of directors personally responsible for their firms' accounting practices. While the law is well intended, it does not distinguish among the 14,000 companies that publicly trade their stock, the vast majority of which are small and mid-sized companies that had no past record of fraudulent behavior. And for these firms, complying with the law has become extremely expensive and prohibitive.

The auditing standards, disclosure rules, and corporate governance rules mandated under the Sarbanes-Oxley Act of 2002 have added to the operating costs of small public companies. Small companies are facing increased costs, stemming from higher legal and audit fees, but also the new costs associated with complying with internal controls standards as mandated under Section 404 of the Sarbanes-Oxley Act. In addition, many small businesses have noted that the new regulatory structure has limited their ability to access capital through public offerings and cite as evidence the decrease in IPO activity since the enactment of these regulations. Policymakers must be sensitive to the affect this regulation has had on small companies and work to ensure that efforts are taken to minimize its impact going forward.

Availability of Venture Capital for Startups is in Jeopardy

The Small Business Investment Company (SBIC) participating securities program was created to help small U.S. businesses meet their requirements for long-term growth capital not available through banks or other private capital sources. Small companies often require financing in the critical \$250,000 to \$5 million range in the form of either loans of the type not made by banks or equity investments not available from traditional venture capital firms. SBICs fill this gap by providing small businesses with access to a broad array of financing alternatives. The Bush administration terminated this key program on October 1, 2004 and has not made any attempt to resurrect the program. In addition, the House Small Business Committee has failed to convene a markup on H.R. 3429, legislation that would have revived this important program. As a result, small businesses seeking venture capital will face greater challenges, as seed capital will be less available.

By eliminating this program, small businesses will face greater challenges securing financing. The participating securities program was a key source of seed capital, enabling entrepreneurs to access capital in amounts not provided by other sources. In addition, the participating securities program provided a substantial amount of its investment to businesses located in areas lacking access to traditional venture capital, such as the Midwest and South, as well in industries such as manufacturing and consumer services. Without this program, the availability of funding to early stage firms will be diminished, which will reduce economic growth and vitality in many regions of the United States.

In addition to the termination of the SBIC program, the New Markets Venture Capital (NMVC) program, which was developed to channel investment to low-income communities, has not been strengthened or broadened under the current administration. Rather, the program has stagnated as only six NMVC investment firms have been chartered since the program was created in 2001. The Bush administration has not taken action to expand the reach of the program throughout the country or make program enhancements. However, **H.R. 4303, the Securing Equity for the Economic Development of Low Income Areas Act of 2005** was introduced to broaden the reach of the program, enabling more low-income communities to benefit from greater equity investment. Increasing access to such forms of capital, through both the SBIC and NMVC programs, will be crucial for small businesses to help contribute to the economic development of their communities.

Conclusion

Although interest rates have remained relatively low in the past few years and financial services offerings have greatly expanded, small businesses are not fully realizing these benefits. Due to inaction on a variety of policy fronts, business owners face higher costs to secure SBA loans, must endure antiquated regulation to access the capital markets, and must now confront the elimination of important seed capital initiatives. Until action is taken to address these issues, small businesses will not be able to access the capital they need to expand and grow in the current economic environment.

BUDGET

The annual budget sets the spending priorities for the federal government, signifying where resources will be invested. The country has historically targeted public funds to programs that support economic development and an enhanced standard of living, such as those that assist entrepreneurs in creating and sustaining their businesses. With limited funds to initiate, expand, and invest in their enterprises, small business owners rely upon a plethora of programs that provide assistance for entrepreneurial training, community development, technological research and innovation transfers to ensure they remain competitive in the domestic and global markets.

With surging federal budget and trade deficits, rising interest rates, and skyrocketing consumer and producer prices for energy and health care, many in the country have looked to small businesses for employment opportunities and as a foundation to support local and economic growth. Small businesses are integral to industry and community-wide productivity by creating jobs, tax incentives and competitive commercial activity. However, the FY 2006 budget slashes and terminates funding for a large number of programs that support small businesses, thereby limiting opportunities for this nation's entrepreneurs to meet their full potential and produce the economic growth this country so desperately needs.

The budget cuts disproportionately impact small businesses. With over 50 federal small business assistance programs cut or terminated – and average funding for over 100 of these programs cut by 80 percent – the budget essentially rescinds the federal government's commitment to small businesses. Yet the budget savings are minimal in comparison to the significant losses faced by these programs. In fact, the \$6.1 billion in cuts from these programs account for less than 2 percent of the country's budget deficit for the year. As these programs generally return a net profit on the investment, by reducing small businesses' access to capital as well as to entrepreneurial development and regulatory assistance, Congress is limiting the economic growth potential for the country.

Cutbacks to Entrepreneurial Development Assistance Funding

For many Americans, the ultimate dream is to own a business. This country's entrepreneurs are a main source of innovation, employment, and profit making. In fact, during the recession of the early 1990's, one quarter of managers who lost their jobs found employment by starting their own firms. To initiate and expand small businesses, individuals require financial resources, technical assistance, and regulatory guidance that have historically been provided through various Federal entrepreneurial development programs. Study after study has shown that those individuals who receive entrepreneurial training are twice as likely to succeed as those without this assistance. However, funding for programs such as SCORE, which provides small business advice and training, and Women's Business Centers (WBCs), which provide educational training for women entrepreneurs, has been flat for five years.

Given inflation increases, these programs have essentially lost 10 percent of their funding over the last half of the decade. Minority business development programs, which are designed to assist individuals overcome obstacles to entrepreneurial activities, such as Prime Technical Assistance, have also been cut in the budget. The result of reduced entrepreneurial assistance funding will be fewer businesses initiated in the country as well as less opportunities for Americans to earn wealth through independent and innovative ways.

Disinvestment in Low Income and Rural Areas

Many areas in the country have had difficulty keeping pace with economic growth, however, they retain a wealth of opportunities for redevelopment that can be realized by targeting investment resources directly to their communities. Through the establishment of market incentives and public/private partnerships that support the emergence and maintenance of a network of entrepreneurs, small businesses have helped spur private investment, employment opportunities, and public services in areas that have been overlooked - especially central and older suburban cities and rural communities far from major metropolitan areas.

Yet some of the programs that have seen the most severe cuts are those that promote economic development. This year's budget terminates development initiatives that help to foster small business and establish viable economic systems in struggling communities. The Empowerment Zone/Enterprise Communities program, designed to spur investment in urban areas, received no funding and the rural enterprise zones received reduced funding from the preceding year's budget. Several other economic development programs received funding cuts this year including the Economic Development Agency and assistance to community development organizations. By hindering the emergence of small businesses in these communities, the budget cuts diminish the multiplier effect in which additional spending creates new jobs and commercial opportunities.

Limited Small Business Access to Technology and Research and Development

A key component to US competitiveness is access to affordable and current technologies. Technology also helps small businesses overcome resource capacity disparities with larger enterprises. Unfortunately, current budget plans do not support the use, development, or sharing of technologies for a broad array of businesses. The Advanced Technology Program (ATP) which provides research and development of technologies that benefit many sectors and of which small businesses account for 65 percent of research awards, was reduced by 41 percent in the budget. The Manufacturing Extension Partnership (MEP), which promotes technology sharing between large and smaller businesses through centers distributed across the country, had its funding cut by \$1.5 million in this year's budget. By restraining efforts to transfer technologies, progress and productivity will be stifled amongst all US businesses.

Assistance for rural communities to access the internet, the country's main source for commercial and informational services, was also cut in this year's budget plan. Due to their lack of resources to market and sell products through conventional retail spaces, owners of small businesses will lose the ability to utilize technological services to increase their profitability and lower production costs. As a result of declining funds for the creation and proliferation of innovative technologies, small businesses will lose opportunities to become more efficient. By restraining innovation, the country's businesses will also become less competitive in the increasingly global marketplace.

Small Farmer Program Cuts

As a foundation for rural livelihoods and national food security, the agricultural industry is integral to the country's viability. Small family farmers comprise almost 70 percent of the industry yet are rapidly disappearing due to changing global economic conditions. Small farmers have limited resources and must still respond to domestic regulations and competitive global prices. Assisting small farmers is necessary to guarantee the production of high-quality and affordable food products as well as viable communities across the country.

Although they require support to provide food and resources for their communities, the budget drastically reduces assistance to farmers. Many agricultural programs designed to support small farmers have been cut in the budget, such as the Farm Service Agency Farm Loans and the Farm and Ranch Lands Protection program – many of which provide financial assistance, such as loans, insurance payments, and grants; research into innovative agricultural practices; foreign marketing; and conservation subsidies. The budget priorities threaten the economic viability of the country's heartland and the small farmers and rural communities reliant upon the agricultural industry.

The FY 2006 budget cuts present significant threats to small businesses throughout the country. Without adequate community development assistance, small business will lack resources to grow, especially through networking transactions with other businesses in the area. Entrepreneurial development assistance cuts will impede the exploitation of alternative employment and profit-making opportunities and reduce innovation and business competition. Diminished funding for programs that provide small businesses with access to cutting-edge technologies maintains production cost disparities and widens the income gap between small and larger businesses. Agricultural funding cuts threaten the survival of small, independent farmers and their communities.

Conclusion

By contracting programs designed to harvest and sustain entrepreneurs, a major portion of the country's business community is left without necessary resources to both improve internal and external economic conditions. Yet, the comprehensive framework of Federal small business assistance programs has the potential to create immediate opportunities and incentives to encourage entrepreneurs as well as long-term benefits, such as advancing the growth of certain industries and communities. Therefore, targeting resources to small businesses through the budget process is a sensible investment approach that pays a three-fold dividend, including increased economic growth, new jobs, and successful entrepreneurship.

DISASTER RELIEF

On August 29, 2005 the most destructive natural disaster in our nation's history – Hurricane Katrina – brought incomprehensible damage to the entire span of the Central Gulf Coast region. Along miles of Gulf coastline, surging waters had knocked down buildings, splintered homes, and demolished businesses, and heavy winds had wiped out all power sources, telephone lines, and water supplies. Other towns and landscapes were simply wiped off of the map.

The immediate economic impact of Hurricane Katrina is clearly demonstrated in the unprecedented damage that spans much of the Gulf Coast region – from areas of Florida and west to Louisiana. Total damages to the Gulf region are estimated to be as high as \$200 billion – topping Hurricane Andrew's \$35 billion tag as the most expensive natural disaster in U.S. history. Some reports have even speculated that the final costs could approach the more than \$300 billion that has already been spent over the four years of fighting in Iraq and Afghanistan. Members of the Louisiana congressional delegation predict damages will cost over \$100 billion in New Orleans alone, and insurance company estimates have predicted that Katrina will cost the industry anywhere from \$17 billion to \$25 billion. In the early weeks of September, the Congressional Budget Office estimated the hurricane's impact could cut the nation's gross domestic product by 1 percent, or about \$60 billion, in the second half of next year.

In the three months that has passed since Hurricane Katrina, thousands of small businesses throughout the Gulf region continue to struggle toward recovery and have been left in dire need of assistance. Small business is the lifeblood of the Gulf Coast economy – nearly 900,000 of the region's businesses are small. However, thousands have been displaced and suffered severe damage or have lost their businesses entirely. In the 11 critical Louisiana parishes most affected by the August 29 hurricane, there are nearly 71,000 small businesses – an estimated 85 percent of which have fewer than 19 employees – that must find a way to survive. Coupled with the fact that recent estimates show that employment in these three states may be reduced by over one million jobs, and the economic losses have exceeded \$100 billion, it is clear that there are some extraordinary barriers confronting this region.

