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# U.S. CHAMBER OF COMMERCE

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## U.S. Chamber Policy Priorities for 2011

### CAPITAL MARKETS, CORPORATE GOVERNANCE, AND SECURITIES REGULATION

- **Regulatory Structure**—Promote a forward-looking, coherent regulatory structure that closes gaps, minimizes future systemic risk, and ends duplicative rules—while guarding against senseless regulations that will wrongly attempt to eliminate risk taking and innovation from the capital formation process. Work with regulators and Congress as they implement the Dodd-Frank Act to ensure a more prudent approach to oversight and enforcement.
- **Activist Investor Agenda**—Push back against the activist agenda that seeks to use the corporate governance process to gain benefit for minority shareholders with a political agenda at the expense of a majority of stakeholders. In particular, urge RiskMetrics Group to move toward a more transparent and evidence-based policymaking process while eliminating core conflicts of interest.
- **Systemic Risk and Resolution Authority**—Support stronger and more comprehensive oversight of the financial system to identify reckless risk taking that may be systemically significant and the appropriate actions to mitigate them. Oppose a new systemic authority that taxes the industry to create a resolution fund, duplicates existing regulation, or permanently designates, formally or informally, specific financial institutions or non-financial companies as systemically significant, thereby expanding “too big to fail” policies.
- **Consumer Protection**—Continue to advocate for strong consumer protections in the new Consumer Financial Protection Bureau while ensuring that new regulations do not limit access to credit in the marketplace for consumer and small businesses or unnecessarily extend new regulations to small and nonfinancial businesses.
- **Derivatives Regulation**—Support efforts to bring transparency to the over-the-counter (OTC) derivatives market and to implement measures aimed at reducing systemic risk while preserving the ability of business end users to use customizable OTC derivatives at a reasonable price and without the burden of margin requirements.
- **Retail Shareholders**—Encourage the Securities and Exchange Commission (SEC) to take greater steps to enfranchise retail shareholders by giving guidance that would allow them to provide standing instructions to vote their shares, such as Client Directed Voting.

- **Executive Compensation & Corporate Governance**—Ensure careful and sensible rulemaking and implementation by the SEC, other financial regulators, and Congress of corporate governance and executive compensation reforms. Reasonable reform must allow pay for performance, which promotes long-term shareholder value and profitability but does not constrain reasonable risk taking and innovation. A federally mandated one-size-fits-all approach is not good governance and would undermine shareholder interests.
- **Whistle-blower**—Ensure that proposed rules required by Dodd-Frank by the SEC and Commodity Futures Trading Commission (CFTC) do not undermine existing corporate compliance programs that the federal government has long advocated as an important component of responsible and effective corporate governance.
- **Financial Transaction Tax**—Oppose legislative actions that would impose a tax on financial transactions. Engage experts to conduct and promote a research study showing how the evolution of our markets has benefitted Main Street investors and our broader economy as well as the negative impacts of the tax.
- **Office of Financial Research**—Ensure that the Office of Financial Research is coordinating its data requests from companies to prevent asking for data that is already in the possession of the entity’s financial regulator (SEC, CFTC, OCC, etc). Prevent “fishing expeditions” and further layering of regulations and examinations.
- **International Financial Reporting Standards (IFRS)**—Advocate for convergence of global accounting standards to reduce complexity and duplication. Urge the SEC to recognize, address, and minimize the transitional difficulties before committing to a road map that permits or mandates the use of IFRS by U.S. issuers.
- **Auditing Profession**—Help ensure a sustainable environment for the auditing profession by recommending ways to improve auditing and accounting practices and by encouraging a greater focus on long-term performance metrics. Promote the establishment of an international set of auditing standards.
- **Fiduciary Duty** —Support sensible legislative and regulatory approaches to harmonize regulation of investment advisers and broker-dealers. Oppose measures that would eliminate mandatory arbitration clauses in brokerage agreements, which would flood our courts with frivolous claims and create a windfall for the trial bar.
- **Mutual Fund Regulatory Reform**—Monitor and address anticipated proposals that would change the rules governing mutual fund fees and products, including proposals discussed in the Report of the President’s Working Group on Financial

Markets on Money Market Fund Reform Options. Develop and advocate for bold and competitive new approaches to force change in investment company regulation and structures.

- **SEC Speed and Efficiency**—Continue to work with the SEC and Congress to recommend ways to improve the commission’s regulatory oversight and management process to better promote innovation and competitiveness in the capital markets.
- **SEC Enforcement**—Support reforms that will help combat fraud, increase investor protections, and reinstall confidence in our markets. Urge the commission to take additional steps to build and maintain a culture of compliance between the SEC and regulated entities.
- **Shareholder Access Rule**—Prevent the inclusion of shareholder nominees for the board of directors in company proxy materials.

## **EDUCATION AND WORKFORCE DEVELOPMENT**

### **Pre-K to 12**

- Build the case for states and localities to provide access to high-quality pre-K programs for all children.
- Support efforts to reauthorize the Elementary and Secondary Education Act, which includes accountability; transparency; longitudinal data systems to guide instruction, improvement, and interventions; clear and high academic standards; and a dedicated strategy and funding stream to improve science, technology, engineering, and math (STEM) education.
- Advocate for proposals requiring a quality, rigorous, and well-rounded K-12 educational system that prepares youth for postsecondary education or the workforce.
- Support the development of STEM networks that improve teaching and learning in these subjects.
- Promote legislation that provides incentives for states to raise academic standards and improve assessments to align them with college and workplace expectations.
- Encourage better alignment between high school graduation requirements, state academic achievement standards, and postsecondary entrance requirements.

