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FIVE YEARS OF BROKEN PROMISES: HOW THE PRESIDENT'S HEALTH CARE LAW IS AFFECTING AMERICA'S WORKPLACES

HEARING

BEFORE THE

SUBCOMMITTEE ON HEALTH, EMPLOYMENT, LABOR, AND PENSIONS

COMMITTEE ON EDUCATION AND THE WORKFORCE

U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTEENTH CONGRESS

FIRST SESSION

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FIVE YEARS OF BROKEN PROMISES: HOW THE PRESIDENT'S HEALTH CARE LAW IS AFFECTING AMERICA'S WORKPLACES

Tuesday, April 14, 2015
House of Representatives
Subcommittee on
Health, Employment, Labor, and Pensions
Committee on Education and the Workforce
Washington, D.C.

The Subcommittee met, pursuant to call, at 10:03 a.m., in room 2175, Rayburn House Office Building, Hon. David P. Roe [chairman of the subcommittee] presiding.

Present: Representatives Roe, Wilson, Foxx, Walberg, Guthrie, Messer, Carter, Grothman, Allen, Polis, Courtney, Pocan, Hinojosa, Wilson, Bonamici, Takano.

Also present: Representative Kline and Scott.

Staff present: Andrew Banducci, Professional Staff Member; Janelle Belland, Coalitions and Members Services Coordinator; Ed Gilroy, Director of Workforce Policy; Christie Herman, Professional Staff Member; Nancy Locke, Chief Clerk; Zachary McHenry, Legislative Assistant; Michelle Neblett, Professional Staff Member; Brian Newell, Communications Director; Krisann Pearce, General Counsel; Lauren Reddington, Deputy Press Secretary; Alissa Strawcutter, Deputy Clerk; Juliane Sullivan, Staff Director; Alexa Turner, Legislative Assistant; Tylease Alli, Minority Clerk/Intern and Fellow Coordinator; Austin Barbera, Minority Staff Assistant; Melissa Greenberg, Minority Labor Policy Associate; Carolyn Hughes, Minority Senior Labor Policy Advisor; Brian Kennedy, Minority General Counsel; Amy Peake, Minority Labor Policy Advisor; Arika Trim, Minority Press Secretary.

Chairman ROE. Thank you, all. A quorum being present, the Subcommittee on Health, Employment, Labor, and Pensions will come to order.

As a practicing physician for more than 30 years, I have experienced firsthand the marvels of the United States health care system and how it has helped improve the lives of countless individuals. But I also saw the challenges of our health care system; one that was too bureaucratic, too costly, and leaves too many Americans without the coverage they need to care for themselves and their families.

Health care reform should have been an opportunity to preserve and build on what works with common sense market-based reforms that would expand access to more affordable coverage. Instead, a costly government takeover of health care was imposed on the American people. And five years later, the law continues to wreak havoc on families, businesses, and even schools.

It is hard to recall a time when supporters of a law promised so much and delivered so little. The American people were promised if they liked their health care plan, you could keep it. Not true. Millions of Americans have received letters notifying them that their health insurance coverage has been canceled because it doesn't comply with the dictates of the health care law. Patients have learned in horror that their trusted doctors are no longer in their health insurance networks. And it will only get worse as the narrowing of networks is going to continue to help hold cost down, as we will hear later.

The nonpartisan Congressional Budget Office projects seven million people will lose their employer-sponsored coverage over the next 10 years. The American people were promised that health care costs would go down. In fact, the President promised to lower premiums for the average family by $2,500, not true.

According to the Kaiser Family Foundation, health care costs for the average family increased by 26 percent during the last five years. The average employee with an employer-sponsored insurance plan experienced a 7 percent increase in their share of health care costs.

Finally, the American people were told that the health care law would boost the economy. Again, not true. More than 450 employers have publicly stated they are cutting hours or making other staffing changes to avoid the law's punitive mandates, including the University of Colorado in Colorado Springs, Trig's Supermarkets, Coach's Fast Food in Wisconsin, Shari's Restaurants in Oregon, and Henrico County School District, as well as other school districts across the Commonwealth of Virginia and including my home state of Tennessee.

The Congressional Budget Office estimates that the law will result in two million fewer full-time workers. Many of these difficult changes are taking place in the service industry, which means lower wage workers are bearing the brunt of the Affordable Care Act's burden. Schools are also cutting hours, undermining the quality of education for America's students.

We have heard time and again from the Administration that these are mere antidotes or, in the words of then-Secretary Sebelius, "speculation." Yet, even those who supported the health care law have no choice but to recognize its harmful consequences. Members of the AFL–CIO endorsed a resolution that warned of an "underclass of less than 30 hour workers," as employers seek to avoid paying penalties under the health care law.

The National Brotherhood of Teamsters and other union leaders said the law will, "shatter not only our hard-earned health benefits, but destroy the foundation of the 40-hour work week that is the backbone of the American middle-class."

Finally, the International Brotherhood of Electrical Workers lamented that the law, "imposes increased benefit costs, fees, and new taxes on our multiemployer health care plans."

Unfortunately, more pain is right around the corner. In just a few short years, nearly half of all large employers will be hit with the so-called "Cadillac tax". It is estimated the federal government will collect more than $85 billion through this tax over the next decade. That is money that could have been used to raise wages or create new jobs. Instead, it will go into the coffers of the federal government. And don't forget, that right now, the Supreme Court is deciding a case resulting in millions of Americans being stuck with government-run health insurance they can't afford.

Remarkably, when it is all said and done, after all the broken promises, fewer jobs, lost wages, Web site glitches, and canceled health care plans, 35 million individuals will still be without health insurance. The American people can no longer afford this costly mistake. And it is time to move the country away from this government-run health care scheme toward a more patient-centered health care system.

A key part of that effort is oversight hearings like the one we are holding here today. Congress must shine a light on the President's fatally flawed law. We have a very distinguished panel of witnesses here today to help us do just that. I would note for my colleagues today that the panel includes three employers to share their perspectives on how the law is impacting their workplaces. I look forward to a robust discussion.

And with that, I would like to congratulate the new ranking member, Jared Polis. Congressman Polis and I came in with the same class. He is an incredibly capable member of Congress. And I am really pleased to be serving with him today. And I will now yield for his opening remarks.

[The statement of Chairman Roe follows:]

Prepared Statement of Roe Hon. David P., Chairman, Subcommittee on Health, Employment, Labor, and Pensions

As a practicing physician for more than 30 years, I experienced first-hand the marvels of the U.S. health care system and how it has helped improve the lives of countless individuals. But I also saw the challenges of our health care system, one that is too bureaucratic, too costly, and leaves too many Americans without the coverage they need to care for themselves and their loved ones.

Health care reform should have been an opportunity to preserve and build on what works with commonsense, market-based reforms that would expand access to more affordable coverage. Instead, a costly government takeover of health care was imposed on the American people, and five years later the law continues wreaking havoc on families, businesses, and even schools. It's hard to recall a time when supporters of a law promised so much and delivered so little.

The American people were promised that if they liked their health care plan they could keep it. Not true. Millions of Americans have received letters notifying then that their health insurance is being cancelled because it doesn't comply with the dictates of the health care law. Patients have learned in horror that their trusted doctors are no longer in their health insurance networks. And it will only get worse. The nonpartisan Congressional Budget Office projects seven million people will lose their employer-sponsored coverage over the next 10 years.

The American people were promised health care costs would go down. In fact, the president promised to lower premiums for the average family by $2,500. Not true. According to the Kaiser Family Foundation, health care costs for the average family increased by 26 percent during the last five years. The average employee with an employer-sponsored insurance plan experienced a seven percent increase in their share of health care costs.

Finally, the American people were told the health care law would boost the economy. Again, not true. More than 450 employers have publicly stated they are cutting hours or making other staffing changes to avoid the law's punitive mandates, including the University of Colorado in Colorado Springs, Trig's Supermarkets and Coach's Fast Food in Wisconsin, Shari's restaurants in Oregon, and the Henrico County School District – as well as other school districts – across the Commonwealth of Virginia. The Congressional Budget Office estimates the law will result in two million fewer full-time workers.

Many of these difficult changes are taking place in the service industry, which means lower-wage workers are bearing the brunt of the ObamaCare burden. Schools are also cutting hours, undermining the quality of education America's students deserve. We've heard time and again from the administration that these are mere anecdotes or, in the words of then-Secretary Sebelius, "speculation." Yet even those who supported the health care law have no choice but to recognize its harmful consequences.

Members of the AFL–CIO endorsed a resolution that warned of an "underclass of less than 30-hour-workers" as employers seek to avoid paying penalties under the health care law. The International Brotherhood of Teamsters and other union leaders said the law will "shatter not only our hard-earned health benefits, but destroy the foundation of the 40 hour work week that is the backbone of the American middle-class." Finally, the International Brotherhood of Electrical Workers lamented that the law "imposes increased benefit costs, fees, and new taxes on our [multiemployer health care] plans."

Unfortunately, more pain is right around the corner. In just a few short years, nearly half of all large employers will be hit by the so-called "Cadillac tax." It's estimated the federal government will collect more than $85 billion through this tax over the next decade. That's money that could be used to raise wages or create new jobs; instead it will go into the coffers of the federal government. And don't forget, that right now, the Supreme Court is deciding a case that may result in millions of Americans being stuck with government-run health insurance they cannot afford.

Remarkably, when it's all said and done – after all the broken promises, fewer jobs, lost wages, website glitches, and cancelled health care plans – 35 million individuals will still be without health insurance. The American people can no longer afford this costly mistake. It is time to move the country away from this government-run health care scheme and toward a more patient-centered health care system.

A key part of that effort is oversight hearings like the one we are holding today. Congress must shine a light on the president's fatally flawed law. We have a very distinguished panel of witnesses to help us do just that. I would note for my colleagues that today's panel includes three employers to share their perspectives on how the law is impacting their workplaces. I look forward to a robust discussion, and with that, will yield to Ranking Member Polis for his opening remarks.

Mr. POLIS. Thank you, Mr. Chairman.

I want to acknowledge that I think we are all glad that Chairman Roe is back in his seat leading this subcommittee. I am very much looking forward to working with him. And on behalf of the Democrats on the Committee, we want to as well join our Republican friends in offering our condolences to you and your family. And I would like to ask unanimous consent for a moment of silence in honor of Pam Roe and to convey our thoughts and prayers to the Roe family at this time.

[Moment of silence.]

Thank you. We are truly glad to have you back. Thank you.

As to the business at hand. After 56 attempts to repeal the Affordable Care Act since the law was passed, I was hoping that we could move forward with improving the Affordable Care Act and make it work better and reduce costs even more. We all have a lot of ideas, like improving access to preventative health care services, making sure workers receive fair treatment in the workplace. Many of us are very interested in some of the ways that the Afford-

able Care Act is paid for and how those can be changed or paid for to modify cost.

But instead, we are spending our time attacking, rather than improving, a law that is working for millions of Americans who gained quality affordable health insurance, for tens of thousands of businesses who have saved costs on health care, and millions of others who have been able to enroll in Medicaid for the first time, particularly in states that have expanded Medicaid eligibility.

The most recent estimate by the Congressional Budget Office found that a total of 27 million people will gain access to health coverage through the Affordable Care Act who otherwise would not have had it, to say nothing of millions of Americans who have coverage for preexisting conditions for the first time, are no longer subject to lifetime caps that could leave them bankrupt if they get a serious illness, or finally have access to comprehensive preventative services and affordable prescription drugs.

According to a newly-released Gallop poll, the percentage of Americans lacking health insurance has dropped more than 5 percent since the marketplace opened at the end of 2013. In my home state of Colorado, 16.5 percent of people lacked health insurance before the Affordable Care Act. And according to a recent Kaiser Family Foundation study, the figures dropped to 9 percent this last June. And health care premiums are growing at slower rates than they have in decades, for both businesses, as well as individuals.

I think it is clear the Affordable Care Act is working for consumers, working for businesses. Of course it is not perfect. But the Affordable Care Act works because of the shared responsibility of individuals, federal and state governments, and employers.

I have started several businesses myself before I came to Congress. And as an employer, I knew that before the Affordable Care Act, health care costs were climbing at an out-of-control rate, double digit inflation every year. Health care choices were slim to none in many areas. And people were having to get a job in businesses like mine sometimes because they needed health insurance, not because they needed the income.

The five years since the ACA has been implemented of course hasn't been perfect. But on a whole, cost increases are down, there are more choices for employees, and more ways that businesses can get coverage, as well as more tools to help businesses affords to cover their employees.

The ACA has brought down cost and spread the responsibility among everyone, employers and employees. Under the ACA, small employers are more likely to offer insurance and they are more likely to want to offer insurance. Many receive a tax credit to pay for a portion of the coverage for their employees. And the exchanges allow small employers to compete to find good rates, which was impossible to do before because according to insurance companies, small companies were simply too small.

Nationwide, 360,000 small businesses have used tax credits to provide coverage to their employees. And as a result, businesses are now able to recruit and keep quality employees without bankrupting the company or their workers. Instead of huge premium increases during the past five years, costs have grown at historically low rates. Instead of workers choosing between coming to work se-

riously ill and putting food on the table, workers will be able to receive quality health care that allows them to stay on the job and keep their paycheck. And instead of having a stressed, unhealthy workforce, businesses will have a happy, healthy, and productive workforce, which is good for the families and good for the businesses.

Just one more example. We have an automotive company in Colorado owned by Craig Lear who believes it is his responsibility to keep his employees happy and healthy. As he stated, "It is hard to find good employees, so you have to take care of them to retain them. And health insurance is part of that." ACA helped him cut his health care costs in half and his business is thriving, thanks to the Affordable Care Act and the exchanges that have been put up. As he said, this is a huge step in the right direction. It makes sense, and in 10 years we will look back and see that.

I hope, Mr. Chair, we are able to look back even sooner than 10 years. We are halfway to that mark. And I look forward to hearing the testimony from our witnesses today. And I yield back the balance of my time.

[The statement of Mr. Polis follows:]

Prepared Statement of Polis, Hon. Jared, Subcommittee on Health, Employment, Labor, and Pensions

Thank you. I first want to acknowledge that I am glad Chairman Roe is back in his seat leading this subcommittee, and I look forward to working with him. I want to offer my sincere condolences to him and his family. I know this must be an extremely difficult time. All of our thoughts and prayers are with you in this trying time.

And for the business at hand. Today, once again, we are wasting our precious time on this subcommittee rehashing tired debates about the Affordable Care Act.

After no fewer than 56 unsuccessful attempts to repeal the ACA since the law was passed five years ago, I would hope that we on the HELP subcommittee could move onto more pressing matters—like improving access to preventative health services and making sure all workers have fair wages and receive fair treatment in the workplace.

Sadly, we're instead once again spending our time attacking—not improving, attacking—a law that is working for millions of Americans who have gained quality, affordable health insurance through the marketplace for the first time, as well as millions of others who have been able to enroll in Medicaid for the first time.

The most recent estimate by the Congressional Budget Office found that a total of 27 million people will gain access to health coverage through the ACA who otherwise would not have had it, to say nothing of the millions of Americans who:

* Have coverage for pre-existing conditions for the first time;
* Are no longer subjected to lifetime caps that can leave them bankrupt if they get a serious illness;
* Finally have access to comprehensive preventative services and affordable prescription drugs for the first time;
* And have been able to afford health insurance in young adulthood by staying on their parents' plans.

According to a newly released Gallup poll, the percentage of Americans lacking health insurance has dropped more than 5 percent since the marketplace opened at the end of 2013.

In my home state of Colorado, 16.5 percent of folks lacked health insurance before the ACA took; according to June Kaiser Family Foundation study, that figure had dropped to nine percent by last June —all while health care premiums are growing at slower rates than they have in decades.

The Affordable Care Act is working—for consumers and for businesses. It may not be perfect, but the ACA works because of the shared responsibility of individuals, federal and state governments, and employers.

I have started several businesses myself. And as an employer I know that before ACA, health care costs were climbing at an out-of-control rate for employers and employees. Health care choices were slim to none in many areas and states, and

people were having to get a job in businesses like mine sometimes because they needed the health insurance, not because they needed the income.

The five years since ACA have been implemented has not always been perfect, but costs are down and choices are up for employees and bUsinesses.

1.n reality, most companies are not impacted by the employer mandate. 96 percent of employers are small businesses and have fewer than 50 workers and are thus exempt, and the overwhelming majority of the remaining 4 percent already offer quality coverage. And the vast majority of good business owners provide health insurance to their employees, and this is causing little to no change for them.

In fact, ACA has brought costs down and spread the responsibility among everyone—both employers and employees. Under ACA small employers are more likely to offer insurance, and they are more likely to want to. Many can receive a tax credit to pay for a portion of coverage for their employees, and the exchanges allow small employers to compete to find good rates, which was impossible to do before because according to insurance companies they were too small.

Nationwide, more than 360,000 small businesses have used tax credits to provide coverage to their employees. As a result, businesses are now able to recruit and keep quality employees without bankrupting the company and the workers.

Now, instead of huge premium increases, during the past five years costs have grown at historically low rats.

Now, instead of workers choosing between coming to work seriously ill and putting food on the table, workers will be able to receive quality health care that allows them to stay on the job and keep their paycheck.

Now, instead of having a stressed, unhealthy workforce, businesses will have a happy, healthy and productive workforce, which is good for families and good for their businesses' bottom line.

As just one example, we have an automotive company in Colorado owned by Craig Lear who believes it's his responsibility to keep his employees happy and healthy. As he stated, "It's hard to find good employees, so you have to take care of them to retain them, and health insurance is part of that."

As a small business owner he believes that before ACA health care costs were a huge burden to his company, threatening to put him out of business. ACA helped him cut his healthcare costs in half. He feels

that because of ACA and the exchanges that have been set up, small business owners now have a voice and someone's watching out for them, in comparison to the previously unaffordable small business health insurance of the past. Quote: "This is a huge step in the right direction. It makes sense and in 10 years we'll look back and see that."

Even with all of improvements this law has created in the lives of individuals and business owners, we continue to rehash the same arguments over and over again. The Majority on this committee is whiling away our time here talking about "repeal"—which is bad policy and is simply not going to happen.

I would request that instead of spending time working to repeal a bill that is overwhelmingly doing good for Americans and the economy we talk about changes we can make to the Affordable Care Act to ensure that it functions as intended over the long-term. Or even better, we should be spending time marking up bills and talking about issues that I hope everyone agrees should be a top priority.

We should be working to fix our multi-employer pension system, expanding opportunities for all workers, creating a fair and equitable wage for women and men, creating good paying jobs for all, protect worker's rights, and expanding our economy. The list goes on and on. We have had 56 votes in the full house to repeal ACA and countless hearings in committees. Instead of rehashing the same stubborn "the sky is falling" argument let's work together to expand our economy and create jobs for the middle-class.

I look forward to hearing from our witnesses, especially those who are actually running a business and not lawyers or lobbyists.

As a businessman and a father I know that ACA is working to protect our companies, our employees and our families. And this "sky is falling" talk that we hear over and over is just not coming to fruition.

I am interested to hear how everyone thinks we can move beyond this rhetoric and begin to work together to perfect a good start that is helping our businesses, creating good paying jobs, and saving lives.

I yield back the remainder of my time.

Chairman ROE. Thank you, Mr. Polis. And thank you for your kind words, also. I appreciate it very much.

And pursuant to committee rule 7(c), all committee members will be permitted to submit written statements to be included in the permanent hearing record. And without objection, the hearing record will remain open for 14 days to allow statements, questions for the record, and other extraneous material referenced during the hearings to be submitted in the official hearing record.

It is now my pleasure to introduce our distinguished panel of witnesses. First, Dr. Tevi Troy is president of the American Health Policy Institute here in Washington, D.C. Welcome. Previously, Dr. Troy held numerous positions in the federal government, including serving as deputy secretary of Health and Human Services beginning in 2007, where he oversaw all operations, including Medicare, Medicaid, Public Health, medical research, food and drug safety, welfare, child and family services, disease prevention, and mental health. Woo, that was a mouthful.