Business Owners Fail to Receive Financial Assistance They Need

The Gulf region thrives on tourism, oil and gas production, port activity, hunting and fishing industries – all of which have been economically injured by Hurricane Katrina. The ability to rebound after the storm is one of the biggest obstacles these businesses face. Unfortunately, the vast majority of these small businesses and homeowners affected by the recent hurricanes are not receiving the financial assistance they need. This is largely due to the inability of SBA to process and approve these loans in a timely manner. As of December 1, 2005, the SBA has received nearly 300,000 applications for financial assistance in the wake of Hurricanes Katrina, Rita, and Wilma, of which more than 200,000 were not yet processed. Overall, the agency has approved less than 14,000 applications for financial assistance – less than 2,000 of which are for businesses. In addition, small business owners in the Gulf Region have been told by SBA it would take up to 100 days for them to receive a decision on their disaster loan application.

There are several reasons for the delays and backlogs, including poor management and insufficient planning on the administration's part. SBA, at the height of hurricane season, decided to reorganize the Disaster Assistance program. However, there have been technological and computer difficulties related to the processing of applications and its implementation, raising question as to whether or not these centers are able to handle the current demand. In addition, SBA has been undergoing a workforce transformation, which has resulted in a loss of a portion of their workforce and reduced morale of remaining employees, who nevertheless carry out their responsibilities under these challenging conditions. As a result, small businesses are facing substantial delays and are unable to secure the loans they need.

To date, the Bush administration has not taken adequate action to rectify the problems small businesses owners are facing in the Gulf Region. While massive delays and high denial rates continue to plague the SBA's Disaster Assistance program, the Bush administration has not addressed these problems, but instead has created a new, misguided loan program that is unable to meet the needs of affected small businesses. The new program – called the GO Loan program – charges high fees and exorbitant interest rates for short-term loans. The combination of high borrower costs and the GO loans short term will create massive financial burdens for entrepreneurs trying to recover from recent hurricanes.

The administration has repeatedly ignored legislative efforts such as *H.R. 4234, The Small Business Gulf Coast Revitalization Act of 2006*, which would spur the much-needed redevelopment in the Gulf region. The legislation would create a grant program to provide financial assistance to economically viable businesses in the region. Such an initiative is essential to generating economic activity, maintaining existing jobs, and creating the foundation for long-term recovery. In addition, the legislation takes steps to remedy SBA's inadequate response to Hurricane Katrina, by providing qualified financial and lending institutions with the authority to make disaster loans to Gulf hurricane-affected small businesses. Without these steps, business owners affected by Hurricane Katrina will be unable to fully contribute to the revival of the Gulf region's economy.

Small Businesses Are Not Included in Gulf Coast Rebuilding Efforts

The recent devastation caused by Hurricane Katrina in the Gulf Coast region of the country is emblematic of the difficulty small businesses have in obtaining federal contracts. Small firms in the Gulf Region are not only faced with the broader problems plaguing the current federal procurement system, but the nature of the rebuilding and the troubled financial situation of many local firms has led to even greater barriers in accessing federal contracts.

According to the most recent data, both large and small businesses in the Gulf Region have received less than 17 percent of total contract dollars awarded by FEMA. In other words, 83 percent of the total dollar value in contracts awarded for Hurricane relief and recovery – nearly \$3.4 billion – has been awarded to companies that were not directly impacted by the disaster.

Shortly after the disaster, FEMA awarded four multi-million dollar contracts without requiring competition with other companies. These contracts have raised serious concerns about the government's commitment to draw on locally-owned businesses to participate in the rebuilding effort, as well as whether taxpayers are getting the best value for their money. Despite a public announcement at a Senate hearing that work on these contracts would be ceased and the contracts would be reopened for competition, more than three months later, FEMA has yet to even propose a timetable for this action.

Critical Contracting Protections for Small Businesses Waived

With little oversight and accountability, the federal government has overlooked thousands of local small businesses that are capable, willing and eager to perform on these rebuilding contracts. After Hurricane Katrina struck, rather than ensuring that small local firms are part of the solution for disaster relief and recovery, the administration proposed a policy change that would limit small firms' ability to compete for contracts related to Hurricane Katrina, which was incorporated in P.L. 109-62, the Second Emergency Supplemental Appropriations Act to Meet Immediate Needs Arising from the Consequences of Hurricane Katrina, 2005.

The immediate aftermath of the hurricane saw more than \$12 million in purchases for which small companies were not considered. Most of these purchases were from large retail “big box” stores, costing small companies millions of dollars in lost opportunity. While the administration has taken steps to reverse the impact of this new policy, contracts continue to be awarded without regard for small business protections. To add insult to injury, the repeal of this policy occurred after the recovery and relief efforts were well underway, thus depriving small companies of hundreds of millions of dollars in lost opportunities. To this date, the administration has submitted no plan outlining how they will make up these losses for small companies.

Failure to Make Small Businesses a Priority for Recovery and Relief Efforts

Estimates of rebuilding efforts in the Gulf Region exceed \$150 billion, and small businesses must be a part of this effort. Legislative initiatives have been introduced to ensure that this happens. ***H.R. 3988 the Gulf Coast Small Business Recovery Act*** was designed to increase contracting opportunities for small businesses in the hurricane-affected area. The bill establishes prime and subcontracting goals for recovery and reconstruction contracts of 30 percent and 40 percent, respectively, for companies with a presence in the Gulf region. The legislation also attempts to ensure that subcontracting goals are enforced. Given the lack of sufficient local participation in these contracts, this bill would have provided double the amount of contracts Gulf region companies are currently getting with FEMA.

An important element that continues to be missing, thus preventing full participation by small companies in immediate disaster relief and recovery operations, is knowing what small firms are able to offer for these efforts, and where these businesses are located. ***H.R. 4427*** is an attempt to solve this problem by requiring FEMA to develop a database of small firms that are capable of responding quickly to emergency contracting needs. Shortly after Hurricane Katrina, FEMA entered into four large contracts without competition, with the stated rationale of getting companies on the ground quickly to engage in debris removal and other relief and recovery efforts. The establishment of a small business registry would have ensured that small companies would be looked at equally for this type of work. Because this proposal has not seen debate, let alone been adopted, there is still no comprehensive emergency registry. In the near term, this legislation would immediately allow local businesses in the affected area to be matched with government contracts and subcontracts. And in the future, this effort would ensure that small businesses are not shut out from the work opportunities that arise and only considered as an afterthought, but that they are easily identified and given a chance to participate from the beginning.

Conclusion

Far too many small businesses in the Gulf Coast region have been unable to participate in the ongoing recovery efforts. To address this problem, there needs to be broader changes to the way the government procurement system works, as well as unique solutions to address the situation in the Gulf region.

ENERGY

Our country is facing an energy crisis with high demand and restricted supply creating sharp and persistent increases in fuel costs. In recent polls, small and medium sized business owners have declared skyrocketing energy costs as their leading concern. Policy responses in the 109th Congress have failed to promote the creation of affordable and sustainable energy resources. Consequently, small businesses will continue to face higher production costs, delays in possessing and transporting their goods and services, and lower profits.

Ineffective Energy Price Controls

With limited profit margins, small businesses are in need of assistance to offset rising energy costs. However, proposals to check energy costs have restricted the definition of gas gouging practices; reduced assistance to farmers and small businesses to compensate for rising energy costs; and, moreover, have not reined in the price of energy. Legislation introduced that would provide effective means to lower the price of fuel includes ***H.R. 3646, the Gas Price Relief and Oil Conservation Act of 2005***, which would prevent and require monitoring of gas gouging from oil companies. The initiative would protect small businesses from unfair price-setting practices and would help to ensure more competitive prices and a stable supply of energy resources. Another legislative proposal in the 109th Congress to stabilize energy prices, ***H.R. 1638, the Commodities Exchange Improvements Act of 2005***, would have established regulations regarding natural gas trading to ensure a more stable and affordable supply of this resource. This legislation would have significantly aided farmers and other small businesses reliant upon natural gas. However, even with the spikes in energy costs, the Republican leadership has spent the year blocking legislation that would provide relief to small businesses and consumers attempting to fulfill their energy needs.

Another method to decrease energy costs for small businesses is through a diversification of energy resources. With additional options for energy and energy-intensive products, small businesses would have access to more competitively priced energy related resources. Legislation proposed to diversify our resources includes ***H.R. 388, the Biofuels Energy Independence Act of 2005***, which would have provided loans and funds to produce biofuel-based energy. The initiative would have supported the viability and competitiveness of an alternative energy resource market therefore creating an additional source of fuel for small businesses. However, this year's energy legislation has promoted the expansion of conventional energy sources rather than establishing market incentives to reduce costs for all fuel types.

Impeding the Production of Renewable Resources

Small businesses would benefit from improved technology and energy infrastructure which more efficiently produces and transfers energy and raw materials. By establishing a stable supply of energy resources, small businesses would be able to fulfill business contracts in a timely and profitable manner. Unfortunately Congress has missed an opportunity this year to promote the production of renewable energy resources and has instead focused on increasing the country's amount and access to conventional, nonrenewable resources. Several proposals to increase the production of alternative energy supplies have been overlooked by leadership in Congress including legislation to research and develop alternative fuels. ***H.R. 4435 "To provide for the establishment of the Advanced Research Projects Agency-Energy"*** would have established grants, loans, financing assistance, and tax incentives to purchase renewable energy resources such as geothermal, hydrogen, solar, and wind power. The promotion of additional alternative energy resources would assist small businesses in utilizing energy that is appropriate to their industry and available in their communities.

Failure to Approve Energy Efficiency Measures Harms Small Businesses

Incentives for the investment and purchase of energy-efficient equipment and resources would reduce demand and thereby alleviate many of the impacts from high energy costs. With limited expenditures available, small businesses would profit from reduced demand and opportunities to purchase equipment that saves money over the long term.

Energy efficiency is lacking in the transportation system which creates financial stress for small businesses. The transportation system utilizes significant energy resources, and 97 percent of vehicles rely upon petroleum fuel, a non-renewable and expensive source of energy. Transportation policy continues to drain energy supplies, and highway funding capturing most of transportation spending. To more efficiently move people and products, Congress should heed the public and states' requests for increased investments in public transit, to create affordable, accessible, and environmentally-sustainable transportation opportunities. Unfortunately, the transportation appropriations bill allocated the majority of funds to the creation and maintenance of highways and roadways rather than to public transit and alternative transportation systems, such as bikes and walkways. Small business owners with less expendable funds would have benefited from increased access to more affordable modes of transportation.

Congress has also overlooked proposals to establish tax incentives that promote the purchase of energy saving equipment and appliances by small businesses and tax credits for the use of cleaner burning fuels to businesses located in nonattainment clean air areas. **H.R. 424, the Energy Efficiency Investment Act of 2005**, would have created a tax credit for the installation of energy-efficient products in business and retail properties. By installing energy efficient equipment, small businesses would reduce their long-term expenditures on fuel and be able to lower their prices to be competitive with larger businesses.

Energy is fundamental to our industrial society and Congress has thus far failed to produce a comprehensive and equitable strategy to ensure access to affordable and sustainable resources to power our homes and businesses. In the face of a limited energy supply and unprecedented prices, small businesses will either pass on costs to consumers or contract their enterprises. As both activities will have inflationary impact on households and other businesses, as well as on local and national economies, Congress can no longer delay in establishing policies that adequately fulfill our energy needs.

FEDERAL CONTRACTING

The federal government is the biggest consumer in the world, and with the scope of the government's purchasing, entrepreneurs should have nearly unlimited ability to grow their businesses when doing work in the federal marketplace. Each year, new records are set for federal purchasing dollars expended – just in 2004 a record was set with purchases approaching \$300 billion. The growth of the federal marketplace has boomed over the past five years, increasing by 50 percent. These boosts have been fueled, in large part, by the conflict in Iraq.

Given the extent of the government's buying, it would be expected that small companies are full participants. Unfortunately, this is not the case. Small businesses continue to lose traction in the federal marketplace. The small business goals have not been achieved for the last five years, costing these companies billions of dollars in lost opportunity.

Contract Bundling Continues to Reduce Opportunities for Small Companies

One of the biggest problems facing small businesses that attempt to do business with the government continues to be contract bundling. Federal agencies combining contracts that small firms could perform into mega contracts, which are too big for small businesses to bid on, has reduced the number of contracts available to entrepreneurs. From 2003 to 2004, the number of contracting actions with small firms declined by 31 percent.