### **Postsecondary Education**

- Support efforts to generate more U.S. graduates well versed in STEM.
- Work to ensure that institutions of higher education are held accountable for their performance and that they provide transparency to enable students to make informed choices on what institution and program best fits their needs.
- Advocate for the improvement of federal financial aid programs and systems that work to improve college access and affordability.

- Support and promote policies that focus on key nontraditional sectors of higher education, including institutions serving historically underrepresented groups, community colleges, and private sector colleges and universities.
- Support efforts to increase college completion rates among all students.

### **Employment and Training**

- Continue to support and promote a federal employment and training system that is driven by the actual needs of employers based on accurate and timely local labor market data.

## **ENERGY AND THE ENVIRONMENT**

### **Air Quality Regulation**

- Oppose efforts to regulate greenhouse gas emissions through existing environmental statutes, including the Clean Air Act, the Clean Water Act, the Endangered Species Act, and the National Environmental Policy Act.
- Ensure that regulation of air emissions is based on sound science and focuses on performance and market-based programs where economically feasible, rather than on command-and-control mandates.
- Participate in all major rulemakings including air quality, solid waste, Superfund and Superfund liability, clean water, chemicals, ozone, particulate matter, greenhouse gases, coal ash, boilers, and chemicals.
- Support fair implementation of air quality standards.
- Urge the federal government to take into account the growing impact of air pollution from outside the United States regarding compliance with domestic air quality regulations.
- Advance free trade in environmental goods and services.

### **Chemical Management Reform**

- Promote commonsense changes to the Toxic Substance Control Act as Congress works to modernize our nation's chemical management law.
- Promote "safe use determinations" of chemicals or classes of chemicals by EPA that effectively permit their use in commerce while simultaneously preempt state and local bans.
- Urge EPA to rely on scientifically valid and peer-reviewed data regardless of their sources.

### **Climate Change**

- Support efforts to reduce greenhouse gas emissions in the atmosphere. A comprehensive legislative solution that does not harm the economy, recognizes that the problem is international in scope, and aggressively promotes new technologies and efficiency is needed. Protecting our economy and the environment for future generations are mutually achievable goals.

- Support a comprehensive international agreement on climate change that has the widest possible participation.
- Oppose efforts at EPA to regulate greenhouse gases under the existing Clean Air Act, including the endangerment finding.
- Champion efforts by industry to develop energy-efficient and low-emissions technologies and export them to the developing world, where the bulk of new greenhouse gas emissions are expected to occur.
- Ensure that large emerging economies share responsibility for addressing climate change.

### **Coal Combustion Byproducts**

- Challenge efforts to regulate coal ash waste as hazardous under Resource Conservation Recovery Act (RCRA) Subtitle C.
- Promote beneficial reuse of coal ash by industry, states, and municipal governments.

### **Domestic Energy Production**

- Urge the administration to lift the moratorium on offshore oil and gas exploration and development.
- Support additional safety measures for offshore energy production but oppose efforts to create a regulatory environment so unfit for business that oil and gas companies take their business elsewhere.
- Urge Congress to lift moratoria and authorize environmentally compatible exploration for oil and natural gas both onshore and offshore, including the Arctic National Wildlife Refuge (ANWR) and other federal lands now closed to drilling.
- Advocate for the construction and operation of alternative and renewable energy projects such as wind energy facilities, nuclear power, hydropower, clean coal, solar energy, and geothermal energy.
- Urge Congress to pass legislation to streamline the permitting and appeals process for new energy projects in the United States.
- Urge the Obama administration, Congress, and state leaders to adopt the U.S. Chamber's Institute for 21st Century Energy's platform of 88 actionable and achievable energy policy recommendations outlined in its *2008 Blueprint and Transition Plan for Securing America's Energy Future*.
- Enhance international energy security through diversification of supply.
- Monitor congressional and administrative actions that would undermine and severely restrict hydraulic fracturing and its ability to develop the enormous shale gas reserves across the country as well as other domestic energy resources.

### **Energy Laws of 2005 and 2007**

- Advocate for full funding and implementation (primarily the innovative energy technologies provisions) of the Energy Policy Act of 2005 while preventing its repeal, rollback, or defunding.

- Ensure that the tax incentives and technology-enabling provisions of the Energy Independence and Security Act of 2007 are implemented in a timely, economically appropriate fashion.

### **Energy Technology**

- Increase public education and information accessibility concerning innovative energy technology developments that underpin policy negotiations related to ensuring adequate energy supply here and in international markets where U.S. business and industry operate.
- Continue a program of “clean energy technology dialogues” across the nation in partnership with state and local chambers of commerce. The purpose of the dialogues is to remove obstacles to developing and deploying clean energy technologies.

### **Law of the Sea Treaty**

- Support ratification by the United States of the United Nations Convention on the Law of the Sea. The treaty provides certainty in accessing resources in the Arctic and Antarctic and could ultimately enable American businesses to explore the vast natural resources contained in the seabeds in those areas.

### **Minerals Resources**

- Urge substantial federal support for development of domestic rare earth, platinum, and other needed mineral resources that are critical for clean technology development.
- Promote the use of loan guarantees to move rare earth minerals resources through their life cycles.

### **National Ocean Policy**

- Work with the Council on Environmental Quality to ensure that it considers the impact on industry when making recommendations to President Obama on how to comprehensively manage our oceans, coasts, and Great Lakes.
- Ensure that any national ocean policy is limited in scope and not a backdoor federal effort to regulate climate change.

