

HOUSE OF REPRESENTATIVES  
COMMONWEALTH OF PENNSYLVANIA

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House Bill 2369

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Labor Relations Committee

Main Capitol Building  
Room 140, Majority Caucus Room  
Harrisburg, Pennsylvania

Tuesday, May 20, 2008, 10:41 a.m.

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BEFORE:

Honorable Robert Belfanti, Majority Chairman  
Honorable Thomas Blackwell  
Honorable Ron Buxton  
Honorable James Casorio  
Honorable John Galloway  
Honorable Marc Gergely  
Honorable John Sabatina  
Honorable Tim Seip  
Honorable Ronald Waters  
Honorable Scott Boyd  
Honorable Jim Cox  
Honorable Will Gabig  
Honorable Glen Grell  
Honorable Carl Mantz  
Honorable Jeffrey Pyle

IN ATTENDANCE:

Honorable David Steil

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ALSO PRESENT:

Vicki DiLeo  
Majority Executive Director

Joanne Manganello  
Majority Research Analyst

MaryAnn Eckhart  
Majority Secretary

Riley McCall  
Majority Intern

Bruce Hanson  
Minority Executive Director

Pam Huss  
Minority Secretary

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20	(Written testimony submitted by: Melissa Patack,	
21	Vice-President on behalf of State Government	
22	Affairs for the Motion Picture Association of	
23	America; Timothy Allwein, Executive Director, and	
24	Beth L. Winters, Director of Legislative Services	
25	on behalf of Pennsylvania School Boards Association.)	

1                   CHAIRPERSON BELFANTI: The hour of  
2                   10:30 -- a fine time -- having arrived, the  
3                   meeting of the House Labor Relations Committee  
4                   will now come to order. I apologize about my  
5                   tardiness. I ran into a bit of traffic.

6                   I'd like to call to order -- the  
7                   meeting to order with the Pledge of Allegiance.  
8                   Please rise.

9                   (Pledge of Allegiance.)

10                  CHAIRPERSON BELFANTI: Thank you very  
11                  much. Today is a public hearing which we will  
12                  hold on Representative Steil's bill, House Bill  
13                  2369. His legislation has been around in prior  
14                  sessions. The hearing will bring into the floor  
15                  the concerns of groups that have issues with the  
16                  bill which hopefully can be worked out this  
17                  session.

18                  Before I turn over the floor to  
19                  Representative Steil to make comments on his bill,  
20                  I'd like to alert the Members and guests that PCN  
21                  is taping this hearing to air at a later time.

22                  After Representative Steil finishes his  
23                  comments, we will invite him to join us -- to be  
24                  an ex-parte member of the Labor Committee for the  
25                  balance of the hearing.

1                   At this time with no further adieu, I'd  
2     like to welcome a good friend and colleague,  
3     Representative Steil, to make his remarks on House  
4     Bill 2369. And you may proceed as soon as you are  
5     ready.

6                   REPRESENTATIVE STEIL: Thank you,  
7     Mr. Chairman, for inviting me here today and thank  
8     you very much for holding this hearing. As you  
9     indicated, this bill has passed the House or a  
10    bill very similar to it has passed the House in  
11    two previous sessions but has never found life in  
12    the Senate, which is not an unusual thing; but it  
13    has not.

14                   So we're trying to understand what  
15    issues might be raised in the House this time, if  
16    there are any new issues. This particular piece  
17    of legislation sets out to accomplish three  
18    things:

19                   First, to align child labor law from  
20    federal statutes with state statutes. This has  
21    become an issue because -- and actually, the  
22    reason this bill was originally written was  
23    because of a local technical high school who had  
24    several apprenticeship and internship programs but  
25    employers in the area were reluctant to offer

1 those programs because they found that the  
2 differences between Federal Child Labor Law and  
3 State Child Labor Law were such that they were in  
4 jeopardy of violating one law or the other  
5 depending upon how they employed the child.

6 So because of that confusion, they have  
7 just begun opting out of some of those programs.

8 The second reason that we wanted to  
9 address was, the original Child Labor Law bill was  
10 written in 1915; and as a result, the law, even  
11 though somewhat modified over the years, does  
12 contain a number of archaic terms and descriptions  
13 and even job titles which simply don't exist any  
14 more today and it did not deal with jobs and types  
15 of occupations that are common today. So we  
16 needed to address all of those archaic provisions  
17 in the existing law.

18 Thirdly, we wanted to reflect some of  
19 the administrative changes. Currently when a  
20 young person decides that they want to go to work  
21 age 16, 15, whatever the age is, there's a process  
22 by which they have to fill out a series of forms.  
23 Actually, I believe there are three existing forms  
24 which have to be prepared.

25 We wanted to make it simpler and put

1 the parents and put the school at the root or the  
2 core of authorizing that child's employment.

3 So we have developed and directed the  
4 Department to draft forms which would provide a  
5 single form instead of three different forms for  
6 any employer who wishes to employ a person under  
7 the age of 18.

8 Some of the issues that we have to  
9 raise are particularly work hours, how many hours  
10 is a child allowed to work during school or during  
11 school days after school and when they are on  
12 vacation. How many days in a row can a child  
13 work? How many hours can they work consecutively  
14 before they are required to take a break?

15 We also have to address issues of  
16 things like employment on farms because we need to  
17 protect those who are employed on the farming  
18 community, particularly where they're working on a  
19 family farm working for their parents.

20 We also have to address issues of very  
21 young children. And generally they fall into two  
22 categories; that is, children under the age of 14  
23 who really may be employed in only two  
24 occupations. That is, caddying at a golf club or  
25 delivering newspapers. Those are really the two

1 relevant occupations.

2 We've also set aside in this particular  
3 legislation employment in theatrical productions,  
4 theatrical and movie productions, which do employ  
5 some younger children and the conditions under  
6 which they would be employed.

7 So that's just generally a summary of  
8 where the bill is, and I would be happy to answer  
9 any questions of the Members before we go on.

10 Thank you, Mr. Chairman.

11 CHAIRPERSON BELFANTI: Thank you,  
12 Representative. Can you tell me if this bill is  
13 in any way different than the previous legislation  
14 that has come before and been adopted by the  
15 House? Any nuances that --

16 REPRESENTATIVE STEIL: Not really,  
17 except for one. You may recall, Chairman  
18 Belfanti, when the last bill went through that an  
19 amendment was offered to allow those employed in  
20 the entertainment industry an  
21 extended -- something beyond eight hours in order  
22 to remove costumes and clean off makeup and that  
23 sort of thing in preparation for their leaving the  
24 premises.

25 So we granted them a slight -- a little



1 bit longer day than is normally permitted under  
2 the law. That has been removed from this bill.  
3 So that is really the primary change in the bill  
4 itself.

5 CHAIRPERSON BELFANTI: So this  
6 legislation actually sets back as opposed to  
7 forward the amount of time that children can  
8 perform in an acting career?

9 REPRESENTATIVE STEIL: Yes, that is  
10 correct. It actually moves it back from 10 hours  
11 to 8 hours in a day so that any time they need to  
12 suit up in a costume or makeup or whatever has to  
13 be done when they start work and has to be  
14 finished before the eight-hour length of time is  
15 up.

16 CHAIRPERSON BELFANTI: And they  
17 certainly need to continue their educational  
18 requirements.

19 REPRESENTATIVE STEIL: Yes. And  
20 actually, that eight-hour allowance is only for  
21 days when school is not in session. So it would  
22 be weekend or summer.

23 CHAIRPERSON BELFANTI: Okay. At this  
24 time I open up the floor to the other Members for  
25 questions of Representative Steil before I invite

1 him up to the --

2 (No audible response.)

3 CHAIRPERSON BELFANTI: I see no  
4 questions. Thank you for your testimony, and  
5 please feel free to join us for the remainder of  
6 this hearing.

7 REPRESENTATIVE STEIL: Thank you.

8 CHAIRPERSON BELFANTI: Next on the list  
9 we have the Acting Secretary of the Department of  
10 Labor and Industry. Neal Cashman is our  
11 legislative liaison with the Department. I see  
12 that he is present as well.

13 So whenever you're ready, Madam  
14 Secretary, please feel free to offer your  
15 comments.

16 ACTING SECRETARY VITO: Good morning,  
17 Chairman Belfanti, Representative Steil, other  
18 Members of the Committee. I want to thank you for  
19 the opportunity to appear today.

20 The proposed bill, HB 2369, addresses  
21 many of the much-needed updates to the Child Labor  
22 Law and provides consistency with federal  
23 standards.

24 In general, this legislation is a vast  
25 improvement over the present law and it would

1 allow greater compliance, eliminating  
2 inconsistency and poorly written and antiquated  
3 provisions and reconcile the Pennsylvania law, as  
4 Representative Steil mentioned, with the Federal  
5 Fair Labor Standards Act.

6 So we want to applaud Representative  
7 Steil's ongoing support of this bill and, Chairman  
8 Belfanti, your support of the bill in addition.

9 There are a couple of provisions that  
10 are problematic; so we want to talk today both  
11 about the things that we think are very, very good  
12 improvements over the current law and as well as  
13 some of the areas where we think there could be  
14 some technical improvements.

15 I think, as Representative Steil noted,  
16 the consistency of federal and state law has  
17 historically created a lot of confusion among  
18 employers, parents concerning child labor  
19 standards in Pennsylvania.

20 Many employers, while in compliance  
21 with the provisions of the Fair Labor Standards  
22 Act, have not complied with the Child Labor Law  
23 and vice versa. This bill would provide much more  
24 uniformity and would also provide clearer  
25 standards. And so we really again commend you on

1 your attempts there.

2 House Bill 2369 attempts to reconcile  
3 the state and federal laws by allowing minors  
4 under Pennsylvania law to be employed as permitted  
5 under the Fair Labor Standards Act. It also  
6 adopts the occupations that are hazardous and  
7 prohibited under the Fair Labor Standards Act as  
8 violations under the Pennsylvania Child Labor Act.

9 However, while the hazardous and  
10 prohibited occupations under the Federal Act are  
11 quite similar to those in the current Child Labor  
12 Law, they're not identical and there are a couple  
13 of hazardous and prohibited occupations currently  
14 enumerated in the current law that we'd like to  
15 include in the proposed Child Labor Act.

16 Alternatively, the Department could add  
17 the occupations through the regulatory process of  
18 the bill allows for the promulgation of state  
19 regulations that are consistent with the Fair  
20 Labor Standards Act. We believe the new law would  
21 provide the Department the latitude to adopt those  
22 regulations.

23 The bill also corrects inconsistencies  
24 that exist throughout the current labor law such  
25 as the seemingly incongruent provisions regarding

1 newspapers and periodical carriers.

2 It also provides more uniform standards  
3 for minors engaged in motion picture and  
4 television production. And as I think  
5 Representative Steil noted, we've received numbers  
6 of complaints and confusion regarding that  
7 provision and that lack of exemption in the  
8 current law.

9 Currently the standards for these two  
10 industries differ and cause confusion, as I noted.  
11 Also as drafted, the bill provides for necessary  
12 reduction in the required number of work permits  
13 issued by school districts.

14 Right now, the number is three. This  
15 bill would create the necessity for only one,  
16 which would prevent a lot of duplication and  
17 confusion.

18 One of the biggest complaints I've  
19 heard from business leaders is that the number of  
20 permits, the three permits is very confusing and  
21 often creates a barrier to youth employment. So  
22 that's one of the provisions that we applaud  
23 vigorously and hope that it continues to be part  
24 of the bill.

