



BUSINESS AGENDA

At the beginning of each legislative session, the Tennessee Chamber of Commerce & Industry surveys its members to determine the business community's legislative priorities. This Business Agenda reflects those priorities.

Overall, Tennessee's strength relies on a strong economy that is dependent on a dynamic and vibrant business and industrial community which provides jobs for Tennesseans and must remain competitive in a world marketplace. Restoring Tennessee's economic health must be a top priority.

There can be no doubt, in 2009, that the over-riding issue impacting both business and legislative decisions is the state of the economy, as demonstrated by the Tennessee Chamber's legislative survey. The hard times are being felt from Wall Street to Main Street and the resulting layoffs, company closings, revenue shortfalls, high prices and lack of consumer confidence all seem to stretch ahead with no sure solution in sight.

Employers are seeking cost savings at every level while government is seeking additional revenues to shore up lagging budgets. Employees struggle to make ends meet while fervently hoping that their jobs don't become the latest victim of the economy.

We must tackle the tough problems together. The Tennessee Chamber of Commerce & Industry and its members across the state are eager to work with our elected officials – at the state and federal levels – to reach our goal of revitalizing our economy through economic growth and enterprise.

The 2009 Business Agenda outlines the key challenges facing our state's employers and our suggested recommendations for addressing those challenges. We pledge to work in partnership with our policy leaders to enact legislation that will move our economy forward and restore Tennessee's vibrant and growing economy.



BUSINESS AGENDA

CHALLENGES AT THE FEDERAL LEVEL *A Statement of Support*

Objective

To ensure that any action by Congress restores our nation, state and businesses to a strong economic climate through growth, innovation, productivity competitiveness, entrepreneurship and jobs creation.

Situation

The 2008 elections proved to be both historic and a decisive signal for change. Now, with a Democratic controlled White House and Congress, there is sure to be a rush of legislation that will stand a good chance of passage. We must work proactively with the White House and our Tennessee congressional delegation to address the economic challenges that threaten all of us, contributing and protecting all that American business has to offer – innovation, invention, jobs creation, productivity and above all, the diligent efforts of America’s working men and women. As the state affiliate for the U.S. Chamber of Commerce, the National Association of Manufacturers and the American Chemical Society, the Tennessee Chamber works closely with its affiliates to impact federal legislation.

Tennessee Chamber Position

The Tennessee Chamber supports:

- ❑ **Domestic Energy Supply:** A dynamic, growing economy requires dependable energy supplies. The Tennessee Chamber supports the development of a national energy policy that provides for increased exploration and use of all domestic energy resources, a strategy that encourages exploration of and production from public lands in a manner consistent with sound environmental management and enactment of policies that facilitate the production and use of traditional resources, as well as support the rapid development of market-based alternative energy sources and technologies.
- ❑ **Environment:** An improved quality of life will encompass complex economic and social considerations, including clean air and water, conservation of natural and human resources, all while continuing economic development. Measures to protect environmental quality should be based on factual and scientific data. Environmental laws and regulations must be designed with care to ensure they are effective in achieving their objectives, without imposing unnecessary and adverse economic impact.
- ❑ **Tax:** U.S. corporations currently face higher tax costs than most of their competitors in other countries with a statutory corporate tax rate that is the second highest among developed nations while the impact of our worldwide tax system increases the cost of doing business for U.S. corporations and costs American jobs. The current, temporary research and development tax credit competes with more generous innovation incentives throughout the world, and extension of the lower income tax rates for individuals and investment income is set to expire at the end of 2010. Fiscally responsible, pro-growth, pro-jobs tax changes will ensure that U.S. companies can compete in the global arena and keep operations in the United States. The benefits that stem from lower taxes—higher growth, higher incomes, higher productivity, more jobs and lower inflation— will benefit companies, their workers and the overall U.S. economy.
- ❑ **Regulatory Policy:** Federal regulation is estimated to cost more than \$1 trillion annually, according to a report by the Small Business Administration’s Office of Advocacy. In a globally competitive

marketplace, American companies need a regulatory system that is focused on real priorities and removes unnecessary impediments to economic growth. It is also important to avoid regulation that puts a disproportionate burden on small and medium-sized companies. Continued reform of our regulatory system and strengthening of institutions dedicated to analysis and review will create the highest net benefits for the U.S. economy.