### **Nanotechnology Regulation**

- Work with Chamber members to address nanotechnology issues and advocate for commonsense legislation and regulation, where appropriate, as well as continued federal funding for research into the environmental, health, and safety implications of nanotechnology.
- Work to ensure that federal regulatory agencies, particularly EPA, implement a sensible regulatory structure that does not handicap U.S. leadership in the rapidly growing commercial area of nanotechnology.

## **Outdated Environmental Laws**

- Modernize the National Environmental Policy Act to streamline and enhance public participation in the review and permitting processes.
- Revitalize the Endangered Species Act to improve success in recovering species and promote cooperative partnerships between the federal government and landowners to reduce the law's burden on local economies.

## **Stimulus (Energy)**

- Urge Congress and the executive branch to closely monitor energy programs funded by the American Recovery and Reinvestment Act of 2009 to make sure that the intended funds are spent and the programs are implemented correctly and efficiently.
- Promote updates and/or modifications to energy programs created by the American Recovery and Reinvestment Act where necessary to maximize those programs' economic benefits.

## **Water Issues**

- Continue the Invest in Water series to raise public awareness of the value of water to our economy through targeted regional events across the country that address the full range of water cycle issues including supply, conservation, drinking and wastewater infrastructure, innovative water technologies, energy-water nexus, water re-use, and water issues facing manufacturers.
- Educate Chamber members and policymakers about the tremendous local, national, and global economic implications of water policy and promote the use of sound science in setting policy.
- Monitor water supply, ownership, and quality concerns, including enforcement efforts targeting storm water discharges.
- Oppose efforts to unnecessarily expand the jurisdiction of the Clean Water Act to purely intrastate waters.
- Research and monitor domestic and world water issues and challenges.

## **Yucca Mountain Implementation Plan**

- Continue to work with the nuclear industry in support of a final permit for Yucca Mountain and for full funding of the project as a repository for nuclear waste.

## **GOVERNMENT CONTRACTING**

- Support acquisition and procurement reform initiatives to streamline the contracting process and maximize opportunities for the private sector in the federal market by advocating for a fair and efficient contracting process.
- Oppose legislative and regulatory efforts that mandate or encourage insourcing contracted functions by having public employees perform the functions in the future.

- Prevent enactment of legislation that would harm the contracting community, create more barriers to entry, and add needless and counterproductive requirements.
- Ensure continued access to commercial products and services by the federal government by preventing enactment of legislation and regulations that limit the definition of commercial items.
- Continue working to defeat harmful provisions that would strengthen protectionist Buy American measures.

## **HEALTH CARE**

### **Health Care Reform**

- Continue to work on favorable implementation of the health care law—the Patient Protection and Affordable Care Act (PPACA)—and ameliorate regulations to provide flexibility and best serve business needs.
- Work to amend the PPACA through commonsense changes to employer requirements, taxation, and other burdens created under the law.
- Continue to advocate for repeal of the onerous 1099 reporting requirement before it goes into effect in 2012.

### **Medicare Issues**

- Continue to advocate for Medicare reform, which is integral to preserving the system’s long-term viability. Comprehensively reform Medicare’s sustainable growth rate (SGR) formula that sets Medicare’s physician payments. Support a new reimbursement model that rewards quality and efficiency.
- Oppose reimbursement cuts to the Medicare Advantage program.
- Oppose government-imposed price controls on prescription drugs through the repeal of the Part D non-interference clause and support market competition.

### **Liability Reform**

- Support reforming the medical tort system to make costs more affordable and predictable. Alternatively, medical cases could be tried in special administrative health courts, similar to bankruptcy courts, and in a wide range of other administrative courts.

### **ERISA Preemption**

- Oppose state and local efforts to circumvent ERISA preemption and interfere with self-insured plans.
- Continue urging Congress not to dismantle the ERISA framework to ensure that employers can offer plans nationwide, providing fairness to all employees regardless of where they live, work, or receive medical care.
- Continue co-chairing advocacy efforts on the National Coalition on Benefits, a broad coalition of groups dedicated to protecting ERISA.

## **Consumer-Directed Health Accounts**

- Promote the repeal of the new law's prohibition on the use of Flexible Spending Account (FSA) funds to purchase over-the-counter items as well as repeal the new limitation on FSA contributions to \$2,500 per year.
- Promote legislation allowing money in FSAs to be rolled over, thus eliminating the use-it-or-lose-it rule. The use-it-or-lose-it rule encourages unnecessary spending and overly conservative use of the accounts.
- Support changes to Health Savings Accounts (HSAs) to make them more flexible and appealing to consumers and plan sponsors.
- Support transparency efforts that aim to give employees more information about the quality and cost of health care so that they can be smart shoppers.

## **Retiree Health**

- Oppose legislative attempts to force employers to offer or maintain expensive retiree health plans.
- Support efforts to preserve employer flexibility in creating, offering, and augmenting retiree health plans.
- Support the creation of new and expanded options to encourage more employers to offer retiree health and encourage more workers to enroll in such plans.

## **Workplace Wellness and Disease Management**

- Support raising awareness of the positive effects of workplace wellness and giving tax-favored status to programs aimed at keeping employees healthy.
- Promote reforms that would permit greater variation of health premiums based on participation in wellness programs.
- Support stand-alone legislation offering targeted tax credits for employer-sponsored workplace wellness programs for employees.
- Support raising awareness through educational efforts such as National Workplace Wellness Week.