25 In addition, the consistency with the

1 federal standards, the legislation sets standards  
2 for employment of minors in hotels, clubs and  
3 restaurants, camps, and volunteer emergency  
4 service organizations.

5 It also sets standards for employers  
6 including record retention and acknowledgement  
7 that minors are employed and requires employers to  
8 post requirements of the new Act in a conspicuous  
9 place.

10 These are extremely important  
11 provisions of the bill and it places more  
12 stringent requirements on the hours worked at  
13 times for minors for work of minors under the age  
14 of 16 and makes it compatible with the current  
15 Fair Labor Standards Acts.

16 This bill adopts several previously  
17 proposed Labor and Industry amendments concerning  
18 exclusions for sport attendance, independent  
19 contractor newspaper sales, and the use of  
20 verification instead of affidavits.

21 The exclusion for sports attendance is  
22 based on the Fair Labor Standards regulations  
23 which allows minors to engage in sports attending  
24 services.

25 It also contains an exclusion for

1 minors working in continuing care retirement  
2 communities, ski resort, bowling alley, golf  
3 course, or amusement park where alcoholic  
4 beverages are served if the minor's not permitted  
5 to handle or serve the beverages and is not  
6 employed in a room where the beverages are stored  
7 or served. This is consistent with the existing  
8 provisions and recent amendment to the Labor Code.

9 It will be easier for the Department to  
10 enforce the provisions of newly proposed Child  
11 Labor Act because the new Act would compel access  
12 to records and would provide investigative  
13 subpoena power to the Department.

14 Also it would allow the Department to  
15 administratively prosecute violations of the Child  
16 Labor Act. Currently the labor law allows only  
17 summary criminal prosecutions in district justice  
18 courts through the Commonwealth.

19 The Department's authority to obtain  
20 records, utilize investigative subpoenas, and to  
21 impose civil penalties will lead to more effective  
22 and less costly enforcement and better compliance.

23 The bill also allow the Department to  
24 provide better administration and information  
25 because it eliminates many of conflicting

1 provisions of the present Child Labor Law.  
2 Deletion of these confusing provisions will allow  
3 greater compliance.

4 We do have some concerns, and I want to  
5 go through some of those concerns.

6 Under House Bill 2369, the hours worked  
7 for minors 16 and 17 years of age has been  
8 expanded from the restrictions imposed by the  
9 existing Child Labor Law.

10 The proposed law provides for the  
11 allowance of more hours of work per day and per  
12 week and does not set hours of daytime limited for  
13 minors, unlike the current law.

14 For 16- and 17-year-olds, the current  
15 Labor Law establishes maximum hours in nonschool  
16 periods of eight hours per day and 44 per week.  
17 As drafted, House Bill 2369 sets those limits at  
18 10 hours per day and 48 hours per week. We  
19 believe the more restrictive hours of eight per  
20 day and 44 per week should be retained.

21 Additionally in the current proposal,  
22 limits on hours worked per week and day are not  
23 applicable to 16- and 17-years-olds who have  
24 dropped out of school. The Department believes  
25 that this may encourage the minors to not finish



1 their education if they have the ability to enter  
2 full-time employment immediately.

3 So we propose to restrict the  
4 limitations to those who have graduated and not to  
5 those who have dropped out of school. We have a  
6 responsibility to encourage the completion of high  
7 school education prior to full-time employment,  
8 and we believe this legislation needs to reflect  
9 that responsibility.

10 The newspaper provision would allow  
11 minors who are at least 11 years old to be  
12 employed in the delivery of newspapers after 5  
13 a.m. We believe that's troublesome and we have  
14 some reservations as to whether that's reasonable.

15 We'd like to see that section revised  
16 to restrict employment of minors in the delivery  
17 of newspapers to 6 a.m. and not later than 8 p.m.

18 An additional concern we have is the  
19 volunteer fire fighter provision. And this may  
20 have been inadvertent, but in the 2004 school  
21 year, a change to the School Code allowed the  
22 school district to offer fire fighter training as  
23 a Fire fighter 1 based on National Board of Fire  
24 Service Professional Qualifications, the National  
25 Board qualifications for a minor to enter a

1 burning structure and the training activities for  
2 vocational education, even though the current  
3 Child Labor Law does not allow this activity.

4 To protect minors from injury during  
5 volunteer fire fighter training, the language in  
6 this bill should specifically prohibit this type  
7 of training. And we spoke earlier with the Fire  
8 Commissioner, and he is supportive of this change  
9 in the Child Labor Act.

10 And the bill should also specifically  
11 reflect the need for employment certificates for  
12 minors who perform volunteer fire fighter and  
13 emergency services and that the hours worked and  
14 the time requirement should equally apply to  
15 volunteer fire fighter and emergency services as  
16 well.

17 There's a couple of areas in  
18 enforcement capabilities that we'd also like to  
19 see some changes to. Although the proposed bill  
20 makes it so much easier for the Department to  
21 enforce the penalties and that the criminal  
22 penalties would be further increased, we'd like to  
23 see criminal penalties further increased to afford  
24 the Department the opportunity to prosecute the  
25 more egregious violations.

1                   Currently under the proposed bill, a  
2 criminal violation constitutes a mere summary  
3 offense. We think that's inadequate if a minor's  
4 placed in a position of peril in a situation where  
5 a crime is occurring, and the Court should have  
6 the ability to impose sanctions as a Misdemeanor  
7 of the Third Degree with an appropriate sentence.

8                   Also, the current bill proposal omits  
9 necessary language from the definition of a  
10 establishment and employ that would allow the  
11 Department to prevent the exploitation of minors.  
12 As written, only minors who receive money can be  
13 considered employed, which is different from the  
14 former Child Labor Law.

15                   As there are scenarios where another  
16 party is paid for the work of the minor, we  
17 believe we have the responsibility to protect  
18 those minors who are performing work but are not  
19 paid; therefore, we believe these definitions need  
20 to be modified to give us that ability.

21                   The entertainment section, in the past  
22 the Department was confronted with the  
23 difficulties concerning approval of performers  
24 engaged in television and movie motion  
25 productions, which makes the Commonwealth less

1 competitive. So we applaud the exemptions to that  
2 industry.

3 The existing Act has currently  
4 requirements for two industries and does not  
5 adequately address the current business  
6 conditions.

7 The Department believes it is necessary  
8 to spell out the start time restrictions for any  
9 entertainment performances. So while  
10 Representative Steil talked about the need to  
11 restrict to eight hours, we'd also like there to  
12 be a restriction as to the start times so that  
13 kids aren't performing in the middle of the night.

14 With respect to such performances, we  
15 believe it's necessary to allow Labor and Industry  
16 to impose restrictions that are necessary for the  
17 health and safety of the minor and allow for the  
18 revocation of a permit if the Act is being  
19 violated.

20 As enumerated in the current Child  
21 Labor Law, the following activities should be  
22 prohibited as entertainment which include minors:  
23 That would be boxing, sparring, wrestling matches,  
24 or acrobatic acts that are dangerous to the  
25 minor's safety or well-being.

1                   That would be consistent with the  
2                   current Child Labor Law and really is timely given  
3                   the recent extreme fighting exhibitions that are  
4                   on some Internet sites.

5                   In addition, a prohibition must be  
6                   added that prohibits employment of minors where it  
7                   relates to obscene and other sexually-explicit  
8                   materials and performances.

9                   Where there are criminal statutes  
10                  involving these activities -- while there are  
11                  criminal statutes involving these activities, we  
12                  think it would be helpful to have that included in  
13                  the Child Labor Act as well.

14                  The last change we'd like to propose  
15                  has to do with the effective date. Right now as  
16                  written the bill would take effect immediately.  
17                  And while I think we're all anxious to begin work  
18                  under what would be the new Child Labor Act, we  
19                  would need I think about a hundred and eighty days  
20                  to both inform employers and to ensure that  
21                  everybody understands the new standards of the new  
22                  law.

23                  As I said in my opening statement,  
24                  House Bill 2369 greatly increases the efficiency  
25                  and the ability of employers to comply with the

1 Child Labor Act.

2 We think this is a wonderful bill and  
3 are very supportive. We would like to see those  
4 technical amendments, and our staff is willing to  
5 work with the Committee on the drafting of those  
6 technical amendments if that is helpful.

7 I really again thank you for the  
8 opportunity to appear before the Committee and  
9 look forward to working with both Representative  
10 Steil and you, Mr. Chairman, and other Members of  
11 the Committee.

12 CHAIRPERSON BELFANTI: Thank you, Madam  
13 Secretary. And before I move on, I'd like to  
14 correct myself. I was just informed that Neal  
15 Melaney, another good friend, is now the  
16 legislative liaison for L&I with the Legislature.  
17 I don't know if Neal has been fired or promoted.

18 ACTING SECRETARY VITO: Promoted.

19 VOICE: That would be your first  
20 question to the Acting Secretary.

21 CHAIRPERSON BELFANTI: Okay. Are there  
22 questions for Secretary Vito?

23 Representative Boyd.

24 REPRESENTATIVE BOYD: Thank you. Thank  
25 you, Mr. Chairman. Thank you, Madam Secretary.

1 It's good to see you.

2 Just out of curiosity's sake, the  
3 change that you're looking for regarding the hours  
4 of employment, one of the intentions I know of  
5 Representative Steil in the bill was to develop  
6 consistency between federal and state statute.

7 As he has the bill written, is it  
8 consistent or would the change that you're  
9 desiring to see, those adjustments in the hours,  
10 make it consistent with federal statute and state  
11 statute? Do you know what I'm saying --

12 ACTING SECRETARY VITO: Yeah, I do.  
13 The states are allowed to impose more restrictive  
14 language than the Fair Labor Standards Act. And  
15 in this particular instance, we are proposing more  
16 restrictive language.

17 REPRESENTATIVE BOYD: So as  
18 Representative Steil has it --

19 REPRESENTATIVE STEIL: It is  
20 consistent.

21 REPRESENTATIVE BOYD: Okay. Thank you  
22 for clarifying that.

23 CHAIRPERSON BELFANTI: Representative  
24 Seip.

25 REPRESENTATIVE SEIP: Thank you,

1 Mr. Chairman.

2 Madam Secretary, if you could just  
3 answer two quick questions, one about letter  
4 carriers -- I'm sorry -- one about newspapers  
5 carriers and one about how you go about informing  
6 the employers of the changes in the law.

7 The newspaper carriers, according to  
8 your testimony, this would move the age to 11 and  
9 allow them to start at 5 a.m. if Representative  
10 Steil's bill goes into effect. What is the  
11 standard now for newspapers carriers?

12 ACTING SECRETARY VITO: That's a good  
13 question. There's a bit of inconsistency in the  
14 current Labor Law. So it could be interpreted to  
15 say 5 a.m.; it could be interpreted in one  
16 instance to say 6 a.m.

17 We've enforced it at 5 a.m. because of  
18 the inconsistency up till now. But we would  
19 frankly think -- we think that the 6 a.m. start  
20 time is the more reasonable standard.

21 REPRESENTATIVE SEIP: And you would ask  
22 for 180 days to notify employers and let them know  
23 about any changes that may occur because of bill.  
24 How do you go about doing that and what ways would  
25 you be using to inform them?



1                   ACTING SECRETARY VITO: That's a really  
2 good question, Representative. In the past we've  
3 done mailings to employments, but we're doing so  
4 much more electronically. So we would have to use  
5 some electronic means to inform them.

