TENNESSEE JOB CREATION: DO FEDERAL GOVERNMENT REGULATIONS HELP OR HINDER TENNESSEE'S ECONOMIC DEVELOPMENT?

HEARING

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HOUSE OF REPRESENTATIVES

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TENNESSEE JOB CREATION: DO FEDERAL GOVERNMENT REGULATIONS HELP OR HINDER TENNESSEE'S ECONOMIC DEVELOPMENT?

Monday, June 18, 2012

HOUSE OF REPRESENTATIVES,
COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
Washington, D.C.

The Committee met, pursuant to call, at 9:05 a.m., in S102 Business and Aerospace Building, Middle Tennessee State University, 1301 East Main Street, Murfreesboro, Tennessee, Hon. Darrell Issa [Chairman of the Committee] presiding.

Present: Representatives Issa and DesJarlais.

Also Present: Mrs. Black and Mrs. Blackburn.

Staff Present: Sharon Casey, Senior Assistant Clerk; John Cuaderes, Deputy Staff Director; Kristin L. Nelson, Counsel and Cheyenne Steel, Deputy Press Secretary.

Chairman ISSA. You know, Bob, before we lost the gavel, I took it for granted. Once I got it back, it has been a whole different world.

[Laughter.]

Mr. DESJARLAIS. Mr. Chairman, I ask unanimous consent that our colleagues from Tennessee, Mrs. Blackburn from the Seventh District and Mrs. Black from the Sixth District, be allowed to participate in today's hearing and ask questions of the witnesses.

Chairman ISSA. Without objection, so ordered.

I want to thank everyone in the audience for being here, before we begin. Further, this is a regular federal congressional hearing, so all the normal rules apply. The only difference is you all did not have to drive as far.

So with that, the hearing will come to order.

This hearing is entitled "Tennessee Job Creation: Do Federal Government Regulations Help or Hinder Tennessee's Economic Development?" Now knowing the answer to that, I will go on anyway.

[Laughter.]

Chairman ISSA. The Oversight and Government Reform Committee exists to secure two fundamental principles. First, Americans have a right to know the money Washington takes from them is well spent. And second, Americans deserve an efficient, effective government that works for them. Our duty on the Oversight and Government Reform Committee is to protect these rights. Our solemn responsibility is to hold government accountable to taxpayers, because taxpayers have a right to know what they get from their government. It is our job to work tirelessly in partnership with citizen watchdogs to deliver the facts to the American people and bring genuine reform to the federal bureaucracy.

I am pleased today to be here in Tennessee, mostly because Dr. DesJarlais has asked me to be here and pushed on this schedule for more than a year; but also because since joining the Committee, he has gone around his District and asked job creators where the problems were coming from Washington. And that is the basis for today's hearing.

We understand that we are in the Volunteer State, and there have been many successful job stories here. Your Governor continues a tradition that Senator Lamar Alexander did before him. The fact is that whether it is Senator Corker or my two colleagues here, Marsha Blackburn and Diane Black, we understand that in fact government has to be reined in, that the good intentions of our predecessors and good law, laws designed to protect clean air, clean water and in fact improve the quality of life and the safety for all Americans have to be protected. At the same time, we cannot regulate ourselves into unemployment.

The national unemployment rate stands at 8.2 percent. It was falling, it is now rising. Here in Tennessee, it has risen also from about 7.8 to 7.9 percent. This in a state that welcomes business, that has in fact been attracting new companies including perhaps some from my home state.

I periodically have the opportunity to call one of my old friends and mentors who used to live within my congressional district and who was Ronald Reagan's economic advisor, a gentleman named Art Laffer. Art Laffer is now a resident of Tennessee and he rubs it in every time I talk to him. He left California because California's regulations? No. He was a financial manager and a member of a board. He left for the simple reason that our state taxed its way right out of successful people like him wanting to remain in that state.

But he too understands, as most of here on the dias do, that regulations and red tape can often add no value, they only add cost. And cost is passed on in products. And if those products, like those produced here in Tennessee, in fact compete in a world market, they either will not sell in America or often will not sell to the rest of the world as we once did. Our export sector is healthy in areas such as raw copper ore, areas such as raw coal, but less and less are we productively able to export our finished products. Even Boeing, a company that is renown for being the largest exporter from America finds itself often unable to compete.

This Committee went to Charleston, South Carolina specifically for Boeing some months ago, because Boeing needed a plant in a state that was right-to-work that could guarantee delivery to customers around the world who wanted Boeing to match Airbus' must-deliver, will-deliver policy. Fortunately, that has ended well. But today, we look here in Tennessee at some critical areas including, on our second panel, agriculture. As we know, crops can be grown overseas, but farms cannot move overseas. A job not producing food in America will mean that America does not feed itself, it will mean that in fact the jobs are lost here in America. So whether it is mining or agriculture, the 112th Congress has been about learning about the areas in which we need to make changes, going over those that are going the wrong way under this administration and in fact those who have gone the wrong way under previous administrations.

Our goal at this point is to make sure that the next administration, the next Congress, has ample warning of the areas that have been hurting job creators and that in fact we push back on as many as 106 new major rules that have been made just in the last three years which cost over $46 billion to taxpayers. And I know that in Washington, $46 billion seems just like a rounding error; unless you do it over ten years, it doesn't add up to real money.

But we know, in the private sector, that a few dollars or a few pennies, perhaps just the increase in the cost of healthcare under Obamacare or the increased cost of regulations under Dodd-Frank, can in fact make the difference between a successful business and one that is beat out by foreign competition.

We are here today to hear from our first panel, without a doubt the most blue-ribbon panel we have had in our seven hearings in the field; but also to hear from our second panel of job creators.

With that, I would like to once again thank my colleague, Dr. Scott DesJarlais, for insisting that we come here, for being patient as we were able to make it work within our two schedules, and also for our two guests to the Committee, who have taken time to be here to meet with job creators.

With that, I would recognize Dr. DesJarlais for his opening statement.

Mr. DESJARLAIS. Thank you, Mr. Chairman, and a special thanks to MTSU for this wonderful facility and hosting this venue, and a special thanks to our distinguished panel for making this fit your schedules. I know it has been very difficult.

Chairman Issa, I would like to thank you for holding this field hearing and welcome to the great State of Tennessee. I am extremely grateful to be a member of the House Oversight Committee and Government Reform, and I want to thank you personally for your leadership of this Committee and your dedication to upholding the principles of what our Committee should be doing on behalf of the citizens of this country.

I know that we have a tradition of repeating our mission statement at the commencement of each of our hearings, but I wanted to reiterate one of these core principles in my opening statement because I believe it strikes at the core of what we are highlighting in this field hearing. Americans deserve and efficient and effective government that works for them.

Mr. Chairman, that quote is simple, straight-forward and to the point, and just about all of us would agree with it, regardless of party or affiliation. Yet, I think we have discovered that in many instances, the reality of what is happening today is that this idea of an efficient, effective government that should work for us is actually working against us.

One of the primary reasons I chose to run for Congress two years ago is that I discovered that people had lost faith in the federal government. As a private practice physician in a small community, I was seeing folks from all walks of life and the tone of their conversation had changed. For years, I would look forward to talking to patients about their families, their children, grandchildren, their jobs, their hobbies and other interests. But recently, I began to notice a change in the topics of discussion. More and more folks were talking about lost jobs, uncertain futures for their children, and crushing debt awaiting future generations. And in almost all of these cases, people were showing frustration that their government and their elected officials were not only failing to listen to their concerns but were also incapable of solving our current problems. Finding myself agreeing with their concerns, I chose to get involved. From the campaign to my 18 months on the job as a United States Congressman, I have made it a point to reach out and visit people on the ground, with the lifeblood of our economy—the job creators.

This Committee as a whole has focused on the subject, and I initiated my own Tennessee job creator's tour. Throughout the Fourth Congressional District of Tennessee, I visited employers large and small with over 40 visits, from small family-owned businesses to major multi-national corporations with factories and plants in Tennessee. I wanted to get first-hand information on what is working and what is not in Washington.

Of course, one of the over-reaching themes of these visits focused on the interference from Washington and from the federal government. The topics were varied, from tax and paperwork compliance to regulatory burdens requiring more administrative time, and legal costs, to the fear and uncertainty of new regulations and proposed rules. The narrative often led to a similar conclusion, the federal government is either directly or indirectly getting in the way of creating more jobs, or has created an environment of fear and uncertainty that is keeping businesses from expanding, hiring new personnel or taking those entrepreneurial risks that have been a linchpin of our economic engine for so many years.

There are many representatives with us today who were part of these stops. I was humbled at the reception that I received and most appreciative for the feedback that was allowed to me to make decisions with my debate and votes in the House.

We have a distinguished set of panelists before us today, government leaders who also bring successful private sector experience. We will hear from them directly as to what they have brought from their private experience and transferred into a perspective that should be followed by all of our elected officials in Washington.

We will focus on what Tennessee is doing to create and attract jobs and lessons that can be learned from their proactive, flexible approaches. And we will hear from a panel of witnesses representing large and small businesses both in the Fourth District and from other parts of our great state. They will highlight some of their stories and their concerns, and I look forward to their testimony and answers to our questions.

Mr. Chairman, I again thank you for your desire to hear first hand from our people here in Tennessee. I think you can see from the distinguished witnesses on the panels, not to mention the desire of my colleagues from the Tennessee congressional delegation to spend time here today with us on the panel, that there has been a keen interest to explore this topic as much as possible. I am proud of this Tennessee job creator's tour and I look forward to continuing to build on it with this hearing.

Chairman ISSA. Thank you.

Mrs. Blackburn.

Mrs. BLACKBURN. Thank you, Mr. Chairman. I want to welcome you to Tennessee. We are absolutely thrilled that you are here and want to make certain that you go home with plenty of good barbecue, and glad you enjoyed——

Chairman ISSA. I have got to come back, you keep telling me to come down to Nashville but it is always about music and food, not about field hearings.

[Laughter.]

Mrs. BLACKBURN. Actually, Mary Bono Mack and I are going to do one later this year. I vice chair Commerce, Manufacturing and Trade. As we look at this very important issue, we are going to be doing some more work in the field.

I want to commend Scott DesJarlais. Congressman DesJarlais has done a fabulous job as a freshman, and the fact that he has worked so hard and so diligently to get this field hearing in place is exemplary work.

I want to thank all of the witnesses for coming before us. I have the opportunity to talk with you each regularly about what I think is so important to our state, and it is jobs, it is the economy. There is an equation that I use regularly that I say sums it all up. You know, when the President says that jobs is all about math, I say yes, Mr. President, there is an equation that works, it is called less regulation plus less litigation plus less taxation equals more innovation and job creation. It is an equation you can take to the bank, it works every single time. And certainly for our Tennessee businesses, Governor, you are to be commended for keeping the focus on what we can do to grow businesses that are here.

Commissioner Hagerty is doing a stellar job and yes, indeed, Mr. Chairman, we are recruiting lots of your constituents. They are becoming our constituents here in Tennessee and we welcome them with good old southern hospitality and are delighted to see those companies and those jobs choosing to say Tennessee is the place where we want to be. You mentioned Mr. Laffer. Indeed, the fact that we had a state income tax battle in this state, I was fortunate to lead that fight, Diane was a big part of that fight. But leading that fight, that is what caused Tennessee to come to his attention. And the fact that we had citizens and businesses that were willing to take a stand and say no, we are not going to have a state income tax in this state and we are going to focus on being a business-friendly state. You all have done a great job with that, Governor, and we appreciate the attention that is there.

Welcome to everyone. We want to get rid of some of this 80,000 pages of new regulation and 4000 new regulations.

And with that, I yield back my time.

Chairman ISSA. Thank you. And now due to the miracle of redistricting, we are in two Members' districts, depending upon last Congress, next Congress. We recognize our host for today, Mrs. Black.

Mrs. BLACK. Well, thank you, Mr. Issa, Chairman Issa. We appreciate your coming here. I know that our schedules are busy and we really appreciate your coming to the district. I want to thank my colleague, Scott DesJarlais, for putting all this together and helping to raise the awareness of what is so important. The number one issue, jobs, jobs, jobs.

Thank you so much for our blue ribbon panel as you said. It is really an honor to have our great leaders both at the state level and also at the national level here today. So thank you.

Over the last 18 months, I have led 12 job task force meetings and visited businesses, small, medium and large, in all 15 of my counties in the Sixth Congressional District. And while each business and community faces its own unique challenges, in this tough economy, the over-arching message has been the same—federal regulatory burdens and the constant growth of bureaucratic red tape are stifling our job creation. And as a small business owner myself for many years, I know first hand how economically destructive and frustrating over-regulation can be to one's own business and the local economy.

Since President Obama has taken office in 2009, the acceleration of new regulations and economically significant regulations have been staggering and stifling to our economy. In his first three years in office, President Obama has finalized 620 economically significant rules, and each of these rules has at least a $100 million impact annually. His record of regulations gets even worse when you consider how many more rules have been mandated by the Dodd-Frank Act and of the Obamacare, and these are still regulations that are being written and they are in the progress, not being finalized.

Thus far, one of the most aggressive regulatory bodies of the administration has been the EPA, the Environmental Protection Agency, with boiler MACT, national ambient air quality standards, utility MACT, green gas regulations, just to name a few. And this avalanche of new regulations is driving up the costs and killing jobs.

In Rutherford County, the EPA boiler MACT regulation is already having a devastating impact on our businesses such as the International Paper Company, which I visited, and they just talked how much this is going to impact them. They are frozen by the uncertainty and the new compliance cost. And the final boiler MACT rules could likely cost $14 billion—and yes, that is billion, not million—in capital for the manufacturing sector, plus billions more in annual operating costs with very minimal environmental effects.

Rolling back the costly and unnecessary regulations is imperative to jump start our economy and provide certainty for our job creators.

I look forward to hearing from both panels on their experience of how we can help to address these issues in Washington and help create conditions for a robust economic recovery.

And I yield back my time. Thank you, Mr. Chairman.

Chairman ISSA. I thank the gentlelady.

When I said we had a blue ribbon panel, obviously I was not being just complimentary. I do not do that, if you have seen us in Washington. To have the Governor of the state, the Honorable Bill Haslam, who is also a former mayor here and somebody who understands from his family business what it takes to create jobs, is truly an honor. And I guess you are welcoming me to your state, but I am welcoming you to the Committee.

My friend, Lamar Alexander, who has for so many years, both when he attracted companies such as Nissan and others during his tenure before becoming a U.S. Senator in 2003, and now as a member of the leadership of the Senate. It is an honor to be in your state.

And Senator Corker, my staff helped get you elected, we believe in you.

[Laughter.]

Chairman ISSA. You have not let us down. But also, in your time as mayor, you come with a variety of insight that we wanted to hear here today before we get to the current business creators.

And Mr. Hagerty, this is the first time that I have met you, but your credentials also as a job creator, somebody that was helping in the private equity and banking industry before becoming the head of the Department of Economic and Community Development in 2011, makes your testimony well worthwhile.

I would let you know, as the Senators would let you know, that your entire written statements will all be placed in the record, so you can use your five minutes in any way that you wish. Governor, I must admit that if you go a little over, I am not going to stop you, but members of the House being able to gavel a Senator for speaking too long is something we cannot resist.

[Laughter.]

Chairman ISSA. With that, pursuant to our rules, would you please all rise to take the oath, and raise your right hands.

[Witnesses sworn.]

Chairman ISSA. Let the record reflect that all witnesses answered in the affirmative. Please have a seat.

I have already belabored the whole point on the five minutes, but Governor, you are recognized.

STATEMENTS OF WITNESSES

STATEMENT OF THE HONORABLE BILL HASLAM

Governor HASLAM. Thank you, Mr. Chairman, and welcome to Tennessee. I join all of our congressional colleagues in welcoming you. We appreciate the work you do. And I will also make a note, speaking on behalf of the State, we are incredibly proud of our congressional delegation. We are biased, but we tend to think we have the very best in the country.

Chairman ISSA. I am proud of them too.

Governor HASLAM. They are terrific. They work hard up there and down here, they all do. And I appreciate that.

Let me just start, I loved the Committee's mission statement about that the government owes the people to give effective service for their tax dollar.

In Tennessee, we think there are two kinds of taxes. There is the income tax or sales tax or business tax that you pay. There is also a tax when government does not give you effective service for the dollar you pay. You give a dollar's worth of taxes, but you only get 60 cents of service in return. And that tax is as onerous as anything there is. So we focused here on trying to be the very best-managed state in the country. It is what we think our obligation is to the people who pay taxes.

But within that, our biggest mission is to try to be the number one location in the entire southeast for high quality jobs. And so we spend a lot of time talking about that and we think we have made some great headway. Here is what we believe in Tennessee, that government does not create jobs. We can create the environment for them but we do not create jobs. Capital is always going to go where it can get the very best return, that is just the nature of capital, it does not know boundaries.