To address the impact of contract bundling on small companies, the President issued a Small Business Agenda in March of 2002. Despite this announcement, small business contracting actions only continue to decline. Clearly more effort must be placed on increasing the access of small companies to the federal marketplace.

Not only were no legislative initiatives addressed to minimize the impact of contract consolidations on these firms, the SBA's Inspector General (IG) released a report in May of 2005, highlighting that the SBA failed to review 87 percent of bundled contracts, which – had small businesses been included – would have increased contracting opportunities by nearly \$400 million. The IG also pointed out that the SBA has failed to meet its obligations under the President's Small Business Agenda that was released more than three years ago. This lack of action has contributed to declining small business contracting opportunities in a time of greatly increased government buying.

Expanding the Ability of Small Companies to Participate in Federal Contracts

A number of initiatives have been introduced to address the barriers small firms face in attempting to secure government contracts, but these attempts have been stagnated. A proposal was offered to ensure that small business goals are applied to new funding for the military actions in Iraq and Afghanistan. Currently, contracts performed overseas are not included when agencies establish their small business targets. This legislation would have required agencies to attempt to reach out to small U.S. companies for work opportunities created as a result of reconstruction efforts in Iraq and Afghanistan. The failure of Congress to take this important step will continue the "business as usual" attitude among federal agencies, encouraging them to use the same sources rather than broadening efforts to expand the inclusion of small firms.

An attempt was also made to expand contracting opportunities here at home. The travel booking industry is not only dominated by small companies, but also by women entrepreneurs. Rather than harnessing the capabilities of these businesses to arrange travel for federal employees as has been done in the past, the administration decided to consolidate travel for its employees among three large information technology companies that have partnered with national travel corporations, thereby pushing small travel companies out of the federal market. While the effort to ensure the use of small local travel agents to arrange federal employee travel was initially successfully, this provision was dropped when the bill was finalized. Already, these companies have lost revenue and laid-off employees in areas throughout the country that simply cannot afford additional job losses.

Unfair Competition from the Federal Government

One reason that small firms have difficulty getting federal contracts is that when there are projects available, federal government-sponsored groups are first in line to bid. A good example of this is the fact that Federal Prison Industries (FPI) – which is financed by the Department of the Treasury, staffed by federal employee marketing specialists, and where work is performed by inmates making less than a dollar an hour – is given priority to provide products to the government over small companies. ***H.R. 2695, the Federal Prison Industries Competition in Contracting Act*** would require FPI to compete for contracts in the same way that small businesses have to. This bill has not been acted on in the 109th Congress. Because this bill has not been enacted, small companies are not only competing with large corporations, but also with government-backed companies for contracts.

Increasing the Pool of Contracting Opportunities for Small Businesses

One way to increase small business participation in the federal marketplace is to expand the number of contracts available to small companies. By requiring agencies to achieve a higher small business goal than the existing 23 percent target, agencies would be compelled to seek out new contracts for small businesses. However, small firms continue to have difficulty accessing government contracts, and because of this business owners have turned to initiatives designed to give them an edge in bidding. Many of these efforts have, over the years, been watered down or not implemented at all. One such initiative is ***H.R. 2741 Subcontractor Protection Act***, which increases the government-wide small business goal from 23 to 25 percent. This bill languished in the first session of the 109th Congress. Attainment of a 25 percent small business goal would have expanded contracting opportunities for entrepreneurs by \$6 billion in 2004 alone.

Modernizing Programs to Assist Under-Served Businesses

The fastest growing segments of the small business sector are minority and women owned companies. Over the years, a number of initiatives have been created to use the purchasing power of the federal government to grow and develop these firms. Unfortunately, these businesses continue to be shut out of the federal marketplace, and, while federal contract dollars are increasing, opportunities for these businesses are declining. From 2003 to 2004, contracts to women owned businesses declined by 33 percent. The SBA's 8(a) program – the primary tool for minority business owners to access the federal marketplace – declined by a record \$2.4 billion.

The 8(a) program has been a significant catalyst for minority business growth since its inception more than 35 years ago. Despite its many successes, the program has been allowed to decline in large part due to legislative and administrative neglect. ***H.R. 4474 The Minority Owned Venture Empowerment (MOVE) Act*** makes the most significant changes to enhance the 8(a) program in nearly 20 years. The bill modernizes the 8(a) program making it a more effective minority business development initiative. The fact that this bill did not receive legislative attention sets the course for further decline in the 8(a) program.

Women own nearly half of all businesses, and are majority owners of one-third of companies. Five years ago, a procurement initiative was enacted that would allow women business owners to compete against each other for contracts in industries that have historically been closed to them. For the past ten years, there has been a five percent government-wide goal for contracting with women-owned businesses that has never been achieved. This initiative would go a long way towards making that a reality. But, this program has never been implemented by the administration. Out of frustration, in the fall of last year, a women's business advocacy group filed a lawsuit in an attempt to compel the SBA to implement this long-awaited initiative that, by virtue of the fact that it has not been activated, deprives women entrepreneurs of billions of dollars in contracts each year.

Another growing segment of the small business community is veteran-owned businesses. Particular concern must be given to employment prospects for service men and women as they return home from armed conflicts around the globe. Business ownership is a venue to self-sufficiency that is well suited to our nation's veterans. ***H.R. 3082 the Veteran Owned Small Business Promotion Act***, creates a 9 percent veteran business goal for contracting opportunities within the Department of Veterans Affairs. This measure also received no consideration in 2005, leaving a void in assistance to veterans within the agency that was created to represent them.

Increase Subcontracting Protections for Small Businesses

As federal contracts have become larger and larger through the propensity of federal agencies to consolidate smaller contracts into one large contract, subcontracting is the only option for many small companies interested in doing business with their government. Unfortunately, smaller companies are pushed by prime contractors further and further down the subcontracting chain, limiting their protections.

Legislative proposals have been introduced to provide needed protections to small business subcontractors. One of the most frequently heard concerns, is that subcontractors are rarely paid on time. ***H.R. 2740 the Prompt Payment Improvement Act*** attempts to ensure that the government's policy of paying subcontractors in a timely manner is communicated to prime contractors. The bill also requires each subcontract to include contact information for an employee of the prime contractor, who can resolve payment problems. This bill has not received consideration, depriving small companies of the tools they need to pursue payment problems that can have the effect of bankrupting small firms.

There is little, if any, monitoring and enforcement of subcontracting goals by federal agencies. In fact, while prime contracts have increased by more than 33 percent over the past seven years, the small business share of subcontracts has decreased by 10 percent over the same time period. ***H.R. 2741 the Subcontractor Protection Act*** assesses fines if prime contractors do not achieve small business subcontracting goals, and establishes a hotline where subcontractors can appeal to the SBA if they are replaced. The bill also requires prime contractors to provide a written justification if subcontractors are substituted. However, Congress failed to act upon this bill, meaning that small subcontractors will continue to be taken advantage of and subcontracting goals will continue to be a hollow promise.

The practice of "bid shopping" is another issue impacting small business subcontractors today. Once a contract has been awarded, prime contractors are known to return to their subcontractors and demand that they lower their price with the threat of replacement if they don't comply. ***H.R. 2834 the Construction Quality Assurance Act*** is an attempt to stop this practice by providing penalties to prime contractors for bid shopping. This bill has not received consideration, leaving small subcontractors at risk of losing work opportunities.

Conclusion

Whether it is participating as a subcontractor on a large government contract, or attempting to gain access to the federal marketplace directly as a prime, small companies continue to be shut out of their fair share of federally funded projects. Rather than being inclusive of small companies, which are recognized in their ability to provide better quality at lower costs to taxpayers, the federal government continues to be closed to small companies. Unfortunately, the first session of the 109th Congress ended without enacting proposals to enhance the role of small firms, which will result in a further downturn in opportunities available in the federal marketplace and, in the longer term, significant revenue losses to the small business sector.

HEALTH CARE INSURANCE

In the United States, the cost of health insurance has continued to rise at dramatic rates over the past five years. According to the Kaiser Family Foundation, health insurance premiums rose at a rate of 9.2 percent in 2005. This represents the fifth consecutive year in which premiums have risen by nearly double digits and equates to about a seventy percent increase during that time. For this reason, health insurance costs continue to be the number one concern for small businesses in this country.

A significant factor in rising health insurance costs has been the lack of competition in the small group market. Nearly all small businesses purchase health insurance from large insurers that operate in their state. A primary concern has been the lack of competition among insurers in these markets that would drive down insurance costs. In many states, one insurer will often be responsible for selling over half of the policies to small businesses located in each state.

Some of the pending legislation that is designed to target this issue includes the creation of association health plans. *H.R 525/S.406 The Small Business Health Fairness Act of 2005* has been introduced in the House and Senate and would create association health plans or AHPs. These plans would allow small businesses to band together to purchase health insurance in the same manner as large corporations and unions. It would give small businesses another option to purchase health insurance from a bona-fide association who could arguably negotiate better rates on behalf of participants. This legislation has passed the House on numerous occasions, including in the 109th Congress, but has never moved beyond a hearing in the Senate.

The Health Education, Labor and Pensions (HELP) Committee Chairman Enzi has introduced *S. 1955 the Health Insurance Marketplace Modernization and Affordability Act of 2005* that is aimed at reducing health care costs for small firms, but it has yet to be marked up by the committee. According to the Chairmen, this legislation would increase competition in the small group market while maintaining oversight by state regulators. While there have been some hearings in the Senate Small Business and Entrepreneurship and HELP Committees on the issue of rising health care costs, no legislation has been marked up or is pending for the body.

Tax Incentives for Small Employers Offering Health Care

The Kaiser Family Foundation report not only found that many small employers are experiencing rising costs, but that many small firms are choosing to drop coverage or pass on costs to their employees. From an economic standpoint, it is of concern that small firms would begin to drop coverage as they will be unable to compete against large corporations that typically offer coverage. The Kaiser report found that only 63 percent of small firms offer health coverage as compared to 68 percent in 2001, while nearly all corporations offer employees health coverage.

It is for this reason that lawmakers have looked at targeted solutions to address this issue. One solution to help alleviate the rising costs for small firms is to provide tax incentives so that the most vulnerable have health insurance costs. The tax credit would not disrupt - and would build on - the current employer-based health insurance system. The health care reforms would assist firms currently offering traditional coverage (so that they can continue to afford such coverage) as well as encourage other (or new) firms to offer coverage for the first time. It also would not produce the adverse selection risks resulting from Health Savings Accounts (HSA) that could significantly increase premium costs for traditional group health insurance coverage.

Rep. John Barrow (D-GA) has introduced *H.R. 2073 the Small Business Health Insurance Promotion Act* that targets uninsured working Americans by offering self-employed individuals, or any small business owner with 50 employees or less, a tax credit equal to 50 percent of the employer's cost of health insurance coverage. By offering a tax credit, employers will have an incentive to offer health care to their employees and it may also reduce the rising costs being borne by employees. In addition to the tax credit, the bill creates permanent state and national multi-insurer pools to provide comprehensive and affordable health insurance choices to small employers and the self-employed participating in the plan. This legislation has yet to receive a hearing in any of the committees with jurisdiction.

Health Savings Accounts Failing to Address Small Business Health Care Concerns

In 2003, Congress enacted health savings accounts as part of the *Medicare Modernization Act* as a solution to the rising health care premiums for small employers. A Health Savings Account (HSAs) is a combination of a high deductible health insurance policy with a savings account that can be used to pay for premiums and medical expenses. The economic theory was that this would offer a consumer-based approach to health care where individuals would spend their health dollars more wisely and efficiently and prevent over-expenditures on health care.

In reality, these HSAs have not been a popular option for small business owners. Employees see these plans as a reduction in benefits and employers are worried it will cause more administrative hurdles. A report by the Center for Studying Health System Change found that employers worried about how they could possibly provide enough health-care education to employees to help them make educated choices under an HSA.