6                   We would also have new posters printed.  
7 We would also use the media. So we've -- for  
8 instance, when the Minimum Wage Act was increased,  
9 we printed new posters, we contacted all the  
10 employers in the Commonwealth.

11                   So we are pretty aggressive in our  
12 outreach to employers. This would give us time to  
13 make sure that they were all informed and had the  
14 appropriate materials and posters.

15                   REPRESENTATIVE SEIP: Thank you for  
16 your testimony today, Madam Secretary, and thank  
17 you for your insights on the bill.

18                   Thank you, Mr. Chairman.

19                   ACTING SECRETARY VITO: Thanks for  
20 having me.

21                   CHAIRPERSON BELFANTI: I think one of  
22 the big advantages that the Acting Secretary  
23 brings to her new role is that she was very  
24 involved with the inception of the WIC Program and  
25 Workforce Development Programs in the

1 Commonwealth.

2           So she's inherently familiar with many  
3 of the laws dealing directly with employees at all  
4 ages.

5           I understand that Representative Pyle  
6 has a question.

7           REPRESENTATIVE PYLE: I'm kind of  
8 hidden behind the podium here.

9           Thank you, Madam Secretary. You  
10 mentioned in your testimony that the new law,  
11 2369, proposes regulation by the L&I of  
12 volunteers. I was wondering if you can elaborate  
13 on that.

14           ACTING SECRETARY VITO: The new law  
15 allows for regulation generally. What we're  
16 saying is that there are a couple of hazardous  
17 occupations -- and we can get the committee of a  
18 list of those -- that were in the prior law that  
19 are now not either in the Fair Labor Standards Act  
20 or in the current law.

21           We could fix that either through  
22 amendment to the bill or through the issuance of  
23 regulation.

24           A separate issue is the training of  
25 volunteer firefighters. And through some strange

1 occurrence in the School Code, children are  
2 allowed to enter burning buildings through -- as  
3 part of the training program. We're suggesting  
4 that that be changed and corrected in this bill.

5 The Fire Commissioner agrees that the  
6 training should not allow children under 18 to  
7 enter burning buildings even as part of a training  
8 course.

9 REPRESENTATIVE PYLE: So your reference  
10 to volunteers was specifically -- okay. Thank  
11 you. Thank you, Mr. Chairman.

12 ACTING SECRETARY VITO: And if I  
13 misspoke, I apologize.

14 REPRESENTATIVE PYLE: I might have  
15 misheard also.

16 CHAIRPERSON BELFANTI: Thank you.

17 Before I introduce Representative Steil  
18 for his comments, I want to see if any other  
19 members -- Representative Gergely.

20 REPRESENTATIVE GERGELY: Thank you,  
21 Mr. Chairman, Madam Secretary.

22 ACTING SECRETARY VITO: Representative.

23 REPRESENTATIVE GERGELY: Could you just  
24 define to me what sports attending services are?

25 ACTING SECRETARY VITO: Well, let me

1 get a good definition from my lawyer.

2 (Pause.)

3 ACTING SECRETARY VITO: It's on page 13  
4 of the bill and it has to do with, you know,  
5 refereeing, other duties at sporting events. So  
6 if you look on page 14, it could include set-up,  
7 supplying and retrieving of balls, clearing the  
8 field, providing drinks and ice, etc., running  
9 errands. It's fairly well enumerated here on page  
10 14.

11 REPRESENTATIVE GERGELY: Would it  
12 include umpiring and refereeing?

13 ACTING SECRETARY VITO: I believe it  
14 does. Although now that I'm looking at that, that  
15 is not enumerated.

16 REPRESENTATIVE GERGELY: That's why I  
17 was asking.

18 ACTING SECRETARY VITO: Well, that's an  
19 interesting question. It was my understanding  
20 that that is one of the things that was supposed  
21 to be addressed in the bill, but it is not  
22 enumerated here. Hold on.

23 It certainly is not intended for it to  
24 include umpiring and refereeing. I think it might  
25 not be a bad idea to amend it to specifically --

1                   REPRESENTATIVE GERGELY:   Being a former  
2   umpire for years --

3                   ACTING SECRETARY VITO:   Right.  I don't  
4   want to speak for Representative Steil, but I  
5   think the intent was to include those services.  
6   And so looking at this again, I think it's right,  
7   it is not entirely clear and maybe an amendment  
8   there could make that clearer.

9                   REPRESENTATIVE GERGELY:   And I'd like  
10   line 3 to include hockey, of course, being from  
11   Pittsburgh.  Thank you very much, Madam Secretary.

12                  CHAIRPERSON BELFANTI:   Thank you.  I  
13   think it goes without saying that the Members of  
14   the Committee in a bipartisan way would like to  
15   see our state law more in compliance, you know,  
16   with the federal law; make it clearer for  
17   employers; give opportunities to children to work  
18   and make sure that they are not exploited.

19                  We have several other people to give  
20   testimony today from their own viewpoint on the  
21   legislation.  But from what I hear from the  
22   Department, our five major items of concern are  
23   the age vis-a-vis 10-hour days; the newspaper  
24   carriers' start times and quit times; the  
25   advantages for high school graduates vis-a-vis

1 dropouts; there are several areas in the fire  
2 fighter emergency service realm; and also the  
3 provisions of enforcement, creating certain  
4 categories of misdemeanors where there is willful  
5 effort on the part of employers to exploit  
6 children; and also the issue of having the  
7 Department enough latitude 180 days from the  
8 inception of the Act till the implementation of  
9 the Act.

10 I don't see any of those issues as  
11 being insurmountable. And at this point, to  
12 respond to those, I'd like to ask Representative  
13 Steil for his comments on those areas.

14 REPRESENTATIVE STEIL: Thank you,  
15 Mr. Chairman.

16 I would agree with the Chairman that I  
17 don't see any of those as issues that we can't  
18 work out. And I appreciate the comments and we'll  
19 work together in drafting an amendment that will  
20 do that.

21 I do have a couple of questions. First  
22 of all, under Section 7, employment of individuals  
23 16 years of age or older, my understanding is that  
24 the Federal Government does not have a standard  
25 with regard to the employment hours and the length

1 of the work week when school is not in session.

2 Am I right in that?

3 ACTING SECRETARY VITO: I believe that  
4 is correct.

5 REPRESENTATIVE STEIL: So the only  
6 question I have here is -- I don't have any  
7 problem with dropping back from ten. But now I'm  
8 wondering whether or not allowing an individual to  
9 be employed on a school day for eight hours might  
10 not also be too long.

11 Do you have any thought on that?  
12 Because if we drop back from ten to eight when  
13 school is not in session, we're now saying the  
14 hours are the same whether school is in session or  
15 not.

16 And I'm thinking maybe we need to think  
17 that through. It may be that there should be some  
18 difference between the hours -- the maximum hours  
19 of work on a school day as opposed to a nonschool  
20 day.

21 ACTING SECRETARY VITO: I think as it's  
22 contemplated -- although you're right, it is not  
23 clear. As it's contemplated, one envisions the  
24 hours -- for eight hours on the weekend.

25 REPRESENTATIVE STEIL: Right.

1                   ACTING SECRETARY VITO: We'd have to go  
2 back -- I think you make a very good point,  
3 Representative, that we may want to confine  
4 eight-hour days to the weekends specifically in  
5 the law.

6                   REPRESENTATIVE STEIL: Because it says  
7 when school is in session. This is subsection  
8 (b)2 of section 7. It says, When school is in  
9 session, the minor may not be employed for more  
10 than 28 hours per week nor more than eight hours  
11 in a single day.

12                   So we've changed the total hours of the  
13 week, which I understand. We haven't changed the  
14 work hours in the day. And we may want to take a  
15 look at whether it would make sense to do that.

16                   ACTING SECRETARY VITO: Right.

17                   REPRESENTATIVE STEIL: And the second  
18 question I have is, we'll have to think some more  
19 about this issue of an individual who is 17 years  
20 of age, has left school and is still bound by the  
21 work requirements of this.

22                   Certainly we don't want to cause any  
23 kid to leave school because he needs to keep his  
24 Mustang running. But I'm concerned about those  
25 who make the decision to drop out for one reason



1 or another and then not being able to be fully  
2 employed.

3 ACTING SECRETARY VITO: As I understand  
4 it, Representative, in this -- in your bill, we  
5 added 16-year-olds and sort of backed into  
6 16-year-olds who dropped out. In the old Child  
7 Labor Law it was 17-year-olds if they graduated  
8 and/or were emancipated minors.

9 REPRESENTATIVE STEIL: So your issue is  
10 with the 16-year-olds concept?

11 ACTING SECRETARY VITO: To be honest,  
12 after discussion internally at the Department, we  
13 thought we should go on record in saying we'd like  
14 all kids to stay in school and we should encourage  
15 that, but our specific problem is really with the  
16 16-year-olds.

17 REPRESENTATIVE STEIL: Okay. Thank you  
18 very much. Thank you, Mr. Chairman.

19 CHAIRPERSON BELFANTI: Thank you, Madam  
20 Secretary, for your testimony. We know you have a  
21 very busy schedule and, at this point, you're  
22 excused.

23 And we would like to welcome Debra  
24 Musselman, Director of Governmental Affairs,  
25 Pennsylvania Newspaper Association.

1                   Whenever you're ready, please begin.

2                   MS. MUSSELMAN: Thank you,  
3 Representative. Good morning, everybody. Good  
4 morning Representative Belfanti, Representative  
5 Steil, Members of the Labor Relations Committee.

6                   My name is Debra Musselman, Director of  
7 Government Affairs for the Pennsylvania Newspaper  
8 Association. Thank you for the opportunity to  
9 appear today to express my organization's support  
10 for House Bill 2369, Printers 3435, a  
11 comprehensive reenactment of the Child Labor Law  
12 that has come before this Committee in prior  
13 sessions and, as Representative Steil has noted,  
14 it has passed the House with no negative votes  
15 both in 2003, 2005.

16                   Pennsylvania Newspaper Association is a  
17 nonprofit, dues-supported organization with  
18 approximately 360 newspaper and affiliate members  
19 established in 1925 in Harrisburg as the  
20 Pennsylvania Newspapers Publishers Association  
21 upon the merger of three predecessor  
22 organizations.

23                   Its mission is to protect freedom of  
24 the press and promote members' business interests  
25 and professional development.

1           In addition to legislative monitoring  
2           and presentation, PNA provides its members with  
3           meeting and event planning, awards and training  
4           programs, publications, research, legal  
5           assistance, as well as technical support and  
6           general assistance.

7           Our affiliated foundation is a  
8           nonprofit, tax-exempt corporation charged with the  
9           mission of improving newspapers through education  
10          and training programs and supporting their role in  
11          the community while our for-profit entity referred  
12          to as MANSI manages PNA operations and promotes  
13          advertising in newspapers.

14          I mention these components of the  
15          organization because they illustrate the fact that  
16          newspapers' business concerns as part of our free  
17          market economy and their role as advocates for the  
18          First Amendment compliment and support each other.

19          House Bill 2369 governing the  
20          employment of minors under the age of 18 reflects  
21          society's interest in fostering a positive work  
22          ethic in young people and in protecting their  
23          health and safety. The membership of my  
24          organization supports these goals.

25          PNA honors outstanding youth carriers

1 every year and awards scholarships on the basis of  
2 academic excellence, community service, and  
3 outstanding performance as a youth carrier.