So my big idea for this morning is to have Congress think about using the states as—states have been called the laboratories for democracy by the founders, but think of that in terms of job creation as well. You have 50 laboratories out there doing things very differently in terms of their approach to regulation and taxation and job creation. So what are the places that are having success, now I realize it is not an equal gain, some people have more natural resources or better climate or more history of capital, et cetera. But taking all that into account, you really can see the states that are making progress. And I would argue it is the states that do understand it is about giving capital, getting the very best return it can and that is where jobs are being created.

Over the past year and a half that we have been in office, Commissioner Hagerty and I have been touring the state and the country talking with people. And we have taken very seriously that mission to do that and you are going to hear more from Commissioner Hagerty, so I will not steal a lot of his thunder. But suffice it to say there are states where the recruiting is a little better than other places and you were nice enough to mention that maybe your state is one of those. And we literally can go into states and we spend more time in states that are higher taxes and higher regulation because more companies are becoming frustrated.

Chairman ISSA. You have been to California?

Governor HASLAM. I have been there once or twice, yeah. And we really appreciate the hospitality.

But that would be my point. If Congress would look and see what is working in these laboratories out there and see what is the lesson for us as a country. There has been a lot of discussion recently about whether the private sector was doing fine and whether the public sector needed more stimulus. Well, I would just say this, since we have been in office, the state has lost over a billion dollars in federal funding when the stimulus plan ran out. And yet, we have not cut teachers, we have kept our K–12 funding increasing, all the things that the states are supposedly, you know, in a hard spot on. We have done that while cutting taxes even.

So my point would be those states who are managing their states well, doing the right things to bring in business, increase revenue, we are not seeing that same kind of need. And again, I would say that is a model for what we encourage the federal government to look at doing.

When Commissioner Hagerty and I toured the state, we talked with businesses all over about federal and state regulations. Most of the feedback that came to us was from federal regulations. But in the process, we looked at our state, everything, from top to bottom, reviewed every department, to make certain we were being as customer-friendly as we can. I think the federal government can do that exact same thing. Our model is to keep taxes low, as Congresswoman Blackburn said, to work hard at education, preparing our teachers to make certain in K–12 that we have the very best people speaking in front of the classroom every day. And then to address other things. Recently, we have cut out the estate or the inheritance tax in Tennessee. We visited a farm, the Luckey family, well-named, in west Tennessee. Farm had been in their family for over 100 years and the gentleman who is running the farm now said I do not want to sell this or even a piece of it, it would be like selling one of my kids. But if I passed away right now, we would have to. And his father, who is 85 and could not get out of the car because he had oxygen on, called me over to the car and said, "Governor, I really appreciate you doing this." We are actually phasing it out over four years. He said, "If you could pick up the pace a little, I would very much appreciate it."

[Laughter.]

Governor HASLAM. So we think we have the right model here. We are excited about being part of what you are doing. The purpose of this hearing we could not applaud more. We are in a competitive world, we know that as a state, we know that as a country. And we salute what you are trying to do here.

Thank you.

Chairman ISSA. I was recently in New Hampshire for one of these field hearings and there they live free, but I guess here it will be cheaper to die than it used to be.

Governor HASLAM. Right. I have made that point a couple of times.

Chairman ISSA. Senator Alexander.

[Prepared statement of Governor Haslam follows:]

Testimony of Tennessee Gov. Bill Haslam
House Committee on Oversight and Government Reform Field Hearing
"Tennessee Job Creation: Do Federal Government Regulations Help or Hinder Tennessee's Economic Development?"
June 18, 2012

Chairman Issa, Congressmen DesJarlais, Black and Blackburn, I appreciate the opportunity to be here today to tell you about our efforts to attract and grow jobs in Tennessee.

Our administration's goal is to make Tennessee the number one location in the Southeast for high-quality jobs. I don't believe that government creates job, but I do believe that government has a role in creating a business-friendly environment that encourages investment.

To create jobs, people have to be willing to risk capital, and we want to do all we can so that Tennessee is an attractive place for people to invest. Capital is going to go where it is going to get the best return, and it is the investment of capital that creates jobs.

Over the past year and a half, we have been intentional about listening to companies – both existing companies already doing business in Tennessee and prospective businesses that we're trying to attract to Tennessee - about what we're doing well and what we need to work on.

You'll be hearing later from our Commissioner of Economic and Community Development, Bill Hagerty. Bill and I traveled the state last year holding a series of business roundtables, and as a result of what we heard, his department conducted a review of federal, state and local rules and regulations that impact business.

There is certainly a necessary balance of holding businesses accountable and supporting their success, but too often government isn't responsive, customer-focused, efficient or effective.

We took what we learned on the state level and made it part of a top-to-bottom review process that each state department went through last year to make sure we are focusing on providing customer service to taxpayers in an efficient and effective way. That's what taxpayers expect, and that's what they deserve. This includes employers that interact with state government.

Along with evaluating - and in many cases changing - how state departments are interacting with citizens and businesses, we've also made some changes in our laws to enhance our state's already attractive business climate.

Last year, we successfully pushed for tort reform to make Tennessee more competitive for new jobs, especially in comparison to surrounding states, by bringing predictability and certainty to businesses.

Another one of Tennessee's many attributes is that we are a low tax state. We don't have a personal state income tax, we have low debt, and we have a long history of responsible fiscal management.

I am proud that this year we've taken the first step in eliminating the estate tax. It will be completely phased out in four years. People choose where they want to live, and our estate tax was encouraging people to move their official residences to other states, chasing capital out of Tennessee. People would say, "It is cheaper for me to die in Florida than in Tennessee."

But repealing the estate tax also impacts small businesses and family farmers who want to keep their businesses in the family and don't have the option to move because their lives and livelihoods are here.

I visited the Luckey Family Farm in Humboldt recently to highlight the importance of this legislation, and Tim Luckey told me that ultimately to pay the tax, his family would have to sell some of their farm land - land that has been in the family since the early 1900's. Tim said, "It's like one of your kids - you can't give up one of your kids, and you don't want to give up any of your land that has been in your family for 100 years; that you've grown to love and don't want to lose."

Small family-owned businesses are crucial to our economy, and we want to support them and help this succeed.

Part of that effort is a continued focus on improving education in Tennessee because there is a direct correlation between education and jobs. A study earlier this year by economists at Harvard and Columbia actually puts a price tag on the impact of quality teachers.

It finds that replacing a poor teacher with an average teacher – not even an exceptional one - would increase students' lifetime earnings by more than one million, two hundred and fifty thousand dollars for an average classroom.

The report says that students with high-quality teachers are more likely to attend college, attend higher-ranked colleges, earn higher salaries and save more for retirement. They're also less likely to have children as teenagers.

It concludes that policies that raise the quality of teaching have substantial economic and social benefits in the long term.

Because we have implemented rigorous standards and have a plan for success, Tennessee was one of the first states in the nation to receive a waiver from the U.S. Department of Education from the No Child Left Behind law. That flexibility is important as we continue to build upon our state's momentum and national reputation as a leader in education reform.

In saying all of that, the purpose of this hearing is to explore the impact of federal regulation on job growth, and I'd say from my perspective that while no government – federal, state or local – creates jobs, government can certainly discourage investment.

And while I believe there is an appropriate balance between oversight and partnership, I think the model of flexibility that we've received from the federal government in education would be helpful in other areas when it comes to job creation and growth.

Again, I appreciate the opportunity to be here today and am grateful to Chairman Issa, Congressman DesJarlais and the committee for its interest in this topic.

Thank you.

STATEMENT OF THE HONORABLE LAMAR ALEXANDER

Senator ALEXANDER. Thanks, Mr. Chairman.

I have been in New Hampshire myself some time ago.

[Laughter.]

Chairman ISSA. Lamar, I went after the primary though.

Senator ALEXANDER. Darrell, we are delighted to have you here. And Scott DesJarlais has been a real workhorse in putting this together. I am delighted to be a part of it. It is a treat to work with Marsha Blackburn and Diane Black in Washington, and it is an honor really to serve with Bob Corker and to watch Bill Haslam with Bill Hagerty, as Governor of Tennessee.

It is good to be at Middle Tennessee State University, a tremendous campus.

During the last three years, the Obama administration has produced an avalanche of regulations that have thrown a big wet blanket over the American economy and made it more difficult and more expensive to create private sector jobs. The most conspicuous examples are the Dodd-Frank Act and the healthcare law, which was a historic mistake in my judgment.

But let me just mention quickly three specific examples of how federal regulations are hurting job creation in Tennessee. The first is the NLRB's attack on the right-to-work law. Nissan is in this county. It came here first because of our central location; but second, because every state north of us does not have a right-to-work law and we do. So when the National Labor Relations Board told Boeing it could not go to South Carolina because presumptively it was moving from a non-right-to-work state to a right-to-work state, that sends a chill through every auto supplier who might be thinking about doing the same thing. And they may not have the money and the determination to fight the NLRB in the same way. So that makes it harder to create jobs in Tennessee, an attack on a right-to-work law.

Second, the healthcare law is taxes and mandates. I met not long ago with the CEOs of all the big chain restaurant companies in America. Other than government, they are the largest employer of young people and low income people. One of them, my friend Sandy Bell, head of Ruby Tuesdays in Maryville, told me that the cost of complying with the healthcare law would more than equal the entire profit his company would make in that year. So what is he doing? He is not investing in new jobs in the United States. A bigger restaurant company told me their goal was to run their store with 90 employees; because of the cost of the healthcare act, they are going to do it with 70 employees. That is not a good way to create jobs.

A third is the Medicaid mandates on the states. As a former Governor, I am very sensitive to this but I know that Governor Haslam is doing all he can to have Tennessee have more college graduates. Yet when Medicaid mandates make it harder for him to put the money he wants to into Middle Tennessee State University, what happens? The quality is not as good, the tuition goes up, it is harder for people to graduate from college. So that is the effect of Medicaid mandates on the State of Tennessee.

I agree with Representative Black, perhaps the worst offender of this avalanche of regulations is the Environmental Protection

Agency. It has become a happy hunting ground for goofy regulations. And we can list them—boiler MACT, I am sure you will hear from the President of the Farm Bureau about regulating dust on farms, changing the Clean Water Act so that you are regulating puddles of water. But as the late William Buckley used to say, even a stopped clock is right twice a day. And there are two of their regulations that I support because they help make it easier to create jobs in Tennessee. They are the clean air regulations. We have a big clean air problem in our state. We have done a lot of good work on it, but when Nissan came to this county, the first thing it had to do was get an air quality permit from the State Air Quality Board, and if it could not get it, it would have gone to Cartersville, Georgia. Fortunately, local leaders have been working to clean up the air.

Chattanooga in 1959 had the dirtiest air in the country and local leaders, including Senator Corker, worked hard to clean that up. So by the time Volkswagen was looking for a site, Volkswagen came to Chattanooga. But if our air had not been clean, Nissan would be in Cartersville, Georgia and the Volkswagen site would be a vacant lot. We cannot stop now, especially stopping dirty air blowing in from other states.

But overall, this avalanche of regulations has been a big wet blanket on our economy and the best thing we could do as elected officials is to lift that wet blanket from the economy and free it to create more jobs and the way to start with that would be to repeal the misguided healthcare law and the Dodd-Frank Act.

Chairman ISSA. Thank you, Senator.

Senator Corker.

[Prepared statement of Senator Alexander follows:]

Sen. Lamar Alexander

June 18, 2012

Prepared Remarks

During the last three years, an avalanche of regulations from the Obama administration has thrown a big wet blanket over the American economy.

Let me outline just three examples of how those actions have made it harder and more expensive to create jobs in Tennessee:

1. The NLRB's attack on right to work states: When Nissan first considered locating in the United States it wanted to be in the center of the American market because that reduces the cost of transporting heavy cars and trucks to its customers. Several states, including Tennessee, are in the center of the market, but every state north of Tennessee did not have a right-to-work law. So our right-to-work law was a crucial factor in attracting first Nissan, then Saturn and then hundreds of suppliers. Now auto jobs are one third of all of Tennessee's manufacturing jobs.

The National Labor Relations Board's attempt to stop Boeing from locating a new manufacturing plant in South Carolina because South Carolina has a right to work law was therefore not just a South Carolina issue. It made every company thinking about moving from a non right-to-work state to a right-to-work state stop and think about whether such a move would cause delay and expensive litigation. Boeing was able to fight and win. But the NLRB actions made it harder and more expensive to create jobs in Tennessee.

2. The health care law's taxes and mandates on business: Not long ago I met with chief executives of the nation's restaurant companies. They are the largest employer, outside of the US Government, of low income and young people, those who most need jobs in this economy. The chief executive of Ruby Tuesday's, headquartered in Maryville, told me that the cost of the new employer mandate in the health care law would be greater than his company's entire profit for one year. They will have to increase the hours for their full-time employees and reduce their overall workforce in order to reduce the number of employees they have to cover. Another company told me that, because of the law, its goal was to operate each of its stores with 70 employees instead of 90.

3. The Medicaid mandates on states that are making it harder for students to go to college: More and more, a college degree is essential to getting and keeping or even creating as job. The President's goal, Governor Haslam's goal, is to increase the number of Tennesseans who graduate from college. Yet the new Medicaid mandates of the health care law have made it more difficult for Tennessee and other states to fund higher education. Last year the state's share of its costs for Medicaid rose 15%. That was the principal reason why Tennessee's support for college decreased 14%, excluding the money from the Hope scholarship. As a result, tuition rose at Middle Tennessee State University and other colleges in Tennessee and across the country, making it more difficult for students to afford college.

Perhaps the worst offender of runaway regulations has been the Environmental Protection Agency. Between the Boiler MACT rule, the greenhouse gases rule, their attempt to ignore the will of Congress and change clean water regulations that could result in regulating puddles of water, and their crackdown on the farming community by trying to regulate dust from farming operations—it has become a happy hunting ground of ill-considered regulations that harm job creators.

But as the late William F. Buckley once said, even a stopped clock is right twice a day. Two of the EPA clean air rules have been good for Tennessee and I have supported them. They will help stop dirty air from blowing into Tennessee from other states, a problem we have because we are surrounded by more states than any other state. The result has been that three of our cities are among the top five worst cities in the U.S. for asthma, and the Great Smoky Mountains National Park is one of the nation's most polluted. It is obvious why such dirty air is bad for our health.

But dirty air also makes it more difficult to create jobs.

One reason is the 9 million people who come every year to see the Great Smoky Mountains, not the Great *Smoggy* Mountains, and chambers of commerce in East Tennessee want those tourism dollars and jobs to keep coming.

A second reason is that dirty air makes it harder to recruit the next Nissan plant or the next Volkswagen plant or auto supplier. Here's why: The first thing Nissan did when it came to Tennessee in 1980 was to go down to the state air quality board and apply for an air quality permit for the emissions from its paint plant. Under the law, if a community's air is too dirty, a new industry that adds to the pollution cannot locate there. Fortunately, at that time, Nashville's air was clean enough so that Nissan could receive its permit. If it had not, it would have gone to Cartersville, Georgia, and we would not be able to say that one third of Tennessee's manufacturing jobs are auto jobs.

Every one of Tennessee's major metropolitan areas right now is struggling to stay within the legal clean air standards. If they drop below those standards, the next Nissan or Volkswagen or auto supplier will go somewhere else. And our best sites for new industry and new jobs will remain vacant lots. TVA is doing its job to help by putting pollution control equipment on all its coal plants. The rules I support will require utilities in other states to do the same. So, the lesson I have learned over the years is that clean air means better jobs, as well as better health.

Our goal as elected officials should be to make it easier and cheaper to create private sector jobs in America. That is the best way to end the longest recession in American history.

Thank you.

STATEMENT OF THE HONORABLE BOB CORKER

Senator CORKER. Mr. Chairman, thank you for being here.

I was thinking as we were driving over today that so many of the companies around the country today are having their board meetings in Washington, and being on the Banking Committee and having had the background that I have, I am asked often, as I am sure you are, to present to these boards who come to Washington for their board meetings, which speaks, I think to the unhealthy situation that exists in our country where so much of Washington is affecting what they are doing. So I thank you so much for coming to Tennessee and being out here with people who are creating jobs in Tennessee. We are importing jobs, as the Governor mentioned, due to the outstanding job he and those before him have done, and exporting products. So we are proud of our state, we are especially proud of the three Congressmen who sit with you, who I love serving with and I think do an outstanding job. And as you can imagine, tremendous pleasure for me to serve with Lamar Alexander, who is one of the best that exists in the Senate and of course to be able to do so with Bill and Bill.

I do want to mention that I know there has been a lot of discussion today about regulations and I think both Governor Haslam and Senator Alexander have done an excellent job in talking about those. I still believe the biggest issue that faces our nation as it relates to job creation is the issue of us in Washington not solving the fiscal issues that we have. I think if you talk with the business folks here, they will tell you that the uncertainty of whether we are going to be able to come together and solve this fiscal issue is the biggest impediment to job creation.