- ❑ **Fair Trade:** America needs a trade policy that, particularly in a period of slower economic growth, promotes fair trade and the ability to export more of our products around the world. With two-thirds of the world's production and consumption taking place outside our borders, the creation of American jobs and an increased standard of living depends more than ever on competing and selling our products around the world. A balanced trade policy is fair to America's companies and workers, promotes our export growth and ensures international trade rules are being enforced.
- ❑ **Health Care:** Rising health care costs are one of the biggest challenges facing American businesses. Our inefficient and poorly managed health care system is a threat to the competitiveness of the American companies in the global marketplace, as rising health care costs act as a disincentive to hiring new employees, creating new jobs, and investing in new technologies and facilities. The solution to the rising cost of health coverage lies in pursuing a strategy that helps companies continue their flexible, generous offering of health benefits while addressing the factors that influence health care costs and appropriately determining the cost burden between the public and private sectors and among consumers, payers and health care providers.
- ❑ **Employment and Labor Policy:** U.S. labor and employment laws and the legal system should enhance our ability to compete in the global marketplace. The decision to join a labor union is an important one, affecting millions of employees and their families, and employees have the right to make these decisions in a confidential manner. The proposed elimination of the secret ballot is, at its heart, anti-American, destroying a right that all citizens cherish. The "Employee Free Choice Act" interferes with the democratic process and would have a negative impact on the rights of all employees. Additionally, laws that restrict employer communications or employee rights to not join a union as a condition of employment should be opposed. Employers are responsible for providing a safe and healthy work environment, and all federal regulations and standards should be based on sound science and be feasible for employers to implement while remaining competitive. Employers should be able to design workplace health and safety programs that provide for employee participation and best fit their individual workplace environment. Employers strive to maintain positive relations while paying competitive wages and benefits. The key to maintaining this work environment is the ability of employers to have the flexibility to respond to changing market demands while still providing high quality benefits.



BUSINESS AGENDA

ENVIRONMENTAL STEWARDSHIP & ENERGY CONSERVATION *A Statement of Support*

Objective

To view environmental stewardship and energy policy as complementary to economic growth, providing a desirable quality of life for Tennessee citizens. Through cooperation and good policy, the balance between conservation of our environmental resources and the growth of our economy will allow companies – large and small – to be competitive, successful and to create jobs while maintaining Tennessee’s natural beauty and resources.

Background

Tennessee business and industry invest heavily in environmental regulations and energy costs. Many companies are industry leaders in conserving the environment while creating jobs for Tennesseans. In an increasingly global marketplace where the elasticity between price and cost is diminishing, regulatory costs and energy costs are a factor in the profit and success of a company. The costs of American regulations can place American companies at a global disadvantage, often forcing companies to delay or strongly reconsider expansions in the United States. The energy sources available to Tennesseans must be developed and used prudently and efficiently; individual conservation is crucial and must be included in the equation as well.

Situation

Business and industry remain the target of increased environmental scrutiny – often with the result being increased regulation and control which can make a businesses unable to compete globally. Traditional environmental concerns have now expanded to efforts to prohibit and restrict utilization of many of Tennessee’s native energy sources. Environmental and energy policy must be driven by sound science, not emotion, and the fact that most businesses strive constantly to balance and provide environmental leadership and economic success must be recognized.

Conservation of the environment is in the interest of all Tennessee citizens, both corporate and individual. The Tennessee Chamber works in tandem with policymakers to ensure that people in all communities are protected from unreasonable risks to human health, that laws and regulations are enforced fairly and uniformly for both businesses and individuals, that timely and meaningful communications are delivered to citizens when decisions affect their local environment and that policies support and encourage economic development and a good quality of life in an environmentally responsible manner.

The Tennessee Chamber is working with representatives on the Governor’s Energy Task Force to develop cost-based incentives that will support and encourage energy efficiencies.

