

THE STATE OF THE SMALL BUSINESS NATION – 2011

On National Small Business Week – May 16-20, 2011

Small businesses across America are continuing to dig their way out of the hole created by the 2008 financial crisis and its aftermath. Access to credit remains a serious problem for many businesses looking to finance improvements and expansion. Health insurers continue to press for double-digit rate increases, further squeezing small businesses' bottom lines and impairing their ability to create jobs. Even as private sector job growth strengthens, promising to restore the small business customer base, looming budget cuts at all levels of government threaten to take away jobs, siphon resources out of local economies, and dampen the momentum of the recovery.

While pundits and politicians like to label policies “pro-business” or “anti-business,” as if there were one unified business interest, the reality is that policies that make winners out of some businesses often make losers out of others. As Bruce Josten, the chief lobbyist of the U.S. Chamber of Commerce, put it, “You’re never going to have one hundred percent unanimity. Never. There is inherent tension... I laugh every day when someone calls and asks what does the business community think.”¹

While Mr. Josten pointed to tensions between oil and gas companies, wholesalers and retailers, investment banks and retail banks – all big corporate players – his point applies even more so to the dynamics between big business and small business. While the pundits and politicians like to lump all business interests together, the truth is that policies that benefit large corporate players very often tilt the playing field against small businesses.

In this “State of the Small Business Nation – 2011” white paper, the Main Street Alliance identifies four core priority areas for small businesses in 2011, with a “Top Ten List” of concrete policies to level the playing field and give small businesses the tools to compete, create jobs, and drive the economic recovery forward. Below is a summary version of the top ten list, followed by a more detailed treatment of the recommendations.

¹ James Verini, “Show Him the Money,” *Washington Monthly*, July/August 2010, <http://www.washingtonmonthly.com/features/2010/1007.verini.html>



STATE OF THE SMALL BUSINESS NATION: SMALL BUSINESS TOP TEN FOR 2011

Ten Concrete Policies to Level the Playing Field for Small Businesses in 2011

SUMMARY

SECTION I: RESTORE ACCESS TO CREDIT AND END PREDATORY FINANCIAL PRACTICES TO HELP SMALL BUSINESSES CREATE JOBS

- 1. Implement New Debit Swipe Fee Limits to Protect Small Businesses:** Each month of delay in implementing the new rules represents another \$1 billion handout to bankers and card companies at the expense of small businesses. The new rules should be implemented without delay in July.
- 2. Realign Fed Policy to Incentivize Productive Lending to Small Businesses:** Under current policy, banks are collecting interest from the Fed not only on required reserves but also on excess reserves (which topped \$1.2 trillion in February), getting paid to sit on their money instead of channeling it into productive lending. It's time to end these counterproductive interest payments and incentivize productive lending.
- 3. Allow the New Consumer Financial Protection Bureau to Do Its Job:** As industry groups attempt to take the teeth out of the new Consumer Financial Protection Bureau, the bureau's benefits to small businesses have been largely ignored. The new consumer bureau should be adequately funded and allowed to do its job to protect small businesses (who are also financial consumers) and their customers.

SECTION II: MAKE HEALTH CARE WORK FOR SMALL BUSINESSES

- 4. Implement Insurance Rate Review and the Value for Premiums (MLR) Requirement:** States should strengthen review of health insurance rate increases and take action against increases found to be unreasonable as a way to protect small businesses. The new minimum medical loss ratio requirement, guaranteeing a basic standard of value for small businesses' premium dollars, should be implemented as written, not undermined by allowing the reclassification of costs.
- 5. Create Health Insurance Exchanges that Maximize Bargaining Power, Negotiate on Behalf of Small Businesses, and Minimize Conflicts of Interest:** Starting in 2014, small businesses with up to 50 employees (100 in some states) and self-employed people will be able to band together to contract for coverage in state insurance exchanges. Critical decisions remain to be made about how these exchanges are set up, and in whose best interest. States should set up their exchanges to best serve the interests of small businesses, not industry special interests.

- 6. Defend Medicaid and Medicare from Deep Cuts that Will Harm Local Economies, Small Businesses:** Medicaid and Medicare are important economic drivers, giving a boost to small businesses and local economies and protecting small business people and their dependents as they age. Proposed cuts to these programs could destroy millions of jobs, drain billions of dollars from local economies, and take peace of mind away from small business people looking toward retirement. These cuts should be taken off the table.