As I meet with these board members, as I know you do, Chairman—and for what it is worth, for those of you in the audience, I have been on panels with Chairman Issa here but also around the world in other places, and the way he conducts himself causes people to listen to him in many, many places, not just here in our country. But I think we both listen to corporate boards as they talk about the fact that they are unwilling to invest in capital and they are unwilling to invest in people because they are concerned about whether we in Congress are going to have the ability to come together and deal with this fiscal issue. And I think in spite of our frustration with the many regulations that we are dealing with—and again, I applaud this tremendously and you have a wonderful panel coming after us—that still is the biggest issue as it relates to job creation in our nation.

I think all of us know at the end of this year, we have another issue, which is the tax issue, the fiscal cliff is coming at the end of the year, which, by the way, people on both sides of the aisle understand is a problem and becoming more of a problem, but the overall insolvency of our country is the biggest.

I want to add just a little detail to what Senator Alexander mentioned earlier, and that is as I travel the state, I was highly involved, as you were, in the financial regulatory legislation that took place. I do not think any of us here at Middle Tennessee—by the way, the largest university in the state now—supported that legislation. But as I travel the state, in counties that especially depend on their local community banks, the banks that have leaders that are in their Kiwanis Club, their Lions Club, their Rotary Club, these leaders tell me that in many cases now they have more compliance officers than they have lenders. And some people think that is a great way to create jobs, is to create regulations that cause people to hire compliance officers.

But I think what we have seen and what Washington does so often is we create a one-size-fits-all piece of legislation, a piece of legislation that is intended to deal with some of the complexities of organizations like J.P. Morgan or Bank of America or CitiBank or Wells Fargo. And what we do is cause these same rural community banks to have to comply with those regulations, and it is absolutely stifling credit. In many cases, these banks have no idea what the examiner in charge is going to do in their particular entity. As a matter of fact, one bank might have an examiner in charge that comes in and talks with him about one thing. Another institution has another examiner in charge who is totally different, who comes in and so it is not just the regulatory over-burden that is taking place, it is also the lack of consistency that is really creating a lot of fear.

And what happens is when many of the small businesses that are represented in this room go to an institution like this, they are more fearful about whether they are going to be in business than they are being able to create jobs in their own community, more focused on creating jobs in their own community.

So I do hope—and by the way for what it is worth, I think most people in Washington are beginning to understand that Dodd-Frank missed the mark and I hope that during this next Congress, we will peel away these things that I absolutely know are hurting job creation, especially in some of the places that are not major metropolitan areas.

I will second what Lamar mentioned about the healthcare bill. I do not think there is any question, especially people who have the ability to not hire people for a full 40-hour week—what we are seeing with numbers of companies around our state is that if they can cause an employee to work under 30 hours as they move ahead, that is what they are doing. And so you have major employers who have had people working with them for years, decades, and they have become very important to their institutions, but as they look at the healthcare bill beginning to be implemented, what they are doing is focusing on ways of reducing those hours below 30, so they will not have to comply. I think all of us know that that is not a good thing for our state.

For what it is worth on that note, candidly, I think there are people on both sides of the aisle that understand that this is not workable. I do not know of a thinking person on either side of the aisle that believes this bill can work as it is laid out. And I certainly look forward to working with you and others to make sure that we rectify many of the problems that are being created.

And, of course, Lamar mentioned the EPA. There is no question you are going to have people from the agriculture community and others that can speak specifically to that. But all of us have heard horror stories about the EPA and the kind of inflictions that it is creating on business.

So I thank you so much for being here. I know everybody wants to get to the meat and that is the panel of folks who actually create jobs, but all of us are committed to creating an environment. We know it is the environment, as our Governor said so well, that we all need to focus on that allows those in the private sector to create jobs. And I thank you for ensuring, through this field hearing, that we continue our focus on that.

Chairman ISSA. Thank you, Senator.

Mr. Hagerty, you have been on the job for more than a year trying to create jobs. Do you want to tell us about it in five minutes?

STATEMENT OF WILLIAM F. HAGERTY, IV

Mr. HAGERTY. That is correct, Mr. Chairman. It has been my great pleasure to come into Governor Haslam's administration at the outset in January of 2011. And I cannot tell you what a great honor it has been to serve with each of the leaders to my left here and also with each of your congressional colleagues. Congressman Blackburn, Congressman Black, Congressman DesJarlais are in regular contact with my office and certainly Senator Alexander, Senator Corker stay in close touch, and Governor Haslam could not be a better leader of our state as we move forward in the effort to create jobs. Their advice, their guidance and their support really has made a big difference in terms of our success.

I also think it might be helpful to give you a taste of some of the success we have had here in Tennessee, to put some matters in context, then I would like to go into some specifics, if I might.

But to put things in context, when Governor Haslam came into office in 2011, he set some very specific goals for our department. He mentioned the fact that we have had significant cuts in terms of our federal money coming to the State and he also mentioned that he has been able to maintain priorities like teachers and schools and delivering substantive services that we need. But at the same time, he challenged every member of his cabinet to undertake a top-to-bottom review. We reduced the size of my department by 42 percent as a result of that effort and in 2011, we had the second best year of job creation in history in 2011, only surpassed in 2007 at the peak of the bubble.

And I would like to say this, in January of 2011, when Governor Haslam came into office, Tennessee was at a 9.5 percent unemployment rate while the national average was nine percent. Today, we stand at 7.9 percent while the national average is at eight—sorry, at 8.2. What we have done is we have moved our unemployment rate 1.6 percent, 1.6 percent improvement while the national average has improved only eight-tenths of a percent. Tennessee has improved at twice the national average and that is due in no small part to the leadership here in this room and the leadership of Governor Haslam.

Our department had to reorganize the way we do business. We put people in the field in nine different regions. We have explicit outreach to entrepreneurs and to investors. We manage two venture capital programs now in the state, constantly reaching out to entrepreneurs. We have launched nine accelerators in each of our regions and last year, we reached out to more than 2000 companies here in the state of Tennessee. We conducted meetings with over

700 stakeholders in economic development. And this year, in 2012, we are moving that pace ahead at an even higher rate. We have undertaken 12 regional roundtables now focused on rural economic development. We think our job is to try to get out and understand what is happening, just as you are, at the state level, how we can help businesses thrive and grow.

One of the things that Governor Haslam challenged us to do was to undertake a regulatory review last year. Our department organized a working group led by my Assistant Commissioner Paul Fassbender. Commissioner Fassbender led a series of 12 roundtables across the state, all focused on opportunities to improve the regulatory climate for Tennessee businesses. The group identified existing federal and state regulations that negatively impact business in this state and Commissioner Fassbender's team delivered a report to the Governor last year with several recommendations. As the Governor said, the majority of our issues were federal regulations. What I would like to do is touch on the four primary areas and we can get to specifics in questioning.

The number one area of concern amongst the businesses that we met with and interviewed was the new healthcare legislation, the Patient Protection and Affordable Healthcare Act. That uncertainty that the Act creates, and the example that Senator Alexander mentioned with restaurant owners, it permeates our entire state. Every business owner is concerned about the cost and the uncertainty of what is happening with that legislation. As it gets batted around through the judicial system, as we wait for an answer later this month from the Supreme Court, there is a great chilling effect that this regulatory burden has created in the State of Tennessee.

A second federal issue that creates a tremendous amount of concern is the one that Senator Alexander mentioned, that is the National Labor Relations Board activity. The Boeing decision could not have had a more chilling effect on companies looking at the State of Tennessee. As companies who are in states that have union activities, they look at right-to-work states as a very desirable location. But many of those companies are stifled or frozen in terms of their inability to move forward. We need clarity on that matter. Certainly we are not a regulatory agent, my department, but we hear a lot of feedback from businesses in terms of the constraints that the NLRB decisions have imposed upon us.

Third, as Senator Corker mentioned, the Dodd-Frank reforms have had a tremendous chilling effect on community banking. Tennessee is mostly a rural state, community banking is the lifeblood of our state. And community bankers tell us that the regulatory and compliance costs are exceeding their ability to manage their business. They are not certain what the law means for them, but they feel imperiled as they undertake lending decisions and as they look at their cost structure, they see it increasingly challenged by the ramifications of this law.

And fourth, and as has broadly been discussed, the EPA regulations have a tremendous negative effect in our state. Our Tennessee Department of Environment and Conservation does an excellent job of trying to help businesses comply with these regulations, but many companies told us through our regulatory review that the regulations have become so unduly burdensome that they have a very great concern about their ability to expand and to grow.

Overall, Tennessee is blessed with a wonderful business climate. We have great leadership, we have a great entrepreneurial spirit in this state and we are very optimistic here that we are going to continue to expand and grow. But we very much appreciate you being here today to listen to our problems and to work with us, work with Governor Haslam and everybody in our state to try to help continue to make Tennessee the place that it can be.

Thank you.

[Prepared statement of Mr. Hagerty follows:]

Testimony of Mr. William "Bill" F. Hagerty, IV
Commissioner, Tennessee Department of Economic and Community Development
Before The
House Committee on Oversight and Government Reform
On
"Tennessee Job Creation: Do Federal Government Regulations Help or Hinder Tennessee's Economic Development?"
June 18, 2012

Mr. Chairman, Congressmen DesJarlais and Congressman Black:

Thank you for inviting me to testify before the committee on the impact of federal government regulations on job creation in Tennessee.

My name is Bill Hagerty, and I am the commissioner of the Tennessee Department of Economic and Community Development (ECD). I serve at the pleasure of Governor Bill Haslam, and I am honored to have your committee in our state.

The Tennessee Department of Economic and Community Development's mission is to develop and execute strategies to make Tennessee the No. 1 location in the Southeast for high quality jobs. The department seeks to attract new corporate investment in Tennessee and works with Tennessee companies to facilitate expansion and economic growth.

In 2011, job creation in Tennessee hit its highest mark since the onset of the global recession and the second highest year on record, topped only by 2007 at the height of the bubble. ECD projects and private sector growth tracked by the department accounted for 28,535 jobs created in Tennessee in 2011 and more than $4 billion in capital investment.

Ongoing and substantive communication with businesses at home and abroad is critical to our success. Our department has executive level field staff on the ground in nine distinct regions in the state working with Tennessee businesses every day. We also have four international offices in Japan, China, Germany and Canada.

The ECD staff is also regularly in touch with the state's entrepreneurial and start-up business community. We are responsible for two different venture capital programs targeting increased investment in Tennessee businesses. We also provide grants to nine business accelerators across the state. These accelerators provide resources to help entrepreneurial Tennessee companies get off the ground.

Our department's outreach to Tennessee businesses has reached unprecedented levels. Our staff met with more than 2,000 businesses and over 700 local economic development stakeholders last year. That outreach is ongoing this year at a heightened pace, and in 2012 we have added to the mix a series of rural economic development roundtables.

At Governor Haslam's direction, we committed an ECD working group led by Assistant Commissioner Paul Fassbender. Commissioner Fassbender led a series of 12 roundtables across the state focused on opportunities to improve the regulatory climate for Tennessee businesses. The group identified existing federal and state regulations that negatively impact business in the state, and Commissioner Fassbender's team delivered a report to the Governor last year with state level recommendations.

What we have learned from being on the frontlines of job creation in Tennessee is that four main areas of federal law are causing problems for Tennessee businesses – often problems that keep them from growing and hiring.

In a broad sense, general uncertainty about the future of federal laws and the related regulatory environment are keeping some Tennessee businesses on the sidelines when it comes to capital investment and hiring. Business owners and managers are forced to make decisions in a very uncertain environment. That impairs long-term planning and limits growth-related strategies from taking hold and having a positive impact.

The Patient Protection and Affordable Care Act (PPACA) is possibly the number one issue perpetuating this state of uncertainty among business owners, according to our outreach. While the U.S. Supreme Court decision expected this month may lend some clarity to the issue, the unease and uncertainty from already sky-rocketing health insurance costs for employers is only compounded by the unknown future of PPACA.

Job creators watch as the law is bandied about in the press, ricocheting through the judicial system and they simply are frozen by the lack of certainty this law has caused. The general perception and the belief among Tennessee business owners is that this law will only cut deeper into their bottom line and make growing their companies that much more difficult.

A second federal issue that creates even more uncertainty for Tennessee employers is the concern surrounding rulings from the National Labor Relations Board.

As a right-to-work state with no state income tax, Tennessee has become a magnet for all kinds of businesses. Our status as right-to-work is one of the great strengths we market when we want to recruit a company to the state. It is also the reason so many businesses choose to stay in Tennessee.

However, the NLRB Boeing ruling related to South Carolina sent shock waves through the U.S. business community, and nowhere more so than in Tennessee. Much like the impact of the 2010 Healthcare Legislation, it is the uncertainty caused by the NLRB's overreaching that simply freezes decision makers and dampens their appetite to commit capital and create more jobs.

During our travels across Tennessee and during our daily interactions with business leaders, we hear frequently about a third major concern - the impact a tightening of credit is having on businesses of every kind.

When you talk to banking leaders in our state about the problem, they point to the negative impact the Dodd-Frank Wall Street Reform and Consumer Protection Act is having on community banking.

While Dodd-Frank was not intended as a one-size-fits-all set of reforms for banks and financial institutions, the law is largely being perceived that way out of an abundance of caution by banking leaders. At over 2,200 pages, community banks are struggling to determine what if any of the Dodd-Frank law applies to them as they live in a constant state of constraint and fear over the potential regulatory impact of their lending practices.

Furthermore, the dense regulatory climate has community banks biting into their own bottom line by adding staff simply in an attempt to be compliant with the new law – staff that only exists to navigate Dodd-Frank. Some banking leaders here suggest this heavy regulatory climate actually caters to the largest banks with massive regulatory staff, saying the very existence of community banks is threatened by the sheer weight of these new regulations.

The net effect is, again, an uncertain federal regulatory climate that dampens community banks incentive to make loans and help their business customers grow. This is particularly bothersome for a state like Tennessee, where locally owned community banks are the lifeblood of business in our mostly rural state.

And fourth, many Tennessee businesses regularly tender complaints to our staff about the burdens of meeting Environmental Protection Agency regulations and mandates. Overall, businesses find EPA regulations costly to negotiate, the paperwork involved paralyzing and the regulatory culture of the agency to be adversarial in many cases.

Our Tennessee Department of Environment and Conservation does an excellent job of trying to help Tennesseans negotiate these rules and regulations, many of which are passed down for states to enforce; however, the complexity of EPA mandates are often so overwhelming that small businesses advise us that they simply can't find an affordable, reasonable path toward compliance.

Overall, Tennessee is blessed with a terrific business climate – one of the best in the world. Government does not create jobs; the private sector creates them through capital investment, hard work and an entrepreneurial spirit. Tennessee has one of the greatest entrepreneurial communities in the U.S. and a state government that understands and supports business.

While our department is not a regulatory agency, we interact on a daily basis with companies that have the potential to expand. As such, we have a broad understanding of how federal laws and the current uncertain regulatory climate hampers business leaders in our state from investing in the future. The risk-reward equation for entrepreneurs in our state is being negatively impacted and the heightened reluctance to undertake entrepreneurial risk is a major hurdle for our department's efforts to take job creation in our state to a higher plane.
And while Tennessee has made significant progress since Governor Haslam took office - moving our unemployment level from above the national average to below the national average at 7.9 percent - we still have a long way to go.

Thank you for inviting me today and for listening to our perspective. I am happy to answer any questions.

Chairman ISSA. Thank you.

Governor, this is a successful state, so we will stick strictly to the federal problems, but I must tell you that I did not give Rick Perry any credit for taking jobs from California, so I will not give you very much either.

Governor HASLAM. Is this the fish-in-a-bill analogy, or what are we doing?

Chairman ISSA. Yeah, pretty much. I was a Romney supporter early on, so I maybe was disingenuous a little bit.

But, Governor, you mentioned what you have dealt with post-stimulus. The stimulus was $800 billion roughly spread over two years, more than half of it going to essentially state and local employees.

Governor HASLAM. Right.

Chairman ISSA. A lot of teachers, no question at all. And you have had to deal with that. But for about a decade, we have been on a stimulus pace, in other words, large deficits. We have a trillion dollars a year deficit right now. Now a trillion dollars a year of deficit spending is, by definition, a trillion dollar stimulus every single year.

Governor HASLAM. Right.

Chairman ISSA. We borrow the money and spend what we are not taxing for. Job creation is important. Can you do a better job if over time the federal government cuts back the portions that essentially go to Washington and come back or come from China and go to the states—can you adjust to where over time states are more self-reliant and less money comes to the states if it is phased in as a matter of policy, recognizing that, particularly in the case of Medicaid there is a federal-state match, highway there is a federal-state match? Is this something you would like to have or would you prefer that we, in order to continue this kind of circular money, increase taxes at the federal level, basically take it from your stockholders?