## **Reimportation**

- Oppose proposals that favor purchasing drugs from foreign nations that implement price controls and disadvantage American companies.
- Oppose the unsafe importation of drugs that could be adulterated or counterfeit.
- Oppose legislation that would create price controls on life sciences products and would raise prices for employers, employees, veterans, and others.

## **Cafeteria Plans**

- Work to ensure that cafeteria plans are accessible and beneficial to both employers and employees.
- Continue to support legislation allowing SIMPLE cafeteria plans.
- Urge Congress to change the law to allow self-employed individuals to participate in cafeteria plans.

## **IMMIGRATION REFORM**

### **Immigration Reform**

- Continue pursuing immigration reform to better secure our borders; improve electronic employment verification systems for determining whether an employee is authorized to work in the United States; create an effective and streamlined future flow program so that employers can hire immigrant workers when U.S. workers are not available; and provide, under certain strict qualification criteria, a pathway to legal status for undocumented workers currently in the United States.
- Strongly oppose bills that cripple the current non-immigrant worker visa systems and that fail to include a mechanism to ensure businesses a future flow of workers to fill jobs when Americans are not available. Oppose legislation that imposes unworkable and inconsistent electronic employment verification systems.

### **High-Skilled Immigration**

- Advocate for continuing and expanding both temporary and permanent visa programs for highly skilled workers (including L-1, H-1B, and EB) as well as programs that enable employers to access and keep the talent necessary to compete in the global market.

### **Essential Workers**

- Secure additional essential workers to counteract demographic trends, provide for targeted earned legalization of those essential undocumented workers already here, and expand existing temporary immigration programs, such as the H-2A and H-2B visa programs.
- Make certain that any immigration reform package contains strong language ensuring a future flow program so that U.S. companies will be able to hire legal immigrant workers in a timely fashion.

### **Electronic Employment Verification System**

- Work with Congress on the implementation of an electronic employment verification system that preempts state laws, includes limited subcontractor liability, covers only new hires, and includes a phased-in timeline to address the needs of small businesses, among other “good actor” provisions.

### **Travel, Tourism, & Border Issues**

- Urge Congress and the administration to address delays, backlogs, and disruptions in our immigration and border management systems that impede the movement of legitimate businesses and tourists traveling across U.S. borders.
- Continue to work with the Department of Homeland Security (DHS) and Congress to ensure that the Western Hemisphere Travel Initiative is implemented in a way that helps secure our nation’s borders while not negatively affecting the vital tourism and border trade between the United States and Canada.

## INTELLECTUAL PROPERTY (IP)

### **Strengthen the protection and enforcement of IP rights in the United States and abroad.**

- Shut down the top illegal websites globally that are willfully selling counterfeit goods and facilitating digital theft, beginning with the passage of legislation similar to S. 3804 – Combating Online Infringement and Counterfeit Act.
- Reduce the sale of counterfeit goods and the piracy of copyrighted works online through an appropriate combination of improved tools and enforcement efforts, both domestically and internationally, and through engagement with online strategic partners.
- Ensure that the Intellectual Property Enforcement Coordinator has sufficient staff, budget, and authority to fulfill the obligations and achieve the goals outlined in the PRO-IP Act and the National IP Strategy.
- Secure enactment of Customs and Border Protection (CBP) reauthorization legislation with strong IP enforcement provisions.
- Secure continued funding for dedicated resources to strengthen IP enforcement at Justice, the FBI, and the Intellectual Property Rights Center.
- Secure enactment of legislation to post IP attaché at key U.S. embassies abroad to monitor priority countries and assist U.S. businesses with protecting their IP rights in those countries.
- Improve Special 301 enforcement by enhancing the tools available to the administration to engage more effectively with countries that fail to respect and enforce the rights of American innovators and/or live up to their international IP obligations.
- Secure enactment of enhanced criminal penalties for illegally streaming copyrighted content.

### **Promote and defend strong IP protection and enforcement regimes in the United States, key countries, and multilateral fora.**

- Advance robust IP protection and enforcement provisions in trade agreements and their implementation, including in negotiations on the Trans-Pacific Partnership Agreement (TPP).
- Counter the anti-IP rhetoric and policies of China, India, Brazil, and other countries in key capitals, multilateral fora, and the media by building alliances and recruiting new voices, including among developing countries, to promote pro-IP policies.
- In China, work to
  - reduce enterprise software piracy,
  - reduce piracy and counterfeiting on the Internet, and
  - enhance regulatory data protection, patent linkage, and patent term restoration.

- In India, work to
  - refine and continue to implement an advocacy campaign that uses largely local voices to promote innovation,
  - continue to expand our direct engagement with the government of India at the central and state levels to encourage the adoption of innovation friendly policies, and
  - highlight the contrast between India’s rhetoric on IP issues in multilateral fora versus commercial reality in Delhi.
- Defend trademark rights by opposing plain packaging proposals in key countries and by educating key governments in advance of the negative consequences of such proposals.
- Promote the use of only authorized copyrighted works by government agencies, contractors, and employees and the adoption of best practices and benchmarks to prevent infringement and ensure and measure compliance.
- Advocate for Congress to give the U.S. Patent and Trademark Office the ability to fully utilize the fees paid by patent applicants to reduce the backlog of pending applications and shorten pendency times.