SECTION III: ENSURE THAT EVERYONE PAYS THEIR FAIR SHARE TOWARD TAXES, SMALL BUSINESSES AND LARGE CORPORATIONS ALIKE

- 7. Restore Lost Revenues Through Corporate Tax Reform:** Allowing current levels of corporate tax revenues, which result from widespread corporate tax avoidance, to set a new “normal” will only perpetuate a tax structure that benefits big corporations at the expense of small businesses. In this time when the country sorely needs resources to invest in infrastructure, education, and other programs that support small business success, corporate tax reform should be used to restore lost revenues.
- 8. End the Abuse of Off-Shore Tax Havens and Say No to a Repatriation Tax Holiday:** Estimates suggest the Treasury loses \$100 billion or more every year to the abuse of off-shore tax havens and other corporate schemes to avoid paying a fair share of taxes, leaving small businesses to shoulder more of the burden and shortchanging the country of needed resources. Corporate tax reform should end the abuse of these off-shore tax havens. A “repatriation” tax holiday would only reward corporate bad actors that have gamed the system and pushed their profits off-shore.
- 9. End the Bush Tax Cuts for the Wealthy:** The Bush-era tax cuts are among the biggest contributors to the nation’s current and future fiscal challenges. The high-end Bush tax cuts don’t help Main Street small businesses, and they don’t help the economy. These tax cuts should be ended as soon as possible.

SECTION IV: CURB THE CORROSIVE INFLUENCE OF CORPORATE MONEY IN POLITICS TO LEVEL THE PLAYING FIELD FOR SMALL BUSINESSES

- 10. Implement the Draft Executive Order on Contractor Disclosure and Advance Further Steps to Curb the Influence of Corporate Money in Politics:** An executive order requiring disclosure of political spending by government contractors will help level the playing field for small businesses that want to pursue government contracts but don’t have the deep pockets to compete with corporate heavy hitters in the political spending game. Further steps should be taken to curb the influence of corporate political spending, including undisclosed “dark money,” that tilts the playing field against small businesses.



STATE OF THE SMALL BUSINESS NATION: SMALL BUSINESS TOP TEN FOR 2011

Ten Concrete Policies to Level the Playing Field for Small Businesses

DETAILED RECOMMENDATIONS

SECTION I: RESTORE ACCESS TO CREDIT AND END PREDATORY FINANCIAL PRACTICES TO HELP SMALL BUSINESSES CREATE JOBS

More than two years since the onset of the financial crisis, frozen credit markets still have not thawed adequately to restore access to capital for small businesses. Small business lending plummeted by \$59 billion from June 2008 to June 2010. Even as some measures of lending begin to show an uptick, with total loan volume finally increasing from its lowest point, it appears the number of new loans may not be keeping pace, suggesting that higher-dollar loans are being made, likely to bigger businesses, while the smallest businesses continue to struggle to access the capital they need to expand (or start up) and create jobs. While small businesses continue to feel the impact of the financial meltdown and the drag of the foreclosure crisis on consumer spending and local economies, big banks are pushing to roll back new rules of the road established through last year's financial overhaul.

Recommendations:

- 1. Implement New Debit Swipe Fee Limits to Protect Small Businesses:** Debit "swipe fees" (the transaction fees merchants pay to banks and card companies each time a customer pays with a debit card) have increased steeply over the years, disproportionately impacting small businesses that process many small dollar transactions. During the debate over the 2010 financial overhaul legislation, the Senate adopted an amendment designed to curb exorbitant swipe fees, requiring rules to make these fees "reasonable and proportional" to the cost of processing debit transactions. Accordingly, new rules limiting debit swipe fees to 12 cents per transaction (from an average of 44 cents per transaction) are set to go into effect in July. But a full-court press by the banking industry and card companies to delay and kill the new rules has picked up steam recently. Each month of delay represents another \$1 billion handout to bankers and the card companies at the expense of small businesses. At this still fragile time in the economic recovery, swipe fee reform will give a much-needed shot in the arm to the small business sector. The new rules should be implemented without delay in July.
- 2. Realign Fed Policy to Incentivize Productive Lending to Small Businesses:** According to a February *Wall Street Journal* article, U.S. bank reserves had swelled to \$1.3 trillion, a figure the

Journal described as “eye-popping.”² That included \$1.2 trillion in excess reserves – reserves beyond the amounts required by law – a number that had swelled by \$225 billion since the start of this year. These excess reserves represent money that could be out circulating in the economy in productive loans to small businesses. Instead, these excess reserves are stashed at the Fed and the banks are collecting 0.25 percent interest for holding more money out of the economy (though the Fed used to pay interest only on required reserves, one of the bank-friendly policies implemented during the financial crisis was to extend interest payments to excess reserves as well). Such interest payments on excess reserves are a disincentive to banks to move money out their doors in lending. It’s time to end these counterproductive interest payments and realign Fed policy to incentivize lending to small businesses.