Tennessee Chamber Position

The Tennessee Chamber supports:

- Enacting responsible energy policy that retains industry and promotes its economic growth.
- Ensuring that businesses and industries are credited with their leadership roles in environmental stewardship and energy conservation and that they are able to identify and correct problems without being unjustly penalized.
- Ensuring that environmental legislation and regulation does not create an unnecessary administrative burden, result in unwarranted regulations or become cost prohibitive.

- Ensuring that state regulations and laws are not unjustifiably more stringent than federal requirements and are based on current sound science and technology.
- Ensuring the cost of maintaining the quality of the environment is borne fairly by regulated industries and the general citizenry.
- Only authorizing environmental fees pursuant to state law and dedicated solely to the purposes for which they were implemented.
- Maintaining an environmental regulatory system that encourages compliance, not prosecution.
- Ensuring that scientific facts used to develop regulations, new laws, or policy positions are available to all parties.
- Ensuring that permits and approvals are issued in a timely, consistent and cost-effective manner that are fair to the regulated community and property owners in Tennessee.



BUSINESS AGENDA

A STABLE AND STRONG TAX STRUCTURE ***A Statement of Support***

Objective

To ensure a tax policy system that facilitates a balanced, fair and stable tax system in Tennessee, encouraging business growth and expansion as well as overall economic growth and stability.

Background

Tennessee's state budget, unavoidably, rises and falls with economic times. While government policy can not control the economy, it can certainly impact the ability to weather economic cycles. One of the key components of Tennessee's pro-business climate has been the recognition that all citizens – corporate and individual – should bear the responsibility of paying the costs of government and its services. That burden, however, must be fair and equitable, recognizing that business and industry are job creators that fuel the economy and its growth. To unfairly burden the businesses and industries of the state with a non-competitive tax structure is to stifle future revenue growth and the creation of wealth for citizens.

In the same way that government needs stability and predictability in its revenue; citizens – both individual and corporate – need stability and predictability in their governmental services and tax liabilities.

Situation

Tennessee is experiencing the worst economic crisis of recent years and policymakers are looking for ways to reduce government to live without new taxes or tax increases. As in most public policy matters, sound tax policy is a balancing act. As governments continue to search for revenue, businesses and industries are increasingly at risk for new taxes or fees or tax shifts.

Tennessee Chamber Position

The Tennessee Chamber must be a catalyst and a leader in ensuring a stable and predictable tax system that ensures government service, accountability and strong business growth and retention. With such a system, the opportunity for increased trust and credibility between citizens and their governments should exist.

The Tennessee Chamber supports the following:

Accountability

- Requiring understandable, ongoing reporting from the State of Tennessee, using common methods that allow fair and understandable comparisons to other states.
- Requiring cost/benefit analysis of all spending, recognizing some expenditures are mandated.
- Using funds for their intended purpose, and enforcing policies protecting those funds.
- Requiring stability and consistency in tax policy, prohibiting retroactive taxation.
- Ensuring the reasonable prediction of revenues and mirror other economic indicators.

Adequacy

- Ensuring competitiveness, and benchmark all state performance, not just spending, while taking into consideration Southeastern or competing states' averages.

- Funding reasonable reserves for current, future and unforeseen financial needs, specifically the statutorily required 5 percent of the state's General Fund.
- Protecting the state's credit rating.

Balance

- Ensuring that the tax burden on Tennessee's business community is competitive when compared to the nation and the southeast.
- Ensuring that all business taxpayers are treated fairly, regardless of sector, size or location.
- Recognizing that a tax burden on the state's job creators includes state and local taxes and review all state policy in light of the tax burden it could create by a local political subdivision or district.
- Ensuring that the tax system is balanced regardless of economic cycles by encompassing a proper mix and array of tax types that are applicable to all taxpayers, corporate and individual, to create predictability and stability.
- Monitoring the dependency on sales tax, recognizing impact on economic growth.
- Ensuring that any changes in tax reporting, such as combined franchise and excise tax reporting, are consistent with sound comparative tax policy, encourage and support economic growth and are not simply a way to increase taxes on Tennessee businesses.