Governor HASLAM. I would make two comments. Number one, when the President talks about we need to provide more to the public sector, what he is really saying to the people in Tennessee is you have managed your budget well, you have made the cuts that you need to, we have a surplus this year, which we will wisely invest next year, but other states have not; and so we would like the people of Tennessee to pay more taxes so that the other states which have fundamental structures of their state government that do not work, their costs have gotten too high just fundamentally, but we would like the people of Tennessee to make up that difference because the people in these other states have budgets that do not balance. So it does feel like it is just basically wrong for my shareholders, who have been disciplined.

The second comment I would make to your question would be this—like I said, when the stimulus plan money ran out, we saw that coming, it was right when we were transitioning in and our predecessor did quite frankly a good job of laying out a road map and we took that and changed that but made it work. But I actually go back to his comments, my predecessor Democrat, but back when the recession happened, state revenues fell off, he said we can make the adjustments here now. We will take the federal money if they send it, but we are prepared and can make the adjustments in Tennessee. And I feel like that.

But the last thing is this, you talked about Medicaid. I am with those folks who said if you will just block grant the money to states for Medicaid, give us much more authority over how we use that, trust us to make decisions. I think there is a sense that the federal government says we cannot trust states to do the right thing. I will say it is really interesting, and I will stop with this, the current Obama administration really I thought in some ways took the right steps when they ended—or gave waivers to states with No Child Left Behind. It was not the perfect approach I would like, but they did say states if you will show us how you will do it the Tennessee way, then we will give you a waiver from the requirements for No Child Left Behind. I would submit for the administration that is a great road map for how to do it in other ways, to do that in Medicaid. Let us put the basic parameters and then let you run the program. I guarantee you every state will run it better than the federal government. The closer to home government is, the better. That is just a truth and it always will be.

Chairman ISSA. Mr. Hagerty, you particularly mentioned some of the challenges for the community banks. Would you particularly feel that we, the Senators with you and the House Members, need to reopen Dodd-Frank specifically as to recognizing that these non-international, non-credit default swap entities who simply bring in dollars from the community and send them back out to the community should be under a different standard, if you will, a much closer standard to what had done well for so long before the meltdown in 2008?

Mr. HAGERTY. Mr. Chairman, our agency is not a regulatory agency with specific expertise on banking, so I can only offer you general comments.

Chairman ISSA. But you do come from that background.

Mr. HAGERTY. I do, I can offer you some general comments. If I think about the response that we have gotten from the field and from community banks in particular, Dodd-Frank has been imposed upon them in a one-size-fits-all perspective. That is great for J.P. Morgan, they have got 100 lawyers on staff, maybe more. Same for many of these other international banks that do business in the United States. That is not the case for rural Tennessee community banks. They do not have the overhead. This is absolutely diverting attention that needs to be paid to businesses the compliance activity, it is diverting capital that needs to be invested in more lending, more loan officers the compliance activity; and frankly, I think it is having a significant effect, curtailing lending into an area where we need it the most. So anything that you could do to ease the burden on those sized community banks and not impose a one-size-fits-all on them, seems to me to fit squarely into the area where the community banks would benefit from some type of change or redress.

Chairman ISSA. If I could just ask one quick followup. Our Committee in the House has voted out unanimously something called the Data Act. It is designed to have all recipients of federal dollars report in a format that is completely, if you will, data searchable, similar to the way you reported the stimulus act. As a matter of fact, it is taken from the way that recovery board went.

If that bill becomes law, which of course depends on the Senate—that must be why I am asking this question——

[Laughter.]

Chairman ISSA. —you would have transparency for all the dollars passing through, back and forth, not just from your state, but every other state. Would that be helpful if the federal government standardized a system so that you really would be able to use the money flowing in and out, being able to see where it is, including, for example, Medicaid, you would be able to see every entity that was ever barred from Medicaid on a national basis and so on.

Mr. HAGERTY. Real short answer—yes.

Chairman ISSA. Thank you. I just needed to ask that one, for some reason.

Scott.

Mr. DESJARLAIS. Thank you, Mr. Chairman.

Chairman ISSA. Mr. DesJarlais is recognized for five minutes.

Mr. DESJARLAIS. Senator Corker, you started your own business, you were a job creator prior to being Mayor of Chattanooga and becoming Senator. Do you think that you would be willing to start that company in today's regulatory environment?

Senator CORKER. Well, I like swimming upstream, so you know, I would say I would. I will tell you though that many of my friends who have now, later in life, attempted to go out in business are finding it much more difficult. And I do not think there is any question about that. And I think it has been building for a long, long time. I just think as our country has continued to evolve rule on top of rule—you know, one of the things that we do well, and I say that euphemistically, we pass a lot of laws, but what we do not do is repeal laws underneath them. And so we end up building a lot of bureaucratic issues and I know Governor Haslam even has to peel back and deal with that here in the state of Tennessee.

So I would just say this; number one, thank you for having this hearing; thanks for all the work you did in creating this; thanks for your focus on regulation. You too are a job creator and have been a job creator.

It is no doubt more difficult in today's society with all the things that have been mentioned here to create a business. And as a country, we need to be moving in exactly the opposite direction.

Mr. DESJARLAIS. Thank you, sir.

Senator Alexander, the Oversight Committee has voted multiple regulatory reform bills out of the Committee to help curb burdensome and costly regulations and some of these bills should be going to the House floor soon. Can you help move regulatory reform through the Senate?

Senator ALEXANDER. Yes.

[Laughter.]

Mr. DESJARLAIS. Will you?

Senator ALEXANDER. I could do a lot more if we had more Republican Senators, just to be very blunt about it.

One I have thought a lot about—Senator Corker just said something that I think is worth pausing on. The problem is you have all these pressures for more regulations. I mean this not necessarily an evil force or a Democratic force or a Republican force, it is just a natural force. You come in every two years and you forget about all this stuff you have already done.

For example, when we were reauthorizing the higher education bill, here we are at a university, I worked on it for a year and a half and voted against it. Why? Because the higher education regulations today are as tall as I am, and the new bill would double the size of it. And the President of Stanford said that seven cents out of every dollar the university spent is complying with regulations. So how do you stop that?

I think the best structural way to develop a countervailing force is a two-year budget. Does not sound very sexy, does not sound very glamorous, but the idea would be every other year we would pass our budget for two years, which states do. And then in the odd numbered year, we would devote our entire time to oversight and repealing laws and repealing regulations that have become unnecessary. We could sunset more laws and regulations, we could start over again. And I think if we had that pressure going in the other direction, every other year—one year to consider what laws and appropriations need to be passed, the next year the main focus being what could we get rid of. I think that we create a countervailing force and would do a lot for regulatory reform. The answer to your question is yes, and that is one example of how I would like to try to do it.

Mr. DESJARLAIS. Thank you, Senator.

Governor, I applaud one of your mission statements when you became Governor and that was to focus on improving Tennessee's education. One of our attendees at our roundtable breakfast this morning, Jim Greene, from Richland LLC, brought up the point that he has had for months, if not up to a year now, multiple job positions available but does not have skilled labor to match those jobs. What are you doing in the state to help bridge that gap?

Governor HASLAM. That is probably the thing we are focused on the most. It begins obviously with K–12 education. Tennessee has made some big strides recently, over the last three or four years, with kind of the Tennessee Diploma Project, requiring higher standards. Our ten-year reform law I think will make certain that we only have the very best teachers standing in front of the classroom.

But then I think what you will see, and let us turn our focus to now, what is our role in post-secondary education in terms for preparing that workforce, we do hear whether it be a manufacturer, whether it be a Volkswagen or IT professionals in middle Tennessee, and I can go—or truck drivers, all across the board, employers who say I have got jobs to fill, I just do not have the people with the right training to fill them. And so we are beginning to focus on that. How do we help, again, post-secondary education of all types—technical centers to four year schools to Ph.D. programs—to prepare those graduates. And I think the good news is, I think our institutions of higher ed are understanding that and they are starting to focus not just on enrolling students but graduating them and making sure those graduates are prepared in the right way.

Mr. DESJARLAIS. Thank you, Governor.

My time has expired.

Chairman ISSA. I thank the gentleman.

Mrs. Blackburn.

Mrs. BLACKBURN. Thank you. I appreciate that and appreciate so much that you all are giving us this time this morning.

Governor and Commissioner, I want to start with the two of you. I appreciated what you had to say about having Tennessee be customer friendly. I think that is so important. And much of the emphasis has been reshaping the interaction between government and the citizens. And you all have done a stellar job of that.

So what I would like to get on the record is just a little bit from each of you, a minute or so, about your process and what lessons the federal government could learn. Because, Commissioner Hagerty, the fact that you have reduced your department by 42 percent, the fact that every department in the state is reducing, employee counts are going down, square footage that you use is being reduced. We need to be looking at this at the federal level and indeed the states are the labs for innovation.

Governor.

Governor HASLAM. When I came into office, we literally asked all 22 agencies to do a top-to-bottom review, which basically said this, if you were starting that department all over again, would you set it up the same way you have now. And when people were honest, they said no, we would not. And so we began to make those changes and we morphed that effort into what we call customer-focused government to say, okay, what is the best way to set it up for the lowest price, which is what taxpayers pay, and that gives the best service. We have made dramatic changes, everything from Bill restructuring his department to looking at how we lease office space when the state needs it, to how we use vehicles in the state. All of that, as Lamar said, sometimes real government is not real sexy or exciting but it is finding a way to save $100,000 in a $30 billion budget that if you save enough of them, it can make a real difference. So we focused on both the cost side and then on our customer response time. Everything from how long does it take—if a child is up for adoption in Tennessee, how long does it take us to find a family or to find a foster family to how long does it take you to get a driver's license. All those things we do, we want to see if we can do them faster, better and cheaper.

Mrs. BLACKBURN. The superman way.

Mr. Hagerty.

Mr. HAGERTY. Thank you very much, Representative Blackburn, for the question. It really gets to the insight Governor Haslam brought to our administration with his private sector background. And it was very simple. He challenged each of us to question our departments and say is this function, is this activity, is this structure something we should be doing as a state. And if the answer to that question were yes, then it was are we doing it the best way, are we going about it the best way.

We took that sort of approach, a very simple and straight-forward approach, and really looked at our department at least, and I can speak from specific experience, like you would a business. There were a number of activities that just needed to be repositioned and restructured and moved to a place where people could be more efficient.

I mentioned we did a 42 percent reduction of the staff, the number of positions. But of the remaining positions, I turned 50 percent of those over. We brought in a lot of new blood and we have been knocking the ball out of the park.

We called on over 2000 businesses last year. We implemented that measure in July and so that really was half a year of activity that we captured. We are going to be way beyond that this year. We are out touching the customer, as Governor Haslam wants us to, we are there with them every day now. Whatever they need to expand and grow, we are doing our best to help get these burdens out of their way.

So I think that sort of fresh approach that Governor Haslam brought has made all the difference in the world in our state.

Mrs. BLACKBURN. Thank you.

Senator Corker and Senator Alexander, you each have mentioned federal agencies and regulations as being a problem. And Mr. Chairman, I want to, at this point, give my website, because at Energy and Commerce we handle the EPA. I am also on the Healthcare Subcommittee, we are handling a lot of what will be next in healthcare. And it is blackburn.house.gov and people can follow us on Facebook and Twitter and we tweet out the links to the hearings that we are doing on these issues.

Senator Corker, you mentioned something about access to capital. I hear a lot about that and just very briefly from the two of you, when you are across the state meeting, what do you hear from people? I hear frustration, but I do not know if there are other agencies that you mentioned that they are having frustrations with that you would like to add to the record.

Senator CORKER. And you are talking about on the access to capital component or just in general?

Mrs. BLACKBURN. In general.

Senator CORKER. I do think that the most direct, aside from the big picture of us not dealing with the fiscal issues and just the concerns that that creates, I mean if people want to build a wall around where they are because they are concerned about, you know, what we are not going to do and where the country is going from the standpoint of solvency, but I think the most direct really is going out into these smaller communities and them going down to see their loan officer and candidly the loan officer being concerned. Dodd-Frank was put in place, as you well know, and the speed that it was put in place, to create certainty.

Mrs. BLACKBURN. Uh-huh.

Senator CORKER. And what has happened is it has done just the opposite. There are—there was a 2400 page bill, the rules—what happened was Congress did not do its job, it punted all of the decisions to the regulators. And so it will take at least three years for all of the regulations to come out. In the interim, the local financial institutions, because they do not know the rules of the road, are withholding capital. And so I do think that is one of the most direct issues.

These other things—credit clout, some of the things with NLRB, people just do not know, it is sort of a fog. But I think from the standpoint of a direct issue, and possibly it is because I am on the Banking Committee and people talk with me more directly, it is this issue of really not being able to get the capital.

I borrowed a little money, I had $8000 when I went in business and as time went on, I borrowed a little bit of money, not much, $12,000. But I think the difficulties of that today are far different than they were at that time. And I think a lot of it is again, because of that uncertainty.

Mrs. BLACKBURN. Senator, anything to add?

Senator ALEXANDER. Marsha, what you are making me think about, a few years ago when I walked across Tennessee to be Governor, I had a lot of time to think out there walking by myself. And one of the things I thought about was would it not be great if in the State of Tennessee, if you wanted to start a business you could call up the state government and say send me two pieces of paper that have everything on it that I need to fill out in order to go into business. Of course, I never got that done. I would like to see it done for the federal government, but maybe we could do it piece by piece.

We could start with the forms you have to fill out when you buy a car or get a mortgage on your house. They are absolutely absurd. What happens today is you go in and they are that thick [indicating] and the bank or the car dealer has it all worked out on the computer, so you sign a bunch of pages without know what is in it and then they run it through the computer and it is that thick and you go on and you are not warned of anything, because you have not really understood it.

I think if we took the consumer protections that were really important for a car or a mortgage and put them on one page, that we would protect the consumers a lot better, we would have a lot more loans, and we would have—to reverse Bob Corker's statement, we would have more people making loans than complying with federal regulations.

Mrs. BLACKBURN. Thank you. I yield back.

Chairman ISSA. Thank you.

Mrs. Black.

You know, feel free to applaud as long as it is quick.

[Laughter.]

Mrs. BLACK. Thank you, Mr. Chairman. And I so appreciate all of you being here today.

You know, we keep talking about uncertainty. I think, just as you have just said, Senator Alexander, there are some really just common sense ways to boil all this down and to get us back under control.

So let me go to—actually, Senator Corker, I want to ask you first, because I am interested, you have a bill that is the Global Investment American Jobs Act, where you in that bill help to identify some of those outdated barriers. And what I want to do is have you talk a little bit about that to show that not only are we recognizing the issues, we are listening to our job creators, but that we are also thinking about ways that we can find solutions. So if you can talk a little bit about that.

Senator CORKER. Sure. You know, our state, because of the great leadership of Bill Haslam and Bill Hagerty and people before them, Governor Alexander when he was here, it has been a magnet for investment and, you know, one of the things we like to encourage is even more foreign direct investment. I mean, you know, we do not differentiate in the State of Tennessee between jobs at Springhill and jobs at Nissan or jobs at Volkswagen. All of them to us are Tennessee jobs, they are American jobs and we would like for them to be here. So I have co-sponsored a bill—I think we are speaking of the same bill—with Senator Kerry, it is a bipartisan piece of legislation, to really break down—look at the barriers that keep foreign direct investment from occurring here. I know California has been the tremendous beneficiary in years past, maybe not today, of——

Chairman ISSA. Well, they have got to get to America on their way to Tennessee.

Senator CORKER. That is exactly right.

[Laughter.]

Senator CORKER. That is right. I could say that a little differently, but I will not out of courtesy. They have got to go through California to get to America, that is for sure.

[Laughter.]

Senator CORKER. But the fact is——

Chairman ISSA. The gentleman is not in order.

Senator CORKER. The fact is that, look, we want to see investment in our country. We know in Tennessee we have the best workforce you could possibly imagine, we have the best environment you can possibly imagine, and yet we have barriers for foreign investment and we want to break those down and make sure we continue to create even more jobs here.

Thank you for the question. And thanks for your great service.

Mrs. BLACK. You are welcome, and thank you because barriers are absolutely—the uncertainty of the barriers are absolutely what are keeping our job creators. I was visiting with Boeing not too long ago, and they said uncertainty creates paralysis and the retraction of our businesses from growing because of that uncertainty and breaking those barriers down.

I want to go to you, Commissioner Hagerty, because you also did a study to take a look at what some of those federal and state regulations were that were negatively impacting our businesses, which are also barriers. Can you talk a little bit about what you found there and share that with us?

Mr. HAGERTY. I would be happy to provide a copy of the survey.

Mrs. BLACK. That would be great.

Mr. HAGERTY. And again, we are not a regulatory body, but we reached out and asked questions to the business community. And I would just like to summarize that in the broadest sense, uncertainty, as has been mentioned by each of my panelists here, each of the leaders that are to my left, has been the over-arching concern, whether it is uncertainty driven by the NLRB, it is uncertainty with the healthcare legislation, it is uncertainty from Dodd-Frank. EPA, for example, just creates a stifling amount of uncertainty. That has been the over-arching theme. It is uncertainty, cost and the whole burden of compliance.