4 House Bill 2369 includes several  
5 current and longstanding provisions of the current  
6 Child Labor Law with regard to youth carriers.

7 Establishing working hours between 5  
8 a.m. and 8 p.m. and minimum age of 11. Minors  
9 engaged in newspaper delivery are excluded from  
10 the definition of youth peddling, which is very  
11 highly supervised as I understand it. And minors  
12 over age 16 who deliver papers are not required to  
13 obtain a work permit.

14 These provisions have appeared in the  
15 law for many years and, like the labor law in  
16 other states, reflect federal law, at least that  
17 is my understanding. It's easy to get confused  
18 sometimes when we start to explore these issues in  
19 a hearing.

20 The legislation also incorporates  
21 several important amendments to the Act regarding  
22 newspaper carriers. The law currently prohibits  
23 minors from employment for more than six  
24 consecutive days in a single week while House Bill  
25 2369 permits minors engaged in newspaper delivery

1 to work seven consecutive days.

2 For daily papers that publish a Sunday  
3 edition, a seven-day work week permits a youth  
4 carrier to complete his or her entire route. This  
5 recognizes the practical reality involved in  
6 having a paper route and supports the availability  
7 of newspaper delivery as a work opportunity to  
8 youth.

9 Finally, the bill addresses the  
10 independent contractor status of newspaper  
11 carriers. The Pennsylvania Department of Labor  
12 and Industry posted a statement of policy on its  
13 website in 2004 that provides guidance on this  
14 issue.

15 Minors under age 16 do not need to  
16 obtain a work permit if they can demonstrate that  
17 they're working as independent contractors. This  
18 interpretation appears in section 10(a)4, page 17  
19 of the bill incorporating the Department's 2005  
20 recommendation to enact that policy into law.

21 A copy of this is attached to the  
22 testimony that you have here before you and it  
23 coordinates with criteria establishing independent  
24 contractor status.

25 In addition to their earnings, young

1 people who work as newspaper carriers gain a  
2 strong sense of community, learn about job  
3 responsibilities, gain a strong work ethic. House  
4 Bill 2369 provides support to these youth and  
5 their newspapers.

6 My organization is pleased to support  
7 House Bill 2369. We urge the Labor Relations  
8 Committee to advance the bill to the full House  
9 and ultimately the Governor's desk. I appreciate  
10 your attention and interest and will be pleased to  
11 respond to any questions that you might have.

12 CHAIRPERSON BELFANTI: Thank you very  
13 much. Before I invite Members to ask questions,  
14 what would the editorial pages be saying if a  
15 candidate at a minor age 11 passing out political  
16 brochures at 5:00 in the morning?

17 MS. MUSSELMAN: I have a feeling that  
18 we would probably support freedom of political  
19 expression. You know, the First Amendment really  
20 is the bottom line to our membership.

21 CHAIRPERSON BELFANTI: Also on Sundays,  
22 that's the paper my wife looks forward to. I  
23 think the carriers should be paid extra for all  
24 the coupons that are stuffed in the inserts in the  
25 papers. I think their pay ought to be at least

1 double.

2 MS. MUSSELMAN: You know, you might  
3 want to talk to your paper boy about negotiating a  
4 better contract.

5 CHAIRPERSON BELFANTI: Okay. I'll open  
6 it up to the panel for questions. Representative  
7 Steil.

8 REPRESENTATIVE STEIL: Thank you,  
9 Mr. Chairman.

10 First of all, as a practical matter,  
11 carriers who deliver papers for those newspapers  
12 that have a daily and a Sunday edition, as a  
13 practical matter, they're already delivering seven  
14 days, aren't they? Or do newspapers get different  
15 carriers on Sundays as opposed to weekdays?

16 MS. MUSSELMAN: That's something that  
17 we haven't really looked at in great detail. I've  
18 talked to circulation directors who have said that  
19 somebody in the household sometimes has a contract  
20 for Sunday delivery. Others say, We follow the  
21 law precisely. You know, it varies greatly.

22 REPRESENTATIVE STEIL: No one will  
23 admit -- sorry, I didn't want to put you on the  
24 spot.

25 Second question is, Again, for any

1 carrier at age 11 who begins to deliver  
2 newspapers, does the Newspaper Association and the  
3 individual newspapers themselves have some sort of  
4 a formal agreement or understanding with the  
5 parents of that child before they employ the  
6 child?

7 MS. MUSSELMAN: Well, when you  
8 look -- this provision of the law was enacted in  
9 1992. Some of you might remember Senator Hall  
10 (phonetic), in fact, he was the sponsor of that  
11 legislation, both the 5 a.m. and age 11.

12 And that was tracking federal law at  
13 that time. I understand three dozen states made  
14 the same amendment to their act.

15 Parents -- when you look through the  
16 Child Labor Law -- I was thinking about this  
17 earlier in the week -- you note, of course,  
18 there's a good bit of very precise regulatory  
19 language, so to speak, with exemptions for  
20 newspaper delivery.

21 And I think that does speak to the  
22 close cooperation between newspapers in the  
23 community and the parents.

24 One of the things that I've learned  
25 recently was that papers that employ youth



1 carriers, most of their youth carriers are age 14  
2 through 16. It builds up from the younger ages.  
3 And then after they get their driver's license, it  
4 tends to slack off as they find other means of  
5 making money.

6 And a lot of the people whose -- all  
7 their kids have been newspapers carriers. And  
8 some of our circulation directors have told me  
9 that people tell them, you know, I help my kid  
10 deliver the Sunday paper, Representative Belfanti,  
11 and it's always been a great time together.

12 There's nothing in any formalized  
13 agreement that we say, here. You should get the  
14 parents to read and sign off on this. But we  
15 certainly do advise them to work closely with the  
16 parents, the papers that do choose to utilize  
17 youth carriers.

18 REPRESENTATIVE STEIL: Thank you,  
19 Mr. Chairman.

20 CHAIRPERSON BELFANTI: Thank you. Any  
21 other questions for Deb?

22 (No audible response.)

23 MS. MUSSELMAN: I would like to add one  
24 other thing for you to be aware of.

25 The Department's recommendation for a 6

1 a.m. start time, that really -- papers need to be  
2 delivered by 6 a.m.

3 So that recommendation really would  
4 be -- well, it would hit not only the 11-year-olds  
5 that they are attempting to protect -- we haven't  
6 heard of any 11-year-olds being assaulted on their  
7 route -- but it would really -- I think it would  
8 force some papers to reconsider whether they want  
9 to use youth carriers or go to adults instead if  
10 that start time were to be changed.

11 CHAIRPERSON BELFANTI: I don't want to  
12 speak for the Department, but I assume that their  
13 rationale is not due to excessive assaults, etc. ;  
14 it's more the hours of sleep that one needs before  
15 starting a full school day. I see the Secretary  
16 nodding her head yes in that regard.

17 And it's a matter of, you know, if it  
18 puts your child -- if their newspaper carriers do  
19 have homework, put them right to bed so they can  
20 get up and start delivering papers and still have  
21 an adequate number of hours of sleep and be able  
22 to ingest all of the education they're supposed to  
23 the previous day.

24 MS. MUSSELMAN: Well, again, I think  
25 this does go back to the notion that we do want to

1 work with and trust parents to understand what's  
2 appropriate for their child as well.

3 But as I said, changing the start time  
4 wholesale for all youth carriers would be very  
5 problematic for our papers that are currently  
6 using youth carriers.

7 I have been told that it's a completely  
8 different kind of job to supervise youth carriers  
9 versus adults. And those that do utilize youth  
10 carriers have consciously made that decision that  
11 they want to do that in order to encourage  
12 students to enter the working community.

13 CHAIRPERSON BELFANTI: Okay. Any other  
14 questions?

15 (No audible response.)

16 CHAIRPERSON BELFANTI: Again, thank you  
17 very much for your testimony.

18 MS. MUSSELMAN: Thank you very much.

19 CHAIRPERSON BELFANTI: Next on the list  
20 we have Albert Catarro. He's the coordinator of  
21 the Business and Community Relations of Centennial  
22 School District in Warminster, Pennsylvania.

23 Mr. Catarro, whenever you're ready,  
24 please begin.

25 MR. CATARRO: Thank you.

1                   Good morning. Today I present a voice  
2                   from education and support the alignment of  
3                   federal and state child labor laws and to promote  
4                   educational work programs for the youth of  
5                   Pennsylvania.

6                   My name is Al Catarro. I'm coordinator  
7                   of Business Community Affiliations for the  
8                   Centennial School District in Warminster,  
9                   Pennsylvania, the home of Representative Bernie  
10                  O'Neill.

11                  Representative O'Neill and I have  
12                  taught in the same high school. After he was  
13                  elected to his current office, I assumed his  
14                  supervisory responsibility related to professional  
15                  education work programs.

16                  In addition, I'm a cooperative  
17                  education coordinator and have been associated  
18                  with secondary work programs for 15 years. My  
19                  educational background includes a Bachelor of  
20                  Science in Business Administration, a Masters in  
21                  Education, and presently I'm a doctoral student at  
22                  Temple University and my dissertation proposal on  
23                  how No Child Left Behind has impacted career  
24                  technical education in Pennsylvania.

25                  Currently, career education faces many

1 challenges from several fronts, one being  
2 disparity of child labor laws in the State of  
3 Pennsylvania and federal child labor laws. This  
4 legislation will remove some of the obstacles that  
5 we are facing.

6 Other obstacles facing career and  
7 technical education are PSSA requirements to fill  
8 No Child Left Behind mandates, which is actually  
9 limiting the availability of career and technical  
10 education programs to students who have identified  
11 interests in the workplace as a prosecondary goal.

12 Just to cite an example, Representative  
13 O'Neill addressed one obstacle that we faced in  
14 our district: Adding retirement communities to  
15 the current labor laws.

16 This permitted our school district to  
17 partner with a local retirement community to  
18 create a work program for developmentally disabled  
19 high school students. The value of these programs  
20 cannot be measured. We cannot duplicate the  
21 realism of the community-based program in a  
22 classroom.

23 As work-based learning coordinators,  
24 our challenge is to place students in entry-level  
25 jobs to relate to the student's current interest.

1 It's a great deal of background knowledge that is  
2 needed to properly complete this task.

3 A major issue in the process is  
4 understanding the Child Labor Laws and having the  
5 ability to explain them to employers. Over time  
6 there has arose a common complaint from employers  
7 in many local areas.

8 It seems that the PA State and Federal  
9 Child Labor Laws do not correlate. This  
10 complication has consistently caused issue with  
11 the process of structured, work-based learning  
12 experiences.

13 It takes time to develop a level of  
14 trust with employers. Some do not wish to invest  
15 the time or are warned by accountants or lawyers  
16 that investing in youth is not worth the risk.  
17 Workplace development in Pennsylvania is worth the  
18 risk and we can make it easier by a revision of  
19 the Pennsylvania Child Labor Laws.

20 Representatives from the Pennsylvania  
21 Cooperative Education Association conducted  
22 anonymous phone inquiries to other coordinators  
23 asking for reported incidents where employers were  
24 penalized for noncompliance of laws unjustly.

25 Due to the fact that they are

1       cumbersome and unclear, a large enough number of  
2       cases existed to take this issue further.

3                 In February 2001, the issue was brought  
4       to the Legislative Action Committee of the Lower  
5       Bucks Chamber of Commerce. Representative Steil  
6       decided to investigate and move forward with the  
7       problem at the state level.