Mr. Rutland "Skip" Paal, Jr. is the owner of Rutland Beard Floral Group, Inc. in Baltimore, Maryland. Mr. Paal is a fourth generation business owner of Rutland Beard Floral Group, Inc. Since taking over the business from his parents, Mr. Paal expanded the business over the last 10 years from a single retail shop to a multistate business with import, wholesale, and retail operations. Thank you for being here today.

Mr. Michael Brey is the founder and president of Brey Corporation in Laurel, Maryland. Mr. Brey started Brey Corporation in 1992 and acquired retailer Hobby Works in 1993. In addition, Mr. Brey has served on several corporate boards, including the board finance committee of Dimensions Healthcare, a health care provider. Welcome, Mr. Brey.

Now I will take this opportunity to yield to Representative Rick Allen to introduce our final witness.

Mr. ALLEN. Thank you, Mr. Chairman. I am pleased to introduce Ms. Sally Roberts from Augusta, Georgia, who is the human resources director of Morris Communications Company, LLC. Morris Communications is a privately-held media company with diversified holdings that include newspaper and magazine publishing, outdoor advertising, radio broadcasting, book publishing, and distribution and online services.

She is here today to testify on behalf of the Society for Human Resource Management. Ms. Roberts is in charge of the company's magazine and radio division, where she manages the benefits for Morris' 3,000 employees in more than 20 states. Ms. Roberts works with insurance providers and consultants on medical and dental plans to design employer rates and employer premiums and coordinates open enrollment with brochure design, online support, employee meetings, and enrollment processes.

She also formed a wellness committee and developed a monthly online news letter, "Wellness Information and News." And I just happen to have the front page of Monday's newspaper. And it shows the Lone Star hero, the new champion of the Master's Golf Tournament, Mr. Spieth, from the Great State of Texas.

So Ms. Roberts, welcome. And thank you for being with us today.

Chairman ROE. Thank you all. Now I ask the witnesses to stand and raise your right hand. Thank you.

[Witnesses sworn.]

Let the record reflect witnesses answered in the affirmative. You may be seated.

Before I recognize you all for your testimony, let me briefly explain our lighting system. You will each have five minutes to present your testimony. When you begin, the light in front of you will turn green. When one minute is left it will turn yellow. And when your time is expired the light will turn red. If you are in the middle of a sentence, I am not going to gavel you. You can go ahead and finish your thoughts. So we are not going to do that. But I will adhere to the five-minute rule.

At that point, I will ask you to wrap up your remarks as best able. After everyone has testified, each member will have five minutes to ask questions of the panel.

Now, Dr. Troy, begin your testimony.

STATEMENT OF HON. TEVI TROY, PH.D., PRESIDENT, AMERICAN HEALTH POLICY INSTITUTE, WASHINGTON, DC

Dr. TROY. Mr. Chairman, Mr. Ranking Member, members of the Subcommittee, I am Tevi Troy, president of the American Health Policy Institute, former deputy secretary of HHS, and a former senior White House aide.

American Health Policy Institute is a think-tank dedicated to studying the issue of employer-sponsored health insurance, and highlighting the challenges employers face in offering care to their employees and their dependents. The institute publishes studies on employer-sponsored health insurance and examines employer responses to health care challenges.

These roles give the institute a unique perspective on development and employer-sponsored insurance and the future state of health care. Today I would like to talk about the impact of the ACA's high-cost excise tax, the cost of the ACA to employers, and the affordability of health care to employees. These three factors signal big changes ahead in employer-sponsored care, which is currently how 169 million Americans get their health coverage.

Under the ACA, an excise tax on high-cost health plans, the so-called Cadillac tax, takes effect in 2018. The potential impact of this tax is already driving employers, including corporations, state government, local government, and universities, to reassess their health care plans and reconsider their future role in providing health care benefits.

The tax is causing employers to reduce health care benefits to limit their exposure to the tax. In the future though, continued medical inflation and other factors will make it very difficult for employers to avoid the tax. Big increases in health care costs will eventually cause Chevrolet benefit plans to be taxed as Cadillacs. That in turn will result in the burden of the excise tax falling on a significant number of American employees and their families.

Last November, the institute published a study on the impacts of this excise tax, which found that from 2018 to 2024, the excise tax could cost 12.1 million employees an average of $1,050 in higher payroll and income taxes per year if employers increase their taxable wages as they reduce the cost of health care benefits.

Alternatively, these employees could see up to a $6,150 reduction in their health care benefits and little or no increase in their

wages. Large employers subject to the excise tax in 2018 will pay an average of $1 million that year and an average of $2.1 million per year from 2018 to 2024, or over $2,700 per employee.

In 2018, the excise tax is anticipated to hit 17 percent of all American businesses and 38 percent of large employers. By 2031, the cost of the average family health care plan is expected to hit the excise tax threshold. Many state and local government health plans will also be impacted by the high-cost excise tax because they tend to offer more expensive health plans than private sector employers. In addition, unionized employers already need to address potential excise tax costs in upcoming contract negotiations.

Overall, the threat of the excise tax is driving employers to fundamentally reassess their plans in a way that will have a real impact on employees and their families. Last year, an institute study looked at direct cost to companies from the ACA's requirements, over and above projected employer health care cost trends within the ACA. The study found that over the next decade, the cost of the ACA to large employers is estimated between $4,800 and $5,900 per employee.

These large employers will see overall ACA-related cost hikes of between $163 million and $200 million per large employer. And the total cost of the ACA to all large U.S. employers over the next 10 years is estimated to be from $151 million to $186 billion. These cost hikes, combined with a fear of triggering the excise tax, are leading to employer reactions that will have a significant impact on the recipients of employer-based care.

Under the ACA, large employers must offer affordable plans and coverage to full-time employees. Coverage is deemed not affordable if the employee's share of their annual premium for self-coverage—for self-only coverage is greater than 9.5 percent of their annual household health care. However, the average employee premium for family coverage accounted for more than 9.5 percent of family income for 4.7 million employees. Further, 10.4 million employees with families, or 38.1 percent, faced an average family premium and deductible that could consume 9.5 percent of their family income. By 2025, that 38 percent becomes 53 percent.

So the combination of a creeping excise tax and high marginal ACA costs is driving employers to look at significant changes to their health care offerings. Some employers will exit the system. But we believe that more will look to make serious changes in approach. These employer-based changes will likely include more cost-sharing components as employers seek to avoid triggering the excise tax in 2018. The cost-sharing then impacts the affordability of health care for employees, who will then become unsatisfied with their employer-sponsored care and look to Washington for answers.

Mr. Chairman, Mr. Ranking Member, members of the Subcommittee, I thank you for your time here today. And I look forward to any questions that you may have.

[The statement of Dr. Troy follows:]

Testimony of the Hon. Tevi D. Troy, Ph.D.

House Committee on the Education and the Workforce
Subcommittee on Health, Employment, Labor, and Pensions

Hearing on

"Five Years of Broken Promises:
How the President's Health Care Law is Affecting America's Workplaces"

Tuesday, April 14, 2015

Mr. Chairman, Mr. Ranking Member, Members of the Committee,

My name is Tevi Troy, and I am the President of the American Health Policy Institute, adjunct fellow at Hudson Institute, and a former Deputy Secretary of the U.S. Department of Health and Human Services, as well as a former senior White House Domestic Policy Aide. The American Health Policy Institute is a 501(c)3 think tank dedicated to studying the issue of employer sponsored health insurance and highlighting the challenges employers face in offering care to their employees and their dependents. In addition to publishing a variety of studies on employer sponsored health insurance, the Institute also examines employer responses to these challenges and shares best practices from the most successful of these responses. These roles give the Institute a unique perspective on developments in employer sponsored health insurance, and enable it to make recommendations to both policymakers and business leaders regarding the future state of health care.

Today, I'd like to talk about the impact the Affordable Care Act's (ACA) high-cost excise tax is having on employer-sponsored health care, the cost of the ACA to employers, and the affordability of health care to employees. These three factors combined mean that there are likely big changes ahead in employer sponsored care, which is currently how 169 million Americans get their health coverage.

The ACA Cadillac Tax

Under the ACA, an excise tax on high-cost health plans, the so-called "Cadillac tax," takes effect in 2018. The potential impact of this tax is already driving employers to reassess their health care plans and reconsider their future role and approach in providing health care benefits. At the moment, the tax is forcing employers to reduce health care benefits to reduce their exposure to the tax. In the future, however, continued medical inflation and other factors beyond the control of employers and employees will make it very difficult for employers to avoid the tax.[1] Rising health care costs will make it more difficult for employers to provide affordable health care benefits to employees with each passing year, and the inexorable increases in health care costs will eventually cause Chevrolet benefit plans to be taxed as Cadillacs. That, in turn, will result in the burden of the excise tax falling on a significant number of American employees and their families.

Last November, the American Health Policy Institute published a study on "The Impact of the Health Care Excise Tax on U.S. Employees and Employers," which found:[2]

- From 2018 to 2024, the excise tax could cost 12.1 million employees an average of $1,050 in higher payroll and income taxes per year, *if* employers increase their taxable wages as they reduce the cost of health care benefits. Alternatively, these employees could see up to a $6,150 reduction in their health care benefits and little or no increase in their pay.
- Should employers increase the taxable wages of employees, something that is not clear in the current business cycle, a significant portion of the increase in take-home pay may be spent on higher out-of-pocket health care expenses as deductibles and out-of-pocket limits increase.
- Large employers subject to the excise tax in 2018 will pay an average of $1.0 million that year, and an average of $2.1 million per year from 2018 to 2024, *or over $2,700 per employee.*
- In 2018, the excise tax is anticipated to hit 17 percent of all American businesses, and 38 percent of large employers.
- Within twenty years, the impact of the excise tax will not be limited to just high value plans. By 2031, the cost of the average family health care plan is expected to hit the excise tax threshold.

Currently, the Congressional Budget Office (CBO) estimates the excise tax will result in approximately $3 billion in new taxes in 2018, $6 billion in 2019, $7 billion in 2020, and a total of $87 billion from 2018 to 2025.[3] According to previous CBO estimates, about 25 percent of the $87 billion, or about $22 billion, will come directly from employers, third party administrators (TPAs), and issuers.[4] The remaining 75 percent, or $65 billion from 2018 to 2025, will come from increased income and payroll tax revenue from the higher taxable wages employers are predicted to pay to offset the reduction in the health care benefits that is expected to occur because of the excise tax. As these numbers show, this tax is going to impose real costs on both employees and employers alike.

In January and February 2014, the American Health Policy Institute confidentially surveyed over 350 large companies that are members of the HR Policy Association to identify and quantify the direct costs of the ACA on large employers. Over 38 percent said they would be impacted by the excise tax in 2018 unless they made changes to their plan designs before then. Another recent analysis of large employer plans found 33 percent are likely to trigger the excise tax in 2018 and 58 percent would by 2022.

Many state and local government health care plans will also be impacted by the high-cost excise tax because they tend to offer more expensive health plans than private-sector employers. According to the Bureau of Labor Statistics, the cost of health insurance for state and local governments is more than two times the cost for private-sector employers ($5.05 per hour vs. $2.35 per hour), which suggests they are more than twice as likely to be impacted the high-cost excise tax. Unless public-sector health care benefits can be reduced to avoid the excise tax, state and local officials will either have to raise taxes or cut other services to pay the tax.

The excise tax is also expected to significantly impact the high-cost health care plans labor unions have bargained for over the years. Although nonunion employers may have the flexibility to adjust their health care benefits anytime between now and 2018, unionized employers will need to address potential excise tax costs in their upcoming contract negotiations to ensure contractual changes are in place to avoid or minimized the excise tax in the future.

As employers reduce the cost of their health care plans to avoid or minimize their exposure to the excise tax, employees are likely to have to pick up more of their health care costs out of their own pockets and find ways to reduce their own health care expenses. Although employers will continue to pick up the large majority of employee health care costs (71% of the premium for family coverage, or $12,011), employee deductibles, copayments, and out-of-pocket maximums will increase.

Excise tax costs in the range of $7 million to $78 million per large employer will not be overlooked by CEOs, CFOs, or Boards of Directors, especially when it is a non-deductable expense. In a recent survey, two-thirds of Chief Financial Officers said they are somewhat or very concerned they will trigger the excise tax based on their current plan designs and projected cost increases. More than four in ten (43 percent) said avoiding the tax is the top priority for their health care strategies in 2015.

The ACA's high-cost excise tax was intended to change employer health care plans and it is having its anticipated effect. Over time the only way for an employer to avoid the excise tax is to take steps to reduce the rate of increase in the company's health care costs to less than the increase in consumer prices and keep it there; and/or to modify the health care benefits the company offers to stay under the excise tax threshold. While 83 percent of large employers consider health benefits to be an important part of their employee attraction and retention strategy, at least 78 percent are changing their health care plans in response to the high-cost excise tax. According to a recent survey by the National Business Group on Health:

- 57 percent of employers are implementing or expanding account-based consumer driven health plans to minimize the impact of the excise tax;
- 53 percent are adding or expanding incentives for employees to participate in wellness programs;
- 42 percent are increasing employee cost sharing; and
- 30 percent are eliminating high cost plans.

Policymakers should recognize the cost of employer-provided care is increasing for a variety of reasons beyond the control of employers and employees, including the aging workforce, new medical technologies and drug therapies; and new mandates, taxes, fees and compliance burdens imposed by the ACA. The threat of the excise tax is driving employers to fundamentally reassess their plans in ways that will have a real impact on employees and their families. To avoid the inevitability of Chevrolet benefit plans eventually being taxed as Cadillacs, and to remove the potential negative impact that will have on employer sponsored health benefits, Congress should repeal the excise tax sooner rather than later.

The Marginal Cost of the ACA on Employer-Sponsored Health Care

Last year, an Institute study looked at direct costs to companies from the ACA's requirements, over and above projected employer health care cost trends without the ACA.[5] The study found that over the next decade:

- The cost of the ACA to large U.S. employers (10,000 or more employees) is estimated to be between *$4,800 to $5,900 per employee*;
- These large employers will see overall ACA- related cost hikes of between *$163 million and $200 million per employer, or an increase of 4.3 percent in 2016 and 8.4 percent in 2023 over and above what they would otherwise be spending; and*
- The total cost of the ACA to all large U.S. employers over the next ten years is estimated to be from *$151 billion to $186 billion.*

These cost hikes, combined with the fear of triggering the excise tax, are accelerating employer movement towards alternative models of health care delivery. Many have experimented with wellness programs, high deductible plans, and alternative forms of cost-sharing. These employer steps in reaction to the ACA will have a significant impact on the recipients if employer based care, namely employees, retirees and their dependents.

The Affordability of Employer Sponsored Plans

Under the ACA, large employers must offer affordable health care coverage to full-time employees. Coverage is deemed to be not "affordable" according to the ACA if the employee's share of the annual premium for self-only coverage is greater than 9.5 percent of their annual household income. An employer plan must cover at least 60 percent of total allowed costs to meet the ACA's minimum value requirement, and offer "substantial" coverage for in-patient hospitalization services or physician services (or both). Employer plans are also required to offer certain preventive care services on a no-cost basis to participants, and a range of additional benefits, such as the age-26 adult dependent coverage requirement and no annual or lifetime limits on essential health benefits.

The average employee share of the premium for employer sponsored family coverage cost less than 9.5 percent of family income for 82.8 percent adult-nonelderly private-sector employees with families (22.6 million).[6] However, the average employee premium for family coverage accounted for more than 9.5 percent of family income for 4.7 million employees (17.2 percent). Further, 10.4 million employees with families, or 38.1 percent, faced an average family premium *and* deductable that could consume 9.5 percent or more of their family income. Moreover, projections by the American Health Policy Institute show that by 2025, that 38 percent becomes 53 percent, creating a big problem for employers and employees alike.

The Affordability of ACA Public Exchange Plans

As employer sponsored plans become less affordable, it is not at all clear that the ACA exchanges can solve the affordability problem, either. In 2013, there were 137.4 million

nonelderly adult Americans with incomes above the federal poverty level that could potentially find the average cost of health insurance in the ACA public exchanges unaffordable depending on their income level. Although nearly all of these adults would find the average ACA premium for a silver plan costs less than 9.5 percent of their individual income, 105.5 million people, or 76.8 percent, face an average ACA premium *and* deductable that could consume more than 9.5 percent of their individual income.[7] The large number of people is due to the fact that the average deductible for an ACA silver plan was $3,030 for individuals with incomes above $28,725. Compared to the average employer plan, some of the most popular health care plans sold on the ACA's public exchanges have significantly higher deductibles and out-of-pocket expenses.

For the 20.2 million nonelderly adult Americans *with no health insurance* who might seek coverage on the public exchanges:

- 11.5 million (56.9 percent) faced an average ACA premium *and* deductable that could consume more than 9.5 percent of their individual income–for 7.4 million (36.6 percent), the average ACA premium *and* deductable could consume 15.5 percent or more of their individual income.

- 9.4 million (46.5 percent) of the 20.2 million nonelderly adult Americans with no health insurance would find the average employer sponsored coverage affordable and the average ACA plan unaffordable, while 8.8 million (43.6 percent) would the average ACA plan affordable and the average employer sponsored coverage unaffordable; 2.0 million would find both types of coverage unaffordable.

Although survey results suggest there is an affordability gap for middle income Americans purchasing coverage on the ACA exchanges, these results, which look at the combined affordability of the average ACA exchange premium and deductible after all the subsidies are taken into account, suggests affordability will be an issue for over three quarters of exchange participants.

We are facing a troubling cycle in the world of employer sponsored care. The combination of a creeping excise tax affecting more and more plans over time and the high marginal costs of the ACA to employers is driving employers to look at significant changes to their health care offerings. Some employers will exit the system, but we believe that more will look to make serious changes in approach. These employer based changes typically include more cost-sharing components as employers seek to avoid triggering the excise tax when it comes on line in 2018. The cost sharing then impacts the affordability of health care for employees, who will become unsatisfied with their employer sponsored care and look to Washington for answers.

Mr. Chairman, Mr. Ranking Member, Members of the Committee, I thank you for your time here today, and I look forward to any questions you may have.

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[1] Robert H. Dobson and Stuart D. Rachlin, What does the ACA excise tax on high-cost plans actually tax?, Milliman, December 9, 2014.

[2] Tevi D. Troy and D. Mark Wilson, "The Impact of the Health Care Excise Tax on U.S. Employees and Employers," American Health Policy Institute, November 2014. Unless otherwise noted, the following data for this section of the testimony comes from this report.

[3] Congressional Budget Office, Insurance Coverage Provisions of the Affordable Care Act - CBO's March 2015 Baseline, Table 1, March 9, 2015.

[4] Congressional Budget Office, The Budget and Economic Outlook: 2015 to 2025, January 2015, pg. 124.

[5] Tevi D. Troy and D. Mark Wilson, "The Cost of the Affordable Care Act to Large Employers," American Health Policy Institute, April 2014. Unless otherwise noted, the following data for this section of the testimony comes from this report.

[6] Tevi D. Troy and D. Mark Wilson, "The Affordability of Employer Sponsored Care and the ACA Exchange Health Care Plans," American Health Policy Institute, February 2015. Unless otherwise noted, the following data for this section of the testimony comes from this report.

[7] *Id.*

Chairman ROE. Thank you, Dr. Troy.

Mr. Paal, you are recognized for five minutes.

STATEMENT OF MR. RUTLAND PAAL, JR., PRESIDENT, RUTLAND BEARD FLORAL GROUP, SCOTCH PLAINS, NEW JERSEY

Mr. PAAL. Mr. Chairman and distinguished members, thank you for inviting me to present testimony before the Committee regarding my company's experience with the Affordable Care Act.

My name is Skip Paal. And I am a fourth generation florist. My great grandfather opened a flower shop and greenhouses outside Baltimore in 1923. Today, my company employs over 150 people and operates at 11 different locations in Maryland and New Jersey, including my great grandfather's original location.

We are a family business. Our employees are extensions of our family. And we have always felt an obligation to take care of our employees accordingly. We have been providing health care to our full-time employees for decades. When cash flow was tight, and I and other family members skipped paychecks, we still contributed to our employee's health care plans. Not because we had to, but because it is the right thing to do.