- 3. Allow the New Consumer Financial Protection Bureau to Do Its Job:** As industry groups attempt to take the teeth out of the new Consumer Financial Protection Bureau, the bureau’s benefits to small businesses have been largely ignored. These benefits are three-fold. First, small businesses are themselves financial consumers. Small businesses are among those who have been harmed directly by deceptive financial products, and will benefit directly as abusive lending practices are curtailed. Second, people need to have money in their pockets to go out and spend in their local economies. When people get trapped in bad mortgages or deceptive credit arrangements, it saps their disposable income. Almost three years after the financial crash, the ongoing crisis in housing with millions of Americans underwater in their homes continues to hold back the housing market and depress consumer purchasing power. By guarding against this, the CFPB will help keep money in people’s pockets to spend in the real economy. Third, the consumer bureau will promote a level playing field in lending by regulating shadow lenders, reining in abusive but profitable practices (propagated mostly by larger institutions), and allowing small banks and credit unions to compete on more equal terms. In the Main Street Alliance’s January 2010 *Main Street Policy Pulse*, a report based on a survey of over 1,200 small businesses across 13 states, 67 percent of responding business owners supported the creation of the consumer bureau, and only 12 percent opposed it. The new consumer bureau should be adequately funded and allowed to do its job.

SECTION II: MAKE HEALTH CARE WORK FOR SMALL BUSINESSES

While other sectors of the economy struggle to regain their footing, the health insurance industry is reporting record profits for the third year running, and beating analysts’ earnings expectations by an average of 30 percent in the first quarter of 2011.³ Still, insurance companies continue to push for double-digit rate increases across the country from Maine to California, and are actively lobbying to

² “Liquidity Glut At US Banks May Ultimately Swamp Dollar,” *The Wall Street Journal*, February 25, 2011, <http://online.wsj.com/article/BT-CO-20110225-714532.html>

³ Reed Abelson, “Health Insurers Making Record Profits as Many Postpone Care,” *The New York Times*, May 13, 2011, <http://www.nytimes.com/2011/05/14/business/14health.html?emc=tnt&tntemail0=y>

shape the implementation of the Affordable Care Act to their benefit by rolling back the new value for premiums (MLR) requirement, pre-empting stronger rate review, and controlling the set-up of states' health insurance exchanges.

Recommendations:

- 4. Implement Insurance Rate Review and the Value for Premiums (MLR) Requirement:** States should take advantage of the opportunity in the new health law to strengthen review of health insurance rate increases and take action against increases found to be unreasonable as a way to protect small businesses. In states where the state legislature fails to provide adequate protection for small businesses in the small group and individual markets, it is incumbent upon the U.S. Department of Health & Human Services (HHS) to use its authority to conduct effective rate review on behalf of small businesses in those states. The new minimum medical loss ratio requirements (85 percent in the large group market and 80 percent in the small group and individual markets) will guarantee a basic standard of value for premiums. If an insurer fails to meet this standard, it will owe rebates to its customers. Under the definitions recommended by the National Association of Insurance Commissioners (NAIC) last year and adopted by HHS, projections for the small group market give a mid range estimate of \$226 million in rebates, or about \$312 per person receiving a rebate, for 2011. Individual market estimates add another \$521 million.⁴ But now the insurance industry and its allies are pushing to undermine this new standard by reclassifying costs, threatening to wipe out the rebates small businesses would otherwise receive for being overcharged. Champions of small business should stand up for the new MLR requirements and ensure that they are implemented as written.
- 5. Create Health Insurance Exchanges that Maximize Bargaining Power, Negotiate on Behalf of Small Businesses, and Minimize Conflicts of Interest:** Starting in 2014, small businesses with up to 50 employees (100 in some states) and self-employed people will be able to band together to contract for coverage in state insurance exchanges. An estimated 29 million people are expected to get coverage through the exchanges by 2019, including 5 million in small businesses that buy in as a group and 24 million more – including business owners, employees, and dependents who don't get coverage as a group, as well as the self-employed and their dependents – buying in on their own.⁵ But critical decisions remain to be made about how these exchanges are set up, and in whose interests. To ensure that the best interests of small businesses are served, states should establish one unified exchange that maximizes bargaining power, empower the exchange to negotiate as an active purchaser on behalf of participants, and set strong policies against conflicts of interest (precluding insurance company representatives from serving on the