Conclusion

Although, Congress has been discussing ways to bring down health care costs since the inception of the double digit increases in 2000, there have been no major reforms to address the issue. Without reform, the prospect for continuing increases is likely. Reports have shown that while medical technology will continue to improve, the costs will also rise. The way the current small group market works, it is a near certainty that these costs will be passed in the form of health insurance costs. Additionally, the prospect of Medicaid cuts will lead to more health care costs that will be passed onto those with insurance.

IMMIGRATION

One of the most important resources for a small business is its employees. Small businesses provide nearly 70 percent of American workers with their first job. However, many small business owners face difficulty in retaining the skilled, capable, and dependable workforce needed to keep their business operations up and running. Coupled with the fact that many entrepreneurs are struggling due to the high costs of offering employee benefits – such as health insurance and retirement accounts, among others – only half of business owners are able to do so. Many business owners have lost some of their best employees to larger, more established firms.

Immigrant workers – a powerful and growing demographic of the American workforce – have become an increasingly important sector of the small business community. This population plays a critical role in helping small businesses across a broad range of industries build their employee base. According to the Bureau of Labor Statistics projections, the U.S. will create 21.3 million new jobs by 2012, spreading beyond traditional employment areas and creating a plethora of new opportunities for America's immigrant workforce in all occupations and regions of the country. In turn, their participation in the small business workforce has helped to stimulate entrepreneurship among immigrants.

Business owners face constant challenges in meeting their labor needs, a situation made all the more difficult by this nation's outdated immigration policies. Despite their rhetoric, the Bush administration continues to leave our nation's small business immigrant workforce behind, with an immigration system that is broken and in desperate need of reform – in turn, jeopardizing the maximum potential of small businesses across the country.

America's Broken Immigration System Hurts Small Business Workforce

There are approximately 8 to 11 million undocumented immigrants living and working in the U.S. who fill essential gaps in the small business labor market. The business and immigrant communities continue to be trapped in a system that lacks fair and comprehensive outlets to a legal workforce that has the potential to contribute significantly to economic productivity. Small businesses are in need of comprehensive immigrant reform – however, without steps to modernize the current system the competitiveness of our businesses will continue to be adversely impacted.

The main components of such reform will provide an opportunity for people living and working in the U.S. to earn a permanent adjustment of their status, create an innovative worker program that would allow essential workers to safely enter the country, and ensure backlog reductions in family-based immigration. Proposals that fail to embrace these components and seek only to increase enforcement of the current unworkable system will only exacerbate problems for business owners seeking opportunities and advancement in the local and national marketplace.

The bipartisan ***H.R. 2330/S. 1033 Secure America and Orderly Immigration Act of 2005*** was introduced in the 109th Congress to provide the very comprehensive reform that is critical to small business owners and immigrant workers across the country. In an effort to make the immigration process safe, orderly and legal, this legislation would go a long way in addressing the problems that have overwhelmed the current system. Such reform is critical to America's national security and addressing the problems that have overwhelmed the current immigration structure.

It is an economic reality that the America's small businesses depend on an immigrant workforce to produce and fulfill their labor demands throughout various sectors of the marketplace. Unfortunately, the Republican majority has yet to bring H.R. 2330/S. 1033 to the floor for a vote. Instead of embracing this bipartisan call for reform and addressing the challenges faced by business owners and the immigrant workforce, small businesses will continue to face difficulty in meeting their current labor needs, staffing essential positions, and remaining competitive.

Temporary Worker Program Would Improve Workforce Outlook for Small Businesses

Small business owners continue to face major challenges in hiring employees to fulfill a variety of industries – ranging from food service and landscaping to manufacturing and construction. The solution would match willing immigrant workers both in the U.S. and abroad with willing employers to fill these vacant jobs. While this initiative is still in the development stages, a recent Pew Hispanic Center survey of nearly 5,000 undocumented Mexican migrants showed that 71 percent of these workers would like to become permanent U.S. residents, but would be willing to participate in such a program.

The development of a program that matches workers to small businesses for employment is essential in creating new channels for future workers to enter safely and assist in building the employee base of our nation's small businesses. Creating a legal mechanism for immigrants in the American workforce is a step toward addressing the much larger immigration reform debate. While an amendment addressing this proposal was filed to the Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005 (H.R. 4437), House Republican Leadership refused to allow a vote on the initiative, excluding any mention of the temporary worker issue in their immigration reform proposal. Unless legislation is adopted to allow this population to enter into the workforce in a safe and legal manner, America will only continue to face the same challenges in controlling the millions of undocumented workers that currently flood the labor force.

Restrictions on Cross Border Travel Damaging to America's Economic Security:

The terrorist attacks of September 11, 2001 forced the U.S. to rethink its national security agenda and immigration policies – including the issuance of immigration documents and cross-border travel procedures. While these initiatives seek to bolster the security of citizens, it is essential to take into account the fact that America's borders are an entrance for a host of people, goods and services that help to fuel our national economy.

In an effort to strengthen security on the border, the ongoing rulemaking of the Western Hemisphere Travel Initiative (WHTI), an initiative established in the Intelligence Reform and Terrorism Prevention Act (IRTPA), has proposed requiring additional forms of identification for cross-border travel from Canada and Mexico. While it is necessary to strengthen these protections in the interest of national security, a growing number of small businesses across the nation will be impacted by cross-border travel policies and the effects the initiatives have on their customer base.

Any regulatory change in the documentation or identification required for cross-border travel, as suggested in the proposal, will have a major impact on thousands of small businesses. With a significant portion of their customer base located across the border, it is vital that any changes made to current cross-border travel regulations take into account the needs of these small businesses – including many of the most important small business industries such as travel, tourism, manufacturing, and local border towns. Imposing steps such as passport requirements for potential customers may greatly impede the success of these businesses, when less costly alternatives may be available.

Despite these concerns, the Department of State (DOS) and the Department of Homeland Security (DHS) have yet to announce a full review on the rule for WHTI that includes the economic impacts on small businesses, so that Congress and the public can better understand the impact of this initiative on cross border travel between the U.S., Canada, and Mexico. It is essential that this review is completed before the proposals are formally published so that less costly, and less burdensome proposals can be examined to ensure the small business community will understand the full ramifications of what they are expected to comply with.

Conclusion

With immigration continuing to increase at record levels, as shown in recent U.S. Census Bureau statistics, this trend has important implications for the future of America's small business labor force. The American economy is creating a diverse array of jobs requiring a variety of skill levels and abilities to perform. Immigrant participation in the workforce is rapidly spreading beyond traditional employment areas. However, without the comprehensive immigration reform that is so critical to the success of our nation's small businesses, entrepreneurs will only continue to struggle to access the available workforce due to the mismatch between current immigration laws and their need to hire essential employees.

PENSION AND RETIREMENT PLANNING

In the 109th Congress, a top priority for lawmakers has been dealing with retirement and savings issues for businesses and their employees. The ongoing retirement of millions in the baby boomer generation, the increasing number of airline bankruptcies, as well as recent reports that the national savings rate hovers around zero, have highlighted the need for legislative reforms. This has included an examination of pension plans and savings incentives that already exist in law, as well as the fiscal situation of Social Security.

The gap in retirement coverage between large and small employers has remained at high levels for the last decade. Only 26.5 percent of workers at firms with fewer than 25 employees participated in an employer-sponsored retirement plan in 2004, compared to 48.6 percent of workers at firms with 25 to 99 employees and 67 percent of workers at firms with 100 or more employees.

The lack of retirement coverage for small businesses and their employees has made pension and Social Security reform even more important for small business owners. While these have been important issues that Congress recognizes need reform, there has been no movement to shore up the solvency of the Social Security system, improving the funding shortfall of the Pension Benefit Guaranty Corporation (PBGC), or reduce complexity for typical retirement plans.

Pension Benefit Guaranty Corporation Funding

The issue of PBGC funding affects millions of employers and even more employees. The corporation was created as a federal backstop to ensure that employers who went bankrupt could have the PBGC assume trusteeship over their defined benefit plans to resume payments, although at a discounted level, for plan participants. Currently, the PBGC is operating at a deficit that is over \$20 billion, and Congress has been looking into ways to reduce or eliminate the shortfall.

Defined benefit plans are used by many small businesses with around 100 employees and by even smaller firms that are in unionized industries. As a result, the solvency of the PBGC is critical as small employers who have paid PBGC premiums want to ensure that the employees receive their full benefit if the company were to experience financial difficulties. Without a strong PBGC, many employees of small businesses could be at risk of losing the benefits they spent an entire career accumulating.

There have been a significant number of legislative hearings on these issues in both the House and Senate. In 2004, Congress only passed a short term remedy rather than a permanent fix to the pension funding shortfall. As a result, it has created a large amount of uncertainty about plan requirements and increased complexity. While the House is currently considering passing *H.R. 2830 the Pension Protection Act*, the Senate has passed a different version and it is unclear if the differences will be resolved.

Complexity of Pension Plans Weighs on Entrepreneurs

The primary obstacle for many small businesses continues to be the complexity associated with setting up and operating a plan. According to an August 2005 report by the SBA's Office of Advocacy, it showed that the per-participant administrative costs of defined-contribution pension plans (such as 401(k) plans) are as much as 14 times greater for the smallest firms than for their largest counterparts. The cost of operating a 401(k) plan is high, costing about \$300 a year per employee to offer a plan for a ten-employee firm. For this reason, many small business owners choose not to offer plans.

Not only are the plan requirements complex, but there are inequities in the type of benefits that can be offered under a small business pension plan versus those offered in corporate 401(k). For example, employees of a large corporation who have a 401(k) plan can put up to \$4,000 more away in tax-deferred money.

The most comprehensive legislation to address some of these complicated requirements and reduce the inequities has been the Portman-Cardin legislation that has been introduced in this and in past Congresses. *H.R. 1961 The Pension Preservation and Savings Expansion Act of 2005*, would provide for common sense changes to pension requires that would both simplify the rules and expand savings opportunities. Unfortunately, this legislation has yet to be passed out of the House.

Social Security Reform Poses Challenges for Small Businesses

In the president's state of the union address in January 2005, he stated that reforming Social Security was a top priority. Small businesses would be affected on a number of levels by any changes to the Social Security system. For many small business owners and their employees, income from Social Security is a primary source of retirement income. In addition, small employers are integral in the function of how Social Security is carried out as they are responsible for withholding payroll taxes that fund the initiative.

The president's plan for reforming Social Security involved the creation of private accounts as part of the system. Beyond affecting guaranteed benefits, this change would have a major impact on small firms as they would be responsible for collecting monies that would be deposited in these accounts.

The prospect of changing the structure of the Social Security system is a daunting one for small firms. For many small businesses, withholding Social Security payroll taxes already requires hiring accounting and payroll services. And when there are errors with reporting and withholding, small firms are hit with stiff penalties by the IRS. With private accounts, it would only increase the administrative costs and potential liabilities for small companies.

While the House Ways and Means and Senate Finance Committees have held hearings on the issue of Social Security reform, it appears the prospects are dim for passage of a bipartisan fix. Recent comments by the Chairman of the Senate Finance Committee suggest that reform may not come again until 2009.

Conclusion

Retirement coverage for small business is a major issue as it represents an important employee benefit. Small employers with retirement plans in place are better able to recruit and more importantly, retain quality employees. The obstacles and concerns about offering a retirement plan for small businesses have continued to expand in recent years. The growing complexity of plans, issues of PBGC funding, as well as the possibility that private Social Security accounts could increase administrative costs, have caused many small business owners to even look into the option of offering retirement coverage.

Without reform, the savings rates for employees of small firms will be much lower than those in large firms. This is due to the fact that participation rates in retirement plans for small firms, a strong indicator of overall savings rates for these employees, continues to lag. Improvements in the retirement system will reduce the poverty levels for seniors as well as reduce the reliance on Social Security as a primary source of retirement income.