We also offer a simple IRA plan so that our employees have the opportunity to retire with something after their years of service. We established this retirement plan not because we had to, but because it is the right thing to do.

We try to help our employees in any way we can. Last month, I gave a plane ticket to an employee to spend some time with her daughter because she will be missing her daughter's graduation from college to work for us during the Mother's Day holiday, one of our peak times of the year. I didn't do that because I had to. In fact, the employee didn't ask for it. I did it because it is the right thing to do.

My companies employed a total of 152 individuals over our most recent measurement period. Of this total, 28 would be considered full-time under the ACA, 85 part-time, and 39 temporary.

In order to comply with the ACA, it took me over 40 hours to collect all the data on our employees' hours of service, create spreadsheets, perform calculations, select appropriate plans, and make offers of coverage. In the past, this process took me about an hour of meeting with our health insurance broker. Since my company is not large enough to have an HR manager, that responsibility falls to me.

As an employer, I would improve the bottom line if I did not offer coverage to my employees. Even though I am considered a large employer under the ACA, with 51 FTEs. If I stopped offering health care coverage for my employees my penalty would be zero, since I have only 28 actual full-time employees. This would result in a savings to the company of over $60,000 a year. We continue to offer the coverage because it is the right thing to do.

The ACA has provided numerous challenges to me and my company; the confusion about what is needed for compliance today, what will be needed for compliance in the years ahead, and how to correctly report our data is frustrating, to say the least. I remain

cautious about continuing to expand my business because I just don't know what the future impacts of the ACA will be.

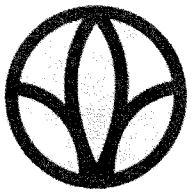
The ACA has also placed me at a competitive disadvantage against other florists and Main Street retailers. Since my employees are offered employee-sponsored coverage, they are ineligible for a subsidy from the exchange and feel forced into accepting the coverage offered by my company's group plan.

Because of the ACA, one of my employees has almost $2,300 less in annual expendable income as a result of being employed by me versus another flower shop down the street that does not require health insurance coverage. This isn't rational, as it penalizes the employee working for me and prevents my company from attaining good employees, while continuing to be sustainable.

It is my hope that Congress will work diligently to craft and pass legislation to address the unnecessary burdens and complexities the ACA has created. One example is the STARS Act, which would provide a technical change to the ACA because the law has conflicting definitions and applications of what a "seasonal worker" is. That one provision is causing confusion and a massive burden to small business throughout the country.

Thank you again for giving me the opportunity to present this testimony before the Committee.

[The statement of Mr. Paal follows:]



Rutland Beard Floral Group

Testimony Of Rutland "Skip" Paal, Jr.

Before the Subcommittee on Health, Employment, Labor, and Pensions of the House Education and Workforce Committee

April 14, 2015

Rutland Beard Floral Group

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Baltimore, MD 21228

(888) 316-8371

Mr. Chairman and distinguished Members, thank you for inviting me to present testimony before the Committee regarding my company's experience with the Affordable Care Act.

I am pleased to testify on behalf of the Society of American Florists. SAF was chartered by an act of Congress in 1884 and is the only national trade association that represents all segments of the U.S. floral industry. Its 7,000 members are the industry's top retailers, growers, wholesalers, importers, manufacturers, suppliers, educators, students and allied organizations.

I am a fourth generation florist. In 1923, my great grandfather opened a flower shop and greenhouses outside Baltimore where he grew and sold flowers and plants. My grandparents took over the business in the 1950's and ran it until my parents took over in the 1970's. When I joined the business in a full-time capacity in 2002, our family owned two retail flower shops and had just under 20 total employees, of which 8 were considered full time.

Soon thereafter, I realized there was an opportunity to grow our business by acquiring additional locations. In 2007, I purchased my first location and have continued acquiring retail flower shops since. In 2009, we expanded beyond traditional retail to include a wholesale florist and import division. Today, my companies employ over 150 people and operate at 11 different locations in Maryland and New Jersey, including my great-grandfather's original location outside Baltimore.

My grandfather instilled ideals in me regarding the way we do business. We are a family business; our employees are our extensions of our family. We have been at weddings together and funerals together. Even though I have no actual relatives working in the business now, I have always felt as though I have a number of brothers, sisters, aunts, and uncles working with me because these folks are treated and valued as members of our Rutland Beard family. Some of them have even known me since I was a toddler. As a part of this philosophy, we have always felt that we have an obligation to take care of our employees just like they were family.

We have been providing health care to our full-time employees for decades. For many years, we paid 100% of the cost of health insurance. As health insurance costs continued to climb in the early 2000's, we contributed as much as possible, but capped our contributions at $300/month. Even through the recession, when I and other family members skipped paychecks for ourselves, we still contributed to our employees' health care – not because we had to, but because it was the right thing to do.

Our support of our employees goes beyond health care. Shortly after I joined the company, one of our lifelong employees retired from service, after spending over 40 years as a sales clerk with the company. When she retired, her plan for retirement was to live on Social Security. Within months of her retirement, we established and began company contributions to a SIMPLE IRA plan so that our employees would have the opportunity to retire with something to

show for their years of service. We established this retirement plan not because we had to, but because it was the right thing to do.

If someone dedicates a career of service to our organization, it is only right that we take care of them as best as we can. Last month, I gave a plane ticket for an employee to spend some time with her daughter because she will be missing her daughter's graduation from college to work for us during one of our peak times. I didn't do this because we had to – in fact the employee didn't even ask for it – I did it because it's the right thing to do.

When we look at the numbers, my companies employed a total of 152 individuals over our most recent measurement period. Of this total, 28 would be considered full-time under the Affordable Care Act, 85 would be considered part-time, and 39 would be considered temporary.

In our business, we hire a number of employees who help us during the peak floral holidays of Valentine's Day, Mother's Day, and Christmas, as well as extra help during peak wedding season. It took me over 40 hours to collect all of the data on our employees' hours of service, create spreadsheets, perform calculations, select appropriate plans, and make offers of coverage. In the past, this process took me about an hour of meeting with our health insurance broker. Since my company is not large enough to have a human resources manager, this responsibility falls to me.

As an employer, I would improve our bottom line if I did not offer coverage to my employees. Under our most recent measurement period, my companies have a total of 51 full-time equivalents (FTEs) (53 if including temporary employees). Even though this qualifies me as a "large employer" under the ACA, if I were to refrain from offering health care coverage for any employees, my penalty would be zero, since I have only 28 actual full-time employees. This would result in a savings to the company of over $60,000 a year. However, we continue to offer the coverage because it's the right thing to do.

The ACA has provided numerous challenges to my company and me. For the past several years we have operated in a constant state of the unknown. We have sought advice from our professional advisors – our accountants, our insurance brokers, our payroll company, and our trade association – but at the end of the day we still are unsure of what our full obligations will mean for our company and our employees, or even if we are doing the right things. It seems as soon as we have some clarity on an issue, we come to realize that it was only a temporary extension or that we were guided in the wrong direction to begin with. I believe that we know what we should be doing right now, but have no idea what to plan for because we don't know what changes to legislation or regulations will bring next year or beyond.

In addition to the challenges of record keeping, reporting, and other compliance issues, the looming unknown cost of insuring future employees has made me apprehensive of continuing to expand my business and hire new employees.

As I have grown my business over the past 10 years, I have been able to plan accurately for revenues and costs. Rents are a known variable, as are vehicle and supply costs. Cost of goods is relatively easy to budget accurately. Payroll expenses can be easily calculated and budgeted. However, the increased expenses in health care and complying with the ACA, has caused me to not to expand further. When examining an acquisition, I must take into account the added cost of health care that the previous owner did not provide. In fact, in every single acquisition that I have made, the previous owner did not provide health care benefits to the employees. Not knowing what this cost will actually be makes me cautious of pursuing many new acquisitions.

Far more concerning than adding health care costs for employees when acquiring a new business, is that I am placed at a disadvantage against my competition for hiring and retaining good employees because of the cost of insurance. The actual employer's cost to insure a full-time employee on our health insurance policy ranges from $107 to $322 per month, depending on the age of the employee. This amount does not include the employee's share. This creates a potential compensation obligation in upwards of $2.00 an hour that ACA-defined "small employer" competitors do not incur. This burden places me at a disadvantage since many other employers are not required to offer coverage to the same individual and can therefore afford to entice them with a higher salary.

For an hourly-based employee making $14 an hour, that $2 an hour is a significant monetary factor and often times makes the difference between working for us and taking a job with an employer that does not offer health care. Additionally, since many other employers are not required to offer coverage to employees, the employee can still benefit from subsidies on the exchange which they would not have access to under employment with me. The result is a variance in net expendable income to an employee of thousands of dollars a year, which to someone making $20,000-$30,000 a year creates a potential significant difference of their income.

Carefirst, Maryland's Blue Cross and Blue Shield franchise and the health insurance provider our company uses, prices small group plans according to each individual's age. As a result, the variation in pricing for group insurance is the same as that for an individual buying a policy directly from Carefirst.

As an example, we can look at two employees who both work 38 hours a week on average, with a total employer salary expense (exclusive of employer payroll taxes) of $15 per hour. Both employees are 51 years old and would be doing the exact same job – making flower arrangements in a flower shop – however, one employee, "Lauren" would be working for me (or another employer considered "large" under ACA) and provided health care insurance while the other employee "Sue" would be working in for a "small" employer who does not offer health care insurance.

	Lauren	Sue
Wages Earned	$28,254	$29,640
Employer Health Contribution	$1,386	$0
Employee Health Withholdings	$1,386	$0
Employee Subsidy Received	$0	$2,289
Cost of Private Plan	$0	-$2,773
NET EMPLOYEE CASH FLOW	**$26,868**	**$29,156**

In this example, "Lauren" is being penalized almost $2,300 each year because she happens to be working for an employer who owns multiple flower shops instead of one who only owns a single flower shop. There is no room to make up the difference here – both employees are working in the same industry for the same number of hours a week. As a retailer, I cannot charge more for a dozen roses than my competition just to offset the difference in the health care. So, as an end result, the employee, "Lauren", ends up having less disposable cash flow.

The challenges of ACA extend further to our employees. While I have made time to devote to exploring and trying to understand our obligations, I do not believe that our employees truly understand the impact of their health care coverage decisions. We are currently in the process of offering health care for our June 1st policy renewal.

Of the 28 offers of coverage we have made, about half have declined coverage. We have tried to educate our employees on the advantages of participating in our company-sponsored group insurance plan, but our employees making $25,000 a year are weighing a payroll deduction of $200 per month against what is being regarded as free coverage from the exchange. My understanding is that employees who decline an offer of coverage made by us are not eligible for a subsidy. There will surely be some troubles ahead when they are told to pay back these subsidy funds, but cannot afford to do so.

The 30-hour definition of full-time also places a burden on us as an employer. In the past, we have always used the criteria that if an employee's regular weekly schedule is 36 hours a week or more, we would consider them to be full-time. We have numerous employees who work for us in a part-time capacity most of the year, but during the weeks surrounding our floral holidays, they end up working full-time hours, even sometimes overtime hours.

Some of these employees qualify as full-time for health care coverage under the ACA due to the total hours worked throughout the year, even though they worked less than 30 hours for almost all of the year. The 30 hour definition of full-time under the ACA has caused us to take a hard look at scheduling on a year-round basis to make sure that we are in compliance with the law while ensuring our business is sustainable.

Another major burden for companies like mine that employ seasonal workers is determining whether we are a large or small employer under the ACA and whether we have to

offer health insurance to certain employees. Under the ACA's employer shared responsibility requirements, the terms "seasonal worker" and "seasonal employee" do not mean the same thing. Complicating this further, the terms apply to different provisions of the ACA and have different periods of time to calculate.

Employers with fewer than 50 full-time workers but employ part-time or seasonal workers during part of a year must calculate whether they employ an average of 50 or more – FTEs in order to determine if they are an applicable large employer (ALE) under the ACA.

For each month, the number of full-time employees must be established during that specific month. Then, the total number of hours of part-time and seasonal employees during that month must be added together then divided by 120. The number of FTEs for that month is determined by adding together the quotient from the calculation and the number of full-time employees. This calculation must be performed for each month.

In order to determine whether the employer is an ALE that is required to offer health care insurance, the FTEs of each month must be added together then divided by 12 and have any decimals removed. If the final quotient is 50 or more, the employer is an ALE.

The ACA contains a seasonal *worker* exception for small employers that employ seasonal workers. The exception allows a company that employs seasonal workers and averages 50 FTEs for no more than 120 days to remove its seasonal workers from its ALE calculation and recalculate its size using the same formula. If the new quotient without the seasonal workers included is less than 50, the company is not an ALE.

However, if the employer is determined to be an ALE, regulations issued by the Treasury Department state that seasonal *employees* do not have to be offered health care insurance. Those regulations define a seasonal *employee* (as opposed to a seasonal *worker* as outlined in the law) as someone who is employed six months or less by an employer.

These conflicting definitions and applications of "seasonal" within the ACA itself create an enormous burden and obstacle to compliance. Employers use the terms "seasonal worker" and "seasonal employee" interchangeably in day-to-day operations. In the mind of most people, there is no difference between the two terms. Further, most seasonal businesses are small and do not have a large human resources department to wade through the law and regulations to ensure they are in compliance. In addition, many seasonal employers have heard of the seasonal exception and erroneously assume that they don't have to include seasonal workers in determining their business size calculation or offer them health care insurance at all.

A solution to this problem has been offered - the Simplifying Technical Aspects Regarding Seasonality Act (STARS Act). The bill would make a technical change to the ACA by aligning the definition of "seasonal" consistent with the Treasury Department regulations. If enacted, if a seasonal employee worked for an employer for more than six months, the worker

would be included in determining the business size and would have to be offered health care insurance if the employer was an ALE.

I hope that Congress passes the STARS Act quickly so small businesses will no longer have to wonder if they need to calculate the hours of seasonal *workers* or seasonal *employees* or whether the definition of is 120 days or six months or if they have to recalculate the number of hours worked by those employees over and over again or if they have to offer health insurance to those workers or not.

I agree with the idea of employer-sponsored health care, as evidenced by our company's commitment to providing health care to legitimate full-time employees for decades. Health care has always been a recruitment and retention tool used by our company in addition to competitive salaries, paid time off, and retirement plans, among others to attract and retain good employees. However, the Affordable Care Act has created an administrative burden and a detrimental competitive atmosphere, both inside and outside of our industry.

The full implementation of the Affordable Care Act has created an environment that encourages my employees to work for employers who do not offer coverage, while challenging me to juggle compliance requirements of health care with running the day-to-day operations of our family's 92-year old business. It is my hope that Congress will work diligently to relieve the burdens imposed on employers throughout the country.

Thank you again for giving me the opportunity to present this testimony before the Committee.

Chairman ROE. Thank you, Mr. Paal.

Mr. Brey, you are recognized for five minutes.

STATEMENT OF MR. MICHAEL BREY, PRESIDENT, BREY CORPORATION T/A HOBBY WORKS(R), WINGTOTE MANUFACTURING, LLC, LAUREL, MARYLAND

Mr. BREY. Good morning, Mr. Chairman, members of the Subcommittee. Thanks for having me. I am sorry for your loss, sir.

My name is Mike Brey. I am the owner of Hobby Works, a hobby and toy store with four locations in the D.C. metro area, Maryland, and Virginia, with nearly 50 (more than 30 FTE) employees. Thanks for allowing me to share my comments with you on the health care law's impact on my business.

I started my business in 1992. Almost from the beginning, I offered health coverage. Not just to attract and retain good employees, but because as a former retail employee myself, I had found it difficult to get good, affordable insurance. My business has been successful, and we have been able to expand multiple locations. But over the years, it became more and more and more difficult to continue offering health insurance to my employees.

Prior to the passage of the health care law, our insurance rates were going through the roof. We saw annual premium increases, 10, 15, 20 percent. Sometimes even higher if we crossed an age band. As a result, we were forced to ask employees to pay more of their premiums and face higher deductibles in order to continue offering coverage.

Other small businesses also faced these issues before there was an Affordable Care Act. The research shows that many small business owners struggled to offer health insurance to their employees due to rising costs. Small Business Majority's scientific opinion polling found that the majority of small business owners provided insurance to at least some of their employees. But of those who didn't, 70 percent, said it was because they couldn't afford it. What is more, small businesses paid 18 percent more on average for health coverage than large companies and received fewer comprehensive benefits.

Inaction was unacceptable. The passage of the Affordable Care Act was the first thing in years that gave me hope that the spiral of escalating cost and depreciating quality of coverage might finally end. Many provisions of the health care law have been key to making health insurance more accessible and affordable for small businesses like mine. In addition to the marketplaces, a multitude of cost containment provisions have gone into effect that are helping to lower costs and provide more stability throughout the system.

A survey conducted by Towers Watson and the National Business Group on Health found that in 2013, employers experienced the lowest increase in health care cost in 15 years. While some argue that the health care law is requiring many small firms to drop their health coverage, the Kaiser Family Foundation found in 2014 that the number of employers offering coverage remains statistically unchanged from the previous year. Additionally, 8.2 million more people, many of whom were previously uninsured, have gained employer-sponsored coverage.

Thanks to the health care law's cost containment provisions, our premiums are starting to stabilize. And I believe I am finally starting to have the certainty and stability I need when it comes to health insurance premiums and choices of plans.

What's more, in Maryland, we now have many more options when it comes to insurance carriers and health plans. Where we once had only a few carriers to choose from, we can now choose from a variety of insurers that offer many health plans. I went on the shop exchange and counted. It has more than 110 options for my business to choose from now.

Furthermore, thanks to the new options created by the health marketplaces, more people are able to leave jobs to become self-employed or start a business because they don't have to worry anymore about health insurance. This means that spouses don't have to stay in particular jobs in order to maintain health benefits for their dependents.

Some claim that the health care law is a job killer and that small businesses are being forced to make their full-time employees cut their hours. This has not impacted my business. We don't make expansion decisions based on tax laws. We do it based on consumer confidence and how we expect sales to increase over time. As a retailer, we are still recovering from the effects of the recession. Nobody actually needs anything I sell. But we have never thought of expanding or shrinking based on the health care law's requirements.

Some say that the health care law is forcing small businesses to order more outside help in order to comply with the law's requirements. As a small business owner, I can tell you that the vast majority of owners already rely on the expertise of accountants and lawyers and insurance brokers. Small Business Majority's research shows that 75 percent of small business owners already work with an insurance broker to purchase insurance policies for their business.

The Affordable Care Act is not perfect, and it won't solve all of our health insurance problems. However, it is the first meaningful law in decades that meets many of small businesses' core needs in regards to rising health care costs. In this economy, policies that allow us to spend less on premiums so we can keep more of our profits to reinvest in our companies and create jobs is what we need most.

Strengthening and tweaking the Affordable Care Act instead of chipping away at it is the only path forward to lowering the overall cost of health care and providing more options to coverage for small business owners like myself and their families and their employees.

Thank you for the opportunity to comment. I really appreciate it.

[The statement of Mr. Brey follows:]

STATEMENT FOR THE RECORD

BEFORE THE HOUSE SUBCOMMITTEE ON

HELP, EMPLOYMENT, LABOR & PENSIONS

ON

THE AFFORDABLE CARE ACT'S IMPACT ON SMALL BUSINESSES

APRIL 14, 2015

MIKE BREY

OWNER – HOBBY WORKS

Good morning Chairman Kline and members of the Committee.

My name is Mike Brey; I'm the owner of Hobby Works, a hobby and toy store with four locations in the D.C. metro area, Maryland and Virginia, with nearly 50 (more than 30 fulltime equivalent) employees. Thank you for allowing me to share my comments with you on the healthcare law's impact on small businesses like mine.

I started my business in 1992. Almost from the beginning, I offered health coverage—not just to help attract and retain good employees, but because as a former retail employee myself, I had found it difficult to get good, affordable insurance. My business has been successful and we've been able to expand to multiple locations. But over the years, it became more and more difficult to continue offering health insurance to my employees. Prior to the passage of the healthcare law, our insurance rates were going through the roof. We saw annual premium increases of 15-20%, and sometimes even higher. As a result, we were forced to ask employees to pay more of their premiums and face higher deductibles in order to continue offering coverage.