⁴ Federal Register / Vol. 75, No. 230 / Wednesday, December 1, 2010 / Rules and Regulations, pp. 74907-74908, <http://edocket.access.gpo.gov/2010/pdf/2010-29596.pdf>

⁵ Congressional Budget Office letter to House Speaker Nancy Pelosi, March 20, 2010, p. 9, <http://www.cbo.gov/ftpdocs/113xx/doc11379/AmendReconProp.pdf>

exchange board, for example). In states that fail to set up a working exchange, HHS must step in to establish an exchange so small businesses in those states won't be left behind.

- 6. Defend Medicaid and Medicare from Deep Cuts that Will Harm Local Economies, Small Businesses:** Medicaid and Medicare are important economic drivers, giving a boost to small businesses and local economies. Investments in Medicare and Medicaid support employment – every \$1 million spent by the federal government on Medicaid generates 17.1 new jobs.⁶ Medicaid directly supports employment by health care providers and their suppliers, including many small businesses. People with jobs supported by Medicaid and Medicare, in turn, use their paychecks in the Main Street businesses in their communities. In addition, because small business owners and their employees (especially in smaller businesses) are less likely to have a company pension or retiree benefits, the health security provided by Medicare and Medicaid is all the more important for small business people. Proposed cuts to these programs could destroy millions of jobs, drain billions of dollars from local economies, and take peace of mind away from small business people looking toward retirement. These cuts should be taken off the table.

SECTION III: ENSURE THAT EVERYONE PAYS THEIR FAIR SHARE TOWARD TAXES, SMALL BUSINESSES AND LARGE CORPORATIONS ALIKE

As we work to address the country's fiscal challenges, raising revenues must be a part of the equation. If we attempt to reduce deficits through a "cuts-only" approach, we will only cut our economic recovery off at the knees. Corporate tax contributions have dropped sharply in the last 50 years: in 1955, under President Eisenhower, corporate taxes made up 27 percent of federal revenues; today, they make up less than 9 percent. Investments in infrastructure, education, and other programs are critical to small business success. These investments will require raising resources through the closure of tax loopholes and restoring lost corporate tax revenues.

Recommendations:

- 7. Restore Lost Revenues Through Corporate Tax Reform:** To date, talk about corporate tax reform and closing tax loopholes has included the puzzling assertion that such reform should be "revenue-neutral." Allowing the current historically-low levels of corporate tax revenues – levels which are the result of widespread corporate tax avoidance – to set the new "normal" will only perpetuate a tax structure that benefits large corporations at the expense of small businesses. U.S. corporations enjoy effective tax rates that are far below the OECD average. For example, here are a set of effective tax rates for multi-national companies headquartered in other developed countries in 2009: Mitsubishi, 40 percent; Siemens, 31 percent; Phillips, 26 percent. As

⁶ Tony Carrk, "Crippling Care, Crippling Jobs," Center for American Progress, February 28, 2011, http://www.americanprogress.org/issues/2011/02/crippling_care_c3.html

for the U.S., GE paid only 7 percent.⁷ In this time when the country sorely needs resources to invest in infrastructure, education, and other programs that support small business success, corporate tax reform should be used to restore lost revenues.