And I think that the Tennessee business people that we spoke with feel stifled and feel very concerned that they just cannot tell which way things are coming from Washington. And I wish I could be more specific, and indeed I could go through specific examples, but they all roll up to this one common theme of uncertainty.

Mrs. BLACK. Well, I appreciate what you have done in your work and if you can share it with us, this is a good piece of information for us to take back. All of our committees deal with issues of job creation, so that would be good information for us all to be able to use as we talk about it in our various committees.

Governor Haslam, why don't I go to you. One of the things that you did not mention that was a shining star this last year in the legislative session is what happened with the—I cannot believe I just lost my train of thought there—with the——

Governor HASLAM. Tort reform?

Mrs. BLACK. —with the lawsuits.

Governor HASLAM. Okay.

Mrs. BLACK. And tort reform, so if you could just talk about tort reform.

Governor HASLAM. You know, back to the predictability that Commissioner Hagerty was talking about, businesses want to know, tell us the rules, tell us what is coming and let me know that. And I think what we tried to do is provide a more predictable business environment. Again, we do not think government creates jobs, but we can create the environment where that can happen and the tort reform bill that put a cap on damages I think for businesses helped to define that. It also helped to define okay, where a lawsuit could happen, under what circumstances. So I think again, most people—there was a lot of people who questioned that, said oh, that does not really feel like that will create jobs, but I know of three companies, two or three companies, who have said I was not considering Tennessee, but now it is on our list of places. That is just anecdotally that I know of. So I do think again that is part of setting the environment right.

Mrs. BLACK. Tort reform has been talked about a lot here in the State of Tennessee over the years when I was in service here and I congratulate you and commend you for listening to our job creators, because we did hear that consistently, that lawsuits are very difficult for our job creators.

Governor HASLAM. Right.

Mrs. BLACK. And maybe that is not one that always rises to the top in the discussion, but certainly it is one that we have to look at very closely to see what that does for our job creators.

Thank you and I yield back my time.

Chairman ISSA. Thank you.

I want to thank our panel of witnesses.

Since each one of you mentioned NLRB more than once, I will tell you that after Boeing came to a union settlement out in Everett, Washington and suddenly their problem in South Carolina went away, our Committee has not given up on getting to the bottom of whether or not there was a wink and a nod, because there is no logical reason to pursue them for wrongdoing and then give it up because they sign a new union contract that apparently fit the administration. So we do oversight and we do oversight even after someone says oh, no, it is okay, we have settled that. So we will get to the bottom of it to make sure that never again will that technique be used to coerce some sort of an agreement.

Again, I want to thank our panel. Senators, Governor and Mr. Hagerty, we are pleased to have you, but this is not a typical field hearing, so the level of participation, we very much appreciate.

And with that, we will take a short recess to set up the next panel. Thank you.

[Recess.]

Chairman ISSA. The hearing will come back to order.

We are now joined by our second panel of witnesses. Mr. Mark Faulkner is owner of Vireo——

Mr. DESJARLAIS. Vireo.

Chairman ISSA. Oh, Vireo. Okay, I do actually know that name. It just looks hard to spell. —Systems, a small manufacturing plant that produces various chemical compounds. He is testifying on behalf though of an organization we respect a great deal in Washington, the National Federation of Independent Business. Mr. Grady Payne, a returning witness to the Oversight Committee, is CEO of Conner Industries, a lumber and assembled wood products supply company, which has a plant in Fayetteville, Tennessee. And Mr. Scott Cocanougher?

Mr. COCANOUGHER. Very good.

Chairman ISSA. CEO of First Community Bank of Bedford County. And of course we talked a great deal on the first panel about the plight of community banks after Dodd-Frank. And Mr. Bob Bedell is the Unit Sales Manager for Coca-Cola, a small but meaningful company that we have heard about before.

[Laughter.]

Chairman ISSA. Actually a worldwide leader in beverage. He is testifying on behalf of the Beverage Association of Tennessee.

Gentlemen, you saw on the first panel, pursuant to our rules, would you please rise and take the oath? Raise your right hands.

[Witnesses sworn.]

Chairman ISSA. Let the record reflect that all witnesses answered in the affirmative. Please be seated.

Now I have noted that none of you are governors or senators, so that red light means stop. Please stay within your five minutes, to allow time for questioning. And your entire opening statements plus additional things that come from you will allowed to be placed into the record so that we have a full understanding.

Mr. Faulkner.

STATEMENT OF MARK FAULKNER

Mr. FAULKNER. Very good. Chairman Issa and Members of the Committee, thank you very much. I appreciate the opportunity to testify on the federal regulatory climate and its effects on my business. As you mentioned, I own Vireo Systems. We are a small manufacturing plant that produces chemical compounds, and I currently have 22 employees.

And although this is an over-simplification, current interactions with regulatory agencies boil down to a process of audit, review and critique, issuance of fines and then potentially the engagement of some combination of hindrance, threats, seizing of property, et cetera, all in an adversarial manner. Most times, the agencies do succeed in collecting money from businesses because most owners are simply very scared of the authorities. They can declare us guilty, assess huge fines, and we are left to have to try and prove ourselves innocent—guilty until proven innocent. But most small businesses do not have the financial resources or time to defend ourselves and we know the punitive powers that the agencies wield.

We know that job growth in America remains stagnant and for small businesses, government requirements are the most significant problem facing us after taxes and demand for our products. Reducing the regulatory burden is a step the government could take that would go a long way towards giving entrepreneurs the confidence that they need to expand and hire more people.

I personally have held off hiring people over the past year because I do not know how a recent OSHA audit may hit us in the way of fines, fines for things that have been safe and within codes for years. I could add at least six new jobs to my payroll right now, but I am unwilling or actually unable to do so because the budget that I have for payroll may be needed to pay for fines for somewhat dubious regulations or regulatory interpretations.

So simply stated, government regulations are stopping me from creating new jobs. And while a few jobs at our little business may be small potatoes, if that is multiplied across the nation by thousands of small businesses, it adds up to a serious squelching of economic activity and job creation.

As I just mentioned, I am currently undergoing an audit with OSHA and this and other agency experiences have made me think that the main goal of the various agencies has become to target businesses for fines that support their departments in what feels like a government shakedown. Agencies like OSHA assess fines for alleged compliance infractions, but then also they will end up suggesting that they will reduce the fines if we agree to rapid payment and skip any appeals processes or legal challenges. Basically it is a pay now or risk paying more later if you fight the charges and want to try and introduce some due process into the situation.

After one particular DOT audit, it was alleged that a torque wrench at my facility was not calibrated correctly even though the wrench was working fine and we had never had any leaks in using it to tighten container lids. Regardless, to make sure, I bought a new one for $40 so that there was no question, but the DOT auditor wanted to fine me about $5000 for this. I refused, saying that it was ridiculous. After going through a few rounds of DOT employees and managers offering to cut the fines, which made me feel like I was living “Let’s Make a Deal,” they insisted that if I did not take the reduced fines offered on the table, I would be forced to pay the original amount. I finally threatened to get my attorney involved and they eventually agreed to just have me pay $200 to get the situation put to bed. I felt like it was a case of attempted government extortion.

It seems as though regulators need to justify their existence and generate some of their own job survival revenue. And I believe that Congress should mandate a change in the culture of those agencies from policing to education, because most businesses want to be safe and in compliance. So for any first time offenses, rather than punitive fines, if the small business is showing good faith and good faith efforts, then the department should be limited to giving supportive guidance and warnings and only resort to fines if the business does not resolve issues and if legal action finds them guilty of repeated non-compliance. Agencies should be tough on businesses that blatantly ignore regulations, but they should not treat every small business as a bad actor.

Right now, there is none of our American tradition of checks and balances against growing agency power. Congress can help this situation by holding federal agencies accountable. I hope Congress will seriously consider the reforms that I included in my written testimony and specifically Congress should expand the Small Business Reg Enforcement and Fairness Act to include additional agencies, and require all agencies to include indirect costs as economic analysis for rule. And then also strengthen the U.S. Small Business Administration's Office of Advocacy to be able to fight on behalf of small business.

Thank you and I will look forward to any questions.

Chairman ISSA. Thank you.

Mr. Payne.

[Prepared statement of Mr. Faulkner follows:]

Chairman Issa, Ranking Member Cummings and members of the Committee,

On behalf of the National Federation of Independent Business (NFIB), I appreciate the opportunity to submit for the record testimony to the Committee on Government Reform, for the field hearing, *"Tennessee Job Creation: Do Federal Government Regulations Help or Hinder Tennessee's Economic Development?"*

I am the owner of Vireo Systems, a small manufacturing plant that produces various chemical compounds, and I currently employ twenty-two people. As a small business, we often feel the pain of government over-regulation. Although some regulations may be necessary or well-intended, American businesses suffer from many regulations (and regulators) that are illogical and illogically applied - especially to small business.

Although this is a simplification, our current interaction with a regulatory agency boils down to audit, review, fine and then potential for some combination of hindrance, threats and seizing of property, all in an adversarial manner. The agencies succeed because most business owners are scared of the authorities. As small-business owners, we do not have the financial resources to defend ourselves. We know the punitive power agencies wield, and with effectively little recourse for us, the victim.

Overzealous regulation is a perennial cause of concern for small business owners, and is particularly burdensome in times like these when the nation's economy remains sluggish. Unfortunately, the regulatory burden on small business has only grown. A recent study by Nicole and Mark Crain for the U.S. Small Business Administration Office of Advocacy (Office of Advocacy) found that the total cost of regulation on the American economy is $1.75 trillion per year[1]. If that number is not staggering enough, the study reaffirmed that small businesses bear a disproportionate amount of the regulatory burden. The study found that for 2008, small businesses spent 36 percent more per employee on regulation than their larger counterparts.

Job growth in America remains stagnant. Small businesses create two-thirds of the net new jobs in this country yet in the NFIB Research Foundation's most recent edition of *Small Business Economic Trends*, released last Tuesday, small-business owners cited government requirements to be the third most important problem facing small businesses, just behind taxes and poor sales[2]. Reducing the regulatory burden is a step the government could take that would go a long way toward giving entrepreneurs the confidence they need to expand their workforce in a meaningful way.

There are two specific agencies I want to bring to the committee's attention today – the Occupational Safety and Health Administration and the Department of Transportation. I would also like to address comprehensive regulatory reform. While my experiences focus on OSHA and DOT, I believe actions of many agencies continue to have a negative impact on small businesses and our ability to create new jobs.

In fact, I have held off hiring people because I do not know what a recent OSHA audit may hit us with in the way of fines – fines for things that have otherwise been safe and within code for years. I could easily add a minimum six new jobs to my payroll but I'm unwilling – unable, actually – to do so because the fear of continual audits and fines by OSHA make job creation too costly and risky.

OSHA

Recently I was told by a representative of OSHA that my business had been chosen for a routine audit. The auditor alleged that I was out of compliance in a few minor areas. While I have found the auditor himself to be professional, it has become clear to me that the main goal of the agency is to get me to

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[1] Crain, Nicole V. and Crain, W. Mark, *The Impact of Regulatory Costs on Small Firms*, September 2010. http://www.sba.gov/advo/research/rs371tot.pdf

[2] NFIB Research Foundation. *Small Business Economic Trends*. June 2010. http://www.nfib.com/Portals/0/PDF/sbet/sbet201206.pdf

admit to some of the alleged violations so they can collect their fines and try to make an example of my business.

OSHA has implied fines for what they allege my business is out of compliance with and "fine adjustments" if we agree to their stipulations of payment and avoiding "appeals" and legal entanglements. With the potential of large fines hanging over our head for issues that are quite arguable, we have been in a lengthy holding pattern on hiring new positions that we need since we don't know if the money for payroll may be needed to stop the agency from punitive action. This has severely interrupted our business as we have seen agencies do to other businesses that resist their enforcement efforts. And while a couple jobs at our little business might be small potatoes, if that is multiplied across the nation by thousands of small businesses, it adds up to a serious squelching of the economic, job-creating activity of the very small businesses that the government "says" it is counting on and "supporting" to be the job creators to lead us out of recession.

Department of Transportation

As bad as my experience with OSHA has been, my time dealing with DOT has actually been worse. In fact, I'm now convinced as a result of this experience that agency auditors may be feeling pressure to augment tightening departmental budgets with revenue-generating compliance efforts. This auditor's only finding from his visit with my business was that we had a torque wrench that the agency wasn't sure was calibrated correctly. If it is not calibrated correctly, there is a chance a leak could occur – although I will clarify that we have never had any leak issues.

In an act of good faith, we went out and replaced the wrench at a cost of $40.The auditor still indicated that we would be fined of at least $5,000 for the "infraction". I strongly objected and said that I would refuse to pay such a large amount. The auditor then indicated that he was authorized to reduce the fine amount if we agreed to pay about $2,500 and sign an acknowledgement of the infraction. He then warned that if we didn't accept his offer that day, we would be liable for the full amount. I politely refused and asked to have his manager call me.

The manager did so and reiterated all the auditor had said and indicated that if I accepted a lower amount (about half of the auditor's lowest offer) that he would settle it that day, but if I didn't I would be still liable for the full fine. Again I refused and so he offered a yet lower amount which was still in the hundreds of dollars and as I continued to feel like I was on "Let's make a deal." I again refused and reminded them that their "issue" with us was all imagined, the wrench was working fine, and that we bought a new one and that frankly I thought this felt like a government "shake down".

When I threatened to get my lawyer involved OSHA backed off and said that if I'd pay about $200 or so they would call it a done deal. To get rid of them I accepted that and washed my hands of it but it left me feeling very jaded about the government's motivation for these agencies. Unfortunately, it seems as though staff that need to justify their existence and generate some of their own job-survival revenue as opposed to a more helpful "educate and support for safety viewpoint". I believe this should be the mandate and culture in agencies since most businesses want to comply and be safe. I believe agencies should get tough with businesses that are blatantly ignoring regulations or that don't make good faith efforts to comply and improve, but they should not treat every small business as a bad actor.

Regulatory Reform

When the president announced in January 2011 that he was signing an executive order requiring agencies to explore how to streamline regulations, small-business owners were optimistic that we may actually see meaningful relief. Unfortunately, that has not been the case. The executive order has identified existing regulations that could be streamlined and simplified, but it has had little impact on new regulations and the uncertainty we feel over planned regulations. There are still over 2,600 planned regulations in January's regulatory agenda that will affect small businesses in nearly every industry.

In the meantime, Congress must take actions to level the playing field. I would like to see Congress hold on-the-ground agency regulators accountable for situations like I just described above. My experiences show that when left unchecked, their impact on small businesses and job creation can be significant.

In addition, the following ideas will help improve regulatory conditions for small businesses.

Expansion and oversight of SBREFA

The Small Business Regulatory Enforcement and Fairness Act (SBREFA) — when followed correctly — can be a valuable tool for agencies to identify flexible and less burdensome regulatory alternatives. Congress should expand SBREFA's reach into other agencies and laws affecting small businesses. SBREFA and its associated processes, such as the Small Business Advocacy Review (SBAR) panels, are important ways for agencies to understand how small businesses fundamentally operate, how the regulatory burden disproportionately impacts small businesses, and how the agency can develop simple and concise guidance materials. Furthermore, Congress should take steps to require independent agencies to follow SBREFA requirements. Last year, Congress took an important initial step to do this by requiring the new Consumer Financial Protection Bureau to conduct SBAR panels on the rules that will affect small businesses. Now more than ever, the rules promulgated by independent agencies have a considerable impact on small businesses. Congress should hold these independent agencies accountable for their effect on the small business economy.

While SBREFA itself is a good first step, in order for it to provide the regulatory relief that Congress intended the agencies must make good-faith efforts to comply. As an example, the Environmental Protection Agency's (EPA) proposed Boiler MACT rule failed to heed the recommendation of its SBAR panel to adopt a health-based standard and instead proposed a much higher standard that is virtually impossible to attain at any reasonable cost. This higher standard provided little, if any, additional benefit to the public over the health-based standard.

Committees with oversight authority should hold agencies accountable to the spirit of the law, and the Office of Advocacy should uphold its obligation to ensure that agencies consider the impacts of their rules on small businesses. There are plenty of instances where both EPA and the Occupational Safety and Health Administration (OSHA) have declined to conduct an SBAR panel despite developing significant rules, or a rule that would greatly benefit from small business input.

Congress should require agencies to perform regulatory flexibility analyses. Agencies should also be required to list all of the less-burdensome alternatives that it considered, and in the final rule, provide an evidence-based explanation for why it chose a more burdensome alternative versus a less-burdensome option— or why no other means were available to address a rule's significant impact. Agencies should also address how their rule may act as a barrier to entry for a new business.