8                 One important segment of the law needs  
9       to be kept constant in any changes to legislation.  
10       This is the Exemption Clause which states that the  
11       Department of Labor and Industry Bureau of Labor  
12       Law Compliance does exempt students of 16 or 17  
13       years of age from specific hazardous occupations  
14       if they are apprentices student learners enrolled  
15       in or graduates from an approved vocational,  
16       technical, or industrial institution which prepare  
17       them for employment in the specific occupations.

18                 Proof of a child's employment in the  
19       program and that our student learner's specific  
20       occupation study at the approved institution  
21       requires that a training agreement and a training  
22       plan, cooperative education paperwork from the  
23       certified cooperative education coordinators, be  
24       on file with a bona fide cooperative education  
25       program.

1           The hazardous order exemption only  
2 extends to the summer months between the junior  
3 and senior year if the cooperative education  
4 coordinator is employed during the summer to visit  
5 the students.

6           Additionally, when a student learner  
7 has completed his or her training and graduated  
8 from high school and completed student learner  
9 requirements, he or she may be employed in the  
10 occupation for which she has been trained as a  
11 journeyman even if the student minor is not yet 18  
12 years of age.

13           The youth's employment would not be  
14 subject to the restrictions if supervision of the  
15 hazardous work being performed is incidental to  
16 the training.

17           They would have to be employed in  
18 compliance with all the other hazardous orders  
19 that do not have exemptions until the age of 18.  
20 This piece is to ensure the safety and security of  
21 our youth in Pennsylvania while starting the  
22 workforce development pipeline with our youth in  
23 our state.

24           Thank you for the opportunity to speak  
25 today and thank you, Representative Steil, for



1 supporting this legislation.

2 CHAIRPERSON BELFANTI: Thank you very  
3 much for your testimony, Al.

4 Questions from the panel?  
5 Representative Boyd.

6 REPRESENTATIVE BOYD: Thank you for  
7 your testimony. I'm curious, of the  
8 recommendations that the Department made of  
9 amendments to the bill, I'm specifically  
10 interested in the one recommendation where they  
11 want to have a bit more restrictive hours on the  
12 youth for the state law as opposed to current  
13 federal law.

14 Do you perceive that that will create  
15 any problems --

16 MR. CATARRO: In the past there has  
17 been some type of consideration for those hours  
18 that the students were in the program; in other  
19 words, if they had a work-based program, they were  
20 released from school for a certain amount of time,  
21 that necessarily wouldn't count against their  
22 hours at the job. So there was some kind of  
23 extended period that they could work.

24 I think as educators we're very  
25 concerned about putting students in the workplace

1 too long, and I think that's one of the reasons  
2 why we tried to promote these kinds of work  
3 programs which still enable the students as part  
4 of their workday -- as part of their school day to  
5 gain that experience to get involved in those  
6 workplaces that do have some kind of support in  
7 their employment.

8 I don't know if that answered your  
9 question. But we are in favor of monitoring and  
10 limiting students' workplace hours, yes. As long  
11 as we can complete enough hours.

12 Today we're going through a lot of  
13 difficulties especially with testing requirements.  
14 Sometimes students have to remove from programs,  
15 programs stop for weeks at a time, to get prepared  
16 for the tests.

17 So we do have to consider the amount of  
18 hours that kids get on the on-the-job training  
19 that we do have a sufficient enough to fulfill the  
20 program requirements.

21 REPRESENTATIVE BOYD: The specific  
22 question is -- I mean, the whole intent of, or not  
23 the whole, but one of the primary intents of  
24 Representative Steil's bill was to develop  
25 consistency between federal and state law, which

1 is what his bill does. And then we're looking for  
2 recommendation --

3 MR. CATARRO: No, I don't see it.

4 REPRESENTATIVE BOYD: That's the main  
5 thing.

6 MR. CATARRO: Sorry. I guess we see  
7 for education we have a lot of -- we've made a lot  
8 of progress through the years, but we -- due to  
9 federal legislation, we've gone backwards a little  
10 bit. So we just want to get our voice out there.  
11 And I just -- kind of want to stress certain  
12 points when I get a chance to.

13 CHAIRPERSON BELFANTI: Any other  
14 questions?

15 (No audible response.)

16 CHAIRPERSON BELFANTI: If not, thank  
17 you very much for your testimony.

18 Next the Committee will hear from John  
19 Bell, Governmental Affairs Counsel with the  
20 Pennsylvania Farm Bureau. Welcome, and thank you  
21 for attending.

22 MR. BELL: Good morning, Mr. Chairman,  
23 Representative Steil, and members of the  
24 Committee. I am John Bell, and I am Governmental  
25 Affairs Counsel for Pennsylvania Farm Bureau and

1 I'm testifying on their behalf today and the more  
2 than 42,000 farm and rural farm families who  
3 represent our organization's membership.

4 We do want to thank you for the  
5 opportunity today to offer our thoughts on House  
6 Bill 2369 and its attempt to recodify the State  
7 Child Labor Laws.

8 As Representative Steil mentioned in  
9 his opening remarks, this proposed legislation has  
10 had a pretty long history. It's the fourth  
11 Legislative Term in which this proposed  
12 legislation has been considered by the General  
13 Assembly.

14 And while there have been some changes  
15 made, the bill in its current form largely  
16 resembles the legislation that was introduced in  
17 2002 under House Bill 2780.

18 Nearly six years ago on August 14th,  
19 2002, I offered testimony on behalf of Farm Bureau  
20 before this Committee. And as we were very  
21 supportive in 2002 of this bill's attempt to make  
22 Pennsylvania's Child Labor provisions consistent  
23 or more consistent with the federal legislation,  
24 we are equally supportive with House Bill 2369's  
25 attempt to do the same.

1                   But the concerns that we expressed back  
2                   in 2002 over the drafted provisions of House Bill  
3                   2780 governing the employment of minors in  
4                   agriculture were not necessarily subsided by the  
5                   provisions that are in the current bill, and we do  
6                   remain concerned over how the limited exclusion  
7                   from the child labor requirements provided in  
8                   House Bill 2369 will be interpreted and applied in  
9                   the context of specific employment situations  
10                  around the farm.

11                  Let me reference the specific provision  
12                  that I'm talking about. Subsection B of section  
13                  15 of House Bill 2369 which prescribes the  
14                  applicability of the bill's requirements and  
15                  restrictions in agricultural employment states,  
16                  and I quote:

17                         Agricultural employment which is exempt  
18                         from coverage of the Child Labor provisions of the  
19                         Fair Labor Standards Act shall be exempt from  
20                         coverage of this Act.

21                  We have four main concerns with the  
22                  specific language contained in this provision.  
23                  Our first concern: What does the phrase "exempt  
24                  from coverage of the Child Labor provisions of  
25                  FLSA" mean in the context of the expressed

1 requirements generally prescribed for employment  
2 of minors in House Bill 2369?

3 Our second concern: How is the exempt  
4 from coverage exemption for agricultural  
5 employment to be applied with respect to  
6 legislative areas not specifically addressed in  
7 the Fair Labor Standards Act such as those  
8 requirements prescribed in House Bill 2369 for  
9 employers to ensure minors have work permits and  
10 have parental authorization?

11 Our third concern: How is the exempt  
12 from coverage exclusion to be applied with respect  
13 to hours of employment? Fair Labor Standards Act  
14 does not provide an absolute exemption from  
15 coverage with respect to hours in which minors may  
16 be employed, but does impose fewer restrictions in  
17 hours of employments of minors in agriculture than  
18 those that would be imposed under House Bill 2369.

19 And fourth: What is considered to be  
20 the scope of agricultural employment for which the  
21 exemption from coverage provision does apply?

22 To better understand our concerns, I'll  
23 try to give you a brief summary of the current  
24 state and federal laws governing the employment of  
25 minors on farms.

1                   With the exception of minors who are  
2                   so-called seasonal farm workers under the State  
3                   Seasonal Farm Labor Act, our state laws  
4                   essentially exclude employers of children employed  
5                   on the farm from the State Child Labor  
6                   requirements.

7                   But the scope of employment for which  
8                   this exclusion might apply, at least in our  
9                   opinion, somewhat differs from the special rules  
10                  that pertain to employment of minors in so-called  
11                  agriculture under the Federal Fair Labor Standards  
12                  Act.

13                  Depending on how House Bill 2369's  
14                  exempt from FLSA coverage language is to be  
15                  interpreted, section 15(b) of the bill may have  
16                  the legal effect of either virtually eliminating  
17                  or generally expanding the exclusion provided  
18                  under the current law in the employment of minors  
19                  on farms.

20                  The Federal Fair Labor Standards Act  
21                  does not provide to agricultural employers  
22                  generally statutory exemptions from requirements,  
23                  but rather provides special provisions for minors  
24                  that are employed in what is defined to be  
25                  agriculture under FLSA.

1                   These requirements and allowances  
2           provided and conditions under which a minor may be  
3           employed in agriculture under FLSA will depend  
4           partially on the age of the minor.

5                   For example, minors under 14 years of  
6           age generally can't be employed in agriculture  
7           without the consent of the minor's parent or  
8           person acting on behalf of the minor's parent in  
9           some form.

10                   With very few exceptions, agricultural  
11           employers are prohibited from allowing any minor  
12           under 16 years of age to perform activity that the  
13           U.S. Secretary of Labor has determined to be  
14           hazardous and employers are prohibited from  
15           employing minors in agriculture during school  
16           hours.

17                   With respect to wages that must be paid  
18           to minors, FLSA makes distinctions among classes  
19           of agricultural employers and among specific tasks  
20           that a minor may perform on the farm.

21                   While agricultural employers are fully  
22           exempt from requirements to pay overtime wages,  
23           only smaller type employers are fully exempt from  
24           requirements to pay federally-mandated minimum  
25           wages.



1                   Employers who have employed over 500  
2 man days of agricultural labor in any quarter of  
3 the previous calendar year are required to pay the  
4 federally-mandated minimum wage rate to employees.

5                   Even for employers who have met this  
6 500-man-day threshold, FLSA has special provisions  
7 which would allow certain minors employed to  
8 perform hand-harvesting activities to be paid  
9 wages based on a piece rate formula that may  
10 result in payment of total wages below FLSA's  
11 prescribed minimum hourly wage.

12                   As mentioned earlier, what is  
13 considered to be employment in agriculture in FLSA  
14 likely differs from what is considered to be  
15 children employed on the farm in the State's Child  
16 Labor Law.

17                   For purposes of the Fair Labor  
18 Standards Act, agriculture not only includes those  
19 commonly recognized activities on the farm that  
20 are part of traditional farming practices,  
21 agriculture also includes other activities  
22 performed on the farm which themselves are not  
23 farming practices but are performed as incident to  
24 or in conjunction with those farming practices for  
25 which the farmer is engaged.

1                   Activities related to the preparation  
2 of farm products for market, the direct marketing  
3 or processing of agricultural products produced by  
4 the farmer employer, and the delivery of produced  
5 farm products to warehouses or shipment areas  
6 would be considered to be part of what FLSA would  
7 consider to be part of agriculture.

8                   Depending on how literally the term  
9 agricultural employment and the phrase exempt from  
10 coverage from child labor provisions are to be  
11 read, we believe there are at least six different  
12 interpretations that could be applied to the  
13 exclusion to be provided under section 15(b).