- 8. End the Abuse of Off-Shore Tax Havens and Say No to a Repatriation Holiday:** While the nominal corporate tax rate is 35 percent, many corporations pay far below that level. One way companies accomplish this is by setting up shell companies in countries with lax tax rules, shifting profits into tax havens and thereby avoiding U.S. taxes. According to a 2008 report by the Government Accountability Office, health insurer Aetna had eight subsidiaries in tax havens like Bermuda and the Cayman Islands; Bank of America had 115 (including 59 in the Cayman Islands alone); Citigroup had 427; JPMorgan Chase had 50; UnitedHealth Group had 11; and Wells Fargo had 18. And that's just looking at the health insurance and banking industries. Estimates suggest the Treasury loses \$100 billion or more to the abuse of off-shore tax havens each year, leaving small businesses to shoulder more of the burden and shortchanging the country of needed resources. Ending the abuse of off-shore tax havens will both raise much-needed revenues and level the playing field for small businesses that can't afford to engage in off-shoring schemes. In addition, while some big business interests are promoting the idea of a "repatriation" tax holiday, such a move would only reward corporate bad actors that have gamed the system and pushed their profits off-shore, and encourage more off-shoring by creating the expectation of future repatriation tax holidays.
- 9. End the Bush Tax Cuts for the Wealthy:** The Bush-era tax cuts are among the biggest contributors to the nation's fiscal challenges. Extending the high-end Bush tax cuts won't help Main Street small businesses. Only three percent of taxpayers reporting any form of business income (let alone income from an actual small business) are affected by the top two tax brackets.⁸ Even this three percent figure overstates the case: it includes hedge fund managers, partners in large law firms, best-selling authors, and even K Street's finest lobbyists – indeed, six of the top ten lobbying firms are organized as partnerships, with their profits passing through to partners' individual tax filings as business income.⁹ Furthermore, extending the special tax cuts for the wealthy won't help the economy as a whole. When the Congressional Budget Office (CBO) studied 11 different policy options and their impact on job creation and economic growth, the Bush tax cuts for the wealthy came in dead last: "CBO found extending the tax cuts for high-income households to be the worst of all options under discussion for preserving or creating jobs

⁷ Allan Sloan and Jeff Gerth, "Setting The Record Straight on GE's Taxes," *ProPublica* and *Fortune*, April 4, 2011, <http://www.propublica.org/article/setting-the-record-straight-on-ge-taxes>

⁸ Chuck Marr and Gillian Brunet, "Extension of High-Income Tax Cuts Would Benefit Few Small Businesses; Jobs Tax Credit Would Be Better," Center on Budget and Policy Priorities, August 3, 2010, <http://www.cbpp.org/cms/index.cfm?fa=view&id=3251>

⁹ "The Bush Tax Cuts and Small Business," Citizens for Tax Justice, November 12, 2010, <http://www.ctj.org/pdf/smallbiztalk.pdf>

and boosting economic growth while the economy is weak.”¹⁰ These counterproductive tax cuts should be ended as soon as possible.

SECTION IV: CURB THE CORROSIVE INFLUENCE OF CORPORATE MONEY IN POLITICS TO LEVEL THE PLAYING FIELD FOR SMALL BUSINESSES

Small businesses are used to contending with powerful corporate interests. Whether they’re purchasing health insurance or processing a payment with plastic, small businesses start from a disadvantage due to their smaller size. Small businesses fight to compete in the marketplace with big corporate players who use their sheer size to shape markets, set prices, and drive one-sided bargains. Still, small businesses hold their own through a combination of hard work, creativity, and believing in what they do. But, the deluge of corporate political spending to influence elections and shape policy since the Supreme Court’s *Citizens United* decision threatens to drown out small business voices and further stack the deck against small business interests. The flood of corporate political spending, including “dark money” laundered through third parties to advance an agenda without the original donor’s fingerprints on it, into the political system warps policy outcomes and stifles fair competition at the expense of small businesses. Immediate steps should be taken to curb this corrosive influence in order to level the playing field for small businesses.

Recommendations:

- 10. Implement the Draft Executive Order on Contractor Disclosure and Advance Further Steps to Curb the Influence of Corporate Money in Politics:** An executive order requiring disclosure of political spending by government contractors will help level the playing field for small businesses that want to pursue government contracts but don’t have the deep pockets to compete with corporate heavy hitters in the political spending game. The Administration should move quickly to adopt the order to promote transparency and accountability in contracting. Further steps should be taken to curb the influence of corporate political spending, including undisclosed “dark money” contributions, that allows large corporate actors to purchase influence and bend policy outcomes to their benefit, at the expense of small businesses. Reducing the influence of heavy hitter corporate money in politics is necessary to give true small business voices a chance to be heard.

¹⁰ Chuck Marr, “Letting High-Income Tax Cuts Expire Is Proper Response to Nation’s Short- and Long-Term Challenges,” Center on Budget and Policy Priorities, July 26, 2010, <http://www.cbpp.org/cms/index.cfm?fa=view&id=3241>