**Raise awareness and increase support among key audiences for the value of strong IP rights as a driver of innovation and creativity.**

- Build alliances to create and deliver pro-IP messages to Congress, the administration, state-level officials and organizations, academics, and other stakeholders as part of a national echo chamber.
- Produce rationale, fact-based, and actionable research reports and white papers that support our work plans and messages.
- Maximize earned media exposure of achievements, research, issues, and messages through press conferences, statements, blogs, Facebook, Twitter, videos, and other forms of media to help drive policy and the Chamber’s role as a leader on IP.
- Develop a first-class website that serves as the go-to site for the latest news, information, and research on IP, innovation, and creativity.
- Build relationships with national and international media, including specialized trade and industry publications.

**INTERNATIONAL TRADE AND INVESTMENT**

**Level the playing field for American businesses and workers by lowering barriers to trade and investment.**

- Leverage “double exports” goal to advance trade policy goals.
- Educate the public on the benefits of international trade and investment.
- Secure approval of trade agreements with South Korea, Colombia, and Panama.
- Renew the president’s trade negotiating authority.
- Advance a commercially meaningful Doha Round agreement.

- Press for a high-standard Trans-Pacific Partnership accord.
- Eliminate tariffs from U.S.-EU trade through a Transatlantic Zero agreement.
- Advocate for Russia’s accession to the World Trade Organization.
- Advance strong U.S. investment treaties with China, India, and Vietnam.
- Negotiate tax treaties with key countries, especially Brazil.
- Support trade facilitation through the Revised Kyoto Convention on Customs.
- Improve U.S. trade promotion programs to help small businesses export.
- Secure reauthorization of the U.S. Export-Import Bank.

**Fight economic isolationism, including undue restrictions on exports, investment, procurement, sourcing, human capital, and foreign exchange.**

- Modernize export controls to support U.S. competitiveness and national security.
- Support multilateral efforts to reduce global imbalances.
- Oppose “buy local” mandates in United States and foreign procurements.
- End unilateral sanctions that close foreign markets only to U.S. exporters.
- Help settle the U.S.-Mexico cross-border trucking dispute and lift Mexico’s tariffs.

**Align trade, regulatory, and competition policy to ensure open and competitive markets.**

- Redefine the international role, responsibility, and coordination of U.S. regulators.
- Advance regulatory cooperation between the United States and its major trading partners.
- Combat state capitalism and anti-market industrial policies around the world.
- Press for transparent, predictable, and fair antitrust enforcement around the globe.
- Advocate for an open, private sector-driven approach to standards development.
- Support the rule of law in global markets.

**LABOR**

- Oppose initiatives that attempt to regulate labor policy through the federal procurement process, for example, by blacklisting employers or ranking federal contractors based on labor policies.
- Aggressively oppose initiatives that would upset the balance of the National Labor Relations Act (NLRA), including union-backed proposals to rewrite National Labor Relations Board (NLRB) regulations making it easier for unions to organize employees and restricting employer free speech rights.
- Scrutinize nominees for the NLRB’s general counsel and Republican vacancy.
- Oppose efforts to revoke or rewrite favorable Family and Medical Leave Act (FMLA) and Fair Labor Standards Act (FLSA) regulatory changes made during the Bush administration.

- Oppose efforts to expand civil rights laws by increasing the amount of punitive and compensatory damages available, the potential for frivolous litigation, and unjustified administrative burdens.
- Protect the use of binding arbitration in employment.
- Oppose efforts to mandate paid sick leave.
- Advocate for pro-employer provisions in priority international labor and employment policy proposals.
- Oppose any attempt to revive an OSHA ergonomics regulation, including any effort to include an ergonomics component in a regulation mandating safety and health programs.
- Oppose attempts to mandate OSHA-designed safety and health programs.
- Oppose record-keeping regulations giving employees greater opportunity to sue employers under the Fair Labor Standards Act (FLSA).
- Support appropriate financial disclosure regulation of labor unions.
- Oppose attempts to restrict employer free speech in union campaigns.
- Support aggressive congressional oversight of Department of Labor activities, including OSHA rulemakings, enforcement policies, and record-keeping investigations.
- Support suitable appropriations attacks on regulations.
- Oppose OSHA attempt to implement new interpretation of feasible engineering and administrative controls under noise reduction standard.

## **LEGAL REFORM AND LITIGATION MANAGEMENT**

- Continue to build the case for comprehensive reform of how discovery is conducted in civil litigation.
- Defend against trial lawyer-inspired attempts to expand liability for America's business community, including the criminalization of product liability law and attempts to limit the availability of federal preemption.
- Work to ensure that protective orders and motions to dismiss remain available in the context of civil litigation.
- Work to prevent expansion of private civil liability under key federal and state laws.
- Prevent or limit efforts to expand liability under the federal False Claims Act and Medicare Secondary Payer statutes.
- Build support for changes to the securities litigation system to increase America's global competitiveness while defending against attempts to expand securities litigation.
- Fight to stop or scale back litigation expanding regulatory overreaches.
- Stop asbestos litigation abuses by continuing to expose the fraud and abuse by the plaintiffs' trial bar as well as work to reform and limit the abuses associated with Section 524(g) asbestos bankruptcy trusts.
- Work to reform the Foreign Corrupt Practices Act by advocating amendments to that statute to increase its fairness.

- Support reforming the medical tort system to make costs more affordable and predictable. Alternatively, medical cases could be tried in special administrative health courts, similar to bankruptcy courts, and in a wide range of other administrative courts.
- Oppose internationally as well as in the United States the expansion of third-party litigation financing.
- Fight to preserve the availability of arbitration and other alternative dispute resolution mechanisms.
- Continue educating the public about important state judicial and attorneys general races.
- Support legal reform in key problem states and jurisdictions.