14                   And I won't read them. You can  
15 certainly read them. They are part of my prepared  
16 testimony.

17                   But all of these six potential  
18 interpretations, at least in my humble opinion,  
19 are very viable and all six of those  
20 interpretations would lead to six completely  
21 different results for which the exemption to  
22 agriculture is or is not to apply.

23                   We certainly would hope that the sixth  
24 interpretation would be the prevailing  
25 interpretation that would be applied. And that's

1 the interpretation which would equate the State's  
2 child labor requirements and exclusions to what  
3 FLSA would require or not require.

4 However, we are not confident that  
5 section 15(b) as currently drafted would guarantee  
6 the application of this interpretation.

7 If the true intent of section 15(b) is  
8 to have the state law's requirements and  
9 allowances for employers employing minors in  
10 agriculture mirror those requirements and  
11 allowances provided in federal law under the FLSA,  
12 we believe the language contained in 15(b) needs  
13 to more clearly state that.

14 And generally we would recognize that  
15 the efforts under state law to do so would  
16 actually expand the requirements that agricultural  
17 employers would need to meet under state law. As  
18 I mentioned earlier, the Child Labor Law provides  
19 a pretty blanket exemption from child labor  
20 requirements to children employed on the farm.

21 But we think this is a reasonable  
22 expansion. And, practically speaking, our farmers  
23 have been educated and pretty well understand what  
24 is required of them under the FLSA.

25 So certainly while we recognize that

1       legally it's a technical expansion, such expansion  
2       is a reasonable one and one which we think our  
3       farmers can fully comply with.

4               In the past we have made suggestions  
5       for change to section 15(b) that we believe would  
6       satisfy our concerns, and we are certainly willing  
7       to work with this Committee and with the General  
8       Assembly to arrive at language in House Bill 2369  
9       that more clearly identifies what is considered to  
10      be agriculture and what standards do and do not  
11      apply to the employment of minors in agriculture  
12      under the bill's recodification of the State Child  
13      Labor Law.

14              Again, we thank you for the opportunity  
15      today to testify and I will try to answer any  
16      questions you may have. Thank you.

17              CHAIRPERSON BELFANTI: Thank you very  
18      much. I recall during several of the debates on  
19      this and similar legislation that the Members  
20      expressed a great deal of concern about hazardous  
21      or, not just on the farm, but in other employment  
22      areas where children under 17 are permitted to  
23      engage. And I see that you have addressed that in  
24      your testimony.

25              Can you give me some examples of what

1 areas of agriculture your association on its own  
2 would suggest that the legislation specifically  
3 preclude children from performing work around or  
4 utilizing certain types of tools or anything in  
5 that regard?

6 MR. BELL: Well, we would recognize  
7 that an equation of State Child Labor Law to the  
8 Federal FLSA requirements and prohibitions would  
9 by operation of law include all of those  
10 activities that the U.S. Secretary of Labor has  
11 identified as hazardous.

12 While I may not remember all of them,  
13 they do include the use of farm equipment with a  
14 PTO horsepower of greater than 20 horsepower.  
15 They do include prohibitions against working at  
16 heights of a certain height. I don't remember  
17 exactly the height.

18 They do also include prohibitions in  
19 working in and around silos and manure pits and  
20 areas where employees could find themselves in  
21 pretty serious peril. They also include  
22 prohibitions in working in and around pens of  
23 relatively dangerous animals like bulls.

24 And certainly we would support and have  
25 no problem with recognizing the State requirements

1 would include those.

2 And we do -- I would note that one of  
3 the amendments from the old House Bill 2780 that  
4 was included in the most recent version of this  
5 legislation attempted to incorporate those  
6 prohibitions of minors being employed in those  
7 types of activities.

8 CHAIRPERSON BELFANTI: And that would  
9 also include weight restrictions on how much a  
10 child would be allowed to lift or carry?

11 MR. BELL: I believe there are  
12 provisions in there. There's also a provision  
13 that would prevent minors from working in and  
14 around augers that move materials and feed and the  
15 like.

16 CHAIRPERSON BELFANTI: Thank you very  
17 much. Dave.

18 REPRESENTATIVE STEIL: Thank you,  
19 Mr. Chairman. Thank you very much for your  
20 testimony, Mr. Bell. I really appreciate it, and  
21 it's certainly very helpful.

22 I guess I want to make sure that the  
23 comments that are included in your testimony are  
24 addressed to children under the age of 18 who work  
25 on a farm different than their family farm. Or do

1       you believe that the same restrictions should  
2       apply to the family farm as opposed to another  
3       third-party farm?

4                   MR. BELL: Well, right now the  
5       child -- FLSA Child Labor provisions are the same  
6       for smaller employers or larger employers. A  
7       smaller employer is prohibited from allowing a  
8       minor to be employed in the same type of hazardous  
9       activities as the larger employer under FLSA.

10                   REPRESENTATIVE STEIL: So the question  
11       though is, If the child is simply working on their  
12       family farm and they are under the direction of  
13       their parents, does FSLA (sic) still apply?

14                   MR. BELL: That's a good question, and  
15       I'm not sure I have a specific answer for that. I  
16       know at least with respect to the wage provisions  
17       FLSA recognizes that children that work on the  
18       parents' farm are exempt from minimum wage  
19       requirements, but the scope of the child exemption  
20       is very limited to the sole proprietorship  
21       situation or the partnership situation.

22                   If the family has organized its farming  
23       operation to be a corporate-type structure, then  
24       the employee -- the child is employed by the  
25       corporation and the child exemption would no

1 longer apply under the federal FLSA.

2 REPRESENTATIVE STEIL: So I guess we  
3 probably need to research that a little further.  
4 We probably need to take recommendations. Because  
5 I suspect if the family farm is subject to the  
6 same recommendations as a third-party employer  
7 that certain parents might begin to have a real  
8 problem with this kind of legislation restricting  
9 how they were to direct their children in the  
10 employment on their own farm.

11 MR. BELL: They might. They might.

12 REPRESENTATIVE STEIL: So we'll  
13 appreciate your recommendations on that.

14 MR. BELL: Okay. Thanks.

15 REPRESENTATIVE STEIL: Thank you.

16 CHAIRPERSON BELFANTI: Thank you very  
17 much for your valuable time today and your  
18 testimony.

19 MR. BELL: Thank you.

20 CHAIRPERSON BELFANTI: We have two  
21 further individuals who wish to offer testimony.  
22 First we'll hear from Connie Muschko, who's with  
23 the Bethlehem Area Vocational and Technical  
24 School, followed by Rick Bloomingdale, who I  
25 noticed just arrived, from the AFL-CIO.



1                   So, Connie, if you're here.

2                   MS. MUSCHKO: Good afternoon. My  
3 name's Connie Muschko, and I am a school-to-career  
4 coordinator at the Bethlehem Vo-tech, also the  
5 Eastern Region Vice-President of the Pennsylvania  
6 Cooperative Education Association and also a  
7 school-wide Skills U.S.A. advisor.

8                   On a side note, I'm also a farm kid; so  
9 I was interested in what was being spoken of.

10                  I'm fortunate to work in the Lehigh  
11 Valley and over the past 17 years have forged  
12 relationships with a variety of companies, many  
13 larger corporations, including Bosch Rexroth, the  
14 Lehigh Heavy Forge, and B. Braun and Westside  
15 Hammer Electric and in the process of forging  
16 those relationships have been heavily involved in  
17 the Pennsylvania Cooperative Education  
18 Association.

19                  I want you to know that our  
20 organization has compiled a labor law reference  
21 guide for the inconsistencies that do occur within  
22 the law. (1), to assist our instructors across  
23 the State of Pennsylvania who deal with placements  
24 of students, and also for our employers.

25                  We utilize this information as a

1 reference. And although it is not a legal  
2 document as it states inside, it has been critical  
3 for us in the placement of students as we do place  
4 students obviously in hazardous occupations. So  
5 we appreciate that.

6 We would truly appreciate if the  
7 employers would be given a consistency so that we  
8 don't always have to share with them that they  
9 have to go by the more stringent of two laws.

10 Also, we are requesting that  
11 definitions are cohesive between the federal and  
12 state laws, specifically in regards to the student  
13 learner exemption and permitting us to remain that  
14 we can operate in the 18 hazardous occupations.

15 One of the problems or concerns that we  
16 deal with within the co-op program is we are  
17 training students in career and technical schools,  
18 and if they prohibit us from that placement of  
19 students -- I can tell you right now we are in  
20 dire need of machinists in the Lehigh Valley. We  
21 will be struggling as far as fulfilling the  
22 occupations within our own local area. And that  
23 is occurring across the state as well.

24 So we would appreciate the consistency  
25 in the student learner piece be activated into the

1 state legislation.

2 Also, we recognize that the laws were  
3 enacted in the early 1915s and we also experience  
4 some inconsistency with the work permits. There  
5 are times where they are marked inappropriately  
6 and which causes some fines and issues for our  
7 students during times of inspection.

8 The question came up here in regards to  
9 hours. And I would like to share on my end, we  
10 are, as I shared, in dire need of some  
11 occupations. To limit my students' hours to less  
12 than eight hours a day would definitely cause an  
13 impact on some of our employers.

14 We are struggling for certain  
15 occupations. The students typically go out from  
16 our building anywhere between 10:30 and 11:00 and  
17 some of the students do work till 8:00. So they  
18 put in an eight-hour day.

19 That is not necessarily the case for  
20 all students. Some of them only work till 5:30;  
21 some till 3:00. But it would truly be appreciated  
22 if you keep the hours to 8 hours a day and a  
23 44-hour week.

24 One of the other reasons we'd like to  
25 share with you is our employers' hesitant because

1 of two sets of laws. I know that in the past one  
2 of the things that has -- they do not want to risk  
3 the shame of a Labor Law violation, especially a  
4 Child Labor Law violation.

5 That is where they become reluctant.  
6 They'd rather have the fine. But when it becomes  
7 a Child Labor fine, they become very unsure of how  
8 they want to handle it from there.

9 We as a state association appreciate  
10 your consideration in the revision of the  
11 legislation and we want to appreciate the fact  
12 that you assist us in placing our students in the  
13 Commonwealth of Pennsylvania. Thank you.

14 CHAIRPERSON BELFANTI: Thank you. Can  
15 you explain for the panel some of the types of  
16 8-hour workdays that your students are now  
17 performing?

18 MS. MUSCHKO: Okay. The ones that I  
19 typically have working right now that are a full  
20 8-hour day are at B. Braun, which is a medical  
21 company within the Lehigh Valley. It's a  
22 machining occupation where they do plastic  
23 injection molding and they do the machining of the  
24 parts there.

25 The other facility is Bosch Rexroth.

1 And that is a painting -- the young man is in the  
2 painting aspect of their facility. They do a lot  
3 of hydraulics work and they do the John Deere line  
4 and operations for Disney Worlds and things of  
5 that nature.

6 So those are the two ones that I have  
7 that are in an occupation that are -- that go to  
8 the 8-hour limit. Typically, our carpentry  
9 students, they work a 5-hour day. That's the  
10 maximum for those students.

11 The other profession is the nursing  
12 profession, because I have students that are  
13 Certified Nursing Assistants and they are working  
14 in the nursing homes in the area. And they  
15 typically do the 8-hour shift as well. And that's  
16 another area we have a shortage, so our CNA area.