REGULATORY AND PAPERWORK BURDENS ON SMALL BUSINESS

Complying with regulations is a costly problem that diverts time and money from productive investments and business needs. Assets that could be deployed to bolster employment or strengthen competitiveness are squandered while foreign competitors and large companies gain an advantage. So far in the 109th Congress, the Bush Administration and the Republican leaders in the House and Senate have ignored the pleas of scores of small businesses by failing to address repeated calls for action to reduce the problem. This last year, repeating their trend of the first term of the Bush administration, a number of regulatory reform bills have been brought up, but Congress has enacted no improvements.

Regulations and paperwork are costly burdens, particularly for the smallest businesses

Burdensome regulations literally affect small business' ability to compete in today's global marketplace. The Office of Advocacy has just completed a new study that shows complying with regulations and paperwork cost businesses and individuals over \$1 trillion each year. The direct business share of that cost is \$570 billion. At the March 8 committee hearing on small business priorities, every major small business group that testified, including the U.S. Chamber of Commerce, the National Federation of Independent Businesses (NFIB), the National Small Business Association (NSBA), Women Impacting Public Policy (WIPP), listed the regulatory and paperwork burden as one of their most pressing problems with the federal government. At the regulatory reform hearings in March and April, dozens of small business owners and trade groups representing millions of small firms testified that the burden of regulations continues to mount. Only four witnesses, (all Bush Administration appointees) said that things were getting better.

Just as alarming, study after study shows the handicap these regulations and paperwork requirements have imposed on small businesses. The same SBA study showed that small businesses pay at least 45 percent more to comply with government regulations than their larger competitors, meaning they start out everyday with a government aggravated handicap. A 2003 Treasury Department analysis of compliance costs found that self employed business owners filed about 25 percent of all individual tax returns but paid about 60 percent of the overall cost of tax compliance. Congress and the President need to remember that every new regulation or government form places a disproportionately large burden on small business owners.

As for foreign competition, testimony presented to the Committee at its manufacturing hearing in April by the National Association of Manufacturers (NAM) stated that the regulatory burden on small manufacturers was like an excise tax place on small business producers. The net result is, as their study said: "compliance costs for regulations can be regarded as the 'silent killer' of manufacturing competitiveness."

Promising Action on Regulatory and Paperwork Burden has Become Routine

Whenever the economy softens or foreign competitors threaten domestic small business, President Bush and the Republican leadership routinely vow to reduce federal regulations and paperwork. In early 2002, the President in a speech to women business owners listed that goal as a top priority as he unveiled his "Small Business Agenda". Later in 2003 in the throes of an extended recession, the President listed regulatory reduction as part of his "Six Point Plan for Economic Recovery."

Again, in 2004, the Commerce Department did a Presidential study that was to provide a blueprint for restoring manufacturing businesses lost during his Administration. Their report, "*Manufacturing in America*," listed regulatory reduction as one of its 5 key recommendations. Unfortunately for small business, the reality has not matched the rhetoric and the burden is increasing at a record pace. For example, over the past few years, Congress has mandated specific annual reductions of paperwork from the executive branch. However, the GAO recently found that federal paperwork has increased in each of the last 4 years. According to OMB records, Americans now spend at least 720 million hours more doing federal paperwork every year than they did before President Bush took office.

No small business owner could possibly keep up with the torrent of new regulations. Each year the administration publishes an average of 75,000 new pages of regulatory proposals, notices and rulings. Last year, federal agencies issued 1700 new rules. In fact, OMB figures show that in 2002 the Bush administration's legislative and regulatory proposals increased paperwork more than any previous year. Earlier this year, OMB testified that just the "major rules" it was asked to review in 2004 would add at least \$4 billion to the cost of compliance, and major rules are less than 10 percent of all the rules they consider. Even conservative groups such as American's for Tax Reform point out Americans have to work almost 9 more days than they did before President Bush took office to pay off all their government obligations. The Mercatus Institute found that the Bush administration will spend \$34.1 billion this year to promulgate, administer, and enforce regulations and paperwork.

The 109th Congress has failed to take action on a number of issues which small businesses point to as key to their growth and competitiveness. These measures are brought up repeatedly, some have been introduced in proposed legislation, some have passed committee or even the House, but all are headed, as in the past, to be ignored unless the Bush Administration and the House leadership makes it a priority to act. Unfortunately, that has not happened so far.

Small Businesses Require a Window into the Workings of Government - An Independent Office of Advocacy

Although small businesses have many different interests, one thing on which they agree is the need for an independent federal advocate to help them participate in federal policy decisions in the federal executive branch agencies and Congress. The number one issue mentioned at the Democratic Regulatory Roundtable and the Committee's Small Business Priorities hearing was providing for a truly independent Office of Advocacy. Unbelievably, the leadership has not seen fit to address the issue. Unfortunately, this year the Congress has looked the other way while the administration has taken action to undermine the independence of the Office.

In 1976 Congress recognized that small business participation in the federal government is difficult and established the Office of Advocacy, located within the SBA and headed by a presidentially appointed, Senate confirmed, Chief Counsel. His mission is to ensure small businesses are incorporated into federal policymaking at all levels. The Office has had 25 years of unparalleled success, saving billions of dollars by objecting to duplicative or unnecessary regulations, researching helpful legislation, and gathering data to inform the government of small business problems.

Advocacy must constantly challenge powerful federal agencies and oppose key policies (even those of the President) when the interests of small business are at stake. To help assure some level of autonomy, Advocacy is allowed to submit reports, correspondence and testimony directly to Congress or federal agencies without prior clearance through the White House. Also, the Office of Advocacy monitors agency compliance with the Regulatory Flexibility Act (RFA). In addition, Congress granted the Chief Counsel specific authority to join federal court cases involving the RFA.

Over the years, institutional pressures have increased on Advocacy. Having agencies that Advocacy might criticize, control its budget has been a recipe for continued funding reductions and not-so-subtle influence from higher levels in the past. In the most recent example, Advocacy's one remaining earmark was for funds for independent research to help monitor federal small business activities. Earlier this year, the Bush administration withdrew its support for that earmark after Advocacy issued a critical but vital report finding that a lax SBA was allowing large businesses to bid for, and win, small business contracts. As Chief Counsel Thomas Sullivan has pointed out in his letter on independence in 2003, with no earmark Advocacy must rely on the Administrator to agree to spend money on such future reports.

In the 107th and the 108th Congress the House Small Business Committee has taken up legislation that specifically separated Advocacy from the SBA budget and constraints of other agencies. Though everyone professed to support the idea, the matter died. This year, the leadership in the House and Senate has failed to even bring the issue up for discussion. Nor did they take any steps to protect even the small earmark for independent research. Democrats believe the steps need to be taken to honor the unanimous wishes of the small business community and create a system that will guarantee the independence of the Office of Advocacy.

Improving Regulatory Oversight

With scores of agencies that write regulations and the temptation to simply write a rule to “fix” a problem, it is essential that all regulations be thoroughly reviewed by a central source. Agencies should be encouraged to demonstrate a need for a regulation, to reduce the proposed burden as much as possible and to avoid unintended consequences. Hearings by the House Small Business Committee and the Government Affairs Committee focused on institutional barriers that hinder attacks on regulation and paperwork. For example, it is apparent that the Office of Information and Regulatory Assistance (OIRA) is unable to thoroughly review all of the IRS requests to collect paperwork and to keep track of the thousands of forms IRS publishes each year. IRS requirements are generally conceded to be the single biggest burden on small businesses. The OIRA staff is at its lowest level in a decade and can only review a fraction of the regulations and information collection requests it receives.

As shown time and time again, over-burdensome regulations make small businesses less competitive. The Regulatory Flexibility Act, the foundation for small business regulatory review efforts, was enacted in 1980 to ensure that federal agencies analyze the impact of regulations on small businesses and consider less burdensome alternatives. When it became apparent 15 years later (in 1996) that some agencies were flaunting the RFA and producing little, if any, useful analysis, Congress created a system to compel agencies to bring small businesses into the policymaking structure by passing the Small Business Regulatory Enforcement Fairness Act (SBREFA). Now, nine years after that, a series of reports and oversight hearings have demonstrated that agencies are still reluctant to live up to the analytical requirements of RFA. During the first term of the Bush Administration, the Office of Advocacy challenged executive regulatory proposals that would have added \$64 billion dollars of additional burden on small businesses needlessly with little or no relation to regulatory goals such as health, welfare or free competition.

H.R. 682 the Regulatory Flexibility Improvement Act (RFIA) seeks to increase the elements of the economic impacts on small businesses that agencies must examine. It provides greater detail for the criteria used in agency analysis; requires IRS and other agencies to open up their regulation writing system to earlier and more effective small business participation and eliminates barriers to judicial review once a final rule is published. Small businesses should not have to wait as they currently do, to be damaged by the action before compelling agency compliance with the law. Every small business group has recommended that the original Regulatory Flexibility Act be tightened. The RFIA would close the loopholes brought up during our hearings. Unfortunately, the Small Business Committee has failed to act.

Helping Small Businesses Defend Their Rights

Even when a small business is in the right, getting the federal government to admit a mistake is a daunting task. Congress recognized through the Equal Access to Justice Act 25 years ago that many small businesses couldn't afford to risk fighting with a federal agency. The Act allows small businesses to recover attorney's fees in the cases they win against federal agencies but this landmark legislation needs to be reviewed and strengthened. Just about every responsible, nationally known group from NAM to the Sierra Club, to the American Conservative Union and the American Civil Liberties Union, as well as all the major small business groups, support the effort.

Twenty-five years has taken its toll on the Act. Many small businesses choose to forego the time and expense of litigation or cannot find a lawyer willing to assume the risk and accept the small fees to help them. Agencies have found a number of ways to escape payment.

With this in mind the **H.R. 435, Equal Access to Justice Reform Act (EAJRA)** was introduced to tighten the law and close the loopholes. The bill would also expand the definition of "prevailing party" to include litigants who obtain out-of-court settlements against the federal government or compel compliance through other means. As the federal government accumulates more power over the activities of small business owners, these reforms are necessary to give them true access to the court. Neither the Judiciary Committee nor the Small Business Committee held hearings on EAJRA.

During its first session the 109th Congress did bring up a similar measure, **H.R. 742, the Occupational Safety and Health Small Employer Access to Justice Act**. This bill would provide the relief to small business owners who challenged administrative or court based of enforcement actions brought by OSHA. This recommendation was built on testimony that small businesses with valid defenses had not been able to afford to fight such claims against OSHA, which issues a large number of citations. The bill provided relief when the business owner is victorious even if it is the result of a settlement and even if the OSHA might have used the "substantial justification" defense. Although this is a halfway measure that only addresses a small portion part of the EAJA problem, it still would provide some relief to small business owners. The bills passed the House but have not been taken up by the leaders in the Senate and may die there before final action, as it did in the 108th Congress.

Finding and Eliminating Problem Regulations

The growing and constantly changing federal, state and local regulatory requirements have oftentimes overwhelmed small businesses. They fear, with the onslaught of federal regulations, that they will inadvertently fail to comply with some obscure rule and the government will shut down their business, and they will be driving them into bankruptcy because they cannot afford the cost of compliance. On the other hand, small businesses also fear that seeking assistance from the very agencies that create and enforce the regulations is tantamount to turning themselves in, and will ultimately result in penalties being levied on their businesses. In fact, many believe that the government is more interested in recovering penalties than in promoting compliance with the law. Although Federal and State regulations and regulatory programs usually provide substantial benefits, they can be confusing, burdensome and incur significant costs that disproportionately fall on small businesses. Small businesses are not only in need of quality regulatory compliance assistance programs, but also programs that are uniformly developed nationwide and targeted to small businesses. With this in mind, the Committee took up **H.R. 230, The National Small Business Regulatory Assistance Act of 2005** which establishes a pilot program to fund Small Business Development Centers (SBDCs) to provide regulatory compliance assistance to small businesses. Unfortunately, this useful bill has languished without action for 6 months since it passed out of committee overwhelmingly.