### **NATIONAL CHAMBER LITIGATION CENTER (NCLC)**

- **Arbitration:** Defend arbitration agreements against legal challenges intended to eliminate arbitration as a faster, cheaper, and fairer alternative to litigation.
- **Capital Markets and Corporate Governance:** Protect the competitiveness of U.S. capital markets by fighting abusive and meritless securities class actions and by directly challenging anti-business securities regulations. NCLC is working with the Center for Capital Markets Competitiveness to challenge the SEC’s proxy access rule, which is pending before the D.C. Circuit Court of Appeals.
- **Class Action Abuse:** Oppose efforts to expand the class action device. NCLC is participating in several Supreme Court class action cases, including the largest employment class action in history.
- **Energy and the Environment:** Continue to participate in major energy and environmental cases, opposing efforts to regulate greenhouse gases through the public nuisance doctrine and directly challenging misguided rulemakings on ozone, particulate matter, and climate change. These include five greenhouse gas regulations pending before the D.C. Circuit Court of Appeals.
- **ERISA:** Defend against abuses of ERISA in litigation involving excessive fees, fiduciary duties, fee disclosures, “stock drop” class action cases, and ERISA preemption of conflicting state and local benefits laws.
- **Federal Preemption:** Use the legal doctrine of federal preemption to defend against the piecemeal, multi-layered approach to regulation advanced by overzealous state attorneys general and the trial bar.
- **Immigration:** Continue our national litigation strategy challenging inconsistent state employment verification requirements and related penalties as preempted by federal law. NCLC’s challenge to an Arizona immigration statute is pending before the U.S. Supreme Court.
- **Labor and Employment Policy:** Defend against baseless and abusive discrimination claims, wage and hour class action lawsuits, and litigation under the Fair Labor Standards Act and the National Labor Relations Act. NCLC’s legal challenge to a misguided National Mediation Board regulation that would make it easier for unions to organize in the airline and rail industries is pending before the D.C. Circuit Court of Appeals.

- **Over-criminalization of Corporate Conduct:** Challenge the legality of attempts by overzealous prosecutors to criminalize garden-variety corporate conduct.
- **Punitive Damages:** Restrain excessive awards of punitive damages. NCLC has participated in every Supreme Court punitive damages case over the past 20 years.

## NATIONAL SECURITY AND EMERGENCY PREPAREDNESS

### Cyber Security

- Engage Congress on risk- and performance-based legislation to protect the national information infrastructure from individual hackers, organized criminals, and nation state actors, whose capabilities are increasing each day in size and sophistication.
- Urge policymakers to adopt incentives, such as confidentiality and liability protections, to facilitate the private sector in taking decisive actions during national emergencies.
- Increase awareness and education of businesses in the United States through a public-private partnership with federal, state, and local entities to promote an enterprise approach to Internet security and preparedness.
- Through international collaboration, seek to reduce the number of countries that are safe havens for cyber criminals. International cooperation and diplomacy are key objectives of any national strategy to enhance the security of cyberspace.
- Promote outcome-oriented information sharing between the public and private sectors regarding cyber threats to critical infrastructure and key resources; remove outdated legal barriers to appropriate information sharing.

### Customs and Global Supply Chain Initiatives

- Promote a trade and security framework that encourages the free movement of legitimate goods through the global supply chain.
- Engage Congress in the development of the U.S. Department of Homeland Security Authorization Act, SAFE Port Authorization Act, the Foreign Manufacturers Legal Accountability Act, and the Customs Facilitation and Trade Enforcement Reauthorization Act. Ensure that they all include commonsense solutions to logistics, border, and customs-related issues.
- Reverse thickening border trends and promote security cooperation through a multilayered risk-based approach with our trade partners to ensure that mandates do not act as inhibitors to trade.
- Promote harmonization of cross-border transportation, security, and customs standards to enhance the efficient transport of trade.
- Aggressively respond to regulations that restrain logistics, including an attempt to revisit hours of service for the trucking industry and a lithium battery regulation impacting the air cargo industry.
- Work with the United States Trade Representative (USTR) and member companies to promote efficient supply chain and customs principles into the Trans-Pacific Partnership (TPP) trade agreement.

- Ensure public and private sector cooperation when it comes to identifying threats and creating appropriate solutions to maximize impact on security and minimize impact on business and trade.
- Promote customs modernization and international best practices to achieve transparent and effective regulatory standards for products that enter the global supply chain.

### **Chemical Security**

- Enact a permanent extension of the Department of Homeland Security (DHS)-administered Chemical Facilities Anti-Terrorism Standards (CFATS) program, which is the framework for securing approximately 6,000 high-risk facilities from physical and cyber threats and risks across America.
- Push DHS for mutually agreed upon solutions to regulate above-ground gasoline storage facilities and crafting the personnel surety program under CFATS.

### **Emergency Preparedness and Response**

- Oppose and advocate for alternatives to S. 569, the Incorporation Transparency and Law Enforcement Act, which fails to accomplish the stated goals of the legislation and places privately held U.S. businesses at a competitive disadvantage. The House Committee on Financial Services is currently drafting its own version of the legislation and intends to pass it within the legislative calendar.
- Ensure that Congress preserves the voluntary construct of the Federal Emergency Management Agency's (FEMA's) Private Sector Preparedness Program (PS-Prep).
- Convene events with state chambers, business leaders, and federal agencies to spur businesses to plan, prepare, and test their emergency management and business continuity plans against multiple hazards, whether man-made or natural.
- Continue to provide DHS and FEMA with policy information and business expertise to improve national disaster preparedness, response, and logistics capabilities.
- Involve Chamber members in national-level training exercises, such as DHS' National Level Exercise 2011.