Other small business owners also faced these issues. Research shows that many small business owners struggled to offer health insurance to their employees due to cost. Small Business Majority's scientific opinion polling found the majority of small business owners provided insurance to at least some of their employees, but of those who didn't, 70% said it's because they couldn't afford it. What's more, small businesses paid 18% more on average for health coverage than large companies andreceived fewer comprehensive benefits.

Inaction was unacceptable. The passage of the Affordable Care Act was the first thing in years that gave me hope that this spiral of escalating costs and depreciating quality of coverage might finally end. Many provisions of the healthcare law have been key to making health insurance more accessible and affordable for small businesses like mine. In addition to the marketplaces, a multitude of cost containment provisions have gone into effect that are helping to lower costs and provide more stability throughout the system.

A survey conducted by Towers Watson and the National Business Group on Health found that in 2013, employers experienced the lowest increase in healthcare costs in 15

years. And while some argue that the healthcare law is requiring many small firms to drop their health coverage, the Kaiser Family Foundation found that in 2014, the number of employers offering coverage remained statistically unchanged from the previous year. Additionally, 8.2 million more people, many of whom were previously uninsured, have gained employer-sponsored coverage.

Thanks to the healthcare law's cost containment provisions, our premiums are starting to stabilize. I believe I am finally starting to have the certainty and stability I need when it comes to health insurance premiums and choices of plans.

What's more, we now have more options when it comes to insurance carriers and health plans. Where we had only a few carriers to choose from in the past, we can now choose between a variety of insurers that each offer many health plans, amounting to more than 110 options for my business to choose from.

Furthermore, thanks to the new options created by the health marketplaces, more people are able to leave their jobs to become self-employed or start a business because they no longer have to worry about health insurance. A report by the Robert Wood Johnson Foundation found 1.5 million more people will launch their own business and become self-employed because the Affordable Care Act has made purchasing insurance on the open market more accessible and more consistent. This also means that spouses don't have to stay in particular jobs in order to maintain health benefits for their dependents.

Meanwhile, some claim that the healthcare law is a job killer and that small businesses are being forced to make their full-time employees cut their hours. This has not impacted my business at all. We don't make expansion decisions based on tax law; we do this based on consumer confidence and how we expect sales to increase over time. As a retailer, we are still recovering from the effects of the recession, but we have never thought of expanding or shrinking based on the healthcare law's requirements.

Some say that the healthcare law is forcing small businesses to hire more outside help in order to comply with the law's requirements. As a small business owner, I can tell you the vast majority of owners already rely on the expertise of accountants, lawyers and brokers. Small Business Majority's research shows 75% of small business owners already work with an insurance broker to purchase insurance policies for their businesses.

The ACA isn't perfect and it won't solve all of our health insurance problems overnight. However, it is the first meaningful law in decades that meets many of small businesses' core needs in regards to rising healthcare costs. In this economy, policies that allow us to spend less on health premiums so we can keep more of our profits to reinvest in our companies and create jobs are what we need the most.

Strengthening the Affordable Care Act, instead of chipping away at it, is the only path forward to lowering the overall cost of healthcare and providing more options for coverage for small business owners like myself.

Thank you for the opportunity to comment on this important issue.

Sincerely,

Mike Brey, Owner

Hobby Works

Chairman ROE. Thank you, Mr. Brey.

Ms. Roberts, you are recognized for five minutes.

STATEMENT OF MS. SALLY ROBERTS, HUMAN RESOURCES DIRECTOR, MORRIS COMMUNICATIONS COMPANY, LLC, AUGUSTA, GEORGIA

Ms. ROBERTS. Chairman Roe, Ranking Member Polis, distinguished members of the Subcommittee, my name is Sally Roberts, and I am the director of human resources for Morris Communications. I am here today on behalf of the Society of HR Management. I have been a member of SHRM for 18 years. Thank you for the opportunity to testify today on how employers are implementing the ACA.

Five years after the implementation of the Affordable Care Act, it continues to be a challenge for HR professionals and employers due to the complexity, the delay in effective dates of certain provisions, and the coverage requirements.

Mr. Chairman, although the ACA purports to lower health costs, costs continue to rise for both employers and employees. And for that reason, many organizations are changing health care benefits to minimize the costs.

By way of introduction, Morris Communications is a private, family-owned business based in Georgia since the 1800s. Our core business is newspaper publication, but we have expanded to magazines, visitor publications, radio broadcasting, and farming. We have over 2,200 employees in 29 states from Alaska, California, Texas, Tennessee, and Georgia, just to name a few.

Morris has long offered benefits to our employees because we believe it is vital to provide a competitive compensation package. Throughout implementation, Morris has made changes to our plans and benefits, but we have been able to continue our one provider PPO plan to all of our employees.

However, this year, we introduced an ACA-compliant high deductible plan. Let me briefly outline some of the challenges we have encountered with the implementation. First, the anticipated excise tax. At Morris, we project that our current health plan will trigger an excise tax of over $650,000 in 2018. To mitigate this cost, we are considering a full replacement of our PPO with a high-deductible plan. However, we have considered this option for over ten years, and we have failed to implement it because of the economic hardship we believe it would have for our aging workforce. That is why SHRM supports H.R. 879 to repeal the excise tax.

Some employers are implementing incentive-based wellness programs as cost-containment strategies. However, recent litigation proposed by the EEOC has threatened the certainty of the law for employers that offer these programs. SHRM applauds the introduction of H.R. 1189 under the leadership of Chairmen Kline, Roe and Walberg to protect employer-based wellness programs.

Another challenge facing my company as well as others is the employer reporting requirements. At Morris, after looking at the effort it will take to track, record, and report hours of eligibility, we will either have to hire someone to do this for us or outsource at an estimated cost of $50,000.

Other challenges include obtaining exchange notifications. Exchanges are supposed to notify organizations of employees who have applied and who are eligible for subsidies and credits. So far, only a few state exchanges have sent notifications to employers, and the federal exchange has yet to do so.

Lastly, SHRM has strong concerns regarding the ACA's definition of "full time." The definition is inconsistent with the *Fair Labor Standards Act* and conflicts with many federal and state laws. SHRM supports H.R. 30, a House-passed bipartisan proposal to amend this definition.

Mr. Chairman, prior to the ACA, benefits administration occupied about one-third of my time. Since the ACA, I have spent closer to two-thirds of my time on benefits administration. In addition to staff time, Morris has incurred health care consultant and attorney fees; funds that we could have spent on employees in such ways as giving increases or contributing to their 401(k)s.

Mr. Chairman, thank you for allowing me to share my experience in implementing the ACA and SHRM's views. SHRM believes that effective health care reform should expand access to affordable care, but organizations should not have to change business practices and benefits to afford the required changes.

Unfortunately, the ACA's requirements are increasing costs, and it has restricted employer flexibility to offer benefits packages that best meets our employees' needs. Thank you.

[The statement of Ms. Roberts follows:]

Statement of Sally Roberts, MBA, SHRM-SCP
Director of Human Resources

Morris Communications Company, LLC
Augusta, Georgia

On behalf of the
Society for Human Resource Management

Submitted to
U.S. House Committee on Education and the Workforce,
Subcommittee on Health, Employment, Labor and Pensions

Hearing on
"Five Years of Broken Promises: How the President's Health Care Law is Affecting America's Workplaces"

April 14, 2015

Introduction

Chairman Roe, Ranking Member Polis and distinguished members of the Subcommittee, my name is Sally Roberts. I am the Director of Human Resources at Morris Communications Company in Augusta, GA. I am appearing before you today on behalf of the Society for Human Resource Management (SHRM).

I have been a human resources professional for over 20 years and a member of SHRM since 1997. I started in the health care field working for a hospital system in the Atlanta area. After moving to Augusta, I worked as an HR Director for a continuing care health system before joining Morris Communications in 2005.

Throughout my career I have volunteered with SHRM on both a local and state level, and I was recently recognized as a Woman to Watch by WAGT 26 Augusta for my volunteer work. While I have held several volunteer leadership roles within SHRM, I currently serve as State Director of the Georgia SHRM State Council. I appreciate the invitation to appear before you today on behalf of SHRM's more than 275,000 members in over 160 countries.

SHRM is the world's largest association devoted to human resource (HR) management. The Society serves the needs of HR professionals and advances the interests of the HR profession. Founded in 1948, SHRM has more than 575 affiliated chapters within the United States and subsidiary offices in China, India and United Arab Emirates.

Human resource professionals have responsibility in their organizations for implementing the requirements of the Affordable Care Act (ACA), giving them a unique perspective about the impact of health care reform on both employers and employees. Five years after the ACA's enactment, SHRM members report that implementation of the ACA requirements remains challenging due to the complexity of the law, delays in effective dates of certain provisions and coverage requirements.

Mr. Chairman, although the ACA purports to lower health care costs for Americans, costs continue to rise for employers and employees alike. According to a recent SHRM Research survey[1], 77 percent of respondents said that their health care coverage costs increased from 2014 to 2015. Furthermore, organizations are experiencing specific challenges administering employer-sponsored health care plans when implementing the ACA. As a result, many organizations are changing health care benefits or are turning to other health care design strategies, such as health savings accounts and health reimbursement accounts. In addition, some employers have contracted with insurance brokers, benefits consultant groups or law firms to navigate the law and to ease the burden of reporting requirements. Other employers have also restructured their workforce staffing models as the requirements to provide health care coverage have been implemented. As employers

[1] SHRM Research survey *Health Care Reform–2015 Update*, March 2015

continue to adjust to increasing health care costs and the ACA, HR professionals are looking ahead to 2018, when an employer tax on high-cost health plans goes into effect. Large organizations expect their health care plans to trigger the excise tax in 2018, which could account for the changes that some employers made to their plans for this year. However, we do anticipate other employer-sponsored plans will also be subject to this excise tax in the coming years.

These are just some of the issues that employers are facing that I will discuss today. In my testimony, I will provide background on my company's health care offerings, discuss Morris Communications' experience with ACA implementation, outline specific areas of concern for HR professionals as they continue to implement the ACA, highlight SHRM health care research, and share SHRM's views on health care reform.

Morris Communications

Morris Communications is a private, family-owned company that traces its beginnings to a corporate structure dating from the 1800s. The modern-day company was established in 1945 with the creation of Southeastern Newspapers Inc., which grew to become Morris Communications Corp. in 1970. In addition to its foundation business of newspaper publishing, the multimedia corporation grew over the years and expanded into magazines and specialized publications, radio broadcasting, visitor publications, commercial and residential broadband data as well as farming and events such as barrel horse racing.

Morris Communications' workforce is as diverse as its holdings. We employ accountants, editors, reporters, press operators, farmers and cable installers, with over 2,200 employees working in 29 states, from Alaska and Hawaii to Colorado, Georgia, Tennessee and Florida. Morris is also a global company, with operations in the United Kingdom, France, Germany, the Principality of Monaco and Australia.

Morris Communications has a long history of offering competitive benefits because our company believes these benefits are vital to an overall compensation package needed to recruit and retain the best employees. Currently, our medical plans cover over 1,500 employees and approximately 3,000 lives. Morris Communications has a self-insured health plan, and because we have employees in multiple states, we must ensure that our plan meets state and local requirements. For example, in Hawaii our employees are on a fully insured plan that meets the requirements of the Hawaii Pre-Paid Health Care Act. We must also comply with requirements in Massachusetts and the City of San Francisco.

On a yearly basis, I review Morris Communications' medical and pharmacy claims with our third-party administrator and benefits consultants, looking for trends in diagnoses, prescription drug usage and member utilization of disease management programs. This data helps us design our plan, drive healthy behavior and estimate the following year's

health care costs. This analysis requires a delicate balance between containing costs and offering the best plan we can afford to our employees and their families.

In 2009, for example, after reviewing research that showed the negative impact of smoking on employee health, Morris Communications implemented a no-tobacco-use discount to help change employee behavior and encourage healthier lifestyles. For many of our employees, this was the incentive they needed to stop smoking. In addition, our analysis showed an increase in emergency room utilization for non-emergency services. As a result, Morris Communications increased co-pays for non-emergency services, resulting in fewer trips to the ER and, therefore, decreased health costs.

In 2011, the first ACA-mandated changes were implemented to expand coverage to adult children up to age 26 and to eliminate pre-existing conditions and lifetime maximums for coverage. At the time, our company estimated this would result in a 2 percent increase in our health care costs. As a result, we increased employee premiums by 4 percent to cover the projected and anticipated costs. Since the ACA's implementation, we have increased employee contributions by 19.3 percent, and while the employer portion remains at two-thirds of the total cost, it has also increased by 10 percent during that time. In order to keep the premium increases to a minimum, we have increased deductibles and co-pays and have aggressively managed our prescription drug costs.

Throughout the ACA implementation, we have made changes to ensure that our plans and benefits are compliant with the law and regulations. Until this year, we were able to offer one plan, a Preferred Provider Plan, to all of our employees. However, this year we introduced a second plan, a High-Deductible Plan (HDP), which meets the affordability standard of the ACA. Unfortunately, less than 3 percent of our employees have enrolled in this plan.

Now that I've outlined Morris Communications' current health care benefits, let me share some concerns and challenges we have experienced with implementing the ACA.

Increased Fees and the Excise Tax

At my company, we have seen an increase in employer fees, including a fee on the average number of lives covered under the plan (known as the Patient-Centered Outcomes Research Institute fee) as well as the transitional reinsurance fee, resulting in over $180,000 in new plan fees and costs this plan year alone.

In addition, rising health care costs are driving employer concerns as the effective date of the 2018 excise tax approaches; this is a tax on excess benefits provided to employees by plans deemed to be "high cost" under the ACA. Morris Communications is no different from other employer-sponsored health care plans as we project that our current plan design, if left unchanged, will result in Morris Communications incurring over $650,000 in an excise

tax in 2018. To mitigate this cost, we must reduce the value of our medical plans and are therefore considering a full replacement of our PPO plan with an HDP plan. While this option has been considered for over 10 years, so far we have not implemented a full-replacement high-deductible plan due to the potential economic hardship it would cause for our aging workforce. As mentioned above, however, in light of the new ACA requirements, Morris Communications is revisiting this decision.

According to SHRM's March research survey, 33 percent of organizations indicated that they would be subject to the excise tax in 2018. Similar to Morris Communications, a majority of employers are making changes to their employee health benefits to avoid the excise tax. In fact, according to new research from consultancy Towers Watson[2], 84 percent of U.S. employers expect to make changes to their full-time employee health benefits programs over the next three years. Two in five employers that have done modeling of their plans say they will trigger the 40 percent excise tax in 2018 unless they make benefits changes to rein in costs.

In light of HR professionals and employers reassessment of their health care plans to avoid the excise tax, SHRM supports the legislative proposal, H.R. 879 Ax the Tax on Middle Class Americans' Health Plans Act. The bill, introduced by Representative Frank Guinta, would repeal the 40 percent excise tax on high-value employer-sponsored health care benefits.

Wellness Programs

One approach employers are embracing is the implementation of incentive-based wellness programs as part of their health care cost-containment strategy. As you know, a bipartisan provision in the ACA allows employers to discount health insurance premiums by up to 30 percent—or 50 percent if approved by the Departments of Treasury, Labor, and Health and Human Services—for healthy lifestyle choices like quitting smoking or maintaining a healthy cholesterol level. As a result, a growing number of employers have incorporated wellness programs into their organizations' health and wellness offerings.

A SHRM survey[3] found that 76 percent of HR professionals indicated that their organizations offered some type of wellness program, resource or service to employees. Among these respondents, about one-half reported that employee participation increased in 2014, as well as in 2012 and 2013, indicating a pattern of increased use of wellness initiatives over time. In addition, more than two-thirds of respondents from organizations that offered wellness initiatives indicated that these programs were effective in reducing the cost of health care.

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[2] Towers Watson *2015 Emerging Trends in Health Care Survey*, March 2015

[3] SHRM Research survey *2014 Strategic Benefits Survey—Wellness Initiatives*, January 2015

However, recent litigation pursued by the Equal Employment Opportunity Commission (EEOC), asserting that medical screenings to participate in wellness programs are not voluntary and therefore are in violation of the Americans with Disabilities Act (ADA) and the Genetic Information Nondiscrimination Act, has threatened the certainty of law for employers that offer these programs. At a time when employers are faced with increasing health care costs and are making every effort to comply with the law, while still meeting the needs of employees, these recent actions are disappointing.

I know that there have been some recent developments from the EEOC to offer clarification on employer-provided wellness programs. In particular, last month the EEOC sent a notice of proposed rulemaking to the Office of Management and Budget to start the regulatory process to release its long-awaited rules on the interplay of the ADA and the ACA as they affect wellness programs. The proposed rule would amend the regulations implementing the equal employment provisions of the ADA to address the interaction between Title I of the ADA and financial incentives as part of wellness programs offered through group health plans.

In the meantime, given HR professionals' strong concerns about the EEOC's litigation actions, SHRM supports H.R. 1189, the Preserving Employee Wellness Programs Act, which was introduced by Chairmen Kline, Roe and Walberg. This bill would provide important legal certainty and eliminate confusion caused by the EEOC for employers offering employee wellness programs that lower health insurance premiums to reward healthy lifestyle choices.

Employer Reporting Requirements

Another challenge facing my company as well as others is the new employer reporting requirements under the ACA. Effective this year, large employers (those with 50 or more employees) are required to report on health care coverage to the Internal Revenue Service (IRS). While this may seem like a simple task for employers, this means more tax forms to be completed, printed and mailed at the end of the year.

Large employers that sponsor their own health care plans (self-insured employers) serve as both the insurer and the employer. Under these conditions, self-insured employers will be impacted by the new ACA reporting requirements on a larger scale than employers that are not self-insured. For self-insured employers, ACA reporting will present a significant challenge because they will be responsible for reporting both as the insurer and the employer.

Moreover, the reporting forms will require specific information on each employee's insurance coverage (and their spouse and dependents', if applicable), such as employer identification number, taxpayer identification number, addresses, employee's full-time status and length of full-time status, proof of minimal essential coverage offered, coverage

dates, and employees' share of coverage premium costs. Additional information may be required by the IRS over time. Collecting this information to ensure accurate reporting will become an administrative burden for employers.

For example, in a self-insured situation, an employer hires a third-party administrator to manage the administrative tasks, such as reviewing, evaluating and processing insurance claims. However, it is the employer that pays the actual claims. The employer is the insurer, whereas the third-party administrator simply handles the paperwork involved with the claims process. To navigate the ACA reporting requirements, some employers have contracted with health care brokers or consultants or have added staff to collect and track ACA reporting requirements.

To date, Morris Communications has been able to meet the requirements of the ACA without adding to our staff or outsourcing our benefits administration. However, after looking into the effort it will take to track, record and report hours and eligibility, we will either add a position or outsource this function to fulfill the reporting requirements, at an estimated cost of $50,000. This will add to the cost of providing benefits to our employees.

Exchange Notifications for Multistate Employers

Under the ACA, large employers are required to offer eligible employees a health coverage option that meets affordability standards. In addition, all employers are required to distribute to employees a notice about available health coverage under state- and federal-government-run health insurance exchanges. At Morris Communications, our larger newspapers have HR staff that help communicate benefits information to employees. However, due to the increased requirements of providing notices, particularly exchange notices and summary of benefits coverage (SBC), we are considering centralizing this process. We currently generate all materials that are distributed during open enrollment and determine for our locations what required notices must be disseminated. Because we are in multiple locations and do not conduct the new-hire process for all of our worksites, variance from our recommendation is possible. Yet failure to distribute the required exchange notices or SBCs can result in fines.

Also, if an employee is eligible for an employer-sponsored health plan but enrolls in medical coverage on a state or federal exchange and obtains a tax credit or cost-sharing subsidy, a penalty could be assessed against the employer. For example, when an employee applies through an exchange for an advance payment of a tax credit or cost-sharing subsidy, the exchange determines if the individual is eligible for a credit or subsidy. If an individual is determined to be eligible for advance payment of tax credits or cost-sharing subsidies, the exchange is supposed to notify his or her employer for purposes of the potential tax penalty.