Finally, when SBREFA was enacted it required all agencies to perform a one-time report on how it had reduced penalties for violations from small businesses. Congress should explore making such reports an annual requirement. Many of the original reports occurred at least a decade ago. Congress should investigate ways to make agencies provide updated information and require that information on an annual or biannual basis.

Indirect costs in economic impact analyses

Regulatory agencies often proclaim indirect benefits for regulatory proposals, but decline to analyze and make publicly available the indirect costs to consumers, such as higher energy costs, jobs lost, and higher prices. Agencies should be required to make public a reasonable estimate of a rule's indirect impact. This requirement exists if agencies follow the Regulatory Impact Analysis (RIA) mandate contained in Executive Order 12866 signed during the Clinton Administration. Congress should hold agencies accountable and clarify the agencies' responsibility for providing a balanced statement of costs and benefits in public regulatory proposals.

Strengthen the role of the Office of Advocacy

The Office of Advocacy plays an important role within the government to ensure that federal agencies consider the impact of regulations on small businesses. This role was further strengthened by executive order 13272. This order required agencies to notify the Office of Advocacy of any draft rules that may have a significant impact on small businesses, and "[g]ive every appropriate consideration to any comments provided by Advocacy regarding a draft rule." Despite this executive order, agencies frequently fail to give proper consideration to the comments of the Office of Advocacy. In addition, there is no mechanism for resolving disputes regarding the economic cost of a rule between the agency and the Office of Advocacy.

Conclusion

Simply put, the government can and should update its consumer-relations culture and change the process of regulatory implementation and policing. In addition, a few of the basic regulatory reforms I mentioned would help alleviate a significant amount of the regulatory burden that saddles the ability of small businesses to create jobs.

I thank you for the opportunity to share my concerns with you, and I urge the committee to take a hard look at how the regulatory environment stifles small business job creation and growth.

STATEMENT OF H. GRADY PAYNE

Mr. PAYNE. Yes. Thank you, Mr. Chairman and Members of the Committee for this opportunity.

I am Grady Payne, CEO for Conner Industries headquartered in Fort Worth, Texas. We have plants in eight states including the plant in Fayetteville, Tennessee. We supply cut lumber and assembled wood products to manufacturing companies for their shipping and crating needs as well as logistics and supply training management services.

Our company was started in 1981 with five people. Today, 31 years later, we have got over 450 people in 11 plant locations. Over 120 of our people have been with us more than five years and over 22 have been with us over 15 years. Our locations operate in distinct markets and each location employs fewer than 50 people.

In each of our markets, we compete against companies with fewer than 50 people and companies importing crating products into our markets. These companies will not be subject to the penalties and mandates imposed under the Obamacare law.

According to the SBA, we are a small business, but not so by the Affordable Care Act. We are caught in a no man's land between assistance and exemptions for small business and waivers for large corporations and other powerful entities.

We started our medical plan in the 1990s and offered coverage to all employees. Most of our production people opted out due to the cost of the programs. To meet federal discrimination rules, we were forced to redesign our plans and that redesign is what we are working on today.

We offer a fully insured plan to about 140 employees and we struggle every year to keep 75 percent participation in the plan. The company pays approximately 55 percent of the total premium cost. The new discrimination rules created by the law forces us immediately into a self-insured alternative or face fines of up to $500,000 under the law. The IRS has delayed enforcement of this new non-discrimination testing until regulations can be written. However, our plan could be tested as early as next year. Without changes we may be forced to drop our plan completely prior to state-based exchanges becoming available. The mandate to us may be 2013, not 2014.

In 2014, we do face some other difficult choices. One option is to expand coverage to all our employees and pay the full premium cost. This additional cost to us will be $1,750,000 or more, over and above the $750,000 we spend today in premiums.

On the other end of our options, we discontinue all policies and pay a non-tax deductible penalty of $2000 for each of our employees at a cost to us that will be well over a million dollars, and again, it is not tax deductible.

Other available options with employee participation are projected to cost upwards to a million and a quarter in additional cost.

The impact of this law will cost our company over a million dollars, no matter which option we take. Some of the extra cash cost, if not all of it, will be penalties and not tax deductible. Today, these costs could significantly impact the company's financial strength and stability. We have been a very blessed company, profitable even through these hard times in the past few years. We have had to make many sacrifices in pay, bonus programs and people. We have no tax loopholes, our company is a taxpayer; and no, the private sector strapped with this law and continued new rules and regulations is not doing fine.

We are a company caught in the middle. As the law stands now, our 30-year business is at risk of being legislated out of existence. How can this be? Our lives are in this company. We have done a good job for our customers, our employees and all of our families. This law has taken a problem and made it a potential fatal blow—jobs versus insurance.

We understand the goal of getting everyone medical coverage and agree that it is a worthy goal. But the massive cost hits us right between the eyes. We are too small to get favorable group rates and self-insurance contracts and too large, by statute, to be exempt even though each of our profit centers are less than 50 employees. There has to be a more equitable way to achieve this goal than to cripple a small business like ours.

Our current capital expansion and business development plans are and will be stopped by this law because expansion and hiring requires cash. The impact of the law robs us for needed growth capital. Our goals turn from hire and grow to cut and survive.

Our Tennessee plant was started as an expansion plant in 2007 and today has 48 employees. This law may force us to close our expansion locations as the new cost and penalties may not be able to be absorbed. Men and women working hard and providing for their families today may be faced with going home with no job in a difficult job market and fearing how they are going to face their families and meet their needs. A man without work carries a sense of shame and feeling of failure to his wife and children. The family may have subsidized insurance, but the job he knows may be gone.

I and managers feel the burden. Our people depend on us. This law mandates a cost that is difficult to overcome. No new efficiency can offset the big cost. I work with men like Adolfo and Ricky, brothers who started their careers with us in high school; and today, after 21 years, have both advanced to leadership roles. They are married and have young children and like all our people do a great job and are proud of our company. These men and many others like them and their families deserve the jobs they have, they have earned them. This federal mandate that was not well-thought-out could destroy these men's lives, careers and plans. I pray something might be done that these working families may not see and feel the pain caused by such a reckless legislation.

I thank all of you for your service to our great nation and allowing me to plead the case of Conner Industries and our people.

Chairman ISSA. Thank you.

Mr.Cocanougher.

[Prepared statement of Mr. Payne follows:]

Testimony of H.Grady Payne, CEO of Conner Industries, Inc. before the House Oversight and Government Reform Committee
Monday, June 18, 2012

Thank you Mr. Chairman and members of the committee for the opportunity to testify. I am Grady Payne, CEO of Conner Industries. Our headquarters is in Fort Worth, Texas and we currently have plants in eight(8) states including our plant in Fayetteville, Tennessee. We supply cut lumber and assembled wood products to manufacturing companies for their shipping and crating needs as well as logistics and supply chain management services.

Our company was started in 1981 with five people and one location. Today, thirty one years later, we have grown to over 450 employees and eleven plant locations. Over 120 of our people have been employed with Conner for more than five years and 22 of those have been with us for over fifteen years.

Each of our locations operates in a distinct and self-contained market and each location employs fewer than 50 people. We're an average American business trying to finish each year with a fair profit, a profit that can be plowed back into growing the business and creating opportunities and jobs; as we have historically done.

Ours is a commodity business which works off of low margins. Our competition is both local and international. In each of our markets we compete against companies that have fewer than 50 employees as well as companies importing crating products. These companies will not be subject to penalties and mandates imposed under the new law. This law will give them an unfair cost advantage over us. In today's highly competitive and global marketplace companies with cost disadvantages do not survive and jobs are lost. This law places us in a disadvantaged position and at a minimum should be changed to restore a level playing field for all businesses.

According to the Small Business Administration a company of our size and in our industry classification is considered a small business, but under the Affordable Care Act we are not treated as a small business. In fact, we are caught in the no-man's land between assistance and exemptions for small business and waivers for large corporations and other powerful entities.

Providing health insurance has always been challenging. When we started our medical plan in the 1990's, we offered coverage to all employees. Most of our production line employees opted out due to cost. The insurance companies refused to write coverage unless we could provide 75% or better participation. Because of this, and federal discrimination rules, we were forced to create groups of employees and significantly reduce the number to whom insurance was offered.

This remains today. We offer coverage to approximately 140 employees and struggle each year to get 75% participation. The company pays approximately 55% of the total premium cost.

Ours is a fully insured plan. We are not comfortable with the open ended cost potential of a self-insured plan and have not been successful in finding an underwriter to write a self insured plan for our group that is affordable. The new discrimination rules created by the law have the effect of pushing us immediately into a self-insured alternative or face a fine of up to $500,000. Although the IRS has delayed enforcement of the new non-discrimination testing until regulations can be written, our plan could be tested and penalized as early as the 2013 plan year. Without changes to the harsh penalties associated with this testing, we may be forced to drop our plan completely prior to state based exchanges becoming available. The mandate to us may be in 2013 not 2014.

In 2014 we will be faced with an even more difficult choice:

- Option one is to expand coverage to all of our employees. Our past experience tells us this will not be acceptable to them unless we pay most or the entire premium cost. To do this the additional cost would be approximately $1,750,000 over the approximate $750,000 in premiums we pay today.

- Option two is to expand coverage to all of our employees and have employee contributed cost set at adjustable amounts based on the laws' affordability rate of 9.5 % of each employee's household income. If all employees stayed in the plan our additional new cost would be estimated at over $1,200,000. We expect that many would drop out and for those we may be charged a non-tax deductible penalty of $3000 per employee.

- Option three is to discontinue all policies and pay a non-tax deductible penalty of $2,000 for each of our 450 employees less the statutory 30 exemptions, plus some portion of the penalty for employee turnover during the year. At today's employee count that penalty estimate is over $1,000,000 in new cost to our company and, again, not deductible from taxable income.

The impact of this law will cost our company over $1,000,000 no matter which option we take, and worse, some of the extra cash cost, if not all, will be classified as a penalty and not tax deductible. We would owe income tax plus the penalty. Today these estimates could significantly impact the Company's financial strength and stability. This does not even consider the significant additional administrative cost we will and are incurring to manage the program, prepare mandated government reports and track all employee's household dependents and earnings. No doubt additional computer software and hardware will have to be purchased and maintained for this purpose. In addition, there are other annual fees and costs such as the Comparative Research Fee. None of this adds one penny of productivity or revenue to our business.

We have been very blessed to be a profitable company even in these hard times. We have had to make many sacrifices in pay, bonus programs and people. We have no tax loopholes, no grants or subsidies. Our company is a taxpayer and NO, the Private sector is not doing fine. Our own government laws, rules and regulations are choking us out. Jobs require capital; capital comes from profits.

We are a company caught in the middle. As the law stands now our 30 year business is at risk of being legislated out of existence. How can this be? Our lives are in this company and we have done a good job for our customers, our employees, and all of our families. This law has taken a problem and made it a potential fatal blow. Our people may have exchange insurance, but no job.

We understand the goal of getting everyone medical coverage and we agree that it is a worthy goal, but the massive cost hits us right between the eyes. For us it may come down to having a job or insurance. The ratio of cost to earnings is overwhelming to us plus we are put at a competitive disadvantage in our market areas. There has to be a more equitable way to achieve this goal than to cripple a small business like ours and possibly throwing us all out on the street.

Our current capital expansion and business development plans are and will be stopped by this law because expansion and hiring requires cash. The impact of the law robs us of our needed capital for maintaining equipment and fixed assets for continued operations and for business expansion. Our goals turn from hire and grow to cut and survive.

Our Tennessee plant was started as an expansion plant in 2007. We relocated the plant to a much improved location for expansion and growth in 2010. The plant currently has 48 employees. This law may force us to close our expansion locations as the new cost and penalties cannot be absorbed. Men and women working hard and providing for their families today may be faced with going home with no job in a difficult job market with the fear for what the future holds for their families. A man without work carries a sense of shame and a feeling of failure to his wife and children; the family may have subsidized exchange insurance, but the job he knows may be gone.

Each of our co-workers has a responsibility to each other. I and our managers feel the extra burden for company direction and sound business decisions, our people depend on us. This law mandates a cost we may not be able to overcome. No new efficiency or productivity or tech change can offset this cost, it is out of our control. I work with men like Adolfo and Ricky, brothers who started their careers with us from high school and today, over twenty years later, both have advanced to leadership roles. They are married and have young children. They, like all our people, do a great job and are proud of our company. I lay awake at night considering what can be done. These men and many others like them and their families deserve the jobs they have, they've earned it. A federal mandate that was not well thought out could destroy these men's lives, careers and plans for their future. I pray that something might be done that these wives and children may not see and feel the pain caused by such reckless legislation.

I thank all of you for your service to our great nation and for allowing me to plead the case of Conner Industries.

H. Grady Payne
Conner Industries, Inc.

STATEMENT OF SCOTT COCANOUGHER

Mr. COCANOUGHER. Thank you for allowing me to come down and speak to you all today and taking your time to come down.

My name is Scott Cocanougher, I am the CEO of First Community Bank of Bedford County, which is located in Shelbyville, Tennessee. We are about a $320 million bank that serves Bedford and Moore Counties. We also own a mortgage company that services Tennessee and its surrounding states.

Although we have identified and taken some losses on loans made in the development and construction industry, we have set aside sufficient funds to cover those losses and any losses in the future, while also returning a good return to our shareholders.

Before I get started, I do want to say that I wish Senator Corker and Commissioner Hagerty were back here because they pretty well took the thunder out of my speech today. And I do want to let you know that we do have a good working relationship with the FDIC and State regulators that examine us. We are a conservative run bank and over the past 24 years, we have assisted our community through local projects, sports teams, and by simply being a good neighbor, which I think is important in community banking. We also have financed small businesses and are there to watch them grow and develop.

I want to let you know that over the last few years, we have been financing a different type of business, one that started with two employees in the late 1980s, grew to four employees in 2005–2006 and now has eight employees. It does not sell a product, nor does it earn a profit, but it does provide a valuable product to the bank. That small business is our compliance department within our bank. It performs feats of nature never seen before, including creating interest rate risk shock analysis on loan portfolios as well as investment and deposit portfolios, keeping logs on complaints received no matter how small or trivial. One of those is whenever somebody calls in and complains about an ATM card that does not work and when we do the investigation, find out it is because they did not have any money in their account. Or maybe they lost their PIN number, or maybe when a loan officer calls a customer, they call and complain because that loan officer was not nice when he told me I was past due.

And my personal favorite is the Suspicious Activity Report, classified as a SAR, which essentially turns normal, everyday bankers into police officers by having them assist in capturing criminals by reporting suspicious activities of our customers' bank accounts, check writing habits, and the use of cash. We log in that information, create reports for instances of suspicious activities and submit it electronically where it is then stored in case a law enforcement agency needs it in the future. They can then look at it and find some background and see if anybody is moving, hiding, or laundering funds. Just this compliance requirement takes two full time employees at my institution.

Meeting these compliance requirements continually drains our bank of the ability to produce new products or services for our customers that will serve their needs and in the end earn a profit for the bank, and those customers. We have 69 employees, of those eight work in the compliance department. As Senator Corker said, they do outnumber our lenders. As of yesterday, we had seven lenders in our bank. We have one more person working in our compliance department than we do lending. Each one of these regulations affect our daily operations and although we do have eight people that work in the compliance department, the other 61 spend approximately 10 percent of their day gathering information, completing paperwork to assist the compliance department.

Because of the Dodd-Frank Act, which has been mentioned several times today, my bank is looking forward to the opportunity of hiring over the next couple of years seven additional officers, bringing our total to 15. Once again, we have seven lenders at our bank.

As for the businesses we serve, as you will hear from these gentlemen here, they too are struggling. They too feel the same effects of over-regulation and the uncertainties in the market, and uncertainty of what will come out of Washington. Are businesses in the community hiring people right now or do they plan to hire in the future? No, they do not. Are regulatory burdens on banks and mom and pop businesses affecting the ability to make loans to people and create jobs? Yes, they are.

It is not actually the rules and regulations a lot of times, it is the interpretation of the rules. I just mentioned the SARs, the Suspicious Activity Reports. We have examiners come in and basically say that a bank our size should have X number of Suspicious Activity Reports monthly on a basis and that we are behind that particular number, and gave us information on how to look deeper into those things and find things that are suspicious nature so we can report. So yes, we are now filling out Suspicious Activity Reports on things that I am not sure are actually suspicious activities, but we are meeting the examiners' goals.

You know, whenever we can get rid of these things and getting out with our customers and helping them find ways to increase revenues, decrease costs and produce a better product, when we have the time, resources, and staff to do these things, I believe the country stands a better chance of creating opportunities for jobs than just sitting behind our desk and filling out reports. When we can cut down on regulations and have time to spend with customers, I look forward to being there with that new startup business and watching it grow and prosper. That is why I got in this business, is to help people.

Thank you.

Chairman ISSA. Thank you.

Mr. Bedell.

