

“The Health Care Reform Law: Its Present and Future Impact on Small  
Business and Job Creation”

Testimony of  
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On Behalf of  
The National Grocers Association

Before the  
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Committee on Small Business  
Subcommittee on Investigations, Oversight and Regulations

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Good morning Chairman Coffman and thank you for the opportunity to testify on behalf of the National Grocers Association (“N.G.A.”) on an issue that will undoubtedly affect the way in which all small businesses operate. The N.G.A. is the national trade association representing and serving the retail grocery/food companies and wholesale distributors that comprise the independent sector of the food distribution industry. An independent retailer is a privately owned or controlled food retail company operating in a variety of formats. N.G.A. members also include retail grocery/food companies and wholesale distributors, affiliated associations, as well as manufacturers, service suppliers, and other entrepreneurial companies that support N.G.A.'s philosophy and mission.

My name is John W. Leever and I am the President of Leever Supermarkets, Inc. Like many small employers around the country, we have tried to make the best of a difficult economy and hope the worst is behind us. We have been fortunate in that we have recently been able to open three new stores, but we fear that our future growth will be stifled by the effects of the Affordable Care Act. The Affordable Care Act has changed the way in which small businesses think about benefits and, in this new era, the decisions companies make with regard to benefit administration will affect their ability to compete. As a result, we have spent a considerable amount of time and resources analyzing how to proceed in 2014, when key provisions of the Affordable Care Act and, most significantly, the employer mandate are implemented. We welcome the opportunity to share these experiences with the Committee.

Leever Supermarkets operates 13 stores and employs roughly 300 employees in Colorado. 11 of Leever Supermarkets operate under the “Save-a-lot” banner and, as such, utilize a price-driven format. The focus of price-driven supermarkets is on efficiency. We differ from traditional grocery stores in that we sell only a limited assortment of products and our operations are streamlined to keep costs low.

For example, a traditional grocery store may offer five brands of ketchup in five sizes. By contrast, our stores offer one brand, in one bottle size. By focusing our nationwide buying power on one brand, in one size, we are able, in many cases, to become the largest national buyer of that product and, as a result, we are able to obtain favorable pricing. On the goods we offer, we are roughly 40 percent cheaper than traditional chain grocery stores and 15 percent cheaper than big box stores.

Our staffing and our floor space are each designed to be as efficient as possible. For example, stocking in our stores is achieved by driving the pallets used to ship the products directly onto the sales floor. This saves cost when compared with a traditional grocery store that hires stocking clerks to remove the products from packaging and stock them on the shelves. As a result, our stores employ roughly 20 to 40 individuals per store whereas traditional grocery stores typically employ between 100 to 200 individuals.

The total adherence to efficiency in our business model is necessary because our business is a low margin endeavor. However, we are also a main street employer and hire individuals from within the communities we serve. Being a community focused company we have always felt it was important to provide our employees with health coverage if possible.

Unfortunately, the Affordable Care Act pits these two competing concerns against each other. In 2014, we are faced with the decision to either continue to offer coverage and absorb the additional costs and

administrative burdens associated with the Affordable Care Act or, alternatively, to drop coverage, leaving our employees to fend for themselves—despite our years of corporate support of our employees' benefits. Simply put, neither decision is attractive to us and both decisions could have significant repercussions to our business.

Over the years, as health care costs have increased, we have seen erosion in the benefits we have been able to offer. In the not so distant past, we offered benefits to all employees and health coverage was free. More recently, in light of the cost of care we have been forced to limit eligibility in our plan to full-time individuals and individuals who hold certain jobs. If the Affordable Care Act is maintained as written, we have a very tough decision in front of us, and beginning in 2014, it is likely we will not be in a position to be able to offer health benefits of any kind.

For us, like most small employers, discontinuing coverage makes sense from an economic standpoint. As I stated earlier, our stores employ between 20 and 40 employees at each location and we have roughly 300 total employees. Because of costs, we have had to restrict eligibility in our plan and we currently have 65 individuals participating. We self-insure our health coverage and our costs are roughly \$10,000 per covered life. Thus, the total cost of health benefits for our company is roughly \$600,000 per year and we pay 80 percent of such costs or \$480,000.