17 CHAIRPERSON BELFANTI: And just using  
18 those three examples, are they year-around  
19 positions or are they --

20 MS. MUSCHKO: Typically my students --

21 CHAIRPERSON BELFANTI: -- when school  
22 out of session or --

23 MS. MUSCHKO: Actually, I am -- we  
24 alternate. There's two coordinators in our  
25 building and we alternate over each of the summers

1 to make sure that our students are covered because  
2 of the risk of -- I don't want my employers fined.  
3 So we make sure that we operate with or without  
4 pay so that they are getting coverage.

5 And we also make our students maintain  
6 their journals over the summer so that we have  
7 documentation of where they are, and we do the  
8 visitations as well.

9 CHAIRPERSON BELFANTI: Okay. My  
10 concern here is during the school year, 44 hours a  
11 week. And we have discussed this with, you know,  
12 in certain types of occupations and newspaper  
13 carriers and, you know, student actors, etc.,  
14 they're not driven to the hilt, so to speak, on a  
15 school day.

16 And isn't it possible to have some of  
17 these students working -- twice as many students  
18 working the 22 hours a week as the number that  
19 might be now working 44 hours a week during an  
20 actual school year period of time?

21 MS. MUSCHKO: I think where the -- if  
22 you're looking at a high school academic student,  
23 there is a -- their classes run differently versus  
24 those in the career and technical schools.

25 In our particular case, we run on a

1 half day about basis. So they spend a half a day  
2 at their vocational school and they spend a half a  
3 day at their high school.

4 So when they have gotten to the point,  
5 especially if they've had three years with  
6 us -- so we have actually some four-year  
7 students -- they have progressed enough within  
8 their trade area that we are actually limiting  
9 them if we keep them in the building versus having  
10 them progress.

11 And that is one of the things that with  
12 our cooperative education students, if you limit  
13 those hours-- and I know you're looking at the  
14 whole at this point -- but if you forget our  
15 segment of our student, they retrogress.

16 These are students typically that value  
17 the knowledge of academics once they've had the  
18 ability to experience the hands-on part. They're  
19 not initially the academic first and then the  
20 hands-on. They're the hands-on; and then they  
21 start to realize, oh, this is why I need to  
22 progress in the academic field.

23 Many of our students come to us with  
24 the understanding that they may not be continuing  
25 on to higher academics; but once they've

1 experienced us, then they realize they want to go  
2 for postsecondary training.

3 And I think that's a critical factor  
4 because they realize the value of the work and  
5 what they've seen and how that can take them into  
6 owning their own businesses. Because a lot our  
7 students then eventually look to go on to become  
8 entrepreneurs.

9 CHAIRPERSON BELFANTI: Just to be clear  
10 then, you talked about the mixed half day and the  
11 half day --

12 MS. MUSCHKO: Yes.

13 CHAIRPERSON BELFANTI: Your typical  
14 student that would be working at one of those  
15 three facilities would still be required to attend  
16 school full time irregardless of whether the time  
17 was split, let's say from 8:30 to 3:00 and then  
18 work an 8-hour day?

19 MS. MUSCHKO: No, no. They are  
20 released during our time at the vocational school  
21 to go out. And they may put in three hours at  
22 that time and then five hours after school.

23 CHAIRPERSON BELFANTI: Okay. I  
24 appreciate that.

25 MS. MUSCHKO: Sorry.



1                   CHAIRPERSON BELFANTI: I thought it was  
2 important that, you know, we knew that they  
3 weren't beginning their day at 6 in the morning  
4 and ending at midnight and not getting homework  
5 time --

6                   MS. MUSCHKO: No, that's not what we  
7 want. Believe me, I'm the crazy lady that attacks  
8 them if they screw up on their grades. So I will  
9 share that.

10                  CHAIRPERSON BELFANTI: Representative  
11 Steil.

12                  REPRESENTATIVE STEIL: I want to follow  
13 up on Chairman Belfanti's question. Currently the  
14 way the bill is written, for those 16 years of age  
15 and older, during school time, the regular school  
16 week, they would be limited to 8-hour days but  
17 only 28-hour weeks.

18                  So your students do work every day of  
19 the week?

20                  MS. MUSCHKO: Yes, typically they do.

21                  CHAIRPERSON BELFANTI: Okay. So then  
22 what is currently in this legislation is a  
23 restriction that at least in your case would not  
24 work, at least for the some of the programs that  
25 you have.

1 MS. MUSCHKO: Correct.

2 REPRESENTATIVE STEIL: So if we were to  
3 address this, we would have to address it in some  
4 way addressing the hours that occur after regular  
5 school hours I would guess, because you're saying  
6 they work generally five hours after regular  
7 school hours, three hours during regular school  
8 hours and that's how they make up the 8-hour day.

9 MS. MUSCHKO: Right.

10 REPRESENTATIVE STEIL: Thank you.  
11 That's very, very helpful to us. Thank you.

12 CHAIRPERSON BELFANTI: Representative  
13 Seip.

14 REPRESENTATIVE SEIP: Thank you,  
15 Mr. Chairman.

16 Just to follow up on that, are all  
17 these students that we were just talking about in  
18 Representative Steil's question, would they be  
19 considered in a work study program? Would that be  
20 the title of what they're doing?

21 MS. MUSCHKO: Actually, mine is  
22 considered a cooperative education program. It  
23 doesn't actually have a zip (sic) code through  
24 Pennsylvania Department of Education. It's a  
25 method of a program.

1                   So what occurs in the career and  
2                   technical institutes is when the students have  
3                   progressed within their occupational area to a  
4                   point where their teachers feel they are  
5                   proficient, then we look at placing them out into  
6                   the workforce.

7                   So we're actually considered more or  
8                   less an extension of their classroom program. So  
9                   I work with a variety of employers and I place in  
10                  a variety of different occupations as well.

11                  REPRESENTATIVE SEIP: Maybe we can  
12                  establish some kind of exclusion for those  
13                  involved in those situations. Obviously, their  
14                  classmates are still in school while they're at  
15                  work; then their day really isn't any longer.

16                  MS. MUSCHKO: Right.

17                  REPRESENTATIVE SEIP: Thank you. Thank  
18                  you, Mr. Chairman.

19                  CHAIRPERSON BELFANTI: Thank you very  
20                  much for your testimony.

21                  MS. MUSCHKO: Thank you very much.

22                  CHAIRPERSON BELFANTI: At this time I'd  
23                  like to welcome the Secretary Treasurer of the  
24                  Pennsylvania AFL-CIO, Rick Bloomingdale. And,  
25                  Rick, whenever your ready, please.

1                   MR. BLOOMINGDALE: Thank you. Good  
2                   afternoon, Chairman Belfanti. With me today is  
3                   Mike Stephan, our newest legislative staff rep who  
4                   helped research and draft this testimony and is  
5                   here to help assist me if there are any questions  
6                   that I can't -- hopefully I can answer 'em all. I  
7                   feel fairly passionately about this subject.

8                   Also with us today, we have two  
9                   interns: Sage Ober, who is a Shippensburg  
10                  University, and Quint Newcomer is at Indiana  
11                  University of Pennsylvania.

12                  And by the way, we are limiting them to  
13                  40 hours a week, although with all the fund  
14                  raisers in early June we made a little exception  
15                  there to let them learn about the legislative  
16                  process.

17                  So my name is Rick Bloomingdale, and  
18                  I'm the Secretary Treasurer of the Pennsylvania  
19                  AFL-CIO. It's a pleasure for me to testify in  
20                  regards to House Bill 2369, known as the Child  
21                  Labor Act, on behalf of the 850,000 affiliate  
22                  union members, including their children and the  
23                  children working in the Commonwealth.

24                  This state has a longstanding history  
25                  of child labor laws. Since the mid-1800s, child

1 labor has been a continual issue. In fact, in  
2 1881 at the First National Convention of the  
3 American Federation of Labor, a resolution was  
4 passed calling on states to ban children under 14  
5 from all gainful employment.

6 Labor has continually protected the  
7 welfare of children, and this issue remains an  
8 important priority today.

9 House Bill -- we feel House Bill 2369  
10 does not completely provide the protection that  
11 the young workers of Pennsylvania need. Labor  
12 leaders have passionately opposed use of child  
13 workers. Protecting the welfare of children was  
14 and is still an important priority.

15 We fought the exploitation of children  
16 in coal mines, canning factories, garment mills,  
17 and glass factories. Activists abhorred the poor  
18 working conditions, lack of safety standards, long  
19 hours, and low wages.

20 Many children were paid a dollar to \$3  
21 a week, endured poor working conditions with  
22 little or no safeguards, acquired lifelong  
23 physical ailments, and were prevented from  
24 attending school and the opportunity to better  
25 themselves.

1           If the intent of this bill is truly an  
2 attempt to update and align with the federal  
3 guidelines for the purpose of avoiding confusion,  
4 then it should be done in a manner that it does  
5 not expose and exploit children.

6           Child labor provisions of the Federal  
7 Fair Labor Standards Act are designed to protect  
8 the education opportunities of youth and to  
9 prohibit their employment in jobs and under  
10 conditions detrimental to their health and  
11 well-being.

12           I mention this to all of you here today  
13 because of the intent of House Bill 2369. If  
14 truly attempting to align the two laws, then it's  
15 the AFL-CIO's belief that Pennsylvania legislation  
16 should strive to do the same.

17           The AFL-CIO understands the intent and  
18 commends the Committee for recognizing that this  
19 law could be updated and refined. However, we do  
20 not feel that it is necessary to take steps  
21 backwards from current law to do so.

22           We think parts of House Bill 2369 is  
23 exactly that: A step backward. The Bureau of  
24 Labor Statistics releases nationwide demographics  
25 of nonfatal, work-related injuries that resulted

1 in days away from work, some of which also  
2 included job transfer or restriction.

3 These numbers do exclude farms with  
4 less than eleven employees. The two categories  
5 provided that are of interest to us -- and this  
6 is -- you know, I mentioned the history of child  
7 labor and that we continually fight it.

8 There are people who believe that in  
9 this day and age that exploitation doesn't happen.  
10 It's a constant battle. From earliest days of  
11 history through the 1800s, the 1900s, and now the  
12 early 2000s, there are still children who are  
13 being injured and exploited.

14 In the 14 to 16 and 16 to 19 years of  
15 age -- I understand that 18- and 19-year-olds are  
16 not included in our topic, but their numbers are  
17 still too high.

18 2006, for 14- and 15-year-olds, there  
19 were a hundred and seventy injuries. This number  
20 drastically changes when you look at the next  
21 category of 16- to 19-year-olds where the number  
22 of injuries is an astounding 39,330.

23 2005, Federal charges were settled with  
24 Wal-Mart. The world's largest retailer was  
25 accused of 24 Child Labor Law violations. Teenage

1 workers were given hazardous responsibilities  
2 while working. The teens used equipment such as  
3 chainsaws, paper balers, and forklifts.

4 Several years before the Wal-Mart case,  
5 Tyson Food, a large competitor in the meat and  
6 poultry industry, was fined \$59,274 -- the maximum  
7 allowed at the time -- for violating child labor  
8 laws after a 15-year-old boy was electrocuted and  
9 killed while working in a chicken slaughtering  
10 plant in Arkansas.

11 And after, a 14-year-old was seriously  
12 injured in a poultry processing plant in Missouri  
13 when he fell into an auger and suffered severe  
14 nerve damage and second-degree burns to both legs.  
15 Both teens had been working late at night.