The employer will have 90 days from the date of the notice to appeal a determination that it does not provide minimum essential coverage or provides coverage that is not affordable with respect to the employee. However, only a few state exchanges have begun to send out paper notifications to employers and the federal exchange has not yet distributed notifications. This delay in notifications to employers leaves organizations vulnerable to potential tax penalties, adds administrative burden to appeal the exchange's determination and creates a sense of uncertainty.

Specific to Morris Communications, as mentioned previously, we have employees in multiple states. To date, we have not yet received any notifications from the state or federal exchanges regarding employees that are eligible for subsides. In addition, often information from agencies is sent to an individual location and not the corporate headquarters. That's why we prefer electronic notifications to ease the process and minimize confusion. In our larger locations we have HR staff who may be able to recognize the importance of a notification from a state or federal exchange and who will take prompt action to forward it to our corporate offices so that we can complete it. However, in our smaller locations we run the risk of these notifications being overlooked and therefore going unanswered.

Definition of "Full-Time" Employee

Lastly, SHRM has strong concerns regarding the ACA's definition of "full time" as an employee working 30 hours a week because this is inconsistent with standard employment practices and benefits coverage requirements in the U.S. and because it conflicts with other federal and state laws.

As you know, the ACA requires employers with more than 50 full-time employees to provide affordable group health insurance coverage to employees and their dependents or pay a financial penalty. Because the ACA defines a full-time employee as an individual who works an average of at least 30 hours per week, more employers run the risk of financial penalties unless they expand coverage to include certain part-time employees. As a result, the ACA's definition of full-time employee is having an adverse impact on both employers and employees.

Some employers have opted to eliminate health care coverage for part-time employees who work less than 30 hours a week, leaving these individuals without valuable employer-provided coverage. Others have restructured their staffing models to reduce the work hours of part-time employees to below the 30-hour threshold that triggers the coverage requirements. Consider, for example, that according to SHRM's March research survey, 20 percent of SHRM members' organizations have already reduced part-time hours to below 30 per week or are planning to do so in the following year to comply with the ACA.

As noted above, the ACA's definition of full time is inconsistent with current employment law. The Fair Labor Standards Act (FLSA) already sets the standard for full-time employment at 40 hours per week. Specifically, the FLSA states that nonexempt employees must receive overtime pay for hours worked in excess of 40 in a workweek at a rate of time and one-half their regular rate of pay. This 40-hour standard is highly recognized by most American employees, especially those who rely on overtime wages.

If the traditional definition of full time is not restored, our nation's workforce will likely experience significant disruptions. Aligning the law's definition of full-time employee status with traditional practices would help avoid any unnecessary disruptions to employees' wages and hours and would provide financial stability and significant relief for employees. Given these concerns, SHRM strongly supports the House-passed bipartisan Save American Workers Act, H.R. 30, because it would restore consistency and a common understanding of what constitutes full-time work under federal law, while still allowing employers to voluntarily offer health care coverage to employees working less than 40 hours, as many currently do.

Conclusion

Mr. Chairman and Ranking Member Polis, thank you again for allowing me to share my experience implementing the ACA and SHRM's views on health reform.

In closing, I would like to briefly reflect on how the implementation of the ACA has personally impacted me in my role as Director of Human Resources. Prior to the law, benefits occupied about one-third of my time, allowing me to concentrate on employee relations, compliance issues and, more importantly, making sure that our workforce was aligned to meet our strategic business objectives. However, since health care reform was enacted, I spend closer to two-thirds of my time on benefits. This time is spent in understanding the changes in regulations and educating HR staff and employees on these changes. The ACA has made benefits much more complicated than they ever were before. When the ACA was passed, we considered making significant changes; however, Morris Communications still believes that in order to attract and retain the skilled employees we need to be successful, we must offer a competitive health care package. For that reason, we have continued to comply with regulations, contain costs, and offer a benefits plan that we are proud of for employees and their families.

Many employers around the country are having this very same conversation when determining benefits packages. In the SHRM Research survey released in March, 21 percent of SHRM members reported expecting to decrease their health benefits offerings and 7 percent indicated a reduction in non-health benefits (such as financial benefits and compensation or retirement savings and planning benefits) for 2015. These types of

changes to overall compensation and benefits packages will have a negative impact on employee retention and employer recruitment efforts.

SHRM believes that effective health care reform should expand access to affordable coverage but that organizations should not have to change business practices and benefits in order to afford the required changes. Unfortunately, the ACA's current coverage requirements are increasing costs and restricting employer flexibility to offer a benefits package that best meets the needs of employees.

I welcome your questions.

Chairman ROE. Thank you. And I want to thank this entire panel. The members here should take notice that every one of you finished under your time. So that is amazing. Thank you. I don't think that has ever happened since I have been here. So we will try to be as good as you are.

Mr. Wilson, you are recognized for five minutes.

Mr. WILSON of South Carolina. Thank you very much, Dr. Roe. Thank you, each of you, for being here. But in particular, I am very pleased to see Ms. Roberts here. Morris Communications, their headquarters is in Augusta, Georgia. And with Congressman Rick Allen, I have the privilege of representing the sister communities of North Augusta, Akin, Barnwell. And, of course, the eyes of the world, Doctor, were on Augusta this weekend at the Master's Golf Tournament. What a tribute to the community. Jordan Spieth, we are looking forward to him being at the Hilton Head Heritage Golf Classic this weekend. And so, hey, people get to see the southeast. And everybody wants to move into Rick Allen's district. So this is good.

But hey, thank you for being here. And indeed, Morris Communications also owns a weekly paper in the district I represent, the People's Sentinel. And it really is a very promoting newspaper of the Barnwell community. So thank you very much. Additionally, I am grateful—I have to point out that as a graduate of Erskine College, Due West South Carolina, we appreciate your success.

With that in mind, I want to thank you for being here. And if you could explain how Morris Communications and other similar companies are planning for the Cadillac tax, a 40 percent excise tax. How will these changes affect your employees in the coming years as the tax becomes effective?

Ms. ROBERTS. Thank you. That is something that we have given much thought to. We haven't come up with an exact solution yet. One thing that we are considering is converting to a high-deductible plan for all employees. This would be a $2 million cost shift from the employer to the employees, unfortunately. And as I have mentioned in my written statement, we have hesitated to do so because of the negative impact. We know our employees are aging. We know they utilize their benefits. And this would mean that they would have to meet the upfront costs first, as high as $1,500 in a deductible, before the insurance would kick in.

However, we believe that would allow us to—

Can you hear me? Okay.

Mr. WILSON of South Carolina. It was working. Yes.

Ms. ROBERTS. However, we believe that is the hard decision that we have to make; transfer more costs to the employees in order to mitigate the cost of the excise tax or continue and stay on our course and incur the tax.

Mr. WILSON of South Carolina. And thank you for being employee-sensitive. And indeed, I have seen personally the gruesome consequence of Obamacare, where I have had bag boys at the grocery store tell me they have lost hours. I have had our wonderful young ladies behind the counter at the hardware store tell me how they now have to have two jobs because they have lost hours. And so it is really sad.

But actually, I want to thank Dr. Troy. You had an Op-ed which reminded the American people that it was Professor Jonathan Gruber, an architect of Obamacare, at the University of Pennsylvania—said this quote should always been remembered by the American people—"lack of transparency is a huge political advantage. And basically, you know, call it the stupidity of the American voter or whatever. But basically, what is really, really critical to getting the thing to pass." And so through this stupidity, it has really affected real people. And that is why I am so grateful for Dr. Roe's leadership to repeal this.

But Dr. Troy, how is it that with the taxes not even being calculated yet, how can businesses try to comply?

Dr. TROY. So the excise tax is going to tick in 2018, as we said. And the issue is that employers are looking at what happens in 2018. They don't look six months ahead. They look two, three years ahead. Especially if you have a union plan where you have a negotiated deal on health care. But even in nonunion plans, they are starting to look a few years ahead.

And I have spoken to one employer who told me that—it is a very well-known employer. And they said that they see the amount of cost-sharing that they are going to have to do in order to get under the excise tax threshold is so significant that they are starting to make the cost-sharing steps now so that it is a transition period so it is a little bit each year between now and 2018.

And if I could make one request of the committee. To the extent that you are going to do something about the excise tax, I would urge you to do it in advance and not wait until the end of 2017 because employers are making decisions in advance, as well.

Mr. WILSON of South Carolina. Well, thank you for that advice. And with the leadership of Dr. Phil Roe, we will be working hard on this. And Chairman John Kline.

And in my brief end, we received word today that what small businesses have to deal with are now 1,077 pages of regulations, 1,377 pages of Treasury decisions, 669 pages of notices, 100 pages of revenue projections, and 12 pages of revenue rulings. How small businesses could probably put up with that is just inconceivable.

Thank you. I yield.

Chairman ROE. Thank the gentleman for yielding.

Mr. Polis, you are recognized for five minutes.

Mr. POLIS. Well, you know, a lot of what I am hearing from the testimony is that you have some suggestions for improving the Affordable Care Act. I mean, Dr. Troy and Ms. Roberts both talked about the excise tax. Well, Mr. Courtney is leading the way with a—with regard to a bill that would repeal the excise tax.

And I think if the discussion is how do you modify the way that the Affordable Care Act is paid for—and Democrats are happy to have that discussion. They are happy to have that discussion. Not everybody agreed with the excise tax in the first place. There are other elements in the bill, like a medical device tax, that many Democrats don't agree with.

But as long as these are presented in light of repealing the Affordable Care Act and taking the necessary revenues out of the subsidies and out of the tax support for businesses, you are not really gonna have a real bipartisan discussion. So if—if the prob-

lems you have identified, if we are serious about solving them, I think we can get a real bipartisan discussion going.

I wanted to briefly say that for Mr. Paal's testimony, I was a little bit confused. Because it seems like the Affordable Care Act doesn't really impact his business. It seems like—he said he has 28 actual full-time employees, so he is not subject to the mandate. So can't you, Mr. Paal, just keep doing whatever it was you were doing before the Affordable Care Act with regard to your employees?

Mr. PAAL. It is a great question. Where it really affects us is a number of our employees work three days a week or so. So normal week for them is 25, 28 hours. That is what they want to work, that is what we want them to work. They are in a part time capacity. Because we have some periods of our year—of course, the traditional retail season in the early winter. We also have a great season at Valentine's Day for the ones that you love. And everybody has got a mom they have to send some flowers to on Mother's Day.

We have a lot of peak hours during those times. So our employees that end up working 25 or 28 hours on a normal week end up working 40 to 45 to 50 hours during those peak weeks. A multitude of our employees are now eligible for health care because their average number of hours is maybe 30 or 31 or 32; 46 weeks of the year they are operating lower. So that is a concern for us.

Mr. POLIS. So, you know, and again, people need to get their health care somewhere. So either they are getting it from their employer, they are buying it themselves, maybe they have a spouse. If they are low enough income, it is Medicaid.

So without health care, essentially the cost of individuals that are uninsured are foisted onto the rest of us. And others are forced to absorb them. I think one of the biggest reasons that the Affordable Care Act led to such a large reduction in the rate of increase of health care cost is because it reduced the number of uninsured and, therefore, reduced those costs that got transferred onto the rest of us.

I too was a florist before I came to Congress. My company, when we sold it, had about 250 employees. And we did offer benefits to all of our full-time employees, which was the vast majority of them had full benefits, as well. But it seems to me that effects on a company that had 28 actual full-time employees would leave you with more alternatives in terms of how you cover them without having any detrimental effect on the bottom line.

I would like to go to Mr. Brey. You mentioned that you think competition is a good thing and that the Affordable Care Act has given small businesses like yours the ability the shop among many convenient insurance carriers. In fact, you said your company used to only have a couple choices, and now you and your employees have 110 options. Doesn't that sound like this competition can benefit both you and your employees, and that is one of the factors in reducing costs?

Mr. BREY. Oh, absolutely. I mean, there were years when we had only two traditional insurers plus Kaiser. So the idea that the marketplace is—you know, that the marketplace is—it has allowed us to—and my employees to have access to so many different plans and so many different new insurance companies is, frankly, a little

bit astonishing to me. It was more than I hoped for when people first started talking about this.

Mr. POLIS. As a former businessman, I agree with your assertion that a boss should do whatever they can to ensure that employees have health care. Can you talk briefly about the advantages of offering employees health care? Besides the moral obligation, why is it good for your bottom line to offer health care?

Mr. BREY. Well, I am in retail. If people are healthy, they are coming into contact with a lot of people. If people are healthier, then they are not calling in sick. Put quite simply.

Mr. POLIS. In addition, I know it helps retain your quality employees and—

Mr. BREY.—sure. And so many retailers don't offer good plans. I have been very proud for a long, long time to be able to tell my employees listen, the insurance we are offering is not some, you know, cut-rate plan. It is the very same insurance that the president of the company and his family are on.

Mr. POLIS. And the lower the turnover rate of employees, the lower your training costs are, the more that you can invest in educating and professionally developing employees, as well.

Happy to yield back the balance of my time.

Chairman ROE. Thank the gentleman for yielding.

Dr. Foxx, you are recognized for five minutes.

Ms. FOXX. Thank you, Mr. Chairman. I thank our witnesses for being here today.

Ms. Roberts, we have talked about how the law imposes reporting requirements on employers regarding the coverage they offer and to whom. It is my understanding that many of the requirements relate to information that employers may not have recorded and maintained previously, at least not in administering health care benefits.

I would like to ask you to describe for the committee what your experiences have been in complying with the health care law's reporting requirements. If you could, talk about the types of investments in human resources and information technology that you have had to make to comply with the requirements. Can you tell us about the considerable time and money spent on complying with the ACA reporting rules? And will they have produced any beneficial effect on any of your employees?

Ms. ROBERTS. Yes. Knowing that the reporting requirements were going to begin for the 2015 plan year, we started researching the requirements of reporting last year at least. The IRS did come out with their draft forms in July. And we have anxiously been waiting for the guidelines ever since. They were released in February. So since that time, we have been looking into the exact reporting requirements.

Much of the information we have in our systems, our current systems. However, it is a matter of integrating those systems—time systems, payroll systems—and generating information in the format that the IRS is requiring. Some of the information that is required we don't have on our premises, believe it or not. It is with our third-party administrator, such as the former employees who are on COBRA. We must supply information, employee names, and Social Security numbers, et cetera.

But also, codes that we have not factored in before. For example, why they are not on our benefits. So this is going to take some time in reprogramming our systems, setting up codes. And it does take time for evaluating; pulling the information and evaluating the hours worked and making sure we are recognizing those benefits-eligible employees properly.

Ms. FOXX. Thank you. As someone who in my life in education had to spend a lot of time on evaluation, I am really very familiar about what a problem it is after you have begun a program to try to go back and gather information when you have not put into your program the kind of codes, as you say, that now the government is requiring. And that can be a real, real headache. So thank you for describing it, in just bare terms. We appreciate it.

Mr. Paal, would you like to add anything to what Ms. Roberts is saying about tracking the necessary data that you are going to need to comply with the IRS requirements? You have got, I think, outside groups helping you with what you do. But have you had any useful guidance from the Administration? What are you hearing from others in your industry about the compliance effort needed for these reporting requirements?

Mr. PAAL. What we are hearing on the requirements has been changing consistently over the past several years. It is what are we to do this time? Well, what is it going to be next year? The most recent thing that we were able to do is to track everything. We got the raw data. And we figure with that raw data we can put it into any kind of a report that someone wants.

You know, of course, when we are trying the reach out to our tax professionals in tax season, they don't want a call about what kind of health care reporting they want at the end of the year. But, you know, it is—we rely heavily on our professional advisers. You know, our attorneys and our accountants. But again, you know, these folks charge by the hour. So the more we use them for that, the more it costs us on the bottom line in order to comply. So it is a combination of time and cost.

Ms. FOXX. Thank you very much.

I yield back, Mr. Chairman.

Chairman ROE. Thank the lady for yielding.

I will now yield five minutes to the ranking member of the full committee, Mr. Scott.

Mr. SCOTT. Thank you, Mr. Chairman.

Mr. Chairman, when we talk about the Affordable Care Act, I like to remind people what the situation was when we were actually voting on the Affordable Care Act. People with preexisting conditions could not get insurance. Or if they got insurance, they would be paying exorbitant rates; 14,000 at some point during that time—14,000 people a day were losing their insurance, millions every year. Fewer and fewer employers were providing insurance. We were actually paying for the uninsured – $1,000 on the average policy went to uncompensated care; when people go to the hospital and don't pay. When someone with insurance goes and pays, they got to pay a little extra, about $1,000 extra on each policy. Costs were going through the roof. Women were paying more than men. Insurance abuses were commonplace.

And when those people talk about repealing and replacing, it is interesting that there is no plan in sight that actually improves on the Affordable Care Act. We are talking today about broken promises. I guess there have been some broken promises.

We were promised by the opponents of the bill that this would be a job-killer. In fact, since the passage of the bill, we have had record job growth in the private sector. Consecutive months that have been unprecedented. The promise that there would be a shift to part-time work was also broken. There is no evidence that there is any broad shift to part-time work. The promise of skyrocketing premiums was broken. Since 2010, there has been a marked slow down of premium growth, as Mr. Brey has indicated.

The cost of the Affordable Care Act was also broken. It is actually cheaper than we thought. In fact, we have a little chart up here. The blue bar is the projected 10-year cost of Medicare and Medicaid payment by the Federal government, 10-year cost. After the Affordable Care Act, the red bar is the 10-year projected cost of Medicare, Medicaid, Children's Health Insurance Program increases, and tax credits under the Affordable Care Act. And you will notice it is actually a little shorter than the bar for the 10-year cost for Medicare and Medicaid.

Now, I guess this is what we call a gruesome consequence or broken promises or out-of-control costs. We actually during this time insured 11 million people and are spending less than before. Let's go over that again. Blue, Medicare and Medicaid 10-year cost. Red, Medicare and Medicaid, Affordable Care Act tax credits, and children's health insurance. It's actually less after 11 million people have been insured.

We forget that the Affordable Care Act is really the *Patient Protection and Affordable Care Act*. Insurance abuses, they can't cancel your policy when you get sick, they can't put lifetime limits on your coverage, women can't pay more than men. That is the patient protection part of the Patient Protection and Affordable Care Act. And so I think we have to put that—all of that into perspective. And we have heard about people cutting back in hours.

Mr. Brey, could you tell me what you think would happen to your workforce if you arbitrarily started cutting people back to 29 hours?

Mr. BREY. They would get other jobs.

Mr. SCOTT. And so long as there is a good recession and they are stuck, you could probably get away with it for a little while. But as soon as they had options—

Mr. BREY. Oh, absolutely. They are gonna go. And, in fact, the interesting thing is the very SHRM study that Ms. Roberts cites, on page four of that it says, "very few organizations plan to reduce the total number of employees because of ACA." Only 5 percent of their respondents said that was gonna happen. And that is kind of where I am. We just don't make those kind of decisions based on this type of act.

Mr. SCOTT. Thank you, Mr. Chairman.

I yield back.

Chairman ROE. Thank the gentleman for yielding.

Mr. Guthrie, you are recognized for five minutes.

Mr. GUTHRIE. Thank you, Mr. Chairman. And I will echo others and say it is great to have you back. And I think most people

around here say you are one of their favorite members in Congress. And those of us who got elected when you did got to know Pam. And we know why you are great, because you had a great wife. And we really, really appreciate her. And you are in our prayers. Thanks.

First, I want to thank everybody for coming here. My background is manufacturing. So I had—in the business environment—offered health insurance and still offer health insurance. And I was a human resources manager in a lot of respects. As a family business, as Mr. Paal said, you do a lot of everything, don't you? But I was also in charge of benefits. So I understand the frustration. And I sympathize for how difficult this law can be.