The Affordable Care Act greatly expands the number of employees who would need to be covered by our plan by defining a "full-time" employee as an employee who has averaged at least 30 hours of service per week over the course of a month. According to the "Shared Responsibility" provisions of the Affordable Care Act, we must either provide such individuals with coverage or pay a penalty of \$2,000 per full-time employee.

Prior to the Affordable Care Act, we would not have considered employees who work 30 hours per week "full-time" and consequently we would not offer them the opportunity to enroll in the plan. This provision alone increases the number of eligible individuals in our plan from 65 to around 250. If we were to continue coverage, even if our medical trend costs were to stay stable, which is likely not the case,<sup>1</sup> the costs of our plan beginning in 2014 would skyrocket to around \$2,000,000.

Again, the Affordable Care Act penalty for discontinuing coverage is \$2,000 per full-time employee disregarding the first 30 "full-time" employees. If the 30 hour a week definition stands, our total number of employees defined to be "full-time" for health benefits purposes would rise to roughly 250. Thus, our liability under the "Shared Responsibility" provision would equal \$440,000.

As you can see, from a purely financial standpoint the decision to drop coverage makes sense for us. We are a low margin business and the additional costs of coverage, coupled with the increased number of beneficiaries eligible for our plan, will be a tremendous cost burden. This is especially true

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<sup>1</sup> It is likely that pent-up demand for medical services exists from employees who were previously not eligible for coverage and as a result have not sought regular medical care. Further, the Affordable Care Act mandates new coverages that were previously not covered by the plan.

considering the fact that, because of our size, there is little we can do to bend the cost curve on the cost of benefits in the coming years.

As you know, the cost of health coverage is heavily dependent upon the size of your pool. In general terms, if you have a large pool, the impact of any catastrophic event will be spread over a larger number of people and the per capita costs will be less. This is as true for self-insurance as it is for insurance. Thus, one strategy for lowering costs is to become included in a larger pool. The Affordable Care Act, however, prohibits small businesses with more than 100 employees from purchasing coverage through an exchange. Thus, while other small employers may benefit from the aggregation possible through an exchange, we are unfortunately precluded from exploring this option.

However, if we must make the decision to discontinue coverage, we are cognizant that certain non-economic factors can come into play. We will be ignoring the traditional reasons why we provided benefits in the first place. In addition, we recognize that we are potentially exposing ourselves to other risks that could have a significant impact on our business. Like any business our employees are our greatest asset. We understand that dropping coverage is likely to have a profound effect on employee relations.

Employee benefits are recruitment and retention tools, and the benefit package offered is an important factor employees consider when determining whether to take a new job or remain at their current job. If we drop coverage in 2014, it is going to be more difficult to keep key employees, especially if competitors continue to offer health benefits. Further, it will become increasingly difficult to attract the employees we need to compete in the future.

We are cognizant of the fact that if we drop coverage in 2014, our employees are likely to become dissatisfied and may demand higher wages. This dynamic will be facilitated by the Affordable Care Act's requirement that the value of employer-sponsored coverage be included on an employee's W-2. If we drop coverage, employees will likely perceive the absence of the cost of coverage on their W-2 as a wage loss.

We understand that healthy employees are productive employees. The only control we currently have to ensure that our employees are healthy is by providing them with health insurance. Should we drop coverage, we will lose all ability to ensure that our employees are healthy and consequently productivity could suffer.

In addition, dropping health coverage will lead to adverse tax outcomes. The cost of providing health insurance coverage to an employee is a tax-deductible expense by the employer. However, the Affordable Care Act states that the cost of the "Shared Responsibility" penalty is not tax deductible. Thus, by dropping coverage we would lose the tax favored status of our plan.

Members of the Committee, the Affordable Care Act has placed our small business between a "rock and a hard place." The "Shared Responsibility" provision forces us to try and decide between two bad decisions. We can choose to continue the provision of health benefits and be saddled by unsustainable costs resulting from a mandated increase not only in the number of beneficiaries we must cover under

our plans, but also the richness of the benefit we must offer. The alternative, discontinuing coverage, is equally problematic, and forces us to ignore time tested justifications for providing benefits that will result in severe employee relations issues.

Thus, unless significant changes are made to the Affordable Care Act, it stands to do irreparable damage to many small businesses. Specifically, we recommend the definition of “full-time” employee be amended to reflect the way in which employers generally categorize employees as “full-time” or “part-time.”

I look forward to working with you on these changes and answering any questions you may have.