Finding Better Ways to Educate Small Businesses about their Regulatory Obligations

Small businesses need help to know how to comply with thousands of laws and regulations applied to them each year. It is a core government function to set up a system to organize and disseminate the information necessary for a business to find, understand and make the reports required by the law. To prod the executive branch to do a better job of communication with small businesses, the ***Small Business Paperwork Relief Act of 2002 – (PL 107-198)*** was enacted in the 107th Congress. It required the OMB to publish a list of all compliance assistance resources available to small businesses and compel each agency to establish one point of contact to act as a liaison with small businesses for paperwork requirements. The OMB was also to create a task force made up of representatives from key agencies to make recommendations to develop an interactive government-wide Internet program. Businesses should be able to use the Internet to identify applicable collections and facilitate small business recordkeeping compliance. These two goals are seen as the crux of what the Federal government must do to bring its communications with small businesses up to modern standards. Unfortunately oversight hearings on this law revealed that agencies were slow to publish their compliance materials and points of contact.

As to the interagency task force, Congress wanted a study that looked at having a central website with a single format cover all small business needs. The task force was to review better ways organize Internet information to make retrieval easier. The goal was to determine if it could be organized in such a way that a subject business could find the information it needed, perhaps by industrial codes or some other tangible method. Unfortunately, the oversight hearings showed that very little progress was made. The Task Force recommended a few existing initiatives as solutions to key problems, but none of the key elements of those recommended programs have been undertaken. As the Committee Chairman said during one oversight hearing, the task force reports were non responsive to the congressional intent and were a “missed opportunity” for real progress.

Early in the 109th Congress, *S.769, the Small Business Compliance Assistance Enhancement Act* was introduced to clarify the kinds of material that agencies must make available to comply with the law. It picks up on existing requirements in the SBREFA Act that required the agencies to publish compliance guide to assist small businesses in living up to the law. The bill would require compliance guides to be published at least by the publication date of the final rule. Further, it clarifies that agencies can use very simple language and publish them at a convenient location on the web. Neither the House nor Senate leadership has bothered to take up the matter.

Clearly there are ways to make regulatory reduction a priority. It is not too hard to imagine that with the tools already in existence for searching and organizing the internet in the private sector, and the thousands of federal employees who perform a variety of related skills including: configuring the Internet, writing regulations, creating compliance documents and public relations, the government should be leading the world in information dissemination.

Conclusion

Regulations are necessary for public health and safety or to enforce fair competition. However, small businesses deserve the least intrusive regulations necessary while still achieving their goals. Our businesses cannot expand and create jobs when the regulation and paperwork that federal agencies impose on them help make them uncompetitive. While professing to make burden reduction a top priority, the regulatory burden has grown dramatically under the Bush Administration to the detriment of small business.

The problem is not that there are no good ideas, no useful technology or proven innovations out there that can help overcome the burden. There are good proposals on the table that would sharpen the tools that protect small businesses from over-reaching federal agencies, such as the Regulatory Flexibility Act or Independence for the Office of Advocacy. Also, there are agencies and Internet sites that have shown real imagination and initiative to help businesses get the information they need. Correctly deploying our existing assets should be able to provide searchable, straightforward, comprehensive compliance assistance for small businesses for every agency. The real problem has been lack of leadership in Congress and the administration to take action on these ideas and make needed improvements to the federal regulatory and paperwork process.

TAX SIMPLIFICATION

For many small businesses, the tax code has become an obstacle to success rather than a tool that promotes investment and expansion. The tax code is often used to encourage small businesses to purchase equipment, hire employees and offer quality benefits. Unfortunately, the complexity of the tax code has created only confusion and increased the demands for major overhauls.

The problem has been exacerbated, rather than reduced by passage of bills in the 106th and 107th Congresses. In the 109th Congress, there have been no major tax bills passed into law to help small businesses. While the Senate and House are currently considering separate tax bills, the legislation is simply a continuation of tax changes enacted over the past five years that have provided little benefit to entrepreneurs. Rather than formulating a bipartisan solution that provides certainty and targeted small business cuts agreed to by both political parties, it appears likely that a final bill will be passed that will simply provide a continuation of these existing measures.

Complexity of the Tax Code Poses Barriers for Small Business Owners

The issue of complexity in the tax code is a major problem for small business owners. If they do not understand tax incentives in the code which are designed to promote certain economic outcomes, it will hurt economic growth. A recent report of a commissioned tax panel identified many of the problems for small businesses when it comes to the issue of tax simplicity. It identified a number of provisions that are hurting overall growth of the economy and the problems with the current tax code.

In January 2005, the president commissioned a bipartisan panel to examine the tax code and propose reforms to simplify it for individuals and businesses. The President's Advisory Panel on Federal Tax Reform (Tax Reform Panel or TRP) was deemed necessary because the tax code has become so complicated that it is now costing billions of dollars in compliance that does nothing to move the economy forward. Ultimately, it appears that while the TRP identified many major problems in the current tax code, the proposed changes have generated such controversy that the findings on the current tax code may go unused. It seems that the TRP, which had nearly a year to examine the tax code, will represent a missed opportunity to move forward the debate on comprehensive tax reform.

The Tax Reform Panel found that the increasing uncertainty in the tax code created by the tax cuts over the last five years has led to inefficient outcomes because firms may be making investments they would not do if there was permanence. The series of four tax bills passed since 2001 with a budget cost of nearly \$2 trillion have only expanded the number of pages to the tax code. According to a report published by the Democratic staff of the House Ways and Means Committee, there were 900 changes to the tax code in the 108th Congress.

The TRP's examination of the current tax code found that tax cuts since 2001, with the various sunsets, have created a system where taxpayers, particularly business owners, cannot effectively plan ahead. The constant changes to the tax code over the past five years have meant that small businesses are unaware that certain investments and/or expenditures could increase or decrease their tax liability. Rather than embracing the recommendations for some reform, it appears that the administration has already started shifting from a focus on tax reform to tax permanence.

Targeted Tax Relief Needed for Small Business

A number of other measures that would provide significant benefit to the small business sector have been downplayed as priorities when it comes to tax legislation moving through Congress. The most notable has been the failure to make Section 179 a permanent part of the tax code. This provision, which is set to expire in 2008, allows firms to immediately write off the cost of a new investment rather than doing complicated depreciation schedules over a period of years. In the 109th Congress, legislation to make it permanent, ***H.R. 1388, Small Business Expensing Permanency Act of 2005***, has yet to be considered.

Additionally, there are a number of proposals that have been introduced that are designed to boost some of the various small business sectors. These include revising schedules of the lifetime of a restaurant building, to how long a roof will last, to the length of time that an energy system in a building is useful. Bills like the ***H.R. 1510, Realistic Roofing Tax Treatment Act of 2005, HR 1241, the Cool and Efficient Buildings Act, and HR 3841 the Small Employer Tax Relief Act***, are just a few examples of bills that have provisions that are aimed at small businesses that have these issues. None of these bills has yet moved out of committee. This does not even include the one issue that affects millions of small business owners across every sector – the Alternative Minimum Tax (AMT).

The tax cuts passed over the past five years has only increased the number of small business taxpayers who will likely be paying the AMT. While the tax has a broad impact on individual taxpayers, it is a major concern for small businesses. A top priority for the small business community has been the elimination of the AMT. Legislation to eliminate the AMT continues to be pushed aside in favor of extensions of provisions like the dividend tax cut that provides relief only to the larger corporations and investors. ***H.R. 1186, Alternative Minimum Tax Repeal Act of 2005*** would eliminate the AMT that has a severe impact on smaller firms who are more prone to this tax, but it has yet to move forward.

When discussing permanent solutions and the tax code, the issue of the estate tax continues to be an issue for small business owners. Under current law, the estate tax is eliminated in one year and then reappears the next. Rather than negotiating a bipartisan solution to exempt all small businesses from the estate tax, the failure to compromise has left small firm owners no choice but to hire estate planning services due to the complexity of current law.

With the issue of tax complexity only rising, it would seem that the IRS would be doing more to help small businesses figure out what all these changes mean. Instead, they are cutting compliance assistance and increasing enforcement at the IRS.

Increased IRS Enforcement Creates Challenges for Entrepreneurs

Compounding the problem of complexity for small business owners is efforts by the administration to increase IRS audits on small businesses. In his testimony before the House Small Business Committee in 2005, the IRS Commissioner Mark Everson noted that the number of small businesses or S corporations that would be subject to an audit by the IRS would dramatically increase in the next few years. The number of small businesses that faced an audit also rose this year after a significant dip last year. About one in 126 small businesses, those with assets of less than \$10 million, were audited this year.

The IRS is specifically targeting small businesses as a way to reduce the current tax gap. The tax gap refers to the difference in the amount of taxes that are collected and the amount actually due. The secondary effects of these increased audits will be extremely high on small businesses. It means they must spend more on compliance out of concern that they could be subject to an audit.

This move by the IRS fails to recognize that many small business owners are trying to properly pay their taxes, but it has become extremely difficult to calculate what they owe. As the complexity grows, so do the number of honest errors even by the most astute tax professionals. On top of the fact that the IRS has increased audits, it has also significantly reduced the compliance staff at the Self Employed/Small Business Division of the IRS.

Conclusion

The Tax Reform Panel found that almost \$150 billion is spent each year by U.S. households, businesses and the federal government, to tally and make sure taxes are paid correctly. There was anticipation that the Tax Reform Panel would offer changes that would meet the needs of small businesses, but in the end, the TRP offered little in terms of addressing their concerns. Also, it seems unlikely that the recommendations that do meet some of the small business needs will ever be considered in Congress.

Without changes to the current system, the small business sector will end up spending dollars on compliance rather than investment in their business. For small businesses, the burden is particularly severe as the report found that the typical taxpayer with small business income spent an average of 45 hours and \$360 in out-of-pocket compliance costs, compared with 20 hours and \$105 in out-of-pocket costs for the ordinary taxpayer. According to an Office of Advocacy report, for small businesses with less than 20 employees, the cost of tax compliance is nearly double that of their larger counterparts.

While there is unanimous recognition that there needs to be changes to the code, the failure to change directions when it comes to tax reform means that small business growth will continue to suffer.

TECHNOLOGY

Technology is a crucial issue for small companies both as users and as high-tech businesses. Small firms employ nearly half of the high tech workforce – including scientists, engineers and computer workers. These small high tech companies dominate innovation. They have expanded advancements in technologies at a higher rate than their large business counterparts, and they have been involved in every major technological innovation over the past century. The success of these firms is pivotal to the competitiveness of the nation.

Electronic commerce sales amounted to \$18.4 billion in 2004, an increase of more than 22 percent over 2003. Clearly, small firms that are not technology focused must be able to take advantage of the market created by the Internet in order to grow and succeed. If small companies are unable to expand their use of tools such as selling over the Internet, they are cut off from a growing revenue stream.

Simplifying Sales Tax Treatment of E-commerce for Small Businesses

The growth of e-commerce has generated a plethora of opportunities for small businesses that desire to expand their market share. The prospect of a firm selling their goods through the Internet represents the possibility of tapping into buyers across the country, as well as the globe. It also gives them opportunity to compete against many of the larger companies who rely heavily on their websites as a portal to provide information on their goods and services, as well as for sales transactions.

A major obstacle for many small businesses entering into e-commerce has been the uncertainty of the sales tax treatment of goods sold on the Internet. This is one of the reasons that despite dramatic increases in the revenues from e-commerce each year, small firms continue to lag behind their large business counterparts in technology investment. Current law has created uncertainty about how goods that are sold across state lines are to be treated. Different states have differing laws on the treatment of these sales and which party must pay any sales taxes. In addition, large corporations are able to secure a competitive advantage over many small firms by having locations wherever goods are sold to avoid sales tax altogether.

The prospect of a firm having to know every tax law in every state is daunting and causes many small business owners to eliminate e-commerce as a feasible idea. While some states have banded together to create a uniform set of rules of state tax on goods, not all states have been on board. The failure to pass a solution at the federal level in the 109th and past Congresses has left many consumers and businesses in a state of flux. While a bill has not been introduced in the 109th Congress, this remains an issue. The Streamlined Sales and Use Tax Act was introduced in the 108th Congress to address this problem, but it has not been re-introduced but it is expected.