As we talk about a lot of the pieces of the law, like we talk today about the employer mandate, the Cadillac tax, the health insurance tax, the benefits mandates, et cetera. But there is one piece of the law that I want to bring up that really concerns me. And that is the definition of a "small group employer." In the health care law until January 2016, a small employer is defined as one with 1 to 50 employees. However, on January 1, 2016, that definition will change to 1 to 100 employees. Those employers who have 51 to 100 employees will overnight be subject to many of Obamacare's benefit mandates, community rating rules, the essential health benefits, health insurance tax, composite rating rules, and a prohibition on group discounts. And that is just the name a few.

And we have looked at an Oliver Wyman study that estimated that this change will increase premiums for these employers by 18 percent. I think Mr. Brey said that the difference—small businesses typically pay 18 percent more than larger groups. And so it is kind of in line with this study that these employers from 51 to 100 will necessarily increase it by 18 percent just because of the rating rules alone. I have serious concerns about what this will mean for the ability to provide quality affordable health care for their employees.

And I have introduced a bill, it is H.R. 1624, the *Protecting Affordable Coverage for Employees Act*, that would stop this provision from going into effect and maintain the current definition of a small group employer as 1 to 50 employees. And I am proud to say, as Mr. Polis talked earlier about opportunities to do things together, I am proud to say this is bipartisan—I have a Democrat cosponsor. It has bicameral support. And we have gotten through the bill—that we have gotten for the bill. And I hope this is something that we can take action on in this Congress.

And in the time left, I know that you guys have full-time equivalent, less than 50 employees. I think you were saying—so you were in the 1 to 50. This wouldn't affect you, 51 to 100. But I don't know Dr. Troy, if you have looked at this at this provision before. Do you have any comments on that? In not, we—

Dr. TROY. We look mainly at the impact on large employers. So these are a thousand or more. So this change wouldn't really affect what is happening on large employers. And we have not studied this provision specifically for that reason.

Mr. GUTHRIE. Okay. I didn't know if any of you had any experience with that. Well, I appreciate that. I think it is important. And there are things that we need do to fix issues for these people. And

look forward to continuing to work for a bipartisan, bicameral basis to move this forward.

And Mr. Chairman, I yield back.

Chairman ROE. Gentleman yields back.

Mr. Pocan, you are recognized for five minutes.

Mr. POCAN. Great. Thank you, Mr. Chairman.

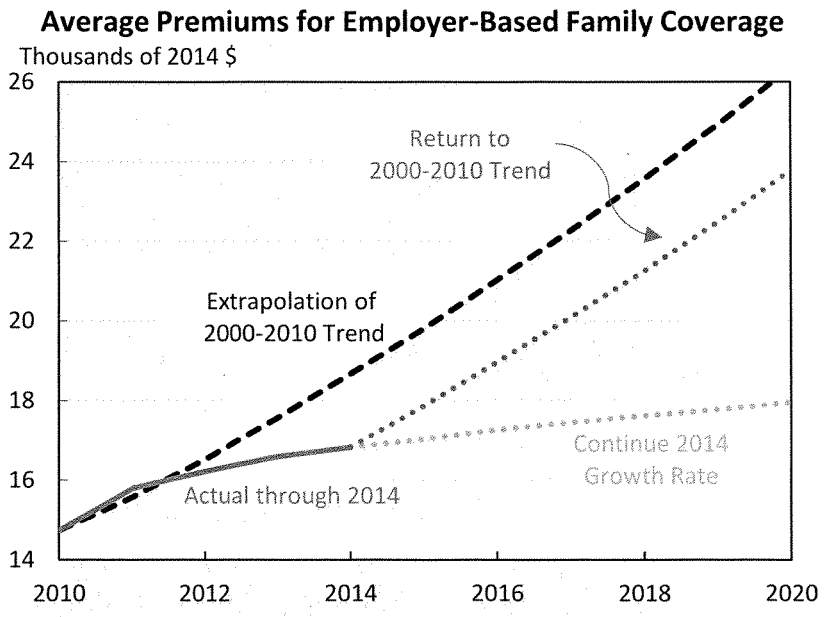
So let me just raise one point, and then I want to get into what I really want the talk about. I think one of the myths—I know there are two hearings today going on roughly around the same subject. I think one of the myths is about the number of businesses affected. And I just want to put, you know, just out there, 96 percent of employers are small businesses that have fewer than 50 employees, thus are not affected by the employer-shared responsibility provisions. I am one of those. I have had a business for 28 years.

And then the overwhelming majority of the remaining 4 percent, 95 percent of the businesses with 50 or more employees and 98 percent of the businesses with 200 or more employees, already offer coverage. So we are talking about a relatively small number. Not that any small number is insignificant. But the vast majority of employers—let's face it. We have an employer-based health care system in this country. And the vast majority are providing that or, in the case of the small employers, are not necessarily required to. But this is the system that we have in the country. And that is what we really have.

There is a slide I would like to put up I think that we have regarding the average premium for employer-based family coverage. You are not going to see the bottom colors real well, so I will try to explain them. And I think from the testimony, I know Mr. Brey specifically brought up the cost of health insurance. I know with premiums increases I used to have too, double digits for many, many years for my employees.

[The information follows:]

The Average Family Premium in Job-Based Coverage is About $1,800 Below the 2000-2010 Trend and Savings Could Grow in the Years Ahead



Source: Kaiser Family Foundation and Health Research and Education Trust, Employer Health Benefits Survey; Bureau of Economic Analysis; CEA calculations.

And if you look at that line, that is—the top line shows you where the trend was going. But the bottom line, you can't quite tell, but there is a blue line showing where the actual costs have been since the passage of the ACA and where they are expected to go. And this not only corresponds with your testimony, Mr. Brey, but with my experience. I actually had employees' health insurance go down this year. I haven't seen that since maybe I had hair. And it has been a long, long time. So I was really excited to have that actually happen.

But also, I was talking to the administrator of a hospital, Meriter Hospital in Madison, Wisconsin, who told me as soon as the Affordable Care Act passed, their costs have really flattened. Now, being a business person, lowering the cost of health care means you are going to ultimately lower the cost of the premium, which means there will be a lower cost to the business. And since many businesses like yourself, Mr. Paal, you are talking about capping how much you offer to the employees. That means the employers will ultimate will have—the employees will ultimately have more money in their pockets because that cost is going to go down. So I am looking for the downside on that aspect. I don't know if I see it as an employer.

Mr. Brey, specifically, can you share your experience, you know, talking about those increases prior to 2012 and the increases now?

Mr. BREY. Well, they were almost always double digits; 9 percent, 11 percent, 13 percent, 15 percent. And in—you know, Maryland already mandated certain small group coverages. So what the insurers did is they used the average age of the group. So the intrinsic increases that you are talking about, that doesn't include what happens when you cross an age band.

So, for example, you are already going to have a 10 or 13 percent increase, and then the average age of your group goes over 40, you know what happens. And at one point, I actually removed myself from our own plan because I was the oldest employee and went on my wife's plan, which was substantively identical, only to lower the average age of the group for one more year because the last thing I wanted to do again was tell my employees about another change in our health coverage.

Mr. POCAN. I remember one time getting a 12 percent increase, and I was really excited about getting that for a year. And that is why, like, this year was really different.

Mr. Paal, in your experience prior to 2012 to now, the increases, clearly, you must have also experienced what Mr. Brey and I have experienced, much higher increases and now we have got a little bit of a flattening event; is that correct?

Mr. PAAL. Absolutely. We have experienced the same type of increases consistently year over year.

Unfortunately, what we have seen is a lot of specific examples. When they did away in Maryland with the average age-based pricing, they price out each employee individually. Which means, you know, prior to ACA, everybody in our company paid the rate of a 43-year-old. Well, now the 62-year-old pays the rate of a 62-year-old. And that cost is substantially more.

I took a look at some of the figures in regards to that employee. His premium three years ago when we had a shared group, his pre-

mium was $242. His premium on our most recent renewal, he declined it because it was too much money, would have been $630.

Mr. POCAN. Okay. So now looking, you say that the actual employer's cost to insure a full-time employee range from $107 to $322 a month? Is that your current?

Mr. PAAL. That is—right. That is—what we do, we pay 50 percent. So—

Mr. POCAN. I gotcha.

Mr. PAAL. So double that number and that is what the total price is for his insurance.

Mr. POLIS. Gotcha. And if—you said it would increase $2 an hour potentially under the ACA-defined small business employer plan. I am averaging it out. That is about $346.66 a month. Which would be slightly more than the $300 cap you have, but actually would be within that realm.

Because I know we—we provide 100 percent for our employees. Because part of it is you are being competitive; right? I mean, I know you mention in here you can't charge more for roses. I looked at your Web site. I noticed you don't compete on price. Because you shouldn't compete on price. That is what we are all told. I foolishly named my business Budget Signs, so I have to deal with that a little bit, when I was 23. But I learned.

But, you know, you have service, you have all the other things you compete on. So technically, it is not true it is just based on the price of roses. People go to you for a lot of other reasons. But it seems like there is some wiggle room in here on the numbers on that.

Mr. PAAL. What I was trying to illustrate there is that, you know, and being in business, you understand you have a pot of money that you can pay to an employee in compensation.

Mr. POCAN. Sure.

Mr. PAAL. You can pay it in salary, you can pay it in salary and benefits. But it is still the same amount of money. If I take that money and I give it to an employee, I am required to offer them the benefits. So a portion of that gets shaved off and I can only pay them a little bit less in salary. Whereas, if they go to one of my competitors to do the exact same job, that competitor can take the same bucket of money, pay them a higher salary, they can go to the exchange. They are eligible for a subsidy.

At the end of the year, they have got $2,300 less working for me working the exact same job, exact same hours, exact same employer's costs in compensation doing the same thing in the same town. That just seems silly.

Mr. POCAN. Yes. My time is up, otherwise I would ask you another question—

Chairman ROE. Thank the gentleman for yielding.

Mr. Messer, you are recognized for five minutes.

Mr. MESSER. Thank you, Mr. Chairman. Again, I would want to echo the comments of so many others that have talked about how beloved both you and your wife Pam are. And just want you to know you continue to be in our prayers. Thank you for being here.

You know, last Congress with Chairman Roe's leadership, we had a field hearing in my district focusing on the Affordable Health

Care Act's impact on schools, on workplaces. Congress needed to hear directly from employers about the true impact of this law.

I have to tell you, much of the testimony that I have heard today reminds me of the economist who saw something working in practice and wondered if it worked in theory. And, you know, the reality is that you can talk about all the theory you want here—millions of employees are being impacted by this law. For many, they have lost their health care policy. For many, they have lost their doctor. For many, they have seen their prices go away.

That hearing highlighted that the employer mandate creates a catch-22 for both employers and employees. There is a high price to pay, whether or not businesses and schools comply with the law. For example, witnesses were faced with paying the high cost for health care that is spiking, paying a high tax, or cutting employees or employee hours.

That is why I introduced the School Act last year, which would exempt schools from this onerous provision, eliminate this odd circumstance where we are taxing schools and local municipalities to pay for the President's health care law. I am going to be reintroducing legislation that would deal with the employer mandate and redefine a large employer as an employee with 100 or more employees for the purposes of the individual mandate, instead of the current threshold of 50.

As Brett Guthrie talked about earlier, there is a difference between the benefit regulatory compliance and where the threshold is for the employer health care mandate.

Mr. Paal, in your testimony you mentioned the unknown cost of insuring future employees, and it has made you apprehensive at potentially expanding your business. As a business owner who would have to comply with this tax, would that change from a 50 to 100 employee threshold help you in your business in considering the next employee you hire?

Mr. PAAL. Absolutely. You know, a great portion of my expansion that I have performed over the past decade has been in acquiring existing flower shops. Because they then become part of our company, very few of these other flower shops—in fact, not a single flower shop that I have purchased offered health care coverage to their existing employees. So when they come onboard with us, the full-timers always got health care, because that is what we do.

I would have to double the size of my company—which I would love to do. But it is going take me a little while to do something like that before I get up to 100. I have just crossed the 50 threshold on the FTE. So having a cap at one hundred, I think that is—that is very appropriate. I mean, I run a bunch of Main Street flower shops. You know, it is not a large manufacturing corporation. It is a bunch of Main Street businesses.

Mr. MESSER. Yes. And thank you.

And Dr. Troy, I will ask you for maybe a little bit of insight on the Cadillac tax, the health care cost there. I represent a largely rural district with manufacturers, other entities. One of the challenges that district has with the Cadillac tax is that because it is based on the gross cost of employee—and in the rural areas, there is not the kind of competition that drives down cost that there can

be in more highly-populated urban areas—this tax could disproportionately impact small towns and rural America.

Can you comment a little bit on that reality?

Dr. TROY. Yes. One thing we are finding with the excise tax is it is—as conceived, it was a Cadillac tax. It seemed like it would hit big corporations with generous health care plans. But it is hitting a lot of places that are unanticipated, including rural districts, as you were saying. But the states, localities, a number of union members. Unions are against it because it affects their health plans. So it is having wider impact than originally anticipated.

Mr. MESSER. Thank you.

No further questions, Mr. Chairman.

Chairman ROE. Thank the gentleman for yielding.

Ms. Bonamici, you are recognized for five minutes.

Ms. BONAMICI. Thank you very much, Mr. Chairman. And welcome back, Dr. Roe.

I want to thank everyone, all the witnesses for testifying before the Subcommittee today. It is clear that people have pretty strong opinions about the actual health care law. But there does appear to be a commitment among everyone that people in this country should have access to affordable health care. And I appreciate that very much.

In my home state of Oregon, where implementation was, let's just say, far from perfect, we have been reminding ourselves many times that the law was about more than Web sites. It really is about access to health care. We have seen a lot of positive effects, including the fact that the uninsured rate last year was less than 12 percent. The year before, it had been closer to 20 percent.

It is important that we have this conversation about the benefits of the Affordable Care Act. And I really hope that my colleagues can work together, as Ranking Member Polis was saying, so that we can address the concerns; these concerns that have been raised about lack of clarity or inconsistencies and even cost without rolling back the benefits for Americans that they have seen from this health care law.

Now, Ranking Member Scott did a great reminder of what things were like before the Affordable Care Act. I wasn't here in Congress when it passed. But I used to work as legal aid helping low-income families. And there were a lot of families that would come in absolutely desperate with high debt. They wanted to file bankruptcy. And typically, that was because they had unexpected medical bills from either inadequate or no insurance.

Now, post-Affordable Care Act, recently I had a conversation with a doctor in Oregon. He said he used to volunteer at a free clinic. They don't need him anymore. Because so many people have coverage, they don't need to go to the free clinic. So I am looking at the benefits and hoping that we can, again, work together to address the inconsistencies and get some more clarity.

And I would also wanted to talk about this, because we are really focusing on small businesses. I had a great conversation in the district I represent with a manufacturer. At the end of 2013 I went out to visit the business. And I said tell me how things are going with the implementation of the Affordable Care Act. And he said well, we are close to having 50 employees. We were really con-

cerned because we want to grow so we went and talked to our broker, and we found out that even if we grow our employees will be getting better coverage and not paying any more. Let's go see the factory. So we have to talk about how this is actually working and helping a lot of employees and employers.

And Mr. Brey, I wanted to ask you. You talked about all of the choices you have now as a small business owner. I think you said more than 100 choices, which doesn't sound like a government takeover of health care. It sounds like the free market working.

So can you talk a little bit about the process, compare before and after the Affordable Care Act. Just navigating the system, talk about whether there is enough support out there, enough information. I actually have someone in my Oregon office who is there to help constituents and small businesses if they have questions about the ACA. But are you getting enough information out there to get through this and, as you said, go through those choices and make decisions about your coverage for your employees?

Mr. BREY. Sure. You can always have more information, I think, when it comes to things like this. But even you know when we were a much smaller company, you know, we went to an insurance broker. So we have always all along, I guess, had kind of advice to help us through all of the changes and things that have happened.

So, you know, I haven't found it as a small employer particularly difficult. That is not to say that there aren't—you know, it couldn't be better. But we had—you know, there was one point in Maryland as I mentioned before, we literally had two insurers offering coverage. and plus Kaiser, which we couldn't do because we were expanding into an area that wasn't convenient for my employees.

So, you know, the idea now that we have insurers offering coverage that I have never even heard of in Maryland I think is exciting. I think it is an example of the law at least starting to work the way it is supposed to.

Ms. BONAMICI. And it is interesting. Because I know both Mr. Paal and Ms. Roberts talked about spending more time now to try to get coverage for their employees. But are you spending more time, less time, about the same time?

Mr. BREY. You know, I always hated being the HR guy, the benefits person, in my company. So I think there was a period of time at the beginning of the Affordable Care Act's passage, and then there was a year there I think as things starting to come in where I did probably spend some more time. But it is time I have spent now. And I know where we are. And we are on an ACA plan and we know what we are doing.

Ms. BONAMICI. Thank you. And before I yield back, I just want to again say, Mr. Chairman, that I hope we can work together to make this law work, to make sure that people do have access to affordable health care, and that we work out some of the inconsistencies that are making it challenging for some of the businesses that testified today and across the country.

Thank you. And I yield back.

Chairman ROE. I thank the gentlelady for yielding.

Mr. Allen, you are recognized for five minutes.

Mr. ALLEN. Thank you, Mr. Chairman.

And being that I have been a member of Congress for just a short period of time, but prior to that I actually worked for a living in the business community for over 30 years in the state of Georgia. And unlike, I guess, Maryland, which has had a mandated program for some number of years, Georgia has not mandated-employer health plans.

In fact, it was the business community that started in the health care business. Just a little history that I thought might be interesting is that when the government actually capped wages during World War II is when the business community began to offer health insurance and other benefits to supplement their workforce. So that tradition has continued. And it has become a very important benefit for our employees. I know our employees, we had a shared program that we thought worked pretty well. And we encouraged our folks to participate in it.

As early as the Great Depression, the government has wanted to get in the health care business. In fact, it was contemplated in the Social Security law that the government get involved in health care. And, of course, now the government owns health care and has mandated that businesses offer health care or either send their people to the exchanges. Which, again, creates tremendous uncertainty in the marketplace at a time in our economy—we don't have the Great Recession, but I don't think growing the economy at 2.5 percent is going to get this country where it needs to be.

And I think that this plan is the greatest impediment to economic growth in this country. Everyone knows, and I think everyone will admit, that the thing is flawed. And there are two big question marks here. Do you fix a flawed program, or do you start all over? And I think that is the debate that we have before us.

One of the things that is of great concern in my direct is our rural hospitals are going out of business and our rural medical practices are moving to urban areas because it has wrecked rural health care. You know, deductibles—and I think probably one of the biggest reasons for that is that if you talked to any hospital today, the thing that is driving down cost is the fact that deductibles on the standard plan are $1,300 to $2,600 per family. And then on the bronze level, they have gone from $5,100 to almost $10,500.

Now, I can tell you because of this economy and the last few years, folks are living week to week. And when they have to have some type of medical procedure, they simply don't have the cash or the money to pay for it, which is a dangerous health care issue in this country.

And with that, Ms. Roberts, I would like to ask you, obviously, you are debating this high-deductible plan versus your current plan. Obviously, these deductibles are a big challenge for you. What are you all looking at as far as a deductible? And how do you think that will affect the health care of your employees?

Ms. ROBERTS. If we decide to go to a full replacement to a high-deductible plan that is very similar to our ACA high-deductible plan, we are looking into helping our employees through wellness incentives. We would reward certain behavior with contributions, perhaps, to an HSA that would offset these higher deductibles.

However, as I mentioned in my written statement, the EEOC is looking at wellness plans very carefully and wanting to put a cap on that. That would also be a challenge for us because, as you mentioned, with a high deductible, the insurer must meet the first $1,500 or higher before any insurance coverage would kick-in.

Mr. ALLEN. Okay. As far as the overall effect that it has had on growing your company, do you think without this law that Morris Communications could have expanded its business?

Ms. ROBERTS. We have had to look very carefully at how we spend our money. Revenue is very hard to come by in a mature industry like the newspapers. So every time we look at what we can do for our employees, for example, with the excise tax, we see that as an impediment to funds that could be better used on our employees.

Mr. ALLEN. To grow jobs.

Thank you. And I yield back.

Chairman ROE. Thank the gentleman for yielding.