16 Currently the law in this state  
17 provides that minors 16 and 17 years of age are  
18 allowed to work a maximum of 28 hours per school  
19 week and allow eight hours on both Saturday and  
20 Sunday, 44 hours per week. During the summer  
21 session, a maximum of eight hours per day.

22 The proposed law would expand upon  
23 this. During the school year, minors would be  
24 able to work ten hours per Saturday and Sunday.  
25 Then during the summer months, the hours per week



1 would increase to 48 hours and ten hours per day.

2 The longer the hours a minor student  
3 works, two things may occur: (1), the more tired  
4 the student, the less attention and care is paid  
5 to the child's education, which may lead to  
6 declining grades; and (2), the likelihood of a  
7 job-related injury increases, because the longer  
8 the workday, the more likely a young worker will  
9 become tired towards the end of his shift which in  
10 turn may lead to less attention and care for  
11 safety precautions.

12 It is our belief that parts of this  
13 bill do nothing to protect children, but rather  
14 exploits them by forcing them to work more hours.  
15 By allowing this, you are imposing on valuable  
16 time and creating a risk of increased injuries.

17 I would like to note that the  
18 Pennsylvania AFL-CIO does recognize that several  
19 portions of this bill will provide for better  
20 protection, more clarification, and slightly more  
21 overlap of the Federal Labor Standard Act's child  
22 provision.

23 We commend this Committee, the sponsors  
24 and cosponsors, for recognizing the need for this  
25 and all of your efforts thus far. But I would

1 also like to note that in 2007 Pennsylvania  
2 Department of Labor and Industry reported that  
3 there were nearly a hundred and fifty child labor  
4 cases.

5 That is about one claim every two to  
6 three days in our Commonwealth. 2008, there have  
7 been 35 claims already this year. And I must also  
8 note that not all claims result in child labor  
9 violations; however, some may also result in  
10 several violations.

11 This shows that there are still  
12 deficiencies that need to be addressed. It's our  
13 opinion that they are not sufficiently done so in  
14 House Bill 2369's current form.

15 Thus the Pennsylvania AFL-CIO urges the  
16 Committee to oppose House Bill 2369 as written  
17 because of its inability to provide the necessary  
18 oversight and guidelines which protect the young  
19 workers of Pennsylvania.

20 Thank you for your attention, and I  
21 would be glad to answer any questions.

22 CHAIRPERSON BELFANTI: Thank you very  
23 much, Secretary Bloomingdale. We heard from  
24 several individuals earlier in the hearing  
25 describing some of their issues with the

1       legislation, including the Pennsylvania Department  
2       of Labor and Industry that echoed some of the  
3       similar remarks that you just mentioned:

4                 Difficulty with any expansion into a  
5       10-hour day, some tightening up of the rules on  
6       the hours that newspaper carriers could work,  
7       disincentives for providing jobs for high school  
8       dropouts who intentionally leave school to take a  
9       low-paying job rather than complete their  
10      education.

11                Certain concerns they have with  
12      firefighters and emergency service workers that  
13      are in junior status, both the type of equipment  
14      they can handle and the number of hours they might  
15      be able to work; and increasing the penalties for  
16      willfully and intentionally putting children at  
17      risk in certain hazardous occupations and raising  
18      the penalties for summary to misdemeanors  
19      expenses; also to effectively -- with the  
20      effective date of whatever act we end up  
21      compromising, if that could be done, to change the  
22      effective date to a hundred and eighty days to  
23      allow the Department to codify and to let  
24      employers know that here's how we're trying to fix  
25      the disparities between the federal and the state

1 statutes that are out there and some of the  
2 confusion that we now face.

3 So -- some of the other people that  
4 offered testimony also were very sympathetic to  
5 the comments that you just made. I believe the  
6 Members of the Committee are at this point going  
7 to try and listen to the stakeholders and see if  
8 we can come up with some changes where we might  
9 move forward a step and backwards one and see if  
10 we can come up to that codification.

11 Of course, it'll be my position that if  
12 we do anything that in any way inhibits a child's  
13 education, puts too much pressure on their hours  
14 of sleep whether it be to do a menial task of  
15 passing out newspapers or, more importantly,  
16 something that could be dangerous as you suggested  
17 where the longer the hours are worked in certain  
18 categories, on the farm or somewhere else, puts  
19 you at undue risk, those things will not occur.

20 And also on the 28-hour rule, I believe  
21 that Representative Steil and I are in agreement  
22 that that should not be fudged forward during the  
23 school workday. You know, to move that up to 40  
24 hours in any seven-day period during the school  
25 year is just not something that I can see leaving

1 the Committee.

2 So the 28-hour standard that we now  
3 have and the federal government now has is I think  
4 as far as at least I'm willing to go. But there  
5 are some opportunities I think where this bill,  
6 House Bill 2369, can perhaps get fixed.

7 And I'm willing to work on that with  
8 Representative Steil and see if we can come up  
9 with something satisfactory to all the  
10 stakeholders who gave testimony today.

11 And with anything else, we're not going  
12 to have anything that everyone's going to be  
13 completely happy with; but we're going to do our  
14 best.

15 I'd also like to mention before I ask  
16 Representative Steil for any comments that we do  
17 have some other testimony that is in your packet  
18 from people that were not able to attend. That is  
19 from the Pennsylvania School Board's Association  
20 and also from the Motion Picture Association.

21 Representative Steil.

22 REPRESENTATIVE STEIL: Thank you,  
23 Chairman. And thank you for your testimony today.  
24 I think it's very helpful. I certainly understand  
25 where you're coming from on the hour issues. A

1 number of other people have mentioned that and we  
2 will address that.

3 One area that -- I guess I have two  
4 questions. (1), are there areas of the Federal  
5 Fair Labor Standards Act that you disagree with in  
6 terms of aligning -- in having the State align our  
7 policies in Child Labor Law with that Act?

8 And if you're not familiar with it  
9 right now, if you would review that and let me  
10 know, because if there are places where you think  
11 we should not align with the FLSA, I'd like to  
12 know that.

13 MR. BLOOMINGDALE: There are -- and I'm  
14 drawing a blank right now because I remember  
15 discussing them with folks. And, Mike, maybe you  
16 remember it.

17 But there are places where Pennsylvania  
18 has done a much better job at establishing child  
19 labor protections than the Feds have done. And I  
20 think there are places where the Feds are stronger  
21 that, you know, we need to get up to.

22 What I would suggest -- and I'll make  
23 sure that I do get to you those issues where we  
24 think the Feds are weaker and we should maintain  
25 Pennsylvania's stronger protections and not -- you

1 know, as my mother always told me, If all your  
2 friends jumped off a bridge, would you too?

3 And just because the Feds are weaker, I  
4 don't think we necessarily need to follow them off  
5 that bridge.

6 So I would certainly -- Representative  
7 Steil, I would certainly let you know those areas  
8 where we think the Feds are weak and we are  
9 stronger.

10 REPRESENTATIVE STEIL: Thank you.

11 My second question goes to the issue of  
12 addressing children working in what I think most  
13 of us would probably agree are hazardous  
14 occupations. And you've cited a couple specific  
15 cases; I think probably horrendous cases.

16 And certainly we've already included  
17 language in here which says that that's not  
18 permitted. And I can't state that some employer  
19 won't willfully violate that, but at least we have  
20 to state the case for what the expectation is.

21 MR. BLOOMINGDALE: Absolutely.

22 REPRESENTATIVE STEIL: Do you have a  
23 problem with the language that's in the bill  
24 with regard to the expectation?

25 MR. BLOOMINGDALE: I think we were okay

1 with the hazardous protections and we actually  
2 thought that you guys did a pretty good job of  
3 making sure that the hazardous stuff was covered.

4 REPRESENTATIVE STEIL: Okay. Thank you  
5 very much for your testimony. Thank you,  
6 Chairman.

7 CHAIRPERSON BELFANTI: Any questions?  
8 Representative Boyd.

9 REPRESENTATIVE BOYD: Thank you,  
10 Mr. Chairman.

11 I guess I wanted to kind of try and  
12 reconcile if I can some of your testimony with the  
13 prior speaker's testimony regarding -- what'd you  
14 call it, education outreach?

15 MS. MUSCHKO: Cooperative education.

16 REPRESENTATIVE BOYD: Cooperative  
17 education.

18 And I understand from where Chairman  
19 Belfanti and Representative Steil are wanting  
20 to -- somehow it seems to me we want to delineate  
21 between an educational outreach opportunity where  
22 it's actually enhancing someone's education and  
23 someone cutting school and going to work at a  
24 sweatshop.

25 And I think we all agree with the one,



1 and I'm not sure that we agree with the other.  
2 But if there's a way, Mr. Chairman, as we try and  
3 reconcile some of this language that we don't  
4 preclude a young person, say, a senior in high  
5 school who's actually moving towards maybe going  
6 into a, you know, a career and tech center  
7 secondary education who's working some of those  
8 hours.

9 I don't know if we can do that  
10 legislatively. I just don't want to automatically  
11 rule that out and say it's only 28 hours and have  
12 a young person that is really desiring to move  
13 forward in that level, either a junior or senior  
14 in high school who's 17 or 18 years old be  
15 precluded from doing that.

16 I don't know if there's a way that we  
17 can carve out, you know, specifically a program  
18 through a public school system called an  
19 educational outreach opportunity that's permitted  
20 as opposed to just limiting the hours totally.

21 That's up to -- that's above my pay  
22 grade. I'll be happy to help you guys work on it.  
23 I just don't want to exclude that.

24 MR. BLOOMINGDALE: I think the way it  
25 works now, Representative Boyd -- for the current

1 law, it's 28 hours. And as the person who  
2 testified before me mentioned, their kids  
3 currently do that.

4 And I think the way it works is that 3  
5 hours of that 8-hour day are designated  
6 educational so that they are actually only working  
7 if they work five days a week, 25 hours a week.  
8 So I think that's the way it works now.

9 If -- that's how they are able to make  
10 sure that those kids have that kind of educational  
11 opportunity, which we are wholly in agreement with  
12 you that if our vo-tech folks are helping our kids  
13 get ready for post-high school life with a good,  
14 skilled job, hopefully a union job, that they have  
15 that opportunity.

16 REPRESENTATIVE BOYD: I agree with most  
17 of what you said.

18 MR. BLOOMINGDALE: As our friends  
19 on -- some of our friends would say, a  
20 family-sustaining job I think is the code word for  
21 union job.

22 REPRESENTATIVE BOYD: Thanks.

23 CHAIRPERSON BELFANTI: Thank you,  
24 Representative Boyd. And a few years from now  
25 with what happened a couple years ago, everybody

1 will be above our pay grade shortly.

2 Any other questions from the panel?

3 (No audible response.)

4 CHAIRPERSON BELFANTI: If not, I'd like  
5 to thank the Secretary Treasurer and all the other  
6 individuals who gave testimony and the Members who  
7 took time to show up today. Thank you very much.

8 The meeting is adjourned.

9 (The proceedings concluded at 12:26  
10 p.m.)

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C E R T I F I C A T E

I, Deirdre J. Weyer, Registered Professional Reporter, Notary Public, duly commissioned and qualified in and for the County of York, Commonwealth of Pennsylvania, hereby certify that the foregoing is a true and accurate transcript of my stenotype notes taken by me and subsequently reduced to computer printout under my supervision, and that this copy is a correct record of the same.

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Dated this 20th day of May, 2008.

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Deirdre J. Weyer, RPR  
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