Increase High Speed Internet Access for Small Businesses in Rural Areas

There continues to be a divide between rural and urban areas with respect to high-speed Internet access. In urban locations, 98 percent of the most densely populated areas have high-speed access. In these areas, high-speed access increased from 10 percent to 22 percent between 2000 and 2001. However, in rural parts of the country, access increased less than 5 percent, from 7.3 percent in 2000 to 12.2 percent in 2001. This gap leaves businesses in rural locations at a substantial disadvantage compared to businesses located in more urban sites. Broadband Internet access would expand the ability of small companies in these areas to be more competitive, thus bringing economic stability to parts of the nation that are losing skilled workers as they migrate to larger employment centers. No legislative proposals have been offered in the 109th Congress to expand high-speed Internet access for businesses located in rural America. The lack of a national effort to close this divide will result in a short-term stagnation in small business growth in these areas, and economic instability in the long-term.

Access to a Highly Skilled Workforce

One of the most significant issues faced by small high tech firms, is the lack of a highly skilled workforce. More and more, U.S. students are ill prepared for careers in fields that rely heavily on math and science proficiency. Recent reports have highlighted that only 20 percent of students graduate from high school with skills in science, and while the U.S. leads the world in granting science and engineering doctoral degrees, many of these are conferred on foreign nationals. Without a priority for math and science skills in education, high tech companies must rely on workers from outside of the U.S. No legislation proposals were introduced in the 109th Congress to ensure that math and science education is a priority in the U.S.

This issue is critical to small high tech companies given that they employ such a large percentage of high tech workers. Legislative inaction will result in a reduction to the already shrinking pool of skilled workers for small technology companies and, ultimately, a loss of U.S. competitiveness created by an increase in innovative technologies that will go overseas.

Reform of the U.S. Patent System

To ensure that small high tech companies remain on the cutting edge of technology, the current system of patent approvals must be revised. This is very important for small companies given that they create more patents per employee than their large business counterparts. Failure to substantively reform the patent process will result in reduced innovation spurred by small businesses.

Technology-related patents often make use of hundreds of other patents, which the current approval process fails to take into account given its rigid structure and lack of understanding of new technologies. Because of this, high tech companies are easily exposed to unnecessary litigation and increased costs. ***H.R. 2795, the Patent Reform Act of 2005*** is an attempt to revamp the current patent system. While hearings have been held, this bill has not yet been acted upon. Equally concerning, small companies have yet to be involved in the process of providing their input on how reforms should be made that would best encourage innovation by these firms that bring most new technologies to the market.

Revisions to the Telecommunications Act

The Congress is considering legislative changes to the Telecommunications Act of 1996. This important law created a regime of competition in the industry that survives to this day. At this point, small business telecom companies do not have a seat at the table while modifications are being made to legislation that will dictate the national priorities for telephone systems, television, Internet, voice over the internet protocol (VOIP), and wireless communications for the next decade. One of the biggest issues to be addressed in the rewrite of the Telecommunications Act is the extent to which competition among technologies will be promoted either through legislative efforts and resultant regulatory actions, or whether the revamp will encourage market forces alone to dictate competition. If competition is encouraged, small businesses will continue to be able to participate in technology enhancements. But, if it is stifled, small firms that have created the majority of advancements brought about since the 1996 Act will not be able to participate in future innovations. It is important that small companies have a voice in the discussion, because the services they offer will benefit consumers and businesses alike by expanding options and lowering prices.

Conclusion

Not only does technology serve as a leveler between small businesses and their large businesses counterparts – allowing smaller companies to compete for the same customers – it also expands the ability of our country to increase its competitiveness globally. While small firms as users of technology have been able to harness this resource to grow their businesses, there are still obstacles in their way that prevent them from fully participating in the world of electronic commerce. Small technology companies have been at the forefront of advancements in the development of the Internet and in enhanced telecommunications services. These innovations have resulted in lower costs to users of technology, and should be encouraged through assistance to these businesses. If these needs continue to remain unmet, small companies will be prevented from future growth in their businesses through expanded Internet penetration, and limits will be placed on the ability of small high tech firms to bring new ideas to the market.

TRADE

Small exporters are critical to the US national and local economies as they currently account for 50% of the country's economic growth and small firms account for 97% of all exporters. Small businesses ensure that our country produces high-quality, innovative, and globally competitive products. They represent a third of the most productive patent companies and dominate many export sector industries, including 94% of machinery manufacturers and 93% of computer and electronic producers. By providing export assistance and training, small businesses can continue to be successful and contribute to the country's economic productivity.

Small businesses continue to be a major component of the country's export industry. Since 1986, small exporting firms have tripled creating almost one quarter of a million companies. Small exporters are also successful global traders, providing products and services that are innovative and in high-demand to consumers around the world. They offer competitive prices and products and their exports have grown at the same rate as large businesses. Small businesses can help to minimize our country's record \$68.9 billion trade deficit. Further, their products, which are worth \$180 billion, generate significant revenues for the national and local economies.

However, small businesses face difficulties trading in the global market. Due to their limited production, small exporters have higher transaction costs and therefore are constrained in the volume and risk that they can undertake in transactions with foreign companies. Further, with fewer resources to expend on training and compiling information on trade agreements, regulations, and requirements, foreign transactions are more difficult for them. Small businesses also struggle with the numerous customs requirements which limit their access to foreign markets.

To successfully trade their products and services, small businesses require assistance accessing foreign markets and engaging in transactions with businesses abroad. Domestic policies and international agreements must address the small business needs to mitigate their exporting problems. Small businesses can therefore help to lower the national trade deficit and ensure that the US remains competitive in the global system of trade.

Trade Agreements Impact the Competitiveness of Small Businesses

Even though small businesses are important factors in global trade, international trade agreements increasingly limit the ability of small businesses to compete domestically and internationally. Attempts have been made to create new trading opportunities, but the primary beneficiaries have been large companies that have the resources to access these markets.

Small businesses have the capacity to create quality exports and compete internationally but many factors, including foreign export subsidies, devalued currency rates, and labor and environmental standard inequities, hinder successful integration into the global trading system. In their attempts to open foreign markets to domestic companies, the agreements pursued by the Administration continue to neglect the needs of small businesses by maintaining disparities in market access between large and small producers, which reduce opportunities for small businesses to produce and trade their goods and services.

International trade agreements can create substantial opportunities for small businesses, particularly by increasing markets for their products and services. By shifting production to efficient producers, international trade can also reduce the producer prices for products used in small businesses' manufacturing processes and service provision. Small businesses also produce many highly-exported products, such as machinery manufacturing and computer electronics, and these exporters particularly benefit from increased trade liberalization.

Agreements between the US and partnering countries also create opportunities to reduce small business transaction costs by lowering trade barriers. These Free Trade Agreements (FTAs) work to harmonize customs requirements thus allowing small businesses easier access to foreign markets.

However, in the past, FTAs have allowed much of the benefits from trade liberalization to be located outside of the partner countries' boundaries. Due to these policy choices, many small businesses have lost commercial opportunities. Domestic small businesses producers are assisted through labeling requirements that inform consumers of the origins of their purchases. Many initiatives have been proposed this year to establish Country of Origins Labeling (COOL) provisions which mandate that products are labeled with the location of which they are manufactured.

Legislation introduced this year, ***H.R. 384***, requires origin labeling for retail sales of cattle. The initiative would help to ensure that domestic family farmers maintain their share of the cattle production market and helps to establish a precedent in which domestic small businesses benefit from the creation of high-quality products.

Due to small price margins and high production costs, small businesses continue to be impacted by declining global prices. However, Congress failed to establish sanctions against price dumping which has continued to allow small businesses to be priced out of the market. Legislation has been offered to protect domestic industries from major declines in commodity prices. ***H.R. 3306, the Fair Trade with China Act of 2005***, was introduced to protect US companies from price-dumping by countries that heavily subsidize exports and devalue their currency. This legislation would help to create price parity among small and larger companies and promote the consumption of products from domestic small businesses over imports; however, the proposal was not advanced during the 109th Congress.

By reforming global trade barriers, multinational agreements also have the potential to provide many benefits to small businesses. However, as multinational companies dominate the new round of global trade agreements with World Trade Organization (WTO) members, small business needs are threatened. The US supports proposals that would cut domestic support, including loans and grants, for producers and exporters. Domestic support programs, however, create a safety net upon which many small businesses rely. The US also supports the reduction of global trade barriers, particularly tariffs, but does not ensure that small businesses will have access to these newly opened markets. Consequently, small businesses will be unable to take advantage of the benefits from trade liberalization. In these negotiations, the US trade negotiators have supported the eradication of public monopolies on services, such as water and sewage collection. However, without requiring regulations on private monopolies, small businesses will continue to be restricted from full participation in the global trading system.

Domestic Assistance for Small Exporters

In addition to opening foreign markets to US companies, there are many domestic programs that can provide assistance to small exporting firms and companies to level the international trade market. Trade adjustment programs have been found to cost less than protectionist trade barriers and provide opportunities for small businesses to retrain and create new products. Several legislative initiatives were introduced this year to create new opportunities in domestic industries and to protect small businesses from the impacts of global trade. ***H.R. 614, the NAFTA-Impacted Communities Relief Act***, designates communities impacted by NAFTA and provides business tax credits and grants for education and job assistance in these areas. Although Congressional leadership neglected to advance this proposal, it would have helped small businesses obtain resources to shift to more competitive enterprises and would also have helped to spur economic development and revitalization in these communities.

By assisting small businesses access foreign markets through a variety of established programs, free trade can take place in a way that benefits domestic industries and international trade agreements. However, Congress has reduced its commitment to small exporters by reducing funds to the Export-Import Bank and not enforcing the bank's requirement that small businesses seeking to enter the global market receive at minimum 20 percent of the agency's loans. Further, the budget slashes funds that provide foreign assistance for farmers to market and export their products overseas. With decreasing and stagnant funds for programs that enable our small farmers and businesses to accommodate to shifts in the economic system and to create innovative new products, the entire US economy will be less competitive in the global marketplace.

Small businesses possess major potential to help overcome our rising trade deficit and to create new jobs and economic growth. Congress should support these enterprises through export and financial assistance programs and by protecting their interests in international commitments. Through responsive policies and market incentives, small businesses can reap tremendous benefits from new markets and opportunities to expand their enterprises.

SMALL BUSINESS “WINS” THAT WEREN'T

During the first session of the 109th Congress, there were several legislative initiatives and other steps touted by the House Congressional leadership and the Bush Administration as “wins” for small business. But in reality, most of these wins have only a minor impact on small enterprise while others are actually big business wins. This section of the report will detail several small business legislative initiatives and how these did little to address the real needs of small business in America

BANKRUPTCY

In an effort to reform the bankruptcy system, President Bush signed into law *S. 256, the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005*. The centerpiece of this new law is a means test for consideration through Chapter 7, under which existing personal debt is often discharged. The new law affects small businesses because most are unincorporated and, when and if financial crisis arises, the owner often files for personal bankruptcy under Chapter 7. By establishing tougher requirements for Chapter 7 bankruptcy protections, this law creates disincentives for risk-taking in our economy and has the potential to limit entrepreneurial activity.

Previously, Chapter 7 provided entrepreneurs with numerous protections essential to preserving an entrepreneurial climate in the United States. This provision enabled small business owners to readily protect future earnings, which permitted a “fresh start” for future entrepreneurial pursuits. In addition, the provision allowed entrepreneurs to shield current assets, allowing the owner to be more financially able to launch a new venture. By restricting access to Chapter 7, as the new law does, business owners are essentially given one opportunity to succeed. If they fail, the new law will deter subsequent entrepreneurial endeavors. By creating disincentives for risk-taking, individuals will be less likely to start up new companies, pursue innovative ideas, or take the economic risks that are central to the strength of the U.S. economy.