### **Critical Infrastructure Protection and Resilience**

- Continue to analyze, develop, and advocate for risk-based policies to protect the country's 18 critical infrastructures.
- Advocate for greater resilience — the ability to “bounce back” and continue business operations in the face of a disaster — within the business community and especially among the sectors critical to the healthy functioning of the U.S. economy and government.
- Urge policymakers to centralize and clarify government roles and responsibilities. The government needs to speak with one voice when setting national priorities and agendas.

### **Office of the Director of National Intelligence (ODNI)**

- Enhance the Chamber's partnership with the ODNI and other elements of the U.S. intelligence community to create information-sharing avenues with high-level officials

and subject matter experts. The private sector should be increasingly viewed as a consumer of intelligence to better protect the nation from traditional and asymmetric threats to U.S. security.

## **PENSIONS**

### **Multiemployer Funding Reform**

- Work with Congress and other interested parties in finding solutions to long-term funding issues in the multiemployer pension plan system.

### **Electronic Disclosure**

- Work with regulators to increase the options for electronic disclosures of notices.

### **Plan Fee Disclosure**

- Work to ensure that overly burdensome requirements for plan fee disclosure, generated in response to attention garnered from lawsuits and Capitol Hill, are not implemented by regulation or statute.

### **Pension Accounting**

- Monitor and engage with the Financial Accounting Standards Board (FASB) as it evaluates and proposes changes to the accounting standards for measuring pension and other benefit costs, obligations, and assets.

### **Automatic IRAs and Universal IRAs**

- Work with Congress and the administration to create a system that does not burden employers or impose on the private retirement system.
- Oppose proposals that require an employer mandate, create a TSP II system, or increase ERISA fiduciary liability for employers.

### **Pension Benefit Guaranty Corporation (PBGC) Reform**

- Make recommendations to Congress and the agency with respect to changes that are needed to ensure the viability of the PBGC.

### **Decumulation Strategies**

- Work with Congress and our membership to reach consensus on legislation that will promote useful decumulation strategies pertaining to annuities, long-term care insurance, and other products without overly burdening plan sponsors.

### **Small Business Issues**

- *Tax Penalties under Code Section 6707* – Urge Congress to pass legislation that does not allow a penalty for failure to disclose reportable transactions when there is reasonable cause for such failure. More than a half-dozen of the reportable transactions involve employee benefit plans used by small businesses.
- *Interim Amendments* – Work with IRS and Treasury to decrease the burden on small plan sponsors caused by the interim amendment requirements.

### **Nonqualified Deferred Compensation**

- Continue to monitor regulatory and statutory activity to prevent overly burdensome rules and regulations.

### **Phased Retirement**

- Continue to address the legal, fiscal, policy, and practical barriers to phased retirement.

## **REGULATORY AFFAIRS**

### **Administrative Procedure Act Reforms**

- Promote commonsense changes to the Administrative Procedure Act (APA) to ensure accountability, transparency, and efficiency in the federal regulatory process and to close loopholes in existing law.
- Challenge efforts by agencies and others to circumvent procedural safeguards through “settle and sue” and other measures.
- Provide for effective and efficient congressional review of major rules.
- Ensure that federal agencies rely on sound science in formulating regulations, that a proper cost-benefit study is completed, and that agencies complete the job impact studies required by law.

### **Consumer Product Safety**

- Promote the intelligent application of the Consumer Product Safety Improvement Act so that businesses are not overly burdened with onerous regulatory compliance requirements.

### **Food Safety**

- Monitor FDA’s actions under the FDA Food Safety Modernization Act of 2010 and Congress’ exercise of its oversight authority to ensure that the new law is sensibly and effectively implemented without unduly burdening the food industry, American farmers, and consumers.

### **Freedom of Information Act (FOIA) Reform**

- Ensure that federal agencies respond to requests for information under FOIA in a timely and transparent manner.
- Advocate for the creation of an online database to allow the public to track the progress of each FOIA request.
- Call for the establishment of an ombudsman to hear disputes over FOIA claims.

### **Government Accountability**

- Ensure that federal agencies and programs operate efficiently and within budget and do not issue duplicative or obsolete regulations.

## **International Standards Affecting Domestic Regulation**

- Advocate for transparency, accountability, and compatibility in international standards by working through U.S. delegates, Congress, and industry allies.

## **Paperwork Reduction Act**

- Support efforts to reauthorize this act.

## **Regulatory Flexibility Act**

- Work closely with House and Senate committees to address loopholes in this act.
- Urge federal agencies to conduct a periodic review of regulations and rules as required under Section 610 of the act.

## **SMALL BUSINESS**

- Support legislation to provide budgetary independence for the Office of Advocacy in the Small Business Administration (SBA).
- Work to pass an SBA reauthorization bill that would support strong and stable SBA 7(a) and 504 lending programs.
- Work to pass a Small Business Innovative Research program reauthorization bill.
- Prevent passage of legislation and regulations that would close the IRS tax gap by placing excessive paperwork and withholding burdens on compliant small business taxpayers.
- Repeal Section 9006 of the Patient Protection and Affordable Care Act (PPACA) that imposes increased Form 1099 information return filings.

