BEFORE THE HOUSE WAYS & MEANS COMMITTEE
Proponent Testimony on House Bill 443
November 16, 2021

Chair Merrin, Vice Chair Riedel, Ranking Member Sobecki and members of the House Ways & Means Committee, my name is Keith Lake and I am the Vice President of Government Affairs for the Ohio Chamber of Commerce. I am here today to testify, on behalf of both the Ohio Chamber and our Ohio Small Business Council, in support of House Bill 443, which provides employers with a refundable tax credit to offset the costs of state-imposed health insurance mandates.

The Ohio Chamber is the state's leading business advocate, and we represent thousands of companies that do business in Ohio. Our mission is to aggressively champion free enterprise, economic competitiveness and growth for the benefit of all Ohioans.

Every General Assembly, bills get introduced that would require health insurance plans to cover specific treatments, conditions, or services in all of the plans they sell in Ohio. We call these health insurance mandates.

In almost all instances, the Ohio Chamber opposes health insurance mandates. We do so primarily for two reasons: first, because they force purchasers of health insurance to buy what is essentially a one-size-fits-all, government-knows-best health plan, limiting any flexibility in plan design; and, second, because each new mandated benefit puts further upwards pressure on health insurance premiums.

And just who are the primary purchasers of health insurance plans? Small businesses. Larger employers often have the financial resources to self-insure, and thus are free from mandates imposed at the state level because they are governed under federal ERISA law, which supersedes state law. So, once the state enacts a mandate, it’s largely small businesses that bear the financial brunt of however much they increase premiums. These increases attributable to health insurance mandates amount to what really should be called the mandate tax.

Even without this added mandate tax, the cost of health insurance continues to climb. In just the past decade, average annual premiums for employee health insurance have gone up more than 48 percent for single coverage and 55 percent for family coverage. So it should come as no surprise that health insurance costs remain a top concern for many businesses.

By way of example, in 2017, the Ohio Chamber of Commerce Research Foundation began conducting a quarterly survey of Ohio business leaders in order to determine the economic health of Ohio’s economy. We call this our “Prosperity Pulse”. To date, we’ve released 18 quarterly “Prosperity Pulse” surveys. In 15 quarters, the cost of health care was the top issue of concern to business leaders. And in the other three quarters, it temporarily fell to second.

While we see numerous bills get introduced during each General Assembly that would mandate some new type of coverage, in recent years, the legislature has not enacted any new ones. The last one to pass was in December 2016, when the 131st General Assembly enacted HB 463, which mandated that health plans provide coverage for autism spectrum disorder. Nonetheless, there are 17 such mandates total currently in the Ohio Revised Code, at least one of which has been in place almost 40 years.

Though 2016’s HB 463 contained a specific, new mandate, it also contained three other provisions related to health insurance mandates, generally. One was a statement of the General Assembly’s intent to implement a two-year moratorium on any further health care mandates. I’m pleased to say the 132nd General Assembly honored that commitment by not passing any new mandates.

The second provision was a requirement that the Superintendent of Insurance conduct an actuarial study to determine the cost of all existing health care mandates.

In January 2019, the accounting firm that the Ohio Department of Insurance (ODI) contracted with to perform the actuarial analysis released its study. The stated goal of the study was to estimate the 2017 calendar year total and per member per month (PMPM) cost to premium payers of Ohio’s health insurance benefit mandates. In short, to quantify the cost of the mandate tax.

According to the study, in the small group market – which under Ohio law is defined as an employer with between 2 and 50 eligible employees – the mandated cost premium impact range in 2017 was between $1.58 and $5.31 PMPM, the equivalent of $9 million to $30 million in total premium. This represents from 0.38% to 1.28% of each premium dollar. The large group market range was $1.18 to $5.74 PMPM, or $12 million to $56 million in total, representing 0.28% to 1.39% of premium. And, while there are 17 existing mandates, these cost estimates actually derive from just nine of them, as no costs related to eight of the mandates were included in the results; the firm that did the study excluded four of them from its analysis because they were not measurable with available data and four more for a variety of other reasons.

Nonetheless, for the first time, we have an idea of exactly how much state mandates impact health insurance premium costs. Taken together, existing mandates add – at minimum – an additional $21 million to $86 million annually to employer health insurance premiums. This is the true cost of the mandate tax.

The final provision related to health insurance mandates contained in HB 463 was a statement of the General Assembly's intent to develop tax credits that offset the additional employer costs associated with health care mandates.

What HB 443 does is put these last two provisions together and delivers on the promise your legislative predecessors made in 2016 to provide purchasers of health insurance plans with a tax credit to offset the higher premiums they're paying as a result of the current mandates.

For most small businesses, profitability isn't rising at the same rate that their health care costs are. Their options to offset these continued increases are limited. They include shifting to a plan with a higher deductible, increasing the amount of premium employees must contribute towards their coverage, or reducing wages or other employee benefits. None of these options are ideal for the employer, nor for employees. At some point, however, health care coverage becomes too expensive for some – and they are forced to drop coverage altogether.

According to the Kaiser Family Foundation's *2020 Employer Health Benefits Survey*, 55 percent of small employers offer coverage. At the beginning of the 21st century, this number was in the mid-60's. For many of the small employers that once offered coverage but no longer do, they stopped because it simply became too expensive. At the very least, mandates accelerated this timeline. HB 443 will finally provide some relief to employers who continue to struggle with steadily rising health insurance costs.

The bill authorizes a tax credit, which can be claimed against whatever business tax the employer pays, equal to 1.3 percent of the annual premiums paid by an employer for the group health insurance plan offered to its employees. The 1.3 percent number represents the cost attributable to existing mandates as estimated in the ODI actuarial study.

Over time, lawmakers have decided that 17 health services are so important that health plans must cover them. Ultimately, what HB 443 does is acknowledge that, if it's truly good public policy that these services be covered, then businesses – especially small businesses – shouldn't be the ones forced to foot the bill.

HB 443 also recognizes that however much the additional cost paid by employers who purchase health insurance containing these mandates is, this money could be more productively put to use by employers to reinvest in their businesses, which would grow our economy and create jobs. At the very least, it might help them be able to afford to continue to purchase health care coverage for themselves, their employees, and their employees' families.

For that same reason, we also ask that HB 443 be amended to provide the same tax credit to employers who participate in multiple employer welfare arrangements, or MEWAs. The bill in its current form does not allow this, though most benefit mandates also apply to MEWAs. So, from a fairness standpoint, MEWA participants should be eligible to receive the tax credit, as well.

We continue to urge you not to pass any more mandates that only contribute to rising employer health care premiums. However, now is the time to address the negative impact existing mandates have on employers on an annual, ongoing basis. The Ohio Chamber and the Ohio Small Business Council urge you to pass HB 443 to grant relief from the mandate tax. Thank you.