DR-CAFTA

Congress approved the *Dominican Republic-Central America-United States-Free Trade Agreement (DR-CAFTA)* this year to increase U.S. businesses’ access to foreign markets and decrease consumer prices for imported goods and services. Although the agreement was promoted as one solution to overcome a soaring global trade deficit, the national trade deficit is at an all time high and the country’s trade deficit with the 6 DR-CAFTA countries is currently \$2 billion. With exports comprising less of our trade activities and imports flooding domestic markets, the country’s small businesses, including those in the manufacturing, service, and agricultural industries will suffer significant losses from this agreement.

DR-CAFTA’s regional Free Trade Agreement (FTA) framework fails to consider the needs of small businesses in the country and thus places them at a competitive disadvantage in the domestic and global marketplace. DR-CAFTA works against the interests of small business by allowing a large portion of U.S. exports to be reassembled in other countries and potentially imported back into the U.S. Outsourcing harms small businesses that provide manufacturing and service-based functions to other businesses and institutions. By opening domestic markets, DR-CAFTA also allows low priced foreign producers access to the US market. Tariff reductions from the agreement have thus far increased total US agricultural exports by less than one percent, while market access to foreign sugar and cotton/textile producers threaten our domestic industries.

The agreement has shifted the competitive advantage to the lowest cost producers, including foreign producers with lower environmental and labor standards as well as large US producers with lower average production costs. By not taking into consideration their needs, small businesses have been less able to benefit, and in some cases harmed, by the implementation of DR-CAFTA.

CLASS ACTION

Although hailed by the President as a major win for small businesses, *the Class Action Fairness Act (PL 109-02)* makes it more difficult for small businesses to band together and take their grievances against big businesses to court. Class actions have been an important tool for redressing damages in cases where a relatively small amount of damage was done to a large group. Small businesses and other consumers are able to be categorized as a “class” and pursue cases that would be too small to pursue as individuals. Indeed there have been a number of significant cases where small business owners sued large businesses such as where 500 blueberry growers sued a cannery for price fixing or where 600,000 doctors sued medical insurers.

For small businesses, class action suits are apparently not a large problem. In a recent survey, members of the National Federation of Independent Business were asked to rank the problems they face – they ranked lawsuits near the bottom (64th out of 75). Apparently entrepreneurs may be among the ultimate losers under the Class Action Fairness Act rather than the big winners.

ENERGY

Despite claims that *H.R. 6, the Energy Policy Act of 2005*, would help American small businesses, the needs of entrepreneurs were ignored during the energy debate in favor of big oil corporations and coal companies. Small business owners are on the cutting edge of the creation of new technologies and energy efficient products. The Administration’s energy bill, however, fails to capitalize on this knowledge by investing in renewable energy initiatives. The bill also falls far short of meeting the needs of small businesses to lower their energy costs amidst unprecedented fuel prices. Rather than adequately funding grant programs that provide business owners with resources for weatherization, heating and cooling products, and energy efficient office equipment and lighting, the bill provides tax breaks for giant corporations already benefiting from record profits.

IMMIGRATION

Instead of developing legislation that provides a comprehensive, effective approach to alleviating the immigration problems that plague the U.S., the House are poised to pass the *H.R. 4437 the Border Protection, Antiterrorism, and Illegal Immigration Control Act of 2005*, a bill introduced just a week earlier by House Judiciary Committee Chairman James Sensenbrenner. The centerpiece of this legislation combines border security with the strictest enforcement of current immigration laws, and makes it harder for legal immigrants to become U.S. citizens.

H.R. 4437 fails to address the important issue of temporary worker programs and the legal status of the documented – two areas of immigration reform that will truly meet the needs of small businesses, their employees, and the national economy. Essential to the continued viability of small firms is their ability to employ immigrant workers when no Americans are available to do the job, and the creation of a mechanism for allowing undocumented workers to gain legal status in this country. Several business groups have expressed similar concern that this legislation will only make matters worse by focusing too much on enforcement of illegal aliens, rather than assisting small business owners in dealing with their current employee retention and workplace issues. Without these critical provisions, small businesses will be denied the necessary skilled workforce in their respective industries that immigrants have the potential to fill.

TRANSPORTATION

Our nation's small business owners depend on a sound and well funded transportation infrastructure in order to effectively run their businesses. *The Safe, Accountable, Flexible, Efficient Transportation Equity Act - A Legacy for Users (SAFETEA-LU) (PL 109-59)* was signed into law by President Bush in August of 2005, nearly two years after funding for federal transit programs expired. While the original bill introduced in the House would have provided \$275 billion for a six year reauthorization of these critical programs, the final bill signed by the President only provided \$244 billion for just over four years. These cuts mean less funding for construction projects led by small businesses, which depend on our transportation infrastructure. The delays in passing the bill also result in challenges for small businesses, as the transportation projects they pursue are complex and time consuming, necessitating the full six years for planning, implementation and completion. As a result of these cuts and decreased funding time frame, small business owners will see greater costs and fewer opportunities as they struggle to deliver quality projects with less federal support.

CONCLUSION

The business environment in 2005 for small businesses is clearly a challenging one. While the economy has appeared to withstand the devastating effects of recent natural disasters, the path to the rapid expansion of ventures that was seen in the 1990's remains elusive. Even the most successful firms find it difficult to turn a profit when faced with some of the cost factors associated with running a small business.

Health insurance premiums for small businesses have risen by over seventy-percent since 2000. There is also the reality that despite recent declines in gas costs, the price is still, on average, 20 cents higher than it was a year ago, and nearly 70 cents more than in 2001. The record trade deficit of \$718 billion, nearly \$100 billion more than last year, also show the global marketplace is having an impact. These are but a few of the challenges facing this nation's small businesses.

Issues that may not receive the attention from the media, but are also important small business concerns include the rising number of federal regulations and the increased number of bundled contracts. This is on top of funding cuts for federal programs that help specific sectors of small businesses, ranging from the Manufacturing Extension Program to the SBA's 7(a) loan program. While these topics may not always surface in the limelight, these issues have a major impact on the ability of small businesses to compete and succeed in the global economy.

This report's compilation of the issues and legislation important to small businesses show that Congress recognizes the need to improve the business environment. The sheer number of small business bills aimed at addressing these issues demonstrates the importance. Whether it be addressing health care or energy costs or ensuring that small businesses have access to capital, it seems there is widespread acknowledgement that this nation's economic policies can be improved to encourage business growth.

The report does not make a recommendation on whether these policies will actually solve the obstacles facing entrepreneurs, but it does provide a layout of some proposed solutions. The legislation includes changes that are not just about increasing funding for federal programs that help small firms, but about improving the economic environment in which they operate. Many of the bills are aimed at reducing unnecessary burdens, increasing economic efficiency, and improving the competitiveness of this nation's firms.

Unfortunately, as Congress reaches the end of the first session of the 109th Congress, the prospects for addressing these matters remain dim. This is despite the fact that nearly half of these are bipartisan legislation, and over eighty percent were introduced by Republicans who are responsible for dictating the legislative agenda.

The combination of the immediate need for change and the broad number of solutions would tend to suggest that policy changes would be imminent, but these bills remain low priorities. While there is another year before the end of the term, recent history suggests little reason for optimism.

While there are varied ways to address these problems, it is surprising that Congress has not successfully done so. Health care reform, reduced regulations, and addressing energy prices are not new concerns for small businesses, and much of the legislation dates back a few Congresses. In order for small businesses to reach their fullest potential, legislative solutions must be not only be proposed – but most importantly they must be enacted. Instead, the priority appears to be on maintaining the rhetoric of addressing the problems, as opposed to actually implementing policies to improve the business environment.

As with previous Congresses, there have been other initiatives that have been deemed must-pass while the problems for small businesses and the solutions to address them continue to remain unaddressed. The failure to improve the business environment has left many entrepreneurs frustrated with the lack of change. It is the reason that the most recent National Federation of Independent Business (NFIB) Optimism Index slipped to a reading of 101.2. This is a five percent decline from last year's level of 107 in November 2004.

When the small business sector is flourishing, it spurs an economic motion where efficiency is improved and new industries are created. A successful small business sector can generate a wealth of positive outcome, and reduce problem areas with the economy. The strength of the small business sector can lead to increased tax revenues and lower budget deficits. More jobs mean more Americans will have health insurance and be less reliant on public assistance programs. Unfortunately, this Congress has failed to make the programs most essential for small firms a priority, instead focusing on a plethora of other matters.

In order for the U.S. economy to avoid future slow downs, and make a full recovery – small businesses must have the resources, and sound policy that will help them overcome these barriers. Small businesses are the sector most adept at responding to fluctuations in the U.S. economy, and play a vital role in recovery and job creation. The failure to improve the business conditions will create stagnation in growth and innovation in the small business sector.

THE UNFINISHED SMALL BUSINESS AGENDA *for the First Session of the 109th Congress*

ACCESS TO CAPITAL

- H.R. 436 – Increased Capital Access for Growing Business Act
- H.R. 1224 – Business Checking Freedom Act of 2005
- H.R. 1868 – Access to Capital Act of 2005
- H.R. 2943 – Save Biotechnology Innovative Research Act of 2005
- H.R. 4303 – Securing Equity for the Economic Development of Low Income Areas Act of 2005

CONTRACTING

- H.R. 2965 – Federal Prison Industries Competition in Contracting Act
- H.R. 2740 – Prompt Payment Improvement Act
- H.R. 2741 – Subcontractor Protection Act
- H.R. 2834 – Construction Quality Assurance Act
- H.R. 3082 – Veteran Owned Small Business Promotion Act
- H.R. 4474 – Minority Owned Venture Empowerment Act

DISASTER ASSISTANCE

- H.R. 3988 – Gulf Coast Small Business Recovery Act
- H.R. 4234 – Small Business Gulf Coast Revitalization Act
- H.R. 4427

IMMIGRATION

- H.R. 2330 – Secure America and Orderly Immigration Act

ENERGY

- H.R. 3646 – Gas Price Relief and Oil Conservation Act of 2005
- H.R. 388 – Biofuels Energy Independence Act of 2005
- H.R. 4435 – Provides for the Establishment of the Advanced Research Projects Agency-Energy
- H.R. 424 – Energy Efficiency Investment Act of 2005
- H.R. 1638 – Commodities Exchange Improvements Act of 2005

HEALTH CARE

- H.R. 525/S. 406 – Small Business Health Fairness Act of 2005
- S. 1955 – Health Insurance Marketplace Modernization and Affordability Act of 2005
- H.R. 2073 – Small Business Health Insurance Promotion Act

REGULATIONS

- H.R. 230 – National Small Business Regulatory Assistance Act of 2005
- H.R. 435 – Equal access to Justice Reform Act of 2005
- H.R. 682 – Regulatory Flexibility Improvements Act of 2005
- H.R. 742 – Occupational Safety and Health Small Employer Access to Justice Act of 2005
- S. 769 – Small Business Compliance Assistance Enhancement Act of 2005

PENSIONS

- H.R. 1961 – Pension Preservation and Savings Expansion Act of 2005
- H.R. 2830 – Pension Protection Act

TAX

- H.R. 1186 – Alternative Minimum Tax Repeal Act of 2005
- H.R. 1241 – Cool and Efficient Buildings Act
- H.R. 1388 – Small Business Expensing Permanency Act of 2005
- H.R. 1510 – Realistic Roofing Tax Treatment Act of 2005
- H.R. 3841 – Small Employer Tax Relief Act

TECHNOLOGY

- H.R. 2795 – Patent Reform Act of 2005

TRADE

- H.R. 3306 – Fair Trade with China Act of 2005
- H.R. 614 – NAFTA-Impacted Communities Relief Act
- H.R. 384

WORKFORCE DEVELOPMENT

- H.R. 527 – Vocational and Technical Entrepreneurship Development Act
- H.R. 2981 – SBDCs for Indian Tribe Members, Native Alaskans and Native Hawaiians