## **TAXES**

- Reduce corporate income tax rates.
- Achieve tax code reforms that will help U.S. companies compete in the global marketplace.
- Preserve current marginal individual tax rates and reduced tax rates on capital gains and dividend income.
- Ensure faster cost recovery of capital investment.
- Secure a long-term fix to the individual and corporate alternative minimum tax (AMT).
- Make permanent tax extenders (e.g., the Research and Experimentation Tax Credit and the Work Opportunity Tax Credit, which incorporates the Welfare-to-Work Credit).
- Enact enhanced tax-deferred savings vehicles.
- Repeal the 3% tax withholding law.
- Prevent backdoor taxes on businesses through the imposition of revenue offsets made more likely by pay-as-you-go rules. Anticipated revenue offsets, some of which are contained in the administration's FY 2011 *Greenbook*, including limitation on deferral; modification of the foreign tax credit rules; restriction on or

repeal of the LIFO (last-in, first-out) inventory method; imposition of a windfall profits tax on oil; imposition of restrictions on deferred compensation; inclusion of entire S corporation net earnings in shareholders' self-employment tax bases; limitation on the deduction of punitive damages and fines and penalties; repeal of the deduction for domestic production activities; taxation of carried interest as ordinary income; and subjecting publicly traded partnerships to corporate taxation.

## **TECHNOLOGY, TELECOMMUNICATIONS, AND E-COMMERCE**

### **Broadband**

- Oppose applying old monopoly telephone rules to new broadband networks.
- Oppose net neutrality legislation that would regulate how broadband service providers manage, market, and price their networks and services.
- Support public-private partnerships as a means to spur broadband deployment and adoption across the United States.
- Support the use of auctions—without any restrictions that may deter potential bidders—to allocate wireless spectrum for mobile broadband.
- Support efforts to streamline zoning laws for broadband infrastructure, including cell towers and antennas.

### **Broadcasting and Mass Media**

- Advocate for federal policies that keep government regulation of broadcasting and other mass media to a minimum, recognize the highly competitive nature of the industry, and promote market-based solutions.

### **E-Waste**

- Develop an industry consensus on federal regulation of the disposal of used electronic goods and ensure that federal policy on this matter preempts state policy.

### **Privacy and Data Security**

- Support policies that foster business opportunities while respecting consumers' privacy.
- Work to craft practical, meaningful federal data security legislation that includes a unified national breach notification standard.

### **Spectrum Allocation and Management**

- Develop a comprehensive, unified national spectrum management strategy designed to reduce the artificial scarcity of spectrum and increase the flexibility in allocating spectrum.

### **Telecommunications Reform**

- Advocate for updated federal telecommunications laws and seek the elimination of federal policies that hinder investment in technology.

## TRANSPORTATION

### Let's Rebuild America

- Get the most bang for the buck out of each investment individually and all investments collectively by:
  - Identifying and driving resources to locations critical to supporting future U.S. economic growth.
  - Advocating for system efficiency through “smarter” transportation infrastructure.
  - Promoting modernized transportation infrastructure that is efficient and globally interoperable.
  - Keeping non-infrastructure objectives from reducing system efficiency, crowding out needed investments, or diverting dollars away from critical improvements.
- Remove and prevent obstacles to rebuilding America by
  - defining the top regulatory obstacles that need to be removed and other major challenges that could deter investment,
  - pursuing “shot clocks” for decision making to limit project delays,
  - challenging NIMBYs in order to create certainty for project investors, and
  - fighting threats to system efficiency, including industry regulation, arduous or patchwork standards and requirements, and ineffective labor practices.
- Increase public and private investment levels by
  - promoting a U.S. regulatory and tax environment for investment that is conducive to attracting dollars, technology, and know-how from the private sector, including key international partners,
  - supporting public sector investments through revenue sources that are predictable, reliable, and sustainable and public sector incentives to draw in, rather than crowd out, private investment, and
  - holding public agencies accountable for using revenues intended for transportation investment for that purpose and federal assistance recipients responsible for maintaining and increasing their own transportation investments, rather than allowing for substitution.

### Federal Credit Support for Infrastructure

- Advocate for Congress to make the Build America Bond (BAB) program permanent and lift the cap on Private Activity Bonds (PABs).

### Highways and Public Transportation

- Advocate for the swift reauthorization of SAFETEA-LU while ensuring that the federal role is defined, existing programs are reformed, wasteful spending is curbed, and federal investment in U.S. highways and transit systems is increased.

### **Aviation**

- Advocate for Congress to quickly reauthorize taxes, fees, and programs associated with the daily operations of the Federal Aviation Administration (FAA) on a long-term basis. The FAA has been operating under a series of extensions since its authorizing legislation expired in September 2007. Also urge Congress to work with the FAA to transform our nation's aviation system through air traffic control modernization to meet the projected growth in passengers and freight.

### **Marine Transportation**

- Push for Congress and the administration to reinforce the federal government's commitment to improving and investing in the nation's marine transportation system by acting expeditiously to reauthorize the Water Resources Development Act and other related legislation.

### **Freight Rail**

- Promote enactment of an infrastructure investment tax credit for the rail industry to help accommodate a projected 67% increase in freight traffic between 2000 and 2020. The railroad industry's investment in infrastructure alone will not be enough to handle the projected increase.

### **Cross-Border Trucking With Mexico**

- Urge Congress and the administration to develop a reciprocal, safe, and efficient process by which the cross-border trucking provision in NAFTA can be implemented with Mexico. The current stand-off has prompted \$2.4 billion in retaliatory tariffs against U.S. products by Mexico.

*January 2011*