Promotion of Growth and Economic Security

- Protecting and retaining existing businesses and industries.
- Ensuring that the Tennessee tax climate, including incentives, proactively encourages job creation and capital investment by new and existing industries.
- Retaining the use of a statutory depreciation table for personal property tax.
- Ensuring that the Streamlined Sales Tax system adopted in 2003 and subsequent amendments does not deviate from the original intent of the legislation.
- Protecting and promoting PILOT (Payment In Lieu of Taxes) programs, jobs tax credits, and other tax incentive tools which are critical to business and industrial growth in Tennessee.



BUSINESS AGENDA

EDUCATING AND TRAINING TOMORROW'S WORKFORCE *A Statement Of Support*

Objective

To ensure that students and adults receive the education needed to offer them an opportunity to be successful in life and in the workplace, thereby providing employers with a productive workforce, providing a better quality of life for Tennesseans and a stronger economic future for our state.

Background

The business community has found that many students coming out of Tennessee schools are not ready to meet the rigorous demands of today's workplaces. An unprepared workforce impacts the ability of the State of Tennessee to attract new businesses and to encourage existing ones to expand, hampering the economic growth of current employers. It impacts the ability of Tennesseans to find good jobs that support a good quality of life. In recent years, the Tennessee Chamber has lobbied for increased educational funding while supporting changes in the BEP funding process. We see these as positive steps toward improving education in Tennessee.

Situation

While Tennessee schools have shown improvement, challenges remain. Specifically, the mismatch between preparation and workforce needs continues, the skill levels of many graduates do not meet workforce standards, candidates continue to lack "soft skills," such as integrity, honesty and working with a team and communications skills – both verbal and written – are lacking. The drop-out rates are steadily increasing. Students lacking a successful start in early grades fall further behind as they enter middle and high school. High school students are not challenged to take a curriculum that is challenging and relevant to the modern-day workplace.

Adults in the workplace find the continual training needs a challenge when they lack the basic skills needed to grasp the information. The needs of employers are not being met, and the dreams of students die in the harsh reality of the work place.

Higher education in Tennessee, like many other states weathering difficult financial times, has realized a reduced financial commitment from government in recent years. As a result, Tennessee is in the bottom tier of the nation in its commitment to higher education.

Tennessee Chamber Position

The Tennessee Chamber, recognizing the need for a prepared workforce that can support economic growth and job creation, supports a cohesive effort that includes long-term investments in a future workforce by ensuring children are prepared to learn, by ensuring the curriculums and graduation requirements are rigorous and relevant, by challenging high school students to challenge themselves with the Tennessee Scholars curriculum and by providing resources for workforce training and re-training. To accomplish this, our state's education system must remain flexible while requiring achievement and being accountable to the taxpaying citizens of the state. Tennessee businesses realize that higher education is an economic engine for the state, provides the education and research to support a viable economy and provides the educational resources that allow Tennesseans to succeed in many of our jobs today.

In the 2009-10 *Issues Survey*, Chamber members ranked education issues as one of the Chamber's highest priority's for 2009-10.

The Tennessee Chamber supports:

- Recognizing the importance and establishment of education funding as a top priority for the state.
- Supporting full implementation of the Tennessee Diploma Project at the local level beginning in 2009 with graduates in 2013.
- Increasing the reach and function that Career and Technical centers, as well as school-to-work and technical programs, play in assisting employers in preparing workers for today's specialized workplaces.
- Further developing and improving teacher preparation and skills.
- Recognizing Tennessee Scholars, noting that its demanding and relevant curriculum prepares students for post-high school education and the workplace.
- Holding teachers accountable to ensure that students acquire basic skills and maintain them throughout all grades.
- Supporting the future expansion of the state's pre-kindergarten program on a voluntary basis that does not mandate a new funding requirement on local governments or taxpayers.
- Increasing the availability and flexibility of charter schools.
- Increasing the value of higher education to our citizens and our companies by creating a greater awareness of its value and by ensuring a funding commitment that allows our higher education institutions to succeed in both student education and research.
- Supporting lottery scholarships for qualified students at technical schools.