Mr. Courtney, you are recognized for five minutes.

Mr. COURTNEY. Thank you, Mr. Chairman. And welcome back.

So, first of all, I just want to make a few observations and join my colleague, Mr. Polis. You know, coming from a state that embraced the Affordable Care Act—Governor Malloy, you know, moved quickly to set up an exchange. We are now into year two of the exchange operations. And again, we have seen dramatic increases in terms of uninsured. We have basically cut it in half; in the state of Connecticut, about 500,000 people. We are only a state of 3.3 million people.

The insurance department just did a second round of rate filings for 2015. Again, both exchange plans and non-exchange plans. And I would like to just sort of offer for the record—because rates went down. They didn't go up in 2015. The savings were in the millions to both small employers, individual health care plans, and across the board. I mean, Blue Cross, you know, Cigna, United Healthcare, and some of the smaller plans.

We have more insurers in the marketplace; Harvard HealthCare from Boston just announced they are again opening up for business in the state of Connecticut and another insurer out of Springfield, Massachusetts, is also moving in.

So we have more competition, more choices. And that is why an employer in the heart of my district from eastern Connecticut, Willimantic Waste, basically saw their rates go down for 2015. Because they actually had more competition out there amongst different insurance providers competing for the business. They have about 275 employees. You know, they—it is a trash removal service there. And, you know, it is—and they were very nervous about this law. I mean, we had a lot of dialogue back in 2010 when this measure was introduced.

So, Mr. Chairman, I would like to enter the Connecticut State Insurance Department's chart for rate reductions for 2015 and ask that be made part of the record.

[The information follows:]

State of Connecticut
Insurance Department
153 Market Street
Hartford, CT 06103
(860) 297-3800
www.ct.gov/*cid*

2014 Connecticut Insurance Rate Filings For On/Off Exchange 2015 Policies

Individual Market

Company	Requested Change	Approved Change	Effective Date
Aetna Life Insurance Co.	9.4%	4.60%	1/1/2015
Celtic Insurance Company	0.00%	-6.50%	1/1/2015
ConnectiCare Benefits, Inc.	12.8%	3.10%	1/1/2015
ConnectiCare Inc.	-21.50%	-21.50%	1/1/2015
ConnectiCare Insurance Co.	1.40%	1.30%	1/1/2015
UnitedHealthcare Ins. Co.	0.00%	-9.30%	1/1/2015
Golden Rule Insurance Co.	0.00%	-6.91%	1/1/2015
HealthyCT, Inc	-8.60%	-8.50%	1/1/2015
Time Insurance Company	25.00%	6.00%	1/1/2015
Cigna Health and Life Insurance Company	15.23%	8.82%	1/1/2015
Anthem Health Plans	12.5%	-0.10%	1/1/2015
UnitedHealthcare Life Insurance Company	0.00%	-9.20%	1/1/2015
Average	3.85%	-3.18%	

Estimated savings for consumers in Individual Market:
$79,099,427

Small Group Market

Company	Requested Change	Approved Change	Effective Date
Aetna Life Insurance Co.	5.90%	5.90%	1/1/2015
Anthem Health Plans	6.00%	4.40%	1/1/2015
HealthyCT, Inc*	-13.40%	-13.40%	1/1/2015
UnitedHealthcare Ins. Co.*	2.50%	2.50%	1/1/2015
ConnectiCare Inc.	-1.40%	-5.00%	1/1/2015
ConnectiCare Insurance Co.*	7.00%	7.00%	1/1/2015
Harvard Pilgrim Healthcare of CT	2.80%	-12.00%	1/1/2015
HPHC Insurance Co.*	-3.40%	-9.40%	1/1/2015
Oxford Health Insurance*	10.20%	10.20%	1/1/2015
Oxford Health Plans (CT)	10.20%	9.00%	1/1/2015
Average	**2.64%**	**0.08%**	

*CID has review authority but not approval authority over these filings

Estimated savings for consumers in Small Group Market:
$9,448,203

Estimated savings for combined Individual & Small Group Markets:
$88,547,630

INDIVIDUAL RATE FILINGS			
Company	**Rate Request & Date**	**Decision**	**Other information**
Aetna Life Insurance *off exchange	9.4% increase, 8/22/14	Disapproved 10/7/14, with lower increase of 4.6%	Approximately 3,700 individuals in CT covered under these policies. http://www.catalog.state.ct.us/cid/portalApps/images/reports/10122723.pdf
Anthem *on and off exchange	12.5% increase, 5/30/14	Disapproved 7/25/14, reduced to an average decrease of 0.1%	*Public hearing 6/27/14 http://www.catalog.state.ct.us/cid/portalApps/images/reports/10108197.pdf
Celtic Insurance Co. *off exchange	No rate change, 6/27/14	Disapproved 9/9/14, *reduced* to 6.5%	1 policy http://www.catalog.state.ct.us/cid/portalApps/images/reports/10115788.pdf
Cigna Health & Life Insurance Co. *off exchange	15.23% increase, 6/30/14	Disapproved 9/24/14, 8.82% increase	327 policies, second year sold in CT http://www.catalog.state.ct.us/cid/portalApps/images/reports/10119388.pdf
ConnectiCare Benefits Inc. *Through Access Health CT	12.8% increase, 5/31/14	Disapproved 7/29/14, reduced to 3.1%	27,500 policies http://www.catalog.state.ct.us/cid/portalApps/images/reports/10103874.pdf
ConnectiCare Inc. *off exchange	21.5% ***decrease***, 8/17/14	Approved, 9/17/14	Policies were first offered in 2014 http://www.catalog.state.ct.us/cid/portalApps/images/reports/10117823.pdf
ConnectiCare Insurance Co.- Individual Indemonity *Off exchange	1.4% increase, 8/17/14	Approved increase of 1.3% on 10/28/14	http://www.catalog.state.ct.us/cid/portalApps/images/reports/10128068.pdf
Golden Rule Insurance Co. *Off exchange	New Product filing, 5/28/14	Disapproved 9/19/14, reduced base rates by 6.91%	http://www.catalog.state.ct.us/cid/portalApps/images/reports/10118016.pdf
Time Insurance Co. *off exchange	25% increase, 7/7/14	Disapproved 9/24/14, reduced to 6%	880 policies http://www.catalog.state.ct.us/cid/portalApps/images/reports/10119389.pdf
United Health Care *Through Access Health CT	New Product filing,	Disapproved 7/29/14 resulting in a	http://www.catalog.state.ct.us/cid/portalApps/images/reports/10104938.pdf

	5/30/14	decrease of 9.3%	
United Healthcare Life Insurance Co. *Off exchange	Initial Filing New Product, 5/30/14	Disapproved 10/6/14, reduced base rates by 9.2%	http://www.catalog.state.ct.us/cid/portalApps/images/reports/10122363.pdf

Chairman ROE. Without objection, so ordered.

Mr. COURTNEY. And again, I would say listening to the testimony and reading it, as Jared said, if we are gonna get off of the political theater and really focus on legislating, we can actually I think do some good things. Both in this committee and the Congress as a whole looking at this law.

If you go back to 2010, when the excise tax, I would argue was cobbled on to the bill at the end of the process, the House passed the Affordable Care Act with no excise tax. And I think that is an important point for people to remember. It is not some intrinsic, you know, pillar of the law. The fact is it was the Senate Finance Committee that, frankly, adopted a lot of economic thought, that taxing health benefits has been a mistake in America going back to World War II. And this was, in my opinion, a pretty mangled version of trying to promote that sort of—that philosophy.

And 192 House members actually signed a letter protesting the Senate's inclusion on this. The bill that they initially proposed would have gone into effect in 2013 with much lower tax thresholds for the 40 percent excise tax. Because of that push-back, the law was delayed five years to 2018. The thresholds were raised, we excluded vision and dental. You know, this was something that was a very hotly-contested item. And as we now know, looking at the reports that are coming in from actuaries, whether it is Towers Watson that is working for Fortune 500 companies, Milliman and Associates, who just did a study for the teachers union. We have got Mercer.

I mean, again, all the sort of, you know, blue chip analysts that are out there is that, again, this is still a flawed mechanism; that the incidence of tax is gonna hit basically regions of the country geographically. Because that drives premium costs much more than benefits. And so-called Cadillac benefits, as well as gender and age.

And so that achieves nothing in terms of trying to have a more efficient health care system and promote quality and affordability. So again, I would just say to the chairman, there are many of us who, again, were very concerned about this proposal, you know, back in 2010. It was a truce that was agreed to. It was not an agreement when that was incorporated, the five-year delay. And it was well understood that it would be revisited, again, as we get closer to the time.

And as I think the point was made, now is the time to do it. The fiscal note from the Congressional Budget Office is $87 billion over 10 years. That has actually come down fairly significantly from the last couple of years or so. And I am an optimist. And I know we have got a great chairman here. I have been on some bills with him –on IPAB–and a couple of others. But again, the question is are we gonna do this surgically? And—which I think is the appropriate way to do this. And if you do that, then, frankly, I think some good things can happen.

So I want to thank all of the witnesses for being here. As a former small employer, I lived the life of double-digit increases. And we are very excited in Connecticut that the changes that are taking place are particularly helping. We had the largest job growth in 2014 since the 1990s. So, you know, that ain't bad, de-

spite all of the, you know, sort of, you know, predictions of doom and gloom.

So with that, I yield back.

Chairman ROE. Thank the gentleman for yielding.

Mr. Walberg, you are recognized for five minutes.

Mr. WALBERG. Thank you, Mr. Chairman. And welcome back, as well. And may I add the fact that I honor you for doing what I as a minister for many years standing in front of a couple taking the oath to love and cherish until death do them part, you exemplified that. I honor you for that.

Ms. Roberts, thank you for mentioning the wellness issue, as well. I think it is a misguided thought, let alone approach, from the EEOC that goes directly opposite to what we really ought to be doing; to encourage people and to make sure people have equal opportunity in health, as well.

But you have mentioned the statistics of companies having to change their health care benefits packages to comply with the ACA mandates, fees, and taxes. One change has been to offer fewer benefits, but increase taxable wages. That has been mentioned several times this morning; for employees to pay for their own health care costs.

How has this and other changes been received by employees, that you are aware of?

Ms. ROBERTS. This year, as I mentioned, at Morris was the first year that we introduced a high-deductible plan. And that was to align and comply with the ACA. It needed much more communication on how this type of insurance plan works. People are accustomed to their copays and then a small deductible and then a coinsurance. However, we have had to explain that while these premiums are much lower than you are used to, beyond your wellness benefits, everything else will be out of pocket until you hit that high deductible. So that takes a lot of education for these employees.

Morris was already paying 100 percent of wellness visits prior to the ACA. So that part is easy to communicate. But just the difference between a preferred provider organization-type insurance plan versus a high deductible, we have had to do a lot of education with our employees.

Mr. WALBERG. Well, I think along with that, the evidence is—I have heard my colleagues' conversation about the benefits of the ACA. And there indeed may be—and I would debate it. But there may be more people who have health insurance coverage now, but they don't necessarily have health care. And I think that is a challenge. When you get down to the issue of the cost, the deductibles, the prescription cost increases. And ultimately, people who have a health insurance policy, but can't afford the health care from that point.

Dr. Troy, beginning last year, individuals and small businesses began paying a tax on the health care insurance products they purchased. The tax increased 40 percent this year. And according to the United Health Care health insurance filings in Michigan—and I could give other stats from other health care providers, as well, that would coincide. But United Health care says a family of four

in Michigan will pay $537 in increased premiums due to this ACA tax.

Will this increase in small business health insurance tax push more businesses past the excise and, slash—and coming from the motor capital of the world, I hate the use Cadillac in a pejorative way. But we understand what it says. It is a luxury, a fine car. This isn't a fine law. But it will push businesses past the excise Cadillac threshold. What is your response to that?

Dr. TROY. Well, we are finding that the—and I don't see it as a pejorative to say, Cadillac tax. Because it means a praiseworthy product, something that is of high value—

Mr. WALBERG. Okay—

Dr. TROY. But what we are seeing is that the Cadillac tax, because of the version you mentioned, but others as well, is hitting more and more and more employees over time. And that by 2031, for example, it is going to hit the value of the average family plan, which means that in many ways, the excise tax or Cadillac tax acts a little bit like the Alternative Minimum Tax, which was designed to hit only a very small number of very wealthy employees in the late 1960s, and then eventually grew until it hit many middle class employees and taxpayers.

So similarly, we think that this is going to be hitting more and more people over time. Not just people in so-called Cadillac plans, but in—

Mr. WALBERG. Is it a bug or a feature of the law?

Dr. TROY. You are asking me sir to speak to intent. I can't say. But it seems like it is a feature; that the idea if you accept the Gruber comments, is that the idea was to try and get the—to tax the higher-valued plans and to make individuals pay more without it seeming like the tax would be directed at individuals.

Mr. WALBERG. Thank you.

My time is expired.

Chairman ROE. Thank you, Mr. Walberg.

Mr. Takano, you are now recognized for five minutes.

Mr. TAKANO. Thank you, Mr. Chairman. And personally, it is great to see you back. And appreciate your being here. And you are a great, great colleague on the other side, and we would like to work with you on fixing some of the features of the law.

It has been five years since the Affordable Care Act was passed. The last five years have met real progress for my constituents and the residents of California. When I took office in 2013, a quarter of my constituents were uninsured. Now more than 4 million Californians, who could not get coverage, have health insurance through the state marketplace or Medicaid. Nearly a half a million Californians got rebates when insurance companies failed to use premium dollars to pay for health care, and another 400,000 seniors in the state saved close to $400 million on prescription drug costs. That is nearly $1,000 per beneficiary.

Now, while there are many areas in the law that need improvement, we can't go back to the days when people could get kicked off of their plans as soon as they got sick or find out too late that they exceeded their plan's annual limit when they need it the most. I am sympathetic to fixes that help make the law more effective

and address things like the excise tax on high-cost plans. But I do not believe that repealing the entire ACA is the right path forward.

And, you know, I thought—I really appreciated the legislative history lesson that we got from my colleague from Connecticut. It reminds me, I was looking up on my iPhone what the—who originated the quip, "the Republicans are the opposition, but the Senate is the enemy." And that might have been the case here. But in this particular case, it sounds like that was what happened; that something got attached in the Senate Finance Committee and the House bill never intended to have the excise tax.

But let me just go on to say that, you know, the ACA has improved coverage for millions of Americans and provided over 11 million more through the marketplaces. And I want to emphasize that when we often talk about the law in the abstract, that there are some very real people that have been protected by this law.

For instance, Bob Kamack, from Alpharetta, Georgia has an incurable brain tumor. After he was diagnosed in April of 2013, he feared that he would be kicked off of his wife's employer-based insurance policy or offered prohibitively expensive premiums. Bob is grateful for the ACA's consumer protections that allow him to have quality coverage that won't jeopardize his family's finances.

Bob has said that his type of tumor is, "one of the best you can get," because it is slow growing and responds to treatment and he expects to live anywhere from 5 to 20 more years. Bob has said that, "I have seen so many people lose everything because they have gotten cancer early in life." "My biggest fear"—oh, this is a continuation of the quotation—"my biggest fear is that the ACA will be overturned and I will leave my family in debt."

Bob's wife's premium is fully covered by her employer-provided insurance. Specialist visits are $60 and his deductible is within a few thousand dollars. Bob feared that without the ACA's consumer protections for people with preexisting conditions, his coverage would have been denied.

Ms. Roberts, now, you are just a few—I don't know how many miles. But you are fairly close to where Mr. Kamack lives. Can you discuss what might have happened to him and his ability to obtain affordable coverage in the absence of these consumer protections like the preexisting conditions? And I realize that there is some—there is some issues that you are dealing with trying to—with this excise tax coming up. But would you at least say that—concede that the ACA would have protected people like Mr. Kamack from being kicked off their policies?

Ms. ROBERTS. Even prior to the ACA, Morris Communications did not kick people off their plan because of certain conditions or discriminate on any type of conditions. Employers like Morris had good plans before the mandate, and we continue to have good plans. Some of which we absolutely agree with the mandate, very parallel coverage.

So if he were an employee on our plan or his wife was an employee, he would have the same coverage regardless of his illness.

Mr. TAKANO. So just to clarify. It could have been the case that the premiums could have risen to a certain level that might have made it prohibitive. Maybe you were a company that would have tried to work against that and would have tried to keep people on

the plans. But the truth is that many people could be priced out of those plans or they could have been, you know, just simply not accepted by the insurer. And the ACA protects those folks.

Now, I understand there is some difficulties with the excise tax, which has caused you to take a look at restructuring your health plans, which not be so likable by your employees. But nevertheless, I think that this case with Mr. Kamack shows us that in Georgia, the law has protected people like him from being discriminated against by the—or summarily just kicked off of insurer plans.

Mr. Chairman, I will yield back at this point. And I asked my questions. And thank you so much.

Chairman ROE. I thank the gentleman for yielding.

Mr. Hinojosa, you are recognized for five minutes.

Mr. HINOJOSA. Thank you, Chairman Roe. Can you hear me? I also want to welcome you back to the committee. And know that working with you on this committee and other caucuses that you and I serve on, I have learned to appreciate and respect the great work that you do here in Congress.

I ask unanimous consent that a letter from the Small Business Majority outlining their support for the Affordable Care Act, which explains the law's benefits to small businesses and workers while reducing the job loss and lowering health care costs, be entered into the record.

[The information follows:]

Dear Representatives:

As small business owners, we strongly support the Affordable Care Act (ACA). The law plays a key role in allowing us to provide affordable health insurance to our employees and promoting entrepreneurship across the country.

Small businesses have long faced adverse conditions in the health insurance marketplace – according to a study by the President's Council of Economic Advisors, small businesses on average have historically paid 18 percent more for health coverage than large companies and received fewer comprehensive benefits. The ACA offers much-needed relief by bringing down costs for small employers through increased purchasing power in the insurance marketplace and significant cost containment provisions. These provisions help prevent fraud and abuse, increase Medicare efficiency, reduce overhead spending and lower uncompensated care costs, which have traditionally been a significant drain on the system.

Additionally, the ACA offers tax credits to eligible small businesses that purchase coverage through the small business marketplace. Between cost containment provisions, expanded purchasing power and other system-wide reforms implemented by the ACA, premiums for small businesses should drop significantly. In fact, the Robert Wood Johnson Foundation found that employer-sponsored insurance premiums should fall by nearly 8 percent for small firms due to the ACA. Similarly, a survey conducted by Towers Watson and the National Business Group on Health found that employer healthcare costs fell to a 15-year low in 2013.

Finally, the ACA is crucial to reducing the phenomenon of "job lock" and encouraging entrepreneurship. The ACA bans insurers from denying coverage to people with pre-existing conditions; this means individuals have the freedom to leave jobs and start their own businesses without worrying about losing health insurance. Because new businesses are major drivers of innovation and job creation, entrepreneurship creates the types of vibrant local economies on which small businesses depend. The impact of the ACA on entrepreneurship is huge – a report from the Robert Wood Johnson Foundation found that an additional 1.5 million people would be self-employed in 2014 because of the ACA.

The ACA offers solutions to many of the health insurance challenges that have long plagued small businesses. By reducing costs, increasing access to better coverage and promoting entrepreneurship, the ACA promotes an environment where small businesses can grow, hire and thrive. As small employers, we urge lawmakers to continue upholding the law and implementing it in full.

Sincerely,

Mike Roach, Owner of Paloma Clothing in Oregon

Michelle and Todd Trotter, Owners of Trotter Industries in Wisconsin

Harland Henry, Owner of SunBiz Showcase Alliance in Florida

Jose Carlos Gonzalez, President of Jose Carlos Gonzalez & Associates Health Benefit Administration in Texas

Rebecca Askew, CEO of Circuit Media in Colorado

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Chairman ROE. Without objection, so ordered.

Mr. HINOJOSA. Thank you. Despite the rhetoric from my friends on the Republican side of the aisle, the facts speak for themselves. The Affordable Care Act is working. Today, the percentage of uninsured Americans is the lowest in 50 years. And the facts show that in 2014, health care spending grew at the slowest rate on record and that 129 million Americans with preexisting conditions can no longer be denied coverage. Since 2011, as a result of the Affordable Care Act, Americans have saved a total of $9 billion on their premiums.

