



BEFORE THE OHIO HOUSE FINANCE COMMITTEE  
TESTIMONY ON HOUSE BILL 166  
May 3, 2019

Good Morning Chairman Oelslager, Vice Chair Scherer, Ranking member Cera, and members of the Committee. My name is Tony Long, I am the Director of Tax & Economic Policy for the Ohio Chamber of Commerce. The Ohio Chamber is the state's leading business advocate, and we represent nearly 8,000 companies that do business in Ohio. Our mission is to champion free enterprise, economic competitiveness, and growth for the benefit of all Ohioans.

I am testifying today as an interested party on House Bill 166, and I am doing so on behalf of the Ohio Chamber of Commerce and also on behalf of our Ohio Small Business Council (OSBC), whose members include only individuals representing for-profit businesses that employ fewer than 400 people.

Last month, our vice president of government affairs testified before the Finance Subcommittee on Health & Human Services expressing our concern with the mandate forcing all health insurance policies to include coverage for telemedicine services that was part of the as-introduced version of HB 166. I would first like to express our appreciation that this mandate has now been removed from the bill.

One of our concerns regarding the telemedicine mandate was that, without adequate safeguards, such a mandate could end up jeopardizing the potential for health care cost savings that telemedicine promises, and we recommended a prohibition on facility fees for telemedicine services. As you know, the substitute version of HB 166 that this committee accepted yesterday contains a prohibition on health care facilities from charging a facility fee that is in addition to any fee for professional services. The Ohio Chamber would urge you to extend this prohibition on facility fee charges to include telemedicine services.

Beyond the removal of the telemedicine mandate, we are still reviewing and trying to better understand some of the other changes that were included in the sub-bill. However, one item already jumps out. It is a measure that would dampen the business

climate in the state of Ohio: the significant proposed tax increase on small business owners.

During the debate over each of the previous three state budgets, the Ohio Chamber raised concerns over the major tax shifting originally proposed in all three. We agreed that Ohio's personal income tax burden was too high and that across-the-board rate reductions were desirable. However, we didn't support reductions if they were coupled with corresponding tax increases on businesses that resulted in an overall unhealthy shift in tax burden to Ohio's employers. It is our belief that such tax shifting makes Ohio less, not more, competitive.

Nothing has changed with respect to our concerns over tax shifting. Unfortunately, that's what the tax changes now included in HB 166 represent. Specifically, I'm referring to the elimination of two income tax brackets and marginal tax rate reductions in the next two brackets, with the foregone revenue offset by problematic changes to the Business Investment Income Deduction, or BIID.

Currently, small business owners of pass-through entities can deduct 100% of the first \$250,000 of business income from their personal income tax return, with additional income above \$250,000 taxed at a rate of 3%. The change made in the sub-bill substantially reduces the BIID, from \$250,000 to \$100,000, and it is my understanding that eliminating the provision that caps the income tax at 3% above the limit was mistakenly omitted. If these changes remain, they would harm our business climate, weaken the state's economic competitiveness, and provide questionable overall benefit to the state's economy.

The BIID was only finalized in its current form in 2015. The BIID was enacted to foster economic activity in Ohio by allowing pass-through entities to retain more income to spend as each business saw fit to compete and grow in this global economy. Small businesses are the engine that drives the Ohio economy. The majority of companies in Ohio are pass-through businesses, and these businesses are in every legislative district in this state. They employ more than two million Ohioans. Given the short time the BIID has been on the books, we believe it is premature to reach the conclusion that the BIID has failed and needs modification.

The proposed reduction in the BIID is a significant tax increase on these businesses. The comparison document places the fiscal impact at roughly \$193 million dollars, and we estimate that when the elimination of the 3% rate is factored in, small businesses will be facing a nearly \$300 million tax increase. It almost goes without saying that the reversal of this small business tax cut will result in a reduction in small business owners' capacity

to reinvest in their businesses. In other words, less money for investment in things like new equipment, employee training, or business expansion.

It has been argued that some small business owners are taking unintended advantage of the BIID. If that is the case, a more appropriate course of action would be to address these problems with targeted revisions – much the way that the sub-bill modifies eligibility for several means-tested income tax credits so that high-income taxpayers with little non-business income are not eligible for the tax credits, and changes eligibility for the homestead exemptions. The Ohio Chamber has no issue with such changes. But let's not throw the proverbial baby out with the bath water.

The BIID was also put in place, in part, to equalize the tax treatment of business income, no matter the structure of the business. Pass-through entities face taxes on both receipts under the Commercial Activity Tax (CAT) and on income flowing to owners, members, or partners under the Individual Income Tax. General business C-Corps simply pay taxes on receipts under the CAT. The proposed change in HB 166 impacts the parity between Ohio businesses.

Finally, making changes to the BIID after only three tax years of use creates uncertainty in the tax code. Businesses and individual owners need a stable and predictable tax code. Without a stable and predictable tax code, operational and administrative costs rise, and planning for the future becomes significantly more difficult to accomplish.

In summary, raising taxes on Ohio's small-business owners and entrepreneurs is counterproductive to helping grow the state's economy. Higher taxes only serve to discourage businesses from expanding or growing. The Ohio Chamber and OSBC strongly encourage this committee to restore the BIID to its current form.

Thank you for the opportunity to testify today. I look forward to answering any questions you may have.