BUSINESS AGENDA

HEALTH CARE: AN AFFORDABLE AND ADEQUATE SYSTEM ***A Statement of Support***

Objective

To preserve and enhance for Tennessee employers and their employees a health care system in which health care insurance options are available and health care is affordable. This will be done by ensuring that proposed health care mandates are fairly evaluated on sound statistical evidence using the Chamber-supported law enacted in 2004, that TennCare reforms do not result in a direct or indirect cost shift to employers and their employees, and that efficiencies and transparencies are built into the health care system.

Background

Overall, health care costs are far higher in the United States than in any other advanced nation, whether measured in total dollars spent, as a percentage of the economy, or on a per capita basis. Health costs in America have been rising significantly faster than the overall economy or personal incomes for more than 40 years. These costs hit a new mark in 2006, increasing 6.7 percent to \$2.1 trillion, or \$7,026 per person, according to the most recent issue of *Health Affairs*. That's more than 16 percent of the nation's gross domestic product (GDP) and highest among developed countries. As well, health care costs have grown on average 2.5 percentage points faster than the U.S. GDP since 1970.

Health care cost containment is an issue with significant competitive implications for Tennessee businesses and industries. During the past several years, a great deal of policy attention has been focused on increasing the quality of health care and on the increase in the uninsured population, all while stabilizing costs. A number of incremental steps have been advanced or adopted in an attempt to deal with these issues.

Normal reactions – by large and small businesses – to rising costs have included raising prices, cutting or eliminating health benefits or shifting costs from employers to employees. Even efforts where businesses have banded together to purchase health care insurance more effectively are showing double digit increases in costs.

Traditional factors that have driven up costs include new medical technology, new drug therapies, overuse and misuse of medical services, oversupply of hospital beds, high administrative costs and cost shifting among payers, and in Tennessee, the use of prescription drugs that remains higher than the national average.

Situation

The federal government is the major governmental entity in determining health care coverage, insurance regulations and other factors impacting its delivery. State policy impact on health care insurance is often directed by or limited by federal law. There are, however, key actions a state can take to ensure that it is not contributing to the cycle of increasing health care costs. Tennessee health care policy that directly and indirectly impacts the cost of health care to all citizens includes the state-run TennCare and Cover Tennessee programs. While providing for those uninsured and economically disadvantaged, the programs must not be raise costs and restrict health care access for others. CoverTN and AccessTN are two components of the Cover Tennessee program that both impact and cost employers directly.

Tennessee Chamber Position

The Tennessee Chamber believes that health care cost increases must be addressed to guarantee that health care insurance is an option for working Tennesseans. The Tennessee Chamber is committed to the preservation of a system in which an employer can negotiate affordable and adequate health care insurance benefits for employees free from overly intrusive and costly governmental mandates.

In the Tennessee Chamber's 2009-10 *Issues Survey*, Tennessee Chamber members ranked the need to address health care issues, such as the rising cost of health care and more insurance options for employers, as one of the Chamber's highest priorities for 2009.

The Tennessee Chamber supports:

- Protecting employers and employer-sponsored health care programs against direct or indirect cost shifting as a result of the reforms to TennCare (Medicaid), Cover Tennessee or new state initiatives.
- Preserving managed care systems, including the right of health care plan providers to negotiate fees, provide volume discounts to their customers, and to preserve provider and pharmacy networks and their efficiencies free from cost-increasing mandates.
- Utilizing transparency and technology to encourage efficiency in care and improved communication with all parties.
- Protecting the individual rights of companies to afford their employees or customers the right to licensed health care professionals offering treatment services, including the availability of nurse practitioners and assistants to promote healthcare and encourage a healthy lifestyle for employees and citizens.



BUSINESS AGENDA

COMPREHENSIVE AND COMMON SENSE LEGAL REFORM *A Statement of Support*

Objective

To advocate for a fair, efficient and uniform civil justice system; to support efforts aimed at enacting comprehensive legislation to limit non-economic damages for product liability, frivolous lawsuits and medical malpractice. As well, the Tennessee Chamber supports a fair and unbiased judicial nomination process that ensures qualified and diverse judges with varied experience in the business arena the opportunity for judicial appointment

Background

The U.S. tort system has come under heavy fire in recent years for being too costly and inefficient. States have begun to enact reform measures. The U.S. Chamber notes that frivolous lawsuits cripple our legal system costing American business slightly more than a quarter of a trillion dollars a year, representing about 1.9% of U.S. GDP. This is about two-and-one-half times the cost of other industrialized nations. The cost to the average U.S. family is more than \$3,200 per year, while inefficiencies in the U.S. civil justice system return to claimants less than 50 cents on the dollar. In 2006, Tennessee was successful in passing the Silica Compensation Fairness Act which establishes clear provisions for receiving compensation for silicosis.

Situation

Tennessee is ripe for legal reform. All of the states surrounding Tennessee are now considering, or have already enacted, reform measures. The national trends of excessive awards, high malpractice insurance costs, “defensive” medicine, and business raising prices to pay to compensate for increased insurance premiums all are present today in Tennessee. By enacting serious legal reform measures, Tennessee will provide a fair, efficient and uniform civil justice system – lowering the cost of business and insurance while making the state more attractive to economic development and medical professionals.

Tennessee Chamber Position

The Tennessee Chamber supports comprehensive efforts to enact meaningful legal reform measures and to ensure a fair and equitable judicial selection process. Comprehensive legal reform should include limits on product liability claims, limits on punitive and non-economic damages, venue and aspects of medical malpractice liability. The Tennessee Judicial Selection process must be refined to allow for more business input into the selection of judges.



BUSINESS AGENDA

POSITIVE EMPLOYEE RELATIONS AND BUSINESS COMPETITIVENESS *A Statement of Support*

Objective

To preserve and enhance for Tennessee employers and their employees a workplace climate that provides an opportunity for professional and economic growth for employees while ensuring that competitive and productive companies can prosper while offering economic stability and job creation.

Background

The most valuable asset any employer has, regardless of size, is its employees. Employees are the key to productivity, quality, safety and profitability – core components of a company's ability to compete and create jobs and job stability.

Situation

The number of state, federal and even local laws governing the workplace continues to increase at an exponential rate. New court decisions, regulations and statutes all impact the way an employer manages his or her workplace. Many are good laws that are instrumental in creating a healthy, safe and fair workplace. Others, however, place a cost and regulatory burden on a company that is not counterbalanced by benefit to those they intend to help.

We are especially concerned about proposals that will be considered by Congress in 2009. If enacted many of these will add to the regulatory burden of employers and increase litigation.

In addition state laws may be proposed that exceed or differ from federal laws, doubling the compliance burden and, in many cases, create a confusing situation for employees and employers. Adding unnecessary and burdensome state mandates increase administrative and regulatory burdens resulting in increased costs for Tennessee employers.

Tennessee Chamber Position

The Chamber believes that governments should respect the relationship between employer and employee, refusing to enact laws and regulations that will interfere with management of the workplace or create adversarial relationships. Additionally, laws and regulations should be clearly worded to avoid re-interpretation by regulatory agencies or the judicial branch which could circumvent the actual intent of the legislature.

The Tennessee Chamber supports:

- Preserving the Right-to-Work Law, recognizing that employees have the right to work free from harassment or intimidation and that each has the right to decide freely whether to join a union, knowing that the decision has no impact on the right to be employed.
- Ensuring that Tennessee does not adopt a policy of enforceable public sector union contracts.
- Preserving employees' rights to select union representation by secret ballot election by opposing federal card check legislation.
- Preserving the Tennessee employment-at-will doctrine, recognizing that it provides economic flexibility for both employees and employers.
- Maintaining the integrity of the state's unemployment compensation system, opposing the payment of benefits for any purpose other than providing supplements to employees who qualify because they lost employment through no fault of their own. An adequate trust fund balance must be maintained,

at the most affordable cost to employers, to ensure adequate funds to provide benefits and to provide stability in employers' unemployment taxes.