Last month, the Congressional Budget Office announced that the Affordable Care Act will cost $142 billion less over the next 10 years than they originally thought. Just yesterday, April 13, a Gallop survey that was released showed that nine out of ten adults now say they have health insurance. This morning, another Gallop poll was released showing that the uninsured rate has dropped to 11.9 percent, which is 5.2 percentage points lower than it was at the end of 2013.

So millions more Americans now have affordable, quality health insurance. In addition, the uninsured rate among Hispanics has dropped by 9.3 percent since the end of 2013. And these numbers cannot be denied.

Now, we hear a lot of rhetoric on how burdensome some believe the employer-shared responsibility provisions are. Again, let's look at the facts. Over 96 percent of all small business employers are exempt from the shared-responsibility provision. And of the remaining 4 percent of small businesses it applies to, the overwhelming majority of them already provide health insurance for their employees.

So the ACA also makes it easier than ever for employers to provide health insurance for their employees through the newly-created small business exchanges. The ACA is here to stay. It reminds me of Social Security, reminds me of Medicare and how when they were signed into law there were 30 percent who said it would never work, it would never work. And look at how well it works today. Instead of continuing their endless obstructionism, I would hope that my friends in Congress on the other side of the aisle would instead work with us to strengthen the law for future generations.

My first question goes to Mr. Brey. Would it be fair to say that before the ACA, your choice of insurance options for your employees were limited?

Mr. BREY. Beforehand? They were limited, yes.

Mr. HINOJOSA. How has that changed since the passage of the Affordable Care Act?

Mr. BREY. We have more companies offering in Maryland for small group. And we have many more choices and variety of plans to choose from.

Mr. HINOJOSA. Mr. Brey, we have heard stories of how businesses must now deal with more paperwork, and they are very unhappy about that. So, when obtaining insurance for their employees, what has your experience been as far as a lot of paperwork?

Mr. BREY. Don't let me be too Pollyanna about this. Anything I can do or anybody can do to reduce paperwork faced by small businesses and large businesses, for that matter, I am in favor of. But

my personal experience was that there was a little bit of a learning curve in the beginning. But once we were through that, we are moving forward.

Mr. HINOJOSA. Mr. Brey, can you talk a little bit on the coverage for employees that you and your family now have?

Mr. BREY. It is—again, Maryland mandated some small group provisions before the Affordable Care Act came in. Meaning that for an insurer to offer insurance in Maryland, they had to meet certain criteria. So from my perspective, there has not been a huge change.

Mr. HINOJOSA. My time has expired.

And I yield back.

Chairman ROE. I thank the gentleman for yielding. Ms. Wilson, you are recognized for five minutes.

Ms. Wilson of Florida. I would like to offer my condolences to Chairman Roe and welcome you back. Looking forward to working with you. And I want to thank you for convening this meeting and Ranking Member Polis for this hearing. Thank you so much.

As a lifelong educator, I cannot stress enough how important health is in ensuring children have the opportunity to develop, learn, and grow. Not only does this include the health of the child, but the health of the parents. And this is where the ACA is working. The ACA is working to ensure that parents have access to affordable health insurance.

And I am proud to say that this year my home state of Florida led the nation in the number of enrollees on the federal marketplace, with nearly 1.6 million Floridians finding quality affordable health care. And now I am fighting for them to expand Medicaid so millions more can be covered.

Because so many Americans can access health insurance on the marketplace, parents are no longer stuck in their jobs for fear of losing their health insurance. This means more parents can go back to school or train for a career that will allow them to better provide for their children. This means more parents can choose to work part time and care for their young children. This means parents have the flexibility to make decisions that make their families stronger.

The ACA is also working to ensure that more children have access to health insurance. Although many of the ACA provisions and directives are increasing adult care coverage, research shows that when parents are covered, children are covered, as well. And more parents are getting covered. The ACA is also working to ensure that children have access to better health insurance.

The ACA ensures marketplace insurance plans, as well as employer-sponsored plans, covers preventive dental and vision services for children. This means more parents can take their children to get their flu shots this year. This also means that more parents can afford to take their children to the eye doctor to get the glasses they need to do better in school. And I noticed that many of you are using reading glasses. And you can imagine what happens to children in schools who cannot see and don't even realize they cannot see. This means more parents can access the services that allow them to raise healthy, happy children.

And I am sure all of us want that for our country. So while we can talk about ways to improve the ACA, we cannot for the sake of our children afford to go back. I continually call the Affordable Care Act, Obamacare. In fact, I always say Obama cares about the men, women, and children of our nation.

So this—I have a question for Mr. Brey. As a small business owner, you likely have several employees with children who depend on their employer-sponsored insurance that you provide. Can you speak about your ability to offer your employees better plans now that the ACA requires many plans to have additional benefits for children, such as preventive, dental, and vision care?

Mr. BREY. I think it is very important. I come from a pretty big family. And, you know, like most of people here, if you operate a small business your employees work for you for long periods of time and they become like members of your family and so do their children and their pets. So you love to—you love the idea, if you are me, that you know that you are offering coverage that is doing real good in their lives. My bookkeeper's husband is self—an individually employed landscaper. So for many years she worked for me only to get the health coverage. I mean, I am a heck of a boss. But the primary reason I think was her health coverage. So she has been able to use it. She has benefited from it. And I am very happy to provide that.

Ms. Wilson of Florida. Okay. Can you see us going back? How would that impact your employees?

Mr. BREY. As I said in my testimony, the situation before the Affordable Care Act, inaction was not acceptable. We just could never have endured it. As it was, we were—like everybody here, we were tweaking plans and making changes to plans and doing everything we could to continue to insure people but be able to afford it as a business. I can't imagine going back.

Ms. Wilson of Florida. Thank you.

Chairman ROE. Thank you for yielding.

Mr. Grothman you are recognized for five minutes.

Mr. GROTHMAN. Thank you much. We will talk to Dr. Troy. Thanks for being here today. You are very educational.

You studied the impact of the health care law. And there are a lot of reasons why the cost of health care is up; the aging population, new technologies and whatnot. But I would like to get just a general how are employers dealing with the costs and what alternatives are employers experimenting with to deal with the costs?

Dr. TROY. Thank you, Congressman, for the question. We work primarily and study primarily large employers. And large employers are looking at significant alterations to their health care offerings. In response to the excise tax, they are reducing the value of their health care offerings so as to maintain—or remain under the thresholds so that they don't trigger the excise tax when it comes online in 2018.

In terms of the overall cost to large employers, we found that the ACA has an impact of—marginal costs of about $5,000 per employee over a 10-year period. And that is leading them to rethink what they are doing with health care, as well.

So some of the—they are looking at a variety of alternatives. One, there has been some movement towards private exchanges.

Although I think that has slowed down a little bit at this point. And I get the sense from employers that, first of all, they feel that there is a uncertainty out there in large part because of ACA delays and questions in the Supreme Court. So they are not sure what is going to happen.

So I get the sense that employers are looking for something new. They are looking for some kind of future state but they have not yet decided on what that is going to be.

Mr. GROTHMAN. Okay. Now, correct me if I am wrong. When we look at the cost to the employer, we look only at his premiums, not at the cost to the employer; right? So we don't—in encouraging one type of plan or another, the way this Affordable Care Act was designed, it was only looking at it from the perspective of the employer, not the employee, right, as far as cost?

Dr. TROY. Yes. And so we looked—that is why we did this study about the marginal costs of the ACA to large employers. These are costs over and above the traditional costs of health care that are imposed by the new law.

Mr. GROTHMAN. Right. So correct me if I am wrong. Under this plan, we are encouraging employers to put in things like big deductibles, which just may hammer their employees, particularly lower-paid employees. You know, a lot of the times these people who set up these plans are very, you know, wealthy in their own right. But, you know, you encourage, like, $5,000 deductible, that sort of thing.

Dr. TROY. Yes. We are definitely seeing employers move towards these high-deductible plans or towards more cost-sharing, which does impose additional costs on the employees. And it raises questions of affordability of employer-sponsored care, as well.

Mr. GROTHMAN. Great. I am not familiar with all around the country. I know in my area what is going to happen is you have bigger deductibles, you are going to wind up having employees dig into their 401(k)s and that sort of thing. Is that something you are going to see around the country, do you think?

Dr. TROY. Well, what we are finding is that there are already about 13–14 million people in employer-sponsored care who, if you look at the combination of deductibles and premiums, they are over the ACA's threshold of what is deemed to be affordability, which is 9.5 percent of income.

Mr. GROTHMAN. Okay. I give you one more question, a chance to respond. Earlier today we saw a couple of charts that were presented. You know, you have seen these things. And you haven't had a chance to respond them. And I thought while I had my five minutes, if I have any of my five minutes left, I would give you a chance to respond.

Dr. TROY. Well, I appreciate that opportunity. There is a chart from Kaiser that shows that the increase in premiums has decreased over time. And it compares the 2001 to 2010 period and the 2011 to 2015 period. There are a couple of things.

First of all, the costs are still rising for employers faster than the cost of goods and services, faster than productivity, and faster than GDP growth. So the costs are still rising faster.

Second of all, CBO did an analysis that suggested that some of the abatement in cost increases in the past few years—and remem-

ber, the costs are still growing faster than inflation. But some of the abatement is due—a large part of it is due to the recession, and it could not all be attributed, or even mostly attributed, to the ACA.

Chairman ROE. I now yield myself five minutes.

Let me just clear a few things up about what is going on in the real world. And I could not agree more that we should have done this bill on a bipartisan basis. I was willing to do that. And the two major bills that I have worked on here that have been done on a bipartisan basis that got huge votes were one, the Veteran's Affairs bill, and two the SGR replacement we just passed.

And that is one of the reasons you are seeing pushback, is that good ideas were left out of this. There are things in here, there is no question. You have all brought up things that needed to be addressed in health care in this country. It is one of the reasons I ran for Congress.

And let me just bring you down to reality, what is happening out in the hospitals and the providers. I looked at it as an employer, which provided health insurance, just like all of you all have, and also as a provider. And what Mr. Grothman said is absolutely what is going on.

In our local hospital system, which is over a billion dollar-a-year system, 70 percent of the payers they have are Medicaid or Medicare. That is only 30 percent from the private sector. And now, 60 percent of the uncollectible debt in our hospital system are people with insurance. And the reason is because if you put a $3,000 or $4,000 or $5,000 deductible for someone who makes $26,000 or $32,000 a year, it might as well be $100,000. They don't have the money. And that is happening today.

And it is just because you have a health insurance plan doesn't mean you can get health care coverage. Now, because people are coming to doctors and saying to the doctors ask saying to the hospitals you just absorb this loss. And who is the winner here? I think the winner is the insurance companies. I think they turn out great.

And I was the mayor of a local city before I came here; 65,000 people. This reinsurance fee that nobody has even talked about, if you are a self-insured plan, cost our city, our taxpayers $180,000 of what we got absolutely zero for. Nothing, except maybe a higher tax bill for senior citizens on a fixed income with property taxes. We don't have an income tax in Tennessee. And this has cost hundreds of millions, if not billions of dollars, to self-insured plans.

Let me tell you what we to do need to do in this, I think. I think we need to get rid of the mandates. We need to get rid of the ten essential health benefits. You all are business people can decide what plan you can afford and pay for.

And I think, Mr. Brey, you would love the plan I wrote. I really think you would like it a lot for the Republican study committee. And you are going see it again in about two weeks if there is a replacement bill. And we are going to have a huge Supreme Court decision made in about the next 60 days, *King v. Burwell*, that will have a huge affect on this and a lot of citizens.

Let me also say that I did a poor job as a Congressman of explaining preexisting conditions to people. If you have an ERISA

plan right now, it doesn't affect you, you cannot be denied. If you have Medicaid, you cannot be denied. If you have Medicare, you cannot be denied.

Truthfully—and this is where we needed to work on it—in the small group and individual market, you could be. And those folk were—and Mr. Brey pointed out—paid 18 percent more for no reason whatsoever than they couldn't group up and get bigger. I have been through the very same thing you have in paying my bills.

What I want to know, Mr. Paal, or Ms. Roberts, you can answer this, or any of you. I still haven't been able to figure out in a smaller business that uses a lot of temporary employees how you figure out who you are going to have to provide coverage for, and then who gets the coverage. An FTE is not a person. That is not a human being with a policy. So how—what do you do with that? How do you calculate? Maybe Mr. Paal, you should answer that.

Mr. PAAL. Well, in the past it was very simple. If you worked for us year round, then you were a full-timer, then you got the benefits. And this is part of where the—the 40 hours' worth of time that I spent calculating these things. I have people that work for me that will work 3 days a week for 2 months, then they will work full time for a month and a half, and then they won't work for 3 months because they want to take time off in the summer when they are kids are off of school.

What do I calculate that person as? Well, technically they are full time for a good portion they are there. I should offer them the coverage. In the past we always had offered them the coverage.

I actually have two employees under our most recent renewal that did not qualify for health care coverage because of the—one of them was only 8 hours shy of hitting to be a full-time employee out of an entire years' worth of service. So three more minutes a day or one more day of work over the entire year, they would have health care. Instead, their health care is terminating May 31st. That is where we really get into a pickle.

Chairman ROE. So trying to figure out who those folks are is virtually impossible? To figure out who gets the policy.

Mr. PAAL. If I could forecast exactly what my sales were going to be, whether it was going to rain or shine or how many weddings we were going to have next fall, I could forecast it pretty well. But unfortunately, we can't.

Chairman ROE. Trust me, I understand that.

Well, I thank the—I want to thank the Subcommittee. You all have done a tremendous job. And I thank you for staying within the time. We have been fairly good at that on our end. I would like to thank you all for doing it. It has been great hearing. And once again, it is an important issue.

And I would now to yield to Mr. Polis if he has any closing remarks.

Mr. POLIS. Thank you so much, Mr. Chairman. And I will be brief.

With the lowest rate of increase in decades, with more health care choices for small businesses, with millions more Americans being covered by the Affordable Care Act, I think we know that it is working. And of course, we can do better, as well. Nobody is saying the Affordable Care Act is perfect. There are a number of sug-

gestions that were submitted today, which I think both sides can work on, as well. And like any major piece of legislation, of course, I and many of my fellow Democrats are happy to work with my colleagues on both sides of the aisle to improve the Affordable Care Act, building on the progress that is already made to help American small businesses succeed.

What we can't do is dismantle the reforms that have helped millions of Americans afford health care, helped tens of thousands of small businesses afford to cover their employees. From my meetings with small businesses from constituents regarding the Affordable Care Act, I have heard so many stories about how the coverage they have gotten has helped avoid illness, stay out of the hospital, how businesses have grown and prospered in my district.

Quality preventive care helps ensure that people get healthier and happier, keeps them out of the hospital, allows them to continue to get a paycheck, be productive for their employers. Without a good doubt, it is a good thing for the economy.

I implore members on both sides of the aisle to work together to improve the delivery of health care in this country. Work with us to improve the Affordable Care Act and strengthen the start we have made to shrink growing costs for employers, taxpayers, and families.

We need to stop this sky-is-falling narrative. Since the Affordable Care Act was enacted, 12 million private sector jobs have been created. Let me repeat. Since the Affordable Care Act was implemented, 12 million private sector jobs have been created. That is indisputable. We need to stop the sky is falling narrative. We need to start narrative of how we can continue the road to help make our economy and the lives of Americans stronger and healthier.

I yield back the balance of my time.

Chairman ROE. I thank the gentleman for yielding. I again want to thank the Subcommittee for being here.

And just in summary, I ran for Congress in 2008 to work on—one of the reasons was to work on health care. Having spent over three decades in the private sector, both in practice and medicine teaching in medical school, I realized we needed health care reform. Came to Washington, D.C. We got health care reform really by one party.

And as was pointed out, this was not the House version of the bill. And in my opinion, the House version was the Affordable Care Act was a much better bill than what the Senate passed and was finally—through reconciliation, was passed on a one-party rule. And that is why you still have a majority of the people in this country who are opposed to this.

And let me sort of—the thing that we did do with this, we took a small percent of the population, less than 20 percent. And that is what we were needing to deal with. And literally, we could have done three-fourths of what we did with the Affordable Care Act in two paragraphs. One was expand coverage to 26-year-olds and expand Medicaid. That is where the biggest expansion has been.

Many of the people, including myself and every member of Congress who gets their health insurance through the D.C. exchange had health insurance before, perfectly good health insurance, but we lost it and we had to buy through the exchange. Which for me

is up 75 percent. And many people had—and I can pay that. It is not a problem for me. For other people, they can't pay that.

So I think we are in a situation where we do need to reform it. The Supreme Court is going to make a huge decision in the next 60 days that will affect the law tremendously. I think we have seen increased costs in businesses. I know I have seen school systems in my own district that have reduced hours because they have fixed—municipalities have fixed budgets, and they only have so many dollars that are allocated each year by the local commissions to spend on health care and salaries and so forth. And they have had to make those decisions. So it is happening out there in the real world. People are making decisions now two and three and four years downstream.

I have heard today from my colleagues on the other side of the aisle about the Cadillac tax. It needs to go. And I think you will get bipartisan support for that. I heard that, I think, almost universally here; that there was no support for that; that businesses were having a difficult time dealing with it. And it has been pointed out that unions, those contracts are being negotiated now for—for two, three, four years downstream. So we need to do something. Not wait until 2017, but do it now.

I think the other thing is to not redefine the workweek in this country. That was a great distortion for American business, to define the workweek at 30 hours. It was unnecessary. And as all of you pointed out, if it is affordable, people do—business owners want to do the right thing. I certainly want to provide good health insurance coverage so people could get the care that I got for my family for their families. I didn't hear a single person, Republican or Democrat, out there dispute that. So I think that is a narrative we all agree on.

Again, I want to thank you all. There is a lot of work to be done. And it may be a lot of work to be done in the next 60 days. But thank you for your time, your indulgence. And this meeting is adjourned.

[Additional submission by Dr. Roe follows:]

Statement for the Record
National Coalition on Benefits
Before the
Subcommittee on Health, Employment, Labor, and Pensions
Committee on Education and The Workforce
United States House of Representatives
"Five Years of Broken Promises: How the President's Health Care Law is Affecting America's Workplaces"
April 14, 2015

The National Coalition on Benefits (NCB) is a coalition of national businesses and trade associations established to support the employer-sponsored health care system and ensure that companies can continue to provide health benefits in a uniform manner nationwide. NCB works with Congress and the Administration to ensure that federal and state health reform initiatives preserve, rather than erode, protections guaranteed by the 1974 *Employee Retirement Income Security Act* (ERISA).

Approximately 150 million Americans receive health, retirement and other valuable benefits from their employer, or their spouse's employer, under the nationally uniform framework established by ERISA. As such, employer-sponsored health care benefits are the foundation of America's health care system. The 40-percent tax on health insurance benefits in the *Affordable Care Act* poses a threat to this system and would ultimately harm American workers and business.

Employers have a long history of innovating to improve the quality and cost of health care. The 40-percent tax on health insurance benefits, scheduled to take effect in 2018, may undermine the ability of employers to continue that innovation. Furthermore, the tax may also result in reduced benefits or a reduction in access to care for employees. This will particularly impact hit beneficiaries who are in poor health or have a chronic condition, as well as those older retirees that haven't reached Medicare age.

We applaud both the Republican and Democrat Members of the Subcommittee for raising this important issue during the Hearing. We agree that it needs to be addressed, and as noted at the Hearing, sooner rather than later, as businesses plan health benefit offerings years in advance. Without changes to this provision, employers are likely to change the benefits offered to minimize any tax impact.

America's employers are committed to offering high-quality, cost-effective health benefits to their employees and their families but need relief to ensure that workers aren't negatively affected.

Congress must act to preserve the health care system on which the majority of Americans have come to rely. We applaud Chairman Roe for holding this hearing that highlighted this looming problem and we endorse his call for a solution.

[Whereupon, at 12:06 p.m., the Subcommittee was adjourned.]

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