[Prepared statement of Mr. Cocanougher follows:]

Testimony of Scott Cocanougher
Chief Executive Officer
First Community Bank of Bedford County

Tennessee Job Creation: Do Federal Regulations Help or Hinder Tennessee Economic Developments?
The House Committee on Oversight and Government Reform
June 18, 2012

Middle Tennessee State University
Murfreesboro, Tennessee

My name is Scott Cocanougher and I am the CEO of First Community Bank of Bedford County. We are a \$319 million bank that serves Bedford and Moore counties. We also own a mortgage company that services TN and surrounding states and recently received approval to sell loans directly to Fannie Mae. The bank just celebrated its 24th anniversary and I am proud to say that we have added annually to our bottom line – even through the past 5 years. We are rated 5 stars by Bauer Financial and are 1 of only 8 banks out of the 194 in TN with an A rating. During 2010, we were honored by being in the top 20 banks for Return on Assets and Return on Equity. At year end, we carried a capital ratio of 12.63%, which is well above the national and state averages, and we carry a Texas ratio of 13.35%, which is a measure of a bank's ability to withstand major losses of capital through past-due loans. Although we have identified and taken some losses on loans made in the development and construction industries, we have set aside sufficient loans to cover those losses and any losses in the future, while continue to provide a very good return to our shareholders.

As you can see, my bank is a conservative, well-run bank. Over the past 24 years we have assisted our community through funding local projects and sports teams and by simply being a good neighbor. We also finance small businesses and are there to watch them grow and develop.

During the past several years, however, we have been financing a different type of small business – one that started with 2 employees in the late 1980's, grew to 4 in 2005-2006, and now has 8. It doesn't sell a product nor does it earn a profit, but it does provide a valuable product to the bank. That small business is our compliance department. It performs feats of nature never seen before, including creating interest rate risk shock analysis on loan portfolios as well as investment and deposit portfolios, keeping logs on all complaints received – no matter how small or trivial – such as "my ATM card does not work because I don't have any money or I lost my pin number" or "a loan officer called me and was not nice when he told me I was past due".

And my personal favorite...the Suspicious Activity Report (or SAR), which essentially turns normal, everyday bankers into police officers by having them assist in capturing criminals by reporting suspicious activities of our customers' bank accounts, check writing habits, use of cash, etc. They log this information, create a report for each instance of suspicious activity and submit it electronically where it is then stored in case a law enforcement agency needs to check someone's background in moving, hiding or laundering funds. Just this compliance requirement requires the work of 2 full time employees.

Meeting these compliance requirements continually drains our bank of the ability to produce new products or services for our customers that will serve their needs and earn a profit for the bank. We have 69 employees and, of those, 8 work in compliance. But each regulation affects the daily operation of our bank, and the other 61 employees spend about 10 percent of their time gathering information and completing paperwork to assist the compliance officers in meeting in meeting our compliance requirements. Because of the Dodd-Frank Act and the hundreds of new regulations that will result from it, we are now making space to hire 7 new compliance officers.

As for the businesses we serve in our community, they too are struggling. They too feel the same effects of over-regulation and the uncertainty in the market and the uncertainty of what will come out of Washington. Are businesses in my community hiring people right now or do they plan to in the near future? NO. Are regulatory burdens on banks and mom-and-pop businesses affecting banks' ability to make loans to folks and create jobs? YES.

But, a lot times it is not the actual rule or regulation that causes problems, but the enforcement and interpretation of them during the exam process. I just mentioned SARs. Although I do understand why these reports are important, when an examiner comes into our bank and tells us "a bank of your size should be filing X number of SARs a month", I do not understand not do I agree with that. Although we disagreed with the arbitrary number cited by the examiner, we were instructed on how to find more instances of suspicious activity. So, we now file reports that are not suspicious, but at least we are meeting our examiner's target number.

This is just one of many instances where we are required to fill out documents and complete reports that amount to nothing less than busy-work for our employees. The time and expense it takes to meet our compliance requirements keeps us from doing what we do best...serving our community. Getting out with customers, helping them find ways to increase revenues, decrease costs and produce a better product...when we have the time, resources and staff to do those things, I believe this country stands a better chance of creating opportunities for jobs than by just sitting behind a desk and filling out reports.

When we can cut down on regulation and have time to spend with customers, I look forward to being there with that new start-up business and watching it grow and prosper. That is why I got into this business...to help people.

STATEMENT OF BOB BEDELL

Mr. BEDELL. Mr. Chairman, Committee Members, I am Bob Bedell, Sales Unit Manager for Coke Consolidated, representing the Beverage Association of Tennessee. We appreciate the opportunity to appear before the Committee today.

Coke Consolidated is the local Coke bottler here in middle Tennessee; however, we do business in ten other states employing 6000 people including 700 in five facilities right here in Tennessee. Those include 440 workers at a nearby sales center here in LaVergne and then we have got 120 in our production facility in Nashville.

Nationally, the industry provides 227,000 jobs paying $18 billion in wages and $900 million in charitable contributions. We have a long history of good corporate citizen and we are the companies people turn to first when they need a product donation for their charity or community event. We are usually the first ones on the scene in a national disaster to provide potable water. We are proud of the relationship we have with our consumers and the communities we serve.

In recent years, we have become the scapegoat on the issue of obesity. While this indeed is a serious health issue, singling out one type of food or beverage for blame is not an effective way to seek a solution.

Our industry is a leader in innovation. We provide a wide variety of choices to consumers so they can decide what best fits their lifestyle. We clearly post the number of calories on our product so our consumers know what they are consuming. We put it right on the front of all of our packages. We did this after another successful program in schools where we removed the full calorie drinks from the schools, because we realize schools are places where kids do not have their parents to help guide their choices. This resulted in an 88 percent drop in beverage calories from schools, and in fact, regular soft drink consumption is now down 39 percent over the last decade. That is according to the CDC. Yet obesity rates continue to rise.

In spite of all this, we were shocked to learn that our own tax dollars are being used against us in the form of CDC grants under the guise of obesity prevention. Incredibly, the CDC has funded advertisements in communities across the nation not only demonizing our industry, but urging people not to drink our beverages. The ads are inaccurate and they are over the top. They lead the viewer into believing soft drink consumption will cause diabetes and make people sick. Language such as "Are you pouring on the pounds?" and "Do you know what your kids are drinking?" and "Don't get smacked by fat." The fact is that all calories matter, not just those from beverages.

Even the New York Times looked into these grants and uncovered a string of emails between the state's public health officials who argued about the appropriateness of targeting one element of the diet. Included in that exchange was a comment from one official, "Well, what can we get away with?" I repeat—"What can we get away with?" That was the kind of conversation that was going on.

On behalf of the 227,000 men and women who work hard every day in this industry, I can assure you we take issue with these irresponsible and contrived attacks on our products. We agree, obesity is a serious issue and have taken steps to provide consumers with the options and information they need to make the appropriate choices. We also have a history of supporting programs and initiatives which promote physical activity and healthy lifestyles.

A simplistic approach of targeting one industry for a complicated issue like obesity simply will not work, and taxpayer funded ads attacking our products is unacceptable. For this reason, we wholeheartedly support Congressman DesJarlais' bill Protecting Foods and Beverages from Government Attack Act that would stop these ads from running. H.R. 3848 would not stop other prevention efforts, if that is how Congress chooses to spend taxpayer money, but it would stop these inappropriate ads that unfairly target a vibrant industry and in an effort to suppress sales which will kill jobs.

We thank you for your time and attention and we appreciate the opportunity to participate in this morning's hearing.

Thank you.

[Prepared statement of Mr. Bedell follows:]

Good morning.

I am Bob Bedell, Unit Sales Manager for Coca-Cola Bottling Company Consolidated. Thank you for your invitation to appear before the Committee on behalf of the Beverage Association of Tennessee, including its seventeen member companies that employ over 4,000 people. We appreciate the opportunity to discuss the impact of government regulations and programs on job growth in Tennessee and across the country.

Coca-Cola Consolidated is a non-alcoholic beverage bottling business with operations in eleven states employing 6,000 workers in a variety of jobs related to marketing, sales and delivery, production, engineering, nutrition, chemistry, science, and management. We have five facilities and 700 employees here in Tennessee. In fact, we have a sales center and a warehouse nearby in La Vergne that employs 440 people and a production plant about 28 miles from here in Nashville.

We are part of a larger beverage industry representing more than 227,000 jobs nationally, paying $18 billion in wages directly, with an additional $19 billion in wages for jobs that rely on beverage sales. As an industry we contribute almost $900 million to charitable causes, and we have a presence in every community in every state in the U.S. We are the industry you call on first when you are looking for product donations to your local charity event, and we're the folks you turn to when disaster strikes and life-sustaining potable water is needed. And we're happy to help.

The beverage industry makes soft drinks, ready-to-drink teas, water, sports drinks, juices, flavored and enhanced waters, energy drinks and more. Most of the newer products we introduce into the market are low-and-no calorie beverages along with mid-calorie beverages. Our innovation pipeline continues every day as we produce beverage options to fit the ways people live.

As an employee of Coca-Cola Consolidated, I have the privilege of representing a dynamic industry that is doing incredible things in the marketplace. This industry is taking leadership roles in a number of critically important areas and is at the forefront of innovation in the food and beverage sector in an effort to meet ever changing consumer tastes and needs, and I appreciate the opportunity to outline our initiatives for you today.

We voluntarily removed full calorie soft drinks from all schools and replaced them with lower calorie, smaller portion beverages, which resulted in an 88% reduction in beverage calories shipped to schools since 2004. We did this because parents told us schools were special places where they weren't present to guide students' choices. We sell water, milk and 100% juice only in elementary and middle schools, and in high schools, the beverages with calories we do sell are in smaller portions so that calories are capped at 100 for products like sports drinks and enhanced waters, with a slightly higher calorie allowance for 100% juice.

Our products come in a variety of sizes, and we've recently introduced the 7.5 ounce can which is a big hit with women, particularly moms. We've placed clear calorie labels on the front of each can, bottle and pack of everything we sell so consumers can make the choice that's right for them. For example, a 20-ounce soft drink will now list the total calories in that bottle right on the front, rather than list it 8-ounce portions on the back as part of the nutrition facts panel.

Regular soft drink consumption is down 39% since 2000, while obesity rates continue to rise, according to the CDC. Beverage calories represent only 7% of the total calories consumed each day, while foods comprise the other 93%, according to NHANES data from USDA. These are the facts as presented to us by government, not our statistics.

But in spite of the data and in spite of all we've done, we find ourselves increasingly under attack by agenda driven activists who are looking for a scapegoat to blame for the nation's obesity challenges. Recently, we were shocked to learn such activism had spilled over to our own federal government in the form of grants administered by the Centers for Disease Control under the guise of obesity prevention. These grants were administered as part of the American Recovery and Reinvestment Act also known as the "stimulus bill." The grants were part of a $1 billion grant program called Communities Putting Prevention to Work dedicated to obesity prevention, smoking cessation and preventing disease through administering vaccinations to children. About one third of the funding was spent on anti-obesity efforts that targeted the beverage industry.

Specifically, these grants have been used to run ads discouraging soft drink consumption and misleading the public into believing soft drinks are <u>the</u> cause of obesity and directly linked to causing diabetes. It should also be noted that a number of Congressional inquiries have been made into whether these grants were also used to directly lobby for changes in public policy in the form of restrictions, bans, and taxes on beverages, a practice which is illegal.

A sample of the types of advertisements running in a variety of communities is attached. The messaging is harsh, erroneously singling out beverages as a unique cause of obesity. Some of the language includes:

> "Don't get smacked by fat. Calories from sugary drinks can cause obesity and Type 2 diabetes."
> "Rethink Your Drink"
> "Are You Pouring on the Pounds" depicting cola morphing into fat as it is poured into a glass
> "Do you know what your kids are drinking? Sugary drinks can contribute to diabetes and other diseases."

One such advertisement ran in New York depicting an actor whose picture had been manipulated through "photo shop" to show a partial leg amputation below the knee, misleading the viewer to believe that beverage consumption had caused weight gain which caused diabetes that was not controlled, which lead to the need for an amputation. In addition, the *New York Times* uncovered emails from the New York State Department of Health that highlighted disagreement among health professionals whether it was scientifically appropriate to make a causal link between soft drinks and health problems like diabetes. Amid this disagreement, one official queried: "What can we get away with?"

We are concerned that negative advertisements and unfounded demonization of these products will continue. In addition to the stimulus funding, more federal money will be available for these types of efforts from the Prevention Fund established in the Affordable Care Act. Even after Congress pared back the size of the fund, $10 billion remains available for communities to spend on "prevention" which we now know often takes the form of disparaging beverage products.

The beverage industry agrees obesity is a serious issue and has done a great deal to provide consumers with the options and information they need to make good choices. We oppose the use of stimulus or any other federal funds intended to create jobs to attack an industry and its safe and legal products in a discriminatory way that could ultimately end up costing our country jobs. By simplistically targeting one industry under the guise of fighting obesity, taxpayer money is being used to undermine job growth in the beverage industry. Simply stated, our point of view remains that if Congress is going to spend taxpayer money on these efforts, it should do so in a manner that addresses meaningful solutions to addressing obesity in a comprehensive manner, rather than targeting an American industry that provides good jobs and leadership in innovation through a variety of options for its consumers.

And we're leading in other areas as well. In fact, the Coca-Cola system recently announced its "Nutrition and Physical Activity the 100 Way Program." In the U.S., the Company will dedicate $5 million to provide 100 communities with new fitness centers for schools. In addition, The Coca-Cola Foundation has awarded $3.4 million in grants to support fitness and nutrition programs in the U.S. and around the world. Working with the National Foundation for Governors' Fitness Councils and the American College of Sports Medicine, Coca-Cola will place 100 new fitness centers in schools across the U.S. over the next five years.

We would like to take this opportunity to state for the record that we wholeheartedly endorse Congressman DesJalrais' bill, "Protecting Foods and Beverages from Government Attack Act" (H.R. 3848) and appreciate his recognition that it is inappropriate to attack American workers making American products here in Tennessee and across the United States. We understand the seriousness of obesity. We understand the need to educate the public about proper nutrition, and we understand the need to have a balanced, nutritious diet. We also understand all of this needs to be coupled with exercise and physical activity if we are to manage our weight properly, and each of us faces our own unique challenges in that realm.

We appreciate efforts like those of Rep. DesJarlais that shows us Congress recognizes these things, too, and we look forward to working with this committee and Congress to enact H.R. 3848 into law.

Thank you.

Chairman ISSA. Thank you. I will ask a few brief questions.

One of them, Mr. Bedell, I think the product in front of you says Zero on it. Does that tell me the amount of calories?

Mr. BEDELL. That is exactly right, Chairman.

[Laughter.]

Chairman ISSA. So is it not true that in the beverage industry roughly half of your sales of soft drinks in fact are zero calorie or near zero calorie beverages?

Mr. BEDELL. It is getting very close to that, yes.

Chairman ISSA. And next to it, I notice that you have a container of water. Coca-Cola is also in the water business, are they not?

Mr. BEDELL. That is correct, Dasani water.

Chairman ISSA. So let us see, you can buy water, you can buy no calorie or you can buy calorie sodas and it is your fault if people get fat. That is the theory of government.

Mr. BEDELL. You summed it up very well.

Chairman ISSA. These are the people that brought us a convention in Las Vegas.

Mr. BEDELL. Yes, yes. We believe the consumer has a choice and therefore we make products available for those consumers to have a choice. We find even locally where we have pulled out of schools, the folks that have really suffered are all the sports, the band, all the different functions that used to get that money from the vending.

Chairman ISSA. Just on a personal note, I am a little heavy and I drink diet sodas. My wife is light and she does not like sugar-free, so she drinks the sugary ones. I am not sure the correlation is not reverse in my case. I think it is the no calorie that has been hurting my diet, but that is a separate point.

Mr. BEDELL. Well, we appreciate both of you.

Chairman ISSA. Mr. Cocanougher, do you have any credit default swaps?

Mr. COCANOUGHER. No, we do not.

Chairman ISSA. International banking activities including complex instruments all over the world?

Mr. COCANOUGHER. We send some wires out, but no lending or deposits, no.

Chairman ISSA. So what part of the crisis in 2008 did you participate in as a bank?

Mr. COCANOUGHER. We had the word “bank” on the name of our building.

Chairman ISSA. So in fact, Dodd-Frank regulated you without an actual tragedy that you participated in or were subject to.

Mr. COCANOUGHER. I would agree with that, yes.

Chairman ISSA. Well, do not feel bad. In Washington, we closed Pennsylvania Avenue because an airplane landed on the south side of the White House. It is the same kind of thinking that, you know, any tragedy, any emergency is a good excuse to do something you wanted to do anyway. Not that I have an opinion on that.

[Laughter.]

Chairman ISSA. Let me go through one round. I was a manufacturer for a number of years. Mr. Bedell, Coca-Cola, I believe you would be an ISO 9002 for your quality and safety standards, your company observes a set of internal safety and quality standards and it includes how you do your bottling, the whole quality circle, how you deal with defects and so on. Now you do not get that from the government, do you?