- ❑ Allowing corporate citizens to participate financially in the political process through donations to candidates with defined limits, complete transparency and clear, enforceable rules for compliance.
- ❑ Ensuring that government regulation and legislation, based on sound comparative research, must allow the marketplace and fair competition to function in Tennessee to the benefit of the economy and its citizenry.
- ❑ Ensuring that adequate infrastructure investments are maintained and implemented to ensure the most efficient and cost effective means for the transportation of goods and services across our state
- ❑ Opposing legislation that would impose new fines, penalties, or compliance on employers where existing state or federal law provides adequate safeguards, punitive or corrective action in cases where the employer is found to be at fault.
- ❑ Supporting continuation of the state plan for Occupational Safety and Health Administration, recognizing that Tennessee can more effectively administer the program directly for the benefit of all Tennesseans.



BUSINESS AGENDA

A FAIR AND EFFECTIVE WORKERS' COMPENSATION SYSTEM ***A Statement of Support***

Objective

To ensure that Tennessee workers' compensation system is a true "no fault" remedy system that ensures workers truly injured on the job are offered medical service to provide recovery and, if needed, fair compensation in a way that is overall fair, reasonable and affordable when compared to surrounding states.

Background

The reforms enacted in 2004 restored to the Tennessee workers' compensation system the integrity and fairness that both employees and employers deserve. Additionally, the Tennessee Chamber has worked to ensure that the intent of the 2004 reform measures is maintained.

In the 2009-10 *Issues Survey*, Chamber members ranked the issue of Workers Comp third overall behind only the Economy and Health care as most important concerns. Specifically, chamber members ranked investigation and prosecution of fraud as their highest concern while definition of accident and injury and the creation of a non- court based system tied for the second highest concern.

Situation

Workers' compensation insurance is thought of by some as a traditional insurance system. Instead, it is a system born of necessity and expediency for both employers and employees. Employees who suffered a work-related injury needed a system in which medical care was immediate and partial wage replacement, until they could return to work, was available. Employers had two desires. First and foremost was the desire that employees be taken care of properly and quickly, ensuring that employees could reach full recovery and return to productive work as soon as possible. Second, employers wanted a non-adversarial system that provided a degree of predictability in terms of costs and liability. A workers' compensation system evolved, where every employer with more than five employees was required by law to become insured, where the employee had the commitment of immediate medical care and partial wage replacement and the employer had the assurance of a sole remedy system. It was a true no-fault system.

Tennessee is only one of two court-based systems in the nation. In other states, workers' compensation is based in the more familiar administrative or regulatory system. While the 2004 reforms helped considerably in keeping many workers' comp cases out of court, many employers still believe that further improvement can and should be considered.

Added to the uniqueness of the court-based system has been the uniqueness of a set of "multipliers" that can be arbitrarily applied to impairment ratings, and employers in and out of the state have looked with dismay and disbelief at the Tennessee workers' compensation system. The results have been manifested in concerns about the system and in decisions to create new jobs elsewhere.

Tennessee Chamber Position

The Chamber will resist all efforts to reverse the progress made in our workers' comp law since 2004. Tennessee ultimately must end its reliance on court administration of the system and join the 48 other states using a commission-based system.

The Tennessee Chamber supports:

- ❑ Clarifying of the definitions of injuries and illnesses which are compensable under the workers' compensation system, eliminating non-work-related claims.
- ❑ Allowing the closing certain smaller dollar figure future medical claims when all parties are in agreement.
- ❑ Strengthening Tennessee's workers' comp fraud statutes.
- ❑ Opposing attempts to provide state workers' compensation insurance for former federal government workers who received federal compensation for workplace injuries and illnesses.
- ❑ Addressing recent Tennessee Supreme Court decisions which expand the definitions of a compensable injury and limit the functionality of Tennessee workers' comp system. Court decisions must not be allowed to fundamentally change the statutory definitions and scope of compensable injuries. Specific court decisions that must be addressed include:
 - Telecommuting should be more clearly defined to cover the actual work areas of employees.
 - Employers should not be subject to unlimited workers comp liabilities where workers voluntarily use on-site fitness facilities.
 - Appropriate communication should be allowed between all parties in a workers comp case to ensure proper and timely wellness of an injury.