Mr. BEDELL. No.

Chairman ISSA. So the whole question of quality, how you treat your customers globally, Coca-Cola worldwide, is in fact voluntary standards with you paying for people who not only help you learn how to do it, but come in and do the evaluation and they pass or fail your facilities for whether you meet these high global standards, is that right?

Mr. BEDELL. Yes.

Chairman ISSA. Mr. Faulkner, similar?

Mr. FAULKNER. Yes. We are actually ISO certified. When we were accredited, we were one of the smallest in the country because we only had six people at that point.

Chairman ISSA. So you go through this whole process of globally accepted standards, ones that are rigorous, ones that you actually pay to go through. Just one kind of a question for all of you, do they come in and fine you if you do not meet the standard on a test?

Mr. FAULKNER. No, it is a cooperative, supportive educational activity.

Chairman ISSA. But you can flunk.

Mr. FAULKNER. Absolutely.

Chairman ISSA. And if you come up with a major defect in some part of your quality or some sort of a problem related to a set of standards that the world has bought into and improve every year, what happens?

Mr. FAULKNER. We would be warned on it to fix it and we would be given a very specific amount of time in which to fix it. We would be re-audited or held accountable for having done so. And if we did not, we would be decertified.

Chairman ISSA. Mr. Payne, similar situation in your experience in business?

Mr. PAYNE. Yes. We are not ISO certified, we are ISO compliant and we comply with Sigma and a lot of our customers force us to, but same kind of thing.

Chairman ISSA. And your customers rely on that, particularly when you are ISO or other standards. So do you advertise it?

Mr. PAYNE. Uh-huh.

Chairman ISSA. It is important to you and in fact, you pay to make sure that your company does it. And we could add, of course, the Better Business Bureau and other organizations like that. Should we take back to Washington that in fact Washington's problem is we do not think like the very entities that mostly ensure quality and delivery and predictability, and that if government regulators—and I think you said this in your opening statement very well—government regulators need to in fact go to ISO 9000 type training, find out what it is like to actually come with a set of standards, test to those standards and if you fail those standards, be part of the remediation of those standards.

Mr. FAULKNER. Correct.

Chairman ISSA. You would all agree that that is what I should take back?

Mr. BEDELL. Yes. We have very high standards for quality for our brands. And with ISO, all that does is add cost.

Chairman ISSA. Well, thank you very much. As a former businessman, I wanted to hear that things had not changed in my 12 years in government.

Mr. DesJarlais.

Mr. DESJARLAIS. Thank you, Mr. Chairman.

With all due respect to our prior panel, this is the kind of thing that people need to hear. I think listening to each and every one of you, there was a chilling tale of how the federal bureaucracy can over-burden businesses. And we can just go down the line. Mr. Faulkner, the "Let's Make a Deal," you pay this fine now and we will let you off easy or we can do it the hard way. That unfortunately is not a story that I have only heard once. I have heard any number of people with MSHA, OSHA and other regulatory agencies tell that same tale of being strong-armed, basically you cooperate and we can make this less painful on you. And that is clearly no way to create jobs and businesses.

And Mr. Payne, basically what your company is facing is saying we have all these employees that have been with us for an awful long time, a lot of them are like family, they are happy here, but yet we are going to have to turn them away when it comes to providing healthcare, one of the things people look to. In essence, you are going to say that the government, you know, not necessarily can do a better job providing healthcare, but they are going to have to turn to the government. And it kind of makes me wonder about the healthcare law intent, when we were told that if you like your insurance, you can keep it. Clearly companies like yours show that it is just not feasible from a cost standpoint to continue to pay for health insurance rather than just pay the fines that the government asks you to pay. And we will get back to that.

Mr. Cocanougher, you are asked to police people and anyone sitting in the room is sitting here thinking about their habits being investigated by people in the bank that are hired to just watch whether or not your cash expenditures or the way you write checks is inappropriate. That ought to make everyone just wonder a little bit about where this government is heading in terms of our personal rights and freedoms.

And Mr. Bedell, first of all, thanks for the kind words even though I am drinking a competitor over here.

Chairman ISSA. You did not have to point that out.

Mr. BEDELL. We will get you fixed, for sure.

[Laughter.]

Mr. DESJARLAIS. How demoralized do your workers feel when this current administration puts out stimulus money in the name of job creation and then your workers see ads on TV attacking the very product that they produce and count on for their livelihood?

Mr. BEDELL. It is outrageous, it is very demoralizing. It is just wrong.

Mr. DESJARLAIS. And these are FDA approved products. You are a leader in putting the facts out there and people being responsible, helping schools educate on physical activity, clearly labeling your products but yet taxpayers, and the very workers that pay taxes for your company are paying taxes for ads to attack their own job.

Mr. BEDELL. That is exactly right.

Mr. DESJARLAIS. Okay. Well, clearly that is not right.

And Mr. Payne, it sounds like when 2014 rolls around, you do not have a good option when it comes to the healthcare law. You know, I had the pleasure of visiting you down in Fayetteville and a great bunch of folks there and I know you want their healthcare to continue. But you do not have a good option, do you, with this current law?

Mr. PAYNE. No, we really do not. There is not a good option, we are in the middle size that it just hits us wrong.

Mr. DESJARLAIS. And it kind of shows a failure in planning because a small company is labeled as one with 50 employees or less and a large company is 500 employees or more. But under this law, you are kind of stuck in between and there was not really a provision or a thought out plan for that.

Mr. PAYNE. You are exactly right.

Mr. DESJARLAIS. So you can either pay a $3000 penalty for a higher number or a $2000 penalty for the 50 or less, but either way, it is cheaper for you to turn these people back to the federal exchanges.

Mr. PAYNE. Unfortunately that is right.

Mr. DESJARLAIS. Mr. Faulkner, just—I mean if you want to elaborate a little bit more, how does that feel to have a regulatory agency come in and levy a fine that makes absolutely no sense. You go out and clearly do the right thing. How does that make you feel about our federal government?

Mr. FAULKNER. Certainly not that it is by and for and of the people. We, in 37 years of manufacturing over at the plant, have never had a workers comp claim. We are hellions on safety and for them to come in and treat us as if we are either ignorant or malicious or that we do not care about safety. We are small enough that we cannot afford not to be intensely concerned about safety because any accident, any situation is too expensive for us to shoulder. Prevention is what keeps us in business. And they come in and have us doing things or threaten to force us to do things that honestly make no sense. You know, put up railings in places where people never go and are not allowed to go. Sprinkle buildings that were built to code that were not needed to be sprinkled. Any one of a number of things, but it clearly shows that they are out of touch and really that their motivation is less about safety and is more about parasitic department survival.

Mr. DESJARLAIS. And I know my time has expired, but Mr. Cocanougher——

Chairman ISSA. But go ahead anyway.

Mr. DESJARLAIS. Thank you, Mr. Chairman. If you will yield an additional 30 seconds.

I had some community bankers say an interesting comment to me as well as home healthcare companies, that if the government would just leave the status quo alone, we can deal with it. But the changes occur so rapidly in terms of compliance, you are constantly having to hire new people. It is almost like we have been beaten down to the point that we will just accept what we have now if they just will not change it any further.

Have you had a similar experience?

Mr. COCANOUGHER. I think you are correct there. And as we shared earlier today, we have a lot of banks now that are doing merger and acquisitions and it is not merger and acquisitions because of capital, because of bad loans or otherwise. They are merging because they cannot afford the compliance departments they have and by merging two groups to get to a certain size, they can afford to be in business. So what you wind up with is less banks, probably eliminating departments within the merger of those banks, and making less employees.

But yes, if we could just have some certainty about the rules that are there and interpret them the same from one meeting to the next, it would make a great deal of difference. Right now, whenever you have an examiner come in, they interpret a rule differently than the one that came in before that interpreted it differently than the one that came before that. And it is very difficult to hit that moving target.

Mr. DESJARLAIS. Thank you, Mr. Chairman, for your generous extension of time and I yield back.

Chairman ISSA. I thank the gentleman. I thank you for bringing us here to Tennessee.

Mrs. Blackburn.

Mrs. BLACKBURN. Thank you.

We are so appreciative that each of you would take your time to be here and to talk with us, because you are doing this on your own dime. And we appreciate that you are investing in that, I think it shows why so many of us believe that the men and women who are participating in the free enterprise sector every day get up, go to work, create these jobs, they are a big part of the answer. They are not the problem.

Congressman DesJarlais mentioned some of the listening sessions that he has done. We have also followed that format in our congressional district and spent the past two years holding listening sessions with our job creators that are out there, large and small.

Last week, I was over in Arkansas with one of our colleagues and in Charleston, South Carolina with another of our colleagues doing similar job creating, and I have got to tell you, we hear these stories everywhere we go—the cost of compliance, the cost of uncertainty, the cost of the over-reach of federal regulations. So I thank you for adding to what is becoming volumes of information from our job creators about what is wrong with the federal government structure right now.

Mr. Faulkner, I have got to tell you, I love your idea of mandating change on the agencies. I do think that that is the way to go and I think that is one thing we need to do.

Mr. Cocanougher, I want to come with you, I want to be sure that my note I made is correct. You have got two full time employees that are dedicating to looking at suspicious activity and then you estimate that 10 percent of every day of your other employees is spent gathering information or filling out paperwork and——

Mr. COCANOUGHER. I would say that is correct.

Mrs. BLACKBURN. So you have got three-quarters of an hour—three-quarters of your workday if you have got an eight-hour workday, that would be about three-quarters of an hour that is spent with nothing but doing compliance.

Mr. COCANOUGHER. My wife would tell you that she would yearn for me to have an eight-hour day, but yes, 10 percent would be correct.

Mrs. BLACKBURN. All right, that is what I wanted to verify.

Mr. Payne, welcome, I am glad to see a Texan back in Tennessee. You all would not be in existence if not for us.

[Laughter.]

Mr. PAYNE. Glad to be here.

Mrs. BLACKBURN. So I just want to remind you of that good fact and I say that lovingly.

Chairman ISSA. Now if they had only treated Davy Crockett as kindly when he left.

[Laughter.]

Mrs. BLACKBURN. Right. We could all benefit by listening to some Davy Crockett, reading some of those remarks that he made.

But being married to a Fort Worth, Texan now for I guess 38 years is how long we have been married, I appreciate and I love that pioneer spirit that all you Texans bring to bear.

I appreciate what you are saying about you are into cut and survive right now. And we want to see you move to grow and expand. And you talked specifically about the healthcare law. Now I want you to articulate for me, kind of go through just a brief summary what your steps would be if this goes into existence and you feel like it is going to legislate you out of business. What are you going to have to do, because you are now at 450 employees, with 11 plant locations. We like that we have got one of those here. If it goes into effect, what do you fear would happen to Conner Industries within a couple of years?

Mr. PAYNE. Well, there are several things that could happen. You know, we are working on our budgets to try to see where money could come from and what our options are. Obviously one of the options is to cancel all the policies and pay the penalty. What we fear there is there is not enough capital retention from profits after the penalties to keep our covenants alive in the banks. You have to make money to be able to sustain financing. And today, we do not have a financing problem.

You know, one thing that we are looking at is everybody in the company taking a little bit of percentage of the cost which would hit a lot of our key people. You average it out and everybody takes a certain amount of the hit. That is one option we have got.

The other option is we tend to try to add new locations about every other year and that is what we have done, that is where our 11 locations have come from. So we always have one to two, maybe even three that we call expansion locations that are in growing modes and it takes several years to develop those markets to where they can actually be self-sustaining and profitable. And we may have to take some of those down, which would also result in overhead cutbacks in Forth Worth, maybe sell off some individual locations. The model will be different. I cannot tell you exactly what it looks like, none of them are very good alternatives.

You know, to answer your question, there is a lot of variables that could go in there and none of them are really very good options.

Mrs. BLACKBURN. Thank you. My time has expired, I yield back.

Chairman ISSA. Thank you.

Mrs. Black, we have saved the best for last. The floor is yours.

Mrs. BLACK. Thank you, Mr. Chairman.

The stories are great. I was just writing down as you were telling the stories. Mr. Faulkner was talking about OSHA and what they are doing to impact his business and his lack of ability to be able to grow because of all the things you have to do to comply with.

Then I hear Mr. Payne talk about Obamacare.

Mr. Cocanougher, you talked about the Dodd-Frank Act and in particular SAR. And as I read your testimony here, I wrote "crazy" out beside it because I thought I cannot believe that we are actually doing this. We are, the government—I do not want to say us here on this panel, but it is good to know what you are dealing with so we can go back and make a difference.

And then Mr. Bedell, you talk about us using our own taxpayer dollars, the dollars that you are paying and your company is paying, to actually come back and lobby against yourself—just crazy again. I guess crazy is the word here that is the word of the day when we hear these stories.

I want to go back, Mr. Faulkner, to what you said about this would be so much more effective if it were an education process that really helps you as job creators to do your job better. If they came in with the mentality and we flip that mentality from it trying to penalize you for something to trying to help you do it better. So I am going to take that back with me because I think as we take a look—obviously we need to have agencies where there is oversight, where we are making sure everyone is abiding by the rules. But if we change the perspective on that from being education from being penalties, I think we would be doing a benefit both to society and also to you as job creators.

And then, Mr. Cocanougher, I think it was you that said about the interpretation of the rules. So obviously when those rules were written, unlike here at the state level where rules always come back to the governing body to be looked at and made sure that they are abiding by whatever the intent was, we do not do that at the federal government. So if there is a way that we can get more involved in making sure that the rules are the rules that reach the intent of whatever the legislation was, I would say that Chairman Issa and his committee comes the closest to doing that. But it is not done on a regular basis.

I use this term of the Barney Fife syndrome. I think all the things you have talked about are the kinds of things that as Barney Fife shot himself in the foot, that we are shooting ourselves in the foot right here in the United States. We are either driving you out of business, as Mr. Payne talked about, or we are driving people offshore because they do not have to abide by these same crazy regulations if they go offshore.

So what we are hearing the President say this last week or so is that the private sector is doing fine, and I would just like to——

Chairman ISSA. Just fine.

Mrs. BLACK. Just fine. The private sector is doing just fine. I would like each of you to talk about how you feel that statement either applies—how you agreed with or did not agree with that statement.

Mr. Faulkner.

Mr. FAULKNER. I would say that we are doing fine in spite of the burdens that are being put on us. And it makes me excited to think if we had some of these shackles taken off, some of the burdens taken off, how much better we could do and what a restoration to America as the leading economic engine of the globe could be.

Mrs. BLACK. Mr. Payne.

Mr. PAYNE. Well, one thing about the downturn in the market, it did force companies, and ours is one of them, to look internally and restructure ourselves into a more profitable and efficient company. And we have done that. We are in good shape. The uncertainties of Obamacare is something that to us really is a cloud hanging there and we do not know really what it is going to do. We also share a lot of the same things that some of the other guys—OSHA and a few of these others—are giving us problems. So we deal with that. But the killer is the big one for us.

Mr. FAULKNER. Can I just say that it is really a testimony to the American worker and the spirit that in spite of all of this craziness, we are buckling up under it and trying to work.

Mrs. BLACK. Mr. Cocanougher.

Mr. COCANOUGHER. I would like to know what the bar was for doing fine. Like you said, compared to what? I subscribe and read on a daily basis three to four economists a day and I am not sure I see that in the numbers they produce. When you have got negative production, you have unemployment going up and not down, and I do not think that 8.2 is a real number. I think it is probably closer to 12 to 13 percent unemployment. I do not see how that is fine. I would say a lot of times when people say how are you doing, it is fine. Well, fine is not really a good answer.

[Laughter.]

Mrs. BLACK. Mr. Bedell.

Mr. BEDELL. I think Mr. Cocanougher just summed it up, but we need the federal government to back out and get out of the way so we can take care of business. And that would be a big, big change that would be very positive.

Mrs. BLACK. Thank you and I yield back my time.

Chairman ISSA. I want to thank all of you for your testimony today and I want to take a privilege of the chair first to thank the audience for your participation quietly throughout these proceedings.

And I think I would like to close by paraphrasing Ronald Reagan who I understand told the story one time about the stagecoach that flipped over. And the crew that came to find the stagecoach down in the gully realized that there was a whimpering and it was a dog from the stagecoach. And it was very badly damaged and nearly dead and the person took out his revolver and put it out of its misery.

Then he went on and realized that there was another noise and it was sadly a horse and had two broken legs and there was nothing they could do, so he put it out of its misery.

Then, thank goodness, he found the stagecoach driver, he was trapped and they got him out, he had a broken leg and they asked him how he was and he said, "just fine."

[Laughter.]

Chairman ISSA. You know, the American spirit is we always say we are doing just fine, particularly if it will keep us from being shot.

Thank you, we stand adjourned.

[Whereupon, at 11:25 a.m., the Committee